

MINUTES
EAGLE MOUNTAIN CITY COUNCIL MEETING

July 17, 2012

Work Session 4:30 p.m. - Policy Session at 7:00 p.m.

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

4:00 P.M. Groundbreaking Ceremony for the Energy Building located at 2565 Pony Express Parkway (adjacent to the Public Works Building).

4:30 P.M. WORK SESSION – CITY COUNCIL CHAMBERS

ELECTED OFFICIALS PRESENT: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. John Painter was excused.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Jason Walker, Assistant City Administrator; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Steve Mumford, Planning Director; Paul Jerome, Finance Director; Adam Ferre, Energy Department Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Rand Andrus, Fire Chief; John Mulder, Deputy.

Mayor Heather Anne Jackson called the meeting to order at 4:39 p.m.

1. DISCUSSION – Economic Development Area.

City Administrator Ifo Pili explained that the economic development area is designed to facilitate the location of SnugZ to Eagle Mountain. The company's fees will be capped at \$300,000 and the City will provide offsite utilities, but SnugZ didn't want any tax increment incentives. Establishing the economic development area will create financial advantages for the City.

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 Library Trail

The City is in the process of acquiring a utility easement for the trail. Mayor Jackson said this was budgeted for in fiscal year 2012 but wasn't completed, so it will be completed in fiscal year 2013. Other projects need to be prioritized; which will be done when the capital projects list is brought before the Council in August.

Mayor Jackson mentioned that the construction work on Eagle Mountain Blvd. will begin on July 30. Eagle Mountain Blvd. will be closed sometime during that week for three days from 8:00 a.m. to 5:00 p.m.

Councilmember Ochsenhirt asked what the road construction schedule in his neighborhood will be. Mayor Jackson said she will find out after Mr. Trusty comes back from vacation.

3. ADJOURN TO A CLOSED EXECUTIVE SESSION – The City Council will adjourn into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the purchase, lease or exchange of real property pursuant to Section 52-4-205(1) of the Utah Code, Annotated.

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

The meeting was adjourned at 6:23 p.m.

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

ELECTED OFFICIALS PRESENT: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. John Painter was excused.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Jason Walker, Assistant City Administrator; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Steve Mumford, Planning Director; Paul Jerome, Finance Director; David Mortensen, City Treasurer; Adam Ferre, Energy Department Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Rand Andrus, Fire Chief; John Mulder, Deputy.

4. CALL TO ORDER

Mayor Heather Anne Jackson called the meeting to order at 7:17 p.m.

5. PLEDGE OF ALLEGIANCE

Ryan Ireland led the Pledge of Allegiance.

6. INFORMATION ITEMS/UPCOMING EVENTS

Finance Director Paul Jerome reported that the financial files the City submitted to the state government transparency site are working. They are currently on the demo site, but will be moved to the live site tomorrow. Mr. Jerome will have fiscal year 2011 files uploaded to the state transparency site on Thursday.

Mayor's announcements:

- **City Offices Closed** – The City offices and Library will be closed on Monday, July 23 and Tuesday, July 24 for the Pioneer Day holiday.
- **Kids' Creepy Crawly Event** -- Kids ages 3-12 are invited for creepy crawly time with Miss Eagle Mountain, tomorrow, July 18 from 10 a.m. to 11 a.m. in the City Council chambers. Come see a live lizard feeding, spiders, bugs, and much more. Get your picture taken with Miss Eagle Mountain and enjoy a creepy treat after. Cost is \$5. Registration at City offices or on the City website, events page.
- **Beat the Heat Bonanza** -- As a "thank you" to all our firefighters and citizens for their efforts with the Dump Fire, we invite you to come enjoy this free event with Eagle Mountain's largest waterslide and music on Saturday, July 21 from 11:00 a.m. to 3:00 p.m. at Nolan Park. Food vendors will be on site.

- **Pony Express Relay for Life** – Support the American Cancer Society, Friday, July 27 at 5:00 PM, at Westlake High School. Teams wanted! Register on the City website. This is a fun community event, so even if you are not on a team, come participate. There will be food, a silent auction, family games, and a chili cook-off contest between the Eagle Mountain and Saratoga Springs Fire Departments.
- **CPR/CERT Classes** – The Fire Department is offering CPR and CERT classes this fall. A schedule and details are on the Fire Department page of the City website.
- **Citizens' Survey** – We are looking for more responses to our annual citizens' satisfaction survey. The deadline has been extended to August 15. It is located under News on the main page of the City website.

