

SPECIAL CITY COUNCIL MEETING
CANVASS OF MUNICIPAL GENERAL ELECTION RETURNS
JOINT POLICY SESSION WITH CITY OF SARATOGA SPRINGS

Eagle Mountain City Council Chambers

1680 East Heritage Drive

Eagle Mountain, Utah 84043

November 11, 2003

WORK SESSION – No Action or Minutes Taken - 4:00 to 5:30 PM

1. Consent Agenda
2. Discussion on Contracts between Eagle Mountain City and Direct Communications for the Sale of the Telecommunications System
3. Discussion on the Future Roll of the Community Arts Board
4. Discuss the Establishment of a Formal Policy on the Use of Utility Billings for Mailings of Council Updates
5. Adjourn Work Session at 5:30 PM

JOINT POLICY SESSION WITH CITY OF SARATOGA SPRINGS – 5:30 to 6:30 PM

1. Call to Order:

Mayor Kelvin Bailey called the meeting to order at 5:50 PM.

Present from Eagle Mountain City:

Mayor:	Kelvin Bailey
Council Members:	Diane Jacob, Greg Kehl, Mark Madsen, Brigham Morgan, Linn Strouse
City Administrator:	Chris Hillman
City Attorney:	Gerald Kinghorn
City Engineer:	Korey Walker
Deputy Recorder:	DeAnna Whitney
Planning Manager:	Fionnuala Kofoed
Finance Director:	Kent Parker
Public Works Director:	Mark Sovine

Present from City of Saratoga Springs:

Mayor:	Tim Parker
Council Members:	Lynette Hubbard, Scott Kahn, John Kimball, Marsha Packet, Tim Taylor
City Manager:	Ken Lethem
City Attorney:	Richard Allen
City Engineer:	Larry Gelson
City Planner:	Dave Anderson

2. **Discussion on the Mt. Saratoga Annexation Petition and other Boundary Issues:**

Ken Lethem presented information on his city's annexation proposal. He described a land area between the west boundary of Saratoga Springs and the east boundary of Eagle Mountain and stated that Saratoga Springs and Eagle Mountain have both adopted Annexation Policy Declarations that overlap on this property. He explained that Saratoga Springs has a current annexation proposal by a development group to annex the property. He indicated that this joint meeting was being held so that the cities could discuss the annexation proposals and how to best accommodate the wishes of the property owners.

Chris Hillman explained that there was an original proposal brought forward by the developers of the Mt. Saratoga project requesting annexation into Saratoga Springs. He advised that Eagle Mountain City was not familiar with that annexation request until Saratoga Springs sent an official notice of concerned parties. Mr. Hillman stated that Eagle Mountain City filed a "friendly" protest in order to give the City enough time to talk with developers, Saratoga Springs, and the different landowners to get a better understanding of why the developers were choosing Saratoga Springs. He indicated that both cities have an interest in the land and desire that development take place in their city because of land use planning, financial issues, etc. He advised that there was a second proposal brought forward to Saratoga Springs City Council requesting annexation into Saratoga Springs. Mr. Hillman stated that before either city continued to move forward, it was determined advisable by the city planners and staff that council members from both cities should be brought together to discuss issues and come to a final conclusion as to where potential boundaries could be drawn that would satisfy the interests of all involved, if possible.

Mayor Bailey asked for clarification of the current actual proposed annexation area.

Mark Pales, sponsor of the annexation, explained that there were two separate annexations, one following the other. He used a map to explain the areas involved and indicated that owners of two of the parcels involved have chosen to remain uninvolved at this point. He expressed his desire that he be able to annex land so that his whole project would be located in one city. He stated that one-third of his project is already located in Saratoga Springs.

Mayor Bailey explained the concerns of Eagle Mountain City. He stated that Development Associates has a major development investment in Eagle Mountain City and that the Pony Express Parkway would actually become the dividing line between these projects, raising concerns with the roads, utilities, etc.

