

MINUTES  
EAGLE MOUNTAIN CITY COUNCIL MEETING

March 3, 2009

Work Session at 4:00 p.m. - Policy Session at 7:00 p.m.

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

*\*\* This meeting may be held telephonically to allow a member of the City Council to participate \*\**

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

Mayor Pro Tem Donna Burnham conducted the meeting. Mayor Jackson was excused.

ELECTED OFFICIALS PRESENT: Councilmembers Donna Burnham, Eric Cieslak (arrived at 4:18 p.m.), Ryan Ireland (arrived at 4:10 p.m.), David Lifferth and Nathan Ochsenthirt.

CITY STAFF PRESENT: John Hendrickson, City Administrator; Ifo Pili, Assistant City Administrator; Jerry Kinghorn, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Gordon Burt, City Treasurer; Donna Milakovic, Interim Public Information Coordinator; Chris Trusty, Public Works Director; Steve Mumford, Planning Director; Kent Partridge, Building Official; Adam Ferre, Energy Division Director; Rand Andrus, Fire Chief; Neal Castleberry, Lieutenant; Eric McDowell, Sergeant.

Mayor Pro Tem Burnham called the meeting to order at 4:03 p.m.

1. AGENDA REVIEW – The City Council will review items on the Consent Agenda and Policy Session Agenda.
2. 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.
  - A. Update on the Sewer Treatment Facility (*Presented by Chris Trusty*)
3. 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 acquisition of real property, pursuant to Section 52-4-205(1) of the Utah Code, Annotated.

**MOTION:** *Councilmember Cieslak moved to adjourn into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and acquisition of real property, pursuant to Section 52-4-205(1) of the Utah Code, Annotated. Councilmember Lifferth seconded the motion. Those voting aye: Donna Burnham, Eric Cieslak, Ryan Ireland, David Lifferth and Nathan Ochsenthirt. The motion passed with a unanimous vote.*

The meeting was adjourned at 4:53 p.m. The City Council recessed the Closed Executive Session at 5:45 p.m. and attended the Hidden Hollow Elementary School dedication at 6:00 p.m.

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

Mayor Pro Tem Donna Burnham conducted the meeting. Mayor Jackson was excused.

ELECTED OFFICIALS PRESENT: Councilmembers Donna Burnham, Eric Cieslak, Ryan Ireland, David Lifferth and Nathan Ochsenhirt.

CITY STAFF PRESENT: John Hendrickson, City Administrator; Ifo Pili, Assistant City Administrator; Jerry Kinghorn, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Gordon Burt, City Treasurer; Donna Milakovic, Interim Public Information Coordinator; Chris Trusty, Public Works Director; Steve Mumford, Planning Director; Kent Partridge, Building Official; Adam Ferre, Energy Division Director; Rand Andrus, Fire Chief; Neal Castleberry, Lieutenant; Eric McDowell, Deputy.

### 4. CALL TO ORDER

The meeting was reconvened at 7:02 p.m. and Mayor Pro Tem Burnham called the meeting to order.

### 5. PLEDGE OF ALLEGIANCE

Kevin McCarthy led the Pledge of Allegiance.

### 6. INFORMATION ITEMS/UPCOMING EVENTS

- The Miss Eagle Mountain Pageant was held last Saturday. Miss Eagle Mountain is Jessica Bare, her first attendant is Hartley Lojik and her second attendant is Brianna Weber.
- The 2009 Woman of Achievement Award was presented at the pageant to Donna Lee Anderson.
- A ribbon cutting for the Fire Station #2 expansion will be held on Wednesday, March 4, at 6:00 p.m.
- Tribute to a Hero nominations are available online at [www.altavistahomes.com](http://www.altavistahomes.com) and [www.eaglemountaincity.com](http://www.eaglemountaincity.com).

### 7. PUBLIC COMMENTS

Doug Page, 7787 N. Crestwood Circle, followed up on emails he sent to the City Council in the last few days. He wanted to know when the Council would respond. Mr. Hendrickson responded that he wrote to Mr. Page saying that the emails regarded a issue which could lead to legal action and he would like to talk to the City Attorney before commenting on it. Mr. Page asked when he could let his two-year-old play in the back yard, since the issue has been going on for four years.