Mayor Jackson said that the Friends In Need animal rescue sent a letter to the City expressing thanks for all of the help they received in keeping the animals safe during the fire last month. The Mayor also presented a certificate to Linda Peterson, Public Information Director, for her excellent work in sending out information during the fire. Another example of Linda's work is a missing child report she posted on the City's Facebook page. The child was found shortly after the item was posted. Mayor Jackson also thanked the Sheriff's Office for their efforts to find the child.

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

Sam Allen, 1914 Juniper Drive, thanked Donna Burnham and Ryan Ireland for voting against the budget at the last meeting. He said he met with county officials Chris Poulson and Robert Kirk regarding the truth in taxation law. He felt that when the City transfers money from the Utility Fund to the General Fund, it sidesteps truth in taxation. He believed the rate studies the City has authorized are designed to raise utility rates. He believed that the rates had not been raised, in part, because of the comments he's been making to the Council. He said that former City Attorney Jerry Kinghorn presided over 14 years of scandals and didn't inform the City about changes in the law. He objected to the City hiring another attorney from the same law firm.

Mayor Jackson responded that the City's attorney has always informed the City about changes in the law. The problems the City had experienced with transparency requirements were caused by software issues, which are in the process of being resolved. She said she's lived in the City for 14 years and it was her experience that Mr. Kinghorn did his job in an ethical manner. She didn't appreciate Mr. Allen slandering a dead man's name for his own purposes. The City went through an open and thorough process in choosing a new attorney. In reference to the City's taxation issue, the Council works through a careful process in deciding how much money to transfer from the Utility Fund to the General Fund. Mr. Pili added that the rate studies are not designed to raise rates, nor are they due to the information Mr. Allen has provided. They're designed to make sure that the City is being fiscally responsible.

Jennifer Shimakonis, 2792 Ruby Valley Drive, was concerned about "no parking signs" newly installed in her neighborhood. She brought a petition objecting to them. She asked for a meeting, since most residents did not get to voice their opinions. Mayor Jackson said a meeting will be set up.

Rod Allred, Provo, owns land in areas contiguous to SR 73. He was concerned about a storage facility being planned for the Meadow Ranch area. He felt the nature of the facility is completely out of sync with the residential location surrounding it. The view from his property will be ten acres of flat metal roofs and six acres of graveled outdoor storage. Nearby property owners didn't

get any notice until just before the most recent Planning Commission meeting. It's apparent to him that the City doesn't have control of Sunset Drive, where the facility will be located. He's concerned about improvements to Sunset Drive.

Steve Allred, Orem, reiterated his brother's comment about the incompatibility of the storage units with the surrounding area. Despite the site approval that was given several years ago, he believed that the residential neighborhood that has grown around the area since then has made that argument unenforceable.

Karen Kast, 2327 Coyote St., had the same concerns. She had been told that the land would likely be used for a school. She was also concerned that there is no acceleration lane leading from the property onto SR 73 from Sunset Drive. The Planning Commission addressed most of her other concerns at their last meeting.

Steven Holt, 9338 Hawk Lane, owns property adjacent to the land the facility will be located on. He felt the facility is not a good fit for that location. He was concerned about increased traffic on Sunset Road. He said the neighbors have an idea of who belongs in the neighborhood and who doesn't and they don't want to invite trouble. They're concerned about increased crime.

Mayor Jackson said that she doesn't disagree with anything that's been said. However, because the storage project was already approved, the owner has been vested with legal property rights. The City will continue to go through the process. She asked Mr. Mumford when he expected the issue to come before the Council. Mr. Mumford thought that it would be sometime in September.

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

Councilmember Burnham

No comment.

Councilmember Steinkopf

No comment.

Councilmember Ochsenhirt

No comment.

Councilmember Ireland

No comment.

Mayor Jackson

No comment.

9. APPOINTMENT

A. City Treasurer – David Mortensen

MOTION: *Councilmember Ochsenhirt moved to appoint David Mortensen as City Treasurer. Councilmember Burnham seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

City Recorder Fionnuala Kofoed administered the oath of office to Mr. Mortensen.

