

**MINUTES OF THE EAGLE MOUNTAIN, UTAH
SPECIAL CITY COUNCIL TELEPHONIC MEETING
Eagle Mountain City Council Chambers
1680 East Heritage Drive
Eagle Mountain, UT 84043
Thursday, June 17, 2004**

Prayer by Invitation of the Mayor

The Prayer was offered by Vincent Liddiard.

POLICY SESSION – 7:00 PM

1. **Call to Order - Roll Call:**

Mayor Kelvin Bailey called the meeting to order at 7:21 PM.

Council Members Present: Mayor Kelvin Bailey, David Blackburn, Vincent Liddiard, Mark Madsen. Linn Strouse was connected to the meeting telephonically. Diane Jacob was excused.

City Staff:

City Administrator:	Chris Hillman (Excused)
City Attorney:	Gerald Kinghorn
City Engineer:	Korey Walker
City Recorder:	Janet Valentine
Deputy Recorder:	DeAnna Whitney
Finance Director:	Gordon Burt (Excused)
Planning Director:	Shawn Warnke
City Planner:	Adam Lenhard (Excused)
Public Works Director:	Mark Sovine
Fire Chief:	Robert DeKorver (Excused)

Others Present: Ross Hansen, SR Hansen Engineering; Sterling Stoddard, Fieldstone Land Development Manager; Ralph Rupp, Ellsworth Paulsen representative.

2. **Pledge of Allegiance:**

The Pledge of Allegiance was lead by David Blackburn.

3. **Planning Commission Appeal of Denial of Final Plat Approval for Pioneer Addition, Phases IV, V (a), and VI:**

Mayor Bailey explained that the preliminary plat had been approved at the meeting on June 15 and discussed the decisions made at that meeting.

Shawn Warnke addressed the condition of storm water and compaction of soils.

Vincent Liddiard asked that Item 4 under the Common Conditions recommended by staff be changed from "approximately" 36 feet for street parking to "a minimum" of 36 feet for street parking.

Shawn Warnke advised that Fieldstone had submitted new plats that show the overall right of way would be 59 feet, allowing for the 36 feet.

Vincent Liddiard asked about the storm water conditions approved with the preliminary plat requiring that lots having back property that drains into the back of the home to the south have swells on the exterior of the back and side lots that are landscaped in some way or that the home receiving water not have a basement.

Mr. Warnke stated that that requirement would be addressed in the CC&R's.

Mark Madsen stated that the CC&R's would be subject to a final review after the motion from the Minutes of the June 5 meeting had been reviewed.

Mayor Bailey advised that the bond letters were completed that day and had been reviewed by Korey Walker.

Mr. Walker advised that Fieldstone indicated that the changes submitted by the utility department would be made to the utility drawings. He stated that the water right requirements were high because the submitted landscaping plan did not separate the acreage between native irrigation and green irrigation. He advised that to avoid having the staff spend time calculating those areas, all open space would be required to provide irrigable water. He indicated that if Fieldstone wanted to submit documentation showing what would and would not be irrigated, the staff would review the water right requirements.

Mayor Bailey indicated that the plats would not be recorded until the water rights were verified.

MOTION: *Vincent Liddiard moved to approve the Final Plat for Pioneer Addition, Phases IV, V (a), and VI subject to the following conditions as recommended in the staff report: Common Conditions for all Phases: 1) Traffic - that a traffic analysis be provided to ensure that each of the neighborhood intersections operate at a minimum of a Level C during peak hour traffic volumes; 2) Phasing - that phase improvements need to be clearly labeled on the construction plans for Phases 4 and 6; 3) Dry Utilities - that the dry utility plans are approved (telecommunications and electrical plans); 4) Increase Row - that the asphalt portion of the right-of-way be increased to a minimum of 36' to accommodate on-street parking on each side as the alternative to alleys; 5) Storm Water - that there is installation of front and side yard landscaping (the type of landscaping in the side yards is to be determined by the homeowners), that disturbed areas are compacted with a minimum of 88 percent adjacent to the homes, that a subdivision grading plan is submitted, that the grading of the site is to be done within 6 inches of the final grade, that there is 85 percent compaction in disturbed areas, and that the compaction testing is to be done by an independent inspector with reports submitted to the Building Official and City Engineer; Phase V-A - 6) that the Church Street will have an all weather secondary access and looping of utilities if required by the Public Works Department; Phase VI - 7) that the setback of typical needs to match those in the CC&RS; 8) that Phase 4 is constructed before Phase 6; and 9) that Bobby Wren Boulevard is constructed with the appropriate cross section; and that the storm water reflect the CC&R's from the previous preliminary approval. Mark Madsen seconded the motion. Ayes: 4 - Vincent Liddiard, David Blackburn, Linn Strouse, Mark Madsen; Nays: 0. Motion passed.*

