

MINUTES
EAGLE MOUNTAIN CITY COUNCIL MEETING

December 7, 2010

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

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

4:00 P.M. WORK SESSION – CITY COUNCIL CHAMBERS

ELECTED OFFICIALS PRESENT: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter.

CITY STAFF PRESENT: John Hendrickson, City Administrator; Jerry Kinghorn, City Attorney; Fionnuala Kofoed, City Recorder; Steve Mumford, Planning Director; Chris Trusty, Public Works Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Melanie Lahman, Deputy Recorder; John Mulder, Deputy Sheriff; Gordon Burt, Finance Director; Dave Norman, Assistant Public Works Director; Ifo Pili, Assistant City Administrator.

Mayor Heather Jackson called the meeting to order at 4:15 p.m.

1. AGENDA REVIEW – The City Council reviewed items on the Consent Agenda and Policy Session Agenda.
2. CITY ADMINISTRATOR INFORMATION ITEMS – This is an opportunity for the City Administrator to provide information to the City Council. These items are for information and do not require action by the City Council.
3. ADJOURN TO A CLOSED EXECUTIVE SESSION – The City Council adjourned into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the purchase, lease or exchange of real property, pursuant to Section 52-4-205(1) of the Utah Code, Annotated.

MOTION: *Councilmember Painter 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 Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter. The motion passed with a unanimous vote.*

The meeting was adjourned at 5:32 p.m.

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

ELECTED OFFICIALS PRESENT: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter.

CITY STAFF PRESENT: John Hendrickson, City Administrator; Jerry Kinghorn, City Attorney; Fionnuala Kofoed, City Recorder; Steve Mumford, Planning Director; Chris Trusty, Public Works Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Melanie Lahman, Deputy Recorder; John Mulder, Deputy Sheriff; Gordon Burt, Finance Director; Dave Norman, Assistant Public Works Director; Ifo Pili, Assistant City Administrator.

4. CALL TO ORDER.

Mayor Heather Jackson called the meeting to order at 7:02 p.m.

5. PLEDGE OF ALLEGIANCE

Adrian Kano led the Pledge of Allegiance.

6. INFORMATION ITEMS/UPCOMING EVENTS

- The Senior Citizens' Advisory Council will hold a Christmas Dinner & Holiday Music Program on December 27 at the City Council Chambers.
- Tickets are on sale now for the Pony Express Days 2011 concert and fireworks, starring Clint Black at the SilverLake Amphitheater. Tickets are available online on the City website. Starting in January, tickets will be available at City Hall.

7. PUBLIC COMMENTS – Time has been set aside for the public to express their ideas, concerns and comments. *(Please limit your comments to three minutes each.)*

Nikki Wickman, 2766 Fort Hill Road, spoke on the proposed agreement for a lobbyist. She didn't believe the City needs the freeway the lobbyist is expected to work for. She felt that the money which would be paid to the lobbyist is needed to maintain and improve existing local roads.

Brice Bitter, 1326 Falcon Lane, was proud that the lobbyist agreement was not approved at the last meeting and was disappointed that the agreement was being considered again. He didn't believe the City should use taxes to pay a lobbyist to persuade our representatives to get back our tax money from the federal government. He said the numbers don't support the idea that the federal government will fund a highway here twenty years from now.

8. CITY COUNCIL/MAYOR'S ITEMS – Time has been set aside for the City Council and Mayor to make comments. *(Comments are limited to three minutes each.)*

Councilmember Burnham

Councilmember Burnham joked that she should get a trophy, because she was the first and only elected official to cross the finish line at the Turkey Trot. She said the Christmas Tree Lighting was a lot of fun, as was Santa's ride through town on the fire truck. Activities like these help the City feel like a community.

Councilmember Celaya

No comment.

Councilmember Painter

Councilmember Painter said he appreciated the City's community activities. He reminded everyone that today is the 69th anniversary of the bombing of Pearl Harbor. It's important to show appreciation for veterans and active military personnel.

