EAGLE MOUNTAIN

EAGLE MOUNTAIN CITY COUNCIL MEETING MINUTES

May 1, 2018
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: Mayor Tom Westmoreland, Councilmembers Donna Burnham, Melissa Clark, Colby Curtis, and Stephanie Gricius. Benjamin Reaves was excused.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Paul Jerome, Assistant City Administrator/Finance Director; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Chief Deputy City Recorder; Aaron Sanborn, Economic Development Director; Linda Peterson, Communications and Community Relations Director; Evan Berrett, Management Analyst; Michele Graves, City Librarian; Steve Mumford, Community Development Director; Mike Hadley, Planning Manager; Tayler Jensen, City Planner; Chris Trusty, City Engineer; Mack Straw, Public Utilities Manager; Zac Hilton, Streets and Storm Drain Manager; Ross Fowlks, Fire Chief; Eric McDowell, Chief Sheriff's Deputy.

Mayor Westmoreland called the meeting to order at 4:08 p.m.

1. CITY ADMINISTRATOR INFORMATION ITEMS – This was an opportunity for the City Administrator to provide information to the City Council. These items were for information only and do not require action by the City Council.

   None.

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

   14. ORDINANCE – An Ordinance of Eagle Mountain City, Utah, Rezoning Five Acres of The Ranches Golf Course from Open Space to Residential.

   City Planner Tayler Jensen explained this five-acre rezone consisted of six pods, one of which was commercial and the others residential. The Planning Commission voted on each pod separately. The purpose of the rezone was for to generate revenue in order to construct an events barn for the benefit of the golf course. He noted the rezone had been revised several times.

   Mark and Kristin Whetzel, the applicants, explained the rationale behind the design of the various portions of the project. The rezone had to be designed in a way that maintained the integrity of the golf course. She explained that the golf course needed improved amenities to increase its revenues to a level that would sustain it. Mr. Whetzel stated that Tele

Wightman, the golf pro, would be at Policy Session with a petition signed by 230 people in support of the rezone.

15. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Adopting the Eagle Mountain City Tentative Budget for Fiscal Year 2018-2019 and Setting a Public Hearing for Adoption of the Final Budget.

City Treasurer David Mortensen described the amendments to the 2018-2019 budget made since the previous Council meeting.

State Code requires that the City Council hold a public hearing on the proposed budget and that the budget be adopted by June 30. The tentative budget had been available for public review in preparation for adoption by the City Council. After the City Council conducts a public hearing, the Council may move to adopt the final budget as proposed or with amendments. The final budget will be the document that governs the expenditures for the 2018-2019 fiscal year.

16. MOTION – Eagle Point Plat J, Amended Preliminary Plat.

City Planner Tayler Jensen stated the applicant proposed a 166 lot single-family development located on 45.29 acres of property for a project density of 3.66 dwelling units per acre. This proposal amended a previous one, including a larger park adjacent to the Eagle Point Plat I church. The redesigned road network provided for higher connectivity than previous approvals, and midblock pedestrian trails improved the overall walkability.

17. AGREEMENT – Cooperation Agreement between Eagle Mountain City, Utah, and the Eagle Mountain Arts Alliance for Visual and Performing Arts.

This item was discussed after item 18B.

City Recorder Fionnuala Kofoed stated the proposed agreement documented the terms for the Eagle Mountain Arts Alliance's use of certain public parks and facilities within the City. Because the City had limited resources to plan and promote visual and performing arts events and opportunities, City Administration wished to provide non-monetary assistance to the Eagle Mountain Arts Alliance, which would promote visual and performing arts in the City.

18. A. ORDINANCE – An Ordinance of Eagle Mountain City, Utah, Amending Chapter 8.25 of the Eagle Mountain Municipal Code for Blasting.

The proposed amendment to the Municipal Code changed the City permit approval process and criteria for blasting, requiring that the City Engineer approve or deny blasting permits in areas more than 1,000 feet away from any existing residential structure within 30 days. The time to approve or deny the application could be extended up to 60 days if the City Engineer determined that additional information was necessary to evaluate the application or a third party needed to be consulted to evaluate the application.