4. Consideration and Approval of a Development Agreement including CC&R's for Pioneer Addition, Phases IV, V (a), and VI:

Gerald Kinghorn advised that the Development Agreements had been reviewed by his office, including the CC&R's. He stated he had just received the bond letters and required improvement letters. He indicated that, with respect to the CC&R's, the alternate design guideline for porches was not written in. He recommended that the Development Agreements be approved with the CC&R's with the understanding that the City may allow the developer to conform the CC&R's to the approved architectural guidelines. He requested that the Council approve a special condition on each Development Agreement that reads as follows: "Each requirement approved by the City Council of Eagle Mountain City in the preliminary and final plat approval of the project shall be completed or fully bonded prior to occupancy of any of the homes in the project." He stated the recommendation was made so that staff would have sufficient time to check the Minutes of June 15 to ensure that all items in the motion had been incorporated in the Development Agreements and CC&R's. Mr. Kinghorn said, "If you (the Council) were to incorporate these conditions that Shawn's spelled out in your approval, they would be captured by the language in the Special Conditions."

Mayor Bailey asked for a definition of "the appropriate cross section."

Shawn Warnke advised that the City was revising the cross sections and that Fieldstone's design engineer, Ross Hansen, had been given the correct cross section.

Ross Hansen, SR Hansen Engineering, asked for clarification of Item 9 of the conditions, which reads: "That Bobby Wren Boulevard is constructed with the appropriate cross section." He recommended that it read: "That Bobby Wren Boulevard is constructed with appropriate cross section before occupancy in Phase 6 can be given." He explained that the developer should be able to complete Phases 5(a) and 4 before Bobby Wren Boulevard was constructed.

Korey Walker acknowledged that that was a correct statement because "Phase 4 does not go up to the roundabout at the top of Phase 6."

Vincent Liddiard asked "what's the timing for them to be able to do construction of Phase 6? The road needs to be completed at the time that it's completed, it has to be completed before?"

Korey Walker answered that the road would have to be completed before any building permits were issued.

Mayor Bailey indicated that Mr. Hansen had recommended construction be completed before any occupancy permits were issued.

Mr. Hansen stated that it sounded fair to have the road completed before any building permits were issued.

Korey Walker indicated that it was discussed at the last meeting that Fieldstone proposed to provide a construction access to the site for construction vehicles. He recommended that that issue be noted in the conditions also.

Vincent Liddiard stated he remembered a discussion regarding construction access but that there was no decision reached on this matter.

Mr. Hansen stated the Griffin Johnson had pinpointed the most logical site to get construction traffic into the subdivision. He stated he did not remember any agreement with the City; however, he stated, "I don't see it as that big of a deal myself if you'd allow them to just grub the top soil off and tell them to use that to enter into the subdivision."

Mayor Bailey stated he preferred that and that he did not care if a road was built for the construction traffic.

Vincent Liddiard emphasized that that was not a condition of the preliminary approval. Mr. Hansen explained to Fieldstone Land Development Manager Sterling Stoddard the prior conversation with Council regarding construction traffic. Mr. Stoddard agreed with the prior recommendation.

Korey Walker indicated that he and Ross Hansen had previously discussed bringing the back lot lines up to grade, having them compacted, and putting the fill from digging the basements or footings into the front yards. He stated that this information was not included in any of the conditions.

Ross Hansen indicated that all the material coming out of the road would be put on the back lot lines. He stated that the reasoning for this decision was that the amount of dirt coming from digging a basement would provide enough fill for two lots.

Mr. Hansen referred to Bobby Wren Boulevard, which was to be built by John Walden, and asked the Council to further discuss how far that road must be completed.

Vincent Liddiard explained that Mark Madsen had suggested that if Bobby Wren Boulevard were not completed to the end of the property line, the applicant would be required to bond for its completion. He stated this would provide the developer with the options to complete the road to the end of the property boundary prior to receiving any building permits or to bond for completion of the road.

Mayor Bailey agreed with this proposal to bond for the road or have it completed prior to building permit issuance.

Korey Walker asked the Council if they would prefer to put a time frame on completion of the road if the applicant chose to bond for the road.

David Blackburn stated that since the equipment would be readily available when the first part of the road was completed, it would be cheaper to complete the remainder of the road at the same time rather than bond for it. He further stated that if the City did not bond for the road and for some reason the project was not completed, there would be no recourse to finish the road.

Mayor Bailey stated there should be a time frame incorporated with the bond.