CONSENT AGENDA

10. MINUTES

A. June 19, 2012 – Regular City Council Meeting.

11. CHANGE ORDER

A. Steel for South Substation – Atlas Manufacturing

12. SITE PLAN

A. Energy Building

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

SCHEDULED ITEMS

PUBLIC HEARING

13. ORDINANCE – Consideration of an Ordinance of the City Council of Eagle Mountain City, Utah, Amending the Eagle Mountain Municipal Code, Chapter 17.85 Animal Regulations and Chapter 6.05 Animal Control. This is not an action item – public hearing only

This item was presented by Planning Director Steve Mumford. The proposed ordinance amends the Eagle Mountain Municipal Code as it relates to animal regulations and animal control. Several issues have been brought up recently by residents, including excessive numbers of dogs on small lots, goats, beekeeping and chickens. Much of the interest has to do with how many animals should be allowed on small lots. The City has received a lot of input from local groups, governments and residents. The Planning Commission has considered this issue at six meetings, and on June 12 held a public hearing, voted on new regulations and made recommendations to the City Council.

The Planning Department researched the animal regulations in a number of cities in the county.

As a reminder, the stated purpose of Chapter 17.85 (found in 17.85.020 Purpose) is *to ensure that animals may be kept within the City in a manner that does not jeopardize the health or safety of its residents or cause a nuisance.*

The new draft of Chapter 17.85 is intended to completely replace the current chapter. The following are key points and/or changes to Chapter 17.85:

- Existing animal uses compliant with the current code may be continued as a nonconforming use, unless they are discontinued for a year or more. Residents would be responsible to provide proof if necessary in the future that they qualify for the nonconforming use.
- An alternative animal management plan may be approved by the Planning Commission through the conditional use permit process to allow exceptions to the table.

- A conditional use permit would be required for any number of dogs above and beyond the amount allowed by the ordinance, specifically for breeding, showing, racing or service, and would be governed by lot size.
- Chickens would be regulated by lot size and the regulations listed in the proposal.
- Small-breed goats would be permitted on ¼ acre – ½ acre lots according to regulations listed in the proposal.
- Livestock grazing would be permitted for greenbelt tax status on vacant land (Commercial, Industrial, and Airpark Zones) of greater than 5 acres, but prohibited in June, July, and August.
- The Residential Zone livestock table was modified, changing the setback to be for shelters and structures only, from the property line rather than the neighboring buildings.
- Beekeeping regulations are included, allowing two beehives on less than ½ acre, 3-5 beehives on ½ – 1 acre, and 5+ hives on lots greater than one acre in size. Beehives are restricted in side yards under 10 feet. Other regulations are detailed in the proposal.
- Goats would be allowed on a minimum of ¼ acre, dehorned females only.

Regulations for other animals are specified, as well. Odors, noise and other nuisances must be kept to an absolute minimum.

Councilmember Burnham asked about people who keep chickens and sell the eggs. Mr. Mumford said they should get a business license. Although chickens are regulated by lot size, they fall under the nuisance ordinance if they cause noise or odors that bother the neighbors. Roosters won't be allowed on residential lots. Chickens will only be allowed for egg production, not meat production.

Councilmember Ochsenhirt objected to goats and chickens in small lots.

Mayor Jackson said the table of allowed animals doesn't match the regulations described by Mr. Mumford. The labeling will be changed to make it clearer.

The proposed beekeeping regulations were written with input from the Utah County Beekeepers Association, the Sheriff's Office, the State Beehive Inspector for Utah County and the State Entomologist. Beekeepers have to be licensed by the state and have the license attached to each hive. One concern about beekeeping is the possibility of bees swarming. The Utah County Beekeeping Association keeps a database of all beekeepers in the county. They have a list of beekeepers willing to collect a swarm and take it away.

Mayor Jackson opened the public hearing at 8:13 p.m.

Tiffany Ulmer, 1320 Harrier St., said she finds goats to be a public nuisance on small lots, especially because of the noise. She's not happy that a goat brought into the subdivision illegally is still there. Referring to Mr. Mumford's presentation, she said the chart will apply only to areas without HOAs. Those subdivisions are a mix of lots larger and smaller than ¼ acre. Neighbors who can't have more animals will have to put up with the nuisances associated with them.

Ronnie Turner Detelj, 1334 Harrier St., said she's allergic to bees. She doesn't want them approved. She also said she drove into her subdivision one day and was startled by the noise and smell coming from goats in the neighborhood. She brought a copy of the Eagle Park CC&Rs. They prohibit nuisances and noxious activities, as well as sheds, coops, barns, poultry and livestock. Pets must be kept under control. She particularly objected to goats.

