

MINUTES  
EAGLE MOUNTAIN CITY COUNCIL MEETING

May 5, 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**

ELECTED OFFICIALS PRESENT: Councilmembers Donna Burnham, Eric Cieslak, Ryan Ireland, David Lifferth (arrived 4:35 p.m.) and Nathan Ochsenhirt.

CITY STAFF PRESENT: John Hendrickson, City Administrator; Jerry Kinghorn, City Attorney; Gordon Burt, City Treasurer; Ifo Pili, Assistant City Administrator; Jason Walker, Management Analyst; Nick Camberlango, Management Intern; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Linda Peterson, Community Relations Coordinator; Chris Trusty, Public Works Director; Steve Mumford, Planning Director; Jeff Thompson, Plans Examiner; Adam Ferre, Energy Division Director; Rand Andrus, Fire Chief; Eric McDowell, Sergeant.

Mayor Heather Jackson called the meeting to order at 4:07 p.m.

1. AGENDA REVIEW – The City Council reviewed 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 Sewer Treatment Facility (*Presented by Chris Trusty*)
  - B. Update on Parks and Trails Master Plan (*Presented by Steve Mumford*)
  - C. Update on City Wide Computer System (*Presented by Canon Business Solutions*)
  - D. Update on Purchase of F7500 Brush Truck (*Presented by Chief Andrus*)
3. ADJOURN TO A CLOSED EXECUTIVE SESSION – The City Council adjourned into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the 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 the acquisition of real property, pursuant to Section 52-4-205(1) of the Utah Code, Annotated. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, David Lifferth and Nathan Ochsenhirt. The motion passed with a unanimous vote.*

The meeting was adjourned at 6:09 p.m.

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

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

CITY STAFF PRESENT: John Hendrickson, City Administrator; Jerry Kinghorn, City Attorney; Gordon Burt, City Treasurer; Ifo Pili, Assistant City Administrator; Jason Walker, Management Analyst; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Linda Peterson, Community Relations Coordinator; Chris Trusty, Public Works Director; Steve Mumford, Planning Director; Adam Ferre, Energy Division Director; Rand Andrus, Fire Chief; Eric McDowell, Sergeant.

### 4. CALL TO ORDER

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

### 5. PLEDGE OF ALLEGIANCE

Jeremy Sitwell led the Pledge of Allegiance.

### 6. INFORMATION ITEMS/UPCOMING EVENTS

- The Queen's Royal Guard visited Rockwell High School this morning.
- As part of Military Appreciation Week, the City is sponsoring a volunteer project to beautify and maintain the Utah Veterans' Memorial Park on May 20 from 4:00 – 7:00 p.m. Other projects will be scheduled weekly throughout the summer.
- Military care package donation boxes are located in the schools and at City Hall through May 27. Boxes will also be available at various sites during Pony Express Days.
- Pony Express Days will be held from May 28 – June 6. The theme is "Tribute to Our Troops." Details are available on the City website, the current newsletter and a brochure which will be mailed to residents.

### 7. PUBLIC COMMENTS

No public comments were made.

### 8. CITY COUNCIL/MAYOR'S ITEMS

- A. Report from North Ranch Gas Special Assessment Area Board of Equalization Hearings.

#### Councilmember Lifferth

Councilmember Lifferth rented City Hall for his daughter's wedding reception last weekend. He was proud to show Eagle Mountain to his family visiting from out of town. He appreciated everyone who makes the City a great place to live.

#### Councilmember Burnham

Councilmember Burnham thanked the staff and volunteers working on Pony Express Days. She said that anyone wanting to volunteer can contact Angie Ferre or Linda Peterson.

#### Councilmember Cieslak

Councilmember Cieslak thanked the Scouts for participating tonight and everyone who attended. He mentioned that yelling or using angry language does not make the City work harder. He suggested that people express their concerns to the right department or agency. He thanked Rep. Sumsion for the very impressive work that he does.

Councilmember Ochsenhirt

Councilmember Ochsenhirt was excited for Pony Express Days. He said the City has accomplished a lot in the last few years in improving parks, roads, communication with residents and response to public concerns. He encouraged residents to have pride in the community.

Councilmember Ireland

Councilmember Ireland asked Public Works Director Chris Trusty to have a flood-prone spot on the Sweetwater Trail repaired. He suggested that, now that there is a trail for pedestrian and bike traffic, the speed limit be raised on Sweetwater Road. Mayor Jackson asked Sgt. McDowell to respond. Sgt. McDowell explained that changing the speed limit on a road requires a traffic study. Because the road is narrow, with a median and no shoulder, single car accidents are not unusual at the turns. The road would need to be widened to safely raise the speed limit. City Attorney Jerry Kinghorn said that the City's agreement with SITLA limits the speed limit and doesn't allow for widening the road.

