

MINUTES OF THE EAGLE MOUNTAIN CITY COUNCIL MEETING

March 16, 2004

Eagle Mountain City Council Chambers
1680 East Heritage Drive
Eagle Mountain, Utah 84043

WORK SESSION - No Action or Minutes Taken – 4:00 to 6:30 PM

1. Consent Agenda
2. Update on Community Arts Board Equipment
3. Discussion regarding the Recreation Sports Board
4. Discussion regarding the Trails and Sidewalk Access to the City Center Elementary School
5. Discussion on Eagle Mountain Water Requirements
6. Items as Outlined on the Policy Session
7. Adjourn Work Session at 5:36 PM.

Prayer by Invitation of the Mayor

The prayer was offered by Leah Woodard.

POLICY SESSION – 7:00 PM

Mayor Kelvin Bailey called the meeting to order at 7:00 PM.

1. Roll Call:

Council Members Present: Mayor Kelvin Bailey, David Blackburn, Diane Jacob, Vincent Liddiard, Mark Madsen, Linn Strouse

City Staff:

City Administrator:	Chris Hillman
City Attorney:	Gerald Kinghorn
City Engineer:	Korey Walker
City Recorder:	Janet Valentine
Deputy Recorder:	DeAnna Whitney
Finance Director:	Gordon Burt
Planning Director:	Shawn Warnke
Public Works Director:	Mark Sovine
Fire Chief:	Robert DeKorver (Excused)
Utah County Sheriff:	Sergeant JoAnn Murphy

Others Present: Colonel Olsen, Camp Williams; Matthew Cousins and Victor Gonzalez, residents and recently returned soldiers; Veronica Cousins and Debbie Gonzalez, wives of returning soldiers; Ken Hixson, Brad Morgan, Rob and Marilyn Healey, Tiffany Ulmer, residents; Sheila Curtis, Eagle Mountain Emergency Manager; Utah County Sheriff's Deputy Jody Scott.

2. Pledge of Allegiance:

The Pledge of Allegiance was lead by Lieutenant Matthew Cousins.

3. **Approval of Minutes (CC Meeting March 2, 2004):**

During Work Session, Vincent Liddiard requested that Harry Bakken's comments regarding his business license be included in Item 12. The Minutes were revised before the Policy Session.

Linn Strouse requested that the full Power Point presentation from David Lifferth be attached to the Minutes.

MOTION: *Vincent Liddiard moved that, subject to earlier discussions in the Work Session, the Minutes be approved. David Blackburn seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen; Nays: 0. Motion passed.*

4. **General Discussion/Questions/Announcements:**

Mayor Bailey announced that Open Burn Season would run from April 17 to May 16, 2004, and that permits would be available at the Fire Station Monday through Friday one week prior to April 17th.

The Mayor announced that Vincent Liddiard is the proud father of a new son, Kyle Liddiard, born February 24, 2004.

Mayor Bailey announced that his wife graduated from BYU last week.

Diane Jacob advised that there would be a free Hepatitis A immunization clinic held on April 6 at American Fork Junior High School cafeteria from 2:00 PM to 8:00 PM. She advised that this immunization is now required for kindergarten enrollment.

5. **Appointments:**

A. Board of Adjustment

Mayor Bailey recommended that the following appointments be made to the Board of Adjustment: Ken Hixson for a term from March 16, 2004 through December 31, 2006; Brad Morgan for a term from March 16, 2004 through December 31, 2005, finishing the term formerly held by Steve Seegmiller.

Diane Jacob asked if these appointments were in addition to their positions as alternates on the Planning Commission, and Mayor Bailey answered in the affirmative.

MOTION: *Diane Jacob moved to approve the appointments of Ken Hixson and Brad Morgan to the Board of Adjustment with the terms noted in the memo. Linn Strouse seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen; Nays: 0. Motion passed.*

Janet Valentine administered the Oaths of Office to Mr. Hixson and Mr. Morgan.

6. **Public Notices:**

None

7. **Public Comment:**

Sheila Curtis, Emergency Preparedness Coordinator for the City, announced there would be a CERT (Community Emergency Response Team) final disaster drill at 10 AM on March 27 at City Center.

Rob and Marilyn Healey, residents, referred to a letter forwarded by them to Mr. Kinghorn and signed by residents of the Ruby Valley subdivision regarding incomplete improvements in their subdivision. A copy of the letter is filed with the approved Minutes. Mr. Healey verified that all Council members had received the letter. Linn Strouse stated she had not received a copy and was presented one by the Mr. Healey. Mr. Healey read the letter, which requested action on the part of the City to resolve incomplete subdivision improvements.

Linn Strouse stated she has a friend who was going to move to Ruby Valley but changed his mind when the subdivision was not finished. She indicated there were similar issues in Meadow Ranch, some of which are still not resolved, and that a former Council had approved that subdivision before all items were finished. She stated she hoped there was something the City could do to resolve this matter.