In addition to approval by the City Engineer, any application proposing blasting within 1,000 feet of any existing residential structure would have to be approved by the City

Council. The City Council could consider the following factors in granting or denying the application:

a. The proposed number and size of blasts;
b. The distance between the proposed blasts and existing residence;
c. Whether the blasting is necessary to install public or private infrastructure or facilities that will benefit the public at large;
d. Whether alternatives to blasting exist, such as use of machinery, and the potential costs, timing and impacts of any alternatives;
e. Any conditions or restrictions proposed by the applicant to alleviate the potential negative impacts to surrounding property owners; and
f. Site specific conditions, such as slope, soils, and emergency access.

B. MOTION – Goldsworth Blasting Permit.

The Council discussed technical details of the blasting project with Ken McCoy of 3-Rivers Drilling.

3. ADJOURN TO A CLOSED EXECUTIVE SESSION

No Closed Executive Session was held.

Mayor Westmoreland adjourned the meeting at 6:02 p.m.

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

ELECTED OFFICIALS PRESENT: Mayor Tom Westmoreland, Councilmembers Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Paul Jerome, Assistant City Administrator/Finance Director; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Chief Deputy City Recorder; Aaron Sanborn, Economic Development Manager; Linda Peterson, Communications and Community Relations Director; Evan Berrett, Management Analyst; Michele Graves, City Librarian; Steve Mumford, Community Development Director; Mike Hadley, Planning Manager; Tayler Jensen, City Planner; Chris Trusty, City Engineer; Ross Fowlks, Fire Chief; Eric McDowell, Chief Sheriff's Deputy.

4. CALL TO ORDER

Mayor Westmoreland called the meeting to order at 7:06 p.m.

5. PLEDGE OF ALLEGIANCE

Donna Burnham led the Pledge of Allegiance.

6. INFORMATION ITEMS/UPCOMING EVENTS

- **Youth Council Elections** -- Youth Council elections will be held on May 8, 2018. Requirements to serve on the Youth Council are:
  - Each member must be a resident of the Cedar Valley area for at least one month.

- Must be at least ninth grade and not yet a graduate from high school.
- Must be at least in the eleventh grade to serve as mayor of the Youth Council.
- Must be a resident of Eagle Mountain to serve as the mayor of the Youth Council.

Those interested in running for Youth Council office need to file a statement of candidacy by sending an email to the City Recorder at fkofoed@emcity.org by May 3, 2018 stating their intent to run and how they meet the eligibility requirements.

- **Nominations Sought** – Nominations are being accepted for Pony Express Days Grand Marshal until midnight tonight. Recognize someone in the community who contributes to making Eagle Mountain City a great place to live. Submit your nomination at emcity.org/GM or email info@emcity.org.
- **Volunteers Wanted** -- Volunteers are wanted for Pony Express Days and other community events. Pick from available shifts. Register at emcity.org/volunteers.
- **Pony Express Days Discount Carnival Tickets** – The Pony Express Days carnival will be held May 31, June 1, and June 2. Discount tickets at $20 for a one-day unlimited ride pass are available for purchase at City Hall during business hours or at all Eagle Mountain schools except Frontier Middle School.
- **Pony Express Rodeo, Demolition Derby Tickets** – The Pony Express Rodeo will be held Memorial Day weekend on Friday, May 25, Saturday, May 26, and Monday, May 28. The Demolition Derby will be held Saturday, June 2. Tickets for both events are available at ponyexpressevents.com.

7. PUBLIC COMMENTS – Time has been set aside for the public to express their ideas, concerns and comments.

Jeff Ruth stated he had spoken to the Code Enforcement Officer several years ago and he was very proactive. He read on Facebook recently that a resident with an illegally-parked truck was told by a Neighborhood Improvement Officer that they only came out when complaints were called in. Mr. Ruth felt they should be more proactive and shouldn't be saying that to people.

8. CITY COUNCIL/MAYOR'S ITEMS – Time has been set aside for the City Council and Mayor to make comments.

Councilmember Curtis

Councilmember Curtis thanked everyone for attending the meeting and for sending emails when they had concerns, especially those who reach out respectfully. He wasn't always able to respond to them promptly, but he did read all of them.