Councilmember Ochsenhirt

Councilmember Ochsenhirt said Councilmember Burnham should get an award for the Turkey Trot. He said he appreciated the way his comments from the last meeting on speeding were printed in the newspaper. He got positive responses on them. He reiterated that people need to slow down and drive safely. He asked residents to help their neighbors shovel snow from their sidewalks and driveways, if needed.

Councilmember Ireland

Councilmember Ireland expressed appreciation for the privilege of living in Eagle Mountain.

Mayor Jackson

Mayor Jackson applauded Councilmember Burnham and the City's firefighters for participating in the Turkey Trot. She announced that December 14 is the last day of "The Biggest Loser" television show. An Eagle Mountain resident, Burgundy Keel, has been participating. Mayor Jackson said her grandfather was one of the few survivors of Pearl Harbor. She reported that a member of the Utah National Guard died in Afghanistan last week. Flags in the City are flying at half-staff in his honor.

CONSENT AGENDA

9. MINUTES

A. November 16, 2010 City Council Meeting

10. FINAL PAYMENT

A. Centex Completion Project – Skip Dunn and Sons Excavating

11. FINAL PLAT

A. Eagle Mountain Professional Suites Plat A (Direct Communications)

12. FY 2010 AUDIT – Acceptance of the FY 2010 Financial Audit (Ron Stewart)

13. 2011 City Council Meeting Schedule

14. 2010 Bond Election Canvass Report

MOTION: *Councilmember Burnham moved to approve the consent agenda with the minutes as corrected by staff. Councilmember Painter seconded the motion. Those voting aye: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter. The motion passed with a unanimous vote.*

SCHEDULED ITEMS

15. MOTION – Consideration of a Motion to Reconsider a Consulting and Lobbying Agreement.

This item was presented by City Attorney Jerry Kinghorn. The proposed Consulting and Lobbying Agreement was considered at a prior meeting of the City Council on November 16, 2010 and was not approved. A Councilmember on the prevailing side of the Council decision must make a motion with an appropriate second, to reconsider the matter before the Council may hear the presentation and discuss the proposed Agreement.

MOTION: *Councilmember Celaya moved to reconsider an agreement with Allen Freemyer for lobbyist services. Councilmember Painter seconded the motion. Those voting aye: Jonathan Celaya, Nathan Ochsenhirt and John Painter. Those voting no: Donna Burnham and Ryan Ireland. The motion passed with a 3:2 vote.*

16. AGREEMENT – Consideration and Approval of a Consulting and Lobbying Agreement between Eagle Mountain City and Allen Freemyer.

This item was presented by Mayor Jackson. Mr. Freemyer has been the City's lobbyist since November, 2007. This contract will continue that relationship by extending the agreement for one year. Mayor Jackson stated that Congressman Chaffetz advised her that the City needs to have a lobbyist in Washington. The agreement with Mr. Freemyer primarily has to do with the continuation of 2100 North and construction of the Cedar Valley Freeway. The process requires a land swap with Camp Williams, which will require an act of Congress.

Councilmember Painter said that hiring a lobbyist who understands the funding acquisition process in Washington is useful for the City. He would like to see adequate infrastructure constructed so that the City can manage growth and economic development. He wanted to pursue road funds with a plan. He felt it was important for the Council to discuss the issue further before coming to a decision tonight.

Councilmember Ochsenhirt said the Council was elected to work together to serve the City. He said residents ask him almost daily when the City will get a grocery store, more jobs and better roads. Most of these items will have to be provided through outside sources. The City needs to provide infrastructure and transportation first. Road funding from the federal government has to start several years in advance of the actual appropriation. He said that the City needs someone in Washington who is qualified to acquire that funding. The money the lobbyist will be seeking doesn't come from earmarks, but from gas taxes. He didn't like spending so much money to pay a lobbyist, but felt it's necessary in order to have the roads the City needs ten years from now.

MOTION: *Councilmember Painter moved to approve a consulting and lobbying agreement between Eagle Mountain City and Allen Freemyer as outlined in the staff packet. Councilmember Ochsenhirt seconded the motion.*

Councilmember Painter asked if the Council wanted to include grant work in the agreement. Mr. Hendrickson explained that if the Council chooses to include \$1,000 per month for grant work, Mr. Freemyer agreed to identify grant opportunities and get letters of support from elected officials for grant applications written by City staff. He said that if the Council wanted the grant work included, the fee could be paid by utility funds, since most grant funds the City receives are for utility projects.

