

MINUTES OF THE TOWN COUNCIL MEETING
TOWN OF EAGLE MOUNTAIN, UTAH
Eagle Mountain Community Center
1668 E. Heritage Dr
Eagle Mountain, UT 84043
March 7, 2000

Mayor Paul Bond called the meeting to order at 7:00 p.m. Item 3 was discussed after item 5, as Dan Valentine joined the meeting at 7:10 p.m. and needed to be present to approve the minutes of December 7, 1999.

1. Roll Call:

Council Members present: Mayor Paul Bond, Dave Albrecht, Greg Kehl, Brigham Morgan and Dan Valentine.

Town Staff:

Town Administrator: John Newman
Town Attorney: Jerry Kinghorn
Town Engineer: Korey Walker
Recording Secretary: Fionnuala Kofoed

Others present: Josh Elledge, resident; Mark Lofgren, resident; Rob Nielson, Lehi Free Press; Rob Bateman, resident; Eldon Fletcher, resident; James Dahl, MCM Engineering; Darrin Brandt & Vincent Liddiard, Economic Development Board; Kelvin Bailey, resident; Russ Rossander, EMP (Eagle Mountain Properties); Dave & Sheila Curtis, residents; Robert Smith, resident; Wayne Patterson, Patterson construction; Danny Jessop, resident.

2. Pledge of Allegiance:

Juanita Christiansen led the town in the pledge of allegiance.

4. General Discussion/Questions/Announcements:

Juanita Christiansen announced the Spring Soccer signup scheduled for Friday March 10, 2000 from 6 p.m. - 9 p.m. for the Cedar Valley, Eagle Mountain Youth Sports Program. Enrollment for the program was cheaper than last year because of the generosity of contractors in the area who had made donations to the program. A sod laying party was being planned in The Ranches area for a baseball field; the field was scheduled to be completed for little league baseball in June 2000.

5. Approval of an Ordinance establishing the Eagle Mountain Economic Development Board:

MOTION *Dave Albrecht moved to approve Ordinance # 00-03, an Ordinance creating a Town of Eagle Mountain Economic Development Board as an advisory board to the Town Council to be known as the Town of Eagle Mountain Economic Development Board and*

defining certain responsibilities concerning economic development within the Town of Eagle Mountain Utah. Greg Kehl seconded the motion. Ayes: 4, Nays: 0. Dan Valentine abstained from voting, as he wasn't present for the discussion.

3. Approval of Minutes:

December 28, 1999

MOTION *Dan Valentine moved to approve the Minutes of December 28, 1999 as amended. Greg Kehl seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

February 1, 2000

MOTION *Brigham Morgan moved to approve the Minutes of February 1, 2000 as amended. Greg Kehl seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

February 15, 2000

MOTION *Greg Kehl moved to approve the Minutes of February 15, 2000 as amended. Dave Albrecht seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

The December 7, 1999 minutes were tabled and the Council directed Fionnuala Kofoed, Recording Secretary, to review minutes that Gary Tassainer, Tasco Engineering, had submitted, and to incorporate to the official minutes any pertinent information. The Council could then review any amendments.

25. Tasco Engineering, Inc., Payments for outstanding invoices:

John Newman discussed billing issues with regards to Tasco Engineering. Mr. Newman requested the Council review three items.

1. A letter from Mr. Newman to Mr. Tassainer outlining his recommendations to the Town Council.
2. An attachment to the letter summarizing various types of bills.
3. An activity summary of corrected bills. It was indicated that the work for invoice # 253 & 635 was not done.

Mr. Tassainer's response to Mr. Newman's letter was included in the Councilor's packets. The previous Town Council had directed the Town Staff not to pay bills until the developers had paid for the work. This issue was before the Council to see whether that policy would be changed to allow payment.

Gary Tassainer stated, concerning unauthorized work, that it was his opinion that he had never received written requests from the Town administration for work to be completed. Offsite work was completed and construction contracts were always separate from the negotiated onsite contracts. The work in question had been completed and Mr. Tassainer believed it was payable. 75 % of the work was billed out when the first invoice was submitted based upon design. 25% was billed out upon completion of the work. Mr. Tassainer discussed interest on the money owed to him by the Town; he was paying interest on money he had borrowed to sustain his company and believed that the money owed to him should also be subject to interest. Mr. Tassainer discussed the history of timely payment and said that it had evolved since the Town was started.