Councilmember Burnham

Councilmember Burnham echoed Councilmember Curtis' comment. She also said there had been problems with the email system recently.

Councilmember Reaves

Councilmember Reaves welcomed everyone and agreed with Councilmembers Curtis and Burnham. He appreciated the residents' being united.

Councilmember Clark

Councilmember Clark was excited to see so many people in attendance. She knew it was because the Council would be voting on topics people were passionate about. Feeling passionate about issues was the reason each of the Councilmembers had run for election.

Councilmember Gricius
Councilmember Gricius echoed the other Councilmembers' comments.

Mayor Westmoreland
Mayor Westmoreland welcomed everyone. He looked forward to a good discussion, which would help the Council reach good decisions.

CONSENT AGENDA

9. MINUTES
   A. April 17, 2018 – Regular City Council Meeting

10. BID AWARDS
   A. Pony Express Widening and Median Project – Knife River Construction
   B. Senior Center Remodel – KDK Construction, LLC

11. CHANGE ORDER
   A. Pony Express Widening Project – CRS

12. ORDINANCE
   A. Amendment to Chapter 2.35 of the Municipal Code for the Library Board

MOTION: ***Councilmember Gricius moved to approve the Consent Agenda with the addition of item 12, Amendment to Chapter 2.35 of the Municipal Code for the Library Board. Councilmember Clark seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.***

SCHEDULED ITEMS

Item 12 was moved to the Consent Agenda.

Item 17 was discussed before item 13.

13. LIBRARY BOARD APPOINTMENTS
   A. Tim Heise – 2-year term
   B. Stephanie Squires – 3-year term

MOTION: ***Councilmember Curtis moved to appoint Tim Heise to the Library Board for a term ending December 31, 2019. Councilmember Gricius seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.***

MOTION: ***Councilmember Curtis moved to appoint Stephanie Squires to the Library Board for a term ending December 31, 2020. Councilmember Gricius seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.***

City Recorder Fionnuala Kofoed administered the oath of office to Ms. Squires. Mr. Heise was unable to attend the meeting and will receive the oath at another time.

PUBLIC HEARING

14. ORDINANCE – An Ordinance of Eagle Mountain City, Utah, Rezoning Five Acres of The Ranches Golf Course from Open Space to Residential.

City Planner Tayler Jensen explained the proposed ordinance would rezone five acres of The Ranches Golf Course from open space to Residential zoning, with four Single Family Residential pods and two Multifamily Residential pods. The stated purpose of the rezone was to support construction of an events barn on the golf course.

The proposal being made at this meeting was different from that brought before the Planning Commission on April 10. The Planning Commission made seven motions regarding the project, changing several aspects of the project. The applicants redesigned the project with those motions in mind.

Mayor Westmoreland opened the public hearing at 8:08 p.m.

Karsen Delgado asked whether there had been a cost/benefit analysis or statistical analysis that would demonstrate that the rezone would make the golf course more profitable, and what other options had been considered, such as a public/private partnership.

Christa Kelly discussed drainage and traffic issues drainage issues and stated that no-one within 500' of the project received a notice in the mail.

John Newcomb stated his family's biggest objection was to the two-story, multifamily housing.

Sara Giles asked if there were other areas the zoning could be spread into rather than being mostly concentrated in her neighborhood.

Craig Boyens said The Ranches Golf Course was the most community-oriented golf course he'd ever seen. He supported the event barn as a way to help the golf course be a more successful business.

Angie Fenton moved to Mt. Airey Village specifically to be near the golf course and her golf "family," because it was one of the very few places where women golfers were welcome.

Jeff Ruth said the clubhouse would let the golf course flourish, which would bring in taxes that would help the City be able to afford amenities the residents wanted.

Don Sasser supported the rezone and appreciated Mr. Mumford considering his drawings while redesigning the proposal. He disagreed with the possible construction near Carnoustie and Ranches Parkway.

Boyd White agreed the golf course needed the events barn, but objected to the cost being placed on the residents through loss of the rights, property value and livability they currently enjoy.