Korey Walker stated that the City is currently in the process of extending a four-lane road along Pony Express Parkway. He explained that MAG is looking at the alignment continuing along the section line to Pony Express as one of their future arterial routes; however, presently there is a County road that diagonals across the property. He described the road that Development Associates is looking to construct which would have the ability to tie in either way as the County and UDOT proceed with their improvements. He advised that Eagle Mountain City is bringing a sixteen-inch water line down to service this area and has planned the size of this line to be adequate to service developments on both sides of the road. He indicated that natural gas and electricity lines are planned that would stub down Pony Express with plans to service both sides of the road. He explained that one issue with the roadway is that the full width of the roadway is currently within Eagle Mountain City limits down to Evans Wash, and at Evans Wash this property jogs back in. He stated that the City is constructing the road up to the median and one lane up to that property line. He expressed his concern regarding maintenance issues for this road if it becomes split between two cities. He also addressed the issue of Class D and C funds that are dispersed as identified by lane miles. He asked how an agreement could be worked between both parties if the section line is split on the road, which will be used by both cities. Mr. Walker explained that in the Eagle Mountain Capital Facilities Agreement the developer is required to build more than what he is responsible to build (one lane and half a median) that would benefit the property to the north. He stated that in addition, the City is collecting impact fees to complete the road, which raises an equity issue with relation to the improvements of the road and how to deal with associated capital costs. He further explained that a significant concern is the timing of the road pressured by development.

Mr. Walker identified plans and locations for water tanks. Attorney Richard Allen advised that there are some cities that are downstream from other cities, requiring that a water tank be placed upstream for gravity feeding, and it is not uncommon to have a water line or tank in another city. He stated this could be a good project for both cities.

Ken Lethem referred to the issues in question and stated it is not uncommon for cities to negotiate these types of issues.

Mayor Bailey described a certain portion of Aaron Evans' property on the north side of Pony Express that he recommended be excluded from the annexation because of the economic impact on Eagle Mountain City. He pointed out this property on a map.

Linn Strouse asked how fire services would be addressed. Mayor Bailey advised that there is a current mutual aid agreement between the cities and the North Fire Station is in a good location to service the area in question. Ken Lethem advised that Saratoga Springs would be building a north end fire station.

Mark Pales referred to problems with developing some of the property because of major transmission line locations and 440 feet of useless property purchased by the developer because of an "all-or-nothing" sale. He indicated there is no commercial planned for the development. He explained that per a mutual agreement with Saratoga Springs there would be no homes on any ridgelines or hilltops, which is the prime property in the development. He referred to a commercial development that is not included in his project and presented information on the timeline for building.

Greg Kehl asked about the proposed density for the project and where the highest densities would be. Mr. Pales advised that the density is 2.9 throughout the entire project and pointed out areas where condominiums would be built. Mayor Bailey inquired about lot size, and Mr. Pales advised that the average lot size is approximately 10,000 square feet. Linn Strouse asked about minimum and maximum lot sizes, to which Mr. Pales replied that the minimum would be 8,000 square feet and the maximum would be 14,000 or 15,000 square feet.

Linn Strouse asked if the Mt. Saratoga development would be able to connect with established horse trails and bike trails in Eagle Mountain, and Mr. Pales stated they would be happy to accommodate that request.

Ken Lethem advised that the conceptual plan had not been approved by Saratoga Springs and that the process would require the developer to prepare a master development plan. He referred to the request of Mayor Bailey to leave a section of property out of the development and asked Mr. Pales to address this issue.

Mark Madsen asked what the potential loss would be to Eagle Mountain City if this annexation goes through for Saratoga Springs and the development ends up right next to Pony Express where the Eagle Mountain has already made an investment. Korey Walker advised that the greatest impact would come from the road and not from the utilities that are already in place.

Mark Pales stated that if he were allowed to develop, his company would be building the road. He advised that what usually happens when there is a common boundary, such as a road, is that the cities put their Class D and C monies together and do a contract.

Mark Madsen stated he would like to see a traffic study to determine how much of the traffic coming from the development will flow onto Pony Express Parkway. Mr. Pales explained his plans for traffic flow and the plans of DOT.

Mr. Pales advised that if his development had to tie in to a water line belonging to Eagle Mountain, there would customarily be a charge.

Diane Jacob raised the question of the impact on the Pony Express Elementary School, which would likely be used by students in this development until another school could be built.

