

**MINUTES**  
**EAGLE MOUNTAIN CITY COUNCIL MEETING**

January 10, 2006

Eagle Mountain City Council Chambers, 1650 East Stagecoach Run, Eagle Mtn, Utah 84043

**4:00 P.M. WORK SESSION – CITY COUNCIL CHAMBERS**

Mayor Brian B. Olsen called the meeting to order.

CONDUCTING: Mayor Brian B. Olsen

ELECTED OFFICIALS PRESENT: Councilmembers David Blackburn, David Lifferth, Heather Jackson, and Linn Strouse. Councilmember Vincent Liddiard was excused.

CITY STAFF PRESENT: Chris Hillman, City Administrator; Gerald Kinghorn, City Attorney; Chris Trusty, City Engineer; Gina Peterson, City Recorder; Angela Cox, Deputy Recorder; Shawn Warnke, Assistant to the City Administrator; Adam Lenhard, Planning Director; Peter Spencer, City Planner; Mark Sovine, Public Works Director; Gordon Burt, Finance Director; Mark Binks, Sergeant; Jason Randall, Assistant Sergeant; Chief Rand Andrus, Fire Chief.

OTHERS PRESENT: Donna Burnham, resident; Caleb Warnock, The Daily Herald; Ron Stewart, Gilbert & Stewart.

**DISCUSSION/REVIEW ITEMS**

PRESENTATION – FY05 Audit – Gilbert & Stewart / Chris Hillman

REVIEW – Rules of Order for City Council Meetings

REVIEW – Business License Amendments – Adam Lenhard

**MAYOR’S ITEMS**

The Mayor brought items to the attention of the City Council.

**AGENDA REVIEW**

The City Council reviewed items on the Consent Agenda and Policy Session Agenda.

**ADJOURNMENT**

**7:00 P.M. POLICY SESSION – CITY COUNCIL CHAMBERS**

Mayor Brian B. Olsen called the meeting to order. Scout Troop #1016 presented the color guard including the pledge of allegiance.

CONDUCTING: Mayor Brian B. Olsen

ELECTED OFFICIALS PRESENT: Councilmembers David Blackburn, Vincent Liddiard (participated telephonically), David Lifferth, Heather Jackson and Linn Strouse.

CITY STAFF PRESENT: Chris Hillman, City Administrator; Gerald Kinghorn, City Attorney; Chris Trusty, City Engineer; Gina Peterson, City Recorder; Angela Cox, Deputy Recorder; Shawn Warnke, Assistant to the City Administrator; Adam Lenhard, Planning Director; Peter Spencer, City Planner; Mark Sovine, Public Works Director; Adam Ferre, Utility Supervisor; Jason Randall, Assistant Sergeant; Mark Binks, Sergeant; Fire Chief Rand Andrus.

OTHERS PRESENT: Matt Weir, Jon Barclay, Mary Lynn Christensen, Susan Malone, John Malone, Lisa Rasband, Cameron Clements, Donna Burnham, Melissa Deweese, Greg Deweese, residents; Bud Jorgensen, Land Design Group LLC; Doug Legge, Terasen Utility Service; Darren Jones, The Crossroads Journal; Michael Peterson, Bryon Buchmiller, Chase Larson, Matt McInelly, Jared Pemberton, August Larson, Chad Larson, James McInelly, Brandon Morgan, Troop 1016; Cary Brackett, The Ranches Homeowners Association.

Councilmember Liddiard connected to the meeting telephonically at 7:09 p.m.

## APPROVAL OF MINUTES

MINUTES of City Council Meeting – November 15, 2005

MINUTES of City Council Meeting – December 6, 2005

City Recorder Gina Peterson presented the City Council changes made to the minutes they received in their packets.

The City Council addressed concerns and discussed the amendments.

Councilmember Blackburn **moved** to approve the minutes of November 15, 2005 as amended. Councilmember Strouse **seconded** the motion. Those voting aye: David Blackburn, Vincent Liddiard, David Lifferth, and Linn Strouse. Heather Jackson abstained because she was not a member of the City Council at the meeting. Motion **passed**.

