

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

**February 19, 2013**

**Work Session 4:00 p.m. Policy Session 7:00 p.m.**

Eagle Mountain City Council Chambers, 1650 East Stagecoach Run, Eagle Mountain, Utah 84005

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

**ELECTED OFFICIALS PRESENT:** Donna Burnham, Ryan Ireland, Nathan Ochsenhirt, John Painter and Richard Steinkopf.

**CITY STAFF PRESENT:** Ifo Pili, City Administrator; Jason Walker, Asst. City Administrator; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Paul Jerome, Finance Director; Rand Andrus, Fire Chief; Steve Mumford, Planning Director; Kent Partridge, Building Official; Jeff Thompson, Code Enforcement Officer; Linda Peterson, Public Information Director; Ikani Taumoepeau, Management Analyst; Chris Trusty, Public Works Director; Adam Ferre, Energy Director; Eric McDowell, Sheriff's Deputy.

Mayor Jackson called the meeting to order at 4:10 p.m.

1. PRESENTATION – DVAR Institute, Motivating Positive Peer Choices—Ben Reeves
- 1A. DISCUSSION – Utility Bill Format

Finance Director Paul Jerome explained the proposed changes to the utility bill format. Residents have requested additional information, such as the base rates and unit prices for utilities. It will take about three months to use up the stock of the current billing template at the printing office. The City will have to give the printer a one-month lead time ahead of when the new template will be in use. The new format will probably be ready for the May billing cycle.

Councilmember Ochsenhirt asked about the details of the process, such as talking to the printer about keeping the correct amount of template stock on hand. Mr. Jerome said that is being discussed. How much more detail should be included is also being discussed, such as adding the budget billing. At the moment, the units of measurement need to be corrected. Gas use is being listed as therms rather than decatherms.

Councilmember Ochsenhirt asked if the budget billing program could be made more flexible, perhaps by allowing enrollment right after a resident had a twelve-month history or figuring the monthly amount twice a year rather than annually.

Mr. Jerome said he would find out if Springbrook would allow more flexibility. Up until now, Springbrook hasn't had that capability.

Councilmember Painter asked how much the City would lose by discarding the pre-printed utility bill templates. Mr. Jerome said it would cost about \$1,000. Councilmember Painter felt that would be an acceptable loss to meet the residents' needs in a shorter time. Mr. Pili pointed out that the change will also involve a change in coding through Springbrook.

Mayor Jackson suggested that the Public Works Board be consulted for additions to the template.

Councilmember Burnham asked that utility billing information be made easier to find on the website and that there also be an explanation of terms on the billing notices. Mayor Jackson stated that the Council should see an example of the proposed template before it is put into use.

Councilmember Steinkopf suggested that there be a demonstration on the website showing how to read utility bills.

Councilmember Ochsenhirt suggested that all of the City's customer service employees get periodic training on dealing with negative comments. They need to have a high tolerance for interacting with verbally abusive callers.

2. AGENDA REVIEW – The City Council will review items on the Consent Agenda and Policy Session Agenda.

#### 10. Consent Agenda

Councilmember Steinkopf pointed out a duplication in the February 5 minutes. The Recorder's Office removed the duplicate item.

#### 11. Jacob's Well Plat D

Planning Director Steve Mumford explained that the Jacob's Well Plat C final plat was approved in April, 2006, under previous ownership. Between the time of plat approval and the time the plat was recorded, the City purchased a utility easement and constructed a 138 kV power line, which crossed through the back portion of lots 1 and 2. When the new owner came to the City to record the plat, a new plat was not submitted and the original plat that was filed with the City was recorded at the County Recorder's office. The original plat failed to show the utility easement. Since the utility easement was not on the plat, and the easement was missed by the title report, the new owner was unaware that there was a utility easement on lots 1 and 2. Lot 1 is unbuildable and lot 2 is buildable, but in a very limited way, and the new owner proposes exchanging those lots for some natural open space owned by the City. The Planning Commission recommended approval of the land exchange at their last meeting.