Mayor Bailey raised the concern again of the economic impact this development would have on Eagle Mountain City, both short term and long term. He stated that if there were some way to address the economic disparities, he would like to hear suggestions.

Mark Pales stated that city staffs should be able to come up with equitable solutions to the concerns.

Council Member Tim Taylor stated that Saratoga Springs has a strong desire to extend Pony Express Parkway to the east to tie into Redwood Road, primarily for a public safety standpoint, and for the convenience to the residents of both cities. He stated the proposed development would help with the extension of that road, which would be good for everyone.

Brigham Morgan raised the concern that on the south side of the road Development Associates had planned larger lots with a diversity of density and transitioning throughout the subdivisions that does not fit with the layout of the Mr. Saratoga plan. He stated the development puts homes right up against the border, with no buffering or landscape separation or no planning to transition from one city to the other.

Mark Pales stated the transition would be from single family to single family with no high density; therefore, he did not think there would be a noticeable difference.

Diane Jacob stated that Eagle Mountain City has a right-of-way that includes and incorporates the old Pony Express Trail so there is an extra width. She asked if this would be carried through with future plans.

Korey Walker advised there is a 150-foot right-of-way for a corridor trail to the side of the road.

Marsha Packet explained that Aaron Evans called her and asked her to let everyone know that he wants his land to go to Saratoga Springs.

Ken Lethem indicated that he and Chris Hillman had talked about drawing up a boundary agreement between the two cities, which would be a non-binding agreement, but might address concerns of the County Boundary Commission regarding future plans for the land. Richard Allen advised that other cities do have boundary agreements and that the law contemplates that the landowner makes the final decision about which city his property is in. Mayor Bailey expressed concern that a boundary agreement might force a landowner to end up in a city he did not choose.

3. **Adjourn Joint Session at 6:30 PM:**

Mayor Bailey moved to adjourn the meeting at 6:40 PM.

Prayer by Invitation of the Mayor

The prayer was offered by Vincent Liddiard

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

City Staff:

City Administrator:	Chris Hillman
City Attorney:	Gerald Kinghorn
City Engineer:	Korey Walker
City Recorder:	Janet Valentine (Excused)
Deputy Recorder:	DeAnna Whitney
Planning Manager:	Fionnuala Kofoed
Finance Director:	Kent Parker
Planning Director:	Shawn Warnke (Excused)
Public Works Director:	Mark Sovine
Diane Bradshaw:	Telecom Administrator
Fire Chief:	Robert DeKorver (Excused)
Utah County Sheriff:	Sergeant Jo Murphy

Others Present: Vincent Liddiard, resident; Ken Hixson and Brad Morgan, residents and appointees to the Planning Commission; Rick Pierce, resident; Heather Miller, Lehi Chamber of Commerce; Kip Wilson and Jeremy Smith, Direct Communications; Doug McDougal, Eagle Top developer; Sheila Curtis, City Emergency Preparedness Coordinator;

2. Pledge of Allegiance:

The Pledge of Allegiance was lead by Ken Hixson.

Mayor Bailey recognized the presence of members of local Boy Scout Troop 1085.

3. Approval of Minutes (October 21, 2003):

Brigham Morgan asked that the following information be added to the Minutes: 1) reference to a Public Hearing in Item 14; 2) more detailed discussion information on Item 19; and 3) specific questions answered by Mr. Kinghorn in Item 20.

Diane Jacob asked that the Department Reports section be removed from the Work Session since department reports were not presented at the meeting.

MOTION: *Mark Madsen moved to approve the Minutes of October 21, 2003, with the addition of information requested by Brigham Morgan for Items 14, 19 and 20 and removal of Department Reports from the Work Session per Diane Jacob. 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:**

Korey Walker announced that there would be a public hearing on December 16, 2003, regarding the Economic Analysis Plan. He indicated this public hearing would be noticed 14 days prior to the meeting.

Brigham Morgan reported that the fifth annual Harvest Fest was held on October 25 and was a great success. He stated there were approximately 135 people who attended, 18 of whom attended the trading card event. He advised that all of the participating organizations made money that will go towards future events and activities for those organizations. He announced that there was no expense to the City.