Ryan Ferre, 1389 Osprey Way, thanked the Council for passing an animal ordinance. He felt it will protect his privileges to own animals.

Dayna Koch, 1520 Kestrel Way, owns the goats in Eagle Park. She invited any of the Council to visit her home. There is minimal noise and smell. The goats are less dangerous than dogs, as they have no top teeth or horns. Many cities consider pygmy goats as pets. The Koches use the milk from their goats for their child who is allergic to cow's milk. In closing, she thanked the Council for the work they do.

Mayor Jackson closed the public hearing at 8:25 p.m.

Councilmember Ochsenhirt said this is the first person he's heard who has supported goats. He didn't feel that goats are pets. They're farm animals, usually loud and obnoxious. He felt that a quarter acre is too small a lot to house goats.

Councilmember Burnham said that allowing goats will open the door to many other animals, like miniature horses and pot-bellied pigs. People moving into a residential subdivision don't expect to move into a farm area. There are areas in the City that do allow farm animals, so the rights of people who don't want to live in a farm area should be respected, as well.

14. ORDINANCE – Consideration and Adoption of an Ordinance of Eagle Mountain City Utah, Adopting the Economic Development Fund Budget Amendment.

This item was presented by City Administrator Ifo Pili. An Incubator Fund was created during fiscal year 2012 to collect and expend funds for the Business Incubator Development Program (BIDP). The proposed amendment combines the Economic Development Budget from the General Fund with the Incubator Fund to create a separate Economic Development Fund. The purpose is to make the incubator program self-sustaining and to put the economic development initiatives into one budget that won't come out of the taxpayers' pockets. The proposed budget includes the allocation of funds for marketing and recruitment services. The revenue sources for the fund will not be taken from taxes or any current sources of General Fund revenues.

MOTION: *Councilmember Steinkopf moved to adopt an Ordinance of Eagle Mountain City, Utah, adopting the Economic Development Fund budget amendment. Councilmember Ochsenhirt seconded the motion.*

Councilmember Ireland asked Mr. Pili how much of his time he spends on economic development. Mr. Pili responded that it varies depending on what the current projects are. Part of the reason he's recommending a consultant is that the City administration has lost a position because no one will be hired to fill the position left open by the staff reassignments caused by John Hendrickson's retirement. Councilmember Ireland requested a personnel line item be placed in the budget.

Councilmember Ochsenhirt asked about the increase in each year's allocations, and whether that much money would be spent each year. Mr. Pili said the program's revenues are also expected to go up each year. The goal is to receive a return from each expenditure.

Councilmember Ireland asked whether the Enterprise Fund would return money to the General Fund for staff costs. Mr. Pili responded that these funds will be more like internal expenses, since funds returned to the General Fund can't be earmarked for economic development.

Councilmember Ireland asked Mr. Pili how much of his time is spent on economic development. Mr. Pili said it varied depending on what project is currently underway. Councilmember Ireland requested that an estimated cost of personnel be placed in the budget.

Councilmember Steinkopf withdrew the motion.

MOTION: *Councilmember Steinkopf moved to adopt an Ordinance of Eagle Mountain City, Utah, adopting the Economic Development Fund budget amendment, to include the addition of \$25,000 into personnel services on the expenditure side. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

Councilmember Burnham asked if the \$25,000 would later be returned to the General Fund. Mayor Jackson said it would, in a later budget amendment.

15. MOTION – Consideration of a Claim for Property Damage Submitted by Angela and Jeff Duke.

This item was presented by City Recorder Fionnuala Kofoed. Mr. and Mrs. Duke have submitted a claim to Eagle Mountain City to cover the difference between their actual costs versus a settlement for damages caused to their property by a sewer backup. Geneva Rock took responsibility for the backup; the City was found not liable. City Attorney Jeremy Cook has advised that paying an amount for which the City isn't liable will set a potentially expensive precedent. He recommended that the claim be denied.

MOTION: *Councilmember Ireland moved to deny a claim for property damage caused by sewer backup, submitted by Angela and Jeff Duke. Councilmember Steinkopf seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

16. AGREEMENT – Consideration and Approval of an Addendum to the Agreement between Eagle Mountain City and Direct Communications Cedar Valley, LLC (DCCV) for Power Ring Services.

This item was presented by Energy Department Director Adam Ferre. The proposed addendum modifies the existing monthly rate that the City bills Direct Communications for power consumption by the fiber optic network terminals (ONTs) that are utilized as part of the Direct Communications fiber optic telecom network. This addendum changes the amount the City charges DirectCom from \$500 per month to \$1500 per month.