Councilmember Ireland asked what net benefit the trade would provide to the City. Mayor Jackson responded that it would give the City property contiguous to the bike park, allowing the option of expanding the park. Councilmember Ireland suggested building a parking area there.

Councilmembers Painter and Ochsenhirt asked how the property was appraised. Mr. Mumford read from pages 21 and 22 of the appraisal report.

City Attorney Jeremy Cook explained that it is beneficial for the City to have fee title to the property rather than only an easement.

#### 12. Bond Resolution

The City Council recently approved a settlement on a lawsuit involving an agreement, from 2000, with Cedar Valley Water Company regarding well ownership and water payments. After a long dispute over how much the City was required to pay on that agreement, Counsel for the City advised that settling the lawsuit would be in the City's best interest. The City Council, in a split vote, approved the settlement agreement. The City has reserves that would cover this amount. However, it would be unwise for the City to deplete its emergency reserves. Therefore, it is proposed that the Council issue bond anticipation notes not to exceed \$3 million to pay for the

settlement. The obligation could be covered by only \$2 million in notes, but it would be prudent to have leeway in the amount available.

Laura Lewis of Lewis Young Robertson and Burningham, the City's financial advisors, explained that these notes would be short-term instruments leading to the refunding of bonds the City already holds.

Councilmember Burnham was concerned about taking a "not to exceed" bond, since they often require borrowing the maximum amount of the "not to exceed" amount. Ms. Lewis said the resolution being considered at this meeting is only a parameters resolution, setting the maximum amount, but not the actual amount.

Councilmember Burnham asked how bond anticipation notes relate to bonds being taken out later. Ms. Lewis responded that the notes allow financial obligations to be met quickly, in cases where a complete bond process won't meet the time requirements of the transaction being funded.'

Councilmember Burnham asked Mr. Pili how he planned to present these notes to the residents, so they can feel the transaction is acceptable. He said the plan had always been to use City reserves; however, this process will cost less in interest than the City's reserves are earning.

Councilmember Burnham asked what the bond issuance fees would be. Ms. Lewis said she was unsure, but not more than .5 percent plus Lewis Young's fee.

Mr. Pili stated that this debt should be attributed to the Water Fund, but the Water Fund doesn't have enough funds to pay it. Later, the Water Fund will be able to pay it.

Councilmember Ochsenhirt reviewed the process for clarity: The City will borrow funds at an advantageous rate, not paying interest from taxpayer funds, and without raising rates. The transaction is equivalent to a simple interest loan. Ms. Lewis said that's correct, except that she won't know the loan terms until she talks to the buyer. Ms. Lewis reminded the Council that there will have to be a 1.25% debt service covenant. Councilmember Ochsenhirt was concerned about the "not to exceed amount." Ms. Lewis explained that this resolution only notifies the public that the debt is being considered.

Councilmember Ireland asked about the debt service covenant. Ms. Lewis said that the bond agreement will require that utility rates bring in 1.5 times the amount of the bond. Councilmember Ireland said that he would prefer to pay the amount outright rather than take out a bond. He didn't feel the return on investment warrants the risk of going into debt.

Mr. Pili reminded the Council that the City has to make an annual Central Water Project payment, which lessens the available balance in the Water Fund.

Councilmember Steinkopf asked Mr. Pili where the fund balances are kept. Mr. Pili said they are kept in CDs, to provide for the best return on the funds.

Councilmember Burnham asked how this debt would be repaid. Mr. Pili said it would be borrowed from other fund balances until it could all be attributed to the Water Fund.

### 13. Administrative Code Enforcement

City Attorney Jeremy Cook explained that this addition to the Municipal Code will provide enforcement options for violations of ordinances regarding nuisances, parking, animals, business licenses, signage, nonconforming structures, occupancy issues and noise. It will not prevent the Code Enforcement Officer from issuing warnings. However, if a resident chooses not to comply, this will allow the City to issue a fine and/or hold a hearing before an Administrative Law Judge (ALJ). The ALJ would be someone with legal experience such as a retired judge. The Sheriff's Office enforces County ordinances, but not City ordinances.