Mayor Bailey explained that since last fall the City had been working on the Ruby Valley matter with the current owner. He explained that the current owner requested that the City finish the project at the owner's expense and had asked the City to put together a list of charges for completion of the unfinished improvements. Mayor Bailey advised that Corey Walker had computed these charges and that they would be presented to the owner at a meeting at the end of March.

Tiffany Ulmer, resident, thanked the City and staff who had been planting trees to improve the park in her subdivision. Linn Strouse thanked Mrs. Ulmer and her fellow residents for their efforts to improve their subdivision park.

8. Council Comments:

None

9. Recognition of Military Service:

A Certificate of Recognition for Military Service was presented by the Mayor and Colonel Olsen, Camp Williams, to Lieutenant Matthew William Cousins and his family. Mr. Cousins announced that his wife, Veronica, became a citizen of the United States that day.

Vincent Liddiard and Colonel Olsen presented a Certificate of Recognition for Military Service to Victor Gonzalez and his family.

Linn Strouse reminded everyone of the soldiers who have given their lives and advised that they should not be forgotten. She suggested that everyone give a moment of silence each week to remember those soldiers. She indicated that freedom is not a gift but a stewardship and that we all need to be involved in the process of government.

**10. Public Hearing: "Ordinance Amending and Re-Enacting Impact Fees for Eagle Mountain City"
(Impact Fees are calculated based on a subdivision per subdivision basis. Refer to Impact Fee Ordinance for the actual fees per subdivision):**

Mayor Bailey explained that adjustments were previously made to the Impact Fee Ordinance. He asked Gerald Kinghorn to explain items that still needed to be adjusted.

Gerald Kinghorn stated that the proposed amendment to the Impact Fee Ordinance would make all impact fees due at building permit instead of some of the fees being due at building permit and some due at plat recordation. He advised that the amendment would also collect an impact fee from properties that benefit from certain land that is being donated by SITLA to the City. He explained there is an increment of the value of that land that is attributable to use by other properties that the City cannot constitutionally exact from SITLA and they must be compensated for it. Mr. Kinghorn stated this is part of the Master

Development Agreement signed by the City with SITLA that was overlooked in the prior revision of the Impact Fee Ordinance. He advised that approving the amendment to the ordinance would not cause an overall increase in impact fees.

- A. Open Public Hearing (*7:10 p.m. or as soon thereafter as may be heard*)

Mayor Bailey opened the Public Hearing at 7:25 PM.

- B. Receive Public Comment

None

- C. Close Public Hearing

The Mayor closed the Public Hearing at 7:25 PM.

David Blackburn asked if developers and builders had been notified of this amendment. Gerald Kinghorn stated that the Mayor and Corey Walker had talked with all those who would be impacted by this ordinance amendment. Mr. Blackburn asked if the City is proactive in letting builders know about these changes in advance. Mr. Kinghorn advised that the information is available as required by statute and that the fee information is available through the Building Official.

Janet Valentine stated all ordinances are posted on the website after they are approved and impact fee information is emailed to builders.

Mayor Bailey assigned Corey Walker to provide Fionmuala Kofoed, who handles the website, with a spreadsheet showing impact fees for individual subdivisions

11. Consideration and Approval of an Ordinance of Eagle Mountain City, Utah, Amending and Approving the 2003 Capital Facilities Plan, Adopting an Impact Fee Economic Analysis and Amending and Enacting an Ordinance Requiring the Payment of Impact Fees for Certain Public Facilities:

MOTION: *David Blackburn moved to accept and adopt Ordinance No. O 06-2004, as amended. Vincent Liddiard seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen; Nays: 0. Motion passed.*

12. Development Agreement including CC&R's Approvals:

- A. Eagle's Gate, Plat C

Shawn Warnke stated that the final plat for Eagle's Gate, Plat C, was previously approved by the Council; however, at that time the developer did not elect to include the Development Agreement and CC&R's for approval. Mr. Warnke stated these items were before Council now for approval before recordation of the plat.

Linn Strouse asked why the developer chose to handle the approvals separately. Mr. Warnke advised that Council adopted the ability for a developer to split these processes for their convenience.

Diane Jacob declared a conflict of interest because of water rights.

MOTION: *Vincent Liddiard moved to accept what the Mayor had proposed in regards to the staff's comments on Eagle's Gate, Plat C, and adopt the agreed upon Development Agreement, Letter of Water Rights and CC&R's. Mark Madsen*

seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen; Nays: 0. Motion passed.

Linn Strouse asked if this is an HOA and if that is covered in the CC&R's. Shawn Warnke explained there is a template that is consistent with the Ranches Design Guidelines. He stated that for consistency that template had been used in creating the CC&R's for Eagle's Gate, Plat C. Mrs. Strouse asked if sales agents for developers are explaining the HOA to homebuyers before closing. She stated there have been negative feelings towards the City in the past caused by developers not advising home buyers of this information in advance of closing.