Councilmember Lifferth **moved** to approve the minutes of December 6, 2005 as amended. Councilmember Blackburn **seconded** the motion. Those voting aye: David Blackburn, Vincent Liddiard, David Lifferth, and Linn Strouse. Heather Jackson abstained because she was not a member of the City Council at the meeting. Motion **passed**.

## PUBLIC COMMENTS

Darren Jones stated he would like to make a formal request for compilation of information, under the State's Freedom of Information Act, for all of the contracts, agreements and covenants made with John Walden, his companies and the officers of his companies. He stated he is the newly appointed reporter for The Crossroads Journal to cover Eagle Mountain City Council meetings.

Mayor Olsen referred Mr. Jones to Eagle Mountain City Attorney, Jerry Kinghorn.

Mr. Jones stated he has requested this information from Mr. Hillman who stated the information has been compiled. He filed a GRAMA (Government Records Access Management Act) Request with the Recorder's Office who told him the information was not compiled and that is why he is requesting this information from the City Council.

City Administrator Chris Hillman clarified that Mr. Jones has requested this information previously. He recommended he file a GRAMA request with the City Recorder's Office. The amount of information and dealings with John Walden and his subsidiaries would involve a lot of time to compile and make copies. He suggested Mr. Jones be more specific in order to save costs that would be incurred and charged to him under GRAMA.

Mr. Jones explained he is a new resident and would have a hard time being more specific because he was not in the City to know all of the previous dealings with John Walden. He then amended his request and requested the information as a reporter under the Freedom of Information Act with the State of Utah.

Mr. Hillman stated Ms. Peterson would prepare a cost estimate he can submit to The Crossroads Journal.

Mayor Olsen stated the Council has heard Mr. Jones' request and asked him to contact Mr. Hillman to answer his request.

Mr. Jones stated his understanding the Freedom of Information Act allows reporter's to get information without being charged.

Mayor Olsen responded the City has a professional staff that will obey all laws with regards to the Freedom of Information Act.

Councilmember Strouse asked for clarification of Mr. Jones' request.

Mr. Jones explained in his capacity as a reporter he is also covering the developers in Eagle Mountain City. He is looking for background to inform residents.

Mary Lynn Christensen stated she heard there was a discussion of renaming City Hall. She is not in favor of renaming it after former Mayor Kelvin Bailey.

Mayor Olsen read a public comment submitted by former Mayor Kelvin Bailey. He stated he was humbled and surprised to hear that former Mayor David Lifferth proposed naming the Eagle Mountain City Hall after him; however, he requested the City Hall remain the Eagle Mountain City Hall to carry the name of the City.

## **MAYOR'S REPORT**

### ANNOUNCEMENTS / UPCOMING EVENTS

Mayor Olsen stated the signing ceremony for the sale of the Eagle Mountain Telecom will be on January 31, 2006 at 10:30 a.m. in the City Council Chambers.

He said the City's audit for fiscal year 2005 was completed and submitted to the State on time. He thanked the finance department for their efforts in this matter.

He stated the second annual Inaugural Ball was held on January 7, 2006 and was successful. The announcement and donation from the Mayoral Citizenship Literacy Fund will be at the next City Council meeting. The donation from the Mayor's Literacy Fund will be approximately \$8000. He thanked the sponsors, fund committee, and those who participated. Tiffany Ulmer was recognized that evening as Volunteer of the Year 2005. Donna Burnham and Michelle DeKorver were also honored for their service as library volunteers.

Mayor Olsen stated Camp Floyd is featuring a Johnston's Army artifact exhibit through January 31, 2006. The exhibit is by Dwain Bylund, of Eagle Mountain City and consists of a collection found on private property including coins, rings, bullets, and more.

January 18, 2005 Councilmember Strouse, Lifferth, and Jackson will be attending "Local Officials Day at the Legislature." He stated if other councilmembers would like to attend they should contact the Mayor's Office.

The State of the City Address will be at the January 24, 2006 City Council meeting. He invited everyone to attend.

#### UPCOMING AGENDA ITEMS / PUBLIC NOTICES

Mayor Olsen asked the public to read the information sent in the utility bills. He stated the February Newsletter will include information about dog licensing at City Hall.

