

ELK RIDGE
CITY COUNCIL MEETING
July 14, 2009

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, July 14, 2009, at 7:00 PM; this was preceded by a City Council Work Session at 6:30 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 July 9, 2009.

6:00 PM –

CITY COUNCIL PLANNING COMMISSION WORK SESSION

ROLL

Mayor: Dennis Dunn; *City Council:* Raymond Brown, Nelson Abbott, Julie Haskell, Sean Roylance & Derrek Johnson; *City Planner:* Shawn Eliot; *Planning Commission Member:* Dayna Hughes, Paul Squires, Kelly Liddiard; *Public:* Russell Sly, Alvin & Cecilia Harward, Kirk & Lisa Denning, F. Lucretia Thayne, Ciera Thayne, Heidemarie Foulger, Kenneth Lutes, Tyler Denning, Blake Denning, Kristin Roylance, Chris Salisbury, Jared Peterson, Tom Henriod, Krisel Travis, Gayle Evans & Karl Shuler; and the *City Recorder:* Janice H. Davis

PROPOSED ANIMAL
CONTROL CODE

(Memo from Planner to Council, dated 7-14-09): Included in the Council Packets...

"Background

The city council asked that the planning commission look at the household pet code in regarding the amount of cats allowed in a housing unit. The planning commission discussed the current code regarding cats and recommended that the city limit the amount of cats per household to 2. A public hearing was held on Nov 13. The commission tabled any action to allow time to study the information gained from the hearing. After hearing public comment regarding the proposed chicken code at the Dec 11 meeting and reviewing public comment from the survey sent out regarding chickens and other animals, the planning commission asked staff to review the nuisance code to see if strengthening it would be a better way to control animal problems rather than picking specific numbers. At the Jan 8 meeting, the commission reviewed various other city codes regarding the issues of allowed animals, nuisance code, lot sizes and such. Since then the commission met numerous times to review the proposed code and make changes. On May 14 the commission held another public hearing on the new proposed code. Attendance at this meeting was much lower than the previous meeting (survey probably gained more interest at previous meeting). Both meetings on the animal code and the survey results had public sentiment basically split. The commission drafted the proposed code mainly based on other cities experience. A lot of input and time went into this code.

There are two parts of the code that the commission is forwarding to the city council. The Animal Control Regulations are a part of the criminal code and are basically what we have adopted with the Utah County Animal Control Code. The Land Use Animal Regulations is the main changes to the code that allow chickens and other animals with limits.

One important topic taken from the public that the planning commission wants to impress upon the council is animal control. Many people spoke about current problems with animals; mainly dogs, some pigeons. The concern was how can you propose new allowances for animals and while not enforcing the code now. The planning commission would like to suggest that better ways of handling complaints be addressed.

Planning Commission Motion

Weston Youd made a motion and Kelly Liddiard seconded to approve the new animal code with the for mentioned changes, which are setbacks clarification and the restriction of large animals within the R-1-20,000 and R-1-15,000 zones and submit this to the city council for their approval and that the city council address concerns regarding the enforcement of this code. Vote: yes – (4), Kevin Hansbrow, Kelly Liddiard, Weston Youd, Paul Squires, no – (3), Jason Bullard, Dayna Hughes, John Houck, absent – none (0)

Draft Animal Control Regulations

1. This is the Utah County code that is currently adopted by reference in our municipal code.
2. Made minor changes to add reference to Elk Ridge in the code (where needed) rather than county code.
3. Reformatted numbering and some layout.
4. Removed portions of hobby breeders and kennels permit code to development code.
5. This code is what is proposed to be used for animal nuisance issues.
6. Since this portion of code is under the criminal code and not the development code, the commission can only make recommendation to the council, but the council is required to hold the public hearing.

Draft Land Use Animal Regulations

1. This is new code placed in the development code to regulate animal uses in zones.
2. Better defines household pets and limits dogs and cats to 2 each.
3. Allows, as a conditional use, hobby animals.
4. Hobby animals include 3-6 dogs or cats, 6 chickens, 6 ducks, 2 ferrets, and 50 pigeons.
5. Total amount of household pets (dogs and cats) and hobby animals allowed is 6 (except pigeons).
6. Revamped the livestock code would allow less total animals than currently allowed.
7. Made limited livestock a conditional use in R-1-20,000 and R-1-15,000 and must have half an acre of land
8. Livestock are required to be setback from neighboring homes and have a livestock management area all based on the size and amount of animals. Only allows small and medium sized livestock in these areas.
9. Only allows livestock as a commercial use in the RR-1, HR-1, and CE-2 zones (these zones allow it now).
10. Allows for exceptions to lot size, setbacks, and numbers of livestock animals through conditional use permit.
11. Expanded kennel code to clarify.
12. Made changes to each zones permitted and conditional uses (added household pets, hobby animal, livestock animal, etc. as permitted or conditional uses. Also made minor clean ups to each zones permitted and conditional uses.
13. The current pigeon code is adjusted and removed from criminal code and placed in proposed land use code.

Council Discussion

The best way to review and pass these codes is in sections.

Household Pets

1. Is the proposed Household Pets code appropriate (clarification of animal types and limits and places Household Pets as a permitted used in all zones except the commercial zone).
2. Should cats be limited to 2 (more than half the cities in the county don't limit cats).

Hobby Animals

1. Is the proposed Hobby Animal code appropriate?
2. Some cities allow hobby permits for additional dogs and cats? Is the proposed code right for Elk Ridge?
3. Should chickens, duck and ferrets be hobby animals or household pets?
4. Should chickens, ducks, and ferrets be required to have a conditional use permit?
5. Pigeons currently require a permit; this new code requires a conditional use permit. Is this appropriate?

Livestock Animals

1. Are the proposed changes simplifying the livestock animals' code appropriate?
2. Should medium and small livestock animals be allowed in the R-1-15, and R-1-20,000 zones with a conditional use permit (done mainly to provide a way for current miniature horse and goats)?
3. Would it be better to allow miniature horses and or goats as a hobby animal and not open these zones up for other livestock animals?

Animal Control Regulations

1. Should these minor changes to the code be added to the criminal code?

Council Action

The council can accept the planning commission recommendations, make changes to the proposed code, table for further discussion and information, or deny the code for the proposed Land Use Animal Regulations.

The council can discuss the proposed Animal Control Regulations and make any changes they warrant, but a public hearing must be set and heard prior to its adoption.

Due to the complexity of this issue, no proposed motion is being made by staff.

Comments:

Raymond Brown: In reviewing the documents and proposed Code; one thing he did not see was the inclusion of the other side of the issues in the Code...or a representation of the rights being taken away from current residents in the zones. He further clarified that there should have been something in the Code requiring the concurrence of neighbors.

Shawn Eliot: The current version being presented requires a "hobby permit" as part of the conditional use permit...with a management plan.

Raymond Brown: There is a difference between notifying neighbors and allowing them the right to object to the ownership of certain animals or fowl by a neighbor...

Dayna Hughes: She explained the process of being allowed to come to a Planning Commission Hearing for the consideration of a Conditional Use Permit; and that would be the arena to voice those objections.

Raymond Brown: His point was that when he and others moved to this City and a particular zone; it was with particular expectations:

- Not to have farm animals near his property (that is now being taken away)

"Now, to keep the right I thought I had, I've got to go to the Planning Commission now and say, 'Please, let me keep my rights?'"

Mayor Dunn: He asked if the Conditional Use Permit requires the applicant to visit their neighbors.

Shawn Eliot: It requires a notice to the neighbors to come to the meeting; it doesn't require them to go and talk to them.

Raymond Brown: His point is that we "had this big divide here...50X50...I read all the letters, & some are very good and some are very bad...but they were pretty heated...I think we are going to further divide the Community. If you put 6 hobby dogs next to me; you and I are going to have a strained relationship; whereas before, we didn't. I think we are creating more problems." He thought the Code would allow for neighbors to be able to protest the ownership of chickens (or other animals) and that the applicant would have to produce a signed document that all the neighbors agree and have no objections...that option has been taken away with this proposed Code. "We take away rights from one group of people, so other people can have these new rights. But, when you move up here and you pay upwards from \$200,000 to \$2,000,000 for a home, there are certain expectations; and one of them is maybe not having a 'barn' next to me." He feels if a person needs farm animals, there are places to go that already have animal rights; but people should not be able to come into a Community and then change it to fit their needs. The proposed Code has left no avenue for those people that had expectations for their property when it was purchased.

Shawn Eliot: He felt the intent of the Planning Commission all along was...after the public hearings and survey, it was clear that ½ the people wanted the change and ½ did not. The next step was gathering information from other cities and their experiences...and he felt that is what tipped the scales toward their recommendation.

On the chicken issue; there are many cities in the County that allow them and the number is growing...Provo just passed a Code that allows for 6.

In talking to inspectors from other cities, the question has been, is 6 chickens worse than 2 dogs?

Raymond Brown: He offered his opinion that it is not always a good idea to follow the line of thinking of, "let's do what everybody else does"...he cited as an example a time in the past when Provo was dumping their sewage into Utah Lake...other cities followed their example...until the Lake has for the most part, dried and the attempt is now going on to try to reclaim it...so he is not of the opinion that "following" always brings good results.

Shawn Eliot: This was based more on talking to the inspectors to find out what problems they have had to deal with. In the last Public Hearing, Linda Cooper was present and spoke of complaints that come into the City Office...some of the problem has been that people do not want to "tell on their neighbors".

One lady called about pigeons and said that her neighbor's pigeons were roosting in her attic...it is hard to go by what the inspectors or City staff say, because we/they do not hear it all. There are dog problems all over town; but there is a certain level that people are willing to live with.

Raymond Brown: Referring to dogs: the City has Codes and Ordinances about dogs that many people do not abide by...there are some in his neighborhood that cause problems everyday. His concern is, if the City has a problem enforcing a small problem; what will the City be able to do when 6 "hobby animals" are added to those animals? There are issues with cleanliness and health, etc. He feels a bigger problem is being created.

Shawn Eliot: He agrees that dogs are a problem, but he does not feel it is a huge problem.

One of the things that came out of the public hearings was that the City needs to do better enforcing the Code.

Raymond Brown: He agreed with that statement; sometimes the lack of enforcement is due to finances, at times it is due to there being so many Codes to enforce. This new Code creates even more laws to try to enforce...example: Many years ago this issue of animals came up and it went to a new Council...one of the issues (application for change) was denied and then was ignored. Where was the enforcement? The City tried at one point, but nothing happened. He feels there is an attitude that people can "do what they want" in Elk Ridge, because they can "get away with it".

Shawn Eliot: The City Attorney advised that the City can go after top 15% of the offenders...the "bad" ones and make an example of those...like with the issue of "cats"...he feels the cat problem has centered on feral cats. In their research on cats, more than 1/2 of the cities do not even try to limit the number of cats.

Raymond Brown: The City does not seem to be able to enforce the landscaping laws; the point being that the City's enforcement plate" is full...now we create more...he is not sure the City can afford to hire an "enforcement officer".

Mr. Eliot: Since he has been working for the City as the Planner, he has received about 5 complaints that have gotten to him. HE asked the City Recorder if the City staff keeps a log of the calls that come in. (*She responded that the Police reports indicate that the majority of their calls are for animal control.*)

Mayor Dunn: He reminded those present that they were in a Work Session; so he would not necessarily recognize the public, if they raise their hands to speak.

Paul Squires (Planning Commission): He spoke regarding the enforcement of the landscaping ordinances; if need be, he said he would act as the "enforcement officer".

Raymond Brown: He suggested to Mr. Squires that he start with one of the Planning Commission, who does not have his yard in; his time period expired last December. He does not feel it is appropriate that a member can sit on the Commission or the Council and violate the Codes.

Mr. Squires: These Codes can be enforced and with considerable fines, if necessary...he thinks they started off with a \$700 fine...with \$100/day thereafter. These laws can be enforced. He said he is for property rights, until a situation infringes on the property rights of others and results in "dragging down" their property values..."then it is time to do something about it".

Raymond Brown: A point to remember: "we have rights, but we also have responsibilities...sometimes we scream and yell about our rights; but we don't say a whole lot about what our responsibilities are". Example: if a person has a dog that barks constantly; he is legal in having the dog...the responsibility is to "shut the dog up".

Mr. Squires: That would fall under the Nuisance Code.

Shawn Eliot: (Explanation of proposed Code...Continued) One of the problems with the City's current Code is that the County Code was adopted, which actually allows for hobby breeding. If someone goes online to find out what the City's Code says, they would not be able to locate it; because the code simply refers to the County Code that is "kept on file at the City Office". The goal has been to get the regulation actually written within the City's Code so that,

1. Staff can get to and use the Code
2. Citizens can get to and use it

I. Enforcement:

The discussion that had been taking place regarding enforcement has been what is needed...how will the Code be enforced and by whom?

II. Land Use Regulations:

This is broken into three parts:

- Household Pets
- Hobby Animals
- Livestock

If any part of this Code is passed, the Council must decide what animals are designated as "hobby" animals and which are "household pets"?

Dayna Hughes: If the animals are already here, make them legal; if they are a nuisance, let the Nuisance regulations take care of the situation.

Kelly Liddiard: If there are neighbors complaining, then the City could use the nuisance Code

Nelson Abbott: The Nuisance or County Code: Violations are considered "criminal"; so there are more "teeth" in there enforcement. Question: Is it possible to adopt most of the County Code, but not all of it?

Mr. Eliot: Yes, the City falls under the Health Dept. anyway.

Nelson Abbott: There is a certain amount of overlapping between the City Hobby Animal Code and the County Code; he felt the City Code was more refined...some neighbor with a problem could not simply complain and cause problems when no problem exists...an issue could not be made without "probable cause".

Mr. Eliot: Under the Hobby Animal Code, it is proposed that there be an annual inspection to see if the Code is being adhered to.

Mayor Dunn: That is one of the areas he has concerns with:

- Code Enforcement Officer: How would the City pay for this?
- Annual Inspections: How to pay for this
- "Wild Animals" (Question):

He had an overall concern that <things got a little more complicated".

Chicken Coops (Feeding pens): The areas must be cleaned and maintained regularly to avoid odor...this will take either "self-policing" or a complaint by a neighbor (Neighbors do not really like to do that) and it will take an enforcement officer to check out things...again, how to pay for this service?

"We are actually tightening something up that is going to cost more...in time, money and manpower. The City has already eliminated three positions this year to try to save money."

Dayna Hughes: She reviewed the Conditional use process with fees attached; they felt that would generate added revenue to help in covering the added costs associated with enforcement.

Mr. Eliot: He reviewed the fees: Conditional use fee (\$50 for animals)

Mayor Dunn: (Seeking to clarify) The \$50 Conditional Use fee would cover the Hearing at the Commission level and the work the Planner puts into it; then is there an annual fee?

Mr. Eliot: \$15/year had been suggested...

Dayna Hughes: It would be some sort of fees to cover the costs.

Mayor Dunn: He suggested that a fee schedule for the finances attached to these violations.

Mr. Eliot: The penalties tend to classify the types of violations, like a Class B Misdemeanor...but amount of the fine is not indicated...it just says "up to \$1,000". There should be a fee schedule for the various offenses.

The frustrating part of trying to work with the City's Code is dealing with confusing or competing issues. With what is being proposed, there are steps in how the process work, with the timing of fees and how they are paid. Tracking the complaints that come in is part of creating a file. There have been examples where complaints that come in; the City send someone out to "fix" the problem and a year later they are back where they started...so a file would be good to have on each case. It all really comes down to the owners; people need to be "good" owners and be responsible for their pets. The inspectors from other cities that he has spoken to say that usually, if someone has taken the time to go out an point out that an owner is out of compliance, that typically the will remedy the situation...but not always.

Mayor Dunn: He agreed that owners need to be responsible and Councilmember Brown said that when he mentioned that. The Mayor recalled that there was a "blatant" response to an issue (violation) by an owner...and when the Mayor attempted to address the response in a letter...the next thing he knew was that the Planning Commission was looking at "livestock animals" within this same issue. He has a problem with livestock animals in residential zones, where they have not been before. One of the reasons it still bothers him is that this issue was visited thoroughly about 4 years ago...and a decision was made then...now it is back. He asked the Planning Commission if the City is "opening up 'Pandora's box' with all livestock animals in this issue".

Mr. Eliot: He feels that it is there to try to address the "pony issue".

Raymond Brown: He reminded the Planner that this is the "2nd bite of the apple" (meaning that the miniature horse issue has come up in the past, was voted down and the owner kept the animal on his property...when asked to remove it, has not...now it is before the Council once again). He said he is "tired of this Community (in a general term) asking for forgiveness vs. permission...it's wrong". He went on to say that these same people will pick out which laws they intend to abide by and he feels this is "rude and irresponsible". He finds the regulations and set-backs complicated and difficult to enforce.

Mr. Eliot: Raising more dogs or cats...it is almost like a kennel...there are different definitions: some are "commercial" and some would be considered "hobby". Where the animals are being raised outside, that is where the set-backs come into it. O

On the livestock issue; he feels there are two ways to view this:

1. We are allowing for small to mediums sized animals with a conditional use permit; or
 2. We would view it as a hobby permit and only allow certain animals under the hobby permit
- Both of the perspectives were discussed.

Kelly Liddiard: He feels the maintenance of those animals is built into the Code; if there are complaints, those can be dealt with within the Code. He wanted to know whose fault it is if a Code is not enforced.

Mayor Dunn: A letter was written to the owner of the pony, saying he was in violation and asking him to remove his horse to an area where rights would allow him to keep a horse...not on his property. The owner has been aware that he has been breaking the law for 4 years..."he knows it for a fact". The Mayor did not feel it appropriate to share with the group gathered at the meeting that night; due to how "unsettling" it was. The Mayor said that when he tried to enforce the ordinance, which is his duty, his efforts were ignored. This owner even contacted the City Attorney and was told the same thing the Mayor had told him; without the Mayor even contacting the Attorney beforehand. When the Mayor did call the Attorney, he told the Mayor that the individual had already called him. After that, nothing happened to remedy the situation on the owner's part.

(In answer to "whose fault it is"...) The Mayor said that then the Planning Commission was recommending that livestock be part of the issue. The Mayor had not requested that the Planning Commission look at this; because the Council had already looked at it four years earlier.

Mr. Liddiard: The Planning Commission realized, once they got into the Code, that they could not just look at certain parts of the Code, without addressing other "incomplete" issues within the Elk Ridge Code. They felt the Code needed to be broader.

Mayor Dunn: (Referring to "incomplete") One of the things the Mayor has concern about...when the issue came up about a year ago, he called the City Attorney and said that the City had some people that wanted to change the zoning ordinances. He explained to the Attorney that the City does allow animal rights (contrary to the chart that was included in the Council packets referring to a comparison of the rights allowed by various cities, including Elk Ridge) and that the City's animal rights zones are residential (RR-1 & R & L – 1 20,000 Zones).

Mr. Eliot: HE clarified that the chart refers to normal residential zones like R-1-15,000 & R-1-20,000). He was not referring to "Livestock Zones".

Mayor Dunn: (Continuing) When he talked to the Attorney about this issue, he said that he has been through this many times...and his recommendation was to protect the zones the way they had been written...to leave residential zones intact and to leave animal zones in tact; and to be as "fierce" with both sides as one can be. So if someone moves into an animal zone and doesn't like the smell or the animals next to him/her and a change to dis-allow animals in that animal right zone is proposed...he advised not to let that happen. He said to fight fiercely to protect the rights that each zone has. This is the position he, as Mayor, has taken. He followed his counsel.

Nelson Abbott: That has not happened consistently. There have been examples when animal rights were taken away from zoning that had them (Oak Ridge Lane area).

Dayna Hughes: She said that it seems like the fear is that this whole issue comes down to the worry that the number of those that are non-compliant will multiply...that is why there has been the attempt to put together a reasonable ordinance that is a compromise between these two opposing views. The intent is to bring some of these people into compliance and perhaps create a more unified Community. People do not like to complain about their neighbors...they can make complaints anonymously; they do not have to be in writing...if there is a call, then "things happen". It seems like it keeps coming back to the one "bad experience".

Raymond Brown: He said that he agreed with what she said, except he does not believe it comes down to this one issue. He feels that the fact that rights would be taken away from those current residents in residential zones, so that a few can have these "new rights"...without a person having no ability for input. Example: If someone is going to have chickens next door, that person should be able to approve that action. The applicant should have to obtain written agreements from all of his/her neighbors to obtain a permit.

Nelson Abbott: He pointed out that when his neighbors built a house, he did not sign-off on the size house he could have built. The Code is there to protect us and within that Code one can build a certain size house on a certain size lot...the Code puts the parameters in place; but the neighbors do not sign-off on the building permit. He does not know if that should be required in these cases either.

Raymond Brown: If someone's rights are being taken away, he would like the chance for a person to say he/she objects.

Nelson Abbott: That is where the public hearings at the Planning Commission level come in.

Raymond Brown: That simply allows someone to come to the Planning Commission...it doesn't mean anything will happen. People have expectations when they move into an area; and those expectations in a residential zone do not included livestock.

Dayna Hughes: She felt that the Planning Commission listens to information that is pertinent to the issues at hand.

Mayor Dunn: He feels one of the problems of making "anonymous" complaints is that the person complaining is not going to stand up in a public meeting and make a complaint, when by phone, that person's name is not attached to the complaint. He spoke to the neighbors of one of the chicken owners and one of the contiguous neighbors said that they do like them (chickens) and that they don't want them and never had...yet the chicken claims that all their neighbors are oak with the chickens. The Mayor informed that owner that was not the case and that the neighbor came to the Mayor to express this objection...this person did not come to the Planner, or to the chicken owner...but came to the Mayor at his office. So this owner's perception was not entirely correct; there is a good neighbor that does not want to offend the owner, who came to the Mayor.

Dayna Hughes: Those objections can be made known in public hearings.

Raymond Brown: He had a lady call him saying that there was a violation with one of her neighbors; Councilmember Brown told her to write down the complaint and action would be taken. The person refused to do so since they "went to the same church". Due to the close associations, people will seldom make the complaint.

Kelly Liddiard: If the people are unwilling to make a complaint; does that mean the ordinance should just be "thrown out"?

Raymond Brown: No, but the point is why are the ordinances not being enforced? "Because we don't have the people that complain about it".

Kelly Liddiard: Why has it taken four years? It was known that "this guy" (referring to Mike Brockbank and his pony) was out of compliance; then all of a sudden, there has been no issue taken with it?

Raymond Brown: There has been. Councilmember Brown explained the measures that had been taken to abate the problem of being in non-compliance...letters had been written, he was told to move the horse...and now he is told to "hold off" while a pending change to the Code is being considered...this allows him to "get another shot".

Alvin Harward (Public: former Councilmember, former Planning Commission Member) *Comment on "grandfathering"*: If a person breaks the law, you can't grandfather an illegal use in. Grandfathering comes in when a use is legal and then if that use is taken away, if the use remains on a particular piece of land...unbroken, then that use is "grandfathered".

Mayor Dunn: To simplify it even more: you can't grandfather illegal actions.

Kelly Liddiard: He agreed. But his point was: if the one in violation of the Code had not responded to letters or warnings, then the case should be filed with the courts through an "administrative citation"; and that should have been done.

Mayor Dunn: Agreed and added that a year ago, his counsel was for those in violation with chickens was to get rid of the chickens and to leave the Code the way it is...and here we are a year later debating the same issue. His position is still to leave the Code the way it is and enforce it. He looks at some of the additional Code being proposed and he has concerns:

Example (quoting from the proposed code): "The owner of a dog or cat (hobby animal) may keep one litter in tact until the puppies or kittens reach five months of age"...who is going to go ask that owner how old the cats or dogs are? (Continuing) "One animal from the litter may be retained until it reaches 12 months of age." How will this be enforced? (continuing) "At no time may the holder of the permit retain more than 7 dogs or cats over 5 months of age." Are we going to go count the dogs and cats?

Kelly Liddiard: This is common in other cities, though.

Mayor Dunn: His concern when he looks at this proposed Code is again...how does the City enforce this? Where do we get the money to do this? This is more complicated than simply leaving the animal rights in the animal right zones.

Dayna Hughes: There are enforcement issues on both sides. The things being referred to are going on currently and no one is enforcing the Code. So will codifying certain things make enforcement more difficult? There should be enforcement going on now.

Mayor Dunn: He felt that his words were being twisted into another meaning. He is trying to keep it simple. A year ago he was trying to keep it simple and enforce the existing Code...and a year later he still desires to enforce the Code that is on the books and to look at the realistic ability the City has to implement enforcement procedures. The proposed Code is more complicated and will take more enforcement and more inspections...and it includes more animals.

Nelson Abbott: HE feels that it will only take more enforcement if "we take it upon ourselves to but into everybody's life". If the Code is used when a problem in the form of a nuisance comes up, then there is something in place to dictate specific enforcement criteria...this will build a more concrete case against those in violation. The County's Code is fairly well-written...with a few exceptions. Whether the Code is adopted or not, he does not think that any of the current problems are going to go away. There will always be problems with dogs and cats, even without chickens...and with wild animals. He is convinced that many of the complaints that come in are regarding wild animals and fowl and are being blamed on current owners, who are taking care of their animals. There are feral animals in this Community (dogs, cats, pigeons & doves, etc.) To say that residents cannot have animals because there are problems with feral animals, he feels is narrow-minded.

Sean Roylance: (Comment)

- He agrees with the advice the Attorney gave to take the Code as it is and protect it the best that we can...through enforcement and also that you don't change it "willy-nilly".

- That being said...there is a reason why our laws are set up to allow the Codes to change. The Constitution and on down to City laws...have components in them that allow for change.

Example: When he first moved to Elk Ridge with his family, their road (High Sierra) was classified as a minor road; this was a big issue in moving to that area...safety was foremost in their minds. When they first moved in, there was little traffic. The circulation plan for the City said that High Sierra was a minor class road...6 months after they moved in, a development that could include 500 new homes off of this same road and the classification needed to change; regardless of his own assumptions when he moved in.

- The nature of a growing Community and the nature of our government is

1. there will be change in the community; &
2. we need to allow for change when it makes sense

The real question for him is: is this a change that makes sense? Is it needed?

When one looks around the Country, there are cities like New York and Chicago that are allowing for chickens. Probably within a year, most any city in Utah County will allow for chickens. He asks why that is? Why the change? He thinks it comes down to a couple of things:

- ❖ As population grows, tastes and hobbies change and diversify; the more people you get, the greater the variety of tastes. We, as residents, need to respect that our neighbors are not all like us. So how do you say, chickens "stack up to other things that are allowed"...like dogs for example? To be honest, I would much rather have a chicken next door than a dog. A dog is going to bark...a dog is going to come damage my house and poop on my lawn...and eventually, could offer up a physical threat to me or my family. A chicken isn't going to cause any of those problems." It could create a nuisance situation, bur compared to a dog, it he feels it would be far less of a problem. Perhaps a higher standard than a dog should be used...going back to guarding the Code.
- ❖ Looking at the current economy...in an inflationary period, the most valuable thing you can have are food products and the ability to produce your own food. So if someone can have chickens, they can produce eggs and meat at a time when it could become difficult to afford these items. A dog or cat will not provide much of those advantages.

In the end, he feels it is at least weighing the options. He is not saying it is "right" or wrong" to have a position on either side of the issues; but the bottom line is that we can make changes when they make sense. He feels we should be careful in saying that "it was this way before...and it can't every change". He also feels we need to be careful not to assume one person's likes should be shared with everyone. He made the comparison to development with the attitude of preferring no further growth after a person moves into their home. He believes

that ways should be sought to allow people to exercise their freedoms and not restrict freedoms unnecessarily, unless it would cause some serious nuisance...but then enforcement can fall back on the nuisance laws. There are people that moved here with certain expectations; perhaps that expectation should be upheld...at the same time, he does not feel other people should be dismissed that want to exercise their freedoms...in the Country we live in.

Raymond Brown: He wanted to add another perspective on the "food" aspect of Councilmember Roylances's comments: He figured out, through experience, that people can purchase food (vegetables, eggs, meat, etc) a lot cheaper than one can produce it. When the need becomes apparent, then this type of reasoning makes sense; but not under current conditions.

Sean Roylance: He agreed that it is cheaper currently; but with inflation and the problems that accompany that situation, then it can go another direction quickly...as it has in other nations.

Mayor Dunn: Even tough public comment is not part of a Work Session, the public will be allowed to voice comments during the regular session. The Mayor reviewed for those people coming into the meeting late. He asked the Council for any further comments regarding the proposed Code changes. He also pointed out that it is the five Councilmembers that have the vote...he, as Mayor, does not. He expresses his personal opinion, but he cannot take a vote on it.

Comments:

Julie Haskell: She feels the Code should be left as it is and enforce it. She feels it is reasonable to be able to expect zoning to protect the expectation of not having barnyard animals in that residential zone. She also feels it is reasonable if one has property that has animal rights attached to be able to continue in that use. This changing back and forth is misleading.

Shawn Eliot: Typically during the Public Forum portion of a meeting, the public is allowed to address the Council on a topic that is *not* on the agenda for that meeting...he recommended holding public comment until the agenda item comes up regarding animal control, since there are other agenda items to be addressed prior to that one.

The Code that is written, the Land Use portion...was re-written for other reasons other than chickens. There were many parts of the current Code that were unclear and confusing. He wanted to go through those points and ask if they make sense...point by point. There are issues with "household pets" and "livestock" that were very hard to understand and hard to find. The Code was written to not only add things but to clarify as well.