Mayor Jackson said that in last night's meeting, Mr. Freemyer said that he would be happy to work on the road funding alone or add the grants work, as well. She said there was discussion last night about how the contract would be funded and asked if there were any further questions. Councilmember Ochsenhirt said he had the impression that Mr. Freemyer would be willing to work on grants on an as-needed basis. Councilmember Celaya said he would prefer that. Mr. Freemyer's hourly rate is \$375.

Councilmember Burnham asked why we would go through a lobbyist, rather than request a letter directly from an elected official's staff. Mayor Jackson said he could get a more persuasive letter

written.

Councilmember Painter amended the motion to specify that City will pay Mr. Freemyer \$5,000 per month, with additional payments at an hourly rate as needed for grant assistance, to be funded as outlined in the staff report. Councilmember Ochsenhirt seconded the amended motion.

Councilmember Celaya outlined his method of evaluating proposals: if it's needed, if it's affordable, if the terms of the contract are acceptable, and if the results are measurable. He felt that this agreement is necessary so that the City can pursue funding to have a study completed. In the next six-year funding cycle, the City will pursue funding to have the road built.

Councilmember Painter amended the motion to specify thirty days' notice for termination. Councilmember Ochsenhirt seconded the amended motion.

Mayor Jackson reviewed the motion: \$5,000 per month for transportation needs, with an additional \$375 per hour as needed for grant work. Councilmember Burnham asked what time frame would be used to determine whether the contract should be renewed. Mr. Hendrickson pointed out that the contract would be considered during the City's budget sessions next spring. Councilmember Burnham was concerned that Mr. Freemyer didn't have a proven record in this legislative area. Mayor Jackson responded that Mr. Freemyer suggested last night that the City call any elected official's office at any time and ask if Mr. Freemyer had been actively working with that office. Councilmember Celaya said that Mr. Freemyer will be providing him with the contact information for all the elected officials' chiefs of staff that the City will work with, which he will share with the rest of the Council. Councilmember Burnham said she didn't believe that Congress will listen to any city, no matter who their lobbyist is, but rather to states, so the City needs to have the State's support. Mayor Jackson said she would continue to work with MAG and UDOT, as she has been doing.

Councilmember Ireland said that he agrees that transportation is a continuing need. This motion is being discussed as though it's a one-year contract, but the acquiring road funds will take several years, so the contract will cost much more than the amount that is being discussed in this meeting. Federal transportation money is distributed by a formula, and it will go to UDOT, whether Mr. Freemyer lobbies for Eagle Mountain or not. He's spoken to Mr. Freemyer and to state representatives, and came to the conclusion that the road will be built because it's a continuation of 2100 North, which has moved forward without Mr. Freemyer's involvement. 2100 North will be continued due to MAG and UDOT. The one thing UDOT can't do is the Camp Williams land swap. The City should work with the regional and state representatives, rather than go straight to the federal government. City residents need to elect state representatives who will represent our interests, as Rep. Sumsion has. He is frustrated that the Council can, halfway through a budget year, pull money out of "thin air," which indicates that the tax increase imposed by the Council this year was unnecessary.

Councilmember Ochsenhirt said that the land exchange and the road bill will be completed in a year or two. There would then be little need for a lobbyist for several years, until the time came for the road to be built. He said that while completing 2100 North makes sense, that doesn't mean it will happen, just as widening SR 73 makes sense, but it hasn't happened. He said those who yell the loudest and hit the hardest get what they want. Rep. Chaffetz, Sen. Hatch and Sen. Matheson have all said that the City needs to continue working with Mr. Freemyer.