#### APPOINTMENTS – Economic Development Board

Mayor Olsen recommended the appointment of Adam Lenhard. He stated Mr. Lenhard is the Planning Director for Eagle Mountain City. He introduced Mr. Lenhard and highlighted his qualifications

Councilmember Jackson **moved** to appoint Adam Lenhard to the Economic Development Board for a four year term ending December 2010. Councilmember Liddiard **seconded** the motion. Those voting in favor of the motion: David Blackburn, Vincent Liddiard, David Lifferth, Heather Jackson, and Linn Strouse. Motion **passed** with a unanimous vote.

#### APPOINTMENTS – Planning Commission

Mayor Olsen recommended the appointment of John Malone and Matt Weir. He introduced Mr. Malone and Mr. Weir, who are currently serving on the Planning Commission and highlighted his qualifications.

Councilmember Blackburn **moved** to appoint John Malone to the Planning Commission for a four year term ending December 2010. Councilmember Strouse **seconded** the motion. Those voting in favor of the motion: David Blackburn, Vincent Liddiard, David Lifferth, Heather Jackson, and Linn Strouse. Motion **passed** with a unanimous vote.

Councilmember Strouse **moved** to appoint Matt Weir to the Planning Commission. Councilmember Blackburn **seconded** the motion. Those voting in favor of the motion: David Blackburn, Vincent Liddiard, David Lifferth, Heather Jackson, and Linn Strouse. Motion **passed** with a unanimous vote.

City Recorder Gina Peterson administered the Oath of Office to Adam Lenhard, John Malone, and Matt Weir.

#### RECOGNITION - Mike Peterson, Eagle Scout Project – Eagle Park Commons

Mayor Olsen presented certificates to Scout Troop #1016 for dedicated service in building the Eagle Park Commons.

#### RECOGNITION - Significant Donors for Eagle Park Commons

Mayor Olsen presented a plaque to be posted in the Eagle Park Commons recognizing donors.

Councilmember Blackburn stated this is the first City Council meeting of the year and welcomed Mayor Olsen, Councilmember Jackson and Councilmember Lifferth.

### **SCHEDULED ITEMS**

#### PUBLIC HEARING – Business License Ordinance Amendments (Title 6)

Planning Director Adam Lenhard stated the Planning Department has revised the Business License Ordinance to simplify doing business in Eagle Mountain City and streamline the application and approval process. He recommended the item be tabled to allow time for incorporation of the City Council's comments.

Mr. Lenhard summarized the proposed changes to the Business License Ordinance are which are:

- Changing the classification of business licenses from “Class A” and “Class B” to “Home Business” and “Commercial Business”. Definitions are given for these new classifications and are in the proposed amendments of the Ordinance.
- Adding specific types of Model Homes to be classified as businesses.
- Adding the requirement that all businesses must follow state statute by registering with the Utah Department of Commerce, if applicable to their business.
- Taking licensing authority from the City Council's discretion and giving it to the License Official's discretion on the application.
- Clarifying the background-check procedure.
- Changing the questions on business license applications.
- Changing new fees to be: Commercial Business License--\$75, Home Business License--\$10.
- Authorizing the License Official to approve or deny all applications; designating the City Council as the appeal body.
- Removing the requirement for public hearings.

Mayor Olsen opened the public hearing at 8:02 p.m. There were no comments so the public hearing was closed.

PUBLIC HEARING – Development Code Amendments with regard to the Residential Zone, Home Businesses, Conditional Uses, and Building Permits.

Mr. Lenhard stated on December 13, 2005 the Planning Commission recommended that the City Council approve the proposed amendments to the Development Code Title 1, Chapter 5 – Residential Zone; Title 1, Chapter 13 – Home Businesses; Title 1, Chapter 19 – Conditional Uses; and Title 2, Chapter 12 – Building Permits with modifications. Staff recommended the item be tabled to the next meeting to allow time for incorporation of the City Council’s comments.

Previously the City Council requested Residential Zone Tier II lot frontages be reduced from 55 feet back down to 50 feet along a public or private street. Other “housekeeping” amendments have been proposed by Staff, several of which are related to the City’s Business License Ordinance.