Mayor Jackson

Mayor Jackson reported that the groundbreaking for Coop's Market was held last week.

Councilmember Burnham read the following report from the Board of Equalization for North Ranch Special Assessment Area 2008-2: "It is the decision of the Board that the proposed assessment list is equitable and that the improvements being financed by it constitute a benefit to the properties to be assessed."

9. PROCLAMATION

A. Military Appreciation Week – May 18, 2009

**MOTION:** *Councilmember Cieslak moved to approve a proclamation declaring the week of May 18, 2009, as Military Appreciation Week. 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.*

**CONSENT AGENDA**

10. MINUTES

A. April 21, 2009 – Regular City Council Meeting

**MOTION:** *Councilmember Cieslak moved to approve the Consent Agenda. 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.*

**SCHEDULED ITEMS**

11. MOTION – Consideration of Impact and Building Fee Waiver for Dr. Bart Gardiner for a Medical Building.

Dr. Bart Gardiner has requested that the impact and building fees for his new medical building, which will be located in the Eagle Mountain Business Campus, be waived.

Councilmember Ireland thanked Dr. Gardiner for his willingness to locate his business in Eagle Mountain. He was concerned about the City Council deciding who should and should not pay fees, when nonpayment of fees means that someone else has to pay the costs covered by those fees. He did support waiving fees that would not have to be paid by other taxpayers. Councilmember Lifferth did not believe that any group should be subsidized by any other; however, he felt that, since Eagle Mountain needs more businesses, the City should provide incentives to the first provider of each type of business in the city. Councilmember Ochsenhirt was concerned about how to appropriately respond to potential requests for waivers from future business owners.

There was discussion on Dr. Gardiner's support for the City in opening the first business in Eagle Mountain other than developers. While his won't be the first dental office building in the City, it will be the first to house physicians' offices.

There was also discussion on the differences in fees charged for new buildings. Some are City fees. Some are contracted with other entities and can't be waived, such as the TSSD connection fee. A decision was made to grant a partial waiver of fees.

**MOTION:** *Councilmember Lifferth moved to waive connection and other building fees for Dr. Gardiner up to an amount of \$44,371.66. Councilmember Cieslak seconded the motion. Those voting aye: Eric Cieslak, David Lifferth and Nathan Ochsenhirt. Those voting no: Donna Burnham and Ryan Ireland. The motion passed with a vote of 3:2.*

12. AGREEMENT – Consideration and Approval of an Interlocal Cooperation Agreement for Water Supply Purchase Funds Between the Eagle Mountain City Redevelopment Agency and Eagle Mountain City.

Eagle Mountain City issued its Water and Sewer Bonds (2006 Series) to fund the purchase of interests in water to benefit the City and to fund the construction and improvement of water infrastructure. It is proposed to use \$250,000.00 of the bond proceeds to acquire banked water entitlements for the use of economic development of the Gateway Project to meet water standards for the commercial projects in the Community Development Area.

**MOTION:** *Councilmember Burnham moved to approve an interlocal cooperation agreement for water supply purchase funds between the Eagle Mountain City Redevelopment Agency and Eagle Mountain City in the amount of \$250,000.00. 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.*

13. AGREEMENT – Consideration and Approval of an Agreement for Water Supply Purchase and Dedication and Funding Escrow for Certain Onsite Improvements Between the Eagle Mountain City Redevelopment Agency, Eagle Mountain City, S.L.6, LLC and Eagle Mountain Marketplace, LLC.

This agreement allows the Eagle Mountain City Redevelopment Agency to acquire 34 acre-feet of Eagle Mountain City banked water entitlements to meet development standards for businesses to

encourage the economic development of the Coop's Market site. Funds from the purchase will be used to benefit the construction of the onsite improvements at the site by the placement of the funds paid by the Eagle Mountain City Redevelopment Agency in escrow with the City to provide part of the funds necessary to complete the onsite improvements at the site. The City will inspect and approve the release of the funds from the escrow as improvements are completed. The City will not be reimbursed for these funds.

**MOTION:** *Councilmember Cieslak moved to approve an agreement for water supply purchase and dedication and funding escrow for certain onsite improvements between the Eagle Mountain City Redevelopment Agency, Eagle Mountain City, S.L.6, LLC and Eagle Mountain Marketplace, LLC. Councilmember Burnham seconded the motion. Those voting aye: Donna Burnham, Eric Cieslak, David Lifferth and Nathan Ochsenhirt. Those voting no: Ryan Ireland. The motion passed with a vote of 4:1.*

14. ORDINANCE – Consideration and Adoption of an Ordinance Confirming the Assessment List and Levying an Assessment Against Certain Properties in Eagle Mountain, Utah, North Ranch Special Assessment Area No. 2008-2 (“the Assessment Area”), for the Purpose of Financing the Cost of Certain Improvements Consisting of the Extension of Natural Gas Lines, and the Installation of Connection Laterals as Well as Other Miscellaneous Work Necessary to Complete the Improvements; (Collectively, the “Improvements”); Providing for Certain Remedies Upon Default in the Payment of Assessments; Establishing the Effective Date of this Ordinance; and Related Matters.