The Code Enforcement Officer will first issue a notice of violation. If the issue isn't corrected or the resident requests a hearing, the hearing will be the next step, followed by an administrative code enforcement order, which can be converted to a civil judgment and put through a collection process.

This is not intended to be a punitive or revenue-producing process. The strong preference is to enforce the Municipal Code through education and cooperation. However, for persistent or extreme cases, the City needs a way to enforce the Code.

Councilmember Painter asked if Council members could rotate as the ALJ. Mr. Cook said that most communities use a paid ALJ.

Councilmember Ireland recommended that all fees included in the program be listed in the Consolidated Fee Schedule.

3. CITY ADMINISTRATOR INFORMATION ITEMS – This is an opportunity for the City Administrator to provide information to the City Council. These items are for information and do not require action by the City Council.

None.

4. ADJOURN TO A CLOSED EXECUTIVE SESSION – The City Council will adjourn into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the purchase, lease or exchange of real property pursuant to Section 52-4-205(1) of the Utah Code, Annotated.

No closed session was held.

The meeting was adjourned at 6:31 p.m.

### **POLICY SESSION – CITY COUNCIL CHAMBERS**

ELECTED OFFICIALS PRESENT: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt, John Painter and Richard Steinkopf.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Jason Walker, Asst. City Administrator; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Paul Jerome, Finance Director; Rand Andrus, Fire Chief; Steve Mumford, Planning Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Ikani Taumoepeau, Management Analyst; Chris Trusty, Public Works Director; Eric McDowell, Sheriff's Deputy.

5. CALL TO ORDER

Mayor Jackson called the meeting to order at 7:03 p.m.

6. PLEDGE OF ALLEGIANCE

Donna Burnham led the Pledge of Allegiance.

7. INFORMATION ITEMS/UPCOMING EVENTS

**Youth Baseball Registration** -- Youth baseball registration is open now through March 4. See the City website – Sports Programs page, for information on specific age groups and registration.

**4H Teachers Wanted** -- We are looking for 4H teachers to teach classes within Eagle Mountain. Contact Holly Komoroski at 801-789-6646 or [hkomoroski@emcity.org](mailto:hkomoroski@emcity.org).

**National Anthem Competition** – On Saturday, March 2 at 11 a.m. in the Council Chambers, the City Events department will hold a National Anthem singing competition. The winners of the competition will get to sing at the Pony Express Days PRCA Rodeo or Demolition Derby. All ages are welcome, individuals or group performances. Vocal performances with or without music allowed. Cost: \$5 to enter competition or \$3 for spectator admission. Register on the City website.

**Eagle Park Closure** – The south entrance to the Eagle Park subdivision will be closed for the next few days for an Energy Department project.

8. Time has been set aside for the public to express their ideas, concerns and comments. *(Please limit your comments to three minutes each.)*

Nikki Wickman, 2766 Fort Hill Road, stated that the Cedar Pass Ranch HOA recently met and informed the members that they are paying \$3.00 per month towards the storm drain fund. The HOA told the residents that they are paying the fee for mowing. Since the HOA mows the grass and the subdivision doesn't have storm drains, she would like the City to mow the grass or remove the fee. She was concerned about the condition of the roads throughout the City. It's not acceptable for the road maintenance to wait until funds are budgeted for the new fiscal year. She did appreciate the flashing crosswalk warnings on Pony Express Parkway at Smith Ranch Road. She would like a street sweeper to sweep the streets in early spring because of the amount of trash on the roads. And she would like each of the new directional signs installed by the Lehi Area Chamber of Commerce to be evaluated as to whether it actually helps direct people to the business renting the sign.