5. **Appointments:**

A. Economic Development Board

Mayor Bailey recommended that Scot Hazard and Jorge Gatica be appointed to the Economic Development Board.

Brigham Morgan asked if there was any concern of a possible conflict of interest by appointing the main business developer in the City, Mr. Hazard, to sit on the Economic Development Board and solicit business on behalf of the City.

Mayor Bailey advised that Mr. Hazard would have no voting ability and that his influence would be no greater than it is currently with the Council as a regular citizen.

Gerald Kinghorn advised that Mr. Hazard would serve only in an advisory function as someone who is knowledgeable in commercial development and would not be making any decisions about City funds. He stated there would be no conflict of interest involved.

MOTION: *Diane Jacob moved to approve the appointments of Scot Hazard and Jorge Gatica to the Economic Development Board. Brigham Morgan seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

B. Planning Commission

The Mayor recommended that Ken Hixson and Brad Morgan be appointed to the Planning Commission.

Diane Jacob expressed concern that with the appointment of Ken Hixson as the primary alternate and the planned reappointment of Tom Maher, three of the seven Planning Commission members would be from the North/Meadow Ranch area. She recommended that Ken Hixson be appointed to the position of second alternate and that Brad Morgan be appointed as the primary alternate to help with that inequity.

Mayor Bailey responded that the commission is made up of citizens and is not representative of the citizens of the City, even though there is an effort made to do so. He further stated that the alternates only vote in the absence of the regular commissioners.

MOTION: *Mark Madsen moved to approve the appointment of Ken Hixson to be the primary alternate on the Planning Commission. Linn Strouse seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

Mayor Bailey instructed Planning Manager Fionnuala Kofoed to make the necessary information available to Mr. Hixson.

MOTION: *Greg Kehl moved to appoint Brad Morgan as the second alternate to the Planning Commission. Brigham Morgan seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

6. **Public Notices:**

None

7. **Public Comment:**

Rick Pierce, resident, addressed the Council to publicly thank outgoing Council Members Greg Kehl and Brigham Morgan for their four years of service to the City. He thanked them for their integrity and knowledge. He also thanked Diane Jacob for her past service and her willingness to continue to serve for the next two years. He expressed his hope that the new Council members would keep the best interests of the residents in mind and follow the pattern of honesty and integrity left by Mr. Kehl and Mr. Morgan.

8. **Canvass of Municipal General Election held on Tuesday, November 4, 2003:**

In the absence of City Recorder Janet Valentine, Fionnuala Kofoed presented the Canvass information to the Council.

Total Active Registered Voters:	2436
Voter Turnout	1247
Absentee Ballots	19
Provisional Ballots	<u>8</u>
Total Voter Ballots Received:	1274
Percentage of Turnout:	52%

Absentee-Voter Ballots Received	19
Absentee-Voter Ballots Not Received	<u>6</u>

Total Absentee-Voter Ballots Distributed: 25

Provisional Ballots Received	23
PB Not Registered in Utah County	<u>15</u> (VOTES DO NOT COUNT)

Total Provisional Ballots: 8

Ballots Received:	
Official Ballots Received	2190
Absentee-Voter Ballots Received	<u>50</u>

Total Ballots Received: 2240

Distribution of Official Ballots:	
Ballots Voted	1247
Provisional Ballots	23
Absentee-Voter Ballots Voted	19
Absentee-Voter Ballots Not Returned	6
Spoiled Ballots	3
Official Ballots Unused	917
Absentee-Voter Ballots Unused	<u>25</u>

Total Ballots Distributed 2240

The Total Vote Count is as Follows:

Harry Bakken	588	46%
David Blackburn	732	57%
Vincent Liddiard	773	61%
Brigham Morgan	600	47%
Linn Strouse	842	66%

The following three candidates received the highest number of votes and will receive the oath of office on Monday, January 5, 2004, at noon in the Eagle Mountain City Council Chambers, 1680 E. Heritage Drive:

David Blackburn
Vincent Liddiard
Linn Strouse

MOTION: *Linn Strouse moved to approve the Canvass of the Municipal General Election of November 4, 2003. Diane Jacob seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

9. **Presentation by Heather Miller, Lehi Chamber of Commerce on Lehi Family Week:**

Heather Miller, Director of the Lehi Chamber of Commerce, addressed the Council and advised that she is the Chair of Lehi Family Week. She announced plans for a weeklong, citywide event focused around celebrating the family and strengthening the home. Mrs. Miller explained that President Bush had encouraged every city in the United States to set aside the week of Thanksgiving to celebrate families. She invited all Eagle Mountain residents to attend a special activity on the evening of Sunday, November 23, and provided posters with contact information. She also provided packets regarding plans for a Chamber of Commerce to be organized jointly with Saratoga Springs, Eagle Mountain City and Lehi.

