

ELK RIDGE - 80 East Park DR - Elk Ridge, UT - 84651

t.801/423-2300 - f.801/423-1443 - email staff@elkridgecity.org - web www.elkridgecity.org

NOTICE & AGENDA – CITY COUNCIL

Notice is hereby given that the City Council of Elk Ridge will hold two Public Hearings **Tuesday, October 14, 2008**, for the purpose of hearing public comment on the following: the first Public Hearing, to be held at 6:00 PM, is on a proposed ordinance regarding Firearms & Weapons in Elk Ridge City; the second Public Hearing, to be held at 6:30 PM, is on a proposed ordinance regarding Off-Road Vehicles in Elk Ridge City. These meetings will be held in conjunction with the regularly scheduled City Council Meeting, to be held at 7:00 PM.

The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

6:00 PM - PUBLIC HEARING/ORDINANCE – FIREARMS & WEAPONS IN ELK RIDGE CITY

1. Public Hearing – Ordinance regarding the use of Firearms & Weapons within the boundaries of Elk Ridge City

6:30 PM - PUBLIC HEARING-ORDINANCE – OFF-ROAD VEHICLES IN ELK RIDGE CITY

2. Public Hearing – Ordinance regarding the use of Off-Road Vehicles within the boundaries of Elk Ridge City

7:00 PM - REGULAR COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance Invitation

Approval/Agenda Time Frame

7:05 Public Forum

7:15 3. Lee Haskell – Proposed Zone Change (RR-1 Zone to R-1-15,000 Zone)

7:30 4. Mike Slater – Meter Reading

7:40 5. Adoption of Proposed Ordinances:

A. Firearms & Weapons

B. Off-Road Vehicles

7:50 6. Insurance Renewal:

A. PEHP Renewal

B. Utah Local Government Trust

8:10 7. Boundary Line Adjustment (Payson City & Elk Ridge) –Mayor Dunn

8:20 8. Resolutions:

A. Housing Authority of Utah/Permission to Operate within Elk Ridge City

B. City Fee Schedule for Office Services (Lamination Fees)

8:30 9. Fire Dept. Credit Card – Increase Limit of Card

8:35 10. Expenditures: (General)

8:40 11. City Council Minutes

Adjournment

Handicap Access, Upon Request. (48 Hours Notice)

The times that appear on this agenda may be accelerated if time permits. All interested persons are invited to attend this meeting.
Dated this 9th day of October, 2008.


City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, posted on the City Web Page and was provided to each member of the Governing Body on October 9, 2008.


City Recorder



6:30 PM -

PUBLIC HEARING/ORDINANCE – OFF-ROAD VEHICLES IN ELK RIDGE CITY

Public Hearing/Ordinance regarding the use of Off-road Vehicles within the boundaries of Elk Ridge City
At 6:30, Mayor Dunn opened the Public Hearing.

ROLL

Mayor: Dennis A. Dunn; *City Council:* Derrek Johnson, Julie Haskell, Sean Roylance & Raymond Brown
(Absent: Nelson Abbott); *Public:* Ron & Margaret Leckie, Marc Rugg, Tyler Carter, Robert & Linda Goodwi
Tracie Magoffin, Brian Badders, Shannon Colver, Bryanne Colver, Cheyn & Tricia Gunnerson, Ryan Haskell
Joann Bigler; and the *City Recorder:* Janice H. Davis

Mayor Dunn: Senate Bill 181 allows communities under 7,500 in population to identify and classify their roads in a manner that permits ATV's either on all roads, some roads or on roads with certain conditions that would apply to the ATV's. This bill was signed by the Governor and went into effect on October 1, 2008. It is up to the municipalities that fit the definition to pass code that works in their particular community. If nothing is done by the cities, then the last choice, concerned with ATV's being "street legal" and the conditions applicable to that definition would automatically be required by default.

(The Mayor then read the definition of "Street Legal", as it applies to ATV's; or section 6-2-6 of the proposed code.)

Most ATV's do not come equipped with the equipment necessary to be considered "street legal". The Mayor spoke to White Knuckle Sports (Springville) about what it would take to retro-fit an ATV with this equipment and what inspections would be required: they are sending one of their service employees to a class to become certified as an inspector for the State...only one inspection is required. In retro-fitting ATV's, they said that a rough estimate would be anywhere from \$500 to \$1,200 per machine. The ATV's need to be like a motorcycle to be "street legal". Senate Bill 181 provides a way to avoid this and that is to designate all roads in the city for ATV use.

The Mayor reviewed the proposed code, section by section, with those present:

Section 6-2-1: Off Road Vehicles: (Explaining the types)

Subsection (L) was missing... (M) should be re-lettered (It was snowmobiles, which was removed).

Section 6-2-2: Operator Age & Limitations

16 years old or older...a licensed driver in the State of Utah was the age limitation; under 16, must have an OHV permit. Under the age of 14, operators are not to be allowed to operate OHV's within city limits

This was a discussion item and it was decided to add the following in place of the strike-through above:

"on any public roadways within City limits."

Section 6-2-3: (Utah Code Annotated 1953 A-41-22-10.5)

This section defines in (a) All roads are considered Off-Highway Roads in Elk Ridge; County roads within Elk Ridge are not included.

Section 6-2-4: Age Limitation Under 16 Years:

There was much discussion on this section; it was decided to have sub-headings (A) & (B).

A. Persons 14 and 15 years of age shall not operate an off-highway vehicle on any public street unless the person is under the direct visual supervision of a parent or legal guardian.

B. Persons 12 and 13 years of age shall not operate an off-highway vehicle on any public street unless the person is in the physical company (within 100') and under the direct visual supervision of a parent or legal guardian.

Section 6-2-5: Permissions and Limitations:

(b) Correction to reference to (4)(a): change to (5)(a)

(c) Correction to reference to (4)(a): change to (5)(a)

(d) Deals with permission for under the age of 16: by parents or legal guardians.

Drew Christensen: He wanted to know if his younger brother could ride an ATV in their back yard.

Deputy Tindall: He felt that wording should be added to clarify that these sections are referring to city streets.

(See Section 6-2-2)

Tracie Magoffin: She is concerned about those young operators that are just out joy-riding on residential streets, creating a lot of noise and driving recklessly...without any noticeable responsibility.

(Mayor Dunn said this will be addressed in another part of the proposed code.)

Deputy Tindall: He understands the point of view and the concern; but no matter what law we pass, there will be those few who will violate the law.

Mayor Dunn: "Driving recklessly" is the key, which is already in violation and these things can also cross over into the "nuisance" code and can be addressed in that manner, as well.

Section 6-2-7: Helmet Law:

All operators under 18 years must wear a helmet while operating an ATV. It is optional for adults, but highly advisable. This is a strict law; and the only exception is listed under sub-section (c), and that is an "operator and passenger of off-highway implements of husbandry operated in the manner prescribed in subsection (10)"

Section 6-2-8: Vehicle Registration:

ATV's must be properly registered and the registration decals must be displayed on the vehicle.

Section 6-2-9: Speed Limits:

After discussion, it was decided to set the speed limit for ATV's at no more than 20 MPH.

Section 6-2-10: Private Property:

This section basically states that it is unlawful to operate an ATV on any private property without the owner's permission; or to refuse to leave this private land.

Section 6-2-11: Husbandry Equipment:

"OHV implement of husbandry" is defined as, "Every all-terrain type I vehicle, motorcycle, or snowmobile which is used by the owner or his agent for agricultural operations".

This section describes the use of an off-highway implement of husbandry adjacent to a roadway on a public street; or if impractical, on the roadway, itself.

Section 6-2-12: Penalties:

Violation: guilty of Class "C" misdemeanor and may have a fine of not to exceed \$750, or imprisonment for a term not to exceed 90 days (or both).

There was much discussion regarding the minimum age allowed as an operator and levels of responsibility, which resulted in the already noted changes in section 6-2-4 in the regular session of the City Council Meeting.

Mayor Dunn closed the Public Hearing at 7:20 PM; to begin the regular session.

**ELK RIDGE
CITY COUNCIL MEETING
October 14, 2008**

**TIME & PLACE
OF MEETING**

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, October 14, 2008, at 7:00 PM**; this was preceded by two Public Hearings: The **first Public Hearing, at 6:00PM**, was to consider an ordinance regarding the use of Firearms & Weapons in Elk Ridge City; the **second Public Hearing, scheduled for 6:30 PM**, was on proposed ordinance regarding Off-Road Vehicles in Elk Ridge City.

The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on October 9, 2008.

7:20 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; City Council: Derrek Johnson, Julie Haskell, Sean Roylance & Raymond Brown (Absent: Nelson Abbott); Public: Ron & Margaret Leckie, Marc Rugg, Tyler Carter, Robert & Linda Goodwin, Tracie Magoffin, Brian Badders, Shannon Colver, Bryanne Colver, Cheyn & Tricia Gunnerson, Ryan Haskell & Joann Bigler; and the City Recorder: Janice H. Davis

**REMARKS
& PLEDGE OF
ALLEGIANCE**

An Invocation was offered by Sean Roylance and Shawn Eliot led those present in the Pledge of Allegiance, for those willing to participate.

**AGENDA TIME
FRAME**

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO APPROVE THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 7:20 PM
VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

PUBLIC FORUM

There was no one present to address the Council.

**PROPOSED ZONE
CHANGE –
RR-1 TO R-1-15,000 –
LEE HASKELL**

(Memo from Planner to Council, dated 10-14-08)

"Background

The area of the proposed rezone surrounds the property the city purchased for a future city hall complex.

This includes land directly behind the Welcome to Elk Ridge sign on Goosenest DR southward to the Gladstan Golf Course and eastward to Elk Ridge DR near Olympic LN. The proposal is to rezone property currently in the RR-1 zone (1/2 acre lots with animal rights) and a small portion of the C-1 zone (commercial) to R-1-15,000 (third acre lots). The applicant would eventually like to have a single family home subdivision on the land, though no formal proposal is being advanced at this time.

Staff Findings

With the applicant's property surrounding the land the city purchased for a new city hall and being bordered to the south by the Gladstan golf course, this area has the potential to change from the current zoned and general planned rural zoning to a higher use. The applicant first proposed twin homes, but the planning commission didn't feel that this would be a good use to transition from the higher densities of third acre lots to the east into the rural zoning to the west. The proposed re-zone would continue the main development pattern found in the core of Elk Ridge and be a good buffer to the city hall property into the rural area. One note, the two parcels of land to the south of the David Rulan Nixon property owned by Payson City and labeled 109 and 155, should be added to the re-zone. Leaving this property out would cause an island of RR-1 zone that should be avoided.

Proposal

1. Re-zone 9 parcels of land from RR-1 (half acre lots with animal rights) to R-1-15,000. These are highlighted on map as yellow.
2. Re-zone 1 parcel owned by Elk Ridge from PF (Public Facilities) to R-1-15,000. This land is proposed as a future road corridor and is appropriate to be re-zoned as residential.
3. Re-zone 1 parcel from C-1 (Commercial) to R-1-15,000. Currently this is an island zone that was left over when the city hall property was re-zoned to PF.

Planning Commission Motion

Motion One: Dayna Hughes made a motion and Kevin Hansbrow seconded that the planning commission recommends to the Council that the future land use map be amended to show the land outlined on the accompanying map as R-1-15,000.

Vote: Yes-all (8), No-none (0), Absent (0)

Motion Two: Dayna Hughes made a motion and Kevin Hansbrow seconded that the planning commission recommends to the Council that the Zoning Map be amended to show the land outlined on the accompanying maps as R-1-15,000.

Vote: Yes-all (8), No-none (0), Absent (0)

Staff Recommendation for Council Motion

Motion One: That the future land use map be amended to show the land outlined on the accompanying map as R-1-15,000. The Council agrees with the planning commission findings that the new land use is more appropriate for the area.

Motion Two: That the Zoning Map be amended to show the land outlined on the accompanying map as R-1-15,000."

Shawn Eliot: He described the area where the proposed zone change is applicable (near the city-owned property located at the corner of Goosenest and Elk Ridge Drive). There are seven property owners that have all signed that they are all in agreement with the proposed zone change; one of the owners is Payson City.

No subdivision plat has been submitted to the City; this zone change would be for future development.

Julie Haskell: Will the piece owned by Payson involve annexation?

Shawn Eliot: It is not expected to; later in this agenda, one of the agenda items is regarding the proposed de-annexation of some land north of the Golf Course...this is the same land, Payson wants the area to be an access into the Golf Course. The re-zone is to happen prior to the de-annexation.

Ryan Haskell: They, as developers would prefer to develop the land with 15,000 sq. ft. lots; 1/3 acre lots are easier to care for and to irrigate, particularly around the City Center.

The land will not be developed any time soon, due to the fact that his parents (Lee & Maxine Haskell) are leaving on a mission for the LDS Church; development will have to wait until they return.

Mayor Dunn: That area is currently on a private water system (Goosenest Water System) & septic systems; but increasing the density and being close to the existing water and sewer service mains means that they will be required to connect to the City systems.

Sean Roylance: This proposal sounds reasonable since he agrees with the Planning Commission's opinion that the Elk Ridge Drive/Goosenest Drive area is the "hub" of the City (potentially having some commercial) and should be a bit higher density.

Motion 1:

MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY DERREK JOHNSON THAT THE FUTURE LAND USE MAP BE AMENDED TO SHOW THE LAND OUTLINED ON THE ACCOMPANYING MAP AS R-1-15,000; AND TO STATE THAT THE CITY COUNCIL AGREES WITH THE PLANNING COMMISSION FINDINGS THAT THE NEW LAND USE IS MORE APPROPRIATE FOR THE AREA

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

Motion 2:

MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY JULIE HASKELL THAT THE ZONING MAP BE AMENDED TO SHOW THE LAND OUTLINED ON THE ACCOMPANYING MAPS AS R-1-15,000

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

MIKE SLATER –
METER READING

(Mr. Slater was not present)

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO TABLE THIS AGENDA ITEM UNTIL THE NEXT CITY COUNCIL MEETING

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

ORDINANCES:

1. Firearms & Weapons:

Mayor Dunn: Reminded the Council that Section 4-8-3 has the addition of subheading (B) regarding the discharge of bows and arrows; stating, "Bows & arrows cannot be discharged within 600 ft. of any structure, utility feature or roadway, public or private."

Raymond Brown: Suggested including reference to House Bill 219, referring to retired law enforcement officers: "...except an officer of the law and/or retired law enforcement (with reference to House Bill 219), who may carry concealed weapons, with proper credentials..."

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY RAYMOND BROWN TO APPROVE THE PROPOSED ORDINANCE REGARDING THE USE OF FIREARMS AND WEAPONS IN ELK RIDGE CITY, AS AMENDED:

1. Section 4-8-3 has the addition of subheading (B) regarding the discharge of bows and arrows; stating, "Bows & arrows cannot be discharged within 600 ft. of any structure, utility feature or roadway, public or private."

2. "...except an officer of the law and/or retired law enforcement (with reference to House Bill 219), who may carry concealed weapons, with proper credentials..."

VOTE (POLL): JULIE HASKELL-AYE, DERREK JOHNSON-AYE, RAYMOND BROWN-AYE, SEAN ROYLANCE-AYE (4) NAY (0) ABSENT (1) NELSON ABBOTT

Passes 4-0

2. Off-road vehicles:

Discussion:

Shannon Colver: Asked what options private land owners have to keep ATV's off their property.

(Answer: Post "No Trespassing" or "No ATV's" signs on the property.)

Raymond Brown: Changes:

- 6-2-2: At the end of the last sentence: Strike: "~~within the city limits~~" and add: "on any public roadways within City limits."

City Recorder: Expressed her concern at the minimum age allowed to ride ATV's, under parental supervision; she felt the age should be lowered to 12 years old... Councilmember Johnson agreed.

Sean Roylance: He also agreed, if riding in a group with their parent or guardian. He also felt that 14 year olds could still be in the line of sight.

Raymond Brown: He agreed, if 12 year olds would be in direct contact...not just "line of sight".

Deputy Tindall: He felt that "in the company of" should be defined; as in a specific distance.

Mayor Dunn: After further discussion, it was decided to replace Section 6-2-4 with the following:

A. Persons 14 and 15 years of age shall not operate an off-highway vehicle on any public street unless the person is under the direct visual supervision of a parent or legal guardian.

B. Persons 12 and 13 years of age shall not operate an off-highway vehicle on any public street unless the person is in the physical company (within 100') and under the direct visual supervision of a parent or legal guardian

Richard Wilcox: There is no place for young kids to ride before their parents get home...property owners have posted signs...he has a 6 year old that rides; he wonders about him...is there anywhere that could be opened up? *(It is all private property...permission would have to be obtained.)*

Deputy Tindall: This is not allowed on public streets. The State law states that the minimum age, even off roads is 8 years old, after obtaining an OHV permit.

Mayor Dunn: There were some reference numbers that needed to be corrected as well.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO APPROVE THE ORDINANCE ALLOWING FOR THE REGULATED AND LEGAL OPERATION OF OFF-ROAD VEHICLES WITHIN ELK RIDGE CITY; INCLUDING REFERENCE NUMBER CHANGES AND THE FOLLOWING:

1. 6-2-2: At the end of the last sentence: Strike: "~~within the city limits~~" and add: "on any public roadways within City limits."

2. 6-2-4:

A. Persons 14 and 15 years of age shall not operate an off-highway vehicle on any public street unless the person is under the direct visual supervision of a parent or legal guardian.

B. Persons 12 and 13 years of age shall not operate an off-highway vehicle on any public street unless the person is in the physical company (within 100') and under the direct visual supervision of a parent or legal guardian

VOTE (POLL): SEAN ROYLANCE-AYE, RAYMOND BROWN-AYE, DERREK JOHNSON-AYE & JULIE HASKELL-AYE (4) NO (0) ABSENT (1) NELSON ABBOTT

Passes 4-0

**Posting of these two ordinances is pending legal counsel review.*

Sean Roylance: The old (current) law states that no ATV's should be ridden on public streets...now all streets are legal for ATV's, with restrictions. These two ordinances need to be well publicized on the City web site and in the next newsletter, clarifying the differences in the codes.

INSURANCE RENEWAL

1. PEHP Renewal:

Councilmember Abbott reviewed the proposed changes and recommends renewal. He was encouraged that the Health insurance is only increasing 3.5% and that the Dental coverage actually went down 5%.

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY SEAN ROYLANCE TO RENEW THE HEALTH AND DENTAL INSURANCE COVERAGE WITH PEHP

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

2. Utah Local Governments Trust (ULGT):

This coverage is for Basic Life, Vision and long-term care.

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY RAYMOND BROWN TO RENEW THE INSURANCE COVERAGE WITH ULGT

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

BOUNDARY LINE

ADJUSTMENT –

PAYSON & ELK RIDGE

Mayor Dunn: This has been on the agenda before, but there was hesitancy due to there not being a map accompanying the description of the land to be adjusted into Payson City. Payson City did provide a map.

The proposed ordinance needs to be acted on by Elk Ridge.

Raymond Brown: Councilmember Brown expressed his concern that Elk Ridge has had many rejections in attempts to negotiate arrangements for various projects and offers that would include Payson City. An example: Councilmember Brown approached Payson to assist in the road repairs and overlay on Elk Ridge Drive, which is utilized in order to access the Gladstan Golf Course; the offer was denied based on the reasoning that we also use Payson's roads. The Council made the point in their discussion that Payson also collects the sales tax from the commercial businesses Elk Ridge citizens frequent...Elk Ridge has no such advantage.

Another example: Elk Ridge's offer to purchase Hole #7 (located within Elk Ridge), which Payson abandoned; that offer was denied and the price was increased to a point where it was out of the City's range.

Another Example: The addition of the Golf Course was constructed without any permits or permission from Elk Ridge, even though Elk Ridge land was involved.

Councilmember Brown feels that there should be a mutual feeling of cooperation between the cities. He feels the "cooperation" is one-sided. What is convenient to Payson seems to be an inconvenience to Elk Ridge.

The Payson sewer connection with Elk Ridge is a money-maker for Payson...it is good for Elk Ridge, but was not "favor".

He feels that there should be good relations and a feeling of cooperation between Payson, Woodland Hills and Elk Ridge.

Sean Roylance: He agrees with Councilmember Brown:

- Are we giving up another opportunity to get Payson's attention to have them work with Elk Ridge on these various issues?
- We seem to be giving up this primary road access (into their condos). How are we going to be compensated for this?

Mayor Dunn: He added some more current information about the condominium project:

- It was to be a Payson City project; they owned the property...he understands that they may have passed this project on to someone else. He is not sure what this means; whether a contractor will do the development or they will sell it off.

The City is in a good position for two reasons:

1. Payson wants to know if Elk Ridge will revenue them water for that project
2. They want to connect to Elk Ridge's sewer lines.

They cannot service this project.

We need to be proactive with both Payson and Woodland Hills.

- There is also the current annexation declaration agreement Elk Ridge has with Payson City; due to the lay of the land, this agreement should be re-negotiated to include the property west of 1600 West and north of Gooseneck Drive. Sewering this area would be difficult without extending the line through this area.
- Woodland Hills: We need to negotiate with them about the boundary line between the two cities; Loafer Canyon Rd. will be an access to 14 lots developed by Don Mecham...those lots will be serviced by Elk Ridge...they should be in Elk Ridge.
- He would also like to approach the property owners on the corner of the County Road and Loafer Canyon Road to see if Elk Ridge could petition for annexation in their behalf. (We must determine what connections would be required of them under those circumstances.)

*On the next agenda, the Council is to discuss things that we need to sit down with Woodland Hills and Payson City and discuss for the future of all of the communities.

Further discussion led to the following motion:

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY SEAN ROYLANCE TO TABLE AN ACTION ON THIS MATTER UNTIL NOVEMBER, 2008.

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

RESOLUTIONS: HOUSING AUTHORITY OF UTAH

Mayor Dunn: "The Housing Authority of Utah will subsidize rent for lower income families or persons within communities; but only if a resolution is passed allowing them to operate within that community.

There has been a request for this type of arrangement by a resident wishing to rent her home.

The City does not have anything to do with the arrangements, except to pass the resolution.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO APPROVE A RESOLUTION DECLARING THE NEED FOR THE HOUSING AUTHORITY OF UTAH COUNTY TO OPERATE WITHIN THE CITY OF ELK RIDGE

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

CITY FEE SCHEDULE: LAMINATION FEE

The City Fee schedule allows for the City to charge for laminating building plans; however, the fee was not actually set on the schedule. Corbett Stephens (Building Official) has worked out the cost for this service to be \$.80 per foot.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO APPROVE THE AMENDMENT TO THE CITY FEE SCHEDULE; ADDING A LAMINATION FEE OF \$.80 PER FOOT

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

FIRE DEPT. – CREDIT CARD LIMIT

Mayor Dunn: Chief Waite called the Mayor with the request that the credit card limit be raised; he thought it had been done already; it seems it was discussed but perhaps not approved. The request is to increase it from \$4,000 to \$6,000 to allow for some of the purchases necessary in that Dept.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO APPROVE AN INCREASE TO THE FIRE DEPARTMENT CREDIT CARD FROM \$4,000 TO \$6,000

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

EXPENDITURES

General:

There was a discussion about taking care of credit card fraud. Deputy Tindall added that if you report it to your local police department, then get a case number and take that to your bank and get a affidavit of forgery, put the case number on it and your bank should reimburse you.

MINUTES

City Council Minutes of 8-26-2008:

A question was asked, if there is an accident at an intersection where the adopted standard has been deviated from, is the City liable?

**David Church should be asked this question.*

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO APPROVE THE CITY COUNCIL MINUTES OF 8-26-08, WITH CORRECTIONS

VOTE: YES (4) NO (0) ABSENT (1) NELSON ABBOTT

NON-AGENDA
ITEM

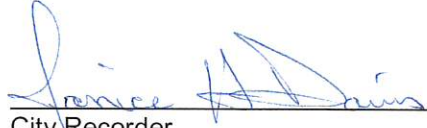
Julie Haskell: Asked when the Council would re-visit the garbage collection contract?

Mayor Dunn: That could be one of the discussion points with Payson. We also need to look into the company Woodland Hills uses, Waste Management.

The rates went up with Allied (current collection company) as of July 1, 2008.

ADJOURNMENT

At 9:25 PM, the Mayor adjourned the Meeting.



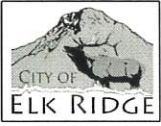
City Recorder



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ELK RIDGE - 80 East Park DR - Elk Ridge, UT - 84651

t.801/423-2300 - f.801/423-1443 - email staff@elkridgecity.org - web www.elkridgecity.org

AMENDED NOTICE & AGENDA – CITY COUNCIL

Notice is hereby given that the City Council of Elk Ridge will hold a regular **City Council Meeting on Tuesday, October 28, 2008, at 7:00 PM, to be preceded by a City Council Work Session at 6:00 PM.**

The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

6:00 PM - CITY COUNCIL WORK SESSION

1. Discussion Items between Elk Ridge City and Woodland Hills and Payson City – Mayor Dunn
2. Utah Local Government Trust as Insurance Brokers – Mayor Dunn & Nelson Abbott
3. Discussion: Garbage Collection Contract – Mayor Dunn
4. Eagle Scout Project Reports – Austin Gunnerson & Jacob Cazier

7:00 PM - REGULAR COUNCIL MEETING AGENDA ITEMS:

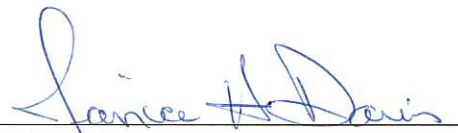
Opening Remarks and Pledge of Allegiance Invitation
Approval/Agenda Time Frame

- | | |
|------|--|
| 7:05 | 5. Public Forum: |
| 7:15 | 6. Landscape Ordinance – Approval – Shawn Eliot |
| 7:45 | 7. Insurance Brokerage |
| 7:55 | 8. Garbage Collection Contract – Action |
| 8:05 | 9. Purchase of SUVMWA Water Rights – Nelson Abbott |
| 8:25 | 10. Expenditures: (General)
A. Office PC Tower |
| 8:35 | 11. City Council Minutes
Adjournment |

Handicap Access, Upon Request. (48 Hours Notice)

The times that appear on this agenda may be accelerated if time permits. All interested persons are invited to attend this meeting.
Dated this 27th day of October, 2008.





City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, as well as being posted on the City Web Site; and was provided to each member of the Governing Body on October 24, 2008; and an Amended Agenda on 10-27-08.



City Recorder

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**ELK RIDGE
CITY COUNCIL MEETING
October 28, 2008**

**TIME & PLACE
OF MEETING**

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, October 28, 2008, at 7:00 PM**; this was preceded by a **City Council Work Session at 6:00 PM**

The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on October 24, 2008; & an Amended Agenda on 10-27-08.

6:00 PM –

CITY COUNCIL WORK SESSION

ROLL

Mayor: Dennis A. Dunn; City Council: Nelson Abbott, Raymond Brown & Derrek Johnson (Absent Julie Haskell & Sean Roylance); City Planner: Shawn Eliot; Sheriff: Deputy Tindall; Scouts: Jacob Cazier & Austin Gunnerson; Public: Jed Shuler, Cheyn & Tricia Gunnerson; and the City Recorder: Janice H. Davis

**DISCUSSION ITEMS –
ELK RIDGE –
WOODLAND HILLS –
PAYSON**

As a carry-over from past City Council Meetings, it was decided to review various topics of discussion that Elk Ridge should conduct with both Woodland Hills and Payson City.

There are generally good relations with the two neighboring Communities; it was felt that the Council needs to look to the future and agree to work together on certain issues. The Mayor asked that the Councilmembers contribute to the discussion items.

Mayor Dunn presented a list of some of the topics he felt should be considered:

Payson City:

1. Solid waste: (Mayor Dunn)

- Payson: He spoke to Dave Tuckett some time ago regarding the possibility of contracting with Payson for garbage collection. They would charge Elk Ridge \$10 for collection and \$10 for extra cans...this would also include a certain number of dump passes.
- Waste Management: (Woodland Hills contracts with them) Their facility is in Springville. The Mayor understands that there is a "buy-in" required for this option. He still needs to gather information on this option; recycling may be attached to this choice.
- Allied Waste: Stay with the current company, Allied Waste; their charges have increased slightly to the City and we have to increase our rates to cover this.

Raymond Brown: There may be ways to save money by doing things like agreeing to place all cans on one side of the street. If Elk Ridge went into a collection arrangement with Waste Management, perhaps we could share expense with Woodland Hills and save money in that way.

Nelson Abbott: He brought up the point that we likely do not know the exact number of garbage containers the City has...Allied depends on us for their count. He feels that that Allied's price for the 2nd can is reasonable. Perhaps we need to get a better count on the number of cans each resident has.

With the 2nd can, there is not much of a need to even go to the dump.

The dumping pass may benefit some residents, but not all.

The revenue we bring in should be enough to cover the seasonal dumpsters we get throughout the year.

Mayor Dunn: We typically get dumpsters in the fall and in the spring...as well as in January for the collection of Christmas tress.

Raymond Brown: Allied's increase is taking the fee for collection up to \$10.05 from \$9.80...the suggestion from the Treasurer is to raise the fee to residents to \$12.00 to cover administrative costs, as well as the extra dumpsters. The charge for extra containers is only increasing from \$4.67 to \$4.77; so the charge of \$5.00/extra container will stay.

It was suggested that the City will not have dumpsters in the fall this year, so we could only increase the collection fee to \$11 rather than \$12, as recommended; the Council can review the fees again next summer.

**We might check out other companies for dumpsters; perhaps we could get a better price. The costs with Allied (dumpsters) also need to be verified.*

2. Urban Growth: (Mayor Dunn)

- In the contract Elk Ridge has with Payson regarding future annexation, it states that Elk Ridge will not go west of 1600 West or north of Goosenest Drive any more than is already annexed. The Mayor is concerned with this agreement due to the possibility of being able to sewer the West Goosenest Drive area. He feels that the agreement should be re-negotiated to include portions of the land north of West Goosenest to be able to sewer the area more efficiently. The lay of the land should be taken into consideration. Elk Ridge is not sure what Payson's plans are with this area...Payson currently cannot service the above mentioned area.

- As both Communities grow, arrangements for sewerage and providing water to certain areas must be considered.

3. Revenuing water to Payson: (Condo Project?)

What is Payson City' part in this proposed Project planned north of the Golf Course?

Does Elk Ridge need to have water rights provided for water currently being used to meet the needs of the Golf Course Clubhouse?

4. Sewer Considerations and Upgrade needs: (Mayor Dunn)

If the Condo Project materializes, how with that area be serviced? Will main trunk lines need to be upgraded?

5. Possible concerns with assistance in Elk Ridge Drive overlay: (As discussed by Councilmember Brown) If the agreement regarding the Golf Course were negotiated today, would Payson not be required to participate in road maintenance for the commonly shared Elk Ridge Drive? (Probably.)

EAGLE SCOUT PROJECTS REPORTS

Jacob Cazier: Scout Cazier reported on his Project: He installed a Park Bench on the west side of the swings in the Playground area. His report was organized and was submitted to the Council for their review: There was a diagram of the bench, plus before and after photos. The bench is an 8' bench with 2X2 steel...it was poured in concrete and they replaced the sod that was removed.

The Project was funded through the efforts of Scout Cazier; but \$79.04 remained for materials. Scout Cazier's father was to be reimbursed from the City.

Job well-done.

Austin Gunnerson: Scout Gunnerson was present to report on his Project: He arranged for 24 trees to be planted at the new Fairway Tank site. He has been watering them by hand and wondered when the drip watering system would be installed... *(The system was partially installed that very day and will be completed shortly.)* One tree was vandalized and he replaced it.

The entire Project was funded by a car wash.

This was also a job well-done.

**The Elk Ridge newsletter will contain "thank you's" to these Scouts.*

(Continued: Discussion Items with Woodland Hills)

Woodland Hills:

1. Shared Boundary Line Adjustment: (Mayor Dunn)

The current boundary line on the east side of Elk Ridge and the west side of Woodland Hills is currently the top of the Loafer Hill...the boundary extends to just north of Valley View Circle.

The Mayor spoke to Planner Shawn Eliot regarding the possibility of approaching Utah County about the possibility of the City generating the annexation of the land north of the current Valley View Circle to 11200 South. The plan is to have no change to that property until the owners develop further or choose to connect to City services. *(It should be determined if State law dictates that they have to connect if within a certain distance.)*

(There are also various sections of land that is County property along the southeast sections of the City that could be annexed as well.)

Don Mecham is developing 14 homes that would be serviced through Loafer Canyon Road; it would be better to annex those homes into Elk Ridge and not have them serviced outside of our City.

2. Joint Water Revenue Opportunity:

- Along with servicing the 14 lots planned by Mr. Mecham, perhaps a joint tank project that could be gravity fed would be beneficial to both Elk Ridge and Woodland Hills.

- Nelson Abbott: An additional well could also be considered.

Any agreement having to do with revenueing water would have to include Elk Ridge having 1st rights to that water, if needed. Elk Ridge would need to protect its own water supply.

3. Sewer Line in Loafer Canyon:

If Don Mecham develops those 14 lots, he will sewer them via Loafer Canyon Road. Mr. Mecham has said that he will extend that line...road improvements would accompany this installation.

ELK RIDGE CITY COUNCIL MEETING October 28, 2008

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7:15 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown & Derrek Johnson (Absent Julie Haskell & Sean Roylance); *City Planner:* Shawn Eliot; *Sheriff:* Deputy Tindall; *Scouts:* Jacob Cazier & Austin Gunnerson; *Public:* Jed Shuler, Cheyn & Tricia Gunnerson; and the *City Recorder:* Janice H. Davis

REMARKS & PLEDGE OF ALLEGIANCE

An Invocation was offered by Nelson Abbott and Mayor Dunn led those present in the Pledge of Allegiance, for those willing to participate.

AGENDA TIME
FRAME

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO
APPROVE THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 7:15 PM
VOTE: YES (3) NO (0) ABSENT (2) JULIE HASKELL & SEAN ROYLANCE**

PUBLIC FORUM

Tricia Gunnerson: There was an issue to be decided regarding the road repairs that fronted her property. There was damage the Gunnerson's were responsible for. The City did the repairs and the Gunnerson's agreed to reimburse the City for their part. The issue is that the road repairs extended past the Gunnerson's lot and the question arose as to their responsibility in this extension. She voiced her understanding that the reimbursement was to only be for their frontage.
She does not feel she should be responsible for the repairs in front of the Steele's home.
Raymond Brown: The asphalt had to be tied in a "feathered" into the existing asphalt...that tie-in should be partly the Gunnerson's responsibility. Only ½ the road was repaired rather than the full road.
He has the figures, but not with him since this was not on the agenda for the Meeting. He said he would figure it out, poll the Council and then contact Mrs. Gunnerson with the amount.

LANDSCAPE
ORDINANCE

(Memo from Planner to Council, dated 10-28-2008)

"Background

In reviewing other municipalities' codes it was found that the City of Herriman has addressed the issue of requiring existing home owners that have not landscaped their yards, to do so. This has been an issue for many in Elk Ridge as it is one of the higher citizen complaints. In reviewing our landscaping code, the question was asked of the City attorney if homes constructed prior to the enactment of our current landscaping code (requires only new construction to install landscaping within 2 years), if the City could require existing homes to install landscaping. His comment was that you can if you pass code that sets a future date as the requirement for the required installation, basically putting them on notice.

The Planning Commission held a public hearing and has reviewed the proposed code amendment over 3 meetings. All comments at the public hearing were favorable to requiring landscaping to be installed at all new and current homes.

Staff Findings

Basically, the proposed code is a combination of our current code and Herriman's. Some highlights include:

1. Replace current code language that lists uses the code does not affect, schools, registered historic sites, golf courses, etc. This was handled by just listing requirements for residential and commercial uses.
2. Added commercial areas as those required to have landscaping (not found in code now)
3. Added requirement to maintain landscaping and keep it free from hazards.
4. Spelled out that natural vegetation could be counted as landscaping and is encouraged.
5. Allows lots with animal rights the use of farm-type settings, enforcing landscaping through the weed abatement ordinance.
6. Requires all existing properties to landscape their front and side yards within two years of the enactment of the new code, placing property owners on notice.
7. Requires that a bond must be issued for open space landscaping for areas to be deeded to the city or for homeowner associations.
8. Allows that clusters of natural landscaping can be used on smaller, flatter lots.
9. Allows natural landscaping to be used exclusively on steeper slopes over 15% and encourages it on ½ acre or larger lots.

Planning Commission Motion

Paul Squires made a motion and Kevin Hansbrow seconded that the Planning Commission recommends to the City Council that the Landscaping Requirements Code, 10-12-36, be amended to better clarify how residential and commercial properties must landscape, to require maintenance and upkeep, rectify hazards, and encourage xeriscaping and use of native vegetation. The code amendment also requires that existing property owners landscape their front and side yards within 2 years of passage of the ordinance by the City Council. The Commission finds that the new requirements better protect the citizens of the City, protect the property values, will lead to a better atmosphere in the City, and will aid in reducing the number of complaints to the City regarding yard issues. The Commission also finds that allowing a two year period to install landscaping is reasonable; giving ample time for a property owner to plan and fund the required improvements.

Vote: Yes – all (7); No – None, Absent (1) Russ Adamson

Council Discussion

Please review the proposed new code and our current code.

1. Does the new code keep what's needed out of the old one?
2. Does it address what was wanted toward requiring landscaping?
3. Does it allow larger properties enough options for xeriscaping, natural vegetation, rocks, etc?
4. Is two years too long for the time frame on existing properties? One year better?
5. Is two years too long for the time frame on new properties? One year better?

Staff Recommendation for Council Motion

The City Council approve that the Landscaping Requirements Code, 10-12-36, be amended to better clarify how residential and commercial properties must landscape, to require maintenance and upkeep, rectify hazards, and encourage xeriscaping and use of native vegetation. The code amendment also requires that existing property owners landscape their front and side yards within 2 years of passage of the ordinance by the City Council. The Council agrees with the Planning Commission findings that the new requirements better protect the citizens of the City, protect property values, will lead to a better atmosphere in the City, and will aid in reducing the number of complaints to the City regarding yard issues. The Council also agrees with the Commission that allowing a two year period to install landscaping is reasonable; giving ample time for a property owner to plan and fund the required improvements. The Council sets the ordinances date as of October 31, 2008. Persons out of compliance with this code will be required to install front and side yard landscaping within two years of this date."

(Shawn Eliot reviewed the memo with the Council and those present.)

Paul Squires made up a list of "evasive weeds" so they could be compared with what is being used on private properties.

Raymond Brown: He felt that one year was more appropriate to get landscaping in. He agrees with the proposed code; but when he was on the Planning Commission, he was told repeatedly that the City could not go back to existing homes that were built prior to some code change and force them to comply retroactively. Are we sure this is permissible? What about the concept of "grandfathering"?

Shawn Eliot: According to the City's legal counsel, it is permissible. Mr. Church said these properties are not considered "grandfathered" because we are setting a date in the future, therefore we are giving notice that this is a future code.

Nelson Abbott: We need to be able to defend this in case a few citizens want to fight the enforcement of the code.

City Recorder: This is not considered a "use" assigned to property; like animal rights that can be grandfathered.

Shawn Eliot: That is what he (Mr. Eliot) is assuming is Mr. Church's argument for this.

Raymond Brown: Question: If the road rights-of-way have been landscaped by home owners, if disturbed...should they be restored or repaired?

Shawn Eliot: This was discussed in Planning Commission...the City has actually encouraged property owners to landscape or install gravel on the rights-of-way; the suggestion was made by Linda Cooper that the rights-of-way should be repaired, if damaged by the City.

City Recorder: The other side of this issue is that property owners begin to feel that they own the right-of-way; when the City does.

Mayor Dunn: This can create a situation like the one on High Sierra, when the City discussed widening that road; the residents felt the City had no right to do this; yet the right-of-way is City property.

Shawn Eliot: Landscaping to the road edge does make the City more attractive and the proposed code states that the gravel needs to be kept free of weeds. There are choices as to how the rights-of-way can be maintained.

City Recorder: One argument that residents have against landscaping to the edge of the road is that the property is the City's and should be maintained by the City...weeds should be cut.

Raymond Brown: The property is in front of a home and should be maintained by that home owner.

Shawn Eliot: Planter strips between sidewalks and the streets are City property, and the home owner is required to maintain these.

Nelson Abbott: The City should take a look at possibly deeding some of the rights-of-way to the property owners, if we do not intend on widening the roads; or working out some kind of trade for sidewalks. An example of this would be on East Salem Hills Drive; that is a 66' right-of-way...that road will never be that wide.

Shawn Eliot: Sidewalks should be in a public right-of-way; otherwise, people would be walking on private property.

Raymond Brown: He proposed again to require the City to repair any damage to landscaped sections of the rights-of-way. He feels reference to this should be located both in the proposed code and under the section regarding road rights-of-way.

Shawn Eliot: Perhaps this reference could go in the section concerned with "maintenance". This proposed code still needs to be put in the form of an adopting ordinance.

Nelson Abbott: He needed clarification on "native vegetation"...what will he need? (The proposed code says that "native vegetation" included grasses and trees that are currently established.)

Derrek Johnson: He complimented the Planning Commission and Shawn Eliot in taking into consideration the economic problems being experienced by people in allowing two years to comply with this code.

Shawn Eliot: He has written a summary for the newsletter informing the public of this code (if it is passed); he also suggested making a list of the yards that are in violation and send out letters noticing the owners of the code and the time frame they are looking at to have their yards installed.

The penalty is set by the Council, but there are guidelines for a Class "C" Misdemeanor.

The added sentence to the proposed code amendment: "If utility work is required in the City-owned road right-of-way, the City or utility company shall restore any landscaping and improvements removed."

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO APPROVE THE LANDSCAPING REQUIREMENTS AMENDMENT TO THE ELK RIDGE CITY CODE; WITH THE NOTED CHANGE:

If utility work is required in the City-owned road right-of-way, the City or utility company shall restore any landscaping and improvements removed

EFFECTIVE DATE: OCTOBER 31, 2008

VOTE (POLL): DERREK JOHNSON-AYE, RAYMOND BROWN-AYE, NELSON ABBOTT-AYE (3)

NAY (0)

ABSENT (2) JULIE HASKELL & SEAN ROYLANCE

Passed 3-0

**Shawn Eliot needs to provide the adopting ordinance for this code amendment before it can be posted.*

(Memo from Recorder to City Council, dated 10-28-08)

"Recently PEHP (Public Employee Health Plan) sent out notice that they will include payment to a brokerage firm into the premiums we (City) are paying. We have been approached by a couple of companies to act as the City's broker one of which was Utah Local Governments Trust (ULGT). As you know, the Trust used to service the City with PEHP, but the two then parted ways. (A letter was included from ULGT, as well as the announcement from PEHP.)

At one point we (City) did have a gentleman that approached the Council to act in that position, we have not heard from him since then. Perhaps Councilmember Abbott has heard from him.

This proposal was referred to Councilmember Abbott."

INSURANCE
BROKERAGE

Nelson Abbott: After reviewing the proposal from ULGT to be the City's broker (agent); and they will receive from PEHP a 3% fee to service our account. They will have the ability to go to PEHP and negotiate. It will not cost the City more money; but we do have to approve the proposal, sign it and return it to ULGT.

He feels this is a good idea and recommends approval. The other gentleman, Matt Spencer, was willing to service the City; but he would get that 3%, plus he would charge the City an additional 1.5% on top of that. He has not contacted Councilmember Abbott for quite a while.

He has spoken to ULGT and feels that ULGT will service the City positively.

(Councilmember Haskell was a bit concerned that the employees may have trouble with ULGT due to some trouble she incurred with the Vision coverage.)

Councilmember Abbott feel there will be more benefits than problems in having ULGT serve as broker.

Some of the Councilmember expressed interest in enrolling in the Dental coverage through PEHP (Premiums to be paid by them).

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO APPROVE UTAH LOCAL GOVERNMENTS TRUST AS THE BROKER FOR ELK RIDGE CITY; AND TO AUTHORIZE THE MAYOR TO SIGN IN BEHALF OF THE CITY COUNCIL

VOTE: YES (3) NO (0) ABSENT (2) JULIE HASKELL & SEAN ROYLANCE

GARBEG COLLECTION CONTRACT

Allied Waste has increased their charges as of July 1, 2008; the City needs to raise collection fees to residents to cover this increase. The City will only have dumpsters in the spring and one for Christmas tree Collection. It is proposed to increase the fee for collection from \$10 to \$11 per month, effective as of this date. There will be an explanation in the newsletter, which goes out with the bill.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO APPROVE AN INCREASE TO THE GARBAGE COLLECTION FEE FROM \$10.00 TO \$11.00 PER MONTH; EFFECTIVE AS OF THIS DATE, 10-28-08

VOTE: YES (3) NO (0) ABSENT (2) JULIE HASKELL & SEAN ROYLANCE

PURCHASE OF SUVMWA WATER RIGHTS

November 13, 2008, is the date in the contract with SUVMWA for the City to purchase water rights at the contract amount; they will extend this date slightly until after the meeting in November.

Nelson Abbott: The last time this was discussed with the Council, there was a request to find out what this water right money could be spent on, besides water rights. He contacted Curtis Roberts (Finance Director) discuss this with him. He gave Mr. Roberts the example that was discussed at the Council Meeting of the possible purchase of putting improvements into the Loafer Canyon Well to provide for additional fuel storage, etc. Mr. Roberts was concerned about this because these resources could be utilized in other areas besides the Water Department...example: Fuel could be used at times for other purposes like filling up the backhoe due to the convenience, rather than going into town to fill up...then we would have the Water Dept. providing resources for other departments; this would be an issue from an accounting standpoint (including depreciation, etc.). He said that he would prefer that the City budget for this type of project and work it into the General Fund. You can only store fuel for so long before it has to be cycled out, anyway.

Tonight the topic of fencing around the water tank...he feels that money could be drawn from the bond and perhaps part of the water rights money to fence that tank...but he does recommend that the City purchases water rights for the City's needs.

Raymond Brown: He suggested looking into a grant from Homeland Security to assist in fencing the tank, since it would be to secure the City's source of drinking water.

*That should be researched.

Mayor Dunn: He also suggested that there is money available from our Insurance coverage for safety issues; could we apply for some assistance, as well as other safety issues, like lighting. He added that water Impact Fees can be used on this part of the Project.

Nelson Abbott: The fencing could be considered as part of the overall Water Project and there could be money left to cover, or at least help with the fencing. He is surprised fencing was not included with the original cost estimates.

Raymond Brown: He agreed that the City needs to purchase as much of the SUVMWA water rights as we can.

City Recorder: There is \$122,019.00 budgeted for the purchase of SUVMWA rights. Why not get a bid on the fencing and simply see if there is money in the Water Fund to cover it?

Nelson Abbott: He said he would call fencing companies to gather 2 or 3 bids to install the fencing; at this point these contractors may be eager for the job.

City Recorder: Are some of the developers still going to buy these rights? *(If so, we will make some money on the deal.)* We have promised Horizon View Farms rights for their development.

Mayor Dunn: (Updated the Council on the status of Horizon View Farms) One of the developers, Rick Salisbury, came to the last Planning Commission and walked out upset. The reason he was upset was that Phase 4 was approved for 74 units...a couple of plans have been submitted, and they have come up with yet another plan with four 4-plexes and a 3-plex...taking 10 units out of the equation and separating the others into single-family dwellings with 10' between the homes. Instead of 74 units, they proposed 64 units. They were informed that the City had made a mistake and the Code says that they do not fit the open space requirement anymore...they had gone down to 17% and the requirement is 25%.

A discussion ensued regarding the definition of "open space". Mr. Salisbury disagreed and commented that from what he could gather, what had already been approved in the past would not have worked either.

Mr. Salisbury got upset and left the meeting at that point.

The Mayor has been looking into the City's PUD Code and is determined to stick with the Code. The Mayor estimates that, according to the Code, this new proposal is not possible. In speaking to Mr. Salisbury, he said he is just not interested in pursuing the project.

Mayor Dunn said he has not completely reviewed the entire PUD Code; when he does, he will contact Eliot Smith (original developer of Phase 4) to see what they want to do.

The Mayor also discussed the water rights with them; he told them that if they decide to continue with the project or not, the water is available. The Mayor spoke to David Church regarding the obligation to provide water rights to them; and he asked if we had recorded the Plat (No, we have not.). Mr. Church responded that then we (City) does not have to provide the water. (*Councilmember Abbott interjected: Without the recorder of the plat, there is not Final.*)

The Mayor reminded the developers again that the City's availability to that water expires November 13, 2008. If they want it, purchase it. He explained that they could sell off the allocation to others in the City if they choose not to use it themselves. They seemed to be in agreement and asked for the amount needed...they were referred to Tony Fuller. So, it appears they will purchase the water rights.

Nelson Abbott: When this water is sold to developers, the City will come out ahead on the sale by \$1,000/acre-foot. Mr. Fuller asked Councilmember Abbott if he was authorized to work on the shares for Phase 4 and he was told, "Yes, if they are paying for it". (*Meaning that the developers of Phase 4 would be responsible to pay for Mr. Fuller's services.*)

With this sale, there could be an extra \$20,000. (*This could be used to assist in fencing the tank.*)

(*There was a discussion of the need to replace the water main on Canyon View Drive, which has broken 2 or 3 times. This would have to be Operating Funds.*)

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO AUTHORIZE NELSON ABBOTT AND/OR MAYOR DUNN TO PURCHASE UP TO \$122,000.00 WORTH OF WATER RIGHTS FROM SUVMWA

Discussion:

Derrek Johnson: He expressed his concern over the state of the economy currently, and his hesitancy in purchasing these rights at this point. He said, however, that he really does see the points of view that have been talked over in the meeting.

Raymond Brown: He feels that this is "just money in the bank"; the value of the water rights will not "go away"; but if we don't purchase them, the value will "go away".

Nelson Abbott: The City will need rights for our own needs, even if we sell off some of the City-owned property; the land will need to have water rights attached to it. He also knows of some people that have some property and they will need water rights...they should be approaching the City to purchase some.

Raymond Brown: There are restrictions as to what water right revenue can be spent on; they are somewhat narrow.

Derrek Johnson: He just wants to make sure other options have been explored.

Nelson Abbott: Curtis Roberts told him that unless we are planning another water tank or drilling another well right away; we do not have too many options for that money. They are like Impact Fees.

Raymond Brown: We could hold it back; upgrade the Loafer Well with an 8" pipe down and spend this money and much more doing that...and that may be good; but that is long-range...this is mid-range.

Nelson Abbott: Those improvements to the wells or drilling another well...these are all improvements that should be "developer driven".

Derrek Johnson: He is not convinced that the contract price is the bottom price these rights will be available for.

Nelson Abbott: In talking with Tony Fuller (water right consultant), he said last week that he knew of another source of water rights to purchase, if the City were interested...the price was more than the SUVMWA rights.

Mayor Dunn: Some time ago when the "economy bubble burst", Jim Garsight (SP?)...a water broker, called the Mayor because he had been looking for underground water for the City...

Explanation of the area we are in...area 51...

When he called the Mayor, he had a lot of water that had been promised to people that had plans to use it and the plans had dissolved. The market was saturated with water rights, but the price did not go down accordingly. If we do not take advantage of these SUVMWA water rights, SUVMWA will re-negotiate the price and we will lose some of our leverage.

Nelson Abbott: Another thing that has happened: the State Engineer over the Drinking Water Dept. is going to retire on December 19, 2008...one of his last efforts while still in office was House Bill 51, which is a way for him to take water rights...they have over allocated water rights; which means that there are more shares than there really is water. This is something we are going to have to monitor carefully.

The City is in a good position with some water in a Non-use status; but his point is that water rights have been over-allocated...so supply and demand is going to come into play.

Derrek Johnson: He appreciated being made better informed on the issues.

Nelson Abbott: Another thing to consider: if by some chance our calculations on the amount of water rights needed as compared to usage; he would like to see some buffer to work with...particularly if we need to provide water rights to public facility land.

City Recorder: If the opportunity comes up through Phase 2 of the PUD, which is now back with the bank, to take over the park in the area; will we need water rights for that or any other park we develop? The water rights were somehow figured in conjunction with the units in Phase 2, through the then existing homeowner's association...would the City need additional rights for that park?

VOTE (POLL): DERREK JOHNSON-AYE, RAYMOND BROWN-AYE & NELSON ABBOTT-AYE (3)

NAY (0)

ABSENT (2) JULIE HASKELL & SEAN ROYLANCE

Passes 3-0

EXPENDITURES

General: None.

A. Office PC Tower – Purchase:

A memo from the City Recorder to the City Council was included in the packets for the meeting. The Recorder informed the Council that the PC at her work station crashed with viruses and Trojans. Norton Anti-virus was contacted and in attempting to remove the viruses, the PC crashed and would not boot back up. The Norton technician simply thanked me for calling Norton and hung up (from India). Harland Technology is the company the City contracts with to maintain the Office network of PC's. The Tech came out and restored the PC and got it running...only to have it crash once again due to the fact that Norton removes itself from your PC if it crashes and a tech is required to re-install it. It is a cycle...Harland was supposed to charge the City for this added service at \$100/hour; however, the Recorder contacted them and asked if they charge by the hour or for the service...because the service was not restored permanently nor for any length of time. They decided not to charge us for the service performed; but they did ask if they could submit a proposal to add an additional level of service called "Network Administration". This is more comprehensive than the current "break & fix" service we now have, which services the hardware; anything like virus removal, among other benefits is not included and is charged out by the hour. The memo went into detail regarding what this plan offers and had a proposal attached from Harland.

The purchase of the new tower was placed on the agenda for approval because the final cost was over \$500; initially, it wasn't and the Mayor did approve the purchase; however, with shipping and handling and adding a burner onto the tower, the cost exceeded the \$500 limit for approval by the Mayor. He felt it would be best to bring it to the Council.

The representative the Recorder spoke to regarding the Administrative program said it would not be much more than we pay now; it was higher than expected, with the least expensive of the three options being \$4,856 per year as opposed to the current \$1,980 per year. It is a great service that would monitor the network by remote; but it is costly. The value would have to be weighed.

Derrek Johnson: Recommended an anti-virus protection program called Kaspersky that he feels is better than Norton... The Recorder will consider this program.

Nelson Abbott: He has also had computer problems and has fixed his own computer; but he has run into problems in the past when he has had to get a new computer.

There are also ways to set up email accounts where the emails are screened and can only get through if they are on an approved list...this is effective but needs to be set up with known vendors and associates.

The internet is filled with traps that can bring viruses and worms with them.

Raymond Brown: Suggested looking into Macintosh computers for the office; they are more expensive initially, but the last longer and have protections built into their systems...we would not need the added protection. He added that the majority of spam and viruses are design for pc's, not the "apple".

The City's PC's are 4 or 5 years old, which in "computer life", this indicates it is time to change computers.

The systems are now designed to interface with other programs so converting over is not the problem it used to be.

**He will research the Macintosh computers and get back to the Council.*

The upgrade to the contract for computer maintenance will not increase the services at this time. This will be re-visited at another time.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO APPROVE THE PURCHASE OF A REPLACEMENT DELL TOWER FOR WORKSTATION #2 IN THE AMOUNT OF \$651.59

VOTE (POLL): DERREK JOHNSON-AYE, RAYMOND BROWN-AYE & NELSON ABBOTT-AYE (3)

NAY (0) ABSENT (2) JULIE HASKELL & SEAN ROYLANCE

Passed 3-0

MINUTES

City Council Minutes from 9-9-08.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO APPROVE THE CITY COUNCIL MINUTES OF 9-9-08, AS PRESENTED

VOTE: YES (3) NO (0) ABSENT (2) JULIE HASKELL & SEAN ROYLANCE

ADJOURNMENT

At 9:30 PM, the Mayor adjourned the Meeting.

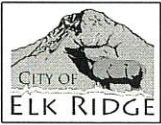

City Recorder



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ELK RIDGE - 80 East Park DR - Elk Ridge, UT - 84651

t.801/423-2300 - f.801/423-1443 - email staff@elkridgecity.org - web www.elkridgecity.org

NOTICE & AGENDA – CITY COUNCIL

Notice is hereby given that the City Council of Elk Ridge will hold a regular **City Council Meeting on Tuesday, November 11, 2008, at 7:00 PM, to be preceded by a City Council Work Session at 6:00 PM; and a City Council Closed Session at 6:15 PM.**

The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

6:00 PM - CITY COUNCIL WORK SESSION

1. Eagle Scout Project Report – Kurt Jones
2. Update on Loafer Canyon Road Project – Mayor Dunn & Raymond Brown

6:15 PM - CITY COUNCIL CLOSED SESSION

Discussion Items:

- A. Personnel
- B. Pending Litigation

7:00 PM - REGULAR COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance Invitation

Approval/Agenda Time Frame

7:05 Public Forum:

7:15 3. Action on Closed Session Items

7:25 4. Expenditures: (General)

7:30 5. City Council Minutes

Adjournment

Handicap Access, Upon Request. (48 Hours Notice)


The times that appear on this agenda may be accelerated if time permits. All interested persons are invited to attend this meeting. Dated this 7th day of November, 2008.




City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, as well as being posted on the City Web Site; and was provided to each member of the Governing Body on November 7, 2008.


City Recorder

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ELK RIDGE
CITY COUNCIL MEETING
November 11, 2008

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, November 11, 2008, at 7:00 PM; this was preceded by a City Council Work Session at 6:00 PM; and a City Council Closed Session at 6:15 PM.

The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on November 7, 2008.

6:00 PM –

CITY COUNCIL WORK SESSION

ROLL

Mayor: Dennis A. Dunn; City Council: Nelson Abbott, Raymond Brown, Derrek Johnson, Julie Haskell & Sean Roylance; Scouts: Kurt Jones; Public: Randy Jones; and the City Recorder: Janice H. Davis (Absent)

EAGLE SCOUT
PROJECT REPORT

Kurt Jones: (Project: Re-paint arrows on the City roads pointing to the fire hydrants) He was before the Council about a year ago with the same project; however, the paint has faded and he needed extra hours; so he re-painted them for the City...he added the new hydrants, as well. He submitted a map (updated) of the painted arrows/hydrants...there are about 132 hydrants with painted arrows.

The Mayor complimented Scout Jones and thanked him for his work.

Total working time: about 106.50 hours (both times put together)

Mayor Dunn asked him what he learned from the project and about his leadership skills.

He felt the project was what he expected it to be and that the Scouts were all cooperative and worked well together.

Mayor Dunn: The City has benefited from the many Eagle Scout Projects that have been completed. Scout Jones can feel good about what he has done.

(Scout Jones was also complimented on his appearance.)

LOAFER CANYON
ROAD PROJECT –
UPDATE

Raymond Brown: The east side of Loafer Canyon Road has been completed with curb, gutter and asphalt and about ¼ of the west side is done. The decision was made to stop for this season (west side) due to the change in weather. The project will be completed in the spring.

He worked with Mayor Dunn, Corbett Stephens, the public works crew and one citizen (Alan Anderson) worked well together and accomplished a great deal. Doing this work "in house" saved the City about \$40,000. The residents were cooperative and things went well. There was one driveway access that needed some extra cement work.

Mayor Dunn: There was about 1,500 ft. of curb & gutter; and poured about 17 cubic yards of cement in the one driveway...it was poured to code...with the exception of the very south edge of the driveway, it is about .5% steeper than code...but better than it was. The City restored the driveway due to the necessity of removing about 20 ft. of the existing driveway.

Raymond Brown: The road was measured at the required 28' in width all the way up, rather than in sections.

The east side was discontinued due to weather until spring. Noel Hiatt pours the cement with a machine; it goes in rather quickly.

Mayor Dunn: The west side will continue south to the buys turn around; then it will curve in the road...they thought of cutting across the road at the turn around, but the bus company said that this would be a problem for the busses. Curb & gutter will also extend all around the "island" created by the bus turn around. The bus uses this turn around now.

NON-AGENDA ITEM
(CHICKENS)

Mayor Dunn: *(He thought he had 45 minutes left before the Closed Session was scheduled; so he asked if anyone wanted an update on the "Chicken" issue.)*

Derrek Johnson: Questioned why the survey was not included in with the utility bill?

Mayor Dunn: He was aware that there were some concerns last Thursday, when he got back into the Office (he had been in various meetings most of the day). He spent some time looking at past history of chicken and duck issues in our Community.

Brief History:

Originally, Elk Ridge was a County subdivision known as Salem Hills; and after incorporation, we were still known as Salem Hills for a time...we became known eventually as Elk Ridge Town, with a 5 member Council with the Mayor having a vote. At that time, the prior homeowner's association under the County dissolved. City ordinances came into effect with zoning. The Mayor pointed out the areas that had limited animal rights at that time...the area known currently as the R-1-20,000 Zone did not have animal rights under this zoning, nor has it had animal rights. One of the areas with limited animal rights used to take in Oak Ridge Drive (*Oak Ridge Drive used to extend only a short way eastward from North Park Drive*); that was re-zoned and a few properties retained animal rights due to "grandfathering". (*Explanation of grandfathering*) He researched this because one resident claimed that the area currently zoned as R-1-20,000 used to have animal rights.

Another statement from this same resident was that there was an ordinance on the books of the City that allowed ducks for insect abatement. The Mayor provided the history behind this issue (*taken from past minutes*): There was a certain Councilmember (Clayton Creek) whose wife brought a suggestion to the Council (April 13, 1993) that would allow ducks to help control grasshoppers. Two weeks later, Councilmember Creek conducted a Council Meeting wherein the public was allowed to voice their opinions on the issue.

After discussion at that meeting, a motion was made that approved ducks being included in the definition of "household pets" from May 1, 1993 to November 30, 1993...including associated fencing required to keep ducks during this trial time period. After six months, this change went away; it was temporary.

Raymond Brown: He was contacted by a resident that is upset at the prospect of allowing chickens in certain zones...he requested phone numbers of the Councilmember's; which Councilmember Brown did not provide (he did have Councilmember Haskell's number, however).

He has been a chicken owner in California and has very negative information that he wanted to share with the Council.

Mayor Dunn: *(He summarized the two pieces of information he found out regarding animal rights and the allowance of ducks for the purpose of grasshopper abatement.)*

The affected properties are somewhere in number at over 400 homes. He has had requests for further petitions to change zoning to allow other animals.

Raymond Brown: The calls he has received have been met with the advice to attend the meetings and voice their opinions, or write their opinions down and submit those to the City...people need to be advised to do this so they are not under the impression that simply calling a Councilmember is sufficient.

Citizens need to speak for themselves.

Mayor Dunn: He was also contacted by this same individual (Richard White) who spent 14 years on a chicken ranch...he spent quite a bit of time on the phone with him listening to him share his opinions about chickens.

He spoke of the established process whereby a resident may approach the Planning Commission to propose a change in the code...without the need to come before the Council first. It is simply a process which allows an applicant to fill out an application, pay a fee and proceed to submit this application to the City...so far, the people applying for a change in the code to allow chickens have not done this.

Derrek Johnson: "I thought we talked to them and we counseled them to do a survey...in the past 15 minutes since I asked the question, it hasn't been Addressed...what happened to the survey?"

Mayor Dunn: "The survey is going out this week. What happened to the survey was...it came in, and they brought in hard copies...we needed an electronic copy; so we tossed all those, but we took one"...and Annelise typed one up and sent it electronically to the company that sends out our billing (Freedom Mailing). When the Mayor came in the next day, he reviewed the survey and noted that there were problems with the dates and changes in the public hearing; the Mayor had Freedom Mailing make these changes...and further, the Mayor had staff come up with only those residences in the affected zones; which list was sent to Freedom Mailing. There were further problems with having the wrong type of envelopes to send out the survey. The Mayor commented that the expenses were growing without the applicants having paid their fees. He did change one portion of the survey wherein it stated that there "were many people raising animals in Elk Ridge that would desire a change"...actually there are only about 20 out of 400 homes (homes without animal rights) and only 7 that have chickens. On the back of the survey, there was added information regarding the advantages of raising chickens (the writing of which was assisted by the Planner, Shawn Eliot; there was room left on the survey and the Mayor felt there should be a "rebuttal" adding the opposing position to the survey...that way both sides are presented to those receiving the survey.

There have been many phone calls expressing negative views regarding the allowance of chickens.

The Mayor met with Shawn Eliot to better understand why pigeons are mentioned in conjunction with chickens: Mr. Eliot stated that he feels the section regarding pigeons would be the best place to add any proposed code on chickens...there is no proposed change to the allowance of pigeons.

(Councilmember Abbott gave his permission to hand out his phone number to address the issue of chickens; he has not heard any negative feed-back about allowing chickens.)

There was an attempt to identify those property owners who are currently raising chickens:

- Russell & Robin Brown, Nolan & Robin Money, Erin & Robin Clawson's, Kirk & Lisa Denning's, Mark & Catherine Gould & a resident on E. Park Drive (name not known)

Many of the comments he has taken are of the nature of "when will this end?" (referring to other small animals), "what is next?"...policing the violations and the possible nuisances created.

Speaking of 'violations': The Mayor has prepared a letter to Mike Brockbank informing them that they must move their miniature horse to a place where they can legally keep it...they cannot keep it at their residence any longer. (No comment was made from any other Councilmember on this matter.)

This exemplifies another "sidebar" to the idea of expanding the permitted uses within these residential zones: there are also those citizens in the City who want to know why those in violation have not been made to correct the situation. Will this spread to other animals? The Mayor feels that leniency should be shown to those in violation of the code through chicken ownership while there are pending code changes being considered. When the Council was sworn in through the "oaths of office", all swore to uphold the constitution of the Nation and the State...all representing the laws of the land. This is a tough position to be placed in.

Example: His neighbor, Mike Brockbank was part of the effort to try to change the Code to allow miniature horses in residential zones; the proposal failed...without even a second to the motion to change the code.

Mr. Brockbank knew this because he was present at the meeting; yet he kept his horse on his property.

The chicken issue has raised other questions from some of the citizens regarding why the City does not enforce the current code on animal rights; they are right to question this...we have to, as "administrators of the code", uphold and sustain the law. It is not easy; "it will hurt you personally and you are going to wrestle with yourself inside and out and it will just be one of those things that you have to look at real close."

He was speaking to Richard White (one of the spokesmen for those citizens opposing the chickens) and told him that he needs to respect these people that are pursuing a change in the code to raise chickens because their right is to petition for a change

(He clarified by adding that he did not mean a signed "petition"; he referred to the process of filling out an application, paying the fees and trying to make the change). If these people are successful, it is the duty of the Council to uphold that law; if they are not successful, the duty of the Council is to enforce the code and require that these residents comply with the law. Anything that is in non-compliance must be enforced.

Raymond Brown: Many believe (& perhaps he agrees) that we do not enforce the rules in the City. Councilmember Abbot could have simply ignored the laws regarding pigeon ownership rather than going through the extensive process of gathering information and presenting this information to the Council to try to change the law...he went through all this and yet others violate the code in many ways (weed abatement and landscaping are examples) and are not penalized. The codes must be enforced and there must be follow-through.

Julie Haskell: She mentioned the way cars prohibit snowplowing every year...violating the "no parking" code during winter months.

Raymond Brown: One of the high priority issues on the City Survey was how the City looks...which is terrible in places. Empty threats are not effective.

Mayor Dunn: The animal issue is a misdemeanor; either a Class "B" or "C" and may be considered a separate offense for every day that the violation occurs. (Councilmember Johnson pointed out that the Council decides the severity of the classification.) Mayor Dunn continued that the reason for the Council to have a say in this assignment of penalty is to keep bias out of the enforcement process.

Raymond Brown: He suggested that perhaps it would be wise to assign the various Councilmember's to oversee the different types of offenses...bring in a list of violations and then have letters written and delivered; the entire Council can work together on the enforcement issues in the City. In this way, the load of violations across the City can be addressed. We cannot keep allowing the violations to go unanswered. There are issues associated with: weeds, landscaping...perhaps chickens will become an issue...there is a problem with the accessibility to fire hydrants. He was with the Fire Chief one day when the Chief asked a resident to move his trailer from in front of the hydrant...and the fellow refused. There are rules and ordinances in place for a reason.

Nelson Abbott: The tendency is for citizens to call a Councilmember associated with a particular issue, when a problem arises.

Raymond Brown: He feels that Councilmember Abbott will be "hammered" in public meetings because he owns pigeons...those attempting to change the code to allow chickens will want to be approved on the basis that Councilmember Abbott has pigeons.

Nelson Abbott: That is the reason he has been approached by the citizens in favor of chickens.

Sean Roylance: Two points to keep in mind as we move forward with the proposed "chicken" code:

- "Just because somebody has chickens or a horse or goats or whatever...I don't think that makes them "bad" people...it's against the code, yes; but, who here hasn't gone 26 mph or more down a 25 mph street?" He said this is more what we want to do as a Community.
- It is not exactly black & white; it is not a matter of whether the issue is "on the books"...there are laws at all levels of government that are "on the books", but then there is another level which is...do we really agree with them (the laws) to enforce them; and if so, to what extent? Just about every law is enforced to a different degree. (He cited the incident of "polygamy" in Utah...it is enforced in varying degrees based on circumstance.) There is a lot of gray area with the laws in the City.

These are points to keep in mind, regardless of the outcome.

Mayor Dunn: He told the Council to be ready for strong opinions. He warned Lisa Denning in the Council Meeting in August to be ready to have strong opinions on both sides...and to not be easily offended. This came about was because someone was already breaking the code; one was a dog owner who got out and attacked Mrs. Denning's chickens, which were illegal in the zone. Mrs. Denning filed a police report against the owner of the dog and wanted action taken. The only action the City could take legally was to cite them both and take the chickens away from Mrs. Denning...that did not happen.

Raymond Brown: (Referring to Councilmember Roylance's statement) He felt Councilmember Roylance's statement was, if you have a law that is not enforceable or we don't enforce it; then "you ought to get rid of it"...because it is useless and a waste of paperwork for nothing.

Derrek Johnson: That is how he feels about this chicken issue...he feels it is a "non-issue"; the City has so many important things to consider and this has been blown up to enormous proportions and he feels it is simply a "non-issue". He also feels that some people have been driving it as a main issue...it is not.

Sean Roylance: He agrees that if the Council thinks a law is not relevant enough to enforce, it should be taken off; "except that...again, with all the important things we do have to worry about, sometimes we don't have the time to address all at once and they get enforced in varying degrees".

Mayor Dunn: The Council will find that there may be some "non-issues" to deal with; for instance, trailers parked in the front yard during the summer, when they are being utilized...perhaps they could move them to the rear yards in the winter. He wanted to run for Mayor to serve the Community and he agrees that some issues are more important than others; but every City Council faces the same things in their Communities. Elk Ridge is a fairly "clean" Community, but because we are smaller.

The Council must understand the laws and be prepared to address the many and varied issues that do and will yet come before them. Republics (which the United States is) is based on law and there is opportunity to change those laws. Some of the changes will result from legislative action taken at the State level...the ATV law is an example of that.

It does not matter which way decisions are made, people will be offended; "we just need to do the best we can".

**ELK RIDGE
CITY COUNCIL MEETING
November 11, 2008**

**TIME & PLACE
OF MEETING**

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The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

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7:00 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown, Derrek Johnson, Julie Haskell & Sean Roylance; *Scouts:* Kurt Jones; *Public:* Randy Jones & Lisa Denning; and the *City Recorder:* Janice H. Davis (Absent)

**REMARKS
& PLEDGE OF
ALLEGIANCE**

An invocation was offered by Sean Roylance and Mayor Dunn led those present in the Pledge of Allegiance, for those willing to participate.

**AGENDA TIME
FRAME**

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO MOVE THE CITY COUNCIL CLOSED SESSION AFTER THE PUBLIC FORUM; AND THEN TO CONTINUE THE REGULAR SESSION AFTER THE CLOSED SESSION
VOTE: YES (5) NO (0)

PUBLIC FORUM

Lisa Denning: She was there to hear the amended motion to previous minutes.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO FURTHER AMEND THE CITY COUNCIL AGENDA TO ADDRESS AMENDING A MOTION FOR A PREVIOUS COUNCIL MEETING
VOTE: YES (5) NO (0)

MINUTES

1. The City Council Meeting Minutes for September 23, 2008:
Julie Haskell: She said to delete line 54 of page 7...that "Jacob Cazier's name should not be there.
(*Note: That will be left in, since his name was referencing which Project the Council was addressing.)

Lisa Denning: The City Planner spoke to her of a motion that needed to be re-visited regarding chickens; she is not sure which meeting he referred to.
(*The motion she referred to was for July 22, 2008...which the Council will address at later time.)

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO APPROVE THE CITY COUNCIL MINUTES OF 9-23-08, AS CORRECTED
VOTE: YES (5) NO (0)

2. City Council Meeting Minutes for October 14, 2008:
Nelson Abbott: (Last page) Did David Church ever answer the question as to liability of the City if there were an accident at an intersection where the adopted standard has been deviated from?
Mayor Dunn: Mr. Church was to attend a meeting with Mayor Dunn the previous week; however, it was scheduled for Election Day and the meeting was re-scheduled. Mayor Dunn has left several messages on Mr. Church's desk, but he has not returned the calls due to being out of town. The meeting will be re-scheduled again.

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY RAYMOND BROWN TO APPROVE THE CITY COUNCIL MINUTES OF 10-14-08
VOTE: YES (5) NO (0)

PUBLIC FORUM

(CONTINUED)
Mayor Dunn: Mrs. Denning was advised by the City Planner that the motion made by Councilmember Abbott in the City Council Meeting of 7-22-08, needs to be reviewed to see how the motion was stated.
Nelson Abbott: (The City Recorder emailed information regarding the motion to Councilmember Abbott)
It makes a difference: The way it was stated would require the applicant to file an application and pay a fee for a text change in the code; whereas if it is a recommendation from the Council to the Planning Commission to put a code in place; then they don't have to pay that fee...they just work with the Planning Commission.
Mayor Dunn: That recommendation actually would have to be where the Council accepted the responsibility and give guidance to the Planning Commission to change the code.
Referring to guidance given by the City Planner regarding who can facilitate a change in code:

- Planning Commission
- City Council
- Citizen

Mayor Dunn: What Councilmember Abbott will read is the way he recalls the conversation in July and the way the minutes of that Meeting were approved.

Nelson Abbott: He said he does not recall the motion the way it is stated; he then read the motion:

"MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY SEAN ROYLANCE TO ALLOW THE APPLICANTS TO GO FORWARD TO THE PLANNING COMMISSION TO BEGIN THE PROCESS OF APPLYING TO CHANGE THE ZONING CODE REGARDING THE ALLOWANCE OF CHICKENS IN RESIDENTIAL ZONES
VOTE: YES (4) NO (1) JULIE HASKELL

Councilmember Abbott would like to have this verified against the recording of the meeting.

Lisa Denning: Why would the Council need to make a motion if she had wanted to move forward in the process?

Mayor Dunn: You didn't.

Nelson Abbott: He said that his intent behind the motion was to make recommendation to the Planning Commission to work on the code. He said that he should have caught this when the minutes were approved.

Sean Roylance: He agreed with Councilmember Abbott regarding the intent of the motion.

Lisa Denning: Wanted to know what she should do next?

(The Mayor suggested coming in to review the recording.)

Sean Roylance: "Regardless of what the actual audio is, you know the intent...and I agree with that intent of what the motion was...if there is any confusion, perhaps another motion could be made right here."

Mayor Dunn: The next step is to listen to the recording and see what conversation took place.

Raymond Brown: Nelson needs to hear the motion to check his intent.

(The suggestion was to meet at 12:45 on the next day; 11-12-08, at the City Office.)

Mayor Dunn: "Intent" is an interesting word...he does not remember it the way it is being described...that it was simply a courtesy to say "go ahead".

Julie Haskell: She remembers the motion and the intent being the way it was stated, as read.

Nelson Abbott: Pointed out that there would be no reason to make a motion on the issue if Mrs. Denning was simply going to move through the established process to make a text change in the code...

Mayor Dunn: If another motion is made, it could turn out different that the one made. Sometimes things are re-evaluated.

Raymond Brown: He does not know what the intent was; but going back to what Councilmember Roylance said: this may be an insignificant issue...if the idea was to save Mrs. Denning the effort of doing this...then the motion worked, right or wrong.

Mayor Dunn: Actually, the way the motion is stated, an application would have to be filed and fees paid.

Derrek Johnson: He recalls Sean Eliot speaking of a way so that she did not have to pay the fee...that is what he remembers.

Mayor Dunn: He commented that the City has spent about \$250 on the survey that went out (explaining what went on with the survey).

Lisa Denning: There was some mis-communication on this survey...she was told that she was responsible for the cost; so she had them reproduced. No one told her that an electronic copy was required. She feels that burden is "beside the point".

Mayor Dunn: To restate the motion would be to save her \$300 and have the tax-payers pay for the effort to change the code.

(Councilmember's Roylance and Johnson disagreed with that statement...the survey was optional)

If a developer came in for a code change, they would have to go through the application process. The Mayor observed that developers do have to send out notices and to have neighborhood meetings...the notices are sent out to property owners within a certain distance of the proposed development or annexation.

Sean Roylance: He wanted to clarify for the minutes: the motion stated by Nelson Abbott and seconded by him (Sean Roylance) was approved and did not place financial burden on the City. The cost was incurred without the concurrence of the entire City Council. The Mayor chose to do a survey that cost a few hundred dollars.

Lisa Denning: She responded that she was told that the Mayor requested a survey...and that she had to pay to produce it.

Mayor Dunn: ...by Shawn Eliot...and when he and Mr. Eliot talked about this...the burden of proof rests on the person applying for a change in the code. There have been surveys in the past. In speaking with Mr. Eliot, he asked if a survey should be used...the Mayor replied to Mr. Eliot, if that is the best way she can get information...why not? He said that the survey could be sent out with the bill. Unfortunately there were problems with this.

Lisa Denning: Shawn Eliot said the Mayor requested the survey, and it is her understanding that a survey is not part of the application process, not does the code require it.

Sean Roylance: When the Council spoke to Mrs. Denning, it was mentioned that she should consider a survey...that it might be a good idea...but, it was discussed that it is not required and was something they could choose to do, if they felt it would help their case...but it was not indicated that it was required.

She pointed out that when the whole Council is not included in the directions given...then things are misunderstood. She followed through with good intentions on the directions given.

When all are not part of conversations, then things can be interpreted incorrectly.

Mayor Dunn: Explained how the conversation with Shawn Eliot came about: After about a month from the time that Mrs. Denning first came forward to the Council, he asked Shawn Eliot where things were at with the chicken matter...if there is a process moving forward to the Planning Commission and to get the public involved in the process...where is that process? Nether had heard from Mrs. Denning; so the Mayor asked that Mrs. Denning be given a call. After that, Mr. Eliot reported that she had been busy. The Mayor wanted to know the time line as to where and when this would move forward. He reminded Mr. Eliot that the reason for the issue in the first place was due to the Sheriff's report about the dog getting into Mrs. Denning's

chickens...when the Sheriff asked the Mayor what to do to follow up on this, he was told that the law states to cite them both and remove the chickens because the code was being violated...there were other instances of violation as well. If the efforts to change the code were not going to move forward, then action would probably have to be taken on all the chicken owners in the zones without animal rights. Those are the words used when talking with the Planner. He did not remember the Council taking that responsibility.

Lisa Denning: Commented that when she came in and gave Mr. Eliot the information she had gathered on the allowance of chickens in other communities, he advised her to write her findings down for the Council Meeting. She does not feel that the communication was adequate as far as the survey went. Mr. Eliot interpreted that the Mayor requested the survey...and she did what was asked of her. The Council needs to work together, not individuals. She realizes that this has become a very contentious issue, and that was not the intent...her intent was to be responsible to her neighbors and community.

She is asking for direction; she is not trying to be combative; she wants things to be "just & fair".

Mayor Dunn: The survey will go out either the next day or the day after.

Derrek Johnson: Perhaps in the future, when a survey is going to go out to the residents, the entire Council should review it first. He was uncomfortable with the rebuttal...a survey should just ask the standard questions. *(The rebuttal was written without the knowledge of Mrs. Denning)*

Mayor Dunn: The rebuttal stated how the issue came up in the first place...it says how many people are actually raising chickens in the zones in question that they are aware of...it also referenced the statement made by David Church (City Attorney), which stated to "maintain the integrity of the zones, because they exist for a reason"...he went on to say that people that want to live residentially do not want animal rights...that needs to be protected. People that have animal rights also have to be protected as well...so those rights cannot be taken away.

Lisa Denning: She would have preferred for it to be know that she is not proposing a "chicken farm". Other cities do allow for this, even New York City allows it. There are very specific directions given to allow it. When all of the information is not given...that is where the Council should have a say in what goes out. Her request is not out of the ordinary. She does not feel that chickens are any more intrusive than pigeons...her chickens stay on her property...dogs do not stay on their own property. Her chickens are cleaned up after. There are ways to be responsible and to still have these animals. Working together for accuracy would have been better. She understands that having chickens is not in the code and she understands what Mr. Church says; but, she does not feel her position has been represented to the public. Other cities have learned to "live with it". There are ways to be responsible and to maintain the integrity of the zones.

Mayor Dunn: The survey is going out and there is a short rebuttal on the back.

Derrek Johnson: He feels the survey should be re-done...with information that does not skew the issues. Does the survey include other small animals?

Lisa Denning: Shawn Eliot included a question about other animals toward the bottom of the survey. Her husband was concerned that it could make her intent unclear.

Derrek Johnson: Her intent was simply to have chickens, not other animals. If others want to address other animals, then they can address those issues separately.

Mayor Dunn: That was between Mrs. Denning and the Planner...he did not include that.

Raymond Brown: He does not want to see the City spend any more money on this.

Lisa Denning: She doesn't either...but at the public meeting, she would like to work together more, for better understanding, instead of being so divisive. Not all will have chickens. She would not raise a snake.

Mayor Dunn: The Mayor did not choose to have the two original owners (dog and chickens) cited...he chose to issue a warning in the newsletter to alert residents of the code and allow any in violation to come into compliance on their own. No one responded, except for Mrs. Denning coming to a public meeting to ask if there is a way to work this out.

The reason for the rebuttal: he referred to the voter information packets...with information on both sides of the issues...when the survey came in, he had staff in the office read it and they felt that it was one-sided...it did not give a position for the current code. It is coming in a City envelop...the City should be neutral on these issues. Both sides of the story should be presented.

Lisa Denning: She could have been more informative...she does not want to beat this to death. She wants to work together...she encourages the Council to come and see how she cares for her chickens. She got them to help control grasshoppers.

Mayor Dunn: He has had conversations with other on both sides of the issue...there is discussion regarding when the survey will come out. Mrs. Denning's wording was changed only on one word...rather than many raising chickens in the town, there were "approximately 20" (rather than "many"). Other citizens have come in with information that is not pleasant to hear that are against a change...he has told them that everyone has the right to attempt a change.

Lisa Denning: Not everyone will agree with one another's views. She simply asks for the opportunity to shown that she is responsible.

Mayor Dunn: He feels that people will receive the surveys and the Mayor has asked to get these back as soon as possible. The date for the public hearing has been changed to December 4, 2008. The Planning Commission has people in training on the original dates and the date was changed to 12/4.

He will have the Recorder locate the electronic file of the recording of the meeting of July 22, 2008.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO MOVE TO THE CLOSED SESSION

VOTE: YES (5)

NO (0)

7:52 PM -

CITY COUNCIL CLOSED SESSION

ROLL

Mayor: Dennis A. Dunn; City Council: Nelson Abbott, Raymond Brown, Derrek Johnson, Julie Haskell & Sean Roylance; (The City Recorder was not present)

- Discussion of personnel
- Pending Litigation

9:28 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS CONT.)

ANY ACTION ON
CLOSED SESSION
ITEMS

Mayor Dunn: There is only one action item: we need a motion to take action on the discussed performance based bonuses for the City employees.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE THAT, PURSUANT TO THE COUNCIL DISCUSSION, THAT THE CITY ADMINISTRATOR, WHO IS THE MAYOR...WITH THE GUIDELINES GIVEN TO HIM; MAKE THE DECISIONS ON THE BONUSES AND THE COST OF LIVING FOR THE CITY PERSONNEL

VOTE (POLL): SEAN ROYLANCE-AYE, NELSON ABBOTT-AYE, RAYMOND BROWN-AYE; JULIE HASKELL-AYE & DERREK JOHNSON-AYE (5)

Passes 5-0

MINUTES

Amending a motion from the Council Meeting on August 28, 2007:

This motion was regarding water rights from SUVMWA and setting the market value at the time; the wording of the motion did not add the administrative fess to the market value; which was the policy from 2006 on to the current date. The market value was set at \$4,200 per acre foot of water right, as per a study conducted by Payson City. The administrative fees are added to the price, whereas the motion said "to include the administrative fees".

The City is selling water rights at \$4,500 per acre foot. The City Recorder brought this to the attention of the Council, requesting that the motion be amended to simply establish what City policy is already.

Raymond Brown: Recalls that the administrative fees are to be added to the market value.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO AMEND THE MINUTES OF 8-28-07 REGARDING SETTING THE MARKET VALUE FOR WATER RIGHTS...TO ADD ADMINISTRATIVE FEES SHALL BE ADDED TO THE \$4,200 PER ACRE FT. FOR WATER RIGHTS

VOTE: YES (5)

ADJOURNMENT

At 9:33 PM, the Mayor adjourned the Meeting.

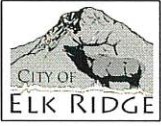

City Recorder



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ELK RIDGE - 80 East Park DR - Elk Ridge, UT - 84651

t.801/423-2300 - f.801/423-1443 - email staff@elkridgecity.org - web www.elkridgecity.org

NOTICE & AGENDA – CITY COUNCIL

Notice is hereby given that the City Council of Elk Ridge will hold a regular **City Council Meeting on Tuesday, November 25, 2008, at 7:00 PM, to be preceded by a City Council Work Session at 6:00 PM.**

The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

6:00 PM - CITY COUNCIL WORK SESSION

1. Meetings with Payson City & Woodland Hills/Joint Projects – Update – Mayor Dunn
2. SUVMWA Water Rights Update – Mayor Dunn & Nelson Abbott
3. ATV Ordinance Update – Mayor Dunn

7:00 PM - REGULAR COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance Invitation

Approval/Agenda Time Frame

7:05 Public Forum:

7:15 4. Consideration of Rollback Taxes – Shawn Eliot

7:25 5. ATV Ordinance – Re-Approval

7:35 6. Resolution/Appointment of a Member of the Utah Valley Dispatch Special Service District – Mayor Dunn

7:45 7. City Council Minutes:

A. Approval of Minutes

B. Motion Amendment RE: Water Right Allocation and Market Value

C. Motion Amendment and/or Rescinding Motion of 7-22-08 – Nelson Abbott

8:15 8. Expenditures: (General)

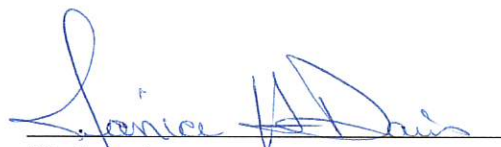
Adjournment

Handicap Access, Upon Request. (48 Hours Notice)

The times that appear on this agenda may be accelerated if time permits. All interested persons are invited to attend this meeting.

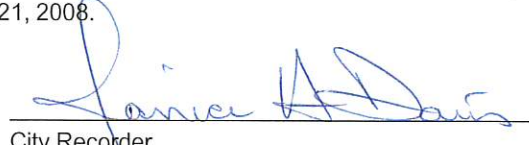
Dated this 21st day of November, 2008.




City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, as well as being posted on the City Web Site; and was provided to each member of the Governing Body on November 21, 2008.


City Recorder

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ELK RIDGE
CITY COUNCIL MEETING
November 25, 2008

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, November 25, 2008, at 7:00 PM; this was preceded by a City Council Work Session at 6:00 PM. The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on November 21, 2008.

6:00 PM –

CITY COUNCIL WORK SESSION

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Derrek Johnson, Julie Haskell & Sean Roylance-(Absent: Raymond Brown); *Planner:* Shawn Eliot; *Public:* Cody Clark; and the *City Recorder:* Janice H. Davis

MEETINGS WITH
PAYSON &
WOODLAND HILLS –
JOINT PROJECTS

Mayor Dunn: (Update)

Payson:

The Mayor spent a day with Mayor Bills going to various meetings; Mayor Dunn brought some of the topics of discussion up to him, such as boundary issues & land issues, road issues, garbage collection. Most of the time was spent talking about an amended growth agreement between the two cities. The Mayor explained the reasoning behind wanting to sewer with gravity flow in that part of the City. Mayor Bills seemed agreeable to re-negotiating the contract/agreement for boundary lines...he requested waiting until after the first of the year, when their Council has some time; this may require a special work session.

Nelson Abbott: SUVMWA has directed that Bruce Ward (SUVMWA Attorney as well as Salem City's) discuss with each of the cities involved with SUVMWA the possibility of sharing resources for such things as water, sewer and storm drainage. They would like to see inter-local agreements in place to benefit all.

He was reading over the City's General Plan on the web site and was thinking that water could be revenue to Payson to assist both communities...or some type of shared project.

Mayor Dunn: He spoke to Payson a few years ago regarding surface water; they informed him that all of their water is committed...in fact; Payson recently raised their rates to a tiered structure. They do not feel they have any extra water. When Mayor Dunn was on the Planning Commission, there was discussion about a possible joint venture to drill a well south of the fault line or maybe drilling through the fault line, to get partial artesian flow; costs and resources would be shared. It is much more cost effective to allow gravity flow to the tanks than to pump the water uphill. The Cloward Well is expensive to run.

(Derrek Johnson: He asked what those costs are...) The Mayor answered that it depends on the time of year. In July and August, 2008, the old Cloward well was running about \$6,000 + per month; with booster pump, it may be closer to \$10,000/month. Though it is good (& safe) to have redundancy in the system, it costs the City a lot.

Woodland Hills:

Mayor Dunn: Woodland Hills has some experience in inter-local sharing of water resources; they share a well with Salem City. He is not sure if they have their own well; if so, it has been shut off. When their water went down twice this past year, Corbett Stephens went over and flushed it out and got it going again and was able to fill one of their tanks with it...it is a producing well, but is not cost effective.

City Recorder: (Added some of the costs for the Cloward Well this past summer)

July: \$7,200 (Cloward Well) as compared to \$908

August: \$7,900 (Cloward Well) as compared to a little over \$1,000 (Loafer Pump)

September: \$7,500 (Cloward Well) compared to a little over \$1,000 (Loafer Pump)

In the winter, the Cloward Well is typically not utilized.

The Mayor explained the pumping system with the new well online and invited the Council to visit the sites and to get acquainted with how the system works.

Councilmember Harward was trying to get the engineers to focus on upgrading the Loafer Canyon Well. This Well has a history to it, and it is not the most pleasant history. *He explained the condemnation process the City went through with Loafer Recreation Assoc. to acquire the well site. The driller lost the drill bit about ½ way down the test hole and could not be retrieved.*

City Recorder: Added that the condemnation process was not concluded; since the two entities settled out of court and the City actually paid Loafer Rec. Assoc. \$80,000 for the well site (an acre of land).

The driller came to the Council and offered to drill another hole when the bit was lost. There were issues to consider:

- In drilling another hole, there would be no guarantee the same fracturing would be hit
- The optimal amount of water in the aquifers was reached at about the ½ way point...where he lost the bit.
- The bit would not contaminate the water.

The Mayor did ask that the old pump taken from the Cloward Well when the upgrade took place, be saved for future use. If the City can get 3-phase power in Loafer Canyon or with a possible joint venture with Woodland Hills, that well could be re-drilled deeper and wider. This would be a very efficient well.

Mayor Dunn: Another option discussed with LaRon Taylor (geologist in the City, whose job was to drill):

Mr. Taylor wrote a letter and called the Division of Drinking Water at the State a couple of years ago regarding the possibility of going up into an area south of the City, where an angle well could be drilled...through the fault line. At times the water comes down the mountain and hits the fault line and backs up...if we could "punch" through it and you hit it (luck is part of the process), then you have an artesian well...no pumping is required.

The well shared by Salem and Woodland Hills is a "partial artesian well"...in the spring, it is artesian; later the aquifer drops a bit and they have to pump it.

There are points of negotiation where both Communities could benefit. The main thing to look at would be the common boundary line shared east between the two Cities. Elk Ridge would have to take a proactive position with a few property owners on the east side of Loafer Canyon Rd. to annex them into Elk Ridge. There are questions about connection to existing services that need answers.

Cooperation with Woodland Hills would be necessary to alter the east boundary lines; with advantage to Elk Ridge being ownership of all of Loafer Canyon, so the Canyon would not be split down the center...maintenance would be the responsibility of Elk Ridge.

Don Mecham is developing 14 lots just east of the boundary line between Elk Ridge & Woodland Hills; he favors sewerage the lots rather than septic tanks; which would require him connecting on Loafer Canyon Rd. Years ago Mr. Mecham offered to install this and to repair the road accordingly. The division lines in that area are varied between Elk Ridge, Woodland Hills & Utah County. Mr. Mecham was agreeable to being in either community.

City Recorder: (Answering questions regarding the expenses in running the wells) It seems that last winter, the Coward Well, was turned off and used as an "emergency" resource. The Loafer Well is more expensive to run in the winter, since the Cloward Well is turned off. Part of the increase in expense for the Loafer Well (last winter) was the fact that the Loafer Well was running to "prove-up" on water rights for the SUVMWA rights the City contracted to purchase.

Mayor Dunn: He is to meet with the other Mayors in the South County at a meeting; Mayor Bills will be there and Mayor Dunn will talk to him further about when to get together to discuss some of these items.

SUVMWA WATER RIGHTS – UPDATE

Mayor Dunn:

- The City has purchased rights for the City, as approved, in the amount of \$122,000.

- The City made about \$60,000 on the allocation of water rights to Craig Peay for rights allocated to Plat E, Elk Haven Development.

City Recorder: It is understood by Mr. Peay that he is not considered "vested" by this purchase, since he does not have Preliminary yet. The amount needed could change as they proceed through the subdivision process. The difference will have to be dealt with at that point; they can either try to acquire more rights or, if they have an excess, they can sell off those rights to allocation to another developer within Elk Ridge. The other developers of the Elk Haven plats do not have their water rights to be able to move forward.

Horizon View Farms did not purchase any; yet they were in such a hurry.

Mayor Dunn: He has kept in touch with all of the developers that were in line to purchase water rights, so he knows they are aware of the situation. HE asked SUVMWA if the price could be re-negotiated on those rights and they would be agreeable.

At Councilmember Johnson's request, the Mayor explained briefly the allocation of water rights within the City at the time the City made about 1.2 million dollars (Cash-in-lieu Program). The cities need to prove up on their rights or they may face the possibility of losing them to the State...this happened in Duchesne.

The City ended up with an excess of water rights; which were allocated in exchange for money from developers to fill the requirement to convey transferred rights to the city...this was advantageous to the developers and provided the City with extra cash to be utilized within the Water Fund...it was used to partially fund the Water Tank/Well Upgrade Project.

The other thing that can be done is to apply to the State to put those rights into a "non-use" status.

City Recorder: (Question) How does the City obtain ownership of the rights purchased from SUVMWA?

Mayor Dunn: A certificate of ownership is being written up by David Tuckett (Attorney) and Bruce Ward (Engineer) for the City.

ATV ORDINANCE - UPDATE

Mayor Dunn: When the Council voted to approve the ATV and the Fire Arms Ordinances, the adoption was pending review by the City Attorney. David Church did review the pending ordinances. He came to the City to discuss some pending litigation (discussed in Closed Session); and he and the Mayor met to also discuss the two pending ordinances:

- The Firearms Ordinance: No problems
- ATV Ordinance: He felt the City may have some "constitutional issues" regarding the age of the operators.

6-2-2: Operator Age and Limitations: The Council had designated 14 years old to be the defining age to be able to operate an OHV on public roadways within the city limits. Mr. Church recommended changing that age to 8 years old...because in the Utah Code, age 8 and up is the designated age. The operators have to have OHV Education course and supervision, etc. He commented that increasing the age limit could be challenged as a "constitutional issue".

The Mayor brought up the point of understanding that cities and towns could get "more restrictive" but not "less restrictive". Mr. Church answered that this is true in some cases, but in this case, it is not true, due to the way it was written.

6-2-4 (A): Age Limitations under 16 years: This section was also changed to accommodate the age 8 through 15...as defined in Utah Code section 42-22-30 which means: oversight at a distance of not more than 300', within which visual contact is maintained; and advice and assistance can be given and maintained; or an adult at least 18 years of age (added and old code stricken)

6-2-4 (B): This entire section was deleted.

Mr. Church said that being accompanied by a "parent of legal guardian" won't work...an adult is defined as a person 18 years old or older. One thing law enforcement cannot do is determine whether a person is a parent or a legal guardian by an identification provided.

Mayor Dunn showed him what had been included regarding ages 12 And 13 being within a 100', under the direct supervision of a parent or legal guardian...Mr. Church said to simply cross that out and replace it with above wording; following the State Code.

Operators under 16 still must have permission from a parent of legal guardian, but can be accompanied by an adult (18 or older).

Julie Haskell: It was not clear to her why the ordinance, as it was worded previously, would not work.

There are not a great number of children driving ATV's with adults or parents around.

Mayor Dunn: When pressured by the Mayor a bit about the City being more restrictive than the State Code, Mr. Church did say the City could go ahead and leave it as it was written before, but if challenged, the City would probably lose. So there are a couple of options:

- Leave the wording as it was
- Make the changes, and if serious issues arise, then try to tighten the Code...with the Attorney's assistance

Derrek Johnson: He likes the Code changes, as per the Attorney's recommendations.

Nelson Abbott: There has to be a parent ...or an adult present...if something does happen, the adult or parent would be held legally responsible.

Sean Roylance: He is concerned with a couple of things:

- He agrees with Councilmember Haskell; 300' seems to far to supervise a child
- 8 years old seem quite young to be an operator

Mayor Dunn: He agrees; he liked the way it was written when it was tentatively adopted. He worries about younger operators not having the capacity to make those quick decisions that sometime are necessary.

Derrek Johnson: Parents need to teach their children to be responsible. We seem to be making a bigger issue than it is; we have not had a problem...go with the Code recommended by the City's legal counsel and avoid law suites.

Mayor Dunn: He is aware of one wreck this year: it was two girls...he was not sure of the details.

Derrek Johnson: ...And how many car wrecks have there been? Things will happen...

One of the issues to consider was that these two girls, under the new code, would not have been legal to drive. Much of what goes on would not be allowed under the new code.

Mayor Dunn: The 300' supervision rule probably came from the original use for ATV's was family oriented; with the families out of the city setting...on a family outing...traveling as a group, within sight of each other.

We are trying to apply this to a city setting. The Council is attempting to identify every road as an "off highway" road, which means ATV's are allowed on any road, regardless of the traffic. Should the traffic become a problem with growth, the Council may have to re-evaluate the Code to re-define which roads ATV's would be allowed on. IF we had done nothing, section 6-2-6: "Standards" would be applicable; that means all ATV's would have to be equipped as "street legal".

When this comes forward in the Regular Session, we will need a motion to adopt the changes or leave the code as is was written. Either way, there will be no tolerance for breaking these laws; he will speak to the Sheriff and tell him that, if he sees any kids under age, with or without helmets, speeding...and no adult within 300'...to cite them (the parents) of the violators.

Julie Haskell: Another issue is the speed: she feels it is not reasonable for an 8 year old to be driving at 20 mph.

Derrek Johnson: (Speaking facetiously, to make a point) Perhaps the City should outlaw horses since they can be dangerous and cause great damage to people. The City should not control people's hobbies, enjoyment and lives; the laws can go too far...let people make some choices on their own and learn responsibility.

Nelson Abbott: There is a section referring to "husbandry equipment"...like plowing, etc. He does see Councilmember Johnson's point. He is not worried about 8 year olds going 20 mph; the younger children he has seen riding have been going slow. He is concerned more with the operators over 16 and adults, who would have the right anyway, who speed down the road.

Accidents will come back to the person responsible for the operator.

Mayor Dunn: When legislators are gathering information, they are looking across the State and even neighboring states for their information...in this case they were trying to make in safe while allowing the enjoyment of riding ATV's. This is designed to place accountability with ownership.

Whatever happens in the City, the Council accepts responsibility for the actions taken to adopt legislature for the Community. *(Councilmember Johnson commented that this is taking the advice of legal counsel.)*

Julie Haskell: She is still concerned about younger drivers...what if they veer off track and get injured or even killed...

Derrek Johnson: The same could apply to skate-boarders...or any other hobby...there is a better chance of seeing a child on a 4-wheeler than on a skate-board.

**ELK RIDGE
CITY COUNCIL MEETING
November 25, 2008**

**TIME & PLACE
OF MEETING**

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, November 25, 2008, at 7:00 PM; this was preceded by a City Council Work Session at 6:00 PM. The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on November 21, 2008.

7:00 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Derrek Johnson, Julie Haskell & Sean Roylance-(Absent: Raymond Brown); *Planner:* Shawn Eliot; *Public:* Cody Clark; and the *City Recorder:* Janice H. Davis

**REMARKS
& PLEDGE OF
ALLEGIANCE**

An invocation was offered by Mayor Dunn and Sean Eliot led those present in the Pledge of Allegiance, for those willing to participate.

**AGENDA TIME
FRAME**

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY SEAN ROYLANCE TO APPROVE
THE AGENDA TIME FRAME**

VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

PUBLIC FORUM

No comments.

ROLL-BACK TAXES

Shawn Eliot: (The City has been receiving notices of roll-back taxes on certain properties. There is a requirement within the subdivision process that provides for proof that taxes are current and paid; however, after the subdivision is recorded, the status changes from "greenbelt" and taxes are taken back 5 years...by this time, the City has ownership of certain lands (usually roads) and is then billed for these back taxes.)

The Planner has changed the process slightly to require developers prove that these other taxes have been taken care of prior to granting approval on a development.

One such piece of property is the extension of Canyon View Drive to the north, to connect to Hudson Ln. This piece of road will be developed by the Kimbers, when they complete their one-lot subdivision; but they were not sold this piece of road right-of-way.

Cory Snyder shows up as the previous owner of record of this piece of road; but the history is a bit strange: the Brown Family did own the land and sold part of it to Mr. Snyder to develop; however, this particular piece of road was not included in the sale...the Browns had wanted to deed this road right-of-way to the City (Mr. Eliot can find no history of them deeding this over to the City). After Mr. Snyder purchased the land without the road, somehow the description of the road got put back into the official legal definition of the land being sold. According to Mr. Snyder, this was a title company mistake. The planner feels this is a feasible scenario.

The Browns probably should have taken care of this detail when the land was sold; but Mr. Brown is now deceased and that leaves his elderly widow, who knows nothing of these dealings. There is \$492.00 owing in back taxes.

City Recorder: There may be something on that history in the "road deed" or "property deed" file.

**Check this out with the Planner.*

Mr. Eliot: The piece has been separated off for years to be a City road; in fact, when it was sold to Cory Snyder, it said everything except the road right-of-way should be included in the sale (the description was what was mistaken).

The issue is that things eventually come back to the 85 year old widow, who knows nothing about the land deals. He thought about giving it to the City Attorney; however, he is not sure if that would really do any good since the paperwork is so messed up.

Question: He asked the Council if he should pursue collecting the \$492 from the elderly widow; or should the City pay the taxes and make sure the process is in place to prevent this type of situation with further development?

The general feeling of the Council was to pay the tax assessment and have the Kimbers install the road.

**MOTION WAS MADE BY DERREK JOHNSON AND SECONDED BY JULIE HASKELL FOR THE CITY TO
PAY THE ROLL BACK TAXES FOR THE PROPOSED ROAD EXTENSION OF NORTH CANYON VIEW
DRIVE, IN AN AMOUNT UP TO \$500.00**

**VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, NELSON ABBOTT-AYE & SEAN
ROYLANCE-AYE NO NONE (0) ABSENT (1) RAYMOND BROWN**

Passes 4-0

**ATV ORDINANCE –
RE-APPROVAL**

Mayor Dunn: The question is to re-approve the proposed ordinance, with the recommended changes from the City Attorney. The discussion in the Work Session revealed a continuing concern with lowering the age to eight. If a motion is made to approve these changes, there needs to be a close eye kept on any violations problems are created as a result of approval, then a re-evaluation should take place. If unsafe behavior evidenced, people should be warned of the consequences.

Nelson Abbott: He would like to see the laws summarized in an understandable manner, so the public can be effectively informed; this could be put into the newsletter.

Communication to the public must be in a basic, clear way. He feels most will obey the laws, if they are aware of it. The "strong arm" of the law is not always the answer.

Mayor Dunn: The OHV Course should be run in Elk Ridge; he feels this would be a very beneficial activity and a step forward in teaching responsibility.

Councilmember Haskell would be in charge of this type of event, since she is over "Public Safety".

When Mayor Dunn took Driver's Education, as a teen; his instructor made a statement that stuck with him: the "ignorance of the law is no excuse"...his instructor went on to say: "it doesn't matter if you know the law or not; if you break it, you are accountable".

Sean Roylance: He thought Councilmember's points in the Work Session were interesting in comparing ATV's to skateboards, bikes, etc. For instance, is it okay to ride skateboards down the middle of the street? Is it legal? *(The answer to that was not known....perhaps the City Attorney could be consulted.)*

City Recorder: There are "pedestrian laws" that should be understood and obeyed. She felt that skateboards could fall under those laws. Perhaps the City needs to take another look at the trails system in town to give a place for pedestrian activity.

Shawn Eliot: When he and his wife take a walk, they walk in the middle of the street due to the abundance of gravel on the sides of the roads and in the intersections...skateboards would have the same problem with gravel.

Sean Roylance: Whether pedestrians do walk in the center of the roads or not, from the legal perspective, they could be ticketed. His concern is that the City is not trying to outlaw 4-wheelers; we are trying to control their use of the roads; he feels there is a difference. He also agrees with Councilmember Abbott regarding educating the residents. He agrees with the suggestions of the Attorney...with education of the requirements.

Mayor Dunn: This proposed code actually is a step forward in defining the City's roads and putting into place an opportunity for various age groups. Had the Council chosen to do nothing, then the Standards applying to "street legal" OHV's would be the only thing allowed....and that would include only licensed drivers.

Julie Haskell: That option is starting to sound more attractive to her at this point. She sees a tendency toward irresponsibility and she does not feel favorable toward this change in the age limit.

Mayor Dunn: The Attorney could be consulted Again regarding shortening the distance for surveillance of a minor; then the Council could discuss this again...currently, the proposed ordinance does reflect the State law. If an accident should occur involving a minor, the parent will be held responsible.

Sean Roylance: He still has a concern with an 8 year old child under surveillance...300' is still a long way from a child of that age.

Derrek Johnson: But, if parents are doing their job in teaching their children to be responsible...the children will learn. He wants the opportunity to govern his own children.

Mayor Dunn: He feels that parents can advise and direct their children within 300'...parents can decide they should be closer than 300'.

Sean Roylance: He is still confused as to why these laws cannot be more restrictive than State law.

Mayor Dunn: Perhaps it is the difference between "land use" laws and laws found under the "motor vehicle" code.

Sean Roylance: Provided that the City engages in proper education and training of the residents and prospective operators, he could be in favor of voting in favor of this ordinance.

MOTION WAS MADE BY DERREK JOHNSON AND SECONDED BY NELSON ABBOTT TO ADOPT AN ORDINANCE ALLOWING FOR THE REGULATED AND LEGAL OPERATION IN THE CITY OF ELK RIDGE, THE USE, RULES AND REQUIREMENTS FOR ATV'S; AND TO FOLLOW THROUGH WITH A CITY-WIDE OHV TRAINING COURSE AND PUBLIC EDUCATION THROUGH THE CITY NEWSLETTER AND BY POSTING THE ATV CODE ON THE CITY WEB SITE; CODIFICATION, INCLUSION IN THE CODE, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING AN EFFECTIVE DATE VOTE (POLL): DERREK JOHNSON-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE (3)

JULIE HASKELL-NAY (1)

ABSENT (1) RAYMOND BROWN

Passes 3-1

UTAH VALLEY DISPATCH SPECIAL SERVICE DISTRICT

Appointment of Member:

This Special Service District concerned with 911 Service has been formed by Utah County Commission; it involves several cities in Utah, including Elk Ridge, utilizing the County Sheriff's Dept. The County Commission wants input from the involved communities in the form of a committee. So, each city assigns an individual to represent his/her community on the Committee. Since Councilmember Haskell is involved, through Council assignment, with Safety and Law Enforcement for Elk Ridge; the Mayor asked her if she would take on this assignment to be a member of this County Committee. She agreed. She would act as a liaison between the City and this Service District Committee. The first meeting is the next Thursday, at 2:30 PM. The Mayor will attend this meeting with her; to be held at the County Jail.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY DERREK JOHNSON TO ADOPT A RESOLUTION APPONTING A MEMBER REPRESENTATIVE TO THE UTAH VALLEY DISPATCH SPECIAL SERVICE DISTRICT; WITH JULIE HASKELL BEING THE REPRESENTATIVE FOR ELK RIDGE CITY

VOTE: YES (4)

NO (0)

ABSENT (1) RAYMOND BROWN

CITY COUNCIL MINUTES

A. City Council Meeting 10-28-08:

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY NELSON ABBOTT TO APPROVE THE CITY COUNCIL MINUTES OF 10-28-08; WITH CORRECTIONS

VOTE: YES (4)

NO (0)

ABSENT (1) RAYMOND BROWN

B. Water Right Allocation & Market Value:

Nelson Abbott: The Council moved on this issue at a previous meeting.

(After the discussion under Agenda Item 7-C, the Council felt it was appropriate to restate the motion to ratify the intent that administrative fees should be added to the market value.)

C. Motion Amendment or Re-Stating Motion of 7-22-08: regarding the intent of the Motion, as stated:

(Memo from City recorder to Council, dated 11-25-08)

"RE: Application Process for Code Change (applicable to text change or map change; in some cases both apply)

I am including a summary of the discussions which took place regarding residents who approached the Council on 6-24-08 to determine if there was a way to work with the City to change the Code in some way to allow the raising of chickens in the current residential zones. She offered to do research and the resident (Lisa Denning) compared the situation to pigeons being allowed.

In the discussion that night the Mayor did review the application process with her by which a code change can take place:

Minutes: (6/24)

Mayor Dunn: The Code (law) must be upheld; but the *process does allow for application for change*... understanding that the *process* may result in denial. It has the possibility of being "divisive" in nature in involving the public through a required hearing."

The Planner commented toward the end of the discussion that evening:

Shawn Elliot: He asked if procedurally, the *applicant* should go to the Planning Commission first, rather than to the Council?

The Code says they should to the Planning Commission first to avoid certain problems in pre-conceived notions that the Council either does or does not approve of something... It is to maintain balance in the *process*. The *fees are in place for a reason*; there will be staff and Planning Commission who will be reviewing this.

On July 22, Mrs. Denning brought certain information back to the Council, as she said she would, regarding chickens in other communities... all Councilmembers were present on 7/22.

The recorder was not on that night through a technical mistake and I was not present at the meeting. A draft of the minutes was created with everyone's assistance and on August 12, 2008, these minutes were reviewed in detail... item by item and motion by motion... all Councilmembers were present, with Sean Roylance absent on 8/12. When it came to the motion made by Councilmember Abbott... I will quote from the recording of that meeting where in the minutes were reviewed:

"Mayor Dunn: Let's look at this one...

(Councilmember Brown was softly singing about chickens...)

City Recorder: "Code Violations *(this was the agenda item heading)*... on page 7... the "chicken one"...

(Regarding the motion)

"I've got Nelson Abbott, with the second by Sean: *(quoting part of the motion)* "to allow the *applicant* to go forward to the Planning Commission..."

Nelson Abbott: "I made the motion... and I believe it was Sean..."

Mayor Dunn: "Yeah, I think that's right... *(the Mayor went on to bring up a side issue)* "Just as a side note; did you know that Salt Lake is dealing with a chicken issue?"

Nelson Abbott: "Yeah, their County's looking at it."

With the vote taken on 7/22, all but Julie Haskell voted in agreement with the motion, as stated by Councilmember Abbott.

In the review on 8/12, no one... including Councilmember Abbott disagreed with the motion as it was read...

My concern:

In making an adjustment to the motion regarding market value on water rights, there was established policy and supporting, documented discussion for two years prior and policy in practice since 8/2007 to substantiate that intent...

I am concerned about the established process as stated in our Code and the State Code (note attached reference to Utah Code

10-9a-503 (2) wherein it states that the legislative body may not make any amendment... unless authorized by the Planning Commission or was first submitted to the Planning Commission for its recommendation)... this would be the submittal process whereby an applicant submits an application and pays all fees (see 10-9a-509 (1)(a)).

From the very first time Mrs. Denning and others approached the Council, she was given guidance *as an applicant* to go through the process of a code text amendment.

My concern is not that we want to be nice to a friend and resident... it is with the next applicant that comes in to submit an application for one of the processes, either for a code change, or to submit a development plan, or for a zone map change, etc. Will the City be asked to waive fees, or to reimburse already paid fees... it is always advisable to not deviate from the established processes and regulations... All applicants should be treated the same... this hold true of developers and residents alike.

I do not see that either the Council or the Planning Commission was in any way considering adding chickens to the residential zones prior to the initial approach to the Council on 6/24... the Planner, when asked agreed that neither body was entertaining this.

I understand that this may seem like making a mountain out of a molehill... but I do know that problems arise from not being consistent."

Mayor Dunn: He conferred with the City Attorney, David Church, on the issue of amending motions: Mr. Church advised that once the minutes have been approved, the motion stands. He also advised that the City Recorder or her replacement should be physically present at the Council Meetings... (the meeting on 7-22-08, the City recorder was not resent and the tape recorder was not turned on properly, resulting in the minutes having to be re-created through drafts being emailed to the Council, then reviewed thoroughly before approval). The Mayor described this process to Mr. Church, to which Mr. Church replied that it was a "done deal".

The information was, "You can amend a motion if it's in the same meeting; you can rescind a motion; but change the intent of the motion is a whole new, different motion". IF it is stated one way, and you restate it or it changes the intent, then it is a whole different thing. The Mayor asked if the previous motion needed to be rescinded, the response was, "No. You have to come up with a whole new motion... it is a different meaning... it is a different discussion... it's a whole different motion"... and if there is a majority of the people that agree with

that motion, then it will replace the previous one. The Attorney added, "You can't go back and alter things once they have been approved". So, we are not looking at either an amendment or to rescind the original motion; we are looking for a new motion that would change the intent of the original motion.

(Mayor Dunn referred to the memo from the City Recorder.)

The Mayor felt that he should defend the process that applicants for code change go through; it is a good process...it allows an applicant to come to the City and apply for a change. The Mayor's perception was that Mrs. Denning was the applicant; thereby being obligated to pay the appropriate fees and go through the process, as others are expected to do. He did not see the proposed code changes coming from the Council because it was not an issue until the nuisance issue came forward...which was when a dog got into chickens owned by Lisa Denning. As we went through the process of reconstructing the Council Meeting where this was voted on, his perception was that that the message was for Mrs. Denning to move forward through the process. The Mayor instructed Mrs. Denning that the burden of proof would rest with her and she would need to prove that the proposed change is a good one.

Councilmember Brown (absent from this meeting) said his intent, when he voted was to simply allow Mrs. Denning to move forward in the process. Councilmember Haskell voted against the motion; but the Mayor felt she is not against the established application process *(Councilmember Haskell responded that no, she is not)*. The Mayor has reviewed the surveys that went out, and he feels that what he said back in August of 2008...about this process opening up some strong feelings...is coming to pass. There are some strong feelings being expressed. When the Mayor asked the City Attorney about the proposed text change in the code regarding chickens in residential zones, Mr. Church's response was to do what we can to protect the property rights involved in those residential zones...the people that have animal rights, as well as the people that move to residential zones to get away from animal rights. One of the Mayor's biggest concerns in regards to the surveys is that those that are in favor of chickens also checked that they would be in favor of other farm type animals too. *(That portion of the survey was encouraged by the Planner because there had been complaints about other animals in residential zones...Mrs. Denning was concerned that having the question of other animals might sway people against allowing chickens.)*

Nelson Abbott: The reason he made the original motion (July 22) the way he did was to give these individuals (those desiring chickens) the knowledge that they had the "backing...so that when they went through this process, when they came back before us...that they wouldn't spend a year & a half or however long it took to go through this process only to come back to us and just have us say, 'heel no'...sorry, but that's really why I did it the way I did...I wanted to let them know I was behind them and that was the direction we wanted to go. Granted, we may not have been on the record saying that this is something we want to do as a Council or the Planning Commission wasn't recommending directly; but indirectly, it was because that was the reason I was doing that...because I think that that's something that we should look at."

Mayor Dunn: Next week it will go to Public Hearing and the surveys should all be in at that time...he said that all the Council was welcome to come in and take a look at the surveys and pay attention to what is being written in them.

Shawn Eliot: He is summarizing all of the surveys...and will present that summary to the Council and the Planning Commission before the Public Hearing. The surveys are fairly split between those residents in favor of chickens and those who are against allowing them.

Mayor Dunn: The Mayor has some required positions in the sense of his duties as Mayor:

- To protect the person that has made application...and that process
- As Mayor he feels he should have simply enforced the code for those individuals in violation
- He would like to see the residential code protected

The City does have animal right properties...those desiring animals should go where the rights are in existence.

City Recorder: Any motion made tonight would have to be a separate motion, apart from the previous one.

(Councilmember Abbott asked if the water rights motion should be re-stated as well; because of the same reasoning) The Recorder said she felt it should be re-stated rather than amended, as it was. Mr. Church's statement would be applicable to both situations.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY SEAN ROYLANCE THAT THE PLANNING COMMISSION DEVELOP CODE TO ALLOW FOR THE RAISING OF CHICKENS WITHIN ELK RIDGE CITY LIMITS

Discussion:

Julie Haskell: To clarify, she wanted to know if the intent is to say that the City Council is initiating the action...

Nelson Abbott: "That was my intent then...it may not have been worded that way, but that was my intent."

City Recorder: Questioned if the wording should state which zones are to be involved.

Shawn Eliot: The Planning Commission should decide that.

Mayor Dunn: This proposed change could affect 702 properties.

City Recorder: It does not have to...it could come forward as a conditional use with restrictions.

Shawn Eliot: The way it is written right now; it is all residential zones, including PUD's...if you are over an 11,000 sq' ft' lot. Some lots in the PUD's are that size; not many.

Nelson Abbott: Suggested that the motion could state that chickens could be allowed on lots that are 15,000 sq. ft. or larger.

Shawn Eliot: That would exclude most... (Example: Lisa Denning's lot is 11,000 sq. ft.)

Derrek Johnson: That would exclude most of the people that have them now...some of the lots are only 11,000 sq. ft.

Nelson Abbott: Then he felt the motion should be left as stated.

VOTE (POLL) DERREK JOHNSON-AYE, NELSON ABBOTT-AYE, SEAN ROYLANCE-AYE (3)
JULIE HASKELL-NAY (1) ABSENT (1) RAYMOND BROWN
Passes 3-1

Mayor Dunn: Though he does not have a vote, he does not like this direction. But, he directed to move on to the next item.

Sean Roylance: Concern: There is the issue of precedence...does this set a precedence regarding the application fee? "Here are my thoughts:

1. Precedence in and of itself shouldn't be a reason to ever go forward with something else. I think that in any case where you're going to 'set precedence'; then what you do is to try the best you can to understand intent of what happened previously and does that apply to the present situation? If it doesn't, then obviously, it doesn't.

(Question: Mayor Dunn asked why we would make a motion like that for this group? The people who do not want chickens will ask why the Council supports this.)

(Julie Haskell: We did not initiate this, so...)

This is something that has been in existence in the City for a number of years and it's been a practice that, for the most part, didn't realize was against past code; so they did it...and we didn't say anything about it. So for the neighborhood of ten years, people have had chickens and we did nothing and they thought it was okay. Now, I understand that 'ignorance of the law is not an excuse'; at the same time I think that if we are not going to enforce it either, that is kind of reinforcing that ignorance. Also, despite that saying, I think there is still responsibility on governments to do education with respect to things that are important and that we care to enforce.

2. We, as a City, do have a roll in initiating this. It did come in as a complaint, but if we are going to go back to who started it...I think that the complaint wouldn't have happened if the dog had not gotten out...so we can throw it onto the dog owner...if that is how we are trying to determine where this came from. The City, when we send out the newsletter talking about this and making people think that they need to get rid of their chickens...or it is against the code and so on...that made it more than just a two-neighbors issue...that made it a City-wide issue. I think at that point, I think we do have perhaps not complete responsibility for it, but we have at least a portion of the responsibility for it. That, I think, is different than most of the code change applications that come before us. This is for the record, in case someone should ask."

Nelson Abbott: This is something he has been contemplating for years...even before he got on the Council. I don't have chickens right now because he can't legally...that is the only reason he doesn't.

Mayor Dunn: When Lisa Denning first came into the Council, she admitted she knew she was breaking the law...that was part of the issue. This is not a "casual thing" that is happening to the City right now. In a lot of people's minds, yes it will set precedence. We have to watch this pretty close.

Returning to Agenda Item 7-B: Water Rights:

A new motion was needed:

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY SEAN ROYLANCE TO:

A. VALIDATE THE ESTABLISHED CITY COUNCIL POLICY OF ADDING THE ADMINISTRATION FEE ON TOP OF THE FAIR MARKET VALUE

B. SET THE MARKET VALUE FOR SUVMWA WATER RIGHTS AT \$4,500, WHICH INCLUDES THE ADMINISTRATION FEES

VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

EXPENDITURES

General:

1. Check Registers for September and October, 2008:

Question: Clarification on re-payment of impact fees to Hughes...

There was an explanation of the old Homeowner's Association Fees due on older lots to the Winterton's; the agreement was to accept those in lieu of current impact fees.

MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY DERREK JOHNSON TO APPROVE THE PAYMENT APPROVAL REPORTS AND PAYROLL REPORTS FOR SEPTEMBER AND OCTOBER OF 2008

VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

2. Sean Roylance: He brought up a situation where a citizen (Mrs. Neria) called him with a concern about having been charged for an extra garbage container for a number of years...and the City being unwilling to pay back the entire amount they claim to have paid. Mayor Dunn: Explanation of what happened: The Neria's called reporting the discrepancy to the City Office. Initially, the City Finance director was consulted with the question if it would be better to credit the account or reimburse them...and he advised to simply reimburse them; crediting the account would cause problems with accounting.

City Recorder: She spoke to Mr. Roberts and the amount was not discussed...it was simple a policy question. We have other situations where residents have 2 containers and have only been charged for one...would we then make them pay the City back?

Mayor Dunn: In speaking to Mr. Neria, the question was asked why the City would feel it necessary to seek legal counsel on this. The Mayor responded that it was a chance occurrence.

David Church came down on separate issue and after the meeting, the City Treasurer asked him about the situation...

She asked how far back we are required to either collect or pay back a resident in a situation like this. He responded, "Only a year...and further, only to the fiscal year; because each year is closed out...there are budgets and closings involved."

When the Mayor spoke to Mr. Neria (11/25), he told him what the Attorney had said. Mr. Neria said he did not agree; he felt he should be re-paid what they over-paid the City. The Mayor reaffirmed the position of the City...Mr. Neria had been sent a check for two years (not just to the fiscal year end). He also told Mr. Neria of the need to do a physical count of all the garbage cans in the City. He asked him about the opposite situation where someone may own the City for an extra can. Mr. Neria feels the City did what they felt they could unless they decided to sue the City. The Mayor responded that this is not the case...we are trying to do what is fair.

Mr. Neria was not happy that all of the money he feels the City owes him will not be paid back to him.

The physical count was necessary because Allied Waste Company does not have good bookkeeping practices...they have no idea how many cans they have out...they rely on the City to inform them.

Kent Haskell mentioned that the City does not keep the money anyway; Allied Waste has the bulk of the money; we simply act as a "collection agent" for them in billing the residents. The Mayor called Mrs. Neria back and explained this concept to her and told her to follow up with Allied with their claim.

Sean Roylance: He still has a concern with this line of thinking; there is what is legally required and then there is what we ought to do. If a business charges monthly fees and someone is over-charged; they should be paid back or credited. This is our choice in what to do...he believes it was the City that made the mistake. He would feel responsible to that person.

Mayor Dunn: That is what has been done in paying them for a portion of this.

Why doesn't Allied track the numbers on their own cans?

Sean Roylance: He prefers to wait to take action on this until after the physical count is summed up; there are reasonable limits...perhaps that is why that law is in place, that a City is only obligated for a certain period of time. Perhaps reimbursement would be an undue burden at this time. If it remains a small handful of people, perhaps we would consider a full reimbursement to those few.

Mayor Dunn: Should the garbage fee be more? Should we take all this information to Allied and make it clear that the bookkeeping process has to change between Allied and the City.

Sean Roylance: If thinks that one way or the other, the City should try to settle the balances with the residents; perhaps, if they own the City, the City could simply request they pay the money back.

City Recorder: The bill could be clarified by adding "extra can". There are many ways to come up with a confused count on cans: the wind blows cans; people move and leave cans behind for the next resident, or the cans get taken by a neighboring resident; people call Allied directly to either have a can picked up or an extra can delivered and Allied does not inform us. Allied should be referring these people to the City, many of the employees at Allied do not.

Mayor Dunn: He is not sure if Allied has been contacted by Neria's or not. The City Treasurer and the Mayor will meet on the summary of the count.

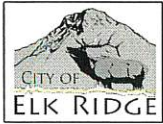
Sean Roylance: He said he would follow up with Neria's and see what has happened and that the Council did discuss the issue.

ADJOURNMENT

At 9:50 PM, the Mayor adjourned the Meeting.


City Recorder





ELK RIDGE - 80 East Park DR - Elk Ridge, UT - 84651

t.801/423-2300 - f.801/423-1443 - email staff@elkridgecity.org - web www.elkridgecity.org

NOTICE & AGENDA – CITY COUNCIL

Notice is hereby given that the City Council of Elk Ridge will hold a regular **City Council Meeting on Tuesday, December 9, 2008, at 7:00 PM, to be preceded by a City Council Work Session at 6:00 PM.**

The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

6:00 PM - CITY COUNCIL WORK SESSION

1. Audit Presentation for the 2007/2008 Fiscal Year – Curtis Roberts (Finance Director)

7:00 PM - REGULAR COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance Invitation

Approval/Agenda Time Frame

7:05 Public Forum:

7:15 2. Park View Corner – Preliminary Approval

7:20 3. Fairway Heights, Plat C – Extension Request (Preliminary Approval) – Brian Ewell

7:30 4. Approval of 2007/2008 Annual Audit for Elk Ridge City

7:40 5. Discussion of Powers & Duties/Municipal Officials – Julie Haskell

8:00 6. Proposed Annexation to Payson City – “Haskellville” – Mayor Dunn

8:10 7. Expenditures: (General)


8:15 8. City Council Minutes

Adjournment

Handicap Access, Upon Request. (48 Hours Notice)

The times that appear on this agenda may be accelerated if time permits. All interested persons are invited to attend this meeting.

Dated this 5th day of December, 2008.


City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, as well as being posted on the City Web Site; and was provided to each member of the Governing Body on December 5, 2008.




City Recorder

ELK RIDGE
CITY COUNCIL MEETING
December 9, 2008

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, December 9, 2008, at 7:00 PM; this was preceded by a City Council Work Session at 6:00 PM. The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on December 5, 2008.

6:00 PM –

CITY COUNCIL WORK SESSION

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance & Derrek Johnson; *City Finance Director:* Curtis Roberts; *Public:* Tyrel Carter, Brian & Carolee Ewell, Eric Allen; and the *City Recorder:* Janice H. Davis

AUDIT PRESENTATION

Curtis Roberts:

The City's Finance Director was present to present the Annual Audit for the 2007/2008 Fiscal Year, performed by Jones Simkins, LLC.

Management Letter:

The Auditors requested that Mr. Roberts cover the "Management Letter" in the Audit Presentation. The letter represents the work performed by the Audit Firm, the fact that they complied with all of the standards and any findings they may have come up with.

The Letter was reviewed with the City Council. As part of the discussion that accompanied the review, the issue of replacing infrastructure that is wearing out was brought up:

Raymond Brown: What happens when emergency situations arise? How do we budget for this? Should there be a "fudge factor" figured into the budget for these unexpected occurrences? An example would be the water line on Canyon View Drive that needs to be replaced; so the budget would reflect the expected cost plus more...as a cushion.

Curtis Roberts: There will be a review in April and May of the fiscal year to check for any possible short-falls.

Figuring a "cushion" into the budget under "Capital Outlay" may be a good idea; however, he is not in agreement with this line of thinking; he feels that businesses ought to be able to run as close to their budgets as possible and not be held to strict budgetary compliance rules; not like with tax payers' dollars...this is a charge for service, as long as the service is provided and the City is not making a bunch of extra money (40% return or so).

Raymond Brown: Sewer rates were recently increased in the attempt to meet costs, without taking the rates to a point that would be an undo hardship on the citizens. Question: Is there a rule of thumb as to how much the revenue generated from user rates should be over the expected operating costs? The point is that the infrastructure in the City is old and aging and will need to be replaced.

Curtis Roberts: This is where we get into the "operational" aspect of things...as in the "return on assets" he refers to frequently...by following that guideline (the average of 6% to 8% being a healthy return...9% or 10% would indicate that rates need to be reviewed for a possible reduction), that would generate the cash flow we need to cover expenses and allow enough to cover any emergencies.

The Mayor and he discussed sitting down and deciding where the problem areas are in town and coming up with a plan to strategically replace the infrastructure in these areas, taking into consideration the finances available to the City. We need to utilize the knowledge that Kent Haskell, Wayne Frandson and Corbett Stephens have about the City's infrastructure to formulate an aggressive plan to replace old lines. It would be better to be proactive to the problem areas than to be reactionary.

Raymond Brown: It would be nice to have some sort of formula to figure out projected expenses for depreciating infrastructure.

Curtis Roberts: The replacement costs are not hard to come up with, using the Public Works Superintendent's knowledge of the systems in town.

Raymond Brown: When budgeting for these expenses, we want to do the best job we can to plan ahead for things...so the residents are assured that the Council is trying to practice wise money management.

He quoted the last paragraph of the letter: "This information is intended solely for the use of the City, the City Council, management, and the State of Utah Auditor's Office and is not intended to be and should not be used by anyone other than these specified parties." Councilmember Brown wanted Mr. Curtis to verify this statement.

Mr. Curtis: This is called an "Auditor's Limitation Statement" and the Council can give it out to whomever they choose; but the Auditors will not take any responsibility for it...they advised that it should not be handed out as general information. There is nothing that would need to be shared with anyone else; the biggest challenge is that the Council has an understanding of the financial operations of the City...the average citizen does not. The Council has knowledge of the decision-making process behind the expenses; sometimes when someone else (without this background knowledge) inspects information, it is simply data to them. As they try to understand the information, it can be taken out of the context of the decision-making process that took place. This can lead to confusion because they could be missing "all of the information" and how that came about and only looking at one of two aspects and drawing another conclusion.

Raymond Brown: So, it would not be in our best interest to try to share this.

Mr. Curtis: The key is to share it in ways that provides information rather than just handing out data; and that takes time in explaining the background and rationale of what went into the decision.

The "Management Discussion and Analysis" (following) is designed to convey the City's finances in a way that can be more clearly understood. This is the document that should go forward as an explanation of the fiscal year's finances.

Management Discussion and Analysis:

Curtis Roberts: Having completed the review of the "Management Letter" from the Auditors, Mr. Curtis turned to Pg. 7 of the Audit Report itself:

Business-Type Activities:

This gives key elements of what happened throughout the year...how and what did we do?

The points mentioned in this section of the Analysis were reviewed, including: the Water Revenue Bond for the construction of a new water tank and the upgrade of the Cloward Well; water rates are only generating a 2% return on the City's assets (dropping from about 6% last year); Sewer rates were raised reflecting new costs to Payson City and the fact that those rates continue to be reviewed as to their adequacy in covering costs; storm drain fee; water rights fees generated quite a lot of revenue last fiscal year and, as expected, did not this year; the \$50,000 that comes in from Salem as part of the "buy-out" of Elk Ridge's portion of the sewer plant was reported as coming in and going out to Payson to connect to their plant.

Mr. Roberts addressed the 2% return in the Water Fund: this is the "low end" of the range...expenses went up as revenues went up only slightly...there was a bit of a "shift" in the water year, being a wet fall (2007) and late spring. Another thing that impacted the City was the construction project that bumped up the assets that have to be recovered. These are the types of swings that take place in these Funds; you think you are "coasting along pretty good and all of a sudden, you do a couple of things and we've got to get it stabilized back out"...we will need to watch this. Another wet spring could cause some challenges for the Water Fund.

One of the things he likes about our water rates is that right now they are targeted to a point where we can withstand some of these challenges and still generate a return.

He feels that this particular page can be a bit confusing due to requirements with bonding. There is a requirement to generate so much income to show that you have sufficient to repay the bond on an annual basis; a violation could result in the bond being called. He has not seen a bond being called, but he has seen cities receive notices saying that a city must get their water rates in line or the interest will be increased. They get worried that the city would not be able to make the bond payments if the revenue generated by water rates won't meet the city's needs.

The \$18,000 "cushion" saves the City from being in violation of the bond covenant; \$18,000 less would be in violation. This is not a large margin. If the margin decreases, the bond people start worrying. Last fiscal year we had over \$100,000 cushion, which is why we could obtain a bond. Now that the City has bonded, we need to watch this margin to be sure it is not shrinking.

He advised: "There is no room here with water rates."

Page 18 (Sewer):

Sewer rates were increased this past year.

"Operating Income/Loss": There was almost a \$36,000 (\$35,811) in the Sewer Fund last year. The rates were raised by \$12/resident, which generates about \$78,000/yr. This will get us close to meeting the City's operational needs. We need to take into consideration the "administrative" portion of the sewer fee and make sure it is generating a consistent return on assets, like the water rates are. This would be allow us to consider the base amount charged by Payson and then we are setting what we can control to be approximately equal; we cannot control what Payson's rates are...but we can control the administrative part of the rate charged to Elk Ridge residents...the rates needs to remain fairly steady. If needed, marginal increases are preferable to bigger ones. (Mayor Dunn reminded those present that the reason for the \$12 increase was that the sewer rate had been at \$20.50 for 21 years.)

Storm Drain Fund: If this Fund becomes more active, then the rates will have to be reviewed; for now, the rates seem to cover the costs.

Governmental Funds:

Pg 13: He feels that the core government entity is in a solid position. Things have changed since June 30; but certain things remain static:

- There is still approximately \$520,000 in Capital Projects/Future Improvements Fund, which can fund one-time projects...; this money is available for general projects (not water, sewer or storm drain).
- This is separate from the bond money, which is listed in the Capital Projects Town Hall/Fire Station Fund (\$609,669). This is waiting for the Council to determine what to do with it. The bond is at 4.9% interest rate; the bond is generating about 2.8%. This money is restricted as to how it can be used; so investing the money is not an option. Wells Fargo Bank's strategy is to place that money in the State treasury.

Nelson Abbott: Suggested taking that money and have someone else manage it.

Curtis Roberts: You can't, because it is bond money and they control where is and, and it has to sit with their Trust Dept. until we do what we planned with the bond money or we pay back on the bond. There are only three things that the City can do with the bond money:

1. Acquire land (for parks or any other governmental purpose)
2. Build a City Administration Building or a Public Works Building
 - Supplies to build the City Center could be purchased, or any equipment or furnishings.
 - Councilmember Brown feels this money should purchase supplies before costs go up any more.
3. Pay it back and pay on the bond. They would apply the money to the bond payments that are farthest out, to shorten the term...you cannot "get credit" and not pay a bond payment for a period of time...not does it

lower the payment. There would be a penalty for paying off the bond early and it is equal to about 1.6%; which decreases by .01% each year...that adjusts each May.

Mr. Roberts figured that this option would eliminate approximately the last three years' bond payments...instead of coming due in 2022; it would come due in 2019. This bond is designed where all the bonds retire in 2022. It must be remembered that they do not take the balance and recalculate the interest; each bond issued has its own "coupon" rate of interest that it earns off of...and it earns this interest until this bond is actually redeemed...different than a mortgage or a car loan.

Right now is a bad time to borrow; the City got in just at the right time. There were some really good strategic decisions. For instance: There was long-term strategy in paying off the older water bonds when we did...we used that bond payment money to build up cash for the water project...knowing part of it would be bonded for; but we had placed ourselves in a great position regarding the City's borrowing capacity. By doing that when we did, we made a very good strategic move...right now the bond costs have increased "astronomically"...some cities have paid 7% on bonding.

He advises that the Council needs to decide what to do with this bond money soon, with interest rates where they are. The construction business is desperate for money and for business; it may be a good time to take advantage of this.

Nelson Abbott: Building materials have dropped in cost enough to make up the difference between the two interest rates; so the net rate of return by building while it is slow...you can get better value for the investment.

Curtis Roberts: This has also affected the labor side of construction...there is not much work due to lending tightening up...the City already has the cash to utilize. In theory, not only does the City have the \$610,000 in the bond, but the City could also use some of the \$519,000 in the Capital Projects Fund.

Nelson Abbott: Asked if they could take the \$519,000 and move it to another institution to get a better interest rate. SUVMWA is trying to figure out how to get better interest rates on the money they have, as well. He said he also understands that "risk is equal to rate of return" and that there is "security in safety".

Curtis Roberts: There are some money management rules: you cannot lock the money up longer than what the projected need for it is. You can try to renegotiate better rates; but there are not a lot of options around. The only thing he might suggest (this would take some management of the funds), but when interest rates start to go up (& they will), get the money out of the PTIF and place it into something more "reactionary" to the interest rates. Due to the way the State Treasurer's Office invests, which is: when interest rates are dropping, they tend to invest in longer-term investments, which generates a higher rate of return; but when interest rates start to go up, the rate of return is slower going up. Utah Money Management ties your hands on a lot of investments; you have to be really careful to make sure you comply.

With the bond proceeds, the City's hands are tied; the Trust has to hold those funds until they are spent; there is no choice.

Current Fiscal Year:

We are monitoring the finances to make sure we are on top of some of the up-coming issues. We have talked about the Capital Plan and he feels we definitely need to work out what is to be done with the bond proceeds. The Council will have to decide on the strategy; but "realistically, by the way, it comes out that building the building is most advantageous".

Mayor Dunn: Building a building does not have to be done all at once; it can be a "modular plan" where the Public Works building is build first; and then as things change, it could be added to. There are 24 months left on the Sales Tax Revenue Bond (\$610,000).

Curtis Roberts: It definitely needs to be a topic of discussion

Raymond Brown: But the market is right to be in the building business?

Curtis Roberts: It is.

Discussion of Sales tax Revenue:

The Sales Tax "windfall" that cities received was based on telephone and cable companies; they were reporting their sales tax they had collected as "general county" sales tax; rather that it belonged to...therefore, the sales tax money was going to the county rather than to the cities. Those entities were audited when that was discovered and determined that the cities had been under-paid. The auditors recalculated the sales tax and paid it to the cities while taking it away from the counties. Going forward, there will be incremental increases; but the "windfall" came through last fiscal year.

The process is that it takes two months for sales tax collected to finally get to the cities. January and February distributions will be the largest of the year...March is the lowest. This must be prepared for...as revenues decrease. The Council will start to see the slow-down in the next several months. As the revenue drops off, the budget may have to be re-evaluated...there may be things that need to be put off; where can expenditures be cut? Building permits will experience a short-fall; all of this will result in short-falls in the budget.

He feels the first place to back off in the General Fund is perhaps curtailing some of the capital expenditures. Payroll is one of the biggest areas; but we don't want to have to lay people off. If there are some discretionary areas, we may have to postpone those until next year. Now is the time to start looking for these things.

Mayor Dunn: An area in the Water Fund to look at would be to use the Loafer Well as the primary well because it creates "cheaper" water as pumping costs are less with the free-fall to the tanks. This would help the 2%.

Raymond Brown: We don't know what the winter will bring; last year we almost tripled our costs on road salt. There are other options to salt; but added equipment would be needed.

Curtis Roberts: These are the types of discussions that are necessary...to see what can be feasibly cut until the market recovers.

Caution: In the past, there has been a push to remove sales tax from food; it needs to be understood that as the economy tightens up, the one constant in sales tax is food. If this goes through the legislature and they start cutting sales tax on food, it could affect the sales tax base.

This may be postponed since they are starting to see the effect of this, since the State eliminated their sales tax on food. They are seeing that this action "hurt" substantially. They are taxing on other things, but those things are more volatile...food has a more stable baseline since people have to eat regardless of the economy. So the State has seen a huge slump in sales tax revenues. That is part of the deficit at the State level you hear about on the news. We are encouraging the League of Cities and Towns to lobby to retain the sales tax on food.

Derrek Johnson: He expressed his concern for the future. We are in for difficult times and it could be worst than what we have seen.

Curtis Roberts: He agrees that the health of the economy will impact a lot of what we are doing; "it could raise some concerns about building a building, but it could also...if you plan things right...it could result in a few savings; because if you can get something that is a little bit more efficient in place, you could save a little bit of money. I think right now, the nice part for the City...and this is one of my underlying messages...while everything else is dire; the City has positioned itself strategically well. You are not where you have to raise water rates on people; the sewer rate increase is already gone through and that's probably stable enough for a little while; and your governmental needs are not in destitute need."

Derrek Johnson: "But I do not want to get into a situation where we are building other stuff and all of a sudden it really hits 'skid mark' and we've got to raise taxes just to keep fundamentals going."

Mayor Dunn: We are all concerned about that.

Curtis Roberts: "That's why my underlying message I hope you get tonight is: there's no need to rush to judgments; there's no reason to rush to decisions. Let's take our time; let's plan well. We've done a good job planning in the past; let's use those same types of thoughts...let's use those same types of strategies and let's continue to do it; because right now, it's 'kudos'. For a small city (let's face it, we are on the small side), we are very well strategically placed. We have adequate funds; we're not in destitute; we're not having to raise property taxes right now...right this instant...it's not like we have to cut people's hours back or anything like that. We can sustain right now. I am with you; we have to watch going forward...right now, because what you guys have done, you're strategically solid...to be able to make those types of decisions. Where does the strategic investment need to be made? So, take the time to do it right. We will keep working together as a team and we will make the best decisions we can. It paid off so far."

Mayor Dunn: You have done some good work for us.

Curtis Roberts: "Everybody's done a good job."

He concluded his review of the Audit with Pages 1 & 2 of the Financials: This is where the Auditors declared they did not find any problems with the financial statements and that this would be considered a "clean" opinion. The City has a good team in the staff and he expressed his appreciation in working with the City.

**ELK RIDGE
CITY COUNCIL MEETING
December 9, 2008**

**TIME & PLACE
OF MEETING**

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, December 9, 2008, at 7:00 PM; this was preceded by a City Council Work Session at 6:00 PM. The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on December 5, 2008.

7:15 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance & Derrek Johnson; *City Finance Director:* Curtis Roberts; *Public:* Tyrel Carter, Brian & Carolee Ewell, Eric Allen; and the *City Recorder:* Janice H. Davis

**OPENING REMARKS
& PLEDGE OF
ALLEGIANCE**

An invocation was offered by Raymond Brown and Nelson Abbott led those present in the Pledge of Allegiance, for those willing to participate.

**AGENDA TIME
FRAME**

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO APPROVE
THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 7:15 PM
VOTE: YES (5) NO (0)**

NON-AGENDA ITEM

Mayor Dunn: He expressed gratitude for the freedoms we enjoy in this great Nation. He expressed his deep gratitude for the veterans of the wars we have fought, including Councilmember Brown. The Mayor encouraged us to "find a veteran" and express our appreciation for the sacrifices made on our behalf.
Raymond Brown: The Vets of the current war are treated much better than when he returned from Viet Nam; there has been progress in this.

PUBLIC FORUM

Sean Roylance: The work he has been doing on a new City website is almost to a point where, probably by the next Council Meeting, we will be ready to put content to it. It won't replace the existing website by then, but we will be able to work on it. Whenever we feel it is ready, then the work can be transferred. *(Thank you, Sean.)*

**PARK VIEW CORNER
PRELIMINARY
APPROVAL**

(Memo from Planner to Council, dated 12-9-08)

"Applicant: Eric Allen - NAI Utah

Background

This property has had numerous proposals including single family homes with a flag lot and twin homes. Both were denied by the planning commission and the flag lot proposal by the city council. This new proposal includes 7 twin homes utilizing the new Senior Housing Overlay Zone. On August 28, the use of the Senior Housing Overlay Zone and the preliminary plat were on the planning commission agenda as well as the public hearing. Those that attended and commented at the public hearing seemed to agree that a balance in the development was met. The commission recommended approval of the use of the overlay zone, but tabled the preliminary plat action until better renderings of the homes were available. The commission requested that a snow removal plan be done and that the architectural design of the units have different designs for each building in an eclectic design to be more like single family homes currently within the city. The applicant produced renderings to the liking of the commission and the preliminary plat was approved and recommended to the council on 13 November 2008.

Staff Finding

1. The proposed senior housing project adheres to the proposed Senior Housing Overlay Zone.
2. There is an appropriate mix of amenities including numerous trees and shrubs, guest parking, specialty night skies compliant lighting, a gazebo, solid vinyl fencing to rear of property (to match existing fence) and two slat split rail vinyl fencing along the main roads, and a central mailbox.
3. The applicant has provided renditions of the types of units proposed and the materials used as per input from the planning commission.
4. A monument sign is shown on the landscape plan.
5. Note 4 on the preliminary plat states that all snow removal shall remain on site.
6. All other changes/corrections to the plat have been addressed.

Staff Recommendation

1. Overall the plan does strike the balance between density and amenities.
2. The renderings achieve what the planning commission requested of the applicant.
3. Staff recommends approval of the architectural designs and the preliminary plat.

Proposed Council Motion

Motion 1: That the council approves the use of the Senior Housing Overlay Zone for the Park View Corner Senior Housing project amending the Official Zoning Map of the city of Elk Ridge. The council finds that the use of the overlay zone is appropriate in that it conforms to neighboring uses and is an appropriate density for the surrounding road network.

Motion 2: That the council approves the Park View Corner preliminary plat as recommended by the planning commission. The council agrees with the finding of the planning commission that the proposed development follows the intent and regulations of the Senior Housing Overlay Zone and strikes a balance between development and amenities. The council agrees with the finding that this type of housing is needed within the city of Elk Ridge as supported by the general plan where it recommends various housing types including twin homes and affordable housing. Lastly, the council agrees with the commission's approval of the architectural designs for the development."

Comments:

Raymond Brown: He pointed out (plat map) how Park Drive was to be straightened out in the course of their development and felt that Mr. Allen had done good work on the rest of the plan, as well. There will be a small part of the Park Drive corner that the City will have to participate in, to get it to match up to the existing road.

Eric Allen: (Colored copies of the planned units and the architecture were provided for review) Each unit will have a slightly different look to it. The floor plans are different than the units in Provo... off of University Ave.

Shawn Eliot: The Planning Commission asked that Mr. Allen have garages located on the side and another plan with the entry at the front; to get away from the "twin home" look. The Planning Commission also asked that he make the different unit types more "eclectic"...more like existing neighborhoods in Elk Ridge. They did a good job of tying the development together, as well. The Commission was quite pleased with the plan.

(Review of some of the other features, as lights that are "night sky" compliant)

Nelson Abbott: (Snow removal) Has the issue been worked out?

Shawn Eliot: Kelly Liddiard (Planning Commission member) owns a snow removal business and he felt that it could be worked through. Where to push the snow and how, is the question. The concern was that it would be pushed out into the City streets. It will be handled by the homeowner's association for the development...and they felt they could store it by the gazebo and in between some of the units. If it gets to be too much, the snow would have to be hauled off. Mr. Liddiard's company does provide this service.

Nelson Abbott: Heated sidewalks and driveways would eliminate the problem; it is becoming more common.

Eric Allen: This is not some thing they have considered in the past, but it is worth looking into.

Sean Roylance: His concern with snow removal: The removal of snow if it has to be hauled off could get expensive; what happens if the homeowner's association becomes dysfunctional? This has been a topic of discussion regarding other developments; it is common for these associations to dissolve and/or not function as they should. At that point in time, there could be an issue with snow removal.

Raymond Brown: He has dealt with homeowners associations focused on a senior community in the past and the ones run by senior seem to function better. It is a good point of consideration, but he feels the liability is lessened with the senior community.

Sean Roylance: 1) He likes the manner of the seniors' access to the main roads & 2) He favors the configuration of the garages as they are.

He still feels concern that the location of this development is right in the middle of the City, at the main intersection. He feels these types of developments would be better located elsewhere, perhaps other zones.

Councilmember Roylance had suggested an area closer to Goosenest Drive; but his comments at a previous Council Meeting were dismissed. This area has since been re-zoned and this type of development would have fit there. There are other areas in town that would allow higher density and would be a preferable location for senior development.

Raymond Brown: This was originally five homes with a flag lot (denied); some of the same issue would apply to traffic and access to and from driveways...whereas this is only two accesses. He does recognize that people tend to drive faster on Park Drive and Elk Ridge Drive and that traffic can be a problem; but no matter what we allow in this area, there will be 2 to 5 accesses to the roads.

Sean Roylance: 1) The flag lot was not approved and now is not an option. 2) With four homes, there would only be 4 cars accessing the street as opposed to 7, so there would be fewer cars exiting onto the streets.

Raymond Brown: He would argue that logic: Councilmember Brown is retired and he drives less than people in a home where people are going and coming several times throughout the day with work and children, etc. Seniors do not go out as much. On his block, there are three seniors, and they are seldom on the road.

Sean Roylance: He is not sure he agrees: in considering his street with several seniors, they are actually on the road quite a bit...and not just in cars, but in golf carts, etc. They frequent the road more than he does.

Seven units create more traffic than 4 houses.

Raymond Brown: He agrees that 4 homes would equal about 7 units; and he does not feel there would be much difference in traffic; so this is not a deterrent.

Sean Roylance: It may be about the same in numbers; and regardless of where the development is located, they will still have to pull out onto the main roads at some point...it is more that he feels these developments would be better located elsewhere.

Raymond Brown: They can still be located elsewhere as well as in this location; there are still opportunities to locate other similar developments in other areas. Most of these people exiting this development would be making right-hand turns, crossing one lane rather than two.

Sean Roylance: His final point: Besides the fact that this plan was well-done and if we are going to have it there, he likes what we came up with; but he feels that since 2/3 of the responses to the Planning Commission survey was that they were not in favor of this type of density

...a "happy medium" might be to do something like this in a location other than at the most prominent intersection in the entire City. He feels this could be a compromise that will satisfy 1/3 of the people in the City...not everyone.

Raymond Brown: Councilmember Brown asked about the number of sumps (he found 4) required for the proposed development; since there must be good drainage.

Shawn Eliot: That is all of the sumps the engineer required. This was actually reviewed quite extensively. On the site there are two retention basins; and they each have sumps.

Nelson Abbott: It also appears that there is curbing that channels water to the retention basins.

Mayor Dunn: He read the proposed motions from the Planner's memo, after which Councilmember Haskell made the 1st motion:

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY RAYMOND BROWN THAT THE CITY COUNCIL APPROVES THE USE OF THE SENIOR HOUSING OVERLAY ZONE FOR THE PARK VIEW CORNER SENIOR HOUSING PROJECT AMENDING THE OFFICIAL ZONE MAP OF THE CITY OF ELK RIDGE; AND THE CITY COUNCIL FINDS THAT THE USE OF THE OVERLAY ZONE IS APPROPRIATE IN THAT IT CONFORMS TO NEIGHBORING USES AND IS AN APPROPRIATE DENSITY FOR THE SURROUNDING ROAD NETWORK

YES (4)

NO (1) SEAN ROYLANCE

Passes 4-1

Mayor Dunn read the 2nd motion, as stated on the memo from the Planner:

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO APPROVE THE PARK VIEW CORNER PRELIMINARY PLAT, AS RECOMMENDED BY THE PLANNING COMMISSION. THE CITY COUNCIL AGREES WITH THE FINDING OF THE PLANNING COMMISSION THE PROPOSED DEVELOPMENT FOLLOWS THE INTENT AND REGULATIONS OF THE SENIOR HOUSING OVERLAY ZONE AND STRIKES A BALANCE BETWEEN DEVELOPMENT AND AMENITIES. THE CITY COUNCIL AGREES WITH THE FINDING THAT THIS TYPE OF HOUSING IS NEEDED WITHIN THE CITY OF ELK RIDGE, AS SUPPORTED BY THE GENERAL PLAN WHERE IT RECOMMENDS VARIOUS HOUSING TYPES INCLUDING TWIN HOMES AND AFFORDABLE HOUSING. LASTLY, THE CITY COUNCIL AGREES WITH THE PLANNING COMMISSION'S APPROVAL OF THE ARCHITECTURAL DESIGNS FOR THE DEVELOPMENT.

YES (5)

NO (0)

Passes 5-0

FAIRWAY HEIGHTS,
PLAT C – EXTENSION
REQUEST –
PRELIMINARY
APPROVAL

(Request letter from Developers to the City council, dated 12-2-08)

"Elk Ridge City Council Members:

The Fairway Heights Plat C & D was pre-approved by you on April 9, 2008. Since that time the United States economy has entered into a recession causing an undesirable environment to develop and sell lots for the city and the developer. As developers of the Fairway Heights plat we request an extension of one year from the original final approval date resulting in a deadline of April 9, 2010.

The extension request is for the following reasons:

- 1 Current economy has decreased the interest of potential buyers
- 2 New lots sitting empty is less desirable than pristine raw land
- 3 Decreased land values have caused an unsuitable economic environment to develop land

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- 4 Empty building lots are not aesthetically pleasing to the residents, city or developer

We feel it would be in the best interest of Elk Ridge City and its residents to consider and approve this extension.

Regards, (Signatures of Developers: R.L. Yergensen, Brian Ewell, David Ewell & Rob Fitzgerald)

Comments:

Nelson Abbott: What does the Code allow with regard to the number of extensions? Would this set a precedent?

Raymond Brown: There have to be good reasons for extensions. These individuals are saying this request is due to the economy.

Sean Roylance: He wondered if any of the Councilmembers had reviewed the "extension code" lately.

Derrek Johnson: He has a portion of the code he would like to comment on (10-15A-3):

"B. Planning Commission and City Council Approval of Preliminary Plan:

1. Approval of the preliminary plan shall remain valid for a period of one year from the date of approval by the city council or until final plat approval by the city council, whichever time period is less. The approval may be extended or reaffirmed by the city council, for a period not to exceed one year, following receipt of a written request from the owner, submitted in accordance with the rules of operation of the city council and upon a finding that the conditions applicable to the project and the vicinity are substantially the same as at the time of initial approval." (Underline added due to the issue stressed by Councilmember Johnson.)

Since the approval, the HR-1 Zone has been adopted and the CE-1 Zone eliminated; this has changed the regulations dramatically; with the new code, he doubts the planned hilltop development would be allowed.

Sean Roylance: It says the extension is up to one year (Preliminary) provided conditions stay the same.

Mayor Dunn: Their application was submitted prior to the changes in the code regarding the HR-1 Zone, so they fall under the previous requirements; the question being asked now is, does an extension fall under a new requirement?

Sean Roylance: If an extension were granted, they would still be grandfathered under the old code.

Nelson Abbott: How many extensions are allowed; one and then no more? Or is it evaluated on a case-by-case basis?

Mayor Dunn: He feels evaluation would be case-by-case; as long as there is a need demonstrated.

Sean Roylance: According to the code, the extension is up to 12 months...so it is not extension after extension. The code also states that conditions must be substantially the same for an extension to be granted.

Derrek Johnson: He asked that the Planner elaborate on this.

Shawn Eliot: He thinks that all cities that he is aware of, will allow an extension up to a year; our Code says that an extension can not exceed one year...so the Council can grant an extension for up to a year. The reason this is allowed is because, if nothing has changed, why not allow them to have an extra year; but it should not go on and on. If things do change, the Council needs to ask why the changes were necessary; if

the plat goes against the changes in the code, which regulations would benefit the city most. Is the Council okay with them staying with the old code?

Raymond Brown: If these applicants had already started construction and were asking for that kind of extension, then the City gets a bit "boxed in" with the already completed construction. On this application, the extension is asking for more time on their Preliminary approval...he does not see a reason not to grant the request...he does not want to hold them to a higher standard because they have not started construction.
(*Note: They would not have started the construction phase without Final Plat Approval; this is different...it is simply a request for an extension of the initial year associated with Preliminary Approval...not construction could have occurred at this point of the subdivision approval process.)

Derrek Johnson: The City has completely changed the Code; now building on a ridgeline would not be possible.

Shawn Eliot: Another example would be Burt Cloward's extension; at that time, when he came in with a request for an extension, there had been some changes in the Code...sidewalks had been added. At that time, the Council did vote to extend the Preliminary, but with some adjustments to meet the new code. So, considering this development, is there something in the new code that the Council feels should be included that was not previously? Is the Council okay with the development the way it is? The new Code would severely limit what homes could be build on top of the hill, and it would require ½ acre lots rather than 1/3 acre lots...these are the two differences in applying the old and new codes. A point that Mr. Eliot brought out was that the Code does not allow for an extension on Final Approval; there are just 6 months after Final to get the plat recorded.

Brian Ewell: Councilmember Brown brought up a good point: the purpose of the request is that we (developers) are ready to go to Final...but the point is they don't want to scar up the hillside...we are in a recession and that it will likely get worse. We do not want to lose our "vesting" in the development.

Shawn Eliot: The Preliminary time period for this development is up in April, 2009.

Brian Ewell: The reason they are submitting a request now is that they want the time to be able to finish and get Final; they did not want to come in March and request another year because they failed to be ready. We are prepared to continue on with the Project, if that is what the Council wants; but there are lots sitting around all across the County.

Derrek Johnson: "We have gone through turmoil the last couple of weeks with code; and wanting stick by code...and I think this states that it's got to be substantially the same as what was approved...and it's substantially changed.

Mayor Dunn: There are two sides to the question: does this mean the code changed or a change in the project? There is no substantial change in the project.

City Recorder: Horizon View Farms would be an example of the project itself changing substantially.

Raymond Brown: They have until April of 2009; they could go forward and start to install roads, etc.
(*Note: Not without Final and Recording; which would be after the end of Preliminary.)

Brian Ewell: We have purchased the water shares for this project and are ready to go; "that's how committed we are".

Discussion on the Final approval/recording phase of the subdivision process.

Sean Roylance: A couple of key things for him:

- Through no fault of anyone, we have been under the wrong impression that the Council could grant extensions as long as we wanted to; and the code appears clear that we can extend up to one year...perhaps the extensions would come in increments, but would total only one year. Final: there are no extensions
- Councilmember Abbott pointed to a key phrase: "...upon a finding that the conditions applicable to the project and the vicinity are substantially the same as at the time of initial approval." Question: Do we find that the conditions applicable are "substantially the same" or that they have changed? This is a question beyond this one project; the answer would apply to all other developments. Vesting expires once the deadlines are up.

Shawn Eliot: Once the deadline in April is reached, then the choice to extend or not to extend is up to the Council, according to the code. If an extension is granted, the vesting remains in tact; if the extension is denied then the vesting would end.

Derrek Johnson: Why such an early application to extend?

Julie Haskell: They did not want to wait until the last minute.

Nelson Abbott: Otherwise, they have to start getting resources in line to obtain Final Approval; after that, October 1st is the deadline for construction, unless there is an extension on the construction phase.

Shawn Eliot: (Correction) Once Final is granted, they have 6 months to record the plat, then the time clock on the construction phase begins, until the following October...at that point they could ask for an extension until the following July....based on weather or whatever.

Brian Ewell: They are just trying to be proactive; they have every intention on doing the project this year; but lots are not selling right now...so they would like to wait a while to see how things go, then proceed from there.

Nelson Abbott: He would like to have a legal opinion from the City Attorney regarding the issue of "conditions applicable"...we have been down this path previously with the Elk Haven Development. He has learned that he is unsure of something, he would not want to make a decision. He wants to do what is right for everyone.

Mayor Dunn: Then what we are looking for is legal advice from the City Attorney regarding the changes; does it apply to the Project or the code? He will ask him (David Church) about that, as well as time constraints on deadlines for approvals.

City Recorder: There have been examples where developers have come in *after* the deadline is past, then they are in a situation where approvals granted are considered null & void...then the City is in a position to be very "forgiving" and allow them to proceed under the old regulations, or they can be required to start over with the entire process...under whatever code is applicable at that time.

This is a bit odd because this application is ahead of schedule.

Brian Ewell: He has a concern with waiting because it puts the developers out farther.

Nelson Abbott: He understands this concern; and he was prepared to place this on the next Council Meeting agenda (January) for re-consideration; that would give time to consult with the Attorney.

Derrek Johnson: Rather than poll the Council (as was suggested), he would prefer further discussion before a vote is taken.

Nelson Abbott: He wants to do what is legally required of the Council to not jeopardize the developers.

Mayor Dunn: Suggestion: Since the Council was a month out from the next Council Meeting; he suggested granting an extension of at least one month (May 9, 2009) so that no time would be lost to the developers?

After discussion, it was agreed to do as the Mayor suggested...even though this is not what the developers were seeking with their request.)

Nelson Abbott: In the end, if a full extension were granted, it would be for 11 more months, equaling a year in total.

RL Yergensen: Recently he has gotten 18 lots in South Jordan approved for Preliminary; he asked to be able to record the subdivision in phases...he wanted two lots in the first phase and remaining lots in the second phase; the City allowed him to do this. He can go forward with the two lots now, with the remaining lots as future lots...and they can remain listed as "green belt" as long as he does not put any roads in there. This is a good situation for him. Could this Council consider this option?

*(*Note: Mayor Dunn checked with the City of South Jordan and the situation was not as Mr. Yergensen had explained.)*

Shawn Eliot: Phases have been done in a PUD; and also Mr. Cloward did some kind of phasing, but he was unsure of the agreement with him...he would have to research this. The PUD is also a bit confusing because the School District has changed the 3rd phase and eliminated the prior Preliminary approval.

Perhaps a developer agreement to prevent the lots from sitting undeveloped for a long time could serve the purpose; he was not sure of this.

He does not believe the City has anything in the current code that would allow for the type of phasing described by Mr. Yergensen.

Mayor Dunn: The Council could not make a decision on Mr. Yergensen's suggestion without the Planning Commission first considering the necessary changes to the code to allow it; though it may be a good suggestion.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY RAYMOND BROWN TO EXTEND PRELIMINARY APPROVAL FOR FAIRWAY HEIGHTS, PLAT C, FOR 30 DAYS UNTIL MAY 9, 2009

VOTE: YES (5)

NO (0)

Mayor Dunn will contact David Church and he will inform the Council before the next Council Meeting (1/13).

Elk Ridge City Council Meeting – 12-9-08

2007/2008 FISCAL
YEAR AUDIT –
APPROVAL

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY RAYMOND BROWN TO APPROVE AND ACCEPT THE 2007/2008 FISCAL YEAR AUDIT FOR ELK RIDGE CITY, AS PRESENTED

VOTE: YES (5)

NO (0)

DISCUSSION –
POWERS & DUTIES OF
MUNICIPAL OFFICIALS

Julie Haskell: She has reviewed the Handbook from the Utah League of Cities and Towns regarding the Powers and Duties of Municipal Officials: She feels this is a good handbook; she read from the handbook, the Oath of Office for government officials. Councilmember Haskell also referred to Utah Code, Section 52-4-1 (Open & Public Meetings Act): She read the intent of the legislature and the "state and its political subdivisions...that they "exist to aid in the conduct of the people's business and that they are to take their actions openly and that their deliberations are to be conducted openly".

(ULCT) "It is clear from this statement of policy that all meetings of official bodies of cities and towns, with very little exception, are to be open to the public, but it is not just having the meeting open to the public...but that it is the policy of the State of Utah...the policy is that the deliberations be conducted openly. If you cannot, or will not comply with the Open Public Meetings Act, you are not cut out for public office."

She agrees with this policy and feels this section of the handbook is very effective.

Concerns:

- Often she has felt as if the Council has not fully discussed certain topics. She feels that at times, minds have been made up before the Council meets together. She does not want to "point fingers" or to cause hard feelings; these have been her observations and she feels the matter should be discussed openly.
- There are times she feels what she has to add to a conversation is not even "heard". She was not referring to having to agree on all matters, but there should be an element of respect shown toward one another on the Council. All views ought to be heard and opinions shared prior to decision making.
- She also feels that there is a lack of regard demonstrated toward the City's hired professionals. Examples: City Attorney, Financial Director, Building Inspector, Public Works Superintendent, Engineer, etc.

Why do we hire these individuals for their professional advice, if their advice is not taken into consideration? There are times in the decision-making process that we (Council) do not seem to take into account their advice:

- Attorney: (Re-zoning) The City Attorney sent quite a lengthy response offering his legal advice; it seems to have been disregarded in some of the conversations we have had.
- Finance Director: There was conversation regarding moving money from one Fund to another even though the Finance Director advises against this practice; with lengthy explanations as to why we should not.
- Building Inspector: Regarding the "building heights" issue: He came forward and admitted concern about enforcement of the proposed code...yet his opinion seemed to be under-valued.
- Public Works Superintendent: His advice on stop signs seemed to be questioned...when it was a safety issue and being able to plow the roads effectively.

Mayor Dunn asked if he might add some things to Councilmember Haskell's thought...she welcomed the input.

Mayor Dunn: The Mayor felt that Councilmember Haskell was covering some important features of leadership skills. He learned at a leadership conference that a very important part of good leadership is to "get to know and use your available resources". We have some of the best resources to rely on as a Council that the Mayor has ever seen:

- City Attorney: He has been in municipal law for about 30 years or just under. He is amazing with knowing the laws and the State Code...he is an available resource; there are other attorneys available who specialize in different parts of the law.
- Kent Haskell & Corbett Stephens: They are both Certified Water Operators; Mr. Stephens is an electrician, a certified building inspector...Kent Haskell knows the town and the various systems very well and he is a very talented backhoe driver; Mr. Stephens knows the systems of Woodland Hills as well as Elk Ridge.
- Curtis Roberts: Is a great resource for the City's finances; his background with our Audit Firm and the State Auditor's Office makes him highly qualified to offer advice.

We have really good resources; the Council needs to understand those...the use of these resources will make us more effective public officials. Questioning is good; but their advice and information is valuable and should be respected.

City Recorder: Questioning the professionals for better understanding is healthy; and they should be willing and eager to offer information for better understanding. Councilmembers have a right and an obligation to understand the issues and back-up information regarding those issues.

There have been professionals in the City's past that have not wanted to be questioned.

Raymond Brown: He has talked over various issues with Councilmembers...not how he would vote, but just gather information. During the last municipal campaign period, there was a former Councilmember who wanted to know how the candidates would vote on water rates and then referred to information incorrectly in an open meeting...this type of "straw voting" is wrong and should not be done. Care must be taken when discussing issues that a quorum is not present (3 would be a quorum); then that meeting becomes a public meeting and should have been noticed.

There are provisions for chance meetings...but care should be taken regarding the topics of discussion...

City business should not be included.

Derrek Johnson: It is a nice break to not discuss City business.

Raymond Brown: Open Meeting rules must be followed. Some Officials will use public arenas like Church to talk about various City topics...if other Councilmembers are involved, that situation would turn into a "public meeting".

Mayor Dunn: Just stay away from City business at Church.

Julie Haskell: She agrees; and she added school events to Church.

Raymond Brown: (Addressing Councilmember Haskell) He apologized to Councilmember Haskell if he had not given her "due process" and allowed her to be heard on any issues; he did not mean to...he does listen to the different members; he may not agree, but he will listen. Regardless of what is being said and whether one is in agreement, perhaps there will be something valuable to learn from other perspectives.

Sean Roylance: Comments:

- Professionals: In addition to what has been said regarding not being above making mistakes (and there have been examples of that)...there is the added fact that some people make many mistakes and some make very few...he does not know of anyone that is never going to make mistakes.
- Professional do not have the same perspective that the Councilmembers have; they work with our City in one particular area of expertise...just because they advise from a particular point of view; it is not wrong to question their line of thinking. They will give us understanding; but that advice can then be added to the Council's breadth of understanding a bigger picture...the result may not always be according to the advice rendered by a professional.
- Public Meetings: He agrees with what has been said; he wants to know what all members are thinking to gain a better understanding by which to make an informed decision. He would want the other Councilmembers to know why he (Councilmember Roylance) votes a certain way and he wants to know why the other members of the Council vote they way they do...it does not mean they have to all agree, but there should be mutual understanding.

Julie Haskell: She stated that all the Councilmembers come with opinions based on the information gathered by each...it is important to hear these differing views to be able to be informed...perhaps an opinion will be

shared that could add new information and cause a member to vote in a different way. She appreciates the added information that can shed light on any given issue. She hopes the fact that she felt these things should be discussed openly was not offensive to anyone.

Mayor Dunn: He felt this was a "refreshing" discussion; to add more, he would like to see all members (including him) have a deeper respect for each other.

Sean Roylance: (Public Meetings) He totally agrees with Councilmember Haskell's point. He often finds himself explaining to others that care should be taken in topics discussed between Councilmembers outside of the Meetings; however, he does feel that there are times when it is appropriate to talk to other Councilmembers to better understand an issue...obviously not with a quorum.

Raymond Brown: He cautioned that the same conversation; with one person at a time...still could be counted as something of a "poll vote".

Sean Roylance: He was somewhat in disagreement with Councilmember Brown; example: if he knows two people have in depth knowledge on a topic, he feels he should be able to talk with them about it. If he, on the other hand, is simply calling everyone to convince them of some opinion he has without listening...and "basically trying to conduct business...then this is different.

Raymond Brown: He still feels that care should be taken discussing in depth topics with more than one member of the Council.

Mayor Dunn: There is a word describing what is being referred to: "collusion"...that is a legal term...if anyone can find that there have been "collusionary tactics" involved...that decision can be questioned.

Mayor Dunn: One of his favorite terms is to not be "ignorant"...and he applied that to himself...the only way to overcome this is to become informed and to have an open mind. Listening helps him overcome ignorance.

Raymond Brown: A rule for him, learned through experience in the Armed Service, is: "When in doubt, don't do it". If one feels uncomfortable, don't do it. He felt this has been a good conversation.

Julie Haskell: To continue...she also has concerns about application of the codes and ordinances: Some seem to carry added weight and some do not. Councilmember Haskell feels that all codes should be enforced equally; not considering some to be of greater importance than others.

Comments:

Nelson Abbott: Perhaps the Council should determine if there are ordinances within the current code that should not be there; either due to not being enforced or that cannot be enforced. At times there can be ordinances that are still within the code that are out-dated or are no longer applicable. Ultimately, the responsibility fall upon the Mayor to enforce the code...he tends to be the "target" for all the complaints.

Mayor Dunn: An example of this would be with the current issue of "chickens": he has heard from both sides of the issue...Why has the code not been enforced (from one perspective or the other)? It is the same from both sides. He has researched the obligations of the Mayor and he does not have a choice...he is bound to enforce the code and to inform violators.

Raymond Brown: He agrees with Councilmember Haskell; and he added that the Councilmembers may have the appearance of only enforcing selective sections of the code. He feels they will have to try hard to enforce all of the codes; then it does not give the appearance of selective enforcement. It looks "selective" because the Council tends to react to the complaints ("squeaky wheel"). The only way to get rid of this perception is to enforce all of the codes.

Nelson Abbott: The other side of this is the fact that "sometimes you can't get them all"; so you do what you can.

Raymond Brown: There tends to be "prioritization" in enforcement: in the summer, weed abatement becomes a priority due to fire hazard; the dog issues tend to be a topic of many complaints.

Shawn Eliot: How many of the Councilmembers know all of the City Code? He (Shawn Eliot) doesn't. He agrees that there are laws that get out-dated (he mentioned one from Lehi); all cities do this...they react to complaints because of limited resources. He was discussing this with his employer and he (the employer) said the same thing...most cities do react on a complaint basis. When the laws are not enforced, then things become major issues. When the City calls on people to get trailers out of the street, while the City also allows construction equipment belonging to a developer (RL Yergensen) to sit on site for a long period of time...this angers people. Weeds, dogs and cats tend to be a topic of many complaints.

Raymond Brown: The Mayor cannot do it all; perhaps each of the Councilmembers should take one of the issues and head up enforcement, working with the sheriff.

Nelson Abbott: The Council lives in various parts of the City; if there is an issue in our particular neighborhoods, then perhaps we could inform neighbors of the code in a kind way first; when a law enforcement officer shows up, defenses kick in.

Sean Roylance: When the new web site is up, he feels this would be a good feature...the common code violations and educate residents in a way other than the newsletter; perhaps that education could include steps to take care of a particular violation. He feels many people will correct their own violations, once they are informed.

Raymond Brown: Many times warnings without consequences do not bring results. The Council must follow up on these violations. He told of an incident where he accompanied Bob Van Parys to check on fire hydrants; there was a trailer parked in front of a fire hydrant...Chief Waite asked the resident to move the trailer and the fellow refused. Councilmember Brown informed him of possible consequences and was a bit more forceful. There are those who do not yield to self-correction. *(He also discussed the stop sign on Elk Horn Drive; perhaps it should be left in for safety purposes.)*

Sean Roylance: "Is it right or is it wrong? If it is wrong, we should enforce it." His opinion is, in a perfect world...that is probably how it is; but given what the Council has to deal with, he does not see it quite that way.

There are codes that in place that are out-dated or inappropriate. Another thing, he feels there are codes that do not make much sense as applied to practical circumstances. Perhaps with development so slow right now, there is a chance to review some of the codes that are vague, inconsistent or out-dated. He does believe that the Mayor is elected to a position where it is expected that he will use judgment on the various topics; and he does not think there is simply "black & white" ways to look at violations...he does agree that there should be consistency..

Julie Haskell: (Request) Would it be possible to meet the City Attorney (David Church) for an hour or two for training and answering questions from the City Council?

Nelson Abbott: The Attorney is accessible to the City Council via email or telephone.

*(Mayor Dunn: He will call the City Attorney and find out what time and date would be best for him to meet.)

NON-AGENDA ITEM

Mayor Dunn: He will be at a Public Hearing with the Payson City Council, regarding an area referred to as "Haskellville"; which may be annexed into Payson City. Elk Ridge received notice of this Public Hearing. Kent and Julie Haskell have not been informed prior to notice being sent out. The notice refers to the property owners being "instrumental" in this proposal, yet Kent and Julie Haskell were unaware of it. It needs to be determined if it involves Elk Ridge. Under certain circumstances, a protest could be filed. *Mayor Dunn will contact Trisha Bishop (Payson).


CITY COUNCIL
MINUTES

A. City Council Meeting 11-11-08:

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO APPROVE THE CITY COUNCIL MINUTES OF 11-11-08, AS CORRECTED
VOTE: YES (5) NO (0)

ADJOURNMENT

At 9:20 PM, the Mayor adjourned the Meeting.


City Recorder