Mayor Jackson responded that Ranches Parkway is the Council's top priority for road maintenance.

Justin Loera, 7499 Addison Avenue, would like a question and answer period added to the public comments section of the meeting, allowing residents to rebut the Council's responses to their comments. He referred to Councilmember Painter's response to his comment at the last meeting about bringing commerce into Eagle Mountain. He felt the response was too negative. Residents want elected officials to bring commerce into the City to bring needed revenue. A clause in their contracts could hold the business responsible for any costs the City incurs above what the business has contributed to the community. He wanted to know why the City has so many new, expensive vehicles. He felt the fleet should be reduced and the employees receive mileage reimbursements. He also asked for estimated revenues and expenses for Pony Express Days.

Mayor Jackson said that the Council can consider a change to the meeting procedures. The change would require an ordinance. Mr. Pili stated that the Dodge Ram is a Public Works vehicle that was parked in the City Hall parking lot. Very few City employees have assigned vehicles, except for those driven by on-call employees, who are only allowed to drive them home and back to work unless they are called in. The Energy Director and Asst. Public Works Director over water and sewer live in Eagle Mountain and take their vehicles home because they need a quick response time for water and power issues. Sometimes the Asst. Public Works Director over streets takes a vehicle home if snow plowing is likely to be required during the night. The City gets excellent prices when buying new vehicles and a good resale value, as well. The Tahoe was purchased as part of the City's economic development efforts before the recession. On the fleet program, Mr. Pili explained that fleet management is a separate fund. The number of vehicles has been decreased as the City's staff has decreased by attrition. The bus is for senior citizen activities and was paid for by a CDBG block grant.

Mayor Jackson stated that the current Federal mileage amount is \$0.525 per mile. Using City vehicles is less expensive than paying mileage. Employees are required to use City vehicles unless none are available. She also stated that this year's Pony Express Days goal for sponsorship is \$150,000. Over half of that has already been raised. Mr. Pili will get the revenue and expense figures to Mr. Loera.

Councilmember Painter said he didn't communicate as clearly as he had hoped at the last meeting. The City has partnered with EDCU and the Governor's Office of Economic Development and has established an Economic Development Board. He invited Mr. Loera to be involved with the board. Councilmember Painter felt that a retail business like McDonald's provides no real benefit to the City. He would rather save the City's limited economic development resources to attract non-retail businesses which will create more jobs and provide more revenue to the City.

Councilmember Ochsenhirt said that he is the liaison to the Economic Development Board this year. He invited Mr. Loera to attend the meetings, which are open to the public. He stated that the City has specific details of what various businesses require before they will locate in a particular city. Because Eagle Mountain is a location that drivers go to and not through, it is not attractive to retail businesses.

Patrick Murphy, 3393 Peregrine Road, represented a group he just began called Eagle Mountain Veterans. The group thinks the military utility abatement program is great, but could use some adjustments. The program should apply to disabled veterans and medically discharged veterans. The group would like the abatement to extend 30 – 60 days past deployment. On Pony Express Days, he suggested holding the concert at the rodeo grounds, to eliminate the costs of fencing and portable toilets for the SilverLake Amphitheater. In 2011, the Mayor had a Christmas party at her house which was paid for by a Costco reimbursement. Members of his group would prefer that the rebate had been used for some other purchase, especially since the employee Christmas party had already been held. He found the work meeting very educational and planned to be more involved. He said the DVAR sounds like a phenomenal program. The utility billing explanation was very helpful.

Mayor Jackson asked Mr. Murphy to help the City understand how to verify the status of veterans. Regarding holding the concert at the rodeo grounds, the seating isn't adequate for the number of attendees. However, a sponsor will be paying for the fencing and the portable toilets. The employee Christmas party was personally paid for by members of the administration and the Costco rebate was not budgeted funding.

