

## MINUTES OF THE EAGLE MOUNTAIN CITY COUNCIL MEETING

August 5, 2003

Eagle Mountain City Council Chambers

1680 East Heritage Drive

Eagle Mountain, Utah 84043

### WORK SESSION - No Action or Minutes Taken – 4:00 to 7:00 PM

1. Consent Agenda
2. Discussion to Allow Inflatable Signage
3. Motion to recess in to a Closed Executive Session for the purpose of discussing personnel issues, potential litigation and/or public safety/security: **No Closed Executive Session was held.**
4. Motion to reconvene in to Work Session
5. Discussion concerning Water Right Fees
6. Items as Outlined on the Policy Session
7. Dinner Meeting with Direct Communications (6:00 PM to 7:00 PM)
8. Adjourn Work Session at 7:00 PM

### Prayer by Invitation of the Mayor

The prayer was offered by Mayor Kelvin Bailey.

### POLICY SESSION – 7:00 PM

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

#### 1. Roll Call:

Council Members Present: Mayor Kelvin Bailey, Diane Jacob, Greg Kehl, Mark Madsen, Brigham Morgan, Linn Strouse (arrived at 7:03 PM)

#### City Staff:

City Administrator:	Chris Hillman
City Attorney:	Gerald Kinghorn
City Engineer:	Korey Walker
City Recorder:	Janet Valentine
Deputy Recorder:	DeAnna Whitney (Excused)
Planning Assistant:	Angela Cox
Finance Director:	Kent Parker
Planning Director:	Shawn Warnke
Public Works Director:	Mark Sovine
Utah County Sheriff:	Deputy Greg Knapp
Fire Department:	Chief Robert DeKorver (Excused)

Others Present: David Loper, resident; Harlow Clark, New Utah; Kent Burningham, Spectrum Development; Mark Lofgren, resident.

2. **Pledge of Allegiance:**

The Pledge of Allegiance was lead by David Loper.

3. **Approval of Minutes (July 15, 2003):**

**MOTION:** *Mark Madsen moved to approve the Minutes of July 15, 2003. Greg Kehl seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

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

Shawn Warnke announced that a notice went out for a public meeting to be held on August 20 dealing with the Annexation Policy Plan.

Mayor Bailey advised that the City was working to complete the Annexation Policy Plan for inclusion in the General Plan revision.

Diane Jacob stated that two people had expressed interest in the open position of alternate planning commissioner. She stated she had received one application and is awaiting the other application. She advised consideration would be given to both applicants and a selection made as soon as possible.

Brigham Morgan announced that he had been contacted by several persons expressing interest in serving on the Arts Council. He advised that there is still a need for more persons to be involved.

Mayor Bailey stated that there had been some incorrect information printed in the newspapers recently indicating that the Arts Council budget is \$49,000 when in fact the amount is \$9,000, that the Sports Board has a budget of \$30,000 instead of the correct amount of \$20,000 which is generated by the Sports Board, and that the Library Board has a budget of \$40,000 instead of the actual \$52,500. Mayor Bailey also indicated that the papers reported that the property tax would be increased 63 percent rather than 57.7 percent.

Chris Hillman advised the Council that notice had been sent to all the local newspapers advising them to contact him or Council members for specific facts.

5. **Appointments:**

None

6. **Public Notices:**

Janet Valentine, City Recorder, announced there would be a Truth in Taxation Public Hearing on August 19, 2003, at 7:00 PM and a Public Hearing on the Proposed Amendment to the Impact Fee Ordinance immediately following the Truth in Taxation Public Hearing.

Janet Valentine also advised that anyone interested in running for public office could file a Declaration of Candidacy form until August 15, 2003, at 5:00 PM.

7. **Public Comment:**

None

8. **Final Plat Approvals:**

A. Jacob's Well, Plat A

B. Jacob's Well, Plat B

Shawn Warnke advised the Council that the preliminary plats for Jacob's Well, Plats A and B, were approved by the Planning Commission in 1999. He described the location of these plats and explained the problems with topography. He answered questions from the Council and recommended approval of the final plats.

Korey Walker explained problems with grading to prevent drainage problems and recommended the City impose a specific grading plan. He answered questions from the Council.