David Blackburn recommended the road completion time frame be set at six months after 80 percent of the homes had been occupied.

Ross Hansen stated that the applicant did not want to build the road but that it would make logical sense to complete the road.

Mayor Bailey recommended that the completion of the road should not exceed three years or 80 percent of occupancy, which ever came first.

Shawn Warnke advised he had been reviewing the CC&R's to ensure that everything approved by the Council was contained therein. He indicated there were some verbiage changes that needed to be made and that he would work with the applicant to make those changes.

Gerald Kinghorn stated there should already be a margin built in to account for inflation costs to finish the road.

Sterling Stoddard stated: "From Fieldstone's standpoint, I'm not sure what CC&R's are being approved at this point. Are they the ones..? Well, there's been three different sets, and so I'm..."

Mayor Bailey explained that the CC&R's being approved were the ones that were subject to the recommendations by Council from the June 15 meeting.

Shawn Warnke indicated that, at the end of the meeting on June 15, he talked with the applicant regarding which CC&R's he wanted to submit for review. He stated that the applicant used their template and included the verbiage approved for the alternate design guidelines.

The Mayor explained that he previously told the applicant that he could submit the currently approved CC&R's subject to changes made by Council on June 15 and that those CC&R's could be amended.

Mark Madsen stated that his impression after looking at the sample CC&R's was that they are probably more stringent than what the City was passing.

David Blackburn suggested that the HOA and CC&R's be actively marketed as part of the sales process so that the City did not have to explain later that they could not enforce those restrictions.

MOTION: *Mark Madsen moved to Approve the Development Agreement, including CC&R's, for Pioneer Addition, Phases IV, V (a), and VI, with the changes as discussed: 1) that approval was subject to non-substantive text changes that Shawn Warnke would present; 2) that the staff recommendation be included stating that each requirement approved by the City Council of Eagle Mountain City in the preliminary and final plat approval of the project shall be completed or fully bonded prior to occupancy of any of the homes in the project; 3) that the construction access be implemented as discussed; 4) that the bonding for the part of Bobby Wren Boulevard that extends beyond the entrance to the subdivision be either completed or bonded for with a completion schedule of three years or 90 days after 80 percent occupancy was reached, which ever comes first. David Blackburn seconded the motion. Ayes: 4 – Vincent Liddiard, David Blackburn, Linn Strouse, Mark Madsen; Nays: 0. Motion passed.*

Linn Strouse asked for clarification that the City had received bonding letters, and Mayor Bailey advised that the bonding letters for each subdivision had been received and reviewed by Corey Walker.

Corey Walker explained that the developer would have to bond for Bobby Wren Boulevard whether he constructed it or not if he wanted to record.

5. Award of Design Build Contract for the City Utility Administration Building:

Corey Walker explained that his office made an effort to notify all of the contractors who made proposals on the project regarding the City Council meeting on June 15 and that the approval had been moved to June 17. He explained that a representative from Ellsworth Paulsen was present to answer questions from the Council. Mr. Walker stated that the recommendation of the selection committee was positive for two of the applicants, Ellsworth Paulsen and C & A Construction. He advised that the selection committee determined that 1) Ellsworth Paulsen provided a strong construction team, even though there was concern over their two-story design, and 2) that C & A Construction had provided a good vision and building layout to meet the design ideas of the City, but there was some concern regarding the team's experience. He explained that Ellsworth Paulsen brought a single-story office building exterior design to show the Council as an alternative to their two-story design.

Mayor Bailey explained that making the selection of a design build team did not bind the City into accepting any of the designs presented.

Corey Walker explained the three phases of a design build process: 1) approval of a concept plan, meaning that the selection committee and a representative(s) of the City Council would meet with the selected team and work over the submitted interior and exterior design to work out a concept that the City found acceptable; 2) incorporation of the concept design into a set of plans to be approved by the City Council and the Building Department; and 3) actual construction of the building.

Vincent Liddiard stated, in coming to a decision, he was leaning toward the actual floor plans and how they would work for the City and the comparables with other projects completed by the design build teams.

Ralph Rupp, representing Ellsworth Paulsen, encouraged the Council to consider the references from people who had worked with both teams before. He stated it was critical to have a team that you could work well with and would still be "your friends" when the project was complete. He stated Ellsworth Paulsen received references from previous customers verifying that their projects were completed on time, on budget, and they "liked what they got." Mr. Rupp stated he realized there were a lot of changes the City would want to make to the design and that his company would accommodate those changes.

David Blackburn asked if there had been consideration in the design for future use of the building, since it would not be the permanent city hall.

Korey Walker indicated that the direction given during the pre-bid process was that the building would eventually become either a public safety building or library.