Sara Snow, 3613 Golden Eagle Road, was concerned about building inspections and code enforcement. She is concerned for safety, as open excavations are left unattended and there are OSHA violations. She's brought the developer in violation to the City's attention in the past. She feels that a part-time code enforcement officer is not enough. She asked that the warranty period for developers be carefully monitored, as some subdivision improvements are deteriorating very quickly. She also suggested that impact fees could be used to fund code enforcement.

Mayor Jackson said she was surprised that any cities used impact fees for code enforcement, as that is not allowed by State law. Ms. Snow said she meant to say inspection fees. Mayor Jackson said code enforcement is separate from building inspection. She asked Ms. Snow to clarify what she wanted. Ms. Snow answered that she wants additional code enforcement and more complete inspections.

Mayor Jackson asked her to talk to Building Official Kent Partridge. Some of these issues will be addressed by the administrative enforcement process.

9. CITY COUNCIL/MAYOR'S ITEMS – Time has been set aside for the City Council and Mayor to make comments. (*Comments are limited to three minutes each.*)

Councilmember Burnham

Councilmember Burnham thanked everyone for attending the meeting. The Council really appreciates it when residents attend and share their ideas. She said there's a website called Eagleshare with a section of comments directed to Council members. Councilmember Burnham wanted residents to know that those comments are not communicated or forwarded to the Council. The Council has been advised not to respond to such websites. She is happy to respond to residents' calls and emails.

Councilmember Steinkopf

Councilmember Steinkopf said there were a lot of comments at last week's Town Hall meeting. He felt it was a good meeting that aired many issues that the Council was not aware of.

Councilmember Painter

Councilmember Painter said he has a list of 24 items he plans to work on in response to residents' comments. He's going to submit the list to the City Recorder to be included in the minutes, and asked Mr. Pili to reply to those he can. He said that he and the rest of the Council are committed to resolving residents' concerns.

Councilmember Ochsenhirt

Councilmember Ochsenhirt thanked everyone attending the meeting. He anticipated a much larger group at this meeting, with a lot more concerns than have been expressed. He reiterated his statement in Work Session that he would like to have the customer service employees better trained in responding to upset residents. He felt the Council could improve in that, too. The bar for responding to negative comments in customer service has to be much higher than what's normal in general relations. He asked residents to contact the Council with their concerns. He's very surprised at the lack of contact with the Council, compared to all the comments made among residents.

Councilmember Ireland

Councilmember Ireland reiterated what has already been said. The best kind of government is that in which the people are involved. He asked those attending the meeting to talk to their friends and encourage them to be involved. He appreciated their willingness to take time from their Tuesday night to be here.

#### Mayor Jackson

Mayor Jackson appreciated the attendance at the meeting. She clarified to Mr. Murphy that when she said the Administration paid for the employee Christmas party, she meant they paid for it personally. Referring to the previous meeting, Mayor Jackson explained that it is much easier to communicate with smaller groups. The last meeting was hard to keep in order and it was very intimidating. The Mayor mentioned that she is from the East Coast and doesn't always communicate as politely as she intends to. Sometimes she's very straightforward.

### CONSENT AGENDA

#### 10. MINUTES

A. February 5, 2013 – Regular City Council Meeting

**MOTION:** *Councilmember Burnham moved to approve the Consent Agenda. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. Councilmember Painter abstained because he was absent from the meeting. The motion passed with a vote of 4 ayes and 1 abstention.*

### SCHEDULED ITEMS

#### 11. Jacob's Well Plat D, Final Plat

A. RESOLUTION – Consideration and Adoption of a Resolution of Eagle Mountain City, Utah Approving the Exchange of Property.

B. MOTION – Consideration and Approval of Jacob's Well D, Final Plat.

This item was presented by Planning Director Steve Mumford. The proposed resolution approves the exchange of property with Patterson Construction, Inc., for property adjacent to Jacob's Well, Plat C. The final plat replaces a portion of Jacob's Well Plat C, exchanging property with the City due to the location of the 138 kV power line easement. The City's property is in Jacob's Well Plat D.