John Hoosier, 1583 E. Tumwater N. Drive, said there are open storm drain vaults near his home that need to be capped and buried. He stated that he has called several people in the City to have them fixed, but has not received a response. He asked if anyone wanted to be sued and if anyone wanted their kids to play in the storm drain system with the neighborhood children. He recently found that his children have been playing inside 36" storm drain pipes. Mike Wren of Eagle Mountain Properties told him they had hired someone to fix them. Later he was told that the City

had shut the project down. Mr. Hoosier said he has called Len Whitney but has not received a response. He said that someone is going to die in the storm drains, since the weather is getting warm and there could be floods. Mayor Pro Tem Burnham recommended that Mr. Hoosier talk to Public Works Director Chris Trusty.

## 8. CITY COUNCIL/MAYOR'S ITEMS

### Councilmember Ireland

Councilmember Ireland said the public's participation in City Council meetings was always appreciated.

### Councilmember Lifferth

Councilmember Lifferth stated that the Council just returned from the Hidden Hollow Elementary School dedication. He said it was nice to see the fruits of everyone's labors. He recognized the Rockwell High School basketball team won the Charter High School State Championship. He also recognized Dylan Stadel, a resident of Mt. Airey, who won the State High School Wrestling Championship in the 285-pound weight class.

### Councilmember Cieslak

Councilmember Cieslak thanked everyone for coming out and being part of local government. He reminded everyone to flood their elected officials with requests for improved transportation. Eagle Mountain's elected officials are Gov. Huntsman, Sen. Madsen, Rep. Sumsion, Rep. Chaffetz, Sen. Hatch and Sen. Bennett. He requested that a link to federal and state elected officials' contact information be placed on the City's website.

### Councilmember Ochsenhirt

Councilmember Ochsenhirt appreciated citizen involvement and requested that residents send requests for transportation improvement to elected officials. He asked that residents inform the Council of their concerns.

### Mayor Pro Tem Burnham

Mayor Pro Tem Burnham thanked everyone for being at the meeting. She wished her son a happy birthday. She was pleased to see so many residents using the trails and encouraged more to use them. She said the Miss Eagle Mountain Pageant was great and wished Kim Onions the best as she competes in the Miss Utah Pageant. She asked the new Miss Eagle Mountain, Jessica Bare, to introduce herself and her platform. Jessica said that her platform is called Caring Hearts and Hands, which is an awareness program for caregivers to relieve stress in a healthy way to prevent injury to children.

## 9. APPOINTMENTS

- A. Firefighters Scott Bringhurst and Jeremiah Jensen – Oath of office administered by Fire Chief Rand Andrus
- B. Robert Hill & Alicia Hill to the Youth City Council Advisory Board

**MOTION:** *Councilmember Cieslak moved to appoint Alicia Hill and Robert Hill to the Youth City Council Advisory Board for a term of one year. Councilmember Lifferth seconded the motion. Those voting aye: Donna Burnham, Eric Cieslak, Ryan Ireland, David Lifferth and Nathan Ochsenhirt. The motion passed with a unanimous vote.*

City Recorder Fionnuala Kofoed administered the oath of office to Robert Hill and Alicia Hill.

Mayor Pro Tem Burnham announced that the Youth City Council would be sponsoring an event on Thursday, March 5, at 4:00 p.m. in the City Council Chamber. A Holocaust survivor will be speaking. Because of the nature of the subject, it was recommended that no one younger than 9<sup>th</sup> grade students attend.

## CONSENT AGENDA

**MOTION:** *Councilmember Ireland moved to approve the Consent Agenda. Councilmember Cieslak seconded the motion. Those voting aye: Donna Burnham, Eric Cieslak, Ryan Ireland, David Lifferth and Nathan Ochsenhirt. The motion passed with a unanimous vote.*

10. MINUTES
  - A. February 17, 2009 – Regular City Council Meeting
11. WARRANTY BOND RELEASE – Out of Warranty
  - A. Mt. Airey Plat C
12. CHANGE ORDER
  - A. Porter's Crossing Change Order # 3 – Skip Dunn Excavating
13. FINAL PAYMENT
  - A. Eagle Mountain 2008 City Parks Project – MSCI

## SCHEDULED ITEMS

### PUBLIC HEARING

14. MOTION – Consideration of an Amendment to the Woods Subdivision Final Plat and Development Agreement to Delete Improvement Requirements.