This formal action legally sets monetary obligations and assesses the individual properties in the North Ranch Natural Gas Special Assessment Area for benefitted properties as proposed in the Assessment list heard by the Board of Equalization and authorizes all actions necessary to proceed as provided by law to levy and collect the proposed assessments.

City Attorney Jerry Kinghorn explained the payment schedule for the assessments. Residents will have until June 5 to prepay the entire assessment. The first payment notice on assessments not prepaid will go out on March 17, 2010. The first payment will be due one year after the effective date of this ordinance: May 11, 2010.

**MOTION:** *Councilmember Ochsenhirt moved to accept the recommendation and decision of the Board of Equalization and adopt the ordinance confirming the assessment list and levying the assessment, as set forth in the agenda language. 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.*

15. BID AWARD – Consideration and Award of Bid to Geneva Rock for Appaloosa Way Rotomill and Overlay.

Appaloosa Way, located in the Friday's Station subdivision, is in very poor condition. There have been several instances of sub-base failure and curb and gutter have been replaced by the City in several areas. With that work complete, the remaining road is to be rotomilled and an overlay is to be placed. This will restore the structural integrity of the road.

The Council discussed reallocating funds among the bids being awarded this evening. The approximate differences are:

Appaloosa Way rotomill & overlay – \$3,500 over budget  
Eagle Mountain Blvd. slurry seal – \$8,500 over budget  
Eagle Point Park Trail construction – \$8,300 under budget  
Walden Park parking lot – \$4,800 over budget  
Mt. Airey Drive pavement repair – \$29,500 under budget

Once all the projects are funded, the Mt. Airey Drive project will still be approximately \$20,300 under budget. Those funds will be used to repair additional areas of Mt. Airey Drive.

**MOTION:** *Councilmember Lifferth moved to use additional budget funds to award a bid to Geneva Rock for the Appaloosa Way rotomill and overlay project in the original bid amount of \$45,159.50, rather than the bid alternate recommended by staff. 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. BID AWARD – Consideration and Award of Bid to Staker Parson for Eagle Mountain Boulevard Slurry Seal.

In conjunction with the City's road maintenance program, Eagle Mountain Boulevard from Sweetwater Road to Lake Mountain Road is scheduled for a type III slurry seal.

**MOTION:** *Councilmember Ochsenhirt moved to award a bid to Staker Parson for the Eagle Mountain Blvd. slurry seal project in the amount of \$34,795. 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.*

17. BID AWARD – Consideration and Award of Bid to Staker Parson for the Construction of the Eagle Point Park Trail.

Last year, the City bid out improvements to Eagle Point Park. Initially, a trail around the park was included in the bid but because of the escalation of asphalt prices, the City removed the trail from the bid packet with the intent that it could be bid in the spring or delayed indefinitely. There has been a significant reduction in asphalt prices and therefore the trail project was bid out.

**MOTION:** *Councilmember Ochsenhirt moved to award a bid to Staker Parson for the Eagle Point Park Trail project in the amount of \$23,299.60. 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.*

18. BID AWARD – Consideration and Award of Bid to Staker Parson for the Construction of the Walden Park Parking Lot.

Walden Park, located south of Pioneer Addition and north of The Landing, was constructed based on the Master Park Plan for the Pioneer Addition Master Park Plans. These improvements included a seeded soccer field and a pavilion. Currently, the pavilion is accessed by a dirt and gravel parking lot. This project includes the grading and paving of the existing parking facility, as well as the associated storm drainage system.

**MOTION:** *Councilmember Ochsenhirt moved to award a bid to Staker Parson for the Walden Park parking lot in the amount of \$62,042.05. 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.*

19. BID AWARD – Consideration and Award of Bid to Geneva Rock for the Mt. Airey Pavement Repair.

Last fall Eagle Mountain City contracted with Kilgore Paving for a rotomill and overlay for the western portion of Mt. Airey Drive. Because of the added costs of rotomilling the portion of the road between the islands, that area was removed from the contract with Kilgore with the understanding that the City would go out to bid to replace the failed pavement in the island areas at a later time.

Geneva Rock discovered that, due to an error, its bid was approximately \$10,000 less than it should have been. However, the company is willing to honor the bid.