Ashley Pitcher said her family moved to Eagle Mountain specifically for the open space and felt it was important to maintain that, especially in The Ranches, where there was very little open space

left. She said the residents had not been allowed to comment on the changes made at the Planning Commission meeting and that violated their right to due process.

Alicia Hermosillo wanted to see the golf course succeed. She wanted the rezone plans to include residents' opinions and a traffic study. She also wanted better code enforcement on illegal parking in Eagle's Gate.

Richard Steinkopf wanted the City to get regular reports of which properties were sold and the price of each. He also said the street layout of the rezone was unsafe.

Tanner Wright was concerned about safety and privacy, indicated his preferred plan on the presentation screen and suggested a variation on the proposed fencing.

Janelle Groneman, a member of the Heatherwood HOA Board, supported the golf course but objected to losing the open space views on both sides of her home. She requested that one be preserved and asked for a parking lot.

David Beene objected to the condo complex that would block his view of open space. He doubted there would be enough parking for the new events complex.

Duff Astin didn't want any more multifamily housing, as this area was the most densely built area in the City already. He questioned the financial information that Vanguard was providing.

Stephen Delle Donne said his company held a golf tournament every year, but never at The Ranches because the facility was inadequate. The new facility would make the golf course suitable for many more tournaments and events and support the City's growth.

Brent Harper stated the events barn would be an asset to the golf course and the community. The loss of the golf course would impact the City negatively.

Brad Rhees said selling this land wouldn't guarantee the golf course's viability and the open space around the golf course was a defining attribute of Eagle Mountain.

Tele Wightman, a resident and the golf professional at the golf course, said several courses in the area have failed in the last ten years. He answered some of the objections to the rezone.

Mayor Westmoreland read the following comments from residents who didn't wish to speak during the meeting:

James Bricker disagreed with the way this was handled and felt it was being done in the interests of the City and the golf course, not the residents.

Jacob Moir disagreed with the sale of land at the entrance to Eagle's Gate.

Hayden Hansen thought it would give the City a chance to grow and bring more people to the City.

Wesley Denkers approved of the rezone because change was needed in the community.

Patrick Duke felt the upgrade would make the golf course a year-round facility instead of a seasonal one, and even those who didn't golf would benefit from the new clubhouse.

Angie Duke golfed at the course and wanted a new clubhouse/event area because she felt the clubhouse was an eyesore.

Mindi Call opposed the rezone and wanted to preserve open space.

Jake Camp asked the Council to consider the City's open space and look at options to preserve the golf course's beauty.

Thomas Fox wanted to retain open space and felt the rezone would create too much traffic, as well as inappropriate access along main arterial roads.

Christine Denkers was in favor of the golf course and wanted to see more job opportunities and tournaments.

Amethyst Delle Donne supported the rezone because she believed growth was good for the City and the residents needed to be willing to allow change to come in.

Haylie Denkers was in favor of the rezone

Kristina Miller wanted impact and safety studies and was concerned about changing the nature of the Eagle's Gate collector roads due to safety issues.

Justin Pitcher was opposed to rezoning the open space on the golf course, and specifically not at the entrance to Eagle's Gate.

Jennifer & Gerald Reynolds disagreed with the rezone, particularly with the multifamily housing, because there were already too many traffic and safety issues and the area was already overcrowded.

Kim Denkers said the golf course provided jobs and increased property values. The clubhouse needed to be updated to maintain the viability of the course.

Mayor Westmoreland closed the public hearing at 9:32 p.m.

Councilmember Gricius asked Mr. Mumford to respond to the question of why the rezone was concentrated in one place. Mr. Mumford said Vanguard and the Planning Department met several times over the last two years. They reviewed every possible location and narrowed the viable locations down the current plan, based on maintaining the integrity of the golf course and generating the revenue needed to construct the event complex.

Councilmembers discussed the balance between the needs of the residents and those of the golf course. Neither side would be entirely satisfied. They reviewed each area of the rezone and considered which could remain as planned and which changes needed to be made.

MOTION: ***Councilmember Curtis moved to:***

- ***remove Motion Area 1*** *[Carnoustie Rd.];*

- ***allow Motion Areas 2 and 3** [Royal Dornoch Dr.] **to have up to eight, single-family, single-story homes in total, built on a half-circle of lots;***
- ***allow Motion Area 4** [between Barton Creek Dr. and Mt. Airey Dr.] **to have up to six, single-family, single-story homes at the Barton Creek Dr. end and the same at the Mt. Airey Dr. end;***
- ***allow Motion Area 5** [Desert Canyon Rd.] **to have one single story, single-family home;***
- ***allow Motion Area 6** [Cunninghill Rd.] **to have up to a four-plex on the south side;***
- ***include the Planning Commission's recommendations; and***
- ***reserve the park fees-in-lieu for the benefit of adjacent developments.***

Councilmember Gricius seconded the motion.

After further discussion, Councilmember Burnham called the question.

MOTION: ***Councilmember Burnham moved to call the question. Councilmember Curtis seconded the motion. Those voting aye: Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.***

[On the rezone motion] Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.

The Planning Commission recommendations were as follows:

~~1. Commercial piece shall be rezoned as Tier III or Tier IV Residential.~~
2. Applicant shall work to acquire adjacent City property to provide parking for parcel.
3. An events barn shall be added to existing agreement between Eagle Mountain City and Vanguard or a new development agreement shall be created.
4. Privacy fencing shall be required between side and rear property lines and Ranches Parkway.
5. Applicant shall provide safety netting where it is deemed necessary.
6. Applicant shall provide evidence that the golf course will maintain accreditation from the PGA as an 18 hole golf course.

Mayor Westmoreland announced a 3-minute break at 10:50 p.m.

Item 16 was discussed before item 15.

15. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Adopting the Eagle Mountain City Tentative Budget for Fiscal Year 2018-2019 and Setting a Public Hearing for Adoption of the Final Budget.

City Treasurer David Mortensen explained that the State Code required that the City Council review and adopt a tentative budget by the first regularly scheduled meeting in May. Additionally, the City Council needed to establish the time and place of the public hearing before the final budget was adopted. The public hearing was scheduled for May 15, 2018 and the final budget would be adopted on June 19, 2018.

MOTION: ***Councilmember Burnham moved to adopt a resolution of Eagle Mountain City, Utah, adopting the Eagle Mountain City tentative budget for fiscal year 2018-2019 and setting a public hearing for adoption of the final budget on May 15, 2018 at 7:00 p.m. or as soon thereafter as business allows. Councilmember Gricius seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.***

16. MOTION – Eagle Point Plat J, Amended Preliminary Plat.

Mr. Jensen stated the proposed plat contained 166 single-family lots on 45.29 acres. The property was located east of Eagle Point I and north of Eagle Mountain Boulevard. The plat would improve park space and connectivity in the subdivision. Lot transitioning would run from one-third acre to under 10,000 sq. ft., with 35 of them being larger than 10,000 sq. ft. This item was tabled at the April 3, 2018 City Council meeting.

Councilmember Gricius thanked the applicants for accepting their recommendations at the last meeting and adjusting the design of the plat.

MOTION: ***Councilmember Burnham moved to approve the Eagle Point Plat J amended preliminary plat, with the conditions made by the Planning Commission. Councilmember Reaves seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.***

The Planning Commission conditions were as follows:

1. The 20' pedestrian trail between Mercer Dr. and Ophir Dr. shall be replaced with a residential road connection.
2. Some lots shall be removed to provide for larger (1/4 acre) lots on the east side of the project.
3. Fencing consistent with residential arterial and collector road fencing standards shall be built for all lots adjacent to Eagle Mountain Boulevard and shall be installed with infrastructure improvements for each final plat.
4. The project shall comply with all mitigating measures called for by the traffic study and the City Engineer.
5. Any potential blasting shall comply with City blasting ordinances.
6. There shall be no more than 166 lots.
7. The project shall comply with all current side setback standards.

Item 17 was discussed before item 13.

17. AGREEMENT – Cooperation Agreement between Eagle Mountain City, Utah, and the Eagle Mountain Arts Alliance for Visual and Performing Arts.

In the spirit of full disclosure, Councilmember Clark stated she was one of the founders of the Arts Alliance and her husband served on the Board. They didn't receive any financial remuneration. City Recorder Fionnuala Kofoed explained that the proposed agreement documented the terms for the Eagle Mountain Arts Alliance's use of certain public parks and facilities within the City. The City would also assist the Alliance with some grant applications and with announcing some events.

Ms. Kofoed stated she spoke with a representative of the Utah Local Governments Trust, who said any organization that had an agreement with the City had to have its own insurance for events.

Kayla Young, representing the Alliance, said the Pony Express Special Events Committee had agreed to add the Alliance to its insurance policy at a fixed rate per event.

Councilmember Burnham asked if the agreement could be altered to say the EMAA shall be responsible for all hard costs for events, rather than all costs. Additional discussion followed.

MOTION: ***Councilmember Curtis moved to approve a cooperation agreement between Eagle Mountain City and the Eagle Mountain Arts Alliance for visual and performing arts, with the following changes:***

1. ***Add the mobile stage and public address system.***
2. ***Rewrite item 3 to read, "Arts understands and agrees that Arts shall be responsible for all third-party costs associated with any event."***

Councilmember Burnham seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.

18. A. ORDINANCE – An Ordinance of Eagle Mountain City, Utah, Amending Chapter 8.25 of the Eagle Mountain Municipal Code for Blasting.

City Attorney Jeremy Cook stated the proposed amendment would add a provision to the blasting permit application process that required blasting within a certain distance of residences to get a recommendation of approval from the City Engineer and also be presented at City Council meeting for public comments and the Council's decision.

Councilmember Burnham asked whether, if application was made to blast within the allowed distance from residences, the Council would have legal grounds to deny the application.

Mr. Cook said there were criteria in the Municipal Code under which the Council could choose to deny an application, even if it was within the allowed blasting distance.

Councilmember Clark asked if the application form could require information as to what alternatives to blasting were available. She also asked, if the application was for utility blasting, it could require information as to what utilities the blasting was for. Mr. Cook said both questions could be added to the application form.

Mayor Westmoreland invited comments on the proposed code from the audience. The following residents commented in opposition to the Code amendment:

Eric Lundell
Riley Jenkins
Eric Hoskins
Brad Spackman
Dave Alpois
Cheryl Milne

Some of the residents' comments included concerns about the location and construction of retaining walls. Mr. Mumford said the Planning Department would consider those comments as they proposed future changes to the Municipal Code.

Russell Nevers, attorney for Goldsworth Real Estate, Millcreek Homes and Wilrock Crushing, requested that the City Council be required to give reasons for denying an application, if the City Engineer had recommended approval. He asked why the distance from residences was set at 1000'. Mr. Cook said it was a reasonable amount set as a basis for discussion, having a potential for real impact on homes without being an excessive distance.

Councilmember Clark explained that last December the City Council considered prohibiting blasting for making unbuildable lots buildable, so allowing the 1000' distance was a concession.

Mr. Nevers noted that the alternative, using jackhammers, would be worse for residents.

Mr. Cook stated the Municipal Code needed criteria for judging these applications, so decisions had a specific basis.

Councilmember Burnham asked if it was possible to deny blasting applications if the applicant was already out of compliance on a previous project. Mr. Cook said it was legally defensible.

Councilmember Gricius wanted to make sure all forms of blasting were included in the amendment: residential, commercial and utility.

Ken McCoy, representing 3-Rivers Drilling and Blasting, said typical wording for a regulation would be "protected or occupied structures." He stated the science behind blasting and structural damage was well-established, and the current Municipal Code restricted blasting more than was indicated by the science on structural and cosmetic damage.

Karen Toombs, one of the developers of Skyline Ridge, stated she and her husband bought land in Eagle Mountain to create a quality, affordable community. She said they would comply with any ordinance they needed to. She asked to be the City's partner and stated the delays are costing a lot of money in interest payments.

After additional discussion, Councilmember Clark made a motion.

MOTION: ***Councilmember Clark moved to adopt an ordinance of Eagle Mountain City, Utah, amending Chapter 8.25 of the Eagle Mountain Municipal Code for blasting with the following changes:***

8.25.080 City Permit Approval Process & Criteria.

A. City Engineer Approval. The City Engineer shall approve or deny a complete blasting permit that does not propose blasting within one thousand three hundred twenty (1,320) feet of any permanent structure. The City Engineer may deny the permit, or impose any requirements and conditions, as necessary to protect adjacent properties, or the health, safety and welfare of the public. The City Engineer shall approve or deny the blasting permit within thirty (30) days. The City Engineer may extend the time to approve or deny the application by up to sixty (60) days if the City Engineer

determines that additional information is necessary to evaluate the application or the City Engineer requires third-party consulting services in order to evaluate the application. The City Engineer shall notify the applicant in writing of any extension.

B. City Council Approval. In addition to review by the City Engineer, any application proposing blasting within one thousand three hundred twenty (1320) feet of any existing residential structure must be approved by the City Council. If the City Engineer recommends approval of the application, the City Engineer shall include a proposed permit with all conditions of approval recommended by the City Engineer. If the City Engineer recommends denial of the application, the City Engineer shall provide a detailed analysis of the City Engineer's basis for denial of the permit. In addition to the recommendation of the City Engineer, the City Council may consider the following factors in granting, denying, or conditioning the permit:

a. The proposed number and size of blasts;

b. The distance between the proposed blasts and existing residences or structures;

c. Whether the blasting is necessary to install public or private infrastructure or facilities that will benefit the public at large;

d. Whether alternatives to blasting exist, such as use of machinery, and the potential costs, timing and impacts of any alternatives;

e. Any conditions or restrictions proposed by the applicant to alleviate the potential negative impacts to surrounding property owners;

f. Site specific conditions, such as slope, soils, and emergency access;

g. If blasting for utilities, the required utilities plan;

h. The applicant's plan for removal, export, import, processing, use, and stockpiling of material produced by the blasting, if necessary for the project or development;

i. Whether the applicant, developer of the project, or owner of the property where the blasting will occur, is in compliance with existing agreements with the City; and

j. Whether all aspects of the project or development, and the blasting plan, are in compliance with the Eagle Mountain Municipal Code.

C. All blasting permits shall be temporary permits and the City Engineer or City Council may terminate the blasting permit at any time, or impose additional conditions or restrictions on the blasting to protect the health, safety and welfare of the public.

Councilmember Reaves seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.

Councilmember Clark directed City staff to research rear setbacks, wall height and the State's definition of mining.

B. MOTION – Goldsworth Blasting Permit.

Mr. Cook stated Goldsworth Real Estate previously submitted a blasting application. The application was to be reconsidered at this meeting.

Mayor Westmoreland invited an applicant to speak.

Jacob Toombs, the builder purchasing the lots from Goldsworth, stated the blasting in the two phases being built was nearly finished. He wanted to complete the work that had been started, and then discuss minimizing blasting in future phases. When the project was initiated, he had the understanding he would be able to blast, which was necessary to make the project viable.

Councilmember Curtis asked Mr. Toombs if the business plan for the blasting was to process the aggregate onsite and then transport it for sale to others.

Mr. Toombs said it was, and that it was essential to the success of the project. Had he thought that would be a problem he wouldn't have bought the land. He needed to finish the project for business reasons and to avoid leaving an eyesore. He said truck-mounted jackhammers would be an alternative, but that would cause months of noise and vibrations. He believed the work could be completed in a few blasting events over the next couple of months.

Councilmember Burnham stated the last time a representative of the company spoke to the Council he said completion would only take a few more blasts. The Council was being told the same thing, again.

Councilmember Clark stated that Mayor Pengra was assured last June that only a few more blasts were needed. Blasting has been done since then and more was being requested.

Mr. Toombs said the project had paused and resumed several times, but since he'd been directly involved, there had been no blasting.

Mr. Pili stated he remembered a meeting in which Goldsworth representatives stated they would request a blasting permit after the Municipal Code for blasting was amended. They didn't tell him they were done blasting.

Referring to a special City Council meeting held last January, Councilmember Clark said Mr. Jacobson, representing Goldsworth Real Estate, was asked directly if there was any way the project could be completed without blasting. He assured the Council there was. The Council took that into consideration when they approved an agreement with Goldsworth.

Mayor Westmoreland felt Mr. Jacobson might have been referring to something such as jackhammering.

Mr. McCoy provided a chart showing that six blast events would finish the holes that were already drilled. The holes were drilled according to a 2-inch per second vibration standard. The standard recently changed to 1-inch per second, which would triple the shots needed.

Councilmember Clark said when she attended some of the blasts, the crew had to move away to a safe distance. She asked what that distance was. Mr. McCoy said it varied depending on the site

and was left to the discretion of the blaster-in-charge. It was typically anywhere from 700-2000 ft. although it had been done as close as 75 ft. Safety was their primary concern.

He reiterated that he wanted to work within the City's code. The alternative was jackhammers, which were much more disruptive for a much longer period of time.

Mr. Trusty stated staff had recommended re-platting the area to make more of the lots buildable.

Mr. Toombs stated there were delays last year while they tried to minimize blasting in Phase 4 in exchange for more lots in the future. Otherwise they could have finished blasting last year.

Councilmember Clark pointed out the information missing from the blasting application.

The following residents spoke in opposition to approval of the blasting permit. All were concerned about safety, home damage and the processing and transportation of the blasted material. They also had concerns about the size and location of stone retaining walls.

Jennifer Hackett
Brad Davies
Riley Jenkins
Eric Lundell

Mr. Toombs asked if the company had substantially complied with everything the City had asked them to do. He stated many previous home sites were blasted in.

Councilmember Curtis said allowing the crushing and hauling was a concession by the Council. He didn't want the deadline extended.

Mr. Toombs said he wasn't asking to extend the deadline, but to add to the volume. If there was already an agreed-to volume, he would have to address that.

Councilmember Clark said the volume agreed to was 300,000 tons. She felt it was reasonable not to grant another blasting permit until the volume was addressed. She also felt the application should be complete before it was granted.

MOTION: ***Councilmember Gricius moved to table a blasting permit for Goldsworth Real Estate until the next City Council meeting, conditioned on the Council receiving a completed application and a description of the applicants' alternatives to alleviate negative impacts and what they planned to do with the material being produced. Councilmember Burnham seconded the motion.***

Councilmember Reaves asked Mr. Toombs how long it would take him to complete the application.

Mayor Westmoreland reminded the Council that the Code was now more restrictive than it was last year. The applicant deserved to know if the Council would allow him to blast if he met the criteria. He didn't want the applicant to fulfill the Council's requests and the Council ask for more.

Councilmember Clark stated the application was incomplete and it should be complete.

Mr. McCoy asked Mr. Trusty if he was willing to approve the application based on the information he had. Mr. Trusty said he was. He had some information that the Council didn't, which made the application complete. However, the discrepancy should be cleared up.

Mr. Trusty stated that smaller blasts would create less disturbance, so blasting could be done safely as close as 114', the distance to the nearest home. Should damage occur, the applicants' insurance would be expected to pay for it.

Mr. Cook stated the City held a $25,000 bond pending resolution of residents' damage claims.

Councilmember Burnham asked if the blasting was being done with as much care as possible. Mr. Coy said it was and had been since the beginning of the project.

Those voting aye: Donna Burnham, Stephanie Gricius and Benjamin Reaves. Those voting no: Colby Curtis and Melissa Clark. The motion passed with a vote of 3:2.

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

None.

20. 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.

21. COMMUNICATION ITEMS
    A. Upcoming Agenda Items

22. ADJOURNMENT

MOTION: ***Councilmember Gricius moved to adjourn the meeting at 1:13 a.m. on May 2, 2018. Councilmember Curtis seconded the motion. Those voting aye: Donna Burnham, Colby Curtis, Stephanie Gricius and Benjamin Reaves. The motion passed with a unanimous vote.***

Approved by the City Council on May 15, 2018.

Fionnuala B. Kofoed, MMC
City Recorder