Mr. Tassainer discussed Spring Meadow subdivision and guaranteed the Council that Eldon Roberts had visited his office and made several requests to complete work on the project. After the work was completed, it was determined that Spring Meadows would not be recorded. Mr. Tassainer was surprised that Mr. Roberts was now denying any contact with Tasco Engineering. However, Mr. Tassainer wanted to be paid \$61,000 for the work his company had completed. Mr. Tassainer was unaware if he could lien the property or whether he had any legal recourse.

Mr. Newman stated that the Spring Meadow development was only discussed in concept at the DRC meeting and never went to the Town Council for approval. Mayor Bond added that the Town was in a difficult position as there was no record of a contract and he didn't know how to respond to Mr. Tassainer's situation.

Dave Albrecht stated that, as per Mr. Tassainer, Mr. Roberts not the Town had requested the work. Mr. Tassainer responded that there weren't many written requests for work to be completed.

Greg Kehl asked whether Mr. Tassainer had contact with the Town during the time the work was being completed. Mr. Tassainer stated that he did have contact.

It was Mr. Tassainer's opinion that the project had gone before the Public Works Board. Mr. Newman stated that there was no record of that and added that the proposed project was unique and the DRC had struggled with it for weeks realigning roads etc., trying to make it work. Mr. Newman believed that the project was never brought before a public body, as the DRC was never comfortable with it.

Mr. Kehl commented that the Council wasn't in a position to authorize the payment of \$61,800, as they had no evidence that the Town authorized work to be completed.

Jerry Kinghorn asked what number of lots and street configurations Mr. Tassainer used to design the utilities. Mr. Kinghorn didn't know how this could be completed without a preliminary plat being presented to the Planning Commission. Mr. Tassainer said that Mr. Roberts had provided him with a plat, however he didn't know who had approved it.

John Newman recommended putting this bill aside and treating it differently at a later time. Mr. Newman believed that Mr. Roberts had approached Mr. Tassainer to do the work. Mr. Tassainer had taken him at his word that the plat had been properly processed and under that assumption had completed the work.

John Newman recommended that the Council direct the Town Engineer to review the receivables that the Town had for offsite work and negotiate with the developer and Mr. Tassainer an amount that the Town Engineer believed, in his professional opinion, was a correct amount. Then, when the developers had an opportunity to review the amounts, bring it before the Town Council for approval. Corey Walker, Town Engineer, said that he would have the information to present at the next Town Council meeting.

Gary Tassainer requested that if Mr. Walker could have the negotiations completed sooner than the next meeting, would the Council allow a transfer of payment without waiting for their approval.

Mayor Bond asked whether it was legal for Mr. Roberts to request Tasco to do the work and incur debt for the Town. Jerry Kinghorn responded that it should not have been done without confirmation from the Town that it was recognized as an approved plat. Mr. Kinghorn said that his understanding of the process was that when the DRC could recommend the plat to the Planning Commission, then the developer's engineer, or the Town said that they need the utility designs. The Town then would authorize Tasco to do the design at a point when the configuration and number of lots was decided. Mr. Tassainer asked how the authorization was generally given. Mr. Kinghorn responded that it was his understanding that it was a verbal authorization.

Greg Kehl asked whether the Town could recapture the funds if Tasco was paid. John Newman questioned if the Town was under legal standing in requiring the funds to be paid before the plats were processed. Mr. Kinghorn stated that under Resolution # 16-99, as part of the Consolidated Fee Schedule that was enacted October 1999, it's clear that the Town has the right to collect the funds. However, there were some problems, for example, Sage Valley, Plat A had been recorded without paying the \$6300 utility design fee.

Mayor Bond asked the Council if they were comfortable directing Staff to negotiate with the developers and Mr. Tassainer, and then disburse funds once it is worked out. Dan Valentine was uncomfortable paying the bills until the developers had paid. It was his opinion that the Town shouldn't take the hit.