This item was presented by Public Works Director Chris Trusty. The applicant requested that the City Council consider a request to remove certain requirements of the final plat approval and development agreement for The Woods subdivision; specifically, deletion of the requirement to construct an asphalt trail adjacent to the equestrian corridor and to install a vinyl fence buffering the subdivision from the trail corridor. Additionally, the applicant has requested that the requirement to construct an 8-foot-wide concrete sidewalk on the east side of Waddell Street be reduced to a 4-foot-wide sidewalk.

Mr. Trusty recommended that the fence requirement remain, the sidewalk be reduced from 8 feet to 4 feet wide and that the trail corridor be surfaced with gravel rather than asphalt.

Mr. Hendrickson recommended that the walkway behind the fence should be asphalt so snow could be cleared from it for children walking to school.

Mayor Pro Tem Burnham invited the applicant, Tom Wood, to speak. He said that maintenance of asphalt is a burden to the City. He was willing to put down road base instead. He said he was willing to complete the fence and the sidewalk. His only real issue was the asphalt.

*Mayor Pro Tem Burnham opened the public hearing at 7:33 p.m.*

Ben Templeton, 4132 Wood Road, presented a petition signed by residents of Wood Road requesting that the development be completed as planned, except that the required sidewalk be reduced from 8 feet to 4 feet wide. The petition also requested that the work be completed quickly, as some residents have been there for over two years. He requested that the lot line markers, removed when the gutters were installed, be replaced. He also said that a neighbor asked him to thank the Fire Chief for moving a hydrant that was adjacent to his driveway.

David Landon, 4682 Silver Creek Way, stated that gravel should not be put down in the trail corridor of The Woods because weeds will grow through the gravel. He said that promised items should be built, not be removed as requirements.

Jason Robinson, 4221 N. Major Street, stated that gravel is not good for horses' hooves. Perhaps wood chips or something else easier on horses could be used. He was concerned about children getting hurt by sharing the trail with horses. Councilmember Lifferth asked the difference between gravel and road base to horses' hooves. Mr. Robinson said that road base was slightly easier on the hooves.

*Mayor Pro Tem Burnham closed the public hearing at 7:39 p.m.*

Discussion ensued as to why the original requirements were made and what would best serve residents of Overland Trails and The Woods. Concerns were safe accommodation of riders and pedestrians, providing a safe path for school children and having the work done in a timely manner. It was recommended that the original agreement not be modified unless it was found to be faulty.

Mayor Pro Tem Burnham asked Mr. Kinghorn what kind of time frame the City could require for completion of the improvements. Mr. Kinghorn explained the process of pulling a bond, which includes meetings to see if accommodation can be reached, then calling the surety, which is typically followed by a time period proposed by the developer to complete the work. The time frame would be reviewed by Mr. Trusty. Changing the requirements would change the time frame.

Mr. Trusty said that he put together a punch list for all of the remaining items. The remaining bond amount is adequate to cover the work.

***MOTION:*** *Councilmember Lifferth moved to approve an amendment to The Woods subdivision final plat and development agreement to reduce the 8-foot-wide sidewalk to 4 feet wide, leaving all other requirements in place and requiring completion of all improvements within 45 days.*

Councilmember Ireland requested an amendment to require that the four feet removed from the sidewalk be reserved for a trail. Councilmember Lifferth accepted the amendment. Councilmember Ochsenhirt requested that the time frame be changed to 60 days. Councilmember Lifferth accepted the amendment.

***Councilmember Ireland seconded the motion.***

Mayor Pro Tem Burnham asked Councilmember Lifferth to restate the motion.

**RESTATED MOTION:** *Councilmember Lifferth moved to amend the development agreement for The Woods subdivision to reduce the 8-foot-wide sidewalk on the east and south side of Waddell Street to 4 feet with the remaining 4 feet reserved as a horse trail; maintaining all other requirements and requiring all improvements to be completed within 60 days. Those voting aye: Donna Burnham, Eric Cieslak, Ryan Ireland, David Lifferth and Nathan Ochsenhirt. The motion passed with a unanimous vote.*

15. MOTION – Consideration of a Claim against Eagle Mountain City by McArthur Homes.

This item was presented by City Administrator John Hendrickson. McArthur Homes filed a claim against Eagle Mountain City for damage to the basements of two homes, lots 407 and 408 in the Lone Tree subdivision. The damage was caused by a sewer backup in the main line under Bristlecone Road. Eagle Mountain City submitted the claim to the Utah Local Government Trust. On investigation, ULGT determined that the City had no liability and denied the claim. McArthur Homes appealed the denial of the claim.