The Planning Commission and City Staff recommended the following items for approval:

Title 1- Chapter 5- Residential Zone

- Changing Home Businesses from Conditional to Permitted Uses, subject to requirements of Chapter 13
- The minimum distance between multi-family housing structures be thirty (30) feet. Single-family homes at Tier III densities shall have minimum side yard setbacks equal to those in Tier II.

Title 1 Chapter 13- Home Businesses

- Clarifying the approval process.
- Deleting the appeal section.

Title 1- Chapter 19- Conditional Uses

- Removed Home Businesses as Conditional Uses

Title 2 Chapter 12- Building Permits

- Clarifying the timing for issuing permits.

The Planning Commission and City Staff recommend the following items for denial:

Title 1- Chapter 5- Residential Zone

- Tier II lot frontages proposed to be reduced from 55 to 50 feet along a public or private street.

Mayor Olsen opened the public hearing at 8:06 p.m.

Tiffany Ulmer requested an exemption on the number of visits to home businesses for daycares, preschools and dance classes which may have more patrons than other home businesses.

Mayor Olsen closed the public hearing at 8:08 p.m.

MOTION – Consideration and acceptance of the Fiscal Year 2005 Audit Report and findings.

Mr. Hillman explained, per state statute, Eagle Mountain City annually hires independent auditors to audit and complete its financial statements. Since its inception Eagle Mountain City has used the accounting firm of Gilbert & Stewart in Provo to prepare and complete the annual audit. The firm completed the audit last month and the City filed the audit with the Utah State Auditor's office in Salt Lake City. This year's audit shows the City's financial situation is improving—especially in the General Fund, the fund managing the City's basic services. However, the enterprise funds continue to show losses, notably the Electric and Sewer utilities. Fortunately, a combined increase in net assets of \$44,456 was shown for all utilities.

Mr. Hillman explained the Gas enterprise fund continues to show a negative amount in unrestricted net assets. In Fiscal Year 2004, the unrestricted net assets were negative \$211,890. In FY 05, that improved to negative \$128,302. Fortunately, total net assets, restricted and unrestricted, increased more than \$90,000 to exceed \$2.3 million in the gas utility. Favorable wholesale gas rates in relation to current retail rates could alleviate a majority of the \$128,000 deficit. However, wholesale rate variability and inherent uncertainty should not be counted on to fix the problem. Either a fund transfer or an increase in rates should occur to bring this utility into compliance.

Mr. Hillman explained losses in the Electric and Sewer enterprise funds continue to diminish total net assets. Fortunately, losses in both are less than total depreciation. Restructuring the Gas & Electric debt will help alleviate some losses in FY 06. (However, debt service rises continually for the next five years and is reliant upon growth to fund.) Hopefully, increases in revenue from growth will exceed variable costs associated with that growth to help alleviate the continued loss of net assets, namely depreciation. If not, a rate increase or fund transfer to pay for depreciation losses will be needed. The restructuring of the Water & Sewer bonds this fiscal year may also help relieve some losses in the Sewer.

Mr. Hillman stated at the end of FY 02, the General Fund's unreserved fund balance was \$38,000. That violated State statute. Statute requires a minimum of 5% of General Fund revenues for the unreserved fund balance. This fund balance is the City's "rainy day" fund. At the end of FY 03, that balance increased to \$200,000. At the end of FY 04, that fund balance increased to more than \$500,000. For FY 05, that fund balance is now in excess of \$1,060,000. The city is now violating state statute on the other side. We're not allowed to have more than 18% of General Fund revenues held in reserve. The City is violating state statute because it has now saved too much money.

Gilbert & Stewart has performed their services well and have conducted their audit according to generally accepted accounting principles. Staff recommends the City Council accept the audit findings as presented.

Councilmember Liddiard **moved** to approve the Fiscal Year 2005 Audit Report and findings. Councilmember Blackburn **seconded** the motion.

The City Council asked to have a press release on the results of the audit.

Mayor Olsen called for a vote. Those in favor of the motion: David Blackburn, Vincent Liddiard, David Lifferth, Heather Jackson, and Linn Strouse. Motion **passed** with a unanimous vote.

RESOLUTION – Consideration and Approval of a Resolution amending the Consolidated Fee Schedule Section 1.8.6(2) to increase natural gas rates.