Mayor Dunn: There was another issue he meant to address: Section 10-18-10 "Wild Animals": "The keeping of any wild animal which existed prior to the effective date of this ordinance may be continued; except that if it is discontinued for six months or more, it shall then be deemed abandoned and any future keeping of wild animals shall be in conformity with this ordinance." The Mayor understands that wild animals are not legal. His concern is that he got the impression that it would be legal to own them.

Kelly Liddiard: He agreed that they are illegal; there must be a typo because it is not legal to keep wild animals.

Mayor Dunn: The proposed code is non-specific regarding the type of wild animal; it just says "wild animal".

Shawn Eliot: They would be legal only if they were. All that says is if there were a case where it was allowed, then this is how it would be dealt with.

Paul Squires: There are occasions, in his experience in working with Wild Life Services, where one could have an animal; particularly a bird (like a raptor) that is injured in some way...a permit can be obtained to care for this animal.

Kelly Liddiard: He thinks that that part of the code it there to allow permits for animals like skunks or that kind of animal; but most animals are illegal. He recalls that the code should not allow wild animals.

Shawn Eliot: It is simply saying that if you had an animal prior to this code, you are grandfathered.

Mayor Dunn: (Referring to another section) 10-18-6-3 "Livestock Animals not listed": "Only one male goat or rooster can be allowed by the Planning Commission"...he understood that roosters are not to be allowed.

Mr. Eliot: That is under "livestock"...that was put in there because the "livestock ordinance" was looking at livestock parts of town, which allow roosters now.

Mayor Dunn: Do we need to put in further definitions to declare the areas that allow roosters?

Mr. Eliot: Yes, we could. Adding the livestock designation in the conditional use was a way to allow for the miniature horse...and then it was indicated that only small or medium sized animals would be allowed.

Raymond Brown: (Clarification) With small horses...a person could have 1,500 sq. ft. and be allowed an ostrich, emu, sheep, donkey, llama or a female goat?

Mr. Eliot: The "management area" is 1,500 sq. ft. per animal...you would need ½ acre 1st; then an area would be set aside that is 1,500 sq. ft. for the management area.

Nelson Abbott: The set-backs from neighbors and property lines, etc. would have to be met.

Councilmember Abbott had requested that Item 4-A be placed on the Agenda ("Enforcement of Code – Roosters & Goats"). He wants to make sure that those that choose not to abide by the law, regardless of the vote on the proposed code, be held to the law. He feels that enforcement should be stringent, according to the law.

The Mayor asked if the Council and the Planning Commission were all okay with the Work Session discussion...there were a few added comments: Dayna Hughes asked that the code not be sent back to the Planning Commission...she feels they have done their very best to recommend what they feel is a reasonable code and it is what it is...to be accepted, denied or changed by the Council.

The Mayor added his great appreciation of the detailed work that has gone into the effort of providing information and recommended code to the Council. He knows how difficult their job is and can be.

Raymond Brown: (Former Planning Commission Chairman) He knows how hard it is to face certain topics...the animal code has been reviewed in the past.

Paul Squires: (Miniature Horse issue) He did not know the background of the horse owner when the information was presented to the Planning Commission. The benefits were presented in a thorough manner and there was much discussion regarding the issue.
Raymond Brown: The same things were discussed the first time the information was presented. There was an appeal made listing the benefits, from the owner's perspective.

**ELK RIDGE
CITY COUNCIL MEETING
July 14, 2009**

**TIME & PLACE
OF MEETING**

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, July 14, 2009, at 7:00 PM; this was preceded by a City Council Work Session at 6:30 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 July 9, 2009.

7:15 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis Dunn; *City Council*: Raymond Brown, Nelson Abbott, Julie Haskell, Sean Roylance & Derrek Johnson; *City Planner*: Shawn Eliot; *Planning Commission Member*: Dayna Hughes, Paul Squires, Kelly Liddiard; *Public*: Russell Sly, Alvin & Cecilia Harward, Kirk & Lisa Denning, F. Lucretia Thayne, Ciera Thayne, Heidemarie Foulger, Kenneth Lutes, Tyler Denning, Blake Denning, Kristin Roylance, Chris Salisbury, Jared Peterson, Tom Henriod, Krisel Travis, Gayle Evans & Karl Shuler; and the *City Recorder*: Janice H. Davis

**OPENING REMARKS
& PLEDGE OF
ALLEGIANCE**

An invocation was offered by Nelson Abbott and Scout Blake Denning also 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 JULIE HASKELL TO APPROVE THE AGENDA TIME; ADJUSTING THE START TIME TO 7:20 PM
VOTE: YES (5) NO (0)

PUBLIC FORUM

Russell Sly (Former Councilmember): *(Read memo from Mr. Sly to Council, dates 7-14-09, re: Flooding)*
 "There is a recurring problem with flood waters in certain areas of Elk Ridge. This letter is to address the problem at Oak Ridge Drive where damage has occurred on several occasions.

The drainage of water collects from Cortez Dr. with its connecting streets and includes Ama Fille Ln. and then proceeds down the upper part of Oak Ridge Dr. to a point where the curb & gutter ends. This is a large collection area and produces a significant flow of water during a heavy rainstorm.

The City has installed new sumps in Oak Ridge Dr. to try to alleviate this problem and these sumps can handle a moderate amount of water. IF the flow is fast enough, the water travels over the grates and the sumps do not collect all the water which then follows the path of least resistance and then flows between my property and McGee's property. Each time this occurs there is a new gully washed between us. The water causes damage to McGee's front yard and enters his garage. The major portion flows down our fence line washing a gully and impacts the neighbors below us. Mrs. Foulger has had significant damage on more than one occasion. The latest storm created flooding and fence damage. Her neighbors brought in a backhoe to dig a rather large ditch across the bottom of my property and also McGee's. This ditch now empties onto a vacant lot below me. This is an unsatisfactory arrangement.

Marsha Wilson also experiences flood damage during these rainstorms and I believe the Erickson's do too.

The water problem exists because the curb and gutter ends at my property and does not continue along Oak Ridge Drive again until three lots are skipped. When these homes were built (presently McGee, Wilson and Erickson) the curb and gutter were not required and so was not installed. Now the question becomes what is to be done and who is going to pay for it? I leave it to the City Council to find the remedy and implement action required.

I have had to repair the damage to my property several times and I see no hope for a long term solution other than the installation of the aforementioned curb and gutter.

Respectfully, Russell Sly (46 W. Oak Ridge Drive)"

(Also attached to the letter, were photos of some of the affected areas mentioned in the letter.)

Raymond Brown: (Question to Mr. Sly) "When you were on the City Council, the Council refused to put in curb & gutter..."

Mr. Sly: "No money...they agreed we needed it, but couldn't come up with the money."

Raymond Brown: "so, when the developers were developing, you didn't make them put in curb & gutter?"

Mr. Sly: "At the time those three homes were built, it was not required."

Raymond Brown: "During your administration, when they were building new homes, you guys did not require curb & gutter...you refused to put it in..."

Mr. Sly: "That is not true; we did require curb & gutter in new homes from that point on."

Raymond Brown: "No, Prestwich said that no curb & gutter would be put in, in Elk Ridge...and that was four years of no curb & gutter."

Mr. Sly: "That is not my understanding...to the best of his knowledge, it went in."

Raymond Brown: "He was on the Council with you..." Councilmember Brown went to Mr. Prestwich and asked him why we are not putting in curb & gutter...no curb & gutter went in. It was supposed to go in, but it did not. The City is putting it in Loafer Canyon in house.

Dayna Hughes: Some of it that went in was paid for by the residents (as on Fremont Way).

Mr. Sly: On existing homes, the cost was assessed to the owner; but on new development...

Raymond Brown: This "newly developed property" is impacting some of the other homes. He went to look at Mrs. Wilson's property...the flooding did not go into her house; it did go across her yard. Three sumps were put in...1 1/2 in front of Mr. Sly's lot; the other 1 1/2 on the other side of the street...and then another one on Amerigo lane. There should be one on Hudson Lane. Those sumps are about \$13,000 each.

Mr. Sly: Another problem that is associated with this...whether or not curb & Gutter is installed for those 3 properties, there is a significant amount of water that continues down Oak Ridge Drive that has to be dealt with at the end. Right now, the water empties into a vacant lot, which is illegal.

Raymond Brown: Another thing to remember...a property owner is responsible for the water coming off his/her own property. It is unfortunate that there are acts of nature that the City cannot control. When that amount of rain is involved, the sumps installed will take somewhere around 3,000-5,000 gal. per minute...there was more than that coming down during this last big storm. Curb & gutter would help...previous administration decided not to install it in certain areas and that is impacting other areas of the City.

Mr. Sly: His house does have curb & gutter...that is where it ends.

Mrs. Foulger: It goes through her yard...she had photos to present to the Council showing damage.

- 1st she wanted to thank the Council for the sumps and for the assistance

- At times like these, with emotions running high, is a time when patience is required

She is an avid reader of Mayor Dunn's articles and appreciates the wisdom he shares. She does disagree with the last article when he mentioned that a major flood could be expected every 25 or 50 years. Since she has moved in, three years ago...she has had two floods (one in 2006 and this last one). In 2006, her new landscaping was destroyed. She and her neighbor installed railroad ties and made an effort to prevent this happening again. The last storm was severe and frightening. "Waves" of water were cascading down her stairs and within minutes, were filling up her back yard. Her neighbors assisted her to try to prevent the water from going into her finished basement...they managed to do this; however there was a great deal of mud on the lawn that once again destroyed much of her landscaping. Her landscaping insurance will not cover this damage. She was thankful for her neighbors and their assistance. She cannot afford to continue to replace expensive landscaping every two years. The right thing at this time is that something needs to be done.

Jared Peterson: He is a neighbor of Mrs. Foulger...living below her. He has done a lot of construction and he has some points:

- There is a storm drain containment problem (passed around photos)...and several people are impacted.

- When pavement is installed, water does not dissipate into the soil...the water will run on the impervious material (pavement).

- Typically within the design of a development, is the ability to handle a 25 year storm.

(Definition of 25 year storm) This is not a storm that will happen every 25 years...there is a 4% probability that it will happen during that one year and over an average, it should happen every 25 years...but you can have this type of storm several years in a row. He does not feel that what happened to Mrs. Foulger was a 25 year storm.

- Containment of this type of storm should be planned into the design of any development.

- a 100 year storm should be planned for...in the development plan application, item #19 calls for both the 25 year and 100 year plans.

- The General Plan calls for storm drainage and says that the City should plan for development to include storm drainage controls (he read from the General Plan).

He does not know if the City required a plan when the development including the problem area was approved.

The current arrangement is not a good plan to continue with the little control provided.

A problem exists and it needs to be fixed. This was not a case where water can be controlled by individual property owners. There are engineers that can assist in a remedy.

Mayor Dunn: These are all good points. The descriptions have been very accurate. The sump design that was installed in that area actually did take into consideration the 100 year storm calculations. Unfortunately other projects may be substandard and they are different...so problems exist upstream. The brand new sumps are being overwhelmed by the sub-standard sumps upstream. We end up with calculations being over-taxed.

Mrs. Foulger: What can be done?

Mayor Dunn: There are a couple of things:

- Install curb & gutter in front of the three homes without it (This does not fix *the* problem; it would fix the problem for the homes represented tonight.

- There would have to be additional calculations for down-stream and new sumps.

- Another option would be to go up-stream and replace the inadequate sumps

What is happening now is that these people are getting a type of "flash flood" that is a result of nearly 1 1/2" of water coming down in about an hour...that would overwhelm even some of the best systems.

The Mayor has maps of the homes in town with water migration; there were about 12 spots in the Community from up in the south end of Canyon View Drive down to 11200 South (all across town).

Mrs. Foulger: She wanted to know how soon the remedies could be done. (Mayor: *As soon as we get money.*)

Raymond Brown: The City has been addressing these issues for some time. The new sump design came about 5 years ago. The placement of these new sumps was carefully planned. All these remedies require money and there is a misconception that the City has money to do all these things...this is a mistaken impression. The City does not have it; currently, the City is battling a short-fall in the General Fund...we have eliminated 3 positions, we have cut expenses...

Mrs. Foulger: There is money for capital improvements?

Mayor Dunn: There is a Storm Drain Fund and currently there is not much, since we used most of what we had with the installation of the three sumps a couple of years ago. Thank goodness those sumps were there, or the damage would have been worse.

There are definite steps to assist in the problem:

- Sand-bags
- Installing curb & gutter
- Then they get more extensive and expensive...with the installation of additional sumps (both upstream and downstream)
- In an existing part of town, it does become the Council's obligation to figure out how to fix the problem. Usually, those sumps are developer-driven, and they install them.
- The City needs to retro-fit those issues...to be honest, it is going to take some thinking and one of the topics to consider is the possibility of SID's (Special Improvement Districts). This would be assessed out to existing home owners. It happens in all communities.

(Unknown comment from a resident on Hillside Drive.)

Mrs. Foulger: She suggested action as soon as possible...the time for debate is over. She is becoming overwhelmed when she sees clouds in the sky. There is no defense.

Mayor Dunn: Actually, the debate has just begun...and that includes where to find the funds to remedy situation all over town. There is no disagreement that there is a problem; but we are aware of several problems. The biggest struggle is where to find the money

Mrs. Foulger: She appeals to the honorable handling of these issues and at least have the curb & gutter installed now...to prevent any further major damage. She is sure that the Council would not like to see residents leave the City due to major issues not being addressed.

(Question: Identity unknown): Are there sandbags available in the City?

Mayor Dunn: Not at this time. We had some, but they were stored in the open yard in the Canyon and were rotted out. We need to get some more...he directed Kent Haskell to get about 200 more. This would be a great Eagle Project. They do rot; they have to be stored out of the sunlight and in a place where weather won't get to them...they are not stored with the sand in them. The City has the sand. This would simply divert the run-off.

**This can be on a future agenda to discuss possible solutions.*

Sean Roylance: (Question) What would the cost be to install curb & gutter...per linear foot?

Raymond Brown: About \$5,000 for about 125'...and that is last year's figures.

(So, it would be \$10,000 to \$15,000 for three lots...; and that is "in-house" with the Mayor and Councilmember Brown on the machine.)

Sean Roylance: The next question: If all the problem spots are considered, how many linear feet? And what would that overall cost be?

Raymond Brown: He spoke to Noel Hyatt to try to get a good price (discounted) for a number of homes installing curb & gutter...and he is working on that estimate now...the information is not available from him yet. He needs to see if he can get the property owners to pay for their own curb & gutter.

Dayna Hughes: 10 years ago, it cost them \$600 to install curb & gutter in front of their lot.

**The Mayor advised a discussion on this with maps available (prepared by the Mayor) for the next meeting. He suggested creating a priority list and consulting the City Engineer.*

Raymond Brown: When he has talked to many of the citizens, they are very willing to pay for the curb & gutter to be installed...he has not contacted all to the affected citizens, but the ones he has spoken to are willing to pay for it. This is a good sign.

Mayor Dunn: The City will contact those interested regarding future discussions regarding storm drainage.

EAGLE PROJECT

Blake Denning:

He came forward to address the Council. His project has taken him to the Bureau of Reclamation to donate three large picnic tables that need to be refurbished, for the park area. He needs guidance as to where to locate them.

Is the City willing to donate part of the money for materials: bark, stain and water sealant for the tables?

Mayor Dunn: Read from the letter from Scout Denning: "While the teams are prepping the tables, there will be another team prepping the areas where the tables will be placed. This will include making a 6' X 14' area to lay the bark down where the tables will be placed. He mentions donated time and materials...he goes into safety preparations for those involved in the project. He thinks he is looking for locations for the tables.

Blake Denning: He was thinking out by the baseball field and the same on the other side of the park. The tables are moveable for City events.

Paul Squires: These tables were fabricated by the Conservation Corps. They are 8 to 10' long.

Sean Roylance: He asked for an estimate of the costs. Has the Scout thought about ways to raise the money?

Blake Denning: He figures about \$200 to \$300. No, he has not considered various ways to raise the money. There are a couple of places that may donate materials.

Shawn Eliot: There are a few good trees in the park; he suggested placing the tables in the shade.

Nelson Abbott: There is a spot near the playground area that is in the shade.

**The Mayor suggested getting Blake Denning, Kent Haskell and Councilmember Johnson together to locate the best places to put the tables. The Council typically will donate \$100 per Project, after the Scout has determined how much he can earn and has made an effort to do so on his own.*

Woodland Hills has a "chipper" that the City may be able to use or rent.

Mayor Dunn: He will also check with Payson City to see what equipment they have available.

**Councilmember Johnson said he would call Blake Denning the next day.*

PUD
DISCUSSION

Tom Henriod (Representing Rockworth Company and Elk Ridge Meadows, Phase 1) He was present with Mr. Chris Salisbury (representing Elk ridge Meadows, Phase 2). They were there to discuss the three Phases of the PUD:

- Phase 1: Wentworth Development, which is a subsidiary of Rockworth Companies. (They own all of the 50 lots they have.)
- Phase 2: (The majority of Phase 2) Chris Salisbury Centennial Bank took back the lots they lent to Elk Ridge Managers, but they are selling those lots to Salisbury Homes (62 lots of the 88). (Alpine Homes owns 10 lots and have built on 4...then there are some random, individual lot owners.)
- Phase three: Randy Young (owns all of the 82 lots he has)

Including these three owners; this equals about 90% of the owners of the PUD.

It is their intention, as owners of the lots in the Elk Ridge Meadows PUD, to:

1. Dissolve the Homeowner's Association that was created by Elk Ridge Managers, which company has dissolved through the foreclosure process...they are "defunct". As they are no longer the owners in control, the current owners are going to create an instrument that will be recorded against the property that dissolves the HOA...this basically means (for the City) that this becomes a standard subdivision, ruled by default...by Elk Ridge City regulations.

Additional Intentions:

Park Spaces...

1. They spoke to the Mayor regarding those portions of the property, and they have agreed to bring those parks back up to "snuff"...put them back in the condition they should be in; and then have requested
2. The City take over maintenance of them, after they have been brought up to a standard acceptable to the City and accepted officially, after inspection...then maintenance taken over by the City.
3. As a result of constructing and re-constructing these parks; they request that the Park Impact Fee be waived...which will be for public use from this time forward.

That is basically the story; he welcomed any questions and comments.

They feel like, with all the property owners, they are confident that these are the "players" that are here to stay. He feels it is important for the City to know who they are dealing with, as well. They were looking for the vote to take back the park area and to waive the Park Fees.

Mayor Dunn: \$1,385 (Park Impact Fee) X 204 (lots) = \$282,540

Nelson Abbott: (Question) The improvement s not completed will be covered by the surety bond? (Yes.)

Tom Henriod: They are not anticipating leaving the Durability Period without installing the 1' overlay. He is not aware of any failures in the road for their Phase 1.

The Bond is still in place for Phase 1.

City Recorder: Another issue to work out with Phase 2 is the reimbursement of a portion of the Water Impact Fees in repayment for the up-front water money that each Phase paid. The Agreement is with Elk Ridge Managers; but Centennial Bank claims they loaned the money to them, so the reimbursement should come to the Bank...now Salisbury Homes has purchased 62 of the lots from the Bank, so does the reimbursement come to Salisbury Homes? The City Attorney advised paying the money to a 3rd party (either the court or placing it in an escrow account and then waiting until the details are worked out).

Mr. Salisbury: Those arrangements are being worked out with attorneys.

Shawn Eliot: Two issues:

- Phase 4: There is the common open space that is in Phase 2...do the town homes have to be in an HOA?

Tom Henriod: He does not know about Phase 4, since it was done separately. He thought it was independent of the other Phases.

City Recorder: That was the big issue at the Planning Commission when they re-applied...then it was discovered that the open space requirement is met through the open space in Phase 2. This is an issue that still needs to be addressed.

Shawn Eliot: The issue now is that the last time they came to Planning Commission with Concept...they wanted zero line lines; against the open space area in Phase 2. Now the proposal is to take the park and all the common areas and have those City-owned. He thinks that the town home development has to be a homeowner's association.

The last discussion regarding the PUD issues, the City was talking about taking over the park area, not the trails as well. Issues:

- Can the City afford it?
- If the City does take over the park; one way to do it would be to include a clause that there would first need to be a certain number of homes occupied.

The City is below the appropriate ratio in park space per capita; that added park space would benefit the City.

Mayor Dunn: For the HOA in Phase 4, is it just the trails space they need?

Shawn Eliot: They were just asking that they fix up the trails space; but if the city ends up taking over the rest of the open space, including the trails, you don't want that part to be HOA...you would want to keep the trails public. To take it over right now, with the financial situation the City is in...there would have to be some kind of clause that allows property taxes from occupied homes to assist in paying for the maintenance.

Derrek Johnson: He asked the Recorder what the Park Impact Fee is... (\$1,385 per household).

Tom Henriod: Though he appreciates the Planner's perspective, he does not feel this poses a problem for the developers. If that were the case, then he feels it would only be fair that the developers be allowed to refurbish the park in stages...until that same level of occupancy is achieved. There is no sense in putting it all in when there is no one there to utilize it.

Raymond Brown: He asked if that would take away from part of the appeal of the development; if there is an ugly park with a bunch of weeds, how will you sell lots? It would be to the advantage of the developers to bring it up to "speed".

Mr. Henriod: It comes down to a cost benefit analysis...there are many lots sold without parks. It would be the decision of the developers; but if the City had the option to take ownership in stages, according to occupancy; then the developers would expect the same option...that seems fair.

Mr. Eliot: Perhaps a "phased" approach would be good; typically the City would wait for two years (durability time period) to make sure there are no problems, before taking ownership. Maybe the City could do something during that time to assist...like charging less on water, or not charging for water at all.

He knows that the weeds have been cut in that area.

Mayor Dunn cut the weeds on a rented tractor.

It would be good to save some of the trees; it looks as though the grass and some of the trees are done.

Mr. Henriod: The Salisbury's have collected 5 different bids from landscaping companies to assess the cost of restoring the park. Re-vitalizing will perhaps be costlier than starting from scratch, so the staging effect would be nice.

Chris Salisbury: The bids vary from \$25,000 (very low) to \$250,000 (higher side); one came in at \$275,000. They are working to a solution. The on-going maintenance would be \$10,000 to \$15,000/month on top of the cost of re-vitalizing it; so there would have to be an arrangement to be slowly turning this over to the City, so it doesn't become "off-balance".

Mr. Henriod: Fixing up the open space in Phase 1 will cost about \$45,000. Between this two estimates, the City would be getting their money's worth in waiving the Impact Fees...it will cost more to re-vitalize it than would be gained.

Mr. Eliot: This is still dependent on the market and a certain number of homes selling...but it would be nice to get things done sooner rather than later.

Derrek Johnson: The City figured only about \$2,000/month to water that park. *(The City's costs are different.)*

Tom Henriod: Elk Ridge has a nice feel...it is a nicer place than most. That was part of the willingness to make the architecture higher than the normal standard. One of the standards they are aware of is the requirement for fire sprinklers, which they feel is unnecessary. They feel that there are fire service facilities close enough both in Elk Ridge and in Payson (& Salem) to service the subdivision well. The City requires 1" lines (connections), with standard fire hydrants. They had thought that, if it is important to the City, they would "entertain the idea of keeping some architectural standard that is higher than the minimum, in return for a waiver for the need for fire sprinklers". They feel like that makes the subdivision appealing and they do not feel they are endangering anyone's public safety or health by removing fire sprinklers...they would be serviced like any other subdivision. The homes are not huge homes up in the oak brush...they are smaller and down in the flatter areas of town. In this market, costs are paramount...and sprinkling homes that are 1500 square feet (on the main) is not very economical. The market back in 2004 – 2006 wasn't real; people cannot pay that price. They thought about perhaps offering to the City some nicer architecture than the minimums in exchange for that. He wondered what the Council's thoughts are.

Derrek Johnson: This has come up before; the developers want concessions from the City; but what will be charged for the lots; will there be concessions there?

Chris Salisbury: The figures they have put together to install sprinkler systems into the homes range from \$5,000 to \$7,000 per house. They could use the savings and "dress" up the homes with more architectural features, which would be \$3,000 to \$6,000...to do both in the current economy would be difficult. Adding both costs to the home would also make it more difficult and expensive for prospective buyers to qualify.

In the market that Salisbury Homes targets, they have seen buyers who would have had a difficult time qualifying if their debt were even \$50 more than what they had...perhaps that individual should not even by purchasing a home...this is how "tight" it is right now. If the sprinkler systems are not added into the equation, the prices can remain constant; with an upgraded product.

Derrek Johnson

He felt the question on the price of the lots had not been answered and asked again.

(Councilmember Johnson was asked what his perspective of lot prices are at this time, because Mr. Henriod felt they had probably dropped.) He reiterated that he just wanted an answer to his question.

Mr. Henriod: The fliers that are out say the lots start at \$79,900; but they are willing to listen to an offer; the "power" is with the buyers right now.

Mayor Dunn: The Mayor typically asks the Building Official for the City to keep up on any updates with the IBC (International Building Code). They have passed the necessity for fire suppression systems. He explained that, at that level, it takes a while for each state to adopt the Code; and then the municipalities will eventually adopt it. The Mayor estimated a 24 month "window" for this to come to the cities. "We know it's coming." The question he has: if this is waived and only a couple of homes are built without the systems; when the cities are then mandated to have that requirement in place...what happens to any agreement to waive the requirement? Where would the savings be? We would be back at the same point we are currently. The City's Code is about two years ahead of schedule on this one issue...fire suppression. The Council has addressed this issue and they have "wrestled" with it. There are some who wonder why it would be necessary in some areas; but the fact is that we currently have the requirement throughout the Community and he sees some difficulty with this Code being reversed or waived.

Mr. Henriod: He understands that they are asking for something that is "outside of the current Code" and that it is the Council's call. It is simply a "judgment call" on their part...Salisbury Homes have built in many places and they (Rockworth) have developed in many places...the Code may well be changing over time; but they feel the market also changes the view of what is necessary and affordable.

Mr. Salisbury: He has checked into these changes, not only for this subdivision, but Statewide...The IBC Code for 2009 has passed Nationwide and should be ratified in the Utah State Code in 2011. When that happens, Utah State can actually amend the National Code; one of the amendments they propose happens to be the fire suppression portion of the National Code...they are proposing to amend it out of the Code...so it would not be mandated down from the State level. Each municipality also has the right to either accept the State's amendment, or they can stay with the IBC and leave the requirement in. As it stands right now, Utah State has removed it from the proposed Code, due to the complaints and appeals received.

Mayor Dunn: That is good information that helps with the overall perspective.

Mr. Salisbury: In researching this, he has found that there are valid arguments on both sides of the requirement. He appreciates the opportunity he has had to see things from another point of view besides the costs involved. Perhaps they should get into the fire suppression business.

Mayor Dunn: There would be no action on these issues at the meeting; this discussion was for information. Some of these issues have been discussed in various meetings with staff and developers; the Mayor wanted the information brought before the Council. The Mayor has tried to keep the Council informed as discussions have taken place, except for some of the additional information.

Mr. Henriod: They appreciate the opportunity to have "open discussions" with the Council. He would like for the Council to understand that he believes the current developers of Phases 1, 2 & 3 of Elk Ridge Meadows are people that are "here to stay" and "are here to make a successful, profitable, long-term subdivision" that will benefit the Community. They are not here to develop a "bad reputation" with the Council or the City; they want to work with the City "long-term" and the City's Codes...they want to "develop responsibly". It is good for understanding to be on both sides.

Shawn Eliot: He thinks that in the June Meeting, he understood that the Council's direction was to work with staff to go over the park issues; while the "fire sprinkler" issue would be a question of a possible Code change and the necessity to go back to the Planning Commission. Is this something that the Planning Commission should consider?

Mayor Dunn: The information provided by Mr. Salisbury creates an added perspective. (*Mr. Salisbury thought it may be State Bill 211.*) The Mayor suggested the City look over the Bill.

Nelson Abbott: (Question) He asked about various communities that adjust the timing of the payment of impact fees...some pay up front and others pay at the time of occupancy; is this something that seems helpful?

Mr. Henriod: Their view is that it is better on construction costs since it saves on interest perhaps on \$8,000 to \$14,000 (he is unsure of the total costs of building permits in Elk Ridge)...so about 36 days or more of interest savings during the building time.

Derrek Johnson: Would the City then be "sold short"? Wouldn't the City be losing interest on that money?

Nelson Abbott: He knows the City's perspective; he wanted the developers/builders' perspective.

Mayor Dunn: Everything the City does reflects in the final payment by the home-owner. He is concerned about the future resident/home owner.

*Shawn Eliot: He, the Mayor & Corbett Stephens will meet with the developers this Friday morning (4/17), at 9:00 AM. The agenda item where a vote will be taken will be scheduled at the meeting.

Sean Roylance: He suggested a Closed Session to discuss the proposed amount of money for the park area. (*The Mayor agreed that this is an appropriate topic for a closed session.*)

Fire Suppression: For him, personally; his mind is not completely closed to the idea of waiving the requirement; but it might be an "uphill battle". There are reasons that requirement is in place and if it would assist in alleviating on-going costs for the City in the area of fire protection, perhaps it is better to leave the Code as it is.