Mayor Bailey advised that the City had given instructions to developers to notify homebuyers of HOA's; however, he stated there is no way the City can guarantee that developers/builders are complying with these instructions.

13. Consideration and Approval of Purchase of Utilities Operation Building Site:

Mayor Bailey advised that this item regarding the purchase of a five-acre building site located near the sewer treatment plant had been discussed in detail at previous meetings

MOTION: *Mark Madsen moved to approve the purchase of a utilities operation building site under the terms of the contract in the packets. David Blackburn seconded the motion. Ayes: 4 – Linn Strouse, David Blackburn, Vincent Liddiard, Mark Madsen; Nays: 1 – Diane Jacob. Motion passed.*

Diane Jacob stated she is against this purchase because she does not feel the property is worth \$40,000 per acre, which she feels is two and a half times its value. She stated there had been other property in the City Center area appraised at \$17,000.

Mayor Bailey asked Diane Jacob if she knew of other properties that could be used for this site. Diane Jacob stated the City Council could make changes to land use restrictions to accommodate industrial use.

Linn Strouse stated that Mark Sovine had previously made a good presentation regarding the selection of this property and asked him if he still thought this was the best location for the building site. Mark Sovine stated that based on the needs of the Public Works Department, the location of this site, accessibility of utilities, and availability of a collector road that this site was still the best choice.

For those who were not present at the prior meeting, Mayor Bailey explained the appraisal process the City used for this property.

Linn Strouse asked Mark Sovine about the importance of the location of this building site. Mr. Sovine stated that an important factor was the location of the proposed site to the present sewer plant, which would need to be expanded in the future. He again advised that the utilities are already in place, that the traffic caused by the public works vehicles would not affect subdivisions, and that specific design guidelines would not apply.

Linn Strouse reminded everyone that the process had been a long one and that expediting it could lead to lower sewer rates. Mayor Bailey corrected Council Member Strouse by stating that this expansion would not lead to lower sewer rates, but that if the growth occurs in the South Service Area this site would be required to expand the sewer treatment plant. The sewer rates would automatically be lowered by growth in the City and not by the purchase of the property itself.

Diane Jacob stated she had personally driven by the comparable properties listed in the appraisal. She acknowledged that Mr. Hillman had talked with the gentleman who did the comparables and that he was applying the value of the property for what is proposed in the future, not the present. She advised that

anyone who has worked with comparables knows that there are ways to work appraisals. She again stated she did not agree with the appraisal on this property.

Mayor Bailey stated the City asked for an independent appraisal and did not ask the appraiser to "work it a certain way."

14. Consideration and Approval of SID 98-1 Default Collections:

Gerald Kinghorn referred to a letter presented to the Council describing the need to proceed with foreclosure to collect installment payment assessments for SID 98-1 in the Ranches. He advised that none of the parties that are in default are individual property owners but are development companies that owe installment payments for 2003. He explained that the City needed to move forward to collect these payments as required by the bondholders. Mr. Kinghorn stated the payments are part of the payments the City would be making on the bonds, and that without collecting the installment payments, the City cannot make their payment on the bonds. He advised that the bond documents require that the consent of the City Council be obtained before collection actions are commenced.

Mr. Kinghorn advised the Council that some of those developers shown on the default list had made partial or full payments since the list was presented to Council. He stated the current timeline was to record the Notices of Default on Thursday, March 18, and that the parties in default would have three months from the date of recording to make the payment plus the collection charges. He stated that if the developers did not cure the default within three months, the City would notice the property up for sale by advertising the property for six weeks before conducting a non-judicial foreclosure sale. Mr. Kinghorn advised that all parties had been given at least three notices since December 2003.

Mayor Bailey asked if this would hold up restructuring of the SID process. Mr. Kinghorn stated that this could hold up the restructuring process because some of the money needs to be available on deposit to refund the bonds. He explained that when the refunding takes place, the City would have about \$3 million less debt than it currently has.

MOTION: *Vincent Liddiard moved to accept the recommendation of legal counsel and direct the staff for the default collections for SID 98-1. Diane Jacob seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen: Nays: 0. Motion passed.*

David Blackburn asked if it mattered how the names of the companies were listed. Mr. Kinghorn stated the business organization characterizations had not been added because he had not checked them. He stated they were listed the way the properties are shown on the title reports.

Mr. Blackburn asked if these names would be made public, and Mr. Kinghorn advised they would become public record.

Linn Strouse asked if the list would be updated to reflect the payments received, and Mr. Kinghorn stated that the list would be updated.