Mayor Jackson said the City is not skipping levels of government by lobbying the federal government. It has to work at every level at the same time. Councilmember Ireland told the Mayor that two officials have told him that the City doesn't need a lobbyist to meet its transportation needs. Mr. Freemyer told him that the City would continue to need his services in the long term. Councilmember Burnham disagreed with Councilmember Ochsenhirt's statement that not using a lobbyist constitutes not working for transportation needs. She and the Mayor both attend transportation meetings. Councilmember Ochsenhirt responded that what he said was that without representation at the federal level, the City's work is only for state and county funds.

Those voting aye: Jonathan Celaya, Nathan Ochsenhirt and John Painter. Those voting no: Donna Burnham and Ryan Ireland. The motion passed with a 3:2 vote.

17. RESOLUTION – Consideration and Adoption of a Resolution of the City Council of Eagle Mountain City, Utah, Approving the Eagle Mountain Business Incubator Development Program and Related Guidelines.

This item was presented by Economic Development Director Ifo Pili. The proposed Resolution approves the Business Incubator Development Program and establishes the guidelines for the program. The program will provide incentives to economic development and encourage new businesses to develop within Eagle Mountain City.

MOTION: *Councilmember Burnham moved to adopt a Resolution of the City Council of Eagle Mountain City, Utah, approving the Eagle Mountain Business Incubator Development Program and related guidelines, with the square footage being verified by the staff and with the word change of "may" instead of "will" offer a rebate. Councilmember Painter seconded the motion. Those voting aye: Donna Burnham, Jonathan Celaya, Ryan Ireland and John Painter. Nathan Ochsenhirt recused himself. The motion passed with four aye votes.*

Councilmember Ochsenhirt said that he had been concerned about companies taking advantage of the City's help and then moving of the City once they're successful, but now felt that the selection process by staff will prevent there being much of a problem.

Councilmember Ireland was concerned about the potential of having to put money into the program in the future. He felt that the goals can be accomplished without involving taxpayer money. Mayor Jackson said the program may evolve into a 501(c)3 and be taken out of City government.

18. AGREEMENT – Consideration and Approval of an Agreement between Eagle Mountain City and Lewis Young Robertson & Burningham for Professional Services for the Financial Portion of Long Range Water and Sewer Rate Studies.

Eagle Mountain City needs to identify water rate requirements, depending on the growth and development of the City. This has never been done. The City has bonded not only for several improvements that will serve the City at a population of about 50,000 residents, but it has also purchased sufficient water shares from the Central Utah Water Conservancy District to supply enough water, along with its wells, for a population of about 200,000 people. It is necessary to identify those costs, which together with the operating and replacement costs will make up the long-range cost analysis.

Cody Deeter of Lewis Young Robertson & Burningham (LYRB) was asked to explain why the ram cap part of the proposal was the most expensive part of the study. Code said it's the heart of the model. It drives all the potential scenarios, which takes the majority of the time. This is a revised proposal, and Cody said LYRB can revert to the original proposal if the Council would prefer that.

City Attorney Jerry Kinghorn recommended that, if the Council wants to approve LYRB's original proposal, the motion should be to cap the contract at the price of the original proposal.

Councilmember Ireland asked what information Public Works Director Chris Trusty will need to set base rates correctly, without overcharging or undercharging residents. Mr. Trusty responded that for that portion, he will need Phase 1 and Phase 2.

Councilmember Ochsenhirt asked why this proposal costs more than the original. Mr. Hendrickson said that the ram cap, which used to be listed under optional tasks, turned out to be essential to the proposal. Mr. Kinghorn suggested that the agreement be approved as a not-to-exceed fee without public hearings, with an option to add fees for public hearings if necessary.

MOTION: *Councilmember Burnham moved to approve an agreement between Eagle Mountain City and Lewis Young Robertson and Burningham for professional services for the financial portion of long range water and sewer rate studies, to include Phases 1 and 2, not to exceed \$46,323.00, with the option to add the other phase if the City determines that it is needed at a later time, and the option for the public hearings. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter. The motion passed with a unanimous vote.*

19. AGREEMENT – Consideration and Approval of an Agreement for Professional Services for Engineering for a Water and Sewer Rate Study.