Mayor Dunn: He informed the Council that the Fire Department is doing their part in seeking assistance through grants; they just applied for a 2.5 million dollar grant to replace the current Fire Station. There are certain restrictions on this grant...it is a "full grant", not a "matching grant". The results of the applications will not be known until December, 2009.

Nelson Abbott: The City is in need of volunteers for the Fire Department.

Mr. Henriod: As the request to eliminate the need for fire suppression in these homes; and as the Mayor mentioned concern for the people who will buy those homes...they simply ask for the Council to look into the various areas in the town and where the most risk is created, as well as the costs involved.

REQUEST FOR
DEVELOPMENT
EXTENSION:
ELK HAVEN
SUBDIVISION, PLATS
A & B; C & D; AND
PLAT E

Mr. Karl Shuler came to the Council at the previous Council Meeting requesting an extension for Plats A & B; the vote on that request was postponed to gather more information from the City Planner and his opinions on the possible impact of a vote, either way, on this request. There is the issue of the "old" Code vs. the "new" Code.

A brief history of certain aspects of approvals granted was reviewed by the City Recorder for the last meeting; a summary was provided to the Council for this meeting (7/14):

"Plats A, B, C & D all came in together last year (May 27, 2008) to request an extension at that time.

Plats A & B: Their original Preliminary approval was due to expire in June, 2008 and Plats C & D were due to expire in August, 2008...so they all requested at the same time to get it all together. (The motion was included in the packets) The motion states that the extension would be granted from the date of May 27, 2008...which means this extension is expired...thus considered "null and void".

I spoke to Mr. Shuler, as did Mayor Dunn and he understands all of this, but asked to be allowed to submit the request to the Council anyway.

He also called the Planner and Mr. Eliot told him he did not think the second extension would be approved.

Issue: As the Council is aware of, the question to ask is, if there have been any significant changes (to the Plat or to the Code). The HR-1 Code is now in place, whereas it was not, under the original approvals.

The pro's and con's must be weighed as to the possible benefits vs. problems of allowing these plats to stay under the old Code. If the request is denied based on the time period having expired...then these plats would be back to the beginning of the process (*meaning the approval process*).

Also included in the packet is the wording in the Code which allows an extension... "for a period not to exceed one year".

Shawn Eliot is in the process of clarifying this part of the Code to stress the intent of only one extension being allowed...not repeated extensions. It could be read that was now, but he feels it would be best to further clarify the wording.

Mr. Shuler feels there are examples of extra extensions having been granted...but there are also examples of "Finals" having been extended; but this was a mistake...nowhere in the Code is that allowed."

Plats C & D:

Elk Haven C & D: Gayle Evans (developer) submitted a hand written note requesting a four (4) year extension for Plats C & D from August, 2009...on.

Elk Haven E: Shawn Eliot asked that this be placed on the Agenda for discussion...along with A through D."

Karl Shuler: (*representing Plats A & B*) There has already been discussion at the previous Council Meeting and they also met with Shawn Eliot. *Brief Summary:* By the fall & winter of 2006 and the early spring of 2007, they had worked for about three years with the Planning Commission and the City Council and the Planners to develop the 5 phases of Plats A through E. They had progressed fairly evenly until some engineering problems came up with Elk Haven E, with some drainage problems...they had to re-design their drainage system perhaps 3 times...this is when they got separated. As the road had been approved under the Code they were vested under; then they met with the Planning Commission one final time, and at that point they asked all 5 developers to take one more look at the problem they had with crossing the main road across the steep face; and in the spirit of cooperation, they agreed to go to the other land owners one more time, since 3 years had passed since they had said they did not want to be involved. The other land owners had changed their minds and decided they did want to be involved; then the road had to be redesigned...that is where we all fell behind and then the economy aggravated the situation. A one year extension was granted.

In his opinion, it has been an extraordinary circumstance; they have tried to cooperate with the City...they considered a plan that would better suit the City with road being taken farther to the south to avoid the steep face on the ridge line...that is the primary reason for their delay. There were also added problems with the drainage plan which caused other delays. He felt the delays were no fault of the developers, there will be no adverse affect on the City if an added extension were granted. The City has also spent a lot of time on this development process; thus their request for an additional extension. They want to get caught up and get that road in, as planned. The current Code can be interpreted in different ways regarding extensions, as mentioned. There have been other communities that have issued a "blanket" extension to all developments due to the state of the economy; to allow developers and cities to save money by not having to start over.

Gayle Evans: (*representing Plats C & D*) She does not feel another extension will harm the City in any way; in fact she feels it will save the costs put out by the City as well as by them. They do not want to have a development that is ½ built, like the problems experienced in the PUD in the north part of the City. She feels that granting Plats A through D an extension is the economically sound thing to do.

(*The City Recorder mentioned that Mr. Shuler was asking for one additional year; while Mrs. Evans was asking for four additional years.*)

Mrs. Evans said she was asking for "up to four years".

Karl Shuler: He was hoping that the Council would grant up to four years to Plats A & B, if they were inclined to do so for Plats C & D.

Shawn Eliot:

- Plat E: (Regarding their approval process and the time that it took) Part of that was due to a big issue with drainage; but another issue was the road going through those steep slopes. At one meeting the Planning Commission told them to go back and negotiate with the other land owners. When they came back 6 months later, they had failed to do as they were asked. They were directed again to go back and negotiate with those people. So part of that delay was based on them not responding to what they had been directed to do. The Planning Commission was fairly upset because they had not even tried to contact the other owners. Then when they did do as they were directed, there was a positive outcome.

Mayor Dunn: He interjected that the road, as currently designed, was laid out previously (3 years ago) by the Mayor. Two of the property owners, who did not want to participate, came and put a stop to the design. When the Planning Commission directed for the developers to go back and talk to these other owners, these other owners had already decided they did not want to be included...then the face of the hill came into the design.

We are now where it all started. He feels this is a better design for the road.

Karl Shuler: Everyone agrees that this is the best situation.

Shawn Eliot: He has been contacted about the proposed road that was talked about previously...the one that would go south of High Sierra; they are now interested in having that road put in...whereas three years ago, they were very opposed.

The Planning Commission reviewed present request for extension. He showed slope maps to those present and had provided smaller versions to the Council for review in their packets. He indicated the differences in the cuts and fills between the old code and the new Code. This issue alone was proof that the new HR-1 Code does what it was designed to do. The Planning Commission informed Plat E that they are required to develop under the new Code because they did not receive Preliminary Approval along with the other Plats. Under the new Code, there is less impact to the hillside. One of the issues with Plats A – D is the fact that, other than at the intersections, the vast majority of the roads are 10% grades. This has been a concern from the beginning under the old Code...this is why the Code was changed to the HR-1 Code.

Karl Shuler: He disagrees that the majority of the roads under the old Code are at 10%. He stated that they are at about 2 or 3% for about 1,200'; but there needs to be some way to get up to the top, and in that short stretch, it is at 10%. Once on the top, it goes back to 8% & under...across the top.

Shawn Eliot: The last version of the plat maps...in between the intersections, the roads were at 10%... At the intersections, they are at 4%. He will show this to Mr. Shuler; but he did not have that plat map with him at the time.

- Another issue was with Plat C: The building envelopes within the lots along the top go right to the edge of The 20% & 30% slopes. The Ridgeline Code required 50' setbacks from those 20% slopes...so we do not get big "rock walls".

The Planning Commission was "pretty unanimous" that they want to go to the new Code. He stated that there would be a net loss of no lots; but the homes would be set back further from the ridgelines and require open space. He does not feel that applying the new Code would cause a financial loss from the loss of lots.

(Plat E actually loses 2 lots.) If there is an opportunity to adhere to the new Code, the Planning Commission was favorable of that option. Four years from now, how will we want this development to be?

Karl Shuler: He questioned the grades of the roads under the old Code.

Gayle Evans: The corner could not be leveled enough to install a cul-de-sac at one corner (under the old Code); why would the new Code make a difference? It won't work.

Shawn Eliot: So then that would affect a lot in that area.

Karl Shuler: He sees the road as being in close to being in compliance; with the majority of the road at 8% and 2 or 3% down lower. The one corner going up the hill is 10% and it is longer than 300'. One would either need huge cuts & fills or the road would have to be re-routed.

Shawn Eliot: When this was being looked at, they wanted the developers to "show us".

Gayle Evans: She commented that they have been reviewing this for years...designed down to the 8%; costing the developers thousands of dollars to re-engineer their plats...to meet Codes in place. She does not see any reason for them to have to start over.

Mayor Dunn: (Question directed to Mrs. Evans & Mr. Shuler) If an extension is granted, then what?

Karl Shuler: Without a "crystal ball", there is no way to predict what the economy will do. These decisions are market-driven.

Gayle Evans: That is why other cities have granted the "blanket" extensions; to see what the market will do.

Karl Shuler: There does seem to be a bit of a positive turn in the market. This offers hope for the future.

Derrek Johnson: But there have been dramatic changes in the Code that affects development.

Karl Shuler: He finds the statements regarding "dramatic code changes" a bit contradictory: one hand, they are told that the changes are dramatic...while on the other hand, they are told that the Code doesn't change much at all. It cannot be both ways.

Sean Roylance: He felt that the message has been that the code changes do not affect the lots much; but the roads are.

Karl Shuler: It does not seem to impact the road that much either...the only 10% length they have is about a 500' stretch...a little over the current 300'.

Sean Roylance: In reviewing the maps drawn up by Mr. Eliot, the potential for change is there...

Gayle Evans: The comparison is between maps that are engineered vs. the maps presented by the Planner are not.

Karl Shuler: One road is just a change in the cuts & fills; it did not have to change the location of the road. The road may have to change on the other end.

Further discussion on road and associated slopes.

Sean Roylance: The point is, the way he sees it; there have been some important changes to the Code...Code changes may not significantly impact the number of lots.

Gayle Evans: "Each owner is independent and it has worked that way for years."

Mayor Dunn: If an additional extension is granted for another year, and if we are in the same position a year from now...He does not see another extension granted a third time. The new Code would be applied, with suggestion in trying to keep as many lots as the current plats show. The feeling he gets from the Planning Commission and the Council is the desire to keep the new Code working properly so they do not lose use of their land, even though the layout would change.

Gayle Evans: "Anyone can make a 'pretty drawing'...there were lots of 'pretty drawings' before we started."

Sean Roylance: Another concern: In a year, in order to make this work; the upper phase of Plat E would have to be ready to go at the same time. The developer of Plat E has not submitted anything for that phase.

Krisel Travis: (Representing Plat E) They are planning to phase it; building the lower portion first; then when the other plats are ready, to go to the 2nd phase with the connecting road.

Sean Roylance: That is why he wondered about the timing.

Karl Shuler: Only the market and the economy will tell.

Raymond Brown: His concern is that "this whole thing had to be a joint effort...from way back...5 or 6 years ago. We said, if you are going to build up there, everybody would have to have a road in & out." He is concerned that if one of the developers does not develop, and that section is taken out...then no one can develop. If everyone is not "in concert" and this road is not going in, then it would be a "no"...because that was what was required all along.

Karl Shuler: They all have to be on board for Final Approval, or it won't happen.

Gayle Evans: The Final was ready for signatures; but the road was re-visited and they were held up.

Raymond Brown: His point was with Plats A – E...if anyone drops out, "it messes you all up". That needs to be plain (understood); that the development needs to be contiguous...if it is not, the development will not go forward. Plats A – D were granted an extension and were told that would be "it"...if another extension were granted, "that's it".

Nelson Abbott: They have had one extension, whether the date was in May or June.

Karl Shuler: It would not have been good to start developing a year ago... "We would have gone bankrupt" and the City would have Elk Haven in the same situation as Elk Meadows PUD

The economy and the market have to be right to be able to be successful.

Nelson Abbott: He does not want to see the developers placed in a position of having their "hand forced".

Based on legal advice, when there has been a substantial change in the Code, a request for extension can be denied. He does not want the developers to have to declare bankruptcy...if they can just hold onto their development.

Sean Roylance: (Question) If things are looking a bit better and if Plat E is not online yet...it has been said you need to go to Final together, but Plat E is not even at Preliminary yet.

Gayle Evans: Would two years be considered?

Nelson Abbott: That is West Jordan's Code; Elk Ridge's Code does not allow for that.

Sean Roylance: With the first extension, an additional one would be two years.

Nelson Abbott: He thinks it comes down to what the Code will allow.

(Gayle Evans): They changed their Code (meaning West Jordan). Councilmember Abbott continued: "But they chose to go down that road, we haven't."

Sean Roylance: (Back to his question) So, if Plat E is not ready, what else could be done with that road to allow development...since, as Councilmember Brown said, the road has been an issue from the very beginning?

Karl Shuler: There have been discussions regarding a temporary road of graded road base being installed...for emergency egress. It is a possibility.

Gayle Evans: No bank would back installation of that type of road.

Nelson Abbott: Referring to Plat E: He had questions regarding the road location.

Whether Plats A – D get their extension or not, Plat E is on the other end and they could get their smaller subdivision approved, since they are on the end and can loop the road. Realistically, Plats A & B could loop their road as well, taking into consideration the length of a "dead end" road. They could do that within the current Code.

Shawn Eliot: Rather than waiting until later in the meeting, he discussed Plat E at this point

With the Code as it is, Plat E (Phase 1) could go in with 16 lots. They are asking for 25 lots on that one access. He demonstrated referred back to Fairway Heights (Fitzgerald's portion)...they "stubbed" their road and planned a common turn around at the end; knowing that someday, the road would connect on through. At the time, even with the Hillside Code, longer cul-de-sacs were proposed. The City Attorney advised that, since the City was working on the new Code, the developers could be allowed to have a longer cul-de-sac, if the Council felt that they would pass that part of the Code. At the time the Planning Commission was going to recommend 1,000' with 20 lots per access. That night at the Council Meeting, (he thinks it may have been Councilmember Abbott who mentioned the following): He added up how many lots would fit on 1,000' and it came up to just 16 lots. The thing no one mentioned was, those 16 lots were on the 1,000' of road...when the actual access was taken into consideration; there were actually 23 lots in the area.

Elk Haven, Plat E (Phase 1) is proposing 23 lots...they are designing the road according to the new Code (with ½ acre lots rather than 1/3 acre lots). At the Technical Review Committee, some questions came up:

- Kent Haskell was concerned with more cul-de-sacs in this area
- The proposal was, to take a loop road up the Gunderson's dirt road and tie it into a cul-de-sac.
- The Canyon View route had 15% grades
- The cul-de-sac option had 12% grades

(Neither fit the City's Code.)

- Another option was to shape our road standards to allow for an "all-weather access route" (a smaller road, not full-width)...but would allow snowplowing.

The actual design does not work. They are proposing to keep the cul-de-sacs (one a temp. turn around) The Code allows for both. Should this be removed from the Code, if we do not want cul-de-sacs?

Another issue was with the International Fire Code (IFC): Other cities were reviewed for the number of units per access: Payson allows 10; Elk Ridge – 16; Lindon allows 12; but the majority of the cities allow 20 unit...many cities are adopting the IFC, that allows 30 units (without fire sprinkling); if fire sprinkling is required, they allow more per access. The Planning Commission felt that 16 units would be appropriate, until they considered the access above the road and then they felt comfortable with 25 units.

The question of safety: Some cities require two accesses.

Plats A - D are concerned because if this is approved, and Phase 2 does not happen, that would not be good for them. Perhaps these concerns can be addressed in an agreement. With the current Code, 16 lots are possible; more units would require a Code change. This area is flatter where the lower phase is located.

Krisel Travis: In considering safety, the Fire Code does allow for 30 units. The developers do not intend to not do Phase 2; they would just like to get started as soon as possible and get to Preliminary with Phase 1...then get caught up with the other Plats and address Phase 2.

Sean Roylance: When 16 lots were discussed with regards to Fairway Heights, he recalls the discussion being based around one cu-de-sac; rather than an access.

Shawn Eliot: If more units than 16 are allowed, they would have to go back and apply for a change in the Code. This is what they are asking for. The total access should be talked about rather than the cul-de-sac; that is perhaps an error that needs to be addressed.

Nelson Abbott: There is a lot of difference in the amount of snow in the upper areas of the City; there could be problems in keeping the roads clear. The Public Works Dept. and their recommendation in this area are important. The school busses are a consideration. When the Planning Commission initially looked at the Preliminary where High Sierra was to be connected onto, that was an issue...to bring bus service in...and this comes back to grades.

Mr. Eliot: The length would only be twice as long as Oak Lane, which isn't really that far to walk for students.

City Recorder: This really comes down to whether the Council wants this development to go all together or whether each plat should be thought of as separate. If both ends loop the road, Plats C & D would be in trouble. The City has seen what the economy has done to other developments that have gone in phases...they had every intention of going forward, and through no fault of their own, lots did not sell.

Sean Roylance: Plat E can go forward on its own; the Council does not have to approve their request to allow more lots per access.

Nelson Abbott: The Council could force them to go with the Code, which is not necessarily a "bad thing".

Krisel Travis: They fully intend to go forward with both phases and keeping everything together. *(There were other comments, but the sound system could not pick up the comments.)*

Mayor Dunn: (Clarifying with Ms. Travis) So, you would not even be breaking ground for another year; right?

Ms. Travis: Yes, it will take about that long to get through the approvals and the engineering.

Shawn Eliot: They are at the Council Meeting simply to "get a feel" for how the Council would accept a recommendation to change the Code to allow more lots.

Mayor Dunn: asked the Council how they felt about going from 16 to 25 lots:

Raymond Brown: He was not in favor at all. He spoke to both the Public Works Superintendent and the Fire Chief and they are not even happy with 16 lots...he would go with the experts.

Julie Haskell and Derrek Johnson: Agreed with Councilmember Brown.

Nelson Abbott: He also agreed with the other Councilmembers.

Sean Roylance: He would not be opposed to 20 lots; he was thinking in terms of a "cul-de-sac" rather than an "access"...he feels this makes a difference.

Raymond Brown: He still feels the development needs to go together. He does not feel a section should be changed to allow a loop, rather that going together.

Mayor Dunn: He thinks that it should be considered...the number of 40 units would not be on this kind of terrain. The features of this do create other issues...he kind of likes the 16 lots; and if it means adding another phase.

Ms. Travis: It is the same roadway, just more homes on the other side; and the roadway would go through when the other plats come online. She does think fire suppression systems are good, even though they add cost. The IBC does allow above 30 units with fire suppression. They wanted 30 units, but backed off to 25 and felt comfortable with that number.

MOTION WAS MADE BY RAYMOND BROWN THAT ELK HAVEN, PLATS A, B, C, D & E STAY AS ONE UNIT AND GRANT PLATS A, B, C & D A ONE YEAR EXTENSION FROM MAY 27, 2009 TO MAY 27, 2010 (NO SECOND ON THE MOTION)

Motion died for lack of Second

As a matter of formality, Councilmember Nelson moved to deny the request:

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO DENY THE REQUEST FOR AN EXTENSION FOR ELK HAVEN, PLATS A, B, C & D

VOTE: YES (4)

NO (1) RAYMOND BROWN

Passed 4-1 (to Deny Request)

Gayle Evans: She asked for a "good reason" for the denial.

Derrek Johnson: He felt that they had already been granted an extension; the Council cannot keep granting extensions.

Nelson Abbott: He agreed that part of the reason was due to significant changes in the Code.

Elk Haven, Plat E:

Ms. Travis: Since she has no idea when the other Plats will move forward; she argued in behalf of the 25 lots.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO STAY WITH THE CURRENT CODE, ALLOWING 16 (UNITS) ON A CUL-DE-SAC; AND UNLESS THESE PLATS WORK TOGETHER, THAT THE CITY DOES NOT ALLOW 25 OR 30 (UNITS)

VOTE: YES (4)

NO (1) SEAN ROYLANCE

ADOPTION – ANIMAL CONTROL CODE

Raymond Brown: Even though the Council and Planning Commission went through a Work Session on this issue; he still had the same concerns. He felt that Councilmember Roylance's comparison "expectations" regarding road classifications expressed more of a "hope" than an "expectation". He does think that there are expectations the citizens have when they bought their property. He feels the neighbors surrounding an applicant for a hobby conditional use permit should have a say in their ability to obtain that permit. He feels there are rights being taken away from the surrounding neighbors.

Nelson Abbott: Section 10-9A-9-2 "Conditional Uses": (Read Conditional Use Regulations) "These uses can be denied if found the negative effects outweigh the positive, or if the health, safety and welfare of the people is jeopardized". He has had additional conversation with the Planner for additional clarification. Example: "If I, as an example, decided I wanted to have chickens and my neighbors were allergic to chickens, they could come

in and say they were allergic to them and that would be the ...pretty much the end of the discussion...if that was the case. Or, if there were other issues where maybe they work 'graveyards' and they're home during the day...". When he moved here he had the expectation that the hillside above him would never touched...

(Councilmember Brown feels that was a "hope" rather than an "expectation".) He realizes this was a "hope"; but he has seen other portions of the Code that have changed...that allow and facilitate different things to occur...like "building heights". He does not know that one can hold to the expectation that things will never change. The only constant he knows, for sure...is change.

He has read through the minutes of the various meetings held by the Planning Commission, and he feels there citizens need to be able to "back-up" their statements...it goes both ways. He feels the Planning Commission has worked very hard to come up with way to come to a common ground. They have provided a way to have the opportunity for input, whether they choose to or not...it is up to them. The attendance at this Council Meeting is not what was at the Planning Commission Public Hearing...if people choose not to come in to state their concerns, it is up to them. There are those who take the time to "jump through the hoops" and follow the Code and are trying to legitimize what they are attempting to accomplish. Prior to this, these people were in violation of the Code; but he feels this proposed Code is an opportunity to provide a chance for our citizens to do things beyond what the current Code allows. He believes opportunities should be sought to expand the rights when ever possible; as long as it does not "trample" the rights of existing citizens. Whatever the Code is when people move into the Community; that will be their expectation...it is a "snap shot" in time. Councilmember Abbott read the article in the Daily Herald with the Mayor of Provo's statement regarding vetoing the animal control code that came before him; his reasons...over regulation and the permit fee. Does the Council need to micro-manage people's lives. Perhaps allowing things to be handled as they become apparent and become a problem is better...the fire dept. puts out fires as they occur.

He feels people should be able to manage what goes on in the confines of their own yards.

Mayor Dunn: He asked Councilmember Abbott if he is suggesting taking the annual inspection requirement out of the proposed code. (Yes, he does.)

The Mayor reminded the Council and those present that the "applicant" is the City Council. When reference is made to the City helping citizens "who have made a request"...there has been no "request" nor has there been a fee paid to change the code...it is a City Council issue. The Council became the "applicant" by vote of the Council.

He agreed with Councilmember Brown...if his neighbors wanted to have a horse, chickens, etc.; he would love to be able to say, "No" to that. He does not want the smell or the sound next door; and when he bought ground and built in the 80's, he looked into that issue. He did not buy that property to raise farm animals. He thinks people that exist in a zone should have a say in keeping their current property rights protected.

Regarding "waiting for fires to pop up": that is what got the City in the place we are at now. In some instances, too much time was spent in waiting on certain violations. Putting out fires depends on who the neighbors are and what the violations are; he thinks it will become more complicated.

Raymond Brown: He asked Dayna to clarify a point: If he wanted to have a llama, he could evidently have two of them if he had 1,500 sq. ft. per animal...of pasture type land; right? (It was mentioned that a ½ acre lot would be required.)

Dayna Hughes: This would be with a conditional use permit.

Shawn Eliot: He described the requirements for setbacks for animal units. This was not part of the proposed code until the end of the discussions with the Planning Commission because they were trying to figure out how to allow for a pony. They considered placing ponies with "hobby animals" and specifying that particular animal; or list it as livestock...with a conditional use. Many cities with ½ acre lots and above allow this in residential areas. That is one of the questions listed in the "staff report"; which is more appropriate? Do we allow medium to small livestock animals in these zones (residential zones)?

Raymond Brown: He simply wanted to understand..."if my neighbor brings in a donkey...he has to have 1,500 sq. ft. (not counting his home)... (Unknown person: "Right.")

City Recorder: She brought up the issue of "dogs" being listed as "hobby animals"...then a person could have up to six dogs.

Shawn Eliot: That was written in for people who already have that many and are raising them to sell; usually, under those conditions they are not "stirring up" the neighborhood. Under the "hobby animal" code, a person can have 6 animals total (including cats, etc.). If they want to apply for a hobby breeder permit, there are steps to go through the process....certain criteria to meet.

City Recorder: (To clarify) IF someone wants a bunch of animals and they do not have a permit for those animals; then enforcement would be under the nuisance code?

Mayor Dunn: Right; it becomes a "criminal" offense.

Shane Eliot: Many of the issues were discussion points, including reviewing the practices of other cities. If these issues do not meet the Council's approval, the Council can change the proposed code. Some owners with 4 or 5 dogs do not create a problem; others do...even with fewer dogs.

He suggested going through the various sections of the code with the Council.

Raymond Brown (re: cats): He asked if he would be allowed to have six (6) "hobby cats" without a run, a pen or a coop or anything...but they have to be kept 25' away from the residence.

Shawn Eliot: There should be some kind of "pen" for them, then yes. The issue on "cats"...again, many of the cities do not regulate them at all. That is a question under "hobby animals": the definition was specific.

Mayor Dunn: (re: cats) The city owns "cat traps" and there is a waiting list for residents to use those traps. They have been successful in getting rid of the cats that create problems...it has been interesting to hear the issues surrounding cats.

There are problems reported to him and many are about feral (wild) cats. If owners do not take care of their animals, then it becomes a problem for the neighbors...those neighbors have the right to keep those cats (and other animals) off of their property.

Shawn Eliot: The nuisance code says that dogs are to be contained on your property...and cats are to be contained, as well...this is so that when there are problems, neighbors have a legal recourse.

Review of the proposed

- **"Common Household Pets" (10-18-4)** was redefined...the question is how to classify them and whether to limit the number. "Kennels" are in Commercial areas; "common household pets" must not be raised for commercial uses.

Council Comments:

Nelson Abbott: He had a "degree of discomfort" with neighbors being allowed to have 6 dogs...two is a problem. HE felt the code should be left as it was; not allowing dogs as hobby animals.

As the Councilmember that moved to send the animal control code to the Planning Commission; he does not feel the Council intended on expanding dog ownership opportunities. (Mayor Dunn: Agreed with Councilmember Abbott.) If they are listed as a "pet", then if they have a litter, they have until the puppies are 5 months old to get rid of them (current code). He feels the Planning Commission was trying to be comprehensive in the handling of animal issues.

Shawn Eliot: This would not allow for a hobby permit for extra dogs...

Sean Roylance: He had a concern for the person who wanted to have four dogs and would be a responsible pet owner...that would not be allowed.

It was suggested to get a "straw poll" on the Council's opinion on each of the questions regarding the sections in the proposed code.

Shawn Eliot: The Council could choose to leave out the sentence in the proposed code 10-18-4, "Additional dogs (or cats) can be permitted by obtaining a conditional use permit..."

Nelson Abbott: He was not sure that the number of cats should be limited; just deal with the problems as they occur.

Mayor Dunn: The City already faces problems; he sees that bigger numbers (more animals) will cause more problems.

Sean Roylance: His opinion on dogs: He would feel comfortable with 4 dogs...with a permit; until they become a nuisance...then they could be reduced back to two.

Nelson Abbott: Agreed with starting with 4 and adjusting the number if the need should arise.

Raymond Brown: He felt the Code should be left as it is; with 2 dogs and the possibility of a litter for a period of time.

Julie Haskell: She agreed with Councilmember Brown.

Derrek Johnson: He agreed with the current Code...2 dogs.

Shawn Eliot: What about cats?

Nelson Abbott: Requiring that cats be maintained on their own property give recourse to neighbors if a cat becomes a nuisance.

Shawn Eliot: It is in the County Code and there is no change from that.

Mayor Dunn: There has been a big problem in his area of town with "rogue" cats causing considerable damage.

Sean Roylance: He was not in favor of unlimited numbers for cats; but perhaps 8 to 10 cats...dogs are loud and can be dangerous; cats are not.

Raymond Brown: He was in favor of having the same number as for dogs...2.

City Recorder: The new code would allow six cats, if you have a permit...without a permit, two would be allowed.

Lucretia Thayne: To some people, cats are companions.

Raymond Brown: How many "companions" are necessary? He agreed with the Planning Commission's recommendation.

Derrek Johnson: He also agreed with the Planning Commission..."nothing else makes sense".

Lucretia Thayne: She asked if the number of cats is tied to the number of dogs one has...or other hobby animals.

Ciera Thayne: She feels laws should take into consideration people's differences in preferences; people have different tastes. People can be responsible with their pets.

Mayor Dunn: It is the irresponsible pet owner that creates the problems that the City must address. There must be a reasonable number.

Raymond Brown: He recommended staying with the Planning Commission's recommendation on cats...2 cats, unless there is a hobby permit.

There was no dispute to the contrary.

- **"Hobby Animals" (10-18-5)** The definition was read. The total number allowed would be 6 (total combined) per residential lot...except for pigeons (50 allowed)

Sean Roylance: He suggested 8 (combined).

Nelson Abbott: He felt the "defining line" would be whether they are inside or outside animals.

He had a question regarding ferrets: They were listed under "hobby" animals; yet they are typically purchased through a pet store.

Shawn Eliot: Usually people get two ferrets...so they could be under household pets.

The Council felt ferrets should be under "household pets:"

The total combined number of household pets and hobby animals allowed is 6 per residential lot (50 pigeons).