The preliminary plat was approved in 1999. The final plat was approved in 2006. The City later recorded a power line easement through the property. The property changed hands and the easement wasn't recorded on the plat. The current owner wishes to exchange two lots for City land so that the City will own the lots crossed by the power line easement.

Councilmember Ireland asked how the City acquired the property that is the subject of the trade. Mr. Mumford says it's been owned by the City for so long that the record is unclear.

Mr. Cook said that the trade would be beneficial to the City. Owning the property on which the easement is located protects the City from future issue with the easement.



Councilmember Ireland asked if the BLM owns the land directly behind the lots. Mr. Mumford said it is owned by the City.

There was discussion about using one of the lots received by the City as a parking lot for the bike park.

**MOTION:** *Councilmember Ireland moved to approve Jacob's Well Plat D, Final Plat. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

**MOTION:** *Councilmember Ireland moved to adopt a Resolution of Eagle Mountain City, Utah, approving the exchange of property. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

12. RESOLUTION – Consideration and Adoption of a Resolution of Eagle Mountain City, Utah, Authorizing the Issuance and Sale of Not More than \$3,000,000. Aggregate Principal Amount of Water and Sewer Revenue Bond Anticipation Notes, Series 2013; and Related Matters.

This item was presented by City Administrator Ifo Pili. In 2000, the City entered into an agreement with Cedar Valley Water Company. A dispute developed about the terms of the agreement. The issue eventually became a lawsuit. After studying the issues, the City's attorneys recommended that the City settle the suit rather than risk losing over \$8 million if it lost that lawsuit. The City has enough funds in reserve to pay the settlement amount. However, paying out of those funds will use up virtually all the emergency funds the City has. The City's financial advisor recommends taking out bonds rather than have no funds in reserve. Either way, utility rates will not be raised to pay the settlement costs.

The City proposes issuing Water and Sewer Bond Anticipation Notes. It is currently contemplated that the Bonds will close and funds be made available to make the first initial payment on February 26. These Bond Anticipation Notes are being issued in anticipation of issuing long-term Water and Sewer or Sales Tax Bonds later in the year to take out these short-term Bond Anticipation Notes.

Laura Lewis, Lewis Young Robertson and Burningham, explained that these notes don't constitute new debt. The obligation already exists. The notes simply allow the City to pay the obligation at a lower total cost rather than paying it outright. The resolution under consideration sets the parameters of the bond anticipation notes.

Mayor Jackson asked Ms. Lewis what a reasonable amount the bonding plus the expenses of issuance would be. Ms. Lewis thought it would be about \$2.1 million.

Councilmember Ochsenhirt asked if the Council set a limit below 2.5%, would that affect the decision of those who are going to set the rate. Ms. Lewis said it would not.

Councilmember Ireland asked why the City would borrow \$2.1 million to pay \$2 million. Ms. Lewis responded that Federal tax law structures the rules for payback.

Councilmember Ochsenhirt was concerned that paying this settlement off would be viewed as

hiding costs, as it's a water cost. It should be paid by the Water Fund. He didn't feel that any of it should come from another fund. He wanted the maximum possible degree of transparency.

Ms. Lewis said if she had more time, she could structure a long-term bond to be paid by the Water Fund only. However, that amount of time isn't available. Bond anticipation notes provide the funds needed quickly while leaving the option of longer-term bonds open.

Councilmember Ochsenhirt asked about the annual CWP payments. He wanted to know if this bonding amount could be rolled together with those in the future and paid by future growth.

Ms. Lewis said the resolution has to be decided at this meeting because of the deadline for the first payment. If the City pays with cash, tax law doesn't allow it to borrow to replace the money from the reserve fund.

As to the debt being paid from the Water Fund, a debt agreement could be created between the Water Fund and the General Fund.

Mr. Pili said a \$1.5 million payment for CWP water is due in July of this year and a \$2 million payment in July, 2014. Those payments are to come from the Water Fund balance. Mr. Pili is working on extending those dates because of the downturn in the economy.