McArthur Homes' assertion was that a City employee stated that the City directed McArthur to call National Restoration and said the City would pay for the cleanup. The City's investigation found that the employee said the City might pay the bill. In any case, the employee couldn't bind the City to pay. The line had been inspected shortly before the backup and found to be clear, then an adjacent developer caused the line to fill with debris, so the City is not liable.

Mayor Pro Tem Burnham invited the claimant to speak. Mr. John Gassman of McArthur Homes asked why the City came and cleared the line if it wasn't responsible for the blockage. Councilmember Ochsenhirt asked Mr. Trusty why City employees went out and cleared the blockage. Mr. Trusty responded that it was an active line in use by the rest of the subdivision.

Councilmember Lifferth said it would have a chilling effect on society if people willing to offer sound advice were assuming a financial liability. People frequently ask him for advice on drainage problems in their homes and other issues. If he found that offering advice caused him to be financially liable for the outcome of the situation, whether the advice was followed or not, people would stop helping other people. The City employee offered some good advice for solving the problem. If he received a kickback from the firm, that would be a problem, but he was offering a suggestion. Councilmember Lifferth asked the Council not to set a precedent that would penalize those who want to help someone out. He asked Mr. Hendrickson if the staff has had training in not implying liability for the City. Mr. Hendrickson said they have and implied that there would be further training.

Mr. Gassman asked what would have happened if the home had been completed and lived in and the same problem occurred. Mr. Kinghorn said in the absence of any evidence of negligence, the City would not be liable. If the City had intended to pay, the work would have been ordered with a purchase order or something similar. If the blockage had been caused by City negligence, the City would have paid for the removal.

**MOTION:** *Councilmember Ireland moved to deny a claim from McArthur Homes. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham,*

*Eric Cieslak, Ryan Ireland, David Lifferth and Nathan Ochsenhirt. The motion passed with a unanimous vote.*

16. ORDINANCE – Consideration and Adoption of an Ordinance of Eagle Mountain City, Utah Amending Prior Ordinances Authorizing the Disposal of Public Land and Repealing all Provisions in Conflict with the Ordinance and Providing for the Disposal of Certain Parcels of Real Property Owned by the City.

This item was presented by Planning Director Steve Mumford. The proposed ordinance would clarify the lands available for disposal and provide a procedure for administrative disposal of approved parcels. Mr. Mumford explained the new procedure, which would be simpler and less lengthy than the current one.

Mayor Pro Tem Burnham asked if the ordinance included an appeal process. Mr. Kinghorn responded that it did not. He said an appeal process could be added and asked what direction the Council would like to give. There was further discussion about possible appeals processes.

**MOTION:** *Councilmember Lifferth moved to adopt an ordinance authorizing the disposal of public land and repealing all provisions in conflict with the current ordinance, with an instruction to staff to return with an appeal process. Until an appeal process is in place, appeals should be directed to the City Council.*

Mr. Kinghorn recommended that, rather than enacting the ordinance, it should be referred back to staff for further work. Councilmember Lifferth retracted the motion.

*Mayor Pro Tem Burnham opened the public hearing at 8:30 p.m.*

Lee Morrison, Conestoga Way, represented the Pioneer Addition Homeowners' Association. He said it was a wonderful thing because the City gets rid of land it would otherwise have to maintain. The HOA would be relieved of maintaining parcels it is responsible for. He suggested that the City consider charging \$1.00 for the land, since the City will save so much money on maintenance.

John Hoosier, 1583 E. Tumwater N. Drive, said a 10-day appeal period is not enough. Some people are gone for more than 10 days and might lose their chance to appeal. He requested that the appeal period be 30 days.