Chickens and ducks are listed as hobby animals, but can also be considered under the "livestock animal" regulations in zones that allow livestock. The combined number of 6 does not apply to livestock areas.

He reviewed the proposed animals for the list of hobby animals: Dogs (Removed and left as household pets); Ferrets (Taken out and list as a "household pet"); pigeons (already in the code under conditions uses).

Nelson Abbott: The proposed code for pigeons is looser than the existing code. The code is specific regarding pigeons on people's roofs...they just need to call and it will be taken care of. He does not want other people and their lack of responsible handling of their bird to affect him raising his birds.

Julie Haskell: She wanted to know how the setbacks were arrived at....Could the animals be located close to the property line?

Shawn Eliot: if the house was far enough away.

Nelson Abbott: The location must be closer to the owner's house than to a neighbor's house. It must be at least 40' from the neighbor's house.

Shawn Eliot: It is proposed that an applicant provide a management plan to show how and where the animals will be cared for.

The pigeon code was simply streamlined; it was not changed much. The conditional use permit has replaced the annual fee to own pigeons. If there is something that the Council feels should go back in; that can be done.

Mayor Dunn: (Polling the Council on the 30' setback for hobby animals) *There was no disagreement.*

Shawn Eliot: If someone has 8 cats right now and they are not creating a nuisance, are grandfathered; the same with pigeons.

Mayor Dunn: He reminded those present that a use can only be grandfathered if it is a legal use...currently there is no regulation on the number of cats.

- **"Hobby Animals – Ducks & Chickens" (10-18-5-3)**

Shawn Eliot: *Review of proposed code)*

1) Do we allow ducks & chickens?

2) Will there be a permit process or will they be classed as "Household pets"?

(Many cities allow them as household pets)

Mayor Dunn: Read from a letter from the Utah County Health Director. The Mayor and the Director were discussing the "avian flu"...in discussing various aspects of this flu, the Director said that the avian flu was found by migratory birds in the New England states. The Mayor wanted to know how the flu is spread. The response was: when wild birds are allowed to mix with un-cooped birds that are not protected. Is this an issue now? Not currently. Can it become a problem? Yes. The Director told the Mayor that in 3rd World countries, these fowl are allowed to enter dwellings and be a part of the family. He said that is when the people get the disease...when they co-exist and even slaughter their animals after they mix with wild birds. The Mayor asked if this could be a problem here in the US...and he said that it can. Protecting the birds is also a way to protect the people. He is unsure if slaughtering is allowed; he feels the code is unclear. *(The Planner said it was in the proposed code, but the Planning Commission removed it.)* Dr. Miner (Director) speaks on these issues and says it is not a matter of "if" it is "when"...it is an issue of cleanliness.

The conditions were reviewed. The Mayor called attention to the odor being kept under control and other possible nuisances.

- **"Hobby Animal – Pigeons" (10-18-5-4)**

Nelson Abbott: He pointed out the main difference between the new code and the current code: pigeon Licenses are no longer required; it is now listed as a conditional use.

Shawn Eliot: It has been recommended to change from the higher conditional use permit fee to a \$50 fee for animals.

There should be decisions on numbers and whether or not to require a permit.

Nelson Abbott: The conditional use permit process was utilized in the proposed code to "smooth out" the rough edges of an amendment that some felt was being forced upon them. It also gives the City the opportunity to take immediate action against those in non-compliance. If owners are not willing to adhere to the regulations then their animals "should be gone". He feels if people are raising chickens, it is a hobby...it is not necessarily for produce or meat. Hens only lay eggs for about two years before they should be eaten.

(There was no dispute with this assessment.)

- **"Livestock Animals" (10-18-6)**

Shawn Eliot: This proposed code clarifies the existing code, which can be difficult to interpret.

The Planning Commission suggested using the livestock requirements for medium and small animals only (in the R-1-15,000 & the R-1-20,000 Zones) under the conditional use permit process, with a management plan. The code allows for exceptions for smaller lots...the Planning Commission can review the application.

Nelson Abbott: He sought clarification on how the sizes of animals compare with hobby animals...

Shawn Eliot: Reviewed the code. The size of the lot and the "livestock management area" is taken into consideration. There are about 80 lots in the residential zones with ½ acre or larger. There is a table illustrating these requirements (10-18-6-2).

The Planner also referred to an "Applicable Zones Table (10-18-8-1) showing what is allowed in the various zones as "permitted uses" and "conditional uses".

Hillside Zone: This zone currently allows for "grazing", with no definition of what "grazing" is; so does the CE-2 Zone...so it is recommended that livestock be allowed in those Zones. The R-1-15,000 & R-1-20,000 Zones are the most affected Zones. The question would be whether or not to allow medium to small animals in these two Zones; or would miniature horses be classed as "hobby animals" and not allow other animals in these Zones.

Raymond Brown: What is the policy for other miniature animals...like a miniature Brahma cattle. Are they just added in when they are brought into town?

Shawn Eliot: That is up to the Council. The code does also say, "...or like animal"; that would up to the Planning Commission to determine if an animal qualified as a "like animal".

Nelson Abbott: He added that the door is "closed" at this point in time; unless the owner would apply for a zone Change...they become the applicant.

The Questions: Should livestock animals (medium & small) in the R-1-15,000 & R-1-20,000 Zones, or should just a pony or a goat be allowed as hobby animals; or not allow any of it and leave livestock in the livestock zones?

Nelson Abbott: He feels miniature horses should be allowed as "hobby animals".

Mayor Dunn: He does not want to see livestock in either of these residential zones.

Kelly Liddiard (Planning Commission): There is precedent for allowing more of a classification of a "hobby animal".

Julie Haskell: She is not in favor of allowing any livestock in residential zones.

Raymond Brown: Not in favor of allowing livestock in residential zones.

Derrek Johnson: He is in favor of miniature horses being classed as "hobby animals".

Sean Roylance: He agreed with moving the miniature horse as a "hobby animal"...one pony.

Decided: Move the miniature horse to "hobby animal".

- **"Kennel" (10-18-7)**

Kennels are only allowed in the Commercial Zone....leave as is.

- **"Conditional Use Permit: (10-18-9)** Conditional Use Permits are approved by the Planning Commission.

The proposed code took the current code and "refined" it and made it easier to access; it also combines a bit with the County Code.

- **"Wild Animals" (10-18-10)**

The code basically says one cannot have wild animals in the City, unless the owner is "grandfathered".

The code also deals with various definitions.

Shawn Eliot: The "Criminal" portion of the code will require a Public Hearing at the Council level; the Planning Commission is over the land use portion of the code. The Mayor felt it was wise to vote on the land use part of the code at this meeting.

Comments:

Sean Roylance: He wanted to know what to expect in the way of fees for condition use permits.

Shawn Eliot: Conditional Use permits for animals would be lower; \$50 was suggested.

Nelson Abbott: What about inspections? (*Shawn Eliot: That is only on the livestock...hobby animals and conditional uses permits: they take place when someone complains.*)

Can the complaint be anonymous? (*If the sheriff is called, the sheriff will list the type of complaint and a description of what happened and the date...no address anymore.*)

City Recorder: If a resident has a complaint about a nuisance and it is checked out, would it still remain anonymous?

Shawn Eliot: If he were checking the complaint out, he would not bring up who complained. But if it goes to court, then there would have to be a witness willing to attest to the violation. Most people do not let an issue get that far. He would create a file on the violation.

He will have to re-write the section on a hobby permit for livestock.

Disease is under the County code.

*Fees will be charged by resolution...a statement of this nature needs to be added...\$50 has been suggested for animals.

*To be added: the portion about denial based on health, safety and welfare being jeopardized.

Comments:

Todd Phillips (Resident): He stated a hypothetical situation...if someone moved into the Community and moved next door to an existing resident whose health would be threatened by having livestock next to them; what recourse would the existing resident have? What if the existing resident had researched carefully the zoning and uses allowed the area they chose...based on the health of one or both of the residents? Is there adequate provision in the proposed code to avoid the nuisance aspect of these types of situations? It seemed to him that the focus has been on those who want relaxed zoning. He feels that current rights should be preserved. What is the process for the injured resident to appeal this?

Mayor Dunn: This was discussed; but a solution was not arrived at. One suggestion was to require the contiguous neighbors' approval for that conditional use permit...the code does not include that.

Neighbors would be noticed within 300' of the applicant's lot; then those neighbors would have to attend the public hearing at the Planning Commission or write a letter in the form of a formal complaint that they object to the applied for permit.

Todd Phillips: There are two sides to this issue; he is not favoring either side, but does have an interest in providing an adequate provision for the person opposing the application to be heard and have his/her opinions count toward the decision-making process...rather than waiting until the permit has been granted and then, if they are considered a nuisance, they would have to go through the whole abatement process of the nuisance code.

The issue is; can the City craft an ordinance that protects the rights of both sides to some degree?

Raymond Brown: This was discussed and one resident said that she has chickens and that her neighbors do not mind; then the conditional use permit would not be a problem. If there is a problem with any of the neighbors, conflict will be created, whether they complain or not. Common courtesy says that the neighbors should have a say in what goes on with their existing rights...this code proposes to take rights away from one group and give them to another.

Nelson Abbott: The Planning Commission can deny a conditional use permit application if the health, safety and welfare of the surrounding people are jeopardized. The neighbors should "raise the red flag" at the Planning Commission Public Hearing to voice their concerns. The Planning Commission should listen to and weigh those objections. The "Management Plan" that is required to accompany the application

Lucretia Thayne: (Question) She has 7/8 of an acre; perhaps larger than most lots in that zone. Is it possible to have more animals allowed due to the size of the lot (8 or 10 chickens)? She feels that is reasonable for that size lot. With four cats in the house, that only allows for two chickens...on a large lot.

Mayor Dunn: Another question: Are the chickens allowed to run free or would they be cooped up? The proposed code he examined a few months ago required that the chickens be cooped.

The minimum space allowed is 4 sq ft per chicken.

(Mrs. Thayne's objection is that she is grandfathered with 4 cats; so she can only have 2 chickens. She wanted to know if the code could allow more chickens for larger lots.)

Shawn Eliot: None of the cities that allow chickens have that "cumulative" requirement; it was a compromise due to the heated nature of the issues. It was more a consideration of the dogs involved in the total; that has been removed.

Julie Haskell: (Directed to Mayor Dunn) She asked if it would be appropriate to read a letter from the City Attorney, to all who have not heard it.

Nelson Abbott: All who are voting have read the letter.

Raymond Brown: He asked why Dayna Hughes (Chair of the Planning Commission) voted "no" on the proposed code.

Dayna Hughes: She replied that she did not understand the "conditional use permit" aspect of the code. After reviewing the current proposed code, she would vote in favor of sending the code on to the City Council for a decision.

The question was asked about the "cumulative" aspect of numbering the animals; what was the Council's opinion?

Sean Roylance: He would not mind if a person had 1 dog, 1 cat and 6 chickens.

Nelson Abbott: He would say "6 outdoor animals". *(The Planner commented that "outdoor" pets would be hard to define and figure into the numbering.)*

Mayor Dunn: He pointed out what is happening to this code...there is already a request to change it. The issues have become more complicated. Most people will recall what they want to apply to themselves. This is an issue when problems arise. He hopes that people will follow the laws and the guidelines; but people typically do not...that creates issues. The City office will still get phone calls complaining about nuisances and want the City to solve their problems.

Question: Strike the "cumulative" aspect in the code, or not?

Nelson Abbott: Yes.

Sean Roylance: Yes.

Derrek Johnson: Yes.

Julie Haskell: No.

Raymond Brown: No.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY DERREK JOHNSON TO ADOPT THE ANIMAL LAND USE ORDINANCE AS PROPOSED WITH THE FOLLOWING AMENDMENTS:

1. MINIATURE HORSES ARE CLASSIFIED AS HOBBY ANIMALS
2. REMOVE LIVESTOCK AS A CONDITIONAL USE FROM THE R-1-15,000 & R-1-20,000 ZONES
3. REMOVE THE CUMULATIVE ASPECT OF THE CODE FOR HOUSEHOLD PETS

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

Passes 3-2

ENFORCEMENT OF THE CODE

Mayor Dunn: He made the point that though the code passed; those who are currently violating the law are not grandfathered. Illegal activities under the existing code are not grandfathered. Application needs to be made to obtain a conditional use permit for these animals. Owners will have to follow and adhere to the new code.

Nelson Abbott: (He asked that this item be placed on the Agenda.) Now that the code has been passed, a time frame should be established wherein people may apply for their permits and adhere to the new code; or the City should strictly enforce the code and "go after those who are unwilling to comply". The opportunity has been granted; a window of time of perhaps 60 days should be granted for applicants to appear before the Planning Commission to either be granted or denied a "Conditional Use" Permit for their animals.

The Council agreed and the date of September 8, 2009, was set as the cut-off date to file an application for a conditional use permit with the Planning Commission.

**This announcement should go out in the August Newsletter.*

RESOLUTION – CITY FEE SCHEDULE

The Hobby Animal Permit fees had to be added to the Schedule and there was some general clarification of some outdated fees.

Nelson Abbott: To be amended:

- Add: Hobby Animal Fee (\$50.00)
- (Strike #4) Remove the Registration Fee and the annual Renewal Fee for pigeons

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY SEAN ROYLANCE TO APPROVE THE RESOLUTION ADOPTING THE CITY FEE SCHEDULE WITH THE FOLLOWING AMENDMENTS:

- STRIKE THE CURRENT #4 OF THE SCHEDULE THAT REQUIRES A REGISTRATION FEE AND AN ANNUAL RENEWAL FEE FOR THE OWNERSHIP OF PIGEONS; AND
- REPLACE #4 WITH THE ADDITION OF A HOBBY ANIMAL CONDITIONAL USE FEE OF \$50
- THE PAVILION RENTAL FEE WILL BE \$25 FOR RESIDENTS AND \$50 FOR NON-RESIDENTS; WITH A REFUNDABLE \$50 DEPOSIT

VOTE: YES (5)

NO (0)

CITY COUNCIL
MINUTES

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY NELSON ABBOTT TO APPROVE THE CITY COUNCIL MINUTES OF JUNE 9, 2009; WITH CORRECTIONS

VOTE: YES (5)

NO (0)

EXPENDITURES:

General:

Computer Management Proposal:

Sean Roylance: After review and conversations with a representative of Harland Technology, Councilmember Roylance recommended the City not approve the proposed Management Package.

- They will replace defective equipment, but will not upgrade equipment (replace the PC's)

- They do not give software advice

- The change in services would go from about \$2,000/year to about \$5,000/year

The difference in price is for "remote monitoring"; he does not feel the differences are worth the change in price. He does feel the \$2,000 is reasonable for current services.

NON-AGNEDA ITEMS

Mayor Dunn:

1. A list of concerns for the flooding problems will be made up and he will get all members a map.

We also need a general cost of the proposed improvements. Perhaps an SID could be considered.

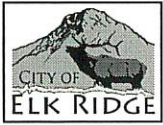
2. He will call David Church again regarding the Surety Bond.

ADJOURNMENT

The Meeting was adjourned at 12:05 AM



City Recorder – Elk Ridge City



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 OF CANCELLATION OF CITY COUNCIL MEETING

Notice is hereby given that the regularly scheduled Elk Ridge City Council Meeting, scheduled for Tuesday, July 28, 2009, is hereby CANCELLED, due to lack of business.

The meeting was to be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

7:00 PM - REGULAR COUNCIL MEETING AGENDA ITEMS:

MEETING HAS BEEN CANCELLED, by order of Mayor Dennis A. Dunn.

(Mayor Dunn cancelled the Meeting due to lack of business at this point in time.)

Dated this 23rd day of July, 2009.



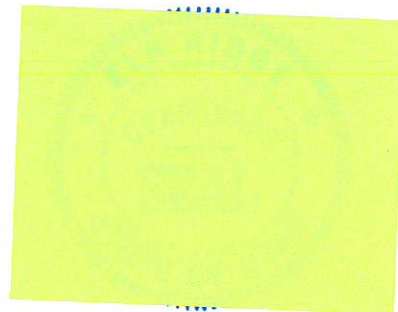
City Recorder

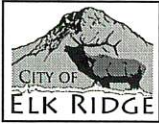
CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, hereby certify that a copy of this Notice of Cancellation of the City Council Meeting was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, and was provided to each member of the Governing Body on July 23, 2009.



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

AMENDED NOTICE & AGENDA

Notice is hereby given that the Elk Ridge City Council will hold a **Public Hearing on Tuesday, August 11, 2009; at 6:00 PM** for the purpose of hearing public comment regarding the 2009 Tax Rate for Elk Ridge City and the 2009/2010 Fiscal Year Budget for the Operation of Elk Ridge City.

This Public Hearing will be held in conjunction with the **Regularly Scheduled City Council Meeting, to begin at 7:00 PM**. The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

All interested persons shall be given an opportunity to be heard.

6:00 PM - 1. PUBLIC HEARING/2009 TAX RATE & 2009/2010 FISCAL YEAR BUDGET

Public Hearing/Consideration of the 2009 Tax Rate & the 2009/2010 Fiscal Year Budget for the Operation of Elk Ridge City

7:00 - PM REGULAR CITY COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance

Approval/Agenda Time Frame

7:05 Introduce Kenneth Lutes/Candidate for the Office of Mayor

7:15 Public Forum:

*Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by the group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing. The Mayor or Council may restrict the comments beyond these guidelines

7:25 2. Approvals:

A. Tax Rate for 2009 Tax Year for Elk Ridge City

B. 2009/2010 Fiscal Year Budget for the Operation of Elk Ridge City

7:35 3. Boundary Line Adjustment between Payson City & Elk Ridge City (North boundary of Golf Course)

7:45 4. Elk Ridge Meadows PUD - Discussion

8:30 5. Schedule Field Trip - Elk Ridge Meadows PUD

8:35 PM - CITY COUNCIL CLOSED SESSION

Discussion of Land Acquisition Negotiations

REGULAR CITY COUNCIL MEETING AGENDA ITEMS (CONTINUED):

9:15 6. Release of Durability Retainer Bonds:

A. Snyder Meadows Subdivision, Plat A

B. Cloward Estates Subdivision, Plat A / Phase 2

9:20 7. 2008/2009 Government Audit - Approval of Engagement Letter (Jones Simkins CPA's)

9:30 8. Public Hearing on Criminal Portion of the Code regarding Animal Control is scheduled for 8/25/09

9:35 9. Appoint Election Judges

9:40 10. Expenditures: General

9:45 11. 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 10th day of August, 2009.


City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, do hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, and provided to each member of the Governing Body on August 7, 2009; & an Amended Agenda on 8-10-09.


City Recorder

ELK RIDGE
CITY COUNCIL MEETING
August 11, 2009

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, August 11, 2009, at 7:00 PM; this was preceded by a City Council Public Hearing at 6:00 PM, on consideration of the 2009 Tax Rate and the 2009-2010 Fiscal Year Budget. 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 August 7, 2009.

6:00 PM -

PUBLIC HEARING - PROPOSED 2009 TAX RATE (TRUTH IN TAXATION) & 2009/2010 FISCAL YEAR BUDGET

Public Hearing/To consider the proposed 2009 Tax Rate and proposed Budget for the 2009/2010 Fiscal Year, for the Operation of Elk Ridge City (Interested persons were given an opportunity to be heard.)

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance & Derrek Johnson; *Scout:* David Bell; *Public:* F. Lucretia Thayne, Neil Dykstra, Ken Lutes, Ray Osburn, Dennis Jacobsen, Eric Ault, Robert Goodwin, Jim & Jamie Towse, Cindi Ellis, Chris Jorgensen, Linda Jones, Nathan Jones, Chris Salisbury & Scot Bell; and the *City Recorder:* Janice H. Davis

Mayor Dunn: (Explanation of the Taxation process) When there are changes in the Tax Rate, a Truth in Taxation Public Hearing is required. The reasons for the proposed tax rate change are discussed; concerns are heard and the Council has a chance to answer questions and review the proposed figures. One of the main duties of the Council is to create a budget for a fiscal year. A budget is established by using proposed figures for the following year. *He reviewed the various sources of General Fund revenue.*

One of the sources of revenue is "Sales Tax":

Some of the sales tax revenue is generated from the "point of sale" (the city)...1/2 of the sales tax collected is called "point of sale tax". The other 1/2 of the collection goes into a fund at the State level; this fund is divided on a quarterly basis by the population of the State...then they use that factor to multiply that money...then each community receives a return based on its population. Since there is no commercial base here in Elk Ridge, most of the City's return is based on population.

With the sources of revenue, a budget is formulated based on past years' estimates and current needs.

The original budget is adopted at the beginning of the fiscal year and may be adjusted (or modified) throughout the year.

There was a further summary of other sources of revenue in the General Fund.

He reviewed the "Enterprise Funds: They are the Water, Sewer & Storm Drainage Funds. They are set up more as "businesses" and they are designed to sustain themselves.

Cities are in the business of providing services. These services could be: law enforcement (contracted with the Utah County Sheriff's Dept., garbage collection, Fire Protection, snow removal (costs are high), water and sewer services, etc. The City does not provide electricity, natural gas, telephone, cable, etc.; these are private companies that serve the Community. Some cities do provide other services.

The Mayor described the water rates and how the billing process works. Most of the neighboring communities do not have water associated with their base rates and the charges begin with the first gallon used.

He reviewed the City's Bonds:

1. Sales Tax Revenue Bond: This was used to purchase property to build a future City Park & City Center. It was also used to tie four parcels of land together that the City owned. (Total of about 10.35 acres of ground at the corner of Gooseneck Drive and Elk Ridge Drive). The Bond was for \$1.5 million; with \$900,000 going to the purchase of the property...with \$600,000 left over. The City was contemplating another piece of property from Payson (former hole #7) for a park...there was no purchase in this case. The \$600,000 balance is restricted to the City Center and Park of "facilities attached to that property...like a public works building. If not used within 36 months, then it is returned to the bank and takes about 1/2 years off the back end of the note.

2. There are two Water Revenue Bonds (\$500,000 in 2007 & \$350,000 in 2002) based on the water rates and the ability to pay the debt service.

A major water project was funded mostly by the City in the re-assignment of water rights and up-front money from developers in the PUD north of town. This was about a 2.2 million dollar project and only \$500,000 had to be funded through a bond...all of this without raising water rates.

The income in the Water Fund is affected by whether we have a "wet" year or a "dry" year. This past June was very "wet"...not much water revenue was generated.

When the end of a fiscal year comes (June 30), the budget has to be finalized; but there is still money coming in from the State and bills to come in (the final financial report if the Audit).

To help balance the budget, the Council was committed to cutting all of the expenses possible:

- 3 employee positions were eliminated (work was brought in-house to the current employees);
- Froze all the employees' wages & bonuses;
- The Fire Dept. cut down their budget by about 33%;
- Road Repair was cut;
- No transfers out of the General Fund to other Funds to save for future improvements.

City Recorder: The General Fund for 2009/2010 Fiscal Year is currently balanced, with a little over \$8,000 counted as excess; however this is based on an "untrue" picture of what it takes to operate the City.

At the end of the 2008/2009 Fiscal Year (ending June 30, 2009), the budget ended in about a \$250,000 deficit. The General Fund was "balanced" because it has to be; however, the difference was made up with two large transfers into the General Fund from Capital Projects Funds. One of the Capital Projects Funds was to accrue money for the construction of a City Center and/or to build out the Fire Dept. The other Fund is made up of Fund Balance that has accrued over the years.

Property Tax was discussed for both last year and the current year. Last year \$234,439 was budgeted for collection; this year the proposed amount is \$26,036. Last year the City only collected about \$210,000 out of the budgeted amount...some residents do not pay taxes.

This year the "Administration Fees" from the Water and Sewer Funds have increased to assist in covering costs in the General Fund. The Water and Sewer Funds actually contract administratively with the General Fund and pay a certain amount to the General Fund, based on time spent in those particular Funds. The Water Fund is not quite covering its costs in this area. The time spent in the Fund is about 35% to 40%; the Water Fund is only paying about 25% of its administrative obligations to the General Fund...and even at that, the Water Fund may not meet this level...depending on revenue generated in Water and cost savings.

One savings in Water was to be the result of switching to the Loafer Well as the main well for the City. The pumping costs would decrease by switching to the Loafer Well. This switch was authorized by the Council in the winter months, but due to delays, has not been completed.

Though the budget is balanced now; what will the mid-year amendment look like; it is impossible to know at this point.

As the Mayor said, the budget directly affects the level of services the City is able to provide.

What will happen to those services?

- Will snowplowing have to be "timed" and rationed out due to lack of revenue? (Many cities are doing this already.)
- What will happen to the City's roads if they continue to go unrepaired? Replacing a road is much more expensive than overlaying it.
- How long can we safely hold off on purchasing a Brush Truck for the Fire Dept.?

Explanation of General Fund and Capital Projects Funds:

Capital Projects Funds were compared to "Savings" Accounts; while the General Fund was compared to the City's "Checking" Account. When there is not enough money in the Checking Account, one does not put money into savings; and will even transfer money out of savings to help cover costs...that is what happened last fiscal year. If savings gets depleted too much, one is in danger of being "over-drawn". This must be avoided in the General Fund.

With the proposed tax rate, the average increase (overall) would be about \$40...and this simply begins to make up the difference in Revenue vs. Costs.

Raymond Brown: The City's infrastructure is aging; pipes are breaking and needing to be replaced (Example: \$105,000 project on Canyon View Drive to replace a water main).

Mayor Dunn: Most infrastructure such as water lines has a life of about 25 or 30 years; the City's old cast-iron system has been in place for over 30 years and breaks in the lines are increasing.

Roads: Some of the City's original roads were laid down with no road base; they should be done according to the City's own standards; and must be maintained regularly (various methods of maintenance were reviewed).

One of the areas of expense cut out of the budget was conferences...the decision was not to attend; one of these conferences was the "Roads" Conference...this is a valuable one in that there is usually much useful information available.

Property Tax: The State return on property taxes is 18%...so if someone paid \$1,000 in property tax, an average of \$180 will go to the City of residence. All cities are different. The percentage collected by Elk Ridge is 12% or lower (under the average amount). The School District gets most of the rest of the assessment.

When a change in property tax is discussed, it could change that 12% figure to perhaps 13%...depending on the ratio. The proposed tax change would result in about \$35 to \$40 more in the overall assessment for the year.

Due to the Recession and the number of foreclosures in the County, the deficit rate (usually around 10%) is more like 18%...this is money that will not be collected (it could be a different rate in the various communities).

(He suggested the State's Web Site to find out more about how the cities are affected.)

The Mayor explained the when homes go into foreclosure, the banks who pick up the homes pay the property tax...he was not sure if there is any kind of "grace period". The valuation on the surrounding homes will change with a foreclosure nearby, and this would result in a decrease of property tax. The notices of assessment can be disputed; an appeal can be set up.

The County sends out a suggested tax rate; the City will determine if that suggested rate will suffice or if there should be a proposed increase. The assessment will be based on the proposed tax rate for the City.

Suggested Tax Rate: .002147 (Generating about \$238,000)

Proposed Rate: .002343 (Generating about \$260,000)

At the Public Hearing for the Tentative Budget, the Council adopted the Budget with the Property Tax figure being at \$260,000.

City Recorder: She reviewed the tax forms that come from the County and the process by which the proposed tax rate was determined.

Neil Dykstra: He asked about what the tax rate is based on...is it by square footage of the home? Or is the size of the property?

Mayor Dunn: An Assessor would look at the square footage of the property and the finished part of the home; an unfinished basement will have a different value than if it were finished.

When a home is built and the occupancy permit is issued; that information goes to the County. The type of outside finish to the home is also a factor in assessing value.

Lucretia Thayne: She wanted to clarify that the figures coming from the County already had depreciation on the homes calculated into them. She noticed that the assessment on her home was several thousand dollars less than it was last tax year. Is this the same throughout the City?

Nelson Abbott: That is his understanding.

Sean Roylance: A decrease in value does not necessarily mean a decrease in the tax assessment.

Jamie Towse:

-She asked if the City Celebration could be eliminated to save money. Rather than renting all the games, perhaps the residents could do more.

- Perhaps the City could go back to using the other well to save money.

If there are ways to save money and not raise taxes; those options should be looked into. Holding off another year on some things would be "no big deal".

Mayor Dunn: He explained that we are trying to accomplish this very thing. The Loafer Well has proven that it can pump about 23,000,000 per month; this was proven when the City was trying to "prove up" on some water rights from SUVMWA. In June, that Well only pumped 4.3 million gallons; in July, 14,000,000 gallons were pumped. The difference in the cost of water is great...about twice as much to pump water from the Cloward Well and boost it uphill as it costs to pump from the Loafer Well. The City is addressing this switch-over currently.

Explanation of recent Water Project: The new system that was installed was comprised of a new one million gallon tank...this doubled the City's water storage capacity. There are two other ½ million gal. tanks that are located up higher. The new tank was designed to feed to the north section of town from this side of Oak Ridge Drive...north to the build-out point of the Community. The other two tanks service the existing portions of town. The thought is to get the "cheaper" water to the upper two tanks by the gravity feeding from the Loafer Well. This switch has not happened as fast as planned...there have been delays. It is common sense to make use of the "cheaper" water.

Regarding the City Celebration: Councilmember Johnson has been in charge of the Celebration for the past couple of years.