10. **Consideration and Approval of a Contract between Eagle Mountain City and Direct Communications for the Sale of the Telecommunications System Non-Regulated Assets:**

Gerald Kinghorn explained that this agreement is for the sale of non-regulated assets, consisting of the DSL service and contracts and an empty conduit in the public utility easements. He indicated that these assets would be sold to Starwest, an entity of Direct Communications, which will be a non-regulated entity in that its services and charges are not subject to jurisdiction of the Public Service Commission of Utah. He

explained the modifications to the draft contract which the Council received which show that the City has agreed with the buyer that the consideration will be payable differently than shown in the contract in that the price will be raised to \$400,000 (\$200,000 payable in cash at closing and the unpaid balance due in 12 months at the rate of 4-1/2 % interest) in return for deleting the additional consideration in paragraph 2.6 showing a provision added late in the negotiations to try and recover part of the long distance access charges that accrued over the last two years. Mr. Kinghorn stated that those collections are speculative and contingent, and that if the City can get a firm price for the regulated assets of \$400,000 paid as proposed, it would be fair to both sides. He recommended approval of contract and stated he would be completing Exhibit A, which is a more detailed description of the DSL assets, after receiving direction from the consultant on the exact phrasing to avoid PSC jurisdiction. He recommended that paragraph 1.2 be changed to reflect the compensation of \$400,000 (payment as explained above) and the deletion of paragraph 2.6.

Brigham Morgan requested that approval be subject to receipt and acceptance by the Council of all exhibits. Mr. Kinghorn explained that all exhibits were available for review.

MOTION: *Greg Kehl moved to approve the contract between Eagle Mountain City and Direct Communications for the Sale of the Telecommunications System Non-Regulated Assets, changing paragraph 1.2 to reflect the compensation of \$400,000 (\$200,000 payable in cash at closing and the unpaid balance due in 12 months at the rate of 4-1/2% interest) and deleting paragraph 2.6. Brigham Morgan seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

11. **Consideration and Approval of a Contract between Eagle Mountain City and Direct Communications for the Sale of the Telecommunications System:**

Gerald Kinghorn explained that the Employee Contract exhibit was missing from the second agreement. He advised that this exhibit would be forwarded to the Council for review and that approval of the agreement should be subject to that review. He stated that the Employee Contract states: 1) that Direct Communications will employ the City's telecommunications employees at the same rates of pay currently received and will keep those rates of pay for at least one year, subject to demotion or termination for just cause; 2) that Direct Communications will cooperate in maintaining retirement benefits; and 3) that all health/medical benefits will be vested without precondition or waiting periods

Mr. Kinghorn explained that this agreement is for the sale of the telecommunications assets and for the Fire Station, with an option for the City to buy back the Fire Station. He advised that it is the intent of the City to exercise the option to buy back the Fire Station so that the net price paid will be the amount necessary to defease the City's telecommunications bonds and get the City completely out of telecommunications debt (currently about \$4.9 million with another \$35,000 to \$50,000 in closing costs for a special certified public accountant audit statement). He advised that the actual defeaseance (the money the City must place in escrow to pay off the bonds) is a little more than \$4.9 million, which is subject to a final price adjustment for any additional capital investment made by the City that has not already been recognized in the Public Service Commission rate base. He stated he is waiting for a legal description for the fire station. Mr. Kinghorn advised that Direct Communications must sign up for water, sewer, gas, etc., and provide separate utility connections, which do not currently exist. He recommended that the Council authorize the Mayor to execute the agreement when: 1) the final legal description for the fire station has been checked,; 2) when the Council has had the opportunity to review the Employee Contract exhibit; and 3) when there is a signed application from Direct Communications for water, sewer and natural gas and arrangements have been made to provide separate utility services to the building.