Public Works Director Mark Sovine stated gas rates dropped in December; however, they came back up in January and the City needs to increase the retail rate in order to offset the increase in wholesale cost. He recommended the natural gas rate be changed from \$10.00 a decatherm to \$10.50 a decatherm. This amendment will be effective for the January billing cycle which started December 20.

Councilmember Blackburn **moved** to approve Resolution 01-2006 amending the Consolidated Fee Schedule Section 1.8.6(2) to increase natural gas rates from \$10.00 to \$10.50. Councilmember Lifferth **seconded** the motion.

Mayor Olsen stated concerns have been expressed that Utah's cities and towns will reap an energy sales and use tax revenue windfall as a result of the increasing fuel prices and the City will receive additional funds. The Legislature has proposed a change in the energy sales and use tax to a flat rate rather than a percentage. He is concerned with this proposal. He feels the rising fuel costs should not result in tax increases. He stated the Mayor and City Council can offer tax relief to residents by decreasing the energy sales and use tax rather than increasing revenue to the City because of rising fuel prices. He explained this would be better than state mandated tax rates. Staff is further researching this item.

Councilmember Lifferth asked if Mayor Olsen was proposing a tax refund the following month or a decrease in the bill.

Mayor Olsen responded as fuel prices are increased the City considers giving tax relief to the residents.

Councilmember Strouse stated she would support this proposal if the increase in fuel prices create increased revenue for the City. She feels it would be in the City's best interest to create tax relief by decreasing utility taxes rather than having a state mandated tax relief.

Mr. Hillman stated an estimated surplus for utility tax was \$8000 or is about three percent revenue increase over what was budgeted. He explained that when a budget is created revenues are underestimated and expenses are overestimated. Therefore a three percent surplus is almost expected because of the way the budget is formulated. The increase in revenue to the City concerning the energy sales and use tax depends on the use of energy. He suggested further evaluation is needed and a good analysis would not be able to be completed until March when the usage of winter months can be evaluated.

Councilmember Lifferth asked if a tax refund could be provided if the City finds an increase in revenue because of the increase in fuel prices.

Mr. Hillman stated this would be best implemented through a utility bill credit.

Mayor Olsen stated this should be further considered.

Mr. Hillman explained because the City owns their utilities this fee is administrated as a utility fee; most cities who do not own their utilities charge a franchise fee.

Councilmember Liddiard said if the City shows unexpected increase in revenue he recommends the money be used in something benefiting the residents that is a one time refund.



Mayor Olsen called for a vote. Those in favor of the motion: David Blackburn, Vincent Liddiard, David Lifferth, Heather Jackson, and Linn Strouse. Motion **passed** with a unanimous vote.

AGREEMENT – Consideration and approval of an extension of an Agreement with Family Solutions for IT Technical Support Services.

Assistant to the City Administrator Shawn Warnke explained several years ago the City conducted a formal bid process to provide IT services for the City. It is now time to extend this contract. This item was tabled at the last City Council meeting pending rate comparison of what other cities pay for their IT contract services.

Mr. Warnke stated several calls were made to surrounding cities such as Saratoga Springs and Lehi. Both of these cities pay \$85.00 an hour for their IT services. Alpine was the only city identified, in the several cities contacted, that pays less for their IT services. In asking Alpine's City Administrator about their rate it was learned that the contracting firm that provides their IT services is the son of the City Recorder and resident of Alpine. As such the City Administrator implied that the reduced IT rate was due to the association. Generally, the City will be paying \$30.00 an hour less than what other cities are paying for IT services.

Currently the City is paying \$1650.00 a month for of 30 hours of service. Every hour after that is billed at a rate of \$55.00 per hour. The contract allows for rollover of a maximum of twenty hours per month.

With the contract extension Family Solutions is proposing that the rate remain the same as proposed in the original contract. From the original RFP process Family Solutions provided a good service at a good rate. Family Solutions has allowed the City to roll-over up to 20 hours to the next month if unused. Rolling over hours is an advantage to the City and allows the City to maximize the contracted hours.