Derrek Johnson: The Celebration is typically a "break-even" event. The costs are off-set by donations and tickets sold. It is unknown what the final numbers are for this past Celebration.

Nelson Abbott: It would have been nice to have to spend money on repairing vandalized property in the Park. If we can avoid these types of needless expenditures, this would save the City money.

(Replacing the broken piece on the slide was about \$1,500.)

The curfew in the City is the County curfew.

Jamie Towse: She suggested not repairing these things and just leaving them...like the tennis net. If there is not money to replace things, then don't.

Mr. Dykstra: One of the newsletter addressed businesses being current in obtaining business licenses. Where do these taxes go?

Mayor Dunn: That depends on the type of business; a wholesaler that does not collect sales tax contributes nothing to "point of sale" disbursement to the City. Home businesses have quarterly sales tax filings required; this information goes to the State Tax Commission. There are some home businesses where sales taxes are collected and the City does receive some of that back. He is aware of several businesses in Elk Ridge that do not have local licenses.

Mr. Dykstra: If a business does not collect sales tax, then none would be owed.

Eric Ault: He has no problem with the proposed tax increase; he simply wants to know where the City stands on their motivation to get out of debt. Is the City still planning on building a new City Center? He feels this does not make sense in the present economy.

Raymond Brown: The reason the public is sitting in the bay area of the Fire Dept. is that a new City building is needed; particularly the public works portion at this time. The City has outgrown the current facility. The current City Hall should be a Fire Dept. Building.

Mr. Ault: The timing may not be right. It may not be wise to get into more debt. He feels he understands the City's finances somewhat.

Raymond Brown: The timing may be right because of building costs on labor and materials are lower than they have been. The City already has the debt; if it is not used it will go back onto the back of the loan and there will still be interest to pay on the money.

Sean Roylance: He has researched the options with the loan and he realizes that the Council has had the information that Councilmember Brown referred to; however, he has further information that could be useful. It appears that the City could pay down the principle with a one-time penalty of \$9,000. If the \$600,000 were paid toward the principle; that could save the City about \$56,000/year...and over time, could save about \$195,000 in interest. So this question would be: do we want to keep that debt or remove a portion of it. If the debt remains the same, it would be like the City borrowing another \$600,000 right now.

Mr. Ault: Can a City building be built with \$600,000?

(The point was made that the public works portion would be the only thing built right now.)

Raymond Brown: Currently, the road salt sits out in the open and there are problems that arise from this arrangement...water and salt dissipate as well as getting all stuck together. In planning a City Center, the thought has been to move forward with the public works part of the plan and then the park...then, in the future plan the City Hall.

Mr. Ault: He still questioned if these things are needed right now...how heavily used is the current park? Until the current park is used to the limit, why have another?

Raymond Brown: One of the issues in the City Survey that is referred to was that there is not enough park space and not enough sports. The City is under the quota recommended for park space. Much of the work toward these things can be done in-house.

Mayor Dunn: One of the elements to be remembered is that when discussion went on to purchase that ground, there was no recession going on. The Council had looked at the Survey that went out and one of the often repeated comments was regarding the lack of open space. There is a formula for open space in communities that is based on population. One of the things that many may not be aware of is that when an impact fee study is conducted, a park impact fee would be based on how much open space we have...based on that formula. Park Impact Fees cannot be used to purchase land for parks in the attempt to match that equations. Park Impact Fees can be used to build out existing parks (as in the rock wall and landscaping in the current City Park). A portion of the bond the City applied for was to purchase open space for parks.

Regarding a future City Building: He envisions a "modular" approach to any construction...done in phases. As the City grows, the build-out will be about 1,500 homes (570 homes now); so there will be a greater need. What the City is considering now is preparatory.

Mr. Ault: He understands that the land has been purchased; but he was disappointed that only about 12 citizens showed up to discuss the future of Elk Ridge's finances.

City Recorder: She thought that the greater focus was on getting the public works' building built first; the parks would be secondary to that priority. Safety issues should be first...as desirable as more park space may be. The Fire Dept. has applied for a 2.5 million dollar grant for a new Fire Station...it is to refurbish the current City Hall...the money has to be applied to the Fire Dept.

Mr. Ault: His main concern is that the City does not over-do itself financially. He feels paying the \$600,000 back onto the loan would be his choice. "We can always bond money...can't we?"

Raymond Brown: The City has to be in a position financially to bond for a project or a purchase.

Mr. Ault: Then perhaps it would not be the wisest thing to give the money back; these are the things people need to know. Maybe a letter explaining the issues, in depth, would be beneficial. Citizens need to be informed what the options are with: parks, City Center, Fire Dept., etc.

There are less expensive ways to accomplish construction; Goshen just built a steel public works building.

Mayor Dunn: They got money by revenueing some of their property out and installed a cemetery; they also qualified for a CDBG Grant, which Elk Ridge does not qualify for...Elk Ridge's median income is too high to qualify.

Mr. Ault: Another issue with the City's finances: The position of Building Inspector: He does not feel it makes sense to pay a high salary to someone when there is no building going on. He is not "cruel" in wanting to cost someone his/her job; but he does not feel the salary this position is currently being paid is appropriate for Elk Ridge. The City could contract to bring in an Inspector.

Mayor Dunn: The Mayor interjected that the City used to do that; and the cost was about \$90,000. The position costs the City about \$66,000/year. He asked if Mr. Ault had any idea how this position is paid for... *(He did not)*

Mayor Dunn proceeded to explain about the revenue generated by Mr. Stephens: He actually only cost the City about \$14,000 in salary last fiscal year...Elk Ridge "revenueed him out" to Payson, Salem and Woodland Hills...in various capacities: as a building inspector, water operator, general contractor & Subdivision Inspector. Do to his work, the position of meter-reader was eliminated because the reading is being done in-house; he is of great value to the Community. His wage is actually very fair, all things considered. His salary could not be justified if he were not generating a good portion of added revenue to the City's budget. *(He brought in about \$53,000 last fiscal year.)*

Mr. Ault: He added that he wants to see efficient use of the City's money. It is not always the expensive route that is the best way. The City has resources in its citizens that could be made use of.

Nelson Abbott: The proposed "salt shed" is going to be a steel building with a concrete pad...with much of the work being done in-house. *(The cement work is being done by the Mayor.)*

Mr. Ault: He wanted to clarify that none of the employees are getting raises *(No they aren't.)*. The newsletter could be used better to inform citizens.

Raymond Brown: The City has a new web site that has been two-years in the making...if it could get "up and running", it would be very useful...but it is not. *(Many older citizens do not have the Internet.)*

Sean Roylance:

- He agrees that there should be concern about employees; if there are positions that cannot be justified, then the Council needs to take a hard look at that and the money being spent on those positions. As the Mayor said, he agrees that this is not the case with the Building Inspector.

- The Sales Tax revenue Bond: If we do nothing, it would be the same as the City going out and getting a \$600,000 loan right now. The question to ask: is that the decision the Council wants to make? Would that be wiser to not use that money right now, to see if the economy improves? It would take action to change this course.

Raymond Brown: If the money were to be "given back"...and if there is growth and the needs associated with growth are to be met...if the need arises for a new Fire Hall or a City Center, would the City have the ability to bond at that point? If the City does qualify for a loan, it will be at a high interest rate. Another option would be to increase taxes significantly.

Sean Roylance: If the economy improves, so will the Sales Tax Revenue. He surmised that if the City were in a position of growth, yet could not get another bond.

Raymond Brown: The money was borrowed at a low interest rate and was meant for specific purpose; why wait until the absolute need arises and then attempt to qualify for another bond at a higher interest rate?

Sean Roylance: If there were growth, that would indicate a stronger economy...probably similar to when the bond was originally obtained. Should an increase in taxes be postponed?

Neil Dykstra: In listening to the discussion, he surmised that there was no definite plan, nor is there a time line for construction on a City Center; and he feels the City is "paying money down the drain". The City could use that \$55,000 to support the current needs rather than paying interest on something we are not using...he feels this is "foolish". He advised coming up with a definite plan and time line regarding these proposed structures. The plan needs to be in place and scheduled, so the money can be used wisely. The ideas need to be converted into a plan...and this plan should be communicated with the citizens.

Raymond Brown: There is a partial plan: the "salt shed" is planned and the public works building has a rough plan. Several people have been contacted regarding grading the field, at no cost to the City. The Council is not trying to project that the first need is to build a new City Hall; but to address the needs of public works and road salt.

Neil Dykstra: He suggested determining exactly what those costs are...keeping that money and returning the rest of it. This would save the City money.

Raymond Brown: He made the point that this information from Councilmember Roylance is completely new to the Council; this was the first time it had been made available.

(Councilmember Roylance commented that he had only received the information that day.)

Mayor Dunn: He added that he had experienced frustration that the Council has not moved forward with plans. The intent was to "do something" with the land. There has been thought of re-designing the existing home into a City Center. Nothing has been decided about the existing home either.

One of the reasons to move forward with public works is to move the equipment out of the Canyon...partially for security reasons. The house has generated a bit of revenue (\$1,200/month) in rent; which was allowed because the house was "gifted" to the City...it was not part of the purchase.

Lucretia Thayne: (Seeking clarification)

- Park Impact Fees: Can the fees be used to landscape the land to be used for a park? (Yes.)

- Is there sufficient money in Impact Fees to put grass in? *(There is about \$30,000 +)*

- Can Impact Fees be used to repair any vandalism? *(No; that would be considered "repairs or maintenance" and Impact fees cannot be used for that purpose.)*

Mayor Dunn: The only way to get more impact fees is with new development; at the time of building permit.

The PUD north of town did pre-pay for water (paid back from impact fees)...they also have to be utilized within 6 years. Many citizens are uninformed about impact fees and how they are used by the City.

There is much that has been funded through impact fees rather than tax money; for instance, most of the park improvements were funded with impact fees and through Eagle Projects.

Ray Osburn:

- Fire Dept. Grant: He agrees that this is a "real need".

- He feels that where the City has regrets in making mistakes is where not enough money has been spent to do things "right". There are "hopes":

- 1) To get the Fire Dept. grant: build a new fire house
- 2) To build a public works building
- 3) To build a City Center

There are factors to figure in:

1) The unsteady economy

2) Is it worth spending some money at this point to design a building (Center) that could be expanded

He is personally in favor of designing a building that can be expanded. There are too many "what if's" right now and not enough plans. He likes to see progress and to move forward. It costs money to move ahead and to "stay alive".

He feels that there has been a good explanation about the needs of the City and how the City plans on meeting those needs.

Mayor Dunn: (He thanked Mr. Osburn.) He agrees that if the City does not do something with the bond money, there will be opportunities missed. The recession has slowed things down, but there are still things that can be done to move forward, without being a detriment to this Community...planning for the future is always a good thing.

There has been discussion of increasing the overall taxes about \$40 per household (as an average); he asked those present if they are "okay with that"...if they could "live with that". It is the duty of the Council to bring these things to the public and to have these discussions...he feels the evening's input has been productive. He does agree that he would have liked to see more of the public in attendance.

Neil Dykstra: He wanted to know where the \$40 average increase came from...his is an \$80 increase. He feels that is more like the "average".

Mayor Dunn: the \$40 is an average. The proposed increase in General Fund Revenue (property taxes) is \$25,000, divided by 570 (homes in Elk Ridge) = \$43.86.

City Recorder: There is a \$22,000 difference in the amount of property tax generated in considering the suggested tax rate and the proposed tax rate.

Sean Roylance: "As a percentage of your home value, the County has already raised taxes...and so what we are considering is to raise an additional \$22,000".

Nelson Abbott: The notices sent out from the County reflects the proposed tax rate.

Shawn Eliot: He got his assessment and the School District and the City portions increased; while there were other assessments that went down...so, in the end, he only paid \$45 more...total. He said that he does not live in a "big rich house", but he said he lives in an "okay" house...so perhaps he is "average".

A friend of his that lives in a big home on the golf course told him that his taxes decreased considerably. He thinks that some of the high-end homes in the Valley have depreciated so much that their tax increase is less than the average home...because the average home did not have much of a depreciation in the value. An example of this would be: the City Recorder, who lives in an older home, has a higher assessment than Mr. Eliot, who lives in a newer home.

City Recorder: To come to an understanding of how the County sets the values on homes; any interested person can call the County Assessor's office. The City does not set the values on the homes.

Mayor Dunn: That is an important thing to remember...that is where the "appeal process" can be applied. If anyone feels the assessment has been unjust or unfair, that person can speak to an "arbitrator"...these people work with individuals to work through their problems. The Mayor said that he has gone through this process.

Raymond Brown: The contact is called the "Board of Equalization"; one simply asks for a hearing and a date and time is set up...within a week or two. It is good to take information regarding neighboring homes, appraisals...anything that may apply. Even if the appeal is rejected, one can request "mediation".

Nelson Abbott: Information on neighboring homes is "public" and can be obtained on the Internet...on the County web site.

Mayor Dunn closed the Public Hearing at 7:47 PM. (The Council took a short break.)

ELK RIDGE CITY COUNCIL MEETING August 11, 2009

TIME & PLACE OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, August 11, 2009, at 7:00 PM; this was preceded by a City Council Public Hearing at 6:00 PM, on consideration of the 2009 Tax Rate and the 2009-2010 Fiscal Year Budget. 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 August 7, 2009.

REGULAR CITY COUNCIL MEETING AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance & Derrek Johnson; *Scout:* David Bell; *Public:* F. Lucretia Thayne, Neil Dykstra, Ken Lutes, Ray Osburn, Dennis Jacobsen, Eric Ault, Robert Goodwin, Jim & Jamie Towse, Cindi Ellis, Chris Jorgensen, Linda Jones Nathan Jones, Chris Salisbury & Scot Bell; and the *City Recorder:* Janice H. Davis

OPENING REMARKS & PLEDGE OF ALLEGIANCE

An invocation was offered by Nelson Abbott, and a Boy Scout David Bell 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 JULIE HASKELL TO APPROVE THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 7:55 PM
VOTE: YES (5) NO (0)

PUBLIC FORUM

No comments.

APPROVALS

1. TAX RATE FOR THE 2009 TAX YEAR:
Resolution/To adopt the tax rate to be assessed to Elk Ridge citizens for the 2009 tax Year

Raymond Brown: There is already Council approval to build a "salt shed"; he feels the City would be "remiss" in not building a public works building as soon as possible. This would locate the public works and associated equipment elsewhere besides Loafer Canyon...this action could result in the City being able to sell that lot in the Canyon. The trucks and equipment have outgrown the current bay area; as well as the Fire Dept. bay area. He feels there should be something proactive done with the bond money. He is not confident in the new information presented by Councilmember Roylance, until it has been verified that the money can safely be given back without too much penalty.

He will not be on the Council the following year, but as a citizen...he will still argue the case. He feels that Mr. Dykstra made some good comments...in that there must be a plan! Councilmember Brown has been in favor of formulating a plan for some time now. "If you don't know where you're going, it is hard to drive"...meaning that there must be a plan as to the direction the City is going with the modular approach to the City Center. The discussion has been to:

- Install the salt shed
- Build Public Works Building
- Possibly the park area
- A concession stand would bring in added revenue (a "rough" number would be \$30,000/year)
- Eventually building a City Hall

Is this a "good time"...Is there ever a "good time"? He cannot tell what the future may bring. He knows that people cannot just sit around and worry about the future. Currently, costs are down on building supplies and

labor (contractors need the work)...perhaps the time is right. He thinks State Farm started up during a recession. There are people who have vision...

He has always suggested a five-year plan to decide where the City is going.

It is "just not good business" to have the emergency equipment house the way it is at the City; not is it "good business" to park the snowplow out in the weather and leave it...nor is it "good business" to leave maintenance equipment unprotected. The City is "maxed-out". "So, do we turn the money in and save \$50,000?"

City Recorder: There seems to be a perception that saving \$50,000 + will solve the City's problems...that is not the case. She explained that the City ended the last fiscal year with about a \$250,000 deficit. How long will the City not repair roads? It is not just the City Center or the associated bond...how long will City employees not get a cost of living adjustment? How long will we eliminate transfers out of the General Fund? The proposed tax rate was meant to start to "chip away" at the City's deficit. The revenue in the General Fund must be brought back up to a point where the City can operate at a "healthy" level.

Raymond Brown: A certain amount of B&C Funding (about \$80,000) comes from gas...then the City adds General Fund money to that for road maintenance. UDOT has been up to Elk Ridge to monitor the way the City spends the funding; they have been very complimentary about Elk Ridge's roads and snow removal policies. Many cities do not even plow some of their streets...some cities will actually direct that plows be parked after a certain number of hours plowing, due to lack of funding. The City was very frugal this past year and this summer in the area of road repairs; which is good...but there were roads (particularly three) that really needed some maintenance, and did not get it. Two or three years of this will result in "failures" in the roads...and that situation would be very expensive to fix. The roads cannot go too long without the necessary repairs.

Sean Roylance:

- He was simply providing information to the Council regarding possible options for the bond money.
- He agreed with Councilmember Brown and the City Recorder that there are problems that need to be solved in the City and that "we need to do this" (referring to the proposed tax rate increase).
- He does feel the issue with the possibility of saving a certain amount on the bond payment is relevant...it would free up more money to apply to the General Fund expenditures. He realizes that this will not solve all the problems.
- His opinion is that if there is a way to "get by" for now and obtain money in another way, that would boost the citizens' confidence in the Administration.
- He feels that most residents could afford the proposed increase; but he feels it is more of a psychological aspect this year...to have taxes raised.
- He agreed that the information he received recently should be verified; but the source is Zion's Bank and they were being considered for this bond. There may be risk, but he felt fairly confident in the information received from Zion's Bank. They also said that if Wells Fargo Bank was unwilling to work with the City, that they would be glad to do so...however the fees would be higher (\$25,000 rather than \$9,000) to transfer it all over to Zion's Bank from Wells Fargo. Zion's Bank did not see any reason Wells Fargo would not want to work with the City. "There is the potential that maybe this information is wrong...but that is the source of it."

Mayor Dunn: The economy will be different next year...there is not way to predict what it will be like next year or in the future. Sometimes the tax figures increase and some times they decrease. He can see evidences of a stronger economy; with slow, safe growth possible. The Council will see a proposed tax adjustment come up again. For the past two years there has been a great deal of focus on understanding the tax issues; and the Council has struggled with meeting demands...like all other communities across the Nation.

He wants to try to keep the level of services at a level where Elk Ridge citizens are not compromised with their health, safety and welfare...that is important, and that is our duty...as tough as it may sound, tax increases are not favorable things". He is a tax payer and he does not like increases; but he is okay with it if he understands the need.

Sean Roylance: 1) He has also done research on the issue of codification; which has been discussed briefly in the past. He conducted an informal survey and found that many cities of smaller size do not use a codifier and they save that money; "which in some years has cost us as much as \$20,000 in a year...or so". He would like to re-examine this area to see if the City could save this money.

(Note from City Recorder: The average amount since 2001-2002, when the City began using codification has been \$2,474...with one of the highest years being 2003-2004 at \$5,686...but this was for two years, since the total for the previous year was \$0.00. The next highest year was 2008-2009 at \$3,818, but this also took care of 19 new ordinances...17 in 2008 alone...including the HR-1 Zone Code...since 2001, the grand total spent over the years has been just under

\$20,000, which is perhaps what Councilmember Roylance was referring to.)

Without codification, if we ended up with a mistake in the Code...if someone challenges the Code..."we could just say that you can go ahead and do what you wanted to do after-all".

2) Another question is about the "switch over" to the Loafer Well; this would enable the City to save money by saving the higher pumping costs with the Cloward Well. He felt the information gathered at the beginning of the summer was compelling; he feels it is "disheartening" to learn that the switch had not fully taken place. That savings was to be considerable and he wanted to know what can be done to get this taken care of as soon as possible. What can the Council do?

Mayor Dunn: He advised that Councilmember Roylance contact the Public Works Superintendent (Kent Haskell) and communicate these thoughts. It may put some more urgency to the issue. There have been some problems with the programmer (telemetry) that cost about 3 weeks in setting up the computer program...a couple of weeks were lost in getting the right hardware. Perhaps Mr. Haskell needs to visit with the Council, either individually or as a whole, and explain why and how things have happened with this switch-over.

The Council decided last February on switching over to the Loafer Canyon Well. The Loafer Well used to be the principle well.

Nelson Abbott: When the engineers put together the plans for the new tank, Mr. Neeley said the changes were made based on changing to the Cloward Well.

Mayor Dunn: So, input from the City Engineer would also be useful. The Mayor has directed that the numbers must be reversed (pumping costs between the two wells). Last month, 14 million gals, were pumped out of the Loafer Well; and 28 million gals. were pumped out of the Cloward Well...this should be reversed. Raymond Brown: The computer tech did not show up until last week.

Mayor Dunn: It must be determined if the needs of the upper two tanks can be met by the Loafer Canyon Well. He again advised that the Council encourage Kent Haskell of the strong need to finish the project.

Sean Roylance: If this is costing the City money, then we need to do whatever it takes...even if it includes offering a bonus to some computer tech to get the job done as soon as possible.

He complimented everyone involved with the budget cuts to bring the budget into a balanced state. It is good to "get conservative" rather than simply dump more problems onto the citizens; as many cities do. He feels there is greater potential to budget efficiently.

Mayor Dunn: He agreed with Councilmember Roylance that the Council has been proactive in each of the departments to conserve as much as possible. The work that has been brought "in-house" by employees has been effective; as well as the volunteer projects done by the residents...it all helps.

Julie Haskell: The previous year Councilmember Haskell voted against a tax increase, based on the information available at that time and the fact that she was new to the Council. She now has more information and she feels better acquainted with the City's finances...she feels that the tax increase is necessary. She is over Public Safety and the Fire Dept. has cut their budget all they possibly can...those are services that affect people's lives; she does not want to see problems arise from lack of funding. She was ready to make the motion.

Raymond Brown: He has struggled with the information regarding saving money on the loan; but it is not information that has been validated and Zion's Bank is not the lending agency, so how does Zion's attorney speak for Wells Fargo Bank? He does not know how much more "tightening" the City finances can go through...he has spent 7 years serving the City...and there have been many good things accomplished: like a new sump design. He is not in favor of increasing taxes, particularly when he feels Nebo School District could spend money wiser. It is a hard call for the Council to make; particularly when only 12 or so citizens showed up for public input. Even considering the pros and cons, he still feels the increase is necessary.

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY NELSON ABBOTT TO ADOPT THE PROPOSED TAX RATE OF .002343 FOR THE 2009 TAX YEAR FOR ELK RIDGE CITY

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

Passes 3-2

2. 2009/2010 FISCAL YEAR BUDGET:

City Recorder: The Property Tax listed in the proposed budget was based on the proposed tax rate. The only change would be in a figure in the Water Fund: \$3,750 was added to "Connections" (Meters) to allow for an average of 10 new homes.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO ADOPT THE PROPOSED BUDGET FOR THE 2009/2010 FISCAL YEAR, FOR THE OPERATION OF ELK RIDGE CITY, ADDING \$3,750.00 TO THE WATER FUND BUDGET FOR THE PURCHASED OF NEW WATER METERS

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

Passes 5-0

**The information presented by Councilmember Roylance regarding the Sales Tax Bond should go through the process of being verified by the City Attorney, the City Finance Director and Wells Fargo Bank.*

Introduction of Candidate for Mayor, Kenneth Lutes:

Mayor Dunn: HE announced that neither he nor Councilmember Brown would be up for re-election in the up-coming Municipal Election. He introduced Candidate Kenneth Lutes; he is the only one who filed for candidacy for Mayor. There is the possibility of declaring candidacy as a "write-in" candidate and campaigning would be as such. On Election Day, a write-in candidate may be written onto a ballot by a voter (that name will not be printed on the ballots); but he/she would have had to have declared by October 5, 2009 for that vote to count.

Mr. Lutes will not be able to be present at the formal "Meet the Candidates Night", scheduled for the next City Council Meeting, and asked if he might have a few minutes to introduce himself.

Mayor Dunn gave a bit of background: Mr. Lutes is a West Point graduate and he has spent 8 years in the Military. The Mayor said he is an easy person to be around and that he is taking time to meet with the Mayor and acquaint himself with many of the issues in the City...he is a good man.

Kenneth Lutes: He appreciates being allowed to take a few moments and he certainly appreciates the good Mayor. He and his wife have been residents of Elk Ridge since 2002. He spoke briefly of his family. In Church, he serves with a BYU Stake.

He has worked for EDS (Electronic Data Systems); a financial planning company (Vice President over Operations); he started his own business (small shopping center); he spent about 16 years working for the

NON-AGENDA ITEM -
INTRODUCTION OF
CANDIDATE FOR
MAYOR

LDS Church; he has worked for a consulting firm and has published his own books, as well as editing other books.

His municipal experience: He served as Mayor of New Harmony (small town in Utah). He is familiar with city finances and was able to assist in solving financial problems with New Harmony.

Platform: He is in favor of...

- Fiscal restraint
- Low water rates (if possible)
- Low Taxes
- Small, "common sense" government
- Decisions based on the U.S. Constitution

He is willing to listen. He would like to talk to people in the City; he needs to know people's concerns.

People need to vote on November 3, 2009...there is much at stake. The Council and the people need to work together and he thinks a lot can be accomplished.

BOUNDARY LINE ADJUSTMENT PAYSON - ELK RIDGE

Mayor Dunn: He referred to a map indicating the location of the proposed boundary line adjustment...it is just north of Gladstan Golf Course; following the northern boundary of the Golf Course. The adjustment moves the northern boundary of the Golf Course slightly more to the north. 1/2 of the fairway there is in Elk Ridge, even though Payson owns the rest of the Golf Course. They want the adjustment to have the entire fairway within Payson's City boundaries.

This has been before the Council in the past and tabled for various reasons.

(Memo from Planner to Council, dated 7-28-09)

Background

The city of Payson requested in 2007 that there be a boundary adjustment between Payson and Elk Ridge to de-annex from Elk Ridge property that Payson owns as part of the Gladstan Golf Course. This property is along the northern property boundary of the Gladstan Golf Course in the rural Goosenest area. Both cities held public hearings on the adjustment as required by state law and soon after the process didn't proceed. In June 2009 the councils of both cities met and discussed getting the process restarted. Also discussed at this meeting was adjusting the mutual annexation declaration boundary between the cities north of Goosenest DR (surrounding Elk Horn DR) to include the Haskell properties up the Highline Canal.

For the boundary adjustment what is left for Elk Ridge to do is to adopt an ordinance approving the boundary adjustment.

Staff Recommendation

It is logical to allow Payson to have in their city limits this small strip of land that is a part of their golf course. The city will, at a future date, review other slivers of property along the west side of the golf course that also should be a part of Payson, as well as areas behind High Sierra DR, adjacent to the HR-1 zone that are currently within Payson and probably should be within Elk Ridge since Payson cannot serve them.

Now is also a good time to give feedback to the Payson council regarding the change to the annexation declaration boundaries.

Payson staff has told us that they are supportive of making the change as long as Elk Ridge agrees to keep the land use similar to what is in the area now. They were also ok with allowing a half acre lot designation with a PUD overlay that would allow clustering homes and keeping open space closer to the canal as a buffer to the orchards.

Council Discussion

1. Is the boundary change on the golf course property in the best interest for the city of Elk Ridge?
2. What is the best direction to give staff to approach the Payson council regarding the annexation declaration boundary adjustment and land uses?

Attachments

Attached is the documentation supplied by the city of Payson for the boundary change."

Sean Roylance: If this is approved, he suggests approval be based on a reasonable solution to the proposed annexation area in the Goosenest portion of town. Though the adjustment does not seem to "hurt" the City, then he feels it is reasonable to think that Payson would think favorably on allowing Elk Ridge to annex in the area indicated in the joint work session.

Shawn Eliot: 1) The Payson staff is supportive of the proposed change of the annexation declaration between the 2 Cities, if we keep our zoning similar to theirs...basically 1/2 acre lots. The Planner asked about a PUD with 1/3 acre lots and then open-space near the orchard...and they said they would be fine with that. That is staff, the matter would have to go before the Council in Payson. He feels that moving this boundary line adjustment along helps make the other happen.

2) They want to bring all of the Golf Course into Payson, instead of having pieces of it in Elk Ridge. South of High Sierra: there is an area that cannot be accessed from Payson...in those discussions it can be suggested that it might be beneficial to make the lay-of-the-land be the boundary, rather than section lines (as it is now). There is a hilltop that is currently in Payson that would have to access by going across Elk Ridge land...hopefully, that could come into Elk Ridge.

The only thing he feels could be a bit "awkward" on the proposed boundary line adjustment is that Payson owns a small piece of land that connects onto Elk Ridge Drive; it is basically Payson's access to the trailer park. We have asked them that Olympic Lane be continued to the West and tie into their planned development by that road...not onto Elk Ridge Drive. If Payson did access their development onto Elk Ridge Drive, there would be two roads close together...coming onto Elk Ridge Drive. If that one parcel does go into Payson, and if they do not use it as a road access...it could be sold off as a lot someday...with one house in the City of Payson...It could be that it would simply annex back into Elk Ridge at that time.

Raymond Brown: We seem to be going off of assumptions; and Elk Ridge's dealings with Payson have not been the best...meaning that things seem to go Payson's way in the ownership of land between the two Communities. He is concerned that so many things "seem to make sense"...and to Elk Ridge, that may be the case; however, it may not be the case with Payson. Anytime we have asked them for what seemed like a reasonable request, it is denied. They have not worked "with" us. He has a concern that Payson will not be "reasonable" in these issues.