15. Discussion of Request for Proposals (RFP) for Utility Trenching:

Mark Sovine explained the current process the City uses for trenching. He stated the City is growing and needs to contract with a company directly to do trenching for all developers so that the City can control the process. He stated under this new contract costs would be affected and that staff would be presenting Council with changes in the fee schedule to adjust for the trenching contract.

Mayor Bailey explained that the costs would be passed on to the builder and that a contract would give consistency and control to the City during the trenching process.

The Mayor directed staff to move forward with this RFP.

16. Discussion of Request for Proposals (RFP) for the Installation of a Cathodic Protect System in the North Area Water Well:

Mayor Bailey explained that the City needs to go out to contract to install a Cathodic protect system for the North Area water well.

Mark Sovine explained that this system would be paid for out of the balance of the construction fund for the bond.

David Blackburn asked about any warranty on the past work and was told the warranty had expired.

Korey Walker advised the Council that this installation would provide information on the corrosion rate on the well.

Vincent Liddiard asked about the depth of the well. Mark Sovine stated the pump sits at a depth of 560 feet, the well is approximately 980 feet deep, and the static water level is about 420 feet.

Linn Strouse asked what caused the corrosion, and the Mayor explained that the minerals in the water were the cause.

Mark Sovine advised that a water content report for the City is published each year and is on the website.

Mayor Bailey advised Mr. Sovine to proceed with the RFP.

17. Consideration and Approval of the Purchase of Gas and Electric Service Vehicles:

Mark Sovine explained that the purchase of two vehicles, one each for the gas and electric departments, was being presented for approval. He explained the current condition of the gas truck and that the electric department had never had a vehicle that was adequate for use in that department. Mr. Sovine stated these vehicles would be paid for out of the revenue bond.

MOTION: *David Blackburn moved to approve the purchase of gas and electric service vehicles. Diane Jacob seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen; Nays: 0. Motion passed.*

Vincent Liddiard asked how long the new vehicles would meet the needs of the departments. Mark Sovine stated these vehicles are new and should provide good service for the City.

18. Consideration and Approval of the Purchase of Vacuum Truck for the Sewer Plant:

Mark Sovine advised that this truck would allow the City to do its own sewer pumping, saving \$1,800 per month currently being paid to an outside source. He stated the proposed vacuum truck could be purchased for less than one year's worth of pump sludging. He stated the truck could also be used by other departments for other purposes.

Mayor Bailey explained that this truck could also be used to pump out septic systems and thus generate income for the City. Gerald Kinghorn stated this would have to be discussed on another occasion due to the effect on private business.

David Blackburn asked about the warranties and condition of the proposed vehicle. Mayor Bailey advised there were no warranties because the vehicle was used but that he and Mr. Sovine had inspected the truck, that the motor had been rebuilt, and that the pump was new.

MOTION: *Mark Madsen moved to approve the purchase of a vacuum truck for the Sewer Plant. Vincent Liddiard seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen; Nays: 0. Motion passed.*

19. **Consent Agenda:**

- A. Partial Payment Requests
 - 1. Sweetwater Road Extension (PP No. 2), Terry Larsen Excavating
- B. Partial Bond Releases
 - 1. Lone Tree, Plat A (Rel No. 2), Ranches

MOTION: *Diane Jacob moved to add Change Order No. 2 for Terry Larsen Excavating to the Consent Agenda. Vincent Liddiard seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen. Motion passed.*

MOTION: *Diane Jacob moved to approve the Consent Agenda. Vincent Liddiard seconded the motion. Ayes: 5 – Linn Strouse, David Blackburn, Vincent Liddiard, Diane Jacob, Mark Madsen; Nays: - 0. Motion passed.*

20. **Other Business:**

Vincent Liddiard asked Sergeant Murphy to introduce a new member of her staff. Sergeant Murphy introduced Deputy Jody Scott, who has expertise in warrants, and welcomed him to Eagle Mountain City.

Chris Hillman updated the Council on the IT contract and explained the interview process conducted by the staff. He recommended that Family Solutions be awarded the contract, which contract would be presented to the Council at the next meeting.

Mr. Hillman reminded the Council about the budget retreat scheduled for Friday, March 19, at Thanksgiving Point and explained the itinerary.

21. **Motion to recess in to a Closed Executive Session for the purpose of discussing personnel issues, potential litigation and/or public safety/security:**

No Closed Executive Session was called.

22. **Motion to Close the Closed Executive Session and Reconvene in to Open Session:**

Not applicable.

23. **Any Actions from the Closed Executive Session:**

None

24. **Adjournment:**

Vincent Liddiard moved to adjourn at 8:05 PM.

APPROVAL: _____

Mayor Kelvin E. Bailey

DATE: _____

4/6/04

This certifies that the minutes of
3-16-04 are a true, full and
correct copy as approved by the
City Council on 4-6-04

Signed: 
DEPUTY City Recorder