**MOTION:** *Mark Madsen moved to approve the Final Plats for Jacob's Well, Plats A and B, subject to the following conditions: 1) park fee – that the applicant pays a fee in lieu for the parks requirements; 2) trail – that a construction detail for the trail way be submitted; 3) driveways – that driveways in these subdivisions not exceed 12 percent; 4) grading plan – that if property owners are desirous to alter the approved grading plan then they will be required to have an individual grading plan approved for their lot; and 5) engineering requirements – that the City Engineer approves of the remaining engineering requirements upon submittal. Diane Jacob seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

9. Preliminary Plat Approval

A. The Woods (formerly known as the Links), Phase I, Spectrum Development

Shawn Warnke stated that this preliminary plat had been reviewed by the Planning Commission. He described some unique items related to this preliminary plat for review by the Council.

Korey Walker advised that the Planning Commission requested this plat be presented to the Council for review because of: 1) the number of items on the punch list; and 2) compatibility issues regarding safety of children and traffic flow or how to deal with pedestrian traffic.

Kent Burningham, Spectrum Development, addressed the Council and indicated that the homeowners in Overland Trails indicated they liked the plans for the subdivision. He discussed looping of utilities and a secondary access into the subdivision.

**MOTION:** *Diane Jacob moved to deny the application of The Woods preliminary plat and send it back to the Planning Commission for more clarification on the phasing compatibility and pedestrian safety. Greg Kehl seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

10. Consideration and Approval of an Ordinance of Eagle Mountain City, Utah Adopting a 3 % Energy Sales & Use Tax:

Kent Parker stated that the overall purpose of this ordinance is to insure that all residents of the City, including those who are not on City utilities, are paying the same three percent municipal energy sales and use tax. He answered questions from the Council.

Gerald Kinghorn offered more information on the ordinance and answered questions. The Council responded to questions from resident Mark Lofgren, as follows.

Mark Lofgren, resident: "Is that three percent on all utilities?"

Mayor Bailey: "No, on gas, electric, and water."

Mark Lofgren: "On all of them or three percent per?"

Mayor Bailey: "It's going to show up on all of them because each time your bill comes consolidated, you will have certain amount for your line item for gas, a certain amount for water, a certain amount for electric, or whatever. It'll be three percent of that, just like a sales tax."

Brigham Morgan: "Mark, whether it's three percent per or three percent on all of them, it's the same."

Mark Lofgren: "Okay, granted" (Remainder of sentence could not be understood on tape because Mr. Lofgren did not make his comments into the microphone.) "That's a three percent tax that, apparently, six people in the City are knowing what you guys are going to be doing."

Greg Kehl: "It's only six people that ever care."

Diane Jacob: "And those six are here."

Mark Lofgren: "Watch next meeting when 90 people pile in here because they are pissed off."

Greg Kehl: "It's been posted, we had budget hearings in June."

Mayor Bailey: "It was in the newspaper June 5, I believe it was."

Greg Kehl: "I'm as disappointed as you are."

Mark Madsen: "We commented that evening how disappointed we were that we were sitting here with so few people who paid attention enough to come."

Mark Lofgren: ".....you are not informing us."

Mark Madsen: "You need to read. We can't force you to pay attention."

Brigham Morgan: "I guess the comment is the effort has not been made to put it in the utility bills or in the commonly accessed monthly channel of information that has previously been used."

Mark Madsen: "Have we put notices in the bills before about public notices?"

Mayor Bailey: "No, we have never put public notices in the utility bills. We've had the Mayor's Newsletter and occasionally an event or something that advertises in there. Everything's always been done through the newspaper on public notices, when the agendas are posted and those kind of public notices."

Brigham Morgan: "I didn't mean to indicate we actually put public notices in, I meant to indicate that there were Mayor's Newsletters or updates that went out that referenced items of that nature."

Chris Hillman: "Just as a clarification, there have been articles about this in several newspapers."

Kent Parker: "So we know what's going on here, we're talking about the tax itself, but we're kind of ignoring what the purpose of it is for. When the budget was adopted, in order to fund the additional police officers and match the grant they got for the police officers, we planned to use the property tax increase to fund that. This franchise fee or utility fee was to fund the matches for the grant for the fire department. Without this revenue, we will not be able to meet those federal grants, which means we would not be able to have the increased paramedic service and the safety equipment."

Brigham Morgan: "And that was the real kicker for me. If we don't get that grant money, we will not be able to get the equipment we need, and our equipment is so outdated that we can no longer use a lot of it safely to the point where our service and ability to provide fire service and fire protection will degrade and decline."