Mayor Dunn: The Planner has mentioned that *staff* is supportive...and he feels there is common sense to be considered.

Raymond Brown: He feels that the tendency has been for Payson to do whatever is helpful to them; it seems like a "give...give" situation.

Shawn Eliot: These other issues were not included in this discussion because this pending ordinance has been on the table since 2007; Payson wanted to get this through before the other issues were addressed. Perhaps part of the motion could say that approval is contingent that the annexation boundary gets worked out. City Recorder: She added that the motion could also be contingent on solving the problem of their access to Elk Ridge Drive. *(The Planner agreed that it could be part of the approval.)*

Raymond Brown: There seems to be a lot of "contingencies"; he simply cannot vote for it with those still pending.

Julie Haskell: She has not seen in writing what all of Payson's specifications are regarding the annexation area. She attended a Council Meeting in Payson and much of what they discussed was a surprise to her and to her husband, since they are property owners and were not even notified.

Regarding a "buffer" for the orchards: there is already a 200' easement by the canal where Allred's have their trees...why shouldn't Allred's create the "buffer"? Payson was talking about 2 ½ acre "ranchettes" by the orchards.

Shawn Eliot: If the area came into the City as ½ acre lots, we could go right up to the 200' easement. If the land came in as a PUD, with more density...overall there would be a balance with open space. Julie Haskell: There are also four property owners with 4 separate pieces.

Shawn Eliot: There is concern with a large piece of land; the owners went to Payson to request annexation and Payson denied the request. The owners are concerned about their plans; and they are now calling Elk Ridge to see what we can do for them.

It comes down to the City's General Plan and what we want to do with this area.

Nelson Abbott: Regardless of what their staff supports, if an area is within Elk Ridge's boundaries, then Elk Ridge will deal with the land and its owners within Elk Ridge's zoning laws. Shawn Eliot: It still comes down to the General Plan and what it supports.

Mayor Dunn: He suggested putting a list of contingencies together for the motion.

Shawn Eliot:

- The parcel along Elk Ridge Drive (Access to their property would be through the Elk Ridge easement to consolidate access to Elk Ridge Drive.)
- The annexation area be adjusted (down to the canal and over to the Allred property)

(It was not mentioned at this time, but previous discussion also suggested that the hilltop south of High Sierra Drive also be included in this list.)

Scot Bell: As a member of the Planning Commission, he had the opportunity to visit with Payson's Planning Commission about development. He does not agree with Councilmember Brown about how dealing with Payson seems to be a one-way street. Payson has plans for the eastern part of their City, but in reality why should Elk Ridge simply accommodate Payson; perhaps they should be accommodating Elk Ridge.

Elk Ridge should define what is important to Elk Ridge before there is no leverage to left to "get what we want".

Raymond Brown: Payson has expanded and have dug another holding pond in the Four bay area...they have doubled the capacity. He doubts that they would consider leasing or selling irrigation water from them; yet we sell them water for their Golf Course. The last time he mentioned to Payson, they were very against the idea. He does not understand this kind of thinking between neighboring Communities.

Elk Ridge gets along with Woodland Hills and Salem, but Payson does not think that way.

Shawn Eliot: If this boundary line adjustment does not take place, it will not really "hurt" Payson in any way.

Mayor Dunn: The top of the list in the Joint Work Session with Payson was the annexation declaration.

Raymond Brown: It is odd that they made plans for the annexation area without contacting the land owners. How enforceable would a "soft list" (of contingencies) be? These are items we want them to consider; but they do not have to do that. We are running out of bargaining power.

Mayor Dunn: List:

1. Hilltop south of High Sierra, land come into Elk Ridge
2. Change in the entry to their property; purchase easement from Elk Ridge (Line up with Olympic Land)
3. Continuation of the change of the urban growth boundary to fit the lay-of-the-land (South of the canal and East of Allred Orchards remain in Elk Ridge annexation boundary declaration)
4. Land along Elk Ridge Drive that needs to go back to Payson (across from the LDS Chapel)

Shawn Eliot: (RE: Olympic Lane extension) If the City owns that easement for a road to go in at some point in time...Lee Haskell is planning on proposing use of that public road...if Payson comes in first and connects into it and builds the road, would the City have Payson purchase the road? *(Councilmember Brown said, "Yes".)* The City did not do that with the Kimber's.

Raymond Brown: He feels that the price should be "market rate", plus \$35,000. The \$35,000 would go to road repair.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO APPROVE THE BOUNDARY LINE ADJUSTMENT BETWEEN PAYSON CITY AND ELK RIDGE CITY FOR THE PROPERTY LOCATED AT THE NORTHERN BOUNDARY OF GLADSTAN GOLF COURSE; CONTINGENT UPON THE FOLLOWING:

1. Hilltop south of High Sierra/Haley's Lookout, that the land be within Elk Ridge's urban growth boundary
2. Change in the entry to their property; purchase easement from Elk Ridge (Re-align with Olympic Land)
3. Continuation of the change of the urban growth boundary to fit the lay-of-the-land (West of 1600 West and north of Goosenest Drive & South of the canal and East of Allred Orchards be within Elk Ridge's annexation boundary declaration)
4. Land along Elk Ridge Drive that needs to go back to Payson (across from the LDS Chapel)

VOTE: YES (4)

NO (1) SEAN ROYLANCE

NON-AGENDA ITEM
EAGLE SCOUT
PROJECT

Scout David Bell: He is working on the new entrance sign for Elk Ridge. He had design artwork to submit. It had been converted to "auto-cad" for review. Size: 3' X 5' (David Bell was asked by the Council to consider 4' X 6' and see what affect that difference would create.

The metal cutters have agreed to 3' X 5'; it is not known if they will agree to 4' X 6'. *Chris Salisbury agreed to be considered a "back-up" if the 4' X 6' is a problem.

-He wanted to know which font to use. (Same font used on the street signs in town) - He needed final approval on the materials to be used.

- This will be installed at the current entrance (1600 West or Elk Ridge Drive & Goosenest Drive)

Raymond Brown: Eventually, there will be another location for the entrance to Elk Ridge...can this be moved?

Scout Bell: The plan is to make the sign portable. (*Not too easily moved*)

Mayor Dunn: The Council seemed to agree on the thicker, more "bulbous" font. They also agreed on the sign mounted on the stone.

Scout Bell: He felt that he could accomplish the funding for the entire project; but he may need to have the City contribute, if possible. He can get much of the materials donated.

Sean Roylance: He asked if the rest of the funding had been raised.

Scout Bell: Donations covered most everything.

Sean Roylance: He felt that the lettering for "Welcome to" should be smaller; with "Elk Ridge" the dominant feature.

Scott Bell: dealing with metal is a bit difficult as time goes by. Contrast is important.

It was brought to the attention of all by Councilmember Haskell that the item was not on the agenda, so no motion can be made. The motion will be "polled" and ratified at the next Council Meeting.)

MAYOR DUNN POLLED THE CITY COUNCIL TO APPROVE THE PROPOSED SIGN AS PRESENTED BY SCOUT DAVID BELL, WITH THE FOLLOWING STIPULATIONS:

1. THE PREFERABLE SIZE OF 4' X 6'

2. LOG FONT

3. THE CITY WILL GRANT THE SUM OF THE STANDARD \$100.00 TO THE DAVID BELL EAGLE PROJECT

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

NO (0)

ELK RIDGE MEADOWS
PUD - DISCUSSION

Discussion:

Shawn Eliot: Staff met with the developers of the PUD. The Salisbury's are in negotiations with the Bank to purchase the lots. He reviewed the notes from that meeting:

(Memo from Planner to Council)

"This is a copy of the agenda for the meeting between staff and the developers to discuss issues within the PUD. *Writing in red a synopsis of what was discussed at the meeting of each item.* These will be discussed with the council and the developers during a work session on July 28. The developers will also be bringing additional information on costs and will propose a field trip to some of their developments to show the types of units they are proposing.

Elk Ridge Meadows Developers Meeting

17 July 2009

Completed park and trail areas in return for waving park impact fees

Calculations:

302 lots original concept plan lots

- 3 lots with school plat

- 10 lots in townhome development

- 5 lots already paid impact fee 284 lots left

to pay impact fee

Totals 284 x \$1,385 = \$393,340

Costs:

1. City would need detailed bids and possibly an independent bid to justify the amount of park impact fees to waive. *The developer is going to get detailed bids on the improvements so the city can use them to get an independent bid to verify the appropriate amount of impact fees to waive.*

2. Propose that the developers are charged reduced city water rate for park water. *It was discussed that if the improvements are made and that the developer is maintaining the park/open space areas until a certain amount of occupancy is achieved, that the city might be able to charge the same rate it charges itself for Shuler Park. This could allow the developer to get the improvements done sooner and clean up the development/city and allow for city recreational activities to use the park sooner. The developers were in agreement with this idea.*

Park/Open Space Issues

1. The city cannot take these areas over with the current wildflowers and native grasses. *Tom Henroid with Rockworth Development representing phase 1 had concerns about spending additional funds for something above the current approved landscape plan. Staff talked about the concerns with the current plan of wildflowers and native grasses (and how they didn't work) and that if the city were to waive the impact fees for their development doing xeriscaping, rocks, and smaller areas of turf grass, wild flowers, native grasses, etc. should still come in under the costs of the impact fees. Chris Salisbury of Salisbury Homes seemed to be ok with this requirement.*
2. Open space areas need to have a landscape plan that is acceptable to the city. This should include some patches of grass along with xeriscaping, and other low maintenance plants in the design.
3. Open space area adjacent to townhome development needs to be addressed. All but a strip for the trail should be part of the townhome development maintained by their HOA. *Will be worked out. Any trails not turned over to the city (if open space landscaping cannot be agreed upon in phase 1) need to have a public easement to allow public access.*
4. Fencing needs to be addressed. Randy told the planning commission that it would be handled in the CC&Rs, but wasn't. If the parks and open space revert to the city, a uniform fencing style needs to be installed along the park areas. *Developers are ok with coming up with a fencing requirement and putting it in the development agreement rather than CC&Rs, that the city cannot enforce.*
5. Street trees were required to come from the city approved list and be the same trees per street. *This was just to remind of this requirement. The developers were ok with this requirement. Staff has sent the code that requires this to the developer.*
6. The playground area needs curbing along trail so it doesn't fall off into play area. *The developers were ok with this requirement.*

Timeline:

1. At what percentage of occupancy do the improvements need to be complete? 25%?
2. At what percentage of occupancy does the parks/open space revert to the city? 50%?
The city needs to do further review of what taxes are brought into the city for the average value of the proposed homes so see at what percentage of occupancy would be appropriate to take on the additional expense of the park/open space. This will be done in August. The developers were ok with the above percentages, knowing that they could change.

Fire Sprinklers

1. Fire sprinklers are a heated issue (pardon the pun!) *Good way to tell a joke to start off what could be a heated discussion (oops another pun!!)*
2. Staff is divided on it. Planning commission and council are too. *Talked about that only Alpine, Woodland Hills, and unincorporated Utah County (for larger homes) require sprinklers.*
3. Whatever is done here will have an effect citywide. *If it is allowed here, why not in other like areas of town too?*
4. Could propose relaxing the sprinkler requirement on the single family homes (not townhomes), but require longer firewall burn standard between homes. *The developers felt this was fair.*
5. Citywide would still require it in hillside zones, areas not served by city water, and in larger homes over 4500 sq ft. 6. Varying home elevations and siding types would have to be required in the developer's agreement. *This is what the developers are proposing to do if sprinkler code is changed. Their argument is no cities in the county (and probably the state) require sprinklers in like settings and that their development would be better marketable with this trade.*

Comments:

Shawn Eliot: He found out that should the City decide to accept the open space and make it a public park, the City could not accept Park Impact Fees for it. The reason there are impact fees is to pay for their addition/impact to the community. When it was private, impact fees could be collected. It is suggested for the City to get an estimate to compare with that of Salisbury Homes.

Water Rates:

Depending on how the numbers work out, would the Council consider charging lower rates to allow the developers to bring the improvements back to where we want them?

Derrek Johnson: Would current residents be subsidizing this, since they are paying for the water?

Shawn Eliot: The residents would be getting a park out of it.

Derrek Johnson: This would be more acceptable after the City takes over the park after one or two years.

Park & Open Space:

The Planner referred to a map showing the open space within the PUD.

If Phase 4 takes over part of the open space in Phase 2 as part of their development, it would result in no loss of open space.

The only portion of open space left is in Phase 1, which is a smaller piece; but it does have a trail running through it.

There is also the trail along the canal.

They discussed how to bring these areas back to an acceptable level of landscaping.

Fire Sprinklers:

The developers ask that sprinklers be eliminated as required improvements to the homes. They add cost that the developer feels are prohibitive in the current market.

Chris Salisbury: Their original intent/goal for development in this area was to increase some of the architectural features on the homes, in exchange for removing the fire sprinkler requirement. Since that time, they simply want to "go vertical" at this point. He collected some information that he forwarded on to Tom Henroid (out of town) and that information was supposed to be submitted the previous Wednesday...that was to include the landscaping bid.

Mr. Salisbury would just like to move forward rather than getting into a discussion about the fire suppression systems. He felt there was a good, candid discussion about this and he got a better understanding of where the City is coming from in terms of fire suppression. It is something they would like to pursue in the future as the project gets going. Perhaps they could address the Council at a later time; but for now, they just want to move forward with the current codes that are in place. They do feel it will have an impact on the amount of sales they can get; but at the same time, they just do not want to continue any long discussions regarding fire suppression at this point. They are proposing tabling fire suppression for now and perhaps re-visit it later after they have some homes up...let the market decide the matter.

The main issues:

- To determine what landscaping to be done with impact fees. He would like to see impact fees waived completely...

- What percentage of the homes should be built before the transfer of the park to the City?

- Will the transfer of the park take place all at once or in stages, according to the percentage of homes built?

He asked Mr. Eliot about the types of landscaping...specifically referring to "native" landscaping.

Shawn Eliot: The original approval was for "wild flowers" and "natural grass"; which has not worked out. He was reluctant about that with the original agreement. There may be a drip system in place for the trees; he was not sure about the rest...there may be other sprinklers.

Mr. Salisbury: The figures they came up with to bring things back up to a "presentable" level: About \$115,000...to include mowing, re-seeding, replacing dead trees, and a couple of other "line items". The annual maintenance would be about \$22,000 +...including mowing, fertilizing quarterly...keeping it up.

The bid they obtained was from the landscaper they (Salisbury Homes) uses on all their other projects...so they have a bit more leverage with him. They work together well.

They really do not know the condition of the sprinkler system or even what is out there...this bid will included any repairs necessary.

Nelson Abbott: The weeds in that area are pretty bad; some of them have grown very large. Mr.

Salisbury: This will be a project that will take some time to recover this open space area.

They did calculate costs with sod vs. hydro-seeding...with the sod, the costs would be closer to \$400,000; this doesn't make sense. Their figures were calculated off of their 81 lots...81 lots X \$1,385 (Impact Fee) = \$112,185; the costs exceed this a bit.

Raymond Brown: He asked about the strip of open space (not the park)...it may be that xeriscaping would be more cost effective to maintain.

Shawn Eliot: He reminded: the strip of open space referred to is adjacent to Phase 4...the last Concept proposal for Phase 4 was to move the units back right up against the open space and claim part of it as a buffer...because they wanted to do zero lot lines. It was suggested that they take over all of that open space as part of the Homeowner's Association for Phase Four.

Mr. Salisbury: Phase 4 has not been finalized; but they feel they have enough space in Phase 4 that the open space could be self-contained; then there would be a clear division between what would be maintained by the HOA and what would be maintained by the City.

Shawn Eliot: Would it be acceptable to divide the issues...with the park being on issue and the other open space could be dealt with when Phase 4 is developed? The weeds could be kept down and the trees kept up.

Raymond Brown: He was concerned with the fact that the City only has 2 public works employees...with the Building Official helping out. The more maintenance-free the landscaping is the better.

Shawn Eliot: Natural flowers become "weed patches"; and they have...this is not "maintenance free".

Mr. Salisbury: They are open to splitting it; but from a marketing point of view, it would be better to get it done...perhaps the delay in the transfer could help.

Mayor Dunn: He felt that it would be best to move into the scheduled Closed Session; then to contact the developers at a later time with directions.

Mr. Salisbury: They would like to not delay any longer than necessary; summer is coming to a close and they would like to begin the process.

Shawn Eliot: The Council is to also schedule a field trip to one of the Salisbury Homes developments in Spanish Fork.

**It was decided to schedule a Field Trip on 8-25-09, at 4:30 PM...the Council is to meet in Spanish Fork at 1700 E. 500 S.*

10:05 PM -

CITY COUNCIL CLOSED SESSION

ROLL

Discussion of Land Acquisition Negotiations

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance & Derrek Johnson; *City Planner:* Shawn Eliot; and *City Recorder:* Janice H. Davis

RELEASE OF
DURABILITY
RETAINER BONDS

REGULAR CITY COUNCIL MEETING AGENDA ITEMS (CONT.)

1. Snyder Meadows Subdivision, Plat A:
(Memo from Corbett Stephens)

"The Final Inspection for the above referenced subdivision has been held and the contractor has satisfactorily completed all of the required items. Durability was granted in March 2007. I recommend final acceptance and release from durability, pending final payment."

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO ACCEPT THE IMPROVEMENTS AS COMPLETE FOR THE SNYDER MEADOWS SUBDIVISION, PLAT A; AND TO AUTHORIZED RELEASE OF THE DURABILITY BOND PERIOD
VOTE: YES (5) NO (0)

*2. Cloward Estates Subdivision, Plat A / Phase 2:
(Memo from Corbett Stephens)*

"The Final Inspection for the above referenced subdivision has been held and the contractor has satisfactorily completed all of the required items. Durability was granted in July 12, 2007. I recommend final acceptance and release from durability, pending final payment."

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO ACCEPT THE IMPROVEMENTS AS COMPLETE FOR THE CLOWARD ESTATES SUBDIVISION, PLAT A / PHASE 2; AND TO AUTHORIZED RELEASE OF THE DURABILITY BOND PERIOD
VOTE: YES (5) NO (0)

2008/2009
GOVERNMENT AUDIT -
APPROVAL OF
ENGAGEMENT LETTER

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO APPROVE THE ENGAGEMENT LETTER FROM JONES SIMKINS ACCOUNTING FIRM; TO PERFORM THE ANNUAL GOVERNMENT AUDIT FOR ELK RIDGE CITY FOR THE 2008/2009 FISCAL YEAR
VOTE: YES (5) NO (0)

SCHEDULE PUBLIC
HEARING - CRIMINAL
PORTION OF CODE
REGARDING ANIMAL
CONTROL

The Public Hearing for the criminal portion of the Code regarding Animal Control was set for 8/25/09; but the Planner asked that it be moved to September 8, 2009. The Council agreed to schedule the Hearing for September 8, 2009, at 6:00 PM.

APPOINT ELECTION
JUDGES
(POLL WORKERS)

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO APPOINT PAULA EPPLEY, JANINE NILSSON AND CAROL JONES AS POLL WORKERS FOR THE MUNICIPAL 2009 ELECTION FOR ELK RIDGE CITY
VOTE: YES (5) NO (0)

EXPENDITURES:

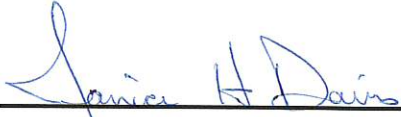
General: None

CITY COUNCIL

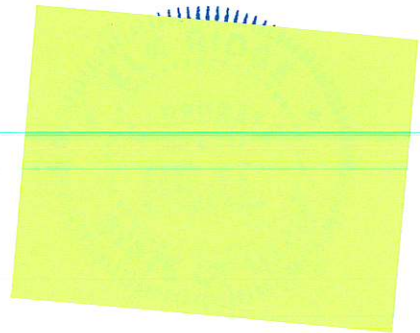
None available for approval

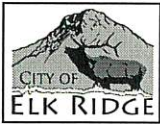
ADJOURNMENT

At 11:00 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

Notice is hereby given that the Elk Ridge City Council will hold a **Public Hearing on Tuesday, August 25, 2009;**

at 7:00 PM for the purpose of hearing public comment regarding a proposed Ordinance amending the Elk Ridge Municipal Code regarding the criminal portions of the Animal Control Code. This Public Hearing will be held in conjunction with the **Regularly Scheduled City Council Meeting, to begin at 7:45 PM. The Meetings will be preceded by a City Council Field Trip in Spanish Fork, UT; at 4:30 PM.** The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah.

All interested persons shall be given an opportunity to be heard.

4:30 PM - 1. FIELD TRIP IN SPANISH FORK @ SALISBURY HOMES

6:00 PM - MEET THE CANDIDATES NIGHT

The Candidates running for office for the positions of Mayor and City Council

7:00 PM - REGULAR CITY COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance

Approval/Agenda Time Frame

7:15 Public Forum:

*Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by the group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing. The Mayor or Council may restrict the comments beyond these guidelines

7:25 2. Storm Drainage Discussion

7:55 3. Appoint Alternate Election Judges

8:00 4. Expenditures: General

8:10 5. 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 21st day of August, 2009.


City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, do hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, and provided to each member of the Governing Body on August 21, 2009.


City Recorder

ELK RIDGE
CITY COUNCIL MEETING
August 25, 2009

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, August 25, 2009, at 7:00 PM**; this was preceded by **Meet the Candidates Night at 6:00 PM; and a Field Trip in Spanish Fork.**

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 August 21, 2009.

4:30 PM -

FIELD TRIP TO SPANISH FORK

The City Council met in Spanish Fork at Salisbury Homes to view samples of their development.

6:30 PM -

MEET THE CANDIDATES NIGHT

ROLL

Mayor: Dennis Dunn; *City Council:* Raymond Brown, Nelson Abbott, Julie Haskell, (Absent: Sean Roylance & Derrek Johnson); *Candidates for Election:* Weston Youd, Erin Clawson, Paul Squires & Jason Bullard; *Public:* Kendra Bullard, Paul Eddy, Jim & Jamie Towse, Elizabeth Dayton, Darin & Tracie Magoffin, Gayle & Pete Weber, Gary Prestwich, Brent Johnson, Max Johnson, Jacob Johnson, Brennan White, Lisa Denning, Deborah Squires & Robin Clawson; and the *City Recorder:* Janice H. Davis

INTRODUCTION

Mayor Dunn: Welcome and Introduction to the Candidates:

The Mayor stated the format for the meeting: By number, the Candidates introduced themselves and then there was time allotted for specific questions and answers.

Mayor Dunn introduced Randy Jones, who was there representing Kenneth Lutes, who is Candidate for Mayor...Mr. Lutes was unable to be at the Meeting due to a prior appointment. Mr. Jones was asked to be 5th in line to speak.

Candidates for City Council:

1. Erin Clawson: Wife and mother of three...full-time student. Her family moved to Elk Ridge in 2005. They moved here because they "wanted to live in a safe, small community"...away from the city.

She became interested in politics after attending several City Council Meetings and seeing how the City is run and what issues are facing our City.

She is concerned about several issues:

-Development: How to proceed

- Water – Availability, cost and using it wisely

- Rising costs and the use of money in the City and how that affects each citizen

- Safety of Community

- Maintaining the unique beauty and "feel" of Elk Ridge

She feels she is qualified because of her involvement with City Council Meetings and she has studied and researched the issues. She has and does hold leadership positions in school, work and in Church.

She is not currently on the Planning Commission (the other Candidates are); but she believes this allows her to be a "breath of fresh air" with a unique perspective as an ordinary Elk Ridge citizen who is not already "entrenched in the current state of affairs of the City government". She does not have any secondary gain or ulterior motives in running for Office.

She realizes she has much to learn; but she has "core values she will remain true to".

The citizens could expect from her:

- ❖ She believes that the decisions made by the City Council should protect the citizens of Elk Ridge...not necessarily people with no other interest than the desire to come here to develop.
- ❖ Fiscal responsibility: live within the City's budget...not spend more than we can afford.
- ❖ The role of City government needs to be kept in perspective

2. Jason Bullard: He and his family moved to Elk Ridge about a year ago from Indiana. In Indiana he was a business owner. He and his wife have owned several businesses; within which they have been involved in property leasing, a temporary agency (over 600 employees) & housing development. He is currently looking for a new opportunity here in Elk Ridge with a fine art publishing company.

He and his wife feel very fortunate to live in a Community like Elk Ridge; in fact, very early on they got involved in the Community by volunteering for the Emergency Management Committee.

Mr. Bullard has also been serving on the Planning Commission.

Issues:

Having only lived in Elk Ridge a year, he is still becoming acquainted with many of the issues with the current Administration. He has no "axe to grind" with anyone currently serving on either the Planning Commission or the Council; nor does he have any disagreement with any previous decisions made.

He feels strongly about:

- ❖ Code enforcement – Protect the written ordinances
- ❖ City Budget – This is a big issue
- ❖ Development – He has experience in development and feels they developers should adhere to the city's plans to protect existing citizens.
- ❖ Parks: He feels park areas are a major part of the community; but parks that specifically fit the community's needs.

3. **Paul Squires:** He has been in Utah County for 25 years. He is recently retire from: 1) the U.S. Dept. of the Interior (Bureau of Reclamation) – 33 years; and 2) He was with the US Air Force for 34 years. In both careers, he has been involved with facilities management...property management...contracting...civil engineering projects...& water delivery.

He has BS Degrees in: Business Management, Economics & Biology (emphasis in "Range Management"). He currently serves on the Planning Commission.

He feels all of the candidates are qualified. He has "ulterior motives" in wanting to run for office...

1. He wants to make judgments and decisions based on the 2007 General Plan Survey results.

He is passionate about:

- ❖ Preserving wild life corridors & wild life
- ❖ CUP (Central Utah Project) & Elk Ridge's delivery of this water
- ❖ Re-vegetation by contractors

4. **Weston Youd:** Mr. Youd has been a resident of Elk Ridge since 2006; but he grew up in South Utah County (Spring Lake) and understands the needs of this area. He currently serves on the Planning Commission as the Vice Chair. The Planning Commission has worked very hard on the General Plan and with some developers that want to develop in Elk Ridge...we want to ensure that their plans match what we want to have in our Community. This experience has given him an insight into City Government.

His platform is based on:

- ❖ Personal Property Rights: Each person has the right to "maximize" the rights on his/her property Without inflicting any undue damage to neighbors...He wants those rights protected.
- ❖ Enforce & adhere to the City's Budget: We need to look for efficiency
- ❖ Adherence to City Code

He feels this is a "great time to serve in Elk Ridge"...he feels there are lessons to learn.

Candidate for Mayor:

5. **Kenneth Lutes (Represented by Randy Jones):** Mr. Jones read from the hand-out provided by Mr. Lutes: Mr. Lutes "is aware of much of what is in store because he has been a small town mayor before under difficult circumstances." With his leadership, the town was successful in improving its financial condition from one that was virtually bankrupt to one that was counseled by the state that they had too much money, even after a water main project. This was done by using common sense, fiscal restraint, citizen volunteers, and without raising taxes.

Qualifications:

- Listening, servant-leadership attitude
- Honesty & Integrity
- Successful & pertinent leadership experience
- No personal agenda or conflicts of interest

Goals:

- Fiscal Restraint
- Eliminate debt as soon as possible
- Low taxes and water rates
- Quiet, non-commercial atmosphere
- Small, common sense government

Background:

Ken & his wife, Lyndell, have been residents of Elk Ridge since 2002. As a graduate of the military academy at West Point, Ken served in the US Air Force for over 8 years. Ross Perot's Electronic Data Systems hired him as a systems engineer in the California Blue Shield account when he left the military. After serving as the executive vice president for a financial planning company in California & Colorado, he went into business for himself with a small service station, car wash, convenience store, and restaurant complex.

In 1979, Ken began 16 years of employment with The Church of Jesus Christ of Latter-day Saints. He retired in 1995 as a project manager in information systems after working in the Temple, Family History, Church Auditing, and Information's Systems Depts. Since retirement, he has been a consultant in small businesses; the mayor of a small Utah town; wrote and published his own books; and edited about 20 books for other publishers. Ken's early training in leadership at the academy has served him well as he gained a wide variety of experience in both the private and public sectors.

Ken has 7 children (the youngest serving a full-time LDS mission) and 11 grandchildren. He has been serving in the BYU 18th Stake since December 2006.

Platform:

Ken firmly believes in the Constitution of the United States, which limits the role of government and protects our God-given, unalienable rights. Therefore, he would keep government as small as possible while providing for the protection, welfare, and liberty of our citizens. He feels that common sense and a servant-leadership attitude must prevail in government to ensure that reasonable decisions are made after listening to the citizens. Ken believes that during this time of economic hardship for many people, fiscal restraint is mandatory and that taxes and water rates must be kept low. He also believes in becoming debt free and being prepared for the perilous times we are facing. Let your voice be heard; he is listening."

Questions for the Candidates:

Mayor Dunn: The Mayor opened the Meeting to questions from the citizens present to the Candidates:

Gary Prestwich:

1. (To all Candidates) Water Rates: A couple of years ago the City Finances Director said that the City was collecting more money than the City needed...if that were the case, would you vote to lower water rates?

2. (Recent "chicken ordinances") Would you vote to repeal that ordinance?