Jerry Kinghorn stated that there were design fees for offsite improvements that were not paid for unrecorded plats; if the developers wanted to record the plats then the Town should require them to pay the offsite design fees before the plats were recorded.

Discussion ensued regarding the lot splits in Overland Trails. Mayor Bond asked whether the Town had tried to collect on the bills. John Newman stated that the issue was between Tasco and the developer and Tasco should bill the developer directly.

Garry Tassainer said that he could produce Eagle Point Condos and Eagle Point, Plat E drawings. Mr. Tassainer requested approval on these items based upon being submitted to Corey Walker. John Newman stated that the developer had to approve them first.

John Newman recommended authorization of payment of items listed under the apparent correct bills upon receipt of all necessary receivables.

Mayor Bond said that he had read over the contracts between the Town and Tasco and he didn't find anywhere that Mr. Tassainer had to wait for his money. Mayor Bond recommended approval of the payment of the activities summary of apparent correct bills, contingent upon the remainder of items in Mr. Tassainer's possession that were discussed, being given to the developer and a copy to the Town.

Dan Valentine was uncomfortable with the approval of the payment. He believed that this was the reason the Town got into the situation it was in with Tasco. The Town ended up being the bill collectors and when the developers don't pay the Town, its citizens are stuck with it. Mr. Valentine asked how the Town could fund the \$208,000. Mr. Newman said that the Town signed the contract and therefore should honor it. Mr. Newman said that the money was available to pay the bill.

Brigham Morgan requested that invoice # 253 & 365 be removed from the agenda and not be approved that night. Dave Albrecht agreed.

John Newman stated that as soon as the Town was paid, Tasco would be paid.

MOTION *Brigham Morgan moved to add the Activities Summary of Apparent Correct Bills, minus invoice # 253 & 365 for a total amount of \$152,600 to the Warrant Register. Dave Albrecht seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

7. Appointments:

a. Town Treasurer.

Mayor Bond appointed Stephan Gabrielson to the office of Treasurer for the Town of Eagle Mountain.

MOTION *Dave Albrecht moved to appoint Stephan Gabrielson to the office of Treasurer for the Town of Eagle Mountain. Dan Valentine seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

b. Economic Development Board Members.

Mayor Bond appointed Darrin Brandt for a three-year term as Chairman to the Economic Board and as members of the Board, Jamie Mooring for a two-year term and Vincent Liddiard for a one-year term.

MOTION *Brigham Morgan moved to approve the Mayor's appointment of Darrin Brandt as Chairman of the Economic Development Board serving three-years, Jamie Mooring as a Board Member serving for two-years and Vincent Liddiard as a Board Member serving for one-year. Darrin Brandt was approved as a Board Member and appointed as the first Chairman recognizing that ordinance# 00-03 reflects in the future that the Board Members select the Chairman. Greg Kehl seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

c. Council member assignment as liaison to the Telecommunication Board.

Mayor Bond appointed himself as a liaison to the Telecommunication Board.

MOTION *Greg Kehl moved to appoint Mayor Paul Bond as the liaison to the Telecommunication Board. Brigham Morgan seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

d. Public Safety.

Mayor Bond appointed Dan Valentine as liaison over Public Safety.

MOTION *Greg Kehl moved to appoint Dan Valentine as liaison over Public Safety. Brigham Morgan seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

e. Mayor Bond recommended Greg Kehl as a member of the Utah County Solid Waste Special Service District.

MOTION *Dave Albrecht moved to recommend Greg Kehl as a member of the Board. Dan Valentine seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

6. Economic Development Board report to the Council:

Chairman, Darrin Brandt addressed the Council and gave an account of the progress of the Economic Board. The Board had been actively involved with both the Ranches and Eagle Mountain Properties and was planning some radio spots on KSL to promote growth in Eagle Mountain. Both master developers had agreed to match the Board's funds for advertising. There were plans to hire a Public Relations firm on a short-term base to deal with some positive stories about the Town. Activities were in the works for the summer that involved the Ranches and Eagle Mountain Properties with the intent of bringing attention to Eagle Mountain. The Board was organizing a survey of the residents to have better representation of the Town as they approached potential business owners that could move into the Town. A web site had been purchased to better promote growth and provide individual information about the Town. The web address is EMTOWN.com. The Board meets every 3rd Wednesday at 7:00 p.m. and the 1st Saturday at 7:30 p.m. of the month.