Mark Madsen: "We were very adamant that these increased revenues would only be used for public safety for the most legitimate functions of municipal government, whereas other departments and other programs all had cuts."

Mark Lofgren: "You couldn't cut funding somewhere else?"

Mark Madsen: "We cut funding in all of the other departments."

Brigham Morgan: "Ask the Arts Council."

Mark Madsen: "Everybody else got cut except the most rudimentary functions of municipal government. We were way behind the curve. We're supposed to have nine law enforcement officers for a city our size."

Mark Lofgren: "I understand that, and you're right, that is totally what we should do with government, and I have no qualms in funding this. But I start wondering about other things when our sewer rates have gone up and our property tax went up, and now this tax. I mean we are being hit left and right. I'm starting to wonder where all this money is going."

Mark Madsen: "We're trying to cover these utilities that were running at a loss for so long."

Mark Lofgren: "Well, then, how come you haven't sold the utilities?"

Mayor Bailey: "We're trying to."

Mark Madsen: "We're working on it. We've gone further down that road in the last year, year and a half, than had ever been done before. If you know the Public Service Commission, they work on their own timeline. Hand them a piece of paper, and they keep it for sixty days before they even tell you they've got it."

Chris Hillman: "Just as a side note, if I may say, likely when Direct Communications takes over the phone system, it will probably be very likely that in the contract the Council will approve a six percent, what we are allowed to take up by law. Right now we are at three percent. So when Direct Com takes over, it will likely go to six percent."

Mark Lofgren: "Right, but our cost of running that system is going to go down so there is going to be more funding for the City."

Brigham Morgan: "No, no there won't be more funding because there will actually be a loss of revenue because a lot of the cost of utilities is being used to fund the administrative functions of the City."

Mark Lofgren: "It's just hard to be really happy....."

Greg Kehl: "Understand, too, Mark, that this affects all of us as well."

Mark Lofgren: "Oh, and I understand that."

Greg Kehl: "This isn't just something that we are proposing for everyone else but the Council, this is for every single one of us as well."

Mark Madsen: "We have to break from the tradition of just rolling over the debt and getting deeper in. We've got to break and start having things break even."

Mayor Bailey: "The other thing, too, is on these grants if we were to not get the money that we need in order to fund these police and fire grants that we have, we'll lose the opportunity to get the grants later because once you reject a grant, it's all over. It's difficult to get a grant anyway; and if you refuse to take a grant for whatever the reason, if you go back and try to get a grant again, it will be next to nil before you'll get it."

Mark Madsen: "We raised the Fire Department \$30,000 and that got \$90,000 for the Fire Department."

Mayor Bailey: "Okay, we need to move on here."

Brigham Morgan stated the only reason he voted aye on this item was because of the fire department and the sheriff's office.

**MOTION:** *Greg Kehl moved to approve Ordinance No. O 14-2003, an Ordinance of Eagle Mountain City, Utah Adopting a Municipal Energy Sales and Use Tax. Diane Jacob seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

11. **Consideration and Approval of an Ordinance of Eagle Mountain City, Utah Amending and Enacting Certain Text Changes in Chapters 14, 15, and 18 of the Eagle Mountain Development Code allowing the City Council to Approve Planned Residential Developments in Master Development Planned Areas Exceeding Three (3) Units per Acre:**

Gerald Kinghorn advised that this ordinance is intended to provide the City Council, now and in the future, with discretion to set the maximum density ceiling in a master development plan area based on the circumstances and facts of each particular application, taking into consideration all relevant factors. He stated the current ceiling is arbitrary and difficult to enforce.

Greg Kehl expressed his concern about this ordinance but indicated he felt it could work if it is used correctly.

Brigham Morgan explained his concerns with density problems experienced by the City in the past and indicated he would prefer to leave the density at 2.6 per acre, except under specific circumstances

Mark Lofgren, resident, expressed his disapproval of this ordinance.

**MOTION:** *Mark Madsen moved to approve Ordinance No. O 15 –2003, an Ordinance of Eagle Mountain City, Utah Amending and Enacting Certain Text Changes in Chapters 14, 15 and 18 of the Eagle Mountain Development Code. Brigham Morgan seconded the motion. Ayes: 3 – Greg Kehl, Mark Madsen, Linn Strouse; Nays: 2 – Brigham Morgan, Diane Jacob. Motion passed.*

12. **Consideration and Approval of an Ordinance of Eagle Mountain City, Utah Amending and Re-enacting Provisions for Processing Development Applications to the City:**

Mayor Bailey recommended this item be tabled until developers can be contacted about paying higher fees or extending processing times for development applications.