Mark Madsen explained that he felt that the selection of a good team was critical on a design build project

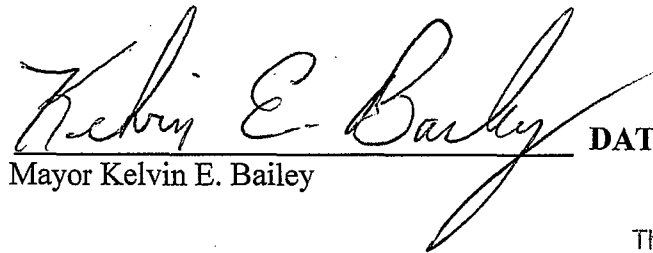
Gerald Kinghorn stated that the reputation and skill of the team were more important than the drawings.

MOTION: *Linn Strouse moved to award the Design Build Contract for the City Utility Administration Building to Ellsworth Paulsen. Mark Madsen seconded the motion. Ayes: 4 – Linn Strouse, David Blackburn, Vincent Liddiard, Mark Madsen; Nays: 0. Motion passed.*

6. **Adjournment:**

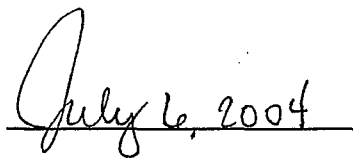
Vincent Liddiard moved to adjourn the meeting at 8:13 PM.

APPROVAL:



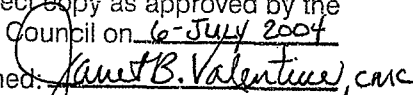
Mayor Kelvin E. Bailey

DATE:



July 6, 2004

This certifies that the minutes of
sec 17-June 04 are a true, full and
correct copy as approved by the
City Council on 6-July 2004

Signed: 

City Recorder

ATTACHMENT TO 06-17-2004 SCC MTG MINUTES
COUNCIL MEMBER DIANE JACOB'S COMMENTS ON PIONEER ADDITION, PHASES IV, V(A) AND VI

Mayor and Council members:

First I apologize for having to leave the meeting early the other night do to my headache and because of such I don't believe I was able to adequately articulate my position on development in the city center. First, let me say I'm excited for development to happen in the city center. A well-planned development is always a plus for any area of town. Having said that, these are my concerns with the Pioneer Addition. First while the CC certainly has every right to over-ride both the PC and the staff recommendations I would strongly encourage the CC to look at why the staff placed conditions for the approval and why the PC voted the way it did. As I stated on Tues. night, it's my belief that had the makeup of the PC been different the outcome would have been the same. As I also said that night, the makeup of the PC should have no bearing on the fact as all PC members were interviewed and brought forward by the mayor and voted on by the council. Please let's not make this a political agenda item when it does not need to be.

In speaking to the members later I was told they would have gladly passed the plat IF the developer had been willing to give and take on the points they felt strongly about.

It's important to remember that this plat had already been approved with no alleys with a mix of lots sizes minimum 50 feet frontage. The applicant has asked for a new min. frontage of 41 feet. We had already approved fewer porches, less side and front yard set backs and less garage square footage and with the new plat more has been asked for.

The current code allows for the developer to propose alternate guidelines. When the CC and the PC look at these new guidelines they need to carefully weight in on what the city and the citizens GET from the variation to the current code. (Yes, Mark as bad as it currently is.)

If all we get is more density with no extras just for density's sake then the reasoning is flawed. With the city looking at the Alternate guidelines it is within the city's right to negotiate and while not hold the developer hostage the city is given latitude to gain more, in looks, landscaping, or whatever as basically it's a new way to negotiate. It is also within the city's right to refuse the proposed guidelines as we are not legally bound to accept them. Please look carefully at these and compare them with what was granted previously. We are gaining .5 acre of park but because of the poor layout we are not getting interior trails that both the staff and the PC wanted. While these are not required we can ask for them as a way to give and take. Please think not only rooftops but quality of life for those living within the city center.

We are also losing 1 tree per lot; the roof pitch is going from 5/12 to 4/12. With this low-end product I believe these would greatly offset the "look" (sorry Mark) of the product. We also need to have a variety of front set backs to give variety to the streetscape. Remember, the lots have to be narrow to "hide the ugly sides", which I believe was a poor excuse for the council to narrow the lots. This product would have worked on the already approved plat with some modifications.

The density was granted with the preliminary plat and now we need to make sure that if the builder pulls out for some reason that it goes back to the previous plated way. Kelvin you will need to figure out the best way to do this.

I would hope that the council would give some weight to the comments I have made and I look forward to meeting with you again when I return.

Thanks
Diane Kimball Jacob
City Council