MOTION: *Greg Kehl moved to authorize the Mayor to execute the agreement between Eagle Mountain City and Direct Communications for the Sale of the Telecommunications System when the final legal description for the fire station has been checked, when the*

Council has had the opportunity to review the Employee Contract exhibit, and when there is a signed application from Direct Communications for water, sewer and natural gas and arrangements have been made to provide separate utility services to the building. Linn Strouse seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.

Brigham Morgan asked about the contract price of \$6.3 million with no indication as to how much the re-acquisition of the fire station will subtract from that price. Mr. Kinghorn stated that the amount depends on the final defeasance price because the value of the fire station is the difference between the final defeasance and \$6.3 million.

Brigham Morgan stated that this information was not identified anywhere in the agreement. Mr. Kinghorn explained that the contract did address this issue in paragraph 1.4, Adjustments to Sale Price; however, he advised that for clarification he would add the wording "the value of the fire station is to be determined as the difference from the \$6.3 million to the actual defeasance cost."

Brigham Morgan referred to the missing Exhibit 1 and was advised by Mr. Kinghorn that the exhibit would be the description of the fire station referred to earlier.

Mayor Bailey asked the members of the Council to email him and Mr. Kinghorn an acknowledgement of the receipt and review of the Employee Contract with any comments.

Brigham Morgan also advised that per discussion in Work Session that Exhibit I, Franchise Contract, paragraph 8A be modified to remove the duplicate sentence and paragraph 10A be changed to add the missing word "will."

12. Consideration and Approval of a Contract with Starwest and Eagle Mountain City (Revised Ranches Broadband Contract):

Gerald Kinghorn explained that this is a broadband service contract with Starwest, which is a wholly owned subsidiary of Direct Communications. He advised this contract would provide DSL services in areas where no hard lines currently exist. He indicated that this contract was reviewed by the Telecom Board and that the contract needs to be approved by the Council.

Diane Bradshaw, Telecommunications Administrator, explained that as of April 1, 2004, Starwest would like to increase the amount for T-1 service from \$500 per month to \$850 per month.

Greg Kehl asked what areas of the City would be affected and was advised that the contract covers Cedar Pass Ranch. Diane Bradshaw advised the Council that Direct Communications would not be able to offer DSL services in the Cedar Pass area for probably two more years; therefore, Starwest will offer this service to that area.

MOTION: *Brigham Morgan moved to approve the Starwest Contract as submitted, subject to the increase in fees for the T-1 service. Diane Jacob seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

Brigham Morgan referred to Section 11.1, Termination, and recommended that the sentence reading, "The City retains the right but not the obligation to restrict or terminate Starwest service at any time if the City, in its sole discretion, determines that Starwest is in violation of this agreement and continued service to Starwest jeopardizes the operations of the City or the services it provides" be changed to read, "...Starwest is in violation of this agreement and/or continued service to Starwest jeopardizes the operations..." Mr. Kinghorn indicated this change would be made.

Linn Strouse asked if the area at the east end of Meadow Ranch would be included in the Cedar Pass DSL Coverage. Jeremy Smith, Starwest, stated they would try to include this area in the coverage.

13. **Consideration and Approval of the Final Plat Including Development Agreement & CC&R's for the Eagle Top Subdivision:**

Korey Walker presented information regarding Eagle Top Subdivision and pointed out its location on a map. He explained the conditions of approval: 1) Utility Plans – that the dry utility plans are approved; that a streetlight is added at the intersection of Golden Eagle Road and Eagle Court; that the lot numbers match the civil plans; and that the engineer's estimate be updated for the dry utility; 2) Easements – that an off site storm water easement is provided through the Ranches property west of Lot 14; that an off site easement is provided for the looping of utilities through Lots 3 and 4 of Kiowa Valley, Plat A; 3) Gabin Basket – that gabin baskets are used to control storm water in the drainage swales rather than the straw bale method; and 4) Fire Hydrant – that a fire hydrant is added along the south side of Golden Eagle Road and that a hydrant is relocated to the side yard property lines of Lots 31 and 32; that all hydrants should be located in the park strip and have water valves.