Councilmember Steinkopf asked for clarification: If the City pays the debt obligation from the reserve fund, could it later be paid from bonds? Ms. Lewis said the law does not allow that.

**MOTION:**        *Councilmember Painter moved not to adopt a Resolution of Eagle Mountain City, Utah, authorizing the issuance and sale of not more than \$3,000,000 aggregate principal amount of Water and Sewer Revenue Bond Anticipation Notes, Series 2013; and related matters. Councilmember Ireland seconded the motion.*

Councilmember Painter felt that the obligation should be paid through the Water Fund and reserve funds.

Councilmember Ochsenhirt wanted to find a way to pay the debt with future development rather than current funds. Councilmember Burnham felt it should be paid by those who are already using the water.

Councilmember Ireland wanted to know how to get through the next fiscal year if the Council votes to deplete the fund balance tonight. Mr. Pili said the funds being considered aren't budgeted funds, they're an unallocated balance. The City also plans to sell excess CWP water.

Public Works Director Chris Trusty said a pump station and water line will need to be built during the next fiscal year to bring the CWP water into the City. The plan was to apply for a \$4 million loan from the state, which would require a \$1 million match from the City. If the Water Fund is depleted, there will need to be another way to provide the \$1 million. Another well will have to be drilled if the CWP water isn't piped into the City.

Councilmember Ochsenhirt's concern was that it would be helpful to have more time to decide on the best option for paying the settlement obligation. If the reserve fund becomes depleted, the options are limited to one. If the bond is passed, the City makes interest, in addition to retaining the reserve funds.

Councilmember Steinkopf said he objects to borrowing, and has found that spending up to one's limit takes away the option of dealing with unexpected expenses. He would prefer to pay the bond rather than deplete the reserve fund.

*Those voting aye: Donna Burnham, Ryan Ireland and John Painter. Those voting no: Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a vote of 3:2.*

13. ORDINANCE – Consideration and Adoption of an Ordinance of Eagle Mountain City, Utah, Enacting Title 4 of the Municipal Code, Administrative Code Enforcement Hearing Program.

This item was presented by City Attorney Jeremy Cook. The proposed amendment to the Municipal Code creates Title 4. The Administrative Code Enforcement Hearing Program establishes a comprehensive code enforcement system that uses a combination of civil judicial and administrative remedies to gain compliance with City regulations. Under the City's contract with the Utah County Sheriff's Office, deputies enforce criminal law, but not City ordinances. The program will primarily deal with junk, weeds, parking, animals, unlicensed businesses, signs, nonconforming structures and noise.

The enforcement mechanisms will be notices of violation and administrative citations. It's anticipated that the program will rarely be used, as the Code Enforcement Officer does an excellent job getting voluntary compliance from residents.

After a citation is issued, the resident may request a hearing before an Administrative Law Judge. The judge has options for dealing with a citation, such as reducing the amount of the fine or allowing non-payment under compliance with certain conditions. If the fine isn't paid and no hearing is requested, the judge will hold a default hearing and the fine will become a civil judgment and go to collection if necessary.

Councilmember Steinkopf asked about a phrase in the ordinance saying that a regular-mail letter is sufficient notice. He wanted to know if it should be a certified letter. Mailing a letter doesn't mean it is received. Mr. Cook said other cities use regular mail, but this could be amended if necessary.

**MOTION:** *Councilmember Painter moved to adopt an Ordinance of Eagle Mountain City, Utah, Enacting Title 4 of the Municipal Code, Administrative Code Enforcement Hearing Program; scrub the documents to eliminate rates such that everything is referenced to the Consolidated Fee Schedule; add certified mail to the service process and make the Administrative Law Judge a member of the City Council, elected annually. Councilmember Ochsenhirt seconded the motion.*

Councilmember Ochsenhirt stated that the Administrative Law Judge should receive moderate pay commensurate with the time required. He felt having a Councilmember as the ALJ could appear to be a conflict of interest. This would be a prime opportunity for a retired judge or other experienced person to be involved in the community.