Mr. Warnke explained Department Heads were asked if they would suggest renewing the contract with Family Solutions. On a scale of 1 to 10, where 1 is going out to bid and 10 is renewing the contract the Department Heads rated renewing the contact at 6. This would suggest that generally the Department Heads are satisfied enough with the service to recommend renewal. This recommendation was independent of the factor of cost.

On October 20, 2005, several City staff members met with representatives from Family Solutions to discuss the renewing of a contract to provide IT services to the City. At this meeting several service issues were discussed and resolved with Family Solutions.

Councilmember Strouse **moved** to approve an extension of the Agreement with Family Solutions for IT Technical Support Services. Councilmember Blackburn **seconded** the motion.

Councilmember Lifferth asked if there was a report of cost comparisons from the research done by Staff from Councilmember Liddiard's request for a benchmark study

Mr. Warnke does not believe the City would find a better rate for a comparable service. Family Solutions has knowledge of the City's server and he recommended the Council accept this agreement.

Councilmember Jackson stated she feels the City has many home businesses and a citizen of the community may be able to provide IT services. She believes all items should be put to bid.

Mr. Hillman stated Family Solutions has told the City if this proposal is put out to bid they will bid at a higher price. The research done by Mr. Warnke on the costs of other companies showed Family Solutions proposal is very reasonable.

There was much discussion about putting IT services out to bid.

Councilmember Strouse stated the City should support local businesses when local businesses can satisfy the City's needs.

Mayor Olsen called for a vote. Those in favor of the motion: David Blackburn, Vincent Liddiard, David Lifferth, Heather Jackson, and Linn Strouse. Motion **passed** with a unanimous vote.

### CONSENT AGENDA

Councilmember Lifferth **moved** to approve the consent agenda as follows:

A. Partial Pay – Arrow Engineering – Mt. Airey 2005 Completion

Councilmember Jackson **seconded** the motion. Those voting in favor of the motion: David Blackburn, Vincent Liddiard, David Lifferth, Heather Jackson, and Linn Strouse. Motion **passed** with a unanimous vote.

### **COMMUNICATION ITEMS**

There were no comments on the communication items.

### COUNCIL COMMENTS

Councilmember Blackburn stated because of construction vehicles accessing construction areas through developed subdivisions he feels the City should require construction only accesses to alleviate wear and tear of city streets. He asked Mr. Kinghorn who is liable for street repairs when a developer who placed a bond has left the City and the bond does not cover the cost of repairs.

Mr. Kinghorn recommended this be further investigated.

Councilmember Blackburn stated the Public Works Department has installed new street lights. He commended them for creating an increase in visibility and safety.

Councilmember Strouse stated the City has an incredible volunteer base, and she would like the City to highlight these things. She stated Eagle Mountain is a wonderful City because of the volunteers. She encouraged residents to read the City Newsletters.

Councilmember Jackson thanked the volunteers, and sponsors of the Inaugural Ball. She stated it was a nice event raising money for the City Library which is a great asset to Eagle Mountain City.

Councilmember Lifferth also commended those involved in the Inaugural Ball. He stated he is following through on his campaign promise to use technology to enhance and empower local government representation. He has upgraded his web site to interact with residents to receive his newsletters, emails, and poll those who would like to share their input.

Councilmember Liddiard welcomed the new members on the City Council. He is excited about the Telecom sale. He encouraged everyone to be involved in community councils, and PTA with the local school board. Eagle Mountain City has received growth which is in part due to the City's turnout in voting for the bond for building new schools. The bond is coming to an end. The north west portion of Utah County will continue to have an increased need for additional schools. He advised Alpine School District is preparing for a new bond to provide better education for the children of our community.

Mayor Olsen informed the City Council 603 home building permits were issued for the year of 2005.

He stated the City Council has received an employee guide which also includes an organizational chart. He has asked Councilmember Lifferth to post the organizational chart on the City's web page. He stated that the financial audit also came with a management letter and that he intended the City Administration to comply with the management letter.

Mayor Olsen asked the City Council for feedback on the new agenda and the use of summaries for agenda items. Councilmembers present nodded their heads in agreement.

Councilmember Strouse stated she is pleased with the structure.

#### ADJOURNMENT

Councilmember Blackburn **moved** to adjourn the meeting at 8:52 p.m.