MOTION: *Councilmember Ochsenhirt moved to approve an addendum to the agreement between Eagle Mountain City and Direct Communications Cedar Valley, LLC (DCCV) for Power Ring Services. Councilmember Burnham seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

17. AGREEMENT – Consideration and Approval of a Civil Legal Services Agreement between Eagle Mountain City and Parsons Kinghorn Harris.

This item was presented by City Administrator Ifo Pili. With the recent passing of City Attorney Jerry Kinghorn, it is necessary for the City to contract with another attorney for legal counsel. The proposed agreement secures Parsons Kinghorn Harris as the City's legal counsel and specifically, Jeremy Cook as the City's contracted Attorney. Mayor Jackson explained that a City selection committee interviewed several law firms. The committee unanimously selected Jeremy Cook of Parsons Kinghorn Harris.

Mr. Cook worked with Mr. Kinghorn for several years, so he has considerable knowledge of and experience with the City's issues.

MOTION: *Councilmember Ochsenhirt moved to approve a Civil Legal Services Agreement between Eagle Mountain City and Parsons Kinghorn Harris and authorize the Mayor to sign the contract. Councilmember Steinkopf seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

18. BID AWARD – Consideration and Award of Bid to Rhet Marsing Enterprises, LLC for the Construction of Phase 2 of the South Substation.

This item was presented by Energy Department Director Adam Ferre. This second phase of construction will complete the South Substation, including the installation of equipment that has been or will be ordered for the project. Additional upgrades to the North Substation will be necessary before the South Substation can be energized and become fully operational.

RME did the construction on the City's original substation.

MOTION: *Councilmember Ochsenhirt moved to award a bid to Rhet Marsing Enterprises, LLC for the construction of Phase 2 of the South Substation in the amount of \$462,432.00, and authorize the Mayor to execute the agreement. Councilmember Burnham seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

19. RESOLUTION – Consideration and Adoption of a Resolution of Eagle Mountain City, Utah Appointing two (2) Representatives for Eagle Mountain City (“City”) on the Taxing Entity Committee (“TEC”) of the Eagle Mountain Economic Development Project Area #2012-1.

This item was presented by City Administrator Ifo Pili. The Taxing Entity Committee determines various aspects of the proposed project area creation process, including the approval of the project area budget.

Councilmember Ireland asked if this Taxing Entity Committee is tied to this particular project or if it's a standing committee. Mayor Jackson said it's specific to the project.

MOTION: *Councilmember Ochsenhirt moved to adopt a Resolution of the City Council of Eagle Mountain City, Utah, appointing two (2) representatives, namely Mayor Heather Jackson and City Administrator Ifo Pili to the Taxing Entity Committee (“TEC”) of the Eagle Mountain Economic Development Project Area #2012-1. Councilmember Steinkopf seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland Nathan Ochsenhirt and Richard Steinkopf. The motion*

passed with a unanimous vote.

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

Councilmember Burnham

No comment.

Councilmember Steinkopf

No comment.

Councilmember Ochsenhirt

Councilmember Ochsenhirt wanted to put on record that he was disgusted and appalled that someone would disparage Jerry Kinghorn so soon after his passing, when he had defended the City through some very difficult times. He was very glad that the City has retained the same law firm.

Councilmember Ireland

No comment.

Mayor Jackson

Mayor Jackson wanted to make it clear that she recognized Linda Peterson specifically because so many people brought up Linda's excellent work distributing information during the fire, but all of the staff did a stellar job, as well.

21. 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.

Councilmember Burnham reported that the Parks and Recreation Board is considering options for shade in Nolan Park.

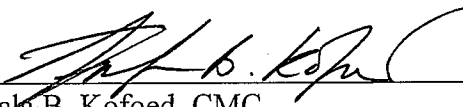
22. COMMUNICATION ITEMS

- A. Upcoming Agenda Items
- B. Financial Report

23. ADJOURNMENT

MOTION: *Councilmember Ochsenhirt moved to adjourn the meeting at 9:17 p.m. Councilmember Burnham seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Nathan Ochsenhirt and Richard Steinkopf. The motion passed with a unanimous vote.*

APPROVED BY THE CITY COUNCIL ON AUGUST 7, 2012



Fionnuala B. Kofoed, CMC
City Recorder