Councilmember Burnham asked if her neighbor is cited and she is the ALJ, how can the neighbor feel that the situation is fair. Councilmember Painter said the ALJ can be someone nominated by the Council rather than a Councilmember. He would still prefer a one-year term.

Councilmember Ireland read part of the proposed code referring to the hearing as informal. A hearing before a Councilmember would be more informal than one before a judge. He wondered who would represent the City when it is brought to a hearing because it violates its own ordinances. He also wondered whether a Sheriff's deputy should attend the hearings in case someone gets upset with the result.

Mayor Jackson said that there is a conflict of interest when a legislator enforces the law.

Councilmember Ochsenhirt felt that an "informal" hearing refers to not having a robed judge on a dais. However, it helps to have someone in the position of judge who is used to hearing arguments and handing down decisions.

Councilmember Ireland was concerned that the program is set up too much with an assumption that the resident cited is guilty.

Councilmember Burnham asked Councilmember Painter if he would be willing to change his motion to allow the hearing to be before a council of three persons selected by the Council. Councilmember Painter said he would, but Councilmember Ochsenhirt was not willing to accept the amendment.

Mayor Jackson suggested tabling the item for further consideration, as well as feedback from residents.

Councilmember Ochsenhirt called the question.

*Those voting aye: John Painter. Those voting no: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion failed with a vote of 1:4*

**MOTION:** *Councilmember Ochsenhirt moved to table an Ordinance of Eagle Mountain City, Utah, Enacting Title 4 of the Municipal Code, Administrative Code Enforcement Hearing Program. Councilmember Burnham seconded the motion.*

Councilmember Steinkopf asked if this program could be a first step towards a Justice Court. Mr. Cook's response said that was unlikely. A Justice Court is very formal and very expensive to run. In response to Councilmember Ireland, he noted that an informal process means one without evidence presented or legal motions.

*Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. Those voting no: John Painter. The motion passed with a vote of 4:1.*

Mayor Jackson noted that she had failed to answer one of Sara Snow's questions, which was what is the City doing about increased building, requiring more inspections? Mayor Jackson explained that, rather than hire additional staff, the City is looking at contracting the service.

14. CITY COUNCIL/MAYOR'S BUSINESS – This time is set aside for the City Council's and Mayor's comments on City business.

Councilmember Painter

No comment.

Councilmember Ochsenhirt

Councilmember Ochsenhirt apologized to Mr. Pili and Mr. Jerome for the Council putting them in a position of having to pay the settlement debt without issuing bonds. Thanked City employees for staying until midnight last week. He thanked Ms. Kofoed for all she does for the residents and Mr. Cook and the Council for the spirited and friendly discussion at tonight's meeting.

Councilmember Ireland

No comment.

Councilmember Burnham

No comment.

Councilmember Steinkopf

No comment.

Mayor Jackson

No comment.

15. CITY COUNCIL BOARD LIAISON REPORTS – This time is set aside for Councilmembers to report on the boards they are assigned to as liaisons to the City Council.

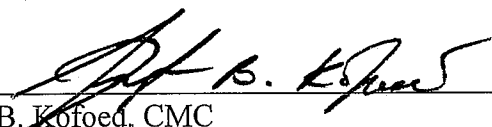
None.

16. COMMUNICATION ITEMS  
A. Upcoming Agenda Items  
B. Financial Report

17. ADJOURNMENT

**MOTION:** *Councilmember Ochsenhirt moved to adjourn the meeting at 9:51 p.m. Councilmember Steinkopf seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt, John Painter and Richard Steinkopf. The motion passed with a unanimous vote.*

APPROVED BY THE CITY COUNCIL ON MARCH 5, 2013.

  
\_\_\_\_\_  
Fionnuala B. Kofoed, CMC  
City Recorder