The proposed study would evaluate the City's water system and provide estimates of operation and maintenance costs for future system upgrades, such as pump and lift stations, and assist in allocating operational and capital expenses to system-wide average day, peak day, and peak hour water demands.

MOTION: *Councilmember Ireland moved to approve a professional services agreement with Bowen Collins for professional services for engineering for a water and sewer rate study in the amount of \$17,160 and authorize the Mayor to sign a professional services agreement. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter. The motion passed with a unanimous vote.*

20. BID AWARD – Consideration and Award of Bid to Splash Zone, LLC for the Design and Construction of a Splash Pad in Nolan Park.

This item was presented by Public Works Director Chris Trusty. Eagle Mountain City issued a Request for Proposals for the design of a splash pad to be constructed in Nolan Park. The City Council appropriated \$180,000 in funds to be used for this splash pad as part of the FY 2011 budget. Splash Zone, LLC was the only company to provide a proposal to the City. The proposal includes design and construction of an approximately 2500 sq. ft. splash pad.

MOTION: *Councilmember Ochsenhirt moved to award a bid to Splash Zone, LLC for the design and construction of a splash pad in Nolan Park in the amount of \$179,500 and authorize the Mayor to sign the contract. Councilmember Burnham seconded the motion. Those voting aye: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter. The motion passed with a unanimous vote.*

21. AGREEMENT – Consideration and Approval of a Settlement Agreement between Eagle Mountain City, John Walden, Robyn Walden, Monte Vista Ranch, Eagle Mountain Properties and Legends Land and Ranch.

The settlement documents resolving the pending claims of Mr. and Mrs. Walden and related entities have been executed and returned to the City for approval and execution. Mr. Kinghorn explained that this is a mediated settlement that was structured through the Office of the Private Property Ombudsman.

MOTION: *Councilmember Ochsenhirt moved to approve a settlement agreement between Eagle Mountain City, John Walden, Robyn Walden, Monte Vista Ranch, Eagle Mountain Properties and Legends Land and Ranch. Councilmember Painter seconded the motion.*

Councilmember Ireland asked what the title costs to the City would be. Mr. Kinghorn responded that they will be in the range of \$2,500 to \$3,000. Councilmember Ireland asked what budget the money would come from. Mr. Hendrickson said it would come from capital projects, parks & trails and enterprise funds.

Those voting aye: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter. The motion passed with a unanimous vote.

22. MOTION – Consideration and Approval of a Motion to Sell Surplus Vehicles and Return the Proceeds to the Fleet Fund.

This item was presented by Public Works Director Chris Trusty. Eagle Mountain City has several vehicles which have reached the end of their useful service life and would be better used to be sold at auction. TNT Auctions has the state contract for auctioning vehicles.

Councilmember Celaya asked if it was possible for the City to allow employees to purchase surplus vehicles. Mr. Hendrickson said state law doesn't allow that.

MOTION: *Councilmember Burnham moved to approve the sale of surplus vehicles and return the proceeds to the fleet fund, as outlined in the staff report. Councilmember Ochsenhirt seconded the motion. Those voting aye: Donna Burnham, Jonathan Celaya, Ryan Ireland, Nathan Ochsenhirt and John Painter. The motion passed with a unanimous vote.*

23. 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

No comment.

Councilmember Celaya

No comment.

Councilmember Painter

Councilmember Painter asked about the refunding of the SID 2000-1 bonds in 2006. Mayor Jackson explained that the term means that the bonds were refinanced. Mr. Hendrickson and Mr. Kinghorn explained some details of bond funding.

Councilmember Ochsenhirt

No comment.

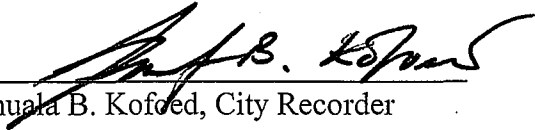
Councilmember Ireland

No comment.

24. ADJOURNMENT

Councilmember Ochsenhirt moved to adjourn the meeting at 9:28 p.m.

APPROVED BY THE CITY COUNCIL ON JANUARY 18, 2011.



Fionnuala B. Kofoed, City Recorder