Mr. Walker further explained that Eagle Top has a proposed agreement from Centex to construct the water line utility mentioned in Item 2) above. He indicated that Centex has advised they need \$10,000 to construct the water line plus \$2,500 for the easement. He stated that Centex desires to enter into an agreement with the City, rather than entering into an agreement with the developer. Centex wants to construct the water line immediately and have it stubbed out.

Mr. Walker referred to the developer's bond that covers the DLC that serves the development to the south of Kiowa Valley and that the developer is bonding for more improvements than they need. Mr. Walker advised that a reimbursement clause should be established in the Development Agreement that allows the developer to be reimbursed from future developments tying in to the DLC.

Doug McDougal, Eagle Top LLC, thanked the City staff for their cooperation on this project. He explained the efforts that have been made on the part of the developer to meet City requirements.

Brigham Morgan asked the intent of eleven acres to be retained by the developer. Mr. McDougal explained they are hoping for a land swap with the Ranches in order to finish developing that area.

Korey Walker explained that the eleven acres of open space is part of the plat and that the developer has retained private ownership. Brigham Morgan asked what was peculiar about this acreage. Mayor Bailey explained this would prevent any confusion to future councils because the property was clearly identified as being private ownership. He further indicated that this would allow the developer to make a swap and that there would be no confusion as to the ownership of the property.

Linn Strouse inquired if there was bonding in place to cover any possible drainage problems in the future. Korey Walker stated they have bonded for permanent improvements along the outside of both cul de sacs.

Brigham Morgan asked Gerald Kinghorn if he was comfortable putting in a reimbursement agreement without Council's review. Mr. Kinghorn explained that any reimbursement agreement would have to be brought to Council for approval.

Mr. Kinghorn advised that he was uncomfortable with the arrangement with Centex mentioned earlier. He stated the City has no firm agreement with Centex and stated it is not wise to take monies with a promise to complete an agreement and not be able to do so. Mr. Kinghorn advised that this easement situation should be worked out between Eagle Top and Centex.

Mr. McDougal recommended that Eagle Top put up \$15,000 as a bond to be held by the City to make sure everything is paid. Eagle Top would then pay Centex directly; therefore, freeing the bond to be released back to Eagle Top. Mr. Kinghorn advised that this would be an acceptable plan.

MOTION: *Mark Madsen moved to approve the Final Plat for the Eagle Top Subdivision subject to the conditions as listed in the staff report, namely utility plans, off site easements, construction details, HOA requirements, the bond for the easement construction with Centex Homes, and the fire hydrant required by the Fire Chief. Diane Jacob seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

14. Update on Revised Economic Analysis Plan for Eagle Mountain City:

This item was tabled.

15. Consideration and Approval of the Eagle Mountain City Emergency Plan:

Mark Madsen referred to the great amount of information contained in the Emergency Plan and stated he would like to see it put into a more user friendly format. He recommended that the plan should be made available on the website, making it accessible to citizens.

The Mayor stated that the concern over the amount of material presented in the plan was discussed at the last Crime Task Force meeting. He indicated that Vincent Liddiard offered to provide a checklist format for all departments to follow in the event of an emergency.

Sheila Curtis, City Emergency Coordinator, showed the Council a small pamphlet that would eventually be made available for use by citizens. She indicated that meetings would be held with City departments to explain their particular responsibilities during an emergency and that in about a year there would be a mock trial exercise for the departments. Mrs. Curtis announced that on Saturday, November 15, at 10:00 AM at the Ranches Fire Station there would be a CERT mock disaster and that the Council would receive personal invitations to participate.

Linn Strouse expressed her appreciation to Sheila Curtis for all her extra work, energy, and time put into emergency preparedness for the City.

Mrs. Curtis announced that she had been awarded another CERT grant for next year in the amount of \$2,800 and that an SLA grant, which is for the Emergency Manager position, was granted in the amount of \$2,500.

MOTION: *Brigham Morgan moved to approve the Eagle Mountain City Emergency Plan as submitted. Greg Kehl seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

16. Consideration and Approval of an Ordinance of Eagle Mountain City, Utah Amending the 2003-2004 Fiscal Year Budget:

Mayor Bailey explained that this item was discussed at the last Council meeting but that it was not approved because of a missing exhibit.