Jennifer Holdsworth, 4632 Independence Way, lives adjacent to one of the properties. Her sprinklers were installed partially into City land and she was required to remove them. She said the City should keep the disposable parcels maintained or charge a fair price and let owners maintain the properties.

Stan Bateman, 3309 E. Kennekuk, thought land disposal was a great idea. He has agreed with his neighbor to purchase a disposable parcel and split it. He asked that the City charge a reasonable amount.

*Mayor Pro Tem Burnham closed the public hearing at 8:36 p.m.*

Councilmember Ireland said that the Planning Commission recommended that the cost cover the administrative costs. He wasn't sure how to determine fair market value for a small piece of land that couldn't be built on and could only be purchased by an adjacent owner.

City Recorder Fionnuala Kofoed said that, in the recent disposals the City processed, administrative costs were covered and the City was still able to sell the land for the lowest possible price. There were no complaints from the buyers. Mr. Kinghorn said the law doesn't allow the City to give property away. It has to be sold for some value. The City looks for the lowest objective value when setting a purchase price.

Mayor Pro Tem Burnham removed this item from the agenda and referred it back to staff, incorporating the comments made at this meeting.

#### CITY ADMINISTRATOR'S ITEMS

Mr. Hendrickson said that the gas rate reduction will appear on the April utility bill.

He reported that the budget process is underway. There hasn't been any decision on whether to recommend a tax increase. In recent years the City's portion of the property tax rate has been reduced by 30 – 40%. The preliminary budget workshop for the Council will be held on March 31<sup>st</sup>. The budget is required to be balanced every year.

He asked Mr. Trusty for an update on the sewer treatment facility and the Porter's Crossing extension. Mr. Trusty said that most of the road sub-base on Porter's Crossing is installed, the box culvert is installed, and the piping of the detention pond is finished. The storm drain was finished, but the wrong box was installed and is being replaced.

Mr. Trusty said the concrete structure of the wastewater treatment plant should be finished this month. Most of the piping is installed. The steel buildings and electrical conduits will be started next month. Alternatives on the Master Control Center are being researched: extending the breezeway of the existing building, extending the breezeway and raising the roof of the building, or constructing a third building.

The initial startup on well #1 should be within two weeks. The pump & motor on well #5 are in the same time frame. Engineering is waiting for the Master Control Center on that before initial start-up.

Mr. Hendrickson reported that the City has been meeting with CWP. The City contracted for 2,500 acre-feet of water over the next 12 years. There has been a lot of interest from several sources on contracting for water in excess of what the City contracted for. Details are being worked out on whether to require prefunding for operation or maintenance fees. The City cannot access interim water approved by State Engineer due to a lawsuit. Developers have been asking what agreement may be created to purchase water from the City will be like. The pipeline will be able to supply almost 44,000 acre-feet of water. Approximately 17,000 acre-feet have been purchased, including the water purchased by Eagle Mountain.

He said that well #4 will not normally be culinary, but may be used for culinary water in an emergency. Generally, it will supplement the parkway watering. Wells 1, 4 and 5 should be enough to prevent water capacity problems this summer.



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

Councilmember Ireland

Councilmember Ireland said he was in favor of making City processes easier for residents and staff. He reminded the staff not to leave small pieces of unimproved open space when approving developments.

Councilmember Lifferth

The Utah Lake Commission has finished its draft report, which is available online. Eagle Mountain was able to participate in the process without joining the Commission. He reminded the Council that the City can join the Commission this year at a lower cost than last year. His email has been down for a couple of weeks. Residents can send email to dlifferth@gmail. He congratulated Mayor Pro Tem Burnham on a great job conducting the meeting. Happy square root day: 3/3/09.

Councilmember Cieslak

Councilmember Cieslak asked everyone to email their elected officials about transportation.

Councilmember Ochsenhirt

Councilmember Ochsenhirt reminded residents that the Council will be back in two weeks and they're invited.

Mayor Pro Tem Burnham

Mayor Pro Tem Burnham thanked residents for coming to the meeting.

18. COMMUNICATION ITEMS  
A. Upcoming Agenda Items

19. ADJOURNMENT

Councilmember Lifferth moved to adjourn the meeting at 9:10 p.m.

APPROVED BY CITY COUNCIL ON MARCH 17, 2009

  
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Fionnuala B. Kofod, City Recorder