Candidates:

- **Paul Squires:** 1) Water Rates: He would vote to lower rates, but not immediately. He would wait until the CUP water is available to Elk Ridge. (He updated those present on the status of CUP water.) The water itself will not be in place in Elk Ridge for at least 4 ½ years; this gives us a chance to get the infrastructure installed.

2) He would not be in favor of repealing the animal control ordinance. The Planning Commission spent nearly a year researching other communities; it was voted on by the City Council.

- Jason Bullard: 1) (Water Rates) If there were an "excess, he would be in favor of lower rates; but it is important to maintain some reserve in case of failure of infrastructure. It is harder to try to "find" money when the need arises than to plan ahead.

2) (Animal Control) He voted against passing the ordinance and would be in favor of an appeal. Many of the reasons this became an issue, was the economy...the Planning Commission heard that a great deal. He did not feel the code should be changed based on what "might happen" in the future. If the economy got so bad that we all need chickens in the yard, then he could see coming back to the issues. He does not agree with passing ordinances that will require a lot of attention from a code enforcement officer. With all of the attention shown to this issue, there have been just a few residents that have come forward to apply for permits.

- Weston Youd: 1) (Water Rates) He agreed with Mr. Squires; he would not immediately. He agreed that there needs to be enough to cover emergencies. During his term of office, the Council would watch to make sure the rates would be balanced out with net income and that money would be used wisely.

2) (Animal Control) They all saw the "wheels of cit government" in action during this process; some compromises were made between what many residents wanted and what the city would allow. He feels the code, while not perfect, is enforceable. He would not vote to repeal it; but he would listen to citizens who may have another idea or ways to improve the code.

- Erin Clawson: 1) (Water Rates) She realizes that the rates are high; and if there were a surplus, the City would have a responsibility to the citizens to safeguard that water as well as look to the future for repairs. Both aspects must be considered.

2) (Animal Code) She would not vote to repeal that ordinance; she was one of the citizens with chickens. She was grateful that city government provided a way to see a change proposed and approved. She respects those who did not want a change in the code; and she would be interested in hearing ways to improve upon the current code.

Raymond Brown: (Directed to Erin Clawson) What are her feelings about the constitutional rights of land owners to develop their property?

- Erin Clawson: She feels that every citizen has the right to develop their land; she also feels that the City Council has the obligation to protect the citizens that are already here. There must be steps set up for development that would meet the needs of citizens who already live here.

(To Paul Squires) How many miles of the CUP water line are installed in Elk Ridge?

- Paul Squires: He knows that all new development is required to install secondary water pipes, though he was not familiar with the numbers. The cities will be assessed according to size. There are grants available and those need to be applied for to help with infrastructure. The longer we wait, the less money available.

(To Candidates Bullard & Youd) Regarding code enforcement: many feel it is "easier to ask for forgiveness than for permission"...how do you feel about codes being enforced and how do you plan on enforcing them?

-Weston Youd: One of the main reasons he was in favor of the "chicken ordinance" was the fact that there was no avenue by which the City could enforce the existing code...it seemed nebulous. If the right codes are written with clarity, then those codes can be placed in the hands of law enforcement officers or enforcement officers who could then have something clear and precise to address the issues with. If the codes are not solid; the enforcement question is secondary. The effort needs to go into writing the codes so the enforcement aspect is clearly understood.

- Jason Bullard: He felt the answer is "very simple"; he thinks the codes are written well. He feels the Planning Commission and the City Council have written the codes well and he thinks they should be enforced...all of the codes. He has spoken to several people in the Community and actually had a volunteer in the audience at a Planning Commission Meeting to be a part-time code enforcement officer for the City. One of the reasons he did not vote in favor of the "chicken ordinance" was that enforcement has been such an issue. The laws should be protected.

Tracie Magoffin: She is very interested in secondary water; she wanted to know how the other three Candidates feel about it (They know how Mr. Squires feels about it):

- Erin Clawson: She admitted she does not know a great deal about secondary water, other then the cost for Water could be lower and it sounds like a reasonable idea to have the City's culinary water separated off. If it would benefit the City as well as the citizens, she would be in favor of it.

- Weston Youd: HE has worked with Mr. Squires on the Planning Commission and they have discussed the issues associated with CUP water; he has good insights into the whole process. The availability of grants to assist in funding this type of project is very attractive to him. He feels that it could have the affect of protecting the City's culinary water for its proposed use, rather than for watering lawns. Other cities have moved to secondary water. He thinks that Elk Ridge should pursue this.

- Jason Bullard: He agrees that the City should consider the secondary water option. Grants are always a good way to assist the City.

- Paul Squires: There is no cost to apply for the secondary water; it is already planned for and where the pipe line will be installed...they have the rights-of-way. The City's hook-up will be located at the mouth of Loafer Canyon...it will not follow the Highline Canal. CUP water costs \$2.30/acre foot...so it would be lower in cost.

Jacob Johnson: (To Paul Squires) He was interested if a new General Plan survey would go out to the citizens, since Mr. Squires said he would base much of his decision-making on this survey. Things have changed since 2007.

- Paul Squires: Yes. The survey was a real "eye-opener"...many new people have moved into Elk Ridge. Many of the Planning Commission members have been heavily involved in the re-writing of the General Plan; and as soon as this is available to the general public, he feels citizens will be able to see the direction that the City is trying to go in. There is need or new input. He would hope more people would respond.

Paul Eddy: Does anyone know what the infrastructure for secondary water cost in Salem? (He heard that it was about 27 million dollars + a \$400 connect fee/house.)

- Paul Squires: He does not; but he knows that Salem has their petition in for the \$5,000,000 grant. They have been working on their infrastructure for at least three years. Spanish Fork has nearly completed theirs. Salem has more residents than Elk Ridge. He is not sure, but each resident may have the right to refuse connection.

Jamie Towse: (Directed to All) What do they feel the role of government is? It is her understanding that we have rights and that the only way the City Council has rights is if they are given those rights.

- Erin Clawson: She feels the role of government should be small; unless the government needs to step in when rights are being infringed on. Citizens should be responsible to themselves and to each other in the Community.

- Weston Youd: He agrees government is an entity by the consent of the people. That is one of the great things about the United States...government is here at the consent of the people. Everyone has rights and if those rights "bump into each other", that is the only time government should come into play...to identify how those rights conflict...if they don't then government should "stay out of the way". He believes in small government. The Council should take guidance from the citizens.

- Jason Bullard: He also feels government should be as "small" as possible. He worked as a policeman for 5 years and learned that when a citizen does not need the police, they don't want them around; but as soon as there is trouble, the police are needed called. This is much like a fire truck...it is needed for its purposes. He feels the same about government...it is needed to handle certain services. HE feels government should stay out of the business of the people as much as possible; but he does think that it needs to be involved in helping citizens. People need to voice their opinions. One of the first things he would like to do, if elected, is to get the City web site more useful to all. Not everyone will be law abiding and government needs to protect others from those people.

- Paul Squires: He read from a document entitled the "Federalists Papers"; "In a civil society, ownership of private property and liberty are inseparable". He read on from these papers regarding property rights...he agrees and is a firm believer in those rights. He also believes that those property right need to contribute to the good of the community. When certain rights infringe upon the rights of another property owner; that is when government can "step in". He feels that the City Council and the Planning Commission represent the community and citizens should address these bodies with problems.

Jim Towse: 1) if a great deal of the City's funding comes from water, when money is saved in the Water Fund, how will the City be funded?

2) Do any of the Candidates have ideas on how to increase the City's tax base?

- Paul Squires: He does not think the majority of the City's money comes from water...he thinks it comes from impact fees & taxes.

- Jason Bullard: He is not sure what the City's water revenue totals are; but in a small community, it is difficult to raise taxes or to create new taxes because there is little opportunity for commercial.

(Increasing tax base)

- He feels there could be greater opportunities for commercial in the City.

- He also listed the obvious that no one wants to hear about: increased property taxes is a way to raise revenue.

- There needs to be a balance between culinary water and secondary water...if it "hurts the budget" and costs are too great, then is it really feasible?

- Enforcement of codes can create revenue in the form of fines.

- Weston Youd: He agrees that a lot of revenue for the City comes from impact fees; but there are other "streams of revenue": gas tax is one and development and building yield revenue; but the City can only built out so much and that "revenue stream" gone...then what? That question needs an answer...what are the lessons to be learned today that can be applied in the future?

"Small" Commercial should be considered in our area...something that would fit with our Community.

It is important to utilize the City's money in an efficient and effective manner.

- Erin Clawson: She has learned that money comes form not only impact fees, but from other areas as well.

The City does not charge the rates just to "make money"; the City also uses that money to maintain infrastructure to keep citizens safe and to provide basic necessities of life (water & sewer). While things are "slower" it does give us, as a City, to function within the budget. The consensus in the survey referred to is that most people do not want a commercial base in Elk Ridge.

Elizabeth Dayton: (To Jason Bullard) Since Mr. Bullard mentioned he has been a developer, she wanted to know if he is still involved with land development and how does he want to see Elk Ridge grow in the future?

- Jason Bullard: 1) He is not involved with land development at this time.

2) (Future of the City) It is important to help "make a town" a place that his kids want to come back to when they are old enough to leave. He foresees a City that is largely residential; but he would like to see a small commercial area develop...possibly near the future City Center. By "small commercial", he was referring to something like a small office complex or maybe a general store. He would also like to see more functional parks to support Elk Ridge's kids.

Mayor Dunn: The Mayor closed the question/answer period. He commented that all the Candidates seem to be exceptional people. He noticed throughout the discussion that none of the subjects addressed are "new issues". The same things were spoken of when he was still on the Planning Commission as Chairman and as a member. He feels that some commercial in the City can help the Community, if done properly.

-CUP Water has been a topic of discussion for most of his life...as Mayor, he has not had the information that Paul Squires presented at the meeting...this is good information. He also knows that people with secondary water do not necessarily have less expensive water; they have two water meters rather than one. One of the first things Mayor Dunn did when he took office was to approach Payson City to request an agreement to lease or purchase some of their secondary water that comes out of Payson Canyon...his request was denied. These issues have been worked on and they still need to be pursued.

-He was impressed with the question from Mr. Johnson regarding sending out a new survey. The General Plan is to be re-written every seven years. The City has been three years in the process of re-writing the General Plan; unfortunately, the information gathered is already two years old.

-The Water Conservation Plan was one of his first assignments as a new Mayor...it now needs to be renewed.

- (Water Rates) He wanted to clarify a misconception: In city government, there are various revenue "streams" (as referred to)...

General Fund: B&C Road Funds, Gas tax, Liquor tax, hotel tax, sales tax

Enterprise Funds: (Sewer, Water & Storm Drain) "Enterprise" infers that these Departments are supposed to make money up to a certain percentage (return on investment in the Water Fund should be around 6% or higher). It is very difficult to transfer money from one Fund to another. Water revenue stays in Water...Sewer revenue stays in Sewer...if the money is transferred from one Fund to another, it can be done through a loan, with interest. Government Accounting is difficult to understand. The recession is affecting all cities at this point. There have been many measures taken to "tighten out belt"; expenditures have been cut wherever possible...it is important for citizens to know that.

He has great faith in those people that step up and want to serve this Community. The motivating factor in wanting to serve is usually not for selfish reason, nor for "pride". Some of the best people you will find are those that are willing to give of their time and talents.

The Mayor briefly explained different forms of local governments. He also discussed the possible build-out of Elk Ridge...change will happen to meet the City's needs.

He expressed his appreciation to the small group gathered at the Meeting and to the Candidates.

ELK RIDGE CITY COUNCIL MEETING August 25, 2009

TIME & PLACE OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, August 25, 2009, at 7:00 PM;** this was preceded by **Meet the Candidates Night at 6:00 PM; and a Field Trip in Spanish Fork.**

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 August 21, 2009.

7:25 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor: Dennis Dunn; *City Council:* Raymond Brown, Nelson Abbott, Julie Haskell, (Absent: Sean Roylance & Derrek Johnson); *Candidates for Election:* Weston Youd, Erin Clawson, Paul Squires & Jason Bullard; *Public:* Kendra Bullard, Paul Eddy, Jim & Jamie Towse, Elizabeth Dayton, Darin & Tracie Magoffin, Gayle & Pete Weber, Gary Prestwich, Brent Johnson, Max Johnson, Jacob Johnson, Brennan White, Lisa Denning, Deborah Squires & Robin Clawson; and the *City Recorder:* Janice H. Davis

OPENING REMARKS & PLEDGE OF ALLEGIANCE

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

NON-AGENDA ITEM

Mayor Dunn: The acquired a new 80' flag pole. The original price was \$15,000 and the company sold it to the City for \$2,000. The base is being constructed and the pole will be installed as soon as the base is ready.

AGENDA TIME FRAME

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO APPROVE THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 7:25 PM
VOTE: YES (3) NO (0) ABSENT (2) DERREK JOHNSON & SEAN ROYLANCE

PUBLIC FORUM

STORM DRAIN DISCUSSION

Mayor Dunn: The large storm last June resulted in over an inch of rain within about 40 minutes; this created some issues with certain lots experiencing an "intrusion of water"...one intrusion was the result of one neighbor blocking the water right-of-way (drainage ditch). At the last City Council Meeting, there was serious discussion with Russell Sly and Heidemarie Foulger (around the Oak Ridge Drive area). There is a section on the north side of Oak Ridge Dr. in front of three homes (a little over 300 ft.) that does not have curb & gutter. When the homes on those lots were built, curb & gutter were not mandatory for subdivisions...on the east and west of those homes, curb & gutter was required with development.

During the above mentioned storm, water collected on the road and overwhelmed the sumps in the area and encroached onto Ms. Foulger's yard (not inside her home). There was some damage to her landscaping. It is on the Agenda for this Meeting to see what can be done to remedy the situations that have arisen.

Options:

- Find the funds to install the improvements now:

1. SAA (Special Assessment Area...former SID)

Under this option, the City would install; the improvements and assess the applicable residents; they may either pay the assessment up-front or they could be assess over time for reimbursement with interest.

2. We could get the citizens to buy into the installation; without having to form an SAA.

Raymond Brown: His area for Council responsibility lies with the storm drainage areas:

- Oak Ridge Drive Oak Ridge Drive, Columbus Dr. & Magellan Ln. are major concerns.
- There is another concern at the top of Canyon View Ln.
- A new sump design is in place and the new ones function pretty well (regular cleaning helps) (Spanish Fork has a jet truck for cleaning sumps...for a pretty reasonable price.)

There are some down-pours that will not be stopped and will have to be dealt with. This massive amount of rain seldom comes to our City.

Councilmember Brown recommends the option of an arrangement with the affected residents to buy into the installation of the curb & gutter. He needs to get a quote from Noel Hyatt as soon as he can supply the number of linear feet involved. Some of the work could be done in-house to save money.

As he looked at Ms. Foulger's house; and he feels that when homes are built next to a mountain and the foliage has been eaten away by horses...mud is going to slide.

There are two or three sumps that could be replaced; or install new sumps next to them...this was done on Amerigo Lane and Columbus Lane and they work great.

He spoke to as many of the affected residents as he could and found that about 60% of those he spoke to were in favor of participation; about 10% said they were not in favor (for one reason or another) and another 25 or 30% he could not find at home.

Mayor Dunn: The list he has on action items:

- Clean the sumps
- Take care of the water on Elk Ridge Drive as it turns the corner to the north off of Oak Ridge Drive
- Possible curb & gutter on Oak Ridge Drive

Nelson Abbott: He would still like to consider a SAA...to benefit the entire City. He feels that all of the problem areas in town must be addressed...the "puzzle" completed. If only 60% is in favor; then a SAA would be required to accomplish the project.

Raymond Brown: The curb & gutter issues on Elk Ridge Drive could be addressed now because the money is "recoverable" from the residents. He was referring to the property north of Lee Haskell's property...where the water flows down (north) to that big culvert that empties onto the open field owned by Mr. Cloward. We have been passing the water on down-stream. That culvert fills up with dirt and silt and then the water goes everywhere onto the road...creating a safety issue.

Mayor Dunn: He offered to get colored maps of the problem areas for drainage to the Councilmembers. HE felt that the Council needs to review the issues across the City and place a priority on them. They need to find out what the procedure for creating a Special Assessment Area (SAA) is and do all they can with the options available.

Raymond Brown: He can contact those residents that would be affected by the curb & gutter proposal to come into a Council Meeting to have their opinions heard.

(Julie Haskell & Nelson Abbott agreed that would be a good idea.)

APPOINT ALTERNATE ELECTION JUDGES

Paula Eppley was previously appointed as an Election Judge; but she will not be able to act in that capacity; she will be replaced by Ernie Folks; with Wendy Jones approved as a alternate.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO APPOINT WENDY JONES AS AN ALTERNATE POLL WORKER/ELECTION JUDGE AND TO REPLACE PAULA EPPLEY WITH ERNESTINE FOLKS AS A POLL WORKER/ ELECTION JUDGE

VOTE: YES (3) NO (0) ABSENT (2) DERREK JOHNSON & SEAN ROYLANCE

EXPENDITURES:

General: None.

NON-AGENDA ITEMS

1. Mayor Dunn: The County Auditor sent the Mayor a letter regarding information on annexation of the area northeast of town. He wanted to know how the tax rates compare in unincorporated areas to the City's tax rate. The Assessor's office verified that it is actually \$35 per year cheaper in the City for a \$200,000 home. He is in the process of creating a memorandum of understanding which reflects the work session with the City Council from Woodland Hills and requirements in annexing into Elk Ridge.

Shawn Eliot is to provide a map showing all the property being considered for annexation.

He would like to place the matter on the agenda in October for consideration. He feels this will allow enough time to get all the documentation together.

2. Discussion of Field Trip to Spanish Fork: The Council went to view one of Salisbury Homes' developments in Spanish Fork.

Mayor Dunn: Only 3 of the lots in this development are not sold...that is 80 lots sold since January, 2009; they built most of the homes.

Raymond Brown: The homes they saw were beautiful...a 3,000 sq. ft. home selling for \$207,000; with an unfinished basement. There is no wasted space in the homes; they were very well planned.

Mayor Dunn: Salisbury Homes encouraged different treatments of the exterior of the homes and the plans change so they do not all look the same. The outside treatment was: stucco & cultured stone (mixed); LP Siding (samples have been displayed at one of Elk Ridge's Council Meetings) which has been tested for durability.

The Council felt impressed with the samples they saw and felt it would work for our Community.

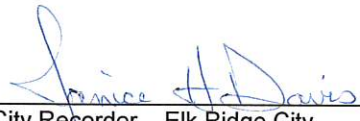
Raymond Brown: Councilmember Brown felt they were "smart" in their development...he spoke to them about their development in Santaquin (east side of I-15): He asked why that location and not on the other side and their response was that there was a rock pit, the sewer and the railroad tracks in the other area.

They do not build "spec" homes; they have to have a contract before the home is built.

Julie Haskell: She expected to see every house looking the same; but liked the diversity.

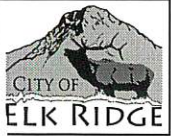
ADJOURNMENT

The Meeting was adjourned at 9:50 PM.



City Recorder – Elk Ridge City





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

Notice is hereby given that the Elk Ridge City Council will hold a **Public Hearing on Tuesday, September 8, 2009;**
at 6:00 PM for the purpose of hearing public comment regarding a proposed Ordinance amending the Elk Ridge Municipal Code regarding the criminal portions of the Animal Control Code. This Public Hearing will be held in conjunction with the **Regularly Scheduled City Council Meeting, to begin at 7:00 PM. The Meetings will be preceded by a City Council Work Session at 5:30 PM & continued at 6:45 PM.** The meetings will be held at the Elk Ridge City Hall, 80 E. Park Drive, Elk Ridge, Utah. All interested persons shall be given an opportunity to be heard.

5:30 PM - CITY COUNCIL WORK SESSION

1. Aqua Engineering – Craig Neeley (City Engineering)

6:00 PM - PUBLIC HEARING – AMENDING MUNICIPAL CODE/ANIMAL CONTROL:

2. Proposed Ordinance/Amending the Elk Ridge Municipal Code regarding Animal Control

6:45 PM - CITY COUNCIL WORK SESSION (CONT.)

3. Storm Drainage – Heidmarie Foulger

7:00 PM - REGULAR CITY COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance

Approval/Agenda Time Frame

7:05 Public Forum:

- 7:15 4. Eagle Scout Project – Chase Wilson
A. City Sign – Loafer Canyon Road – Mayor Dunn

7:30 PM - CITY COUNCIL CLOSED SESSION

Discussion of the Acquisition of Land

8:00 PM - REGULAR CITY COUNCIL MEETING AGENDA ITEMS (CONT.)

- 8:00 5. Action – Storm Drainage
- 8:15 6. Resolution – Municipal Wastewater Planning Program – Mayor Dunn
- 8:20 7. Water Rights – Mayor Dunn & Nelson Abbott
- 8:30 8. Ordinances:
 - A. Municipal Code Amendment - Animal Control
 - B. Durability Retainer / Engineer Inspection Bond / Default
 - C. Employee Compensation
- 8:45 9. City Work List Items – Mayor Dunn
- 9:00 10. Expenditures: General
 - A. Ratify Polled Vote: Purchase Flag Pole with Park Impact Fees
 - B. Backhoe Tires – Presentation of Bids & Authorize Purchase
- 9:15 11. 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 4th day of September, 2009.


City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the municipality of Elk Ridge, do hereby certify that a copy of the Notice of Agenda was faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, and provided to each member of the Governing Body on September 4, 2009.


City Recorder

ELK RIDGE
CITY COUNCIL MEETING
September 8, 2009

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, September 8, 2009, at 7:00 PM; this was preceded by a City Council Public Hearing at 6:00 PM, on consideration of a proposed Ordinance amending the Elk Ridge Municipal Code regarding the criminal portions of the Animal Control Code. The meetings were also preceded by a City Council Work Session at 5:30 PM; continued at 6:45 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 September 4, 2009.

5:30 PM -

CITY COUNCIL WORK SESSION

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance (Absent: Derrek Johnson); *City Engineer:* Craig Neeley; *Public:* Mr. Anderson, Britney Anderson, Tyrei Carter, Mitch Purdy, Jordan Riley, Tami Wilson Chase Wilson, Emily Holcomb, Erin Clawson & Ken Lutes; and the *City Recorder:* Janice H. Davis

AQUA ENGINEERING -
CITY ENGINEERING

The City is considering a change in City Engineering. Aqua Engineering is located in Bountiful, UT and the distance and other issues have created the desire to consider other firms that are perhaps closer to Elk Ridge. Mr. Craig Neeley was present to address the Council regarding any concerns or questions the members may have.

Craig Neeley: Me. Neeley expressed his and Aqua Engineering's appreciation to have been able to work with Elk Ridge. He knows there have been some problems with the travel distance; he understands the problem. They do work with cities and other clients even further away in distance; and he wanted to find out if there are other problems and how best to deal with them. He feels the issues can be worked out.

Raymond Brown: He feels that the City does not have any issues with Craig Neeley or Aqua Engineering, as a firm; in fact both the Public Works Superintendent and the Building Inspector are very complimentary toward Aqua. He feels a problem does exist with the current field engineer with her apparent lack of experience. The City's financial position is reflective of the current economy and it is felt that there have been higher costs associated with correcting certain engineering work. He realizes that Mr. Neeley cannot be at every meeting; but the City needs to be mindful of all expenses.

Mr. Neeley: Travel is billed one way in an effort to keep costs down with clients. The issue with personnel is one that he can address. He tries to come down when he can and he tries to keep his rates low enough to have his services available. At time he has scheduling conflicts and perhaps he has not done his job in making Elk Ridge feel as important as any of their other clients.

Mr. Neeley said that Aqua is the City engineer for various cities: Hyrum, Grantsville, West Wendover and a couple of water districts. He reviewed the usual policy of operation: He would have a staff engineer under Mr. Neeley's direction to assist with a particular city. In the case of Amy Thatcher, he said that she may have been a little bit too "green" for the job...he can take care of that situation. He has a more "seasoned" engineer that is at the same billable rate; but Mr. Neeley can commit to Elk Ridge to be the City Engineer most of the time. Aqua values Elk Ridge as a client; so if these things can be overcome it would be great...if they can't, he understands. HE does try to be cost conscious with municipal clients; and with Elk Ridge they try to allow Corbett Stephens to do all he possible can in the process. He tries to give his clients the work they need; he does not believe in "camping out" on a job to run up the bill. He is open to suggestions and willing to make accommodations.

Raymond Brown: He appreciates Mr. Neeley's willingness to come and address the Council to clarify certain issues. The distance and extra billing has been a problem.

There were some additional problems with billing that he was not clear on.

City Recorder: There have been problems associated with billing between the Assistant Treasurer (Annebel Meredith) and the billing clerk at Aqua (Peggy). There has been confusion in tracking development draws and billing for inspections. Once a draw request against a development bond is issued, if the developer still does not pay Aqua for inspections or services billed for, then it is the City that follows up on that and becomes Aqua's "collection agent". Hours have been spent in trying to recover payments to Aqua that have been billed to developers. It is reasonable for the initial request to come through the City, but when it becomes a matter of collection, is it possible for Aqua to handle this? The hours spent in behalf of Aqua are not paid for by anyone; in fact, the City ends up getting charged for Aqua to actually cut the invoices. Some of the unpaid bills are over two years old and have received hours of work on the part of staff (mostly Annebel).

There is another issue that the Mayor has dealt with concerning detail in the billing the City passes on to developers; Mayor Dunn has asked for detail regarding the hours billed for.

Mr. Neeley: Mr. Neeley asked if Peggy had always been "professional" when dealing with Annebel. (*Response form Recorder: Yes, as far as personality...but somewhat disorganized.*) Mr. Neeley said that initially the developers were asked to pay the bills to Aqua and then the City was to collect from the bond.

(*Correction from the Recorder: The City sends out the draw request to the bank; but the request indicates that the bank pas Aqua directly.*) Mr. Neeley insisted that initially, Aqua was billing the developers and the developers paid Aqua and that created a conflict of interest.

(Recorder: But that the developers, or their banks, do pay Aqua directly; the City does not collect the money first...the request comes through the City.) One of the things that Aqua has done is to change their billing software that provides for more specificity. Regarding what is outstanding, they can simply write it off.

City Recorder: If developers do not pay their bills, they should not get final acceptance of the development. She suggested having Mr. Neeley come and meet with Annebel to review the billing and see what to do with each one. This was done in the past regarding billing that included Tony Fuller and Randy Young. These aspects of the billing process need to be addressed.

Mr. Neeley: He said he is "happy to contact the developer directly", if he has the information. If the money is coming out of an escrow account, then "there is no problem". He agreed to meet with staff and review outstanding invoices to try to get to a beginning point. He said every city is different; he has not had this problem with any other client, but it is a problem that he wants to fix. HE does not want to give the impression of "hounding" the City for unpaid invoices...he just does not operate that way. He feels with the new billing software, that most of the problems will be solved.

He suggested that when a developer "comes back for more, say, 'Well, you still owe us money'."

(The City Recorder responded that a developer cannot be "held hostage" for requirements from one subdivision to another.) Mr. Neeley agreed, but he said that we could at least mention it. He further commented that it seems to be the smaller subdivisions that fall short.

City Recorder: Another thing that should be addressed is between the City Engineer, the Planner, the Mayor and possibly Public Works; and that is to figure out what amount in platting fees will cover costs. Currently, in some cases, the fees do not cover the reviews and the City is left covering the balance, which should not be allowed to occur. (Mr. Neeley agreed we should find a way to correct that.)

Perhaps Mr. Neeley could bring ideas from other cities and how they handle these costs. This is not a problem with Aqua; it is simply a problem with the City that needs input from the City Engineer.

Mr. Neeley: Mr. Neeley stated that he does not bill the City for every minute he works in our behalf. Questions can be asked and discussed without the time being tracked. There are many things he is willing to do for Elk Ridge because he appreciates having Elk Ridge as a client. He said to not be afraid to call him for advice because of cost; he is happy to be available for things like that. He would be glad to look at some fee structures that could result in not falling short on smaller projects...the bigger projects have the other problem: they may have to pay an unrealistic amount.

- He will change the staff engineer, but he will try to be here as much as possible.

- He will work with staff to solve the billing issues (He reiterated that the City is not Aqua's "book-keeper")

- He will review platting fees with the Planner

- He will continue to be "cost conscious" with the City

- He feels the new billing software will be helpful in creating more detail in billing as well as keeping things more organized.

He asked the staff and the Council to call him if there are any further problems.

(The Council felt he had addressed all the issues; there were no further questions, so Mr. Neeley excused himself from the Council Meeting.)

Mayor Dunn: One of the ideas discussed in the past was to allow larger subdivision to subsidize smaller ones in costs paid to the City; that the City will lose on some and make money on others...he does not necessarily agree with that perspective. He feels everyone should carry their own weight.

Nelson Abbott: He suggested that the number of lots could be the criteria to decide the fees...perhaps 1 - 15 lots; then 15 & above. These are the platting fees that need to be reviewed, not the percentage of the inspection bond.

City Recorder: A further problem has been with combining Preliminary & Final Approvals...the fees are less and can lead to loss.

Nelson Abbott: Things can get turned around a lot with Preliminaries; if requirements could tighten up at that point, he felt it would help save money and time.

Raymond Brown: He felt there needs to be a "decision-maker"...he did not feel that it should be subjective regarding which fees are paid by whom and when. These should be set fees and any change should be made through a designated person that makes the decision...whether the Mayor, or whomever.