Kent Parker advised that whenever there are budget adjustments, such as grants, an amendment is required.

MOTION: *Diane Jacob moved to approve Ordinance No. O 20-2003, an Ordinance Amending the Eagle Mountain City, Utah Fiscal Year 2003-2004 Annual Budget. Brigham Morgan seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

17. **Report of Certification of Annexation Petitions for "Parcel 1 - Glen E. Smith Limited Partnership", "Parcel 2 - Glen E. Smith Limited Partnerships", and "Parcel 3 - Eagle Mountain Holdings, LLC":**

Gerald Kinghorn explained that these annexation petitions had been received by the City Recorder and checked for ownership and compliance with state law. It is the duty of the City Recorder to report such certification of petitions to the Council. Mr. Kinghorn advised that the Council should approve the certification and that the City Recorder would move forward with the public notice process to inform affected entities. He stated there would eventually be hearings held, but that the City must first determine if anyone is going to protest these annexations. He stated these annexations would close up one of the anticipated illegal peninsulas on the north end of the annexation between Saratoga Springs and Eagle Mountain City.

MOTION: *Brigham Morgan moved to approve the certification of annexation petitions for Parcel 1 - Glen E. Smith Limited Partnership, Parcel 2 - Glen E. Smith Limited Partnerships", and Parcel 3 - Eagle Mountain Holdings, LLC. Mark Madsen seconded the motion. Ayes: 5 - Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

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

- A. Check Register for October 2003
- B. Contract Change Orders
 - I. Eagle Mountain Entrance Sign (CO No. 1), Wadsworth Construction
 - II. Grant Smith Trailway (CO No. 4), H.E. Davis Construction
 - III. Eagle Mountain Fire Department Personal Protective Equipment (CO), LN Curtis & Sons
- C. Partial Bond Releases
 - I. Freemont Springs Plat A (Release No. 2), Hamlet Homes
 - II. Freemont Springs Plat B (Release No. 2), Hamlet Homes
 - III. Cold Springs Phase 2 (Release No. 2), Hamlet Homes
 - IV. Willow Springs Condos Phase 3 (Release No. 2), Summit Development
 - V. Smith Ranch Road Plat B (Release No. 3), Sundance Homes
 - VI. Porter's Crossing Plat A (Release No. 4), Sundance Homes
- D. Final Payments
 - I. Landscaping Entrance Monument at the Ranches, 2003 (Final Payment & Acceptance), American Civil Constructors (Tabled)
 - II. Eagle Mountain Entrance Sign (Final Payment), Wadsworth Construction
 - III. Grant Smith Trailway (Final Payment), H.E. Davis (Tabled)
- E. Consideration of Award of Bid for the Project "Sweet Water Road Contract" (Tabled)

MOTION: *Brigham Morgan moved to remove Items B.II, D.I, D.III, and E from the Consent Agenda. Mark Madsen seconded the motion. Ayes: 5 - Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

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

19. Motion to recess in to a Closed Executive Session for the purpose of discussing personnel issues, potential litigation and/or public safety/security:

MOTION: *Greg Kehl moved to recess in to a Closed Executive Session for the purpose of discussing potential litigation at 8:05PM. Brigham Morgan seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

20. Motion to Close the Closed Executive Session and Reconvene in to Open Session:

MOTION: *Diane Jacob moved to close the Closed Executive Session and Reconvene in to Open Session at 8:29 PM. Mark Madsen seconded the motion. Ayes: 5 – Brigham Morgan, Greg Kehl, Diane Jacob, Mark Madsen, Linn Strouse; Nays: 0. Motion passed.*

21. Any Actions from the Closed Executive Session:

None

22. Adjournment:

Diane Jacob moved to adjourn at 8:29 PM.

APPROVED: _____

Kelvin E. Bailey

Mayor Kelvin E. Bailey

DATE: _____

12-15-03

This certifies that the minutes of
11-Nov 2003 are a true, full and
correct copy as approved by the
City Council on 16-Dec 2003

Signed: *Jane B. Valentine, cmc*

City Recorder