Shawn Warnke explained the needs of the Planning Office and answered questions from the Council.

The Council discussed the responsibilities of both the City and the developer in the development application process.

**MOTION:** *Greg Kehl moved to table the Ordinance of Eagle Mountain City, Utah Amending and Re-enacting Provisions for Processing Development Applications to the City. Mark Madsen seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

**13. Information regarding Hubble Homes Donation to Place Water Tender in Service for Sales Trailer Site:**

Gerald Kinghorn advised that motion on this item would designate the donated funds to the Fire Department budget for use as indicated.

Chris Hillman stated that the funds benefit the City and provides fire protection for the Hubble sales trailer.

**MOTION:** *Brigham Morgan moved to allocate the \$5,000 donation from Hubble Homes to the Fire Department budget for expenditure on the water tender to supply the equipment and repairs necessary to put that into service. Greg Kehl seconded the motion. Ayes: 4 - Brigham Morgan, Greg Kehl, Mark Madsen, Linn Strouse; Nays: 0. Diane Jacob was excused. Motion passed.*

**14. Consideration and Approval of a Resolution Amending the Eagle Mountain Telecommunications Fee Schedule:**

Mayor Bailey advised this amendment was for minor changes to the fee schedule.

**MOTION:** *Brigham Morgan moved to approve Resolution No. R 11-2003, a Resolution of the Governing Body of Eagle Mountain City Amending the Eagle Mountain City Telecommunications Fee Schedule. Mark Madsen seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

**15. Consideration and Approval to Amend the FY 2004 Budget to include Additional Grant Funds in the Amount of \$1,000 for the Fire Department:**

**MOTION:** *Greg Kehl moved to approve to Amend the FY 2004 Budget to include Additional Grant Funds in the amount of \$1,000 for the Fire Department. Diane Jacob seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

**16. Consideration and Approval to Amend the Eagle Mountain City Employee Handbook to include After-Hour and On Call Policies and Compensation Procedures:**

Mark Sovine explained that this change to the Employee Handbook would apply to the Public Works Department specifically.

**MOTION:** *Greg Kehl moved to approve to amend the Eagle Mountain City Employee Handbook to include After-Hour and On-Call Policies and Compensation Procedures. Diane Jacob seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

**17. Motion to approve Consent Agenda items as follows:**

A. Contract Change Orders

- I. Landscaping Entrance Monument at the Ranches, 2003 (CO No. 1), American Civil Constructors
- II. Grant Smith Trailway SID 2000-1 (CO No. 1), H.E. Davis

- III. Grant Smith Trailway SID 2000-1 (CO No. 2), H.E. Davis
- IV. Pony Express Parkway Extension (CO No. 6), H.E. Davis
- B. Final Payments
  - I. Pony Express Parkway Extension (Final Payment), H.E. Davis
  - II. Porters Crossing & Golden Eagle Roadway Extension (Final Payment), H.E. Davis
- C. Partial Payments
  - I. Grant Smith Trailway SID 2000-1 (PP No. 1), H.E. Davis
  - II. Grant Smith Trailway SID 2000-1 (PP No. 2), H.E. Davis

**MOTION:** *Mark Madsen moved to approve the Consent Agenda. Brigham Morgan seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

Greg Kehl moved to adjourn the meeting at 9:00 PM. Mayor Bailey reopened the meeting at 9:00 PM to address Item 18.

**18. Award of Bid for the project "Porters Crossing Landscaping":**

Korey Walker discussed the bids for the Porters Crossing Landscaping project and recommended the bid be awarded to H. E. Davis.

**MOTION:** *Greg Kehl moved to approve H. E. Davis for the contract for \$58,728 for Porters Crossing Parkway Landscaping Irrigation. Diane Jacob seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

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

Not applicable.

**20. Adjournment**

Greg Kehl moved to adjourn the meeting at 9:02 PM.

**APPROVAL:** \_\_\_\_\_

**Mayor Kelvin E. Bailey**

**DATE:** \_\_\_\_\_

This certifies that the minutes of  
8/5/03 are a true, full and  
correct copy as approved by the  
City Council on 9/2/03

Signed: Deborah H. Whitney  
**DEPUTY** City Recorder