8. Public Notices:

There were no notices.

9. Public Comment:

Darrin Brandt discussed the use of ATV's and other off road vehicles within the subdivisions and on the roads within the Town. Juanita Christiansen added that it was not only a safety issue but the offenders had also torn up the ball field at the Pony Express Park.

Dan Valentine recommended designating an area for ATV use. Mr. Valentine added that he would work with Dave Albrecht to find a solution. Brigham Morgan recommended that signs be posted noting no use of ATV's within city limits except within designated areas.

Jerry Kinghorn stated that signs needed to be posted, as it was difficult to prosecute individuals without signs. John Newman said that he would work on the issue and order the signs.

11. SID 98-1 Landscaping Budget Reimbursement (Pony Express Parkway and Ranches Parkway:

Korey Walker discussed the landscaping reimbursement stating that the Ranches had requested an evaluation concerning the issue. The Staff had evaluated the improvements and recommended a portion of the items be included within the Ranches SID. There was a concern regarding what was left in the budget and whether it would cover both projects that had been constructed and the proposed items that were now being requested. It was recommended that the Treasurer be given time to evaluate the budget so see that there was adequate funds available.

MOTION *Brigham Morgan moved to table SID 98-1 Landscaping Budget Reimbursement until the first Town Council meeting in April with the understanding that, at that time the Staff would have a defined budget expenditure and SID intent. Dave Albrecht seconded the*

motion. Ayes 5, Nays: 0. Motion passed.

12. Approval of a Resolution Approving the Public Works Facilities Funding:

Jerry Kinghorn discussed the resolution and commented that if the Council adopted it, it would provide notice to both master developers advising them to make the necessary arrangements to fund the proposed schedule of necessary improvements. Both master developers were present in the Public Works Meeting when the resolution was discussed.

MOTION *Greg Kehl moved to approve Resolution # 04-00, a Facilities Funding Resolution along with Exhibit 1, Utility Improvements and Timing Costs for the north and south service area. Brigham Morgan seconded the motion. Ayes: 5, Nays: 0. Motion Passed.*

13. Special Improvements District Funding Proposals:

It was noted that this proposal had been received.

14. Eagle Mountain Properties Update:

This item was removed from the agenda.

15. Approval of a Development Agreement including CC&R's between Patterson Construction and the Town of Eagle Mountain for Eagle Point, Plat D:

Jerry Kinghorn stated that the necessary fees had been paid to allow the Development Agreement to be considered for approval. The Subdivision had already received final approval and everything was in order except for an issue involving Mr. Alt using a dedicated trail portion as a road to access his property. Mr. Kinghorn said that he and Corey Walker needed to meet with Mr. Alt to figure out an alternative access to his property.

MOTION *Brigham Morgan moved to authorize the Mayor to enter into a Development Agreement with Patterson Construction Inc., for Eagle Point, Plat D. Dave Albrecht seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

16. Approval of a Development Agreement including CC&R's between Patterson Construction and the Town of Eagle Mountain for Eagle Point, Plat G:

Discussion ensued between Wayne Patterson and the Town Council concerning unpaid fees by the developer. Mr. Kinghorn stated that he wasn't aware that the fees hadn't been paid when items 16-18 were placed on the agenda. Mr. Kinghorn added that he couldn't recommend approval at this time, as under provisions of the Consolidated Fee Schedule Resolution #16-99, it states that if a developer was delinquent in payment of fees then all processing of applications should be tabled until the developer's fees and charges were current. Mr. Patterson was disputing some of the bills. John Newman recommended that Mr. Patterson meet with Jalaire Taylor, Accounts Payable Clerk, to resolve any billing issues. The Council discussed the approval of the Development Agreements based on contingencies; it was agreed that approving the Agreement in that manner was not an option.

MOTION *Dan Valentine moved to table items 16, 17 & 18 the Development Agreement for Eagle Point Subdivision, Plat G, H and Eagle Point Condominiums until Staff places them back on the agenda. Dave Albrecht seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

19. Street Lights, Trail Improvements and Street Trees for Patterson Construction:

Wayne Patterson discussed his concern with planting trees in subdivisions without having homeowners to care for them.

Korey Walker stated that the developer was requesting that rather than bonding for the trees, he wanted to place the burden on the builder or homeowner. Mr. Walker added that it was a Development Code issue and the Council could make that decision.

Mr. Kinghorn stated that it wasn't practical to plant the trees when there was no one to care for them; it was an issue of security and timing. If the developer was willing to allow the Town to hold the collateral there was adequate security.

Greg Kehl agreed that the trees shouldn't be planted before occupancy. His only concern was that there were no trees in the area and he would only be comfortable if money was held in escrow to insure the trees would be planted.

Jerry Kinghorn said that a deadline and specific amount of money needed to be established.

Dan Valentine suggested making two separate recommendations. He suggested that in the future a time mechanism be put in place and funds be held in escrow as security that the trees would be planted.

John Newman recommended that the burden be placed on the home builder and make it part of a cash bond in the future and that the Council allow the Staff to refine the solution and bring it to the next meeting for their review.

Brigham Morgan requested that all the homes that were currently occupied and built be incorporated into the solution.

Greg Kehl wanted to make sure that all cost be taken into consideration so that the Town wouldn't be out of pocket.

20. Approval of a Resolution Amending and Reinstating Resolution # 21-98 Adopting Current Additions of the Various State, National and International Standards and Codes

Jerry Kinghorn stated that the Town Building Inspector had requested that this change be made to keep up with the current codes. John Newman added that the wrong nomenclature had been used in the original Resolution and it needed to be amended.

This item was tabled.

MOTION *Greg Kehl moved to table the Resolution Amending and Reinstating Resolution # 21-98. Dave Albrecht seconded the motion. Ayes: 5, Nays: 0. Motion passed*

21. Additional lighting at the intersection of SR-73 and Eagle Mountain Boulevard:

Korey Walker discussed several options with regards to additional lighting at the Eagle Monument.

MOTION *Dan Valentine moved to approve option three, the addition of two 120-volt lights to reflect on the Eagle. Greg Kehl seconded the motion.*

Discussion Robert Smith, resident commented that it was a safety issue not having the entrance illuminated. Mr. Roberts asked if there were any plans to light the strip of landscaping beyond the Eagle. Mr. Newman responded that there were no plans. Mr. Roberts believed it was pointless to have the trees there without additional lighting.

Mayor Bond was not in agreement with the motion and wanted to discuss the options. Greg Kehl called for the question. The Councilors had to vote or table the item. Council Voted; *Ayes: 3, Nays: 2. Motion passed.*

22. Amendment to Meadow Ranch Development Agreement:

This item was removed from the agenda.

23. Approval of Engineering Services for Equipment for Well # 2 and designing transmission line:

John Newman requested that the Council approve the design proposal for Well # 2 and authorize Epic Engineering to get plans and specifications created. Mr. Newman added that the Ranches would pay for the project.

MOTION *Brigham Morgan moved to approve Epic Engineering design proposal for Well # 2 and the related transmission line. Greg Kehl seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

24. Evans Wash Repair:

Korey Walker discussed the Evans wash repair and stated that they had an emergency issue the previous week. Traffic couldn't continue to use the west side of the road. Due to the weather, there was a concern with the continued saturation of the soil. Based on the emergency situation, Mr. Walker discussed the issue with the administration and it was decided that a contractor was needed to rectify the situation. Staff was now seeking ratification for their actions.

MOTION *Greg Kehl moved to ratify the agreement with R.A. McKell Excavation for the sum of \$6554.25 for the repair of the Ranches Parkway North Wash Culvert repair. Dave Albrecht seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

26. Consent Agenda Items:

MOTION *Dave Albrecht moved to approve the Consent Agenda as amended. Dan Valentine seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

27. Adjournment:

MOTION *Greg Kehl moved to adjourn @ 10:30 p.m.*

APPROVAL: Paul R. Bond, Jr. DATE: 5/8/00
Mayor Paul R. Bond, Jr.

This certifies that the minutes of
Mar. 7, 2000 are a true, full and
correct copy as approved by the
City Council on April 4, 2000

Signed: Janet B. Valentine
City Recorder