City Recorder: She suggested that it would be the Council's position to approve any deviation from the normal policy or established requirements.

Nelson Abbott (RE: Fee Structure) He was thinking that it could be a certain percentage and/or the actual cost, whichever is greater.

Mayor Dunn: He felt that would be a "good rule of thumb"; in fact he has had conversations with the Planner over some of these issues...he knows he (the Planner) wants to be "fair"; but he (the Mayor) wants to be "real". He feels the "real" part is that the City is losing some of the fees when Preliminary and Final are combined. That is why he has been requesting line item fees to show developers what the actual costs are and what the City is going through in their behalf. He wants them to be responsible for their own costs. A suggestion he made to Shawn Eliot was that perhaps the City Engineer should not be involved in plat review until further along in the process and require their engineers to do the work. Let the developers pay the fees and when their project is ready, then get the City Engineer involved. So far the combining of Preliminary and Final has not worked well.

Nelson Abbott: Typically, the developer is informed enough of the process that he/she attempts to take advantage of the City.

Mayor Dunn: Not all developers are like that, but some do.

Raymond Brown: He agreed with what the Recorder said; but what he was saying was that where the Codes are in place, we need to adhere to them...and have just one person direct it. Decision need to be made based on "black & white" (established policy or Code).
Nelson Abbott: Perhaps direction should be given to staff that those decisions will not be made by them.
City Recorder: Smaller projects are not necessarily the easiest ones...yet many times they are perceived as being simple therefore "fast-tracking" would be appropriate. "fast-tracking" or combining the two approvals should not mean that requirements are skipped; the Project is moved along through Preliminary and Final due to the simplicity of the development. The burden is on the developer to make sure requirements are met in a timely manner so that the approvals can be granted...no steps should be eliminated.
Mayor Dunn: Nothing should be left out. He even suggested inserting a statement into the application saying, if those are combined (if it can work that way) and if costs exceed the application fees, then the responsibility is the applicant's to take care of those costs...and the applicant should know this up front.

6:00 PM -

PUBLIC HEARING - AMENDING MUNICIPAL CODE / ANIMAL CONTROL

Public Hearing/Proposed Ordinance amending the current Municipal Code regarding certain criminal portions of the Code having to do with Animal Control.

ROLL

Mayor: Dennis A. Dunn; *City Council:* Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance (Absent: Derrek Johnson); *City Engineer:* Craig Neeley; *Public:* Mr. Anderson, Britney Anderson, Tyrei Carter, Mitch Purdy, Jordan Riley, Tami Wilson Chase Wilson, Emily Holcomb, Erin Clawson & Ken Lutes; and the *City Recorder:* Janice H. Davis

Shawn Eliot: (Taken from Memo to Council, dated 7-14-09, when Council considered Land Use Code regarding Animal Control)

"Draft Animal Control Regulations"

1. This is the Utah County code that is currently adopted by reference in our municipal code.
 2. Made minor changes to add reference to Elk Ridge in the code (where needed) rather than county code.
 3. Reformatted numbering and some layout.
 4. Removed portions of hobby breeders and kennels permit code to development code.
 5. This code is what is proposed to be used for animal nuisance issues.
 6. Since this portion of code is under the criminal code and not the development code, the commission can only make recommendation to the council, but the council is required to hold the public hearing."
- Raymond Brown: Since the pigeon requirements are removed (they are all under "hobby animals"), he wanted to know if Councilmember Abbott felt any of that code should remain in this section of the code.
Nelson Abbott: He feels that all those that currently have pigeons are still under the old code and all the same requirements apply; if someone gets pigeons now, they come in for a hobby animal permit. He is comfortable with the new code.
Shawn Eliot: This is the same code the Council received in July, 2009; it is basically the same as the Utah County Code for Animal Control; except that the verbiage is actually in the code rather than being adopted "by reference". Previously, the Code was "on file" in the City Office in hard copy form. Changes:
- Where the old code mentioned "Utah County..." it was changed to "Elk Ridge..." or "City".
 - There are portions of the proposed code that are strictly controlled by the County (like rabies); those were left with the County
 - A portion about permitting for hobby animals that was removed, since it is located in the other part of the code.

There were not many changes. The code covers dogs & cats not being able to leave their own property and not doing damage to other people's properties...the pet owner must cover any damage the pet causes. There are also leash laws for dogs. There is another part about "vicious dogs". There is nothing new, but it is more accessible.
Mayor Dunn: Residents are being offended by other people's animals...it has been and will likely continue to be a problem.

Nelson Abbott: A section of the code (page 10) deals with animals being left unattended for more than 24 hours: a point of contact should be left as to who is responsible for the animals in the owner's absence. If there is neglect or another problem, then there is someone to call.

Raymond Brown: The Council has discussed costs associated with picking up the animals; and the code refers to penalties and costs...he referred to page 13 (52-3-060). Councilmember Brown feels the penalties should be very specific, since the City needs to be able to re-coup costs.

Shane Eliot: The Fee Schedule should have these charges included. Currently the Code refers to Class C Misdemeanors, but those fees should be set by the Council. Reasonable fees should be set for these infractions; ranging to more severe cases.

Raymond Brown: If enforcement can be swift and at the point of redemption (when they pick up the animal), there is more leverage. (It is not known if charging at that time is possible.) Councilmember Brown would like to see if this is possible.

Mayor Dunn: There is still a lack of knowledge on the part of animal owners where they still don't know what is to be done...there will be the same problems for a while. The lines need to be drawn and the code enforced with set penalties...when fined, people will respond. In this way, there will be order established. The fees should be set by the City Council.

Shawn Eliot: We need a fee schedule; but we need a procedure as well. The procedure can be cumbersome and could be handled administratively rather than having to come before the Council to enact the procedure.

The current procedure is cumbersome. The procedure could be that the Enforcement Officer or the Sheriff could go out and inform the offender of the violation and could either write up a citation at that time, or give them a week to comply...then they get a fine. This will be done at a future Council meeting.

Raymond Brown: (Question) Page 11 (5-2-2-230) Fees & charges: He questioned the County Fees...does the City charge these? (No, the County will charge their own fees.)

Mayor Dunn closed the Public Hearing at 6:30 PM

6:30 PM -

CITY COUNCIL WORK SESSION (CONTINUED)

STORM DRAINAGE

Mayor Dunn: Ms. Heidemarie Foulger could not be present at the meeting; she has spoken to Mayor Dunn and he summarized her concerns:

Ms. Foulger and the Mayor met the previous week to discuss her on-going concerns regarding the problems with storm drainage in her area of the City (Olympic Lane). During the big storm in June, she experienced flooding in her yard, coming from Oak Ridge Lane (above her property).

Photos were taken of the flooding that occurred in her yard (before & after).

Raymond Brown: In all fairness, the vegetation above her property has been cleared off by the horses that dwell on the lot above her.

Mayor Dunn: Had the sumps not been installed in the area, the damage would have been worse; her basement may have been affected. She is extremely anxious to see that something is done to alleviate the potential problem that she still has. She wanted it relayed to the Council that according to her, "this is a matter of life and death"...she is afraid she is going to die in another severe storm and her survivors will then sue the City.

The Mayor referred to a color-coded map he provided to the Council that indicates where the storm drain problems are in the City, based on the storm in June. (Ms. Foulger also has one of these maps.)

Problems: water intrusion into homes, debris on the roads, flooding in yards

There was flooding on Hillside Drive: The water that came down the road was meant to flow into a drainage easement (a ditch along the side of the road). The ditch was filled by debris by neighbors and that altered the flow of the water; it went out into the road enough to flood a basement. Right after the storm, Kent Haskell went up with the backhoe to clear that ditch out and about 1 ½ weeks later, there was more debris in that pathway (ditch). Photos have been taken of the area. The neighbors have been told not to do this because of the issues created. This has created a serious enough situation that the City's Insurance Company has asked that the City not have personal contact with those neighbors...due to an attempt to litigate.

Derrek Johnson: There is an enormous amount of water that comes down that road...the problem is not just with that ditch. That road is not designed well and the water comes down close to Ellis' and across and flows west. There are greater issues that the debris in the ditch.

Shawn Eliot: He feels Councilmember Johnson is correct in that the water does not just flow over that ditch; a lot of it goes to the other side of the street and down. He feels the issues need to be addressed higher up...above the last house on Oak Lane.

Another issue is with the pipe under the road that goes back behind the Brockbanks' and into the ravine; there is a great deal of erosion coming down the ravine. Both of those issues need to be addressed.

The 3rd thing: When the canal was dug out on the west side of Hillside drive, the dirt is just thrown into big piles...we should make an attempt to make it more "slightly".

Nelson Abbott: He went up the dirt road at the end of Hillside drive so he could see where the debris comes from. He had a hard time getting up without 4-wheel drive due to the ruts in the road. He suggested that this condition channels the water. The road should be graded again.

Shawn Eliot: The problems start at the top of that dirt road. Perhaps there needs to be a plan of how to fix that road and get the water off to the side.

Mayor Dunn: The Forest Dept. does that all the time.

Derrek Johnson: He hates to see any litigation because there are other issues involved with the run-off on this road. The Council would give a different perspective.

Mayor Dunn: The Insurance did not explain the situation; they simply asked that the City not get involve in discussions with this family due to whatever legal situation exists.

The map indicates several problems across the City; there was even water coming off of the County road and entered a basement off that road. The County must have been aware of the problems, because they had equipment working on the road shoulders right after the storm.

The Mayor showed a photo of the ditch that was cut on Russell Sly's property during this same storm.

Raymond Brown: Randy Cloward went up and dug ditches to divert the water...they wanted the City's backhoe helping, but Councilmember Brown felt it was too risky. Without vegetation, there will still be debris that fills up a sump.

Mayor Dunn: He feels the City should not be involved in the situation between Ms. Foulger and her neighbor with the horses. If his horses created a problem, it is between them and the City is out of the picture. The animals are grandfathered on that lot from prior zoning.

The last Council Meeting, the Mayor asked for a priority list of the issues across the City as a result of that intense storm, then there is an awareness of where the issues are. He feels that the issue surrounding Ms. Foulger's potential flooding should be at the top of the list. She needs to be able to live comfortably and safely.

About 300 ft. of curb & gutter would be required to alter this situation; of course this also means that the problem is passed on down-stream and ends up in the property known as Phase 3 of the PUD. That problem cannot be passed on to them; so more sumps are going to eventually be required. The common issue in all of the areas in the City is that there is no curb and gutter in these areas. When we do install curb & gutter, then it is channeled...and the City needs to figure out how to take that water and either put in back into the ground or into a retention basin with an ejection well.

There are some real issues and there are a couple of critical ones that need the Council's attention. He would like a priority list that results in an action list to work off of.

Questions need answers:

- Where to find the money for this
- Does the Council consider an SAA?
- Will residents participate without an SAA?

These are not easy decisions and some people will not be happy about whatever action is taken. The Council must consider what is appropriate for the health, safety and welfare of the citizens who are affected.

Nelson Abbott: He knows that the "hot button" is that some residents feel they are paying a higher rate than if they went out on the open market for the work to be done. He advised that the Council do the due diligence in finding the best rates possible to offer these residents.

Raymond Brown: He discussed additional sumps that are needed; they need to be included in this list of improvements...but who pays for them? Sumps tend to benefit more residents. The list needs to be complete rather than continuing to assess people.

Shawn Eliot: The design of the sumps must be considered on some of the steeper slopes...perhaps the gutters also need to be looked at.

Mayor Dunn: There are three different types of systems:

- Soft shoulder...run it off the edge of the road and let the water percolate into the ground
- Storm Drain system in some areas (not all)
- Sumps in some areas (not all)

ELK RIDGE CITY COUNCIL MEETING September 8, 2009

TIME & PLACE OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, September 8, 2009, at 7:00 PM; this was preceded by a City Council Public Hearing at 6:00 PM, on consideration of a proposed Ordinance amending the Elk Ridge Municipal Code regarding the criminal portions of the Animal Control Code. The meetings were also preceded by a City Council Work Session at 5:30 PM; continued at 6:45 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 September 4, 2009.

REGULAR CITY COUNCIL MEETING AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council*: Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance (Absent: Derrek Johnson); *City Engineer*: Craig Neeley; *Public*: Mr. Anderson, Britney Anderson, Tyrei Carter, Mitch Purdy, Jordan Riley, Tami Wilson Chase Wilson, Emily Holcomb, Erin Clawson & Ken Lutes; and the *City Recorder*: Janice H. Davis

OPENING REMARKS & PLEDGE OF ALLEGIANCE

An invocation was offered by Nelson Abbott, and Britney Anderson 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 JULIE HASKELL TO APPROVE THE AGENDA TIME FRAME

VOTE: YES (5)

NO (0)

PUBLIC FORUM

Derrek Johnson: Suggestion: To move the Closed Session to later in the Meeting so people do not have to wait or leave.

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO AMEND THE MOTION TO APPROVED THE AGENDA TIME FRAME; MOVING THE CITY COUNCIL CLOSED SESSION TO 9:00 PM, JUST PRIOR TO AGENDA ITEM 10

VOTE: YES (5)

NO (0)

EAGLE SCOUT
PROJECT

Mayor Dunn: Introduced Scout Chase Wilson and his idea to place another Elk Ridge sign in Loafer Canyon. Scout Wilson: He submitted a handout to the Council wherein he outlined the details of his proposed Project. The sign will resemble the one at the main entrance to Elk Ridge (Goosenest & Elk Ridge Drive). The sign will be 4 X 5 sheet of metal (cut-out), framed in juniper (stripped of bark). He proposed placing it on the west side of the road in the area of the last houses before the Elk Ridge boundary line.

(The handout detailed the work he plans on doing and how it is to be done.) The cost is projected at about \$450; which he intends on raising through a fund raiser (lawn mowing, with donated time from other scouts). If he falls short of the goal, he requested the City contribute up to \$100 to the Project.

Nelson Abbott: He advised to do the fund raiser first, then see if the additional money is necessary.

Mayor Dunn: Scouts cannot have similar Projects going on at the same time; nor can they "split" a Project that is larger. That is why these two Projects are considered separate Projects. The design Chase is planning fits the nature of Loafer Canyon...he may use the road easement for placement of the sign.

City Recorder: She asked about the mobility of the sign, since the "entrance" to Elk Ridge may be closer to the intersection of the County Road when Gary Hansen completes his annexation plans. Mayor Dunn: He suggested that the sign could go on Mr. Hansen's property.

Sean Roylance: He suggested moving the sign closer to the intersection of the County Road (11200 South) and Loafer Canyon Rd. He felt that would be a preferable location. (The Council was in agreement.)

*Mayor Dunn will:

- Check with Utah County regarding easements and requirements of the posing of a sign. -
- Check with Gary Hansen about the possibility of placing the sign on his property.

ACTION - STORM
DRAINAGE

Discussion:

Sean Roylance: He needed clarification on costs and who should pay for any improvements.

One side of the issue was discussed; "that it should be narrowed down because of benefitting one person that didn't pay for it when the home was built"...but there is another side: "some people bought under certain conditions and others bought property and made changes (as in installing curb & gutter) in front of their properties and have now created a problem. In another instance; the horses on one piece of property creates a problem. He wonders if it is not a "wider community issue"; through natural growth, issues have been created.

Mayor Dunn: He felt Councilmember Roylance was correct; some of these issues were not present prior to growth occurring. The codes have required different standards at different times regarding curb & gutter...and the City ends up with a "patch-work" on the roads.

The Mayor attempted to address Councilmember Roylance' first question regarding payment:

In his discussion with Ms. Foulger, he informed her that he would not encumber the tax-payers and citizens of this Community for the benefit of one person, because it is not fair. He told her it is a bigger picture and the Council needs to understand how important the bigger picture is. When the decision was made to install those three new sumps, it was thought that this would fix the problem; but there were other problems upstream. Some problems were fixed or helped, the sumps have benefitted the area, but this storm also demonstrated what the capacity is. The Mayor tried to explain to Ms. Foulger that there are options:

1. Special Assessment Area (SAA)
2. Go directly to the property owners and appeal to them to participate to install the necessary improvements without all the paperwork
3. The City could use whatever Storm Drain money that has accrued (about \$12,000) and invest it into as much as that amount would allow; then wait to build up more funding.

City Recorder: That money is needed to install the remaining curb & gutter on the west side of Loafer Canyon Road; there are no assessments to go back on to complete that Project.

Mayor Dunn: That is the other part of the issue; taking from one area creates a deficiency.

Raymond Brown: He agrees that assessments can be made individually with regard to curb & gutter; but when it comes to sumps...that could be considered a Community assessment. He suggested that sumps be considered a city-wide issue.

Nelson Abbott: Woodland Hills was considering assessing every piece of property in their Community a fee for their Fire Dept, because they offer fire protection. Applying that to this scenario, the City would be offering a way to deal with run-off coming off of some of these properties. The Storm Drain Fee is assessed to every home in Elk Ridge currently.

Shawn Eliot: 1) Ask the City Attorney: When the new subdivision goes in on Park Drive, creating even more hard surface...could the city have required that subdivision to install additional sumps or to install them further down to catch the run-off? Can you require an off-site improvement if you can demonstrate that the new development will be a detriment to other areas?

2) He spoke to Payson and they do have a storm drain fee that is paying for their curb & gutter in their City. The fee was instigated in the 90's and it has taken a long time to build up enough to install the curb & gutter; but the City is installing quite a bit currently.

Raymond Brown: It is a good point that developers are required to install a minimum number of sumps; when more may be necessary...particularly considering slope.

Shawn Eliot: Richfield City started with localized SID's (now referred to as SAA's) and began putting in curb, gutter & sidewalk one block at a time...it was not a popular decision; but necessary.

City Recorder: These are hard decision; yet there are residents that have already been assessed for curb & gutter for their property (Fremont Way); we have heard from one of those residents that it should be the same for others. The "bottom line" is that the City simply does not have the money to cover installation of curb & gutter...City-wide.

Mayor Dunn: He is not sure the City will ever have enough money "in a pot" to fix all the problems; solutions must be area by area, according to a priority list. Perhaps the Storm Drain Fee should be reviewed and raised to maybe \$10/month per household. It has always been the intent to revisit this fee when the need arises. It is an option.

City Recorder: An SAA may not be necessary if most residents want to participate. If residents are given a chance to solve their drainage problems, and they decide against it...and the neighbors decide in favor...the one with the negative vote will be the one that suffers. Then they have no right to complain...if they opted out of the solution the City offered. With an SAA, there needs to be "pot of money" up front; to be able to install the improvements and then be subject to reimbursement...either in one payment from each citizen involved in the Project; or by gradual payments, over time.

Raymond Brown: He has spoken to people that were affected by the storm and he has gotten some interesting responses. One example is a citizen on Magellan Ln.; he is higher than his neighbor...both this man and his neighbor are willing to pay for curb & gutter (neither were flooded). There are residents in favor of taking action.

Mayor Dunn: We need to do all we can to get as good a price on equipment and materials as possible; to be able to offer residents a good deal.

Raymond Brown: Keeping the machine going with as much work as possible in one day is more cost effective. The number of linear feet is needs and how many people will be participating; with this information, the contractor (Noel Hyatt?) will be able to estimate the best price he can.

Will Mr. Hyatt give the City a better price if he does the other City work along with Loafer Canyon Road?

Action:

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO AUTHORIZE THE FOLLOWING:

1. MAYOR DUNN TO CONTACT THE CITY ATTORNEY, DAVID CHURCH, REGARDING:

A) AN "SAA" AND WHAT WOULD BE REQUIRED TO INSTIGATE ONE

B) CAN OFFSITE DEVELOPMENTS BE REQUIRED TO INSTALL IMPROVEMENTS THAT WOULD BENEFIT THE CITY, AS A WHOLE?

C) A 1 ON 1 AGREEMENT (DRAFT LETTER) THAT WOULD BE BETWEEN THE CITY AND THE CITIZENS; TO ALLOW THE IMPROVEMENTS

2. RAYMOND BROWN: IS TO GATHER PRICING FOR THE IMPROVEMENTS

VOTE: YES (5)

NO (0)

RESOLUTION -
MUNICIPAL

Mayor Dunn: This is a report tan must be renewed every year. The Mayor and the Public Works Superintendent got together and reviewed the various aspects of the report. It is information passed in the form

WASTEWATER
PLANNING PROGRAM

of a resolution.

The report asks for a 5, 10 & 20 year plan for capital improvements. Dept. Heads need to plan ahead for their various areas of concern. These questions come up often; even the General Plan lasts for 5 to 7 years, then it should be re-written. The Impact Fee Studies also utilize this information and even go to build-out and beyond.

Shawn Eliot: He reminded those present that though the City does not own a sewer plant, there are aging pipes in the collection system that need replacement. If grant money becomes available, one of the first things to ask for is a long-range plan.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO APPROVE THE MUNICIPAL WASTEWATER PLANNING PROGRAM ASSESSMENT REPORT FOR 2008

VOTE: YES (4)

NO (0)

ABSENT FROM VOTE (1) SEAN ROYLANCE

WATER RIGHTS

1) Water Right Exchange:

Nelson Abbott: He chose to state as a public record that he is acquainted with the individual that owns water rights in Payson City (Mr. Jeff Cooper); however Councilmember Abbott did not broker these rights. Mr. Tony Fuller approached Councilmember Abbott regarding a possible exchange of water rights. Councilmember Abbott wants to declare anything that could be considered a "conflict of interest" regarding this matter. Mr. Cooper has water rights that he may be willing to trade for water rights owned by Mr. Gary Winterton (Suburban Land Corporation). Mr. Winterton has rights that he has not transferred over to the City, in exchange for credit in the City's water system; because he desires to exchange some of these rights for rights in Payson. Mr. Cooper has water rights in Payson that he is willing to sell. This would be considered a "trade"; but the City's method of trading would be to purchase the water rights and then exchange them for Mr. Winterton's rights here in the City at a price where the City would still benefit from the arrangement. Mr. Fuller is arranging the deal.

City Recorder: She spoke to Mr. Fuller and informed him that the City does not have excess money to purchase those rights from Mr. Cooper. Would there be a way to arrange the "trade" directly with Mr. Winterton.

Nelson Abbott: That is the direction he believes this is going. If the City is not in a position to purchase the rights, there is another person who may be interested in purchasing those rights from Mr. Winterton.

2) Ridge View Estates, Plat B - Dean Ingram Water Rights:

Dean Ingram (developer of Ridge View Estates) has received Final Approval and desires to record his plat. He needs water rights for his development. He needs 5.12 acre feet; the City has 7.20 extra acre feet from those purchased from SUVMWA. Councilmember Abbott had recommended keeping 25 acre feet for the City's

needs. Originally, the City bought 35 acre feet from SUVMWA...2.5 acre feet was allocated to Kimber Estates; would the Council be willing to allocate 5.12 acre feet to Mr. Ingram? *(The Council agreed.)*

**MOTION WAS MADE BY RAYMOND BROWN AND WAS SECONDED BY SEAN ROYLANCE TO 6
ALLOCATE 5.12 ACRE FEET OF WATER RIGHT TO THE RIDGE VIEW ESTATES, PLAT B, NEEDED
FOR DEVELOPMENT AT THE MARKET VALUE OF \$4,500/ACRE FOOT
VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, RAYMOND BROWN-AYE, NELSON
ABBOTT-AYE & SEAN ROYLANCE-AYE NO (0)**

Passes 5-0

ORDINANCES:

1. *Municipal Code Amendment - Animal Code:*
Replacement of the Utah County Animal Code:

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY SEAN ROYLANCE TO ADOPT THE
ORDINANCE AMENDING THE ELK RIDGE MUNICIPAL CODE REGARDING ANIMAL RIGHTS
VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, NELSON ABBOTT-AYE &
SEAN ROYLANCE-AYE (4) NAY (1) RAYMOND BROWN**

Passes 4-1

2. *Durability Retainer / engineer Inspection Bond / Default:*

Shawn Eliot: This has been through public hearing in the Planning Commission; it was passed once by the Council changing the time of the Durability Retainer from two years to one year; but additional changes were needed in the Administrative Fee.

Nelson Abbott: (Phone call between Mike Morley & Councilmember Abbott) Mr. Morley allowed people to express their opinions by way of a kind of "report card". Councilmember Abbott did express his opinion (not favorable to the changes) and subsequently, got a call from Mr. Morley. Councilmember Abbott's concern is that Elk Ridge is a hillside community where weather often times affects our ability to allow for improvements to settle as they should...and he was not happy with shortening the time frame from two years to one year. Mr. Morley said that within the code, there are caveats that allow cities with extreme weather conditions to still have the two year time period. He wants to be sure that those allowances are included in the code the City adopts.

Shawn Eliot: The State law does allow for that. Perhaps we just need to add a sentence that says something like: "If determined, due to weather conditions, that there needs to be an extension..." When he asked David Church about that, and if it could be added to our Code, his answer was "No...it is on a case by case basis...but not to 'blanket the whole City'." That is why it was left out of the proposed code; but he agrees that there could be a sentence added.

Mayor Dunn: The sentence might say that it could be applicable to a project.

Derrek Johnson: He cautioned considering developments on a case-by-case basis...could this set precedent?

Mayor Dunn: He felt Councilmember Johnson made a good point; but he also felt that if the Council is careful about how the extra time is required, that this would not be a problem. The reasons would have to be justifiable and backed up by documentation.

Shawn Eliot: He agreed. He decided he would research this and come back to the Council with different wording.

3. *Employee Compensation Ordinance:*

This proposed ordinance formalizes the wages already reflected in the 2009/2010 Budget, which has been adopted. The Ordinance shows the positions that the Council approved to eliminate. The Council's decision regarding a wage freeze and no cost of living adjustments is also in the proposed ordinance.

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY DERREK JOHNSON TO APPROVE
THE EMPLOYEE AND ELECTED OFFICIAL'S COMPENSATION ORDINANCE FOR 2009/2010**

**VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, RAYMOND BROWN-AYE, NELSON
ABBOTT-AYE & SEAN ROYLANCE-AYE (5) NAY (0)**

Passes 5-0

CITY WORK LIST ITEMS Mayor Dunn: (Updated 8-27-09) This is a list of projects that have been approved and still need to be accomplished:

1. *Salt Shed:*

This project has been approved and funded on February, 2009 (in-house job)

- *We have yet to pick a final location and stake it out*

- *Finish what has already been started*

- *Completion date needs to be set (before November)*

Raymond Brown: The target date for completion is actually by the end of September. Kent Haskell was on site that day. Paxton's have been informed that they need to move their horse shed. Kent has "pretty much picked out a position". *(Councilmember Haskell mentioned he needs to specs from Councilmember Brown.)*

City Recorder: She asked how this is being funded.

Raymond Brown: It is coming out of the bond money.

2. *Curb & Gutter in Loafer Canyon:*

This project has been approved and funded - Fall of 2008 (in-house job)

- *Start date set (After the Salt Shed) - Probably October 1, 2009*

- *Completion date must be set (before November)*

The Mayor met with Kent Haskell and reviewed the list with him. It is getting late in the year and these things needs to be done. Last year curb & gutter was installed inn October.

Raymond Brown: He suggested that the new Mayor (Elect) and the Candidates should assist.

Mayor Dunn: Corbett Stephens is contacting a company that has forms not in use; to se if we can use them.

3. Water Line Replacement on Canyon View Drive:

Approved and funded in the Fall of 2008 (in-house job)

- Start date to be set

- Bid for supplies must be put together

- Completion date must be set (Before November)

Mayor Dunn: There have been beaks on this line and the entire line needs to be replaced. The cost was projected last year by Kent Haskell at \$105,000. The line would go from Alpine to Park Drive...it would go down the shoulder of the road (old line to be abandoned). This has been over-looked and now we are running out of time. We though It possible that some driveways may be affected by this project; there are actually no driveways that would be affected. If we run out of time, he suggested the job be done in the spring.

4. Sewer line and Manhole from Bridger:

This project was discussed last year (summer of 2008) and was to be done as an in-house job.

- Start dates needs to set

- Completion date must be set (This job must be done before Sept. 11, 2009) This was not funded.

Kimbers' ran out of time in building their home and are doing that now. The City is to participate in installing the sewer at the west end of Bridger and cuts through to Magellan Lane and down to Hudson Ln. There will be a manhole at the end of Bridger and run about 200' of sewer line. Noel Hyatt said the City could use his track- hoe as long as it is on site. He may have to call and poll the Council on the price. *The Mayor will get the figures on this project.

5. Sprinkler System in the Park: (Cross that off...Wayne Frandson fixed this last week)

6. Fence around the Booster Station:

This project has been approved and funded. Dates must be set.

There has been no surveying or marking for the fencing. It is planned to go around the booster station, the "mushroom" vent and the access cover. Part of this will include a gate for security.

Derrek Johnson: He wanted to know how we stand on transferring over to the Loafer Canyon Well.

Mayor Dunn: Part of the figures has been put together for the summer months; it appears we are moving in the intended direction...it is getting better. Loafer Canyon actually did produce water from June 26 to July 26 for a total of \$.09 per 1,000 gallons vs. \$.29 per 1,000 gal. (Cloward Well) and \$.33 per 1,000 gal. (Lower Loafer Well). We will likely just turn the lower Loafer Well off, since it is the most expensive to run. *The Mayor will bring the figures for all three summer months to the next Council Meeting.

8:25 PM -

CITY COUNCIL CLOSED SESSION