**MOTION:** *Councilmember Ochsenhirt moved to award a bid to Geneva Rock to for the Mt. Airey pavement repair project in the amount of \$26,903.65, with the remaining \$20,316 from other projects to be used for additional Mt. Airey pavement repairs. 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.*

20. MOTION – Consideration and Approval of a Protected Record Classification and Ratification of Settlement Agreement.

The City has reached a Settlement Agreement with one of the parcel owners involved the 138 kV line property acquisition. The Agreement is intended to be a protected record under the Government Records Act to prevent information regarding the settlement payment from becoming public information. As long as the City is in the process of acquiring properties from property owners, the settlement payments need to be protected from becoming public information to prevent the use of the payment amounts in mediation, arbitration or litigation proceedings. Each property is evaluated independently and the basis for settlement with one party should not be used as evidence in other proceedings. The City Attorney recommends that the Council approve the Settlement Agreement discussed in the Closed Executive Session as a protected record and ratify the Settlement Agreement executed by the Mayor under prior authorization from the Council.

**MOTION:** *Councilmember Cieslak moved to approve a protected record classification and ratification of a Settlement Agreement as discussed in Closed Executive Session. Councilmember Ireland seconded the motion. Those voting aye: Donna Burnham, Eric Cieslak, Ryan Ireland, David Lifferth and Nathan Ochsenhirt. The motion passed with a unanimous vote.*

21. RESOLUTION - Consideration and Adoption of a Resolution Accepting the FY2009-2010 Tentative Budget, Setting the Budget Public Hearing for June 16, 2009, and Directing such Notice to be Published.

The State Code requires that the City Council review and tentatively adopt a budget by the first regularly scheduled meeting in May; additionally, the City Council needs to establish the time and place of the public hearing before the final budget is adopted.

Mayor Jackson mentioned some of the capital projects funded in the tentative budget:

- Library expansion
- Splash pad in a regional park
- Additional work on Mid-Valley Park
- Initial construction of Bobby Wren Blvd.
- Smith Ranch Rd. repairs
- Eagle Mountain Blvd. slurry seal
- Partial funding of the Ranches Parkway extension
- Improvements to other parks

Mayor Jackson noted that the City has maintained its reserve fund at 18%, the maximum allowed by State law, which very few cities in Utah have been able to do. No services are being cut, no employees are being laid off, no rates are being raised and there is no increase in the City's certified tax rate. In addition, there was a recent decrease in the natural gas rate.

**MOTION:** *Councilmember Lifferth moved to adopt a resolution accepting the FY 2009-2010 tentative budget, setting the budget public hearing for June 16, 2009, and directing such notice to be published. 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.*

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

Councilmember Ochsenhirt

Councilmember Ochsenhirt stated that Eagle Mountain works aggressively to attract businesses and wants to do so in a responsible way. Although the Council has some disagreements on how that should be done, they work well together.

Councilmember Ireland

Councilmember Ireland said it was good to work with everyone on the Council.

Councilmember Lifferth

Councilmember Lifferth said he enjoys a good debate, allowing everyone to make an informed decision. He appreciated Councilmember Ireland's position on the fee waiver issue. He was willing to vote to waive fees on this occasion to jump-start the economy in Eagle Mountain.

Councilmember Burnham

Councilmember Burnham expressed appreciation for the respectful way that the Council disagrees and works through difficult issues. She looks forward to Dr. Gardiner's success. She shared Councilmember Ireland's concerns, as well as the fact that a dental building has already been built in Eagle Mountain without a waiver of fees.

Councilmember Cieslak



Councilmember Cieslak appreciated the way the Council conducts themselves. Residents have spoken to him several times about the level of respect with which the Council members treat each other. He reminded everyone to email their elected officials and continue to raise awareness about transportation issues.

Mayor Jackson


Mayor Jackson complimented Rep. Sumsion on his responsiveness to the City's needs. He called her on Sunday evening to ask for help in putting together a transportation meeting with several entities in the area. She expressed appreciation for Councilmember Ochsenhirt for making a very difficult vote on the fee waiver issue. The Council works well together on disagreements, which is important because talking issues out to arrive at good a compromise is the only way to make good decisions. She complimented Councilmembers Ochsenhirt and Lifferth on working together to improve the outcome for Mt. Airey Drive. Councilmember Lifferth asked Mayor Jackson how she would have voted if Councilmember Ochsenhirt had passed on the fee waiver vote. She said that she would have voted yes, because Dr. Gardiner located his business in the City so early in its development and has remained in the City ever since.

23. ADJOURNMENT

***MOTION: Councilmember Cieslak moved to adjourn the meeting and reconvene as the Eagle Mountain City Redevelopment Agency. Councilmember Ireland seconded the motion. Those voting aye: Donna Burnham, Eric Cieslak, Ryan Ireland, David Lifferth and Nathan Ochsenhirt. The motion passed with a unanimous vote.***

The meeting was adjourned at 8:13 p.m.

APPROVED BY THE CITY COUNCIL ON MAY 19, 2009

  
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Fionnuala B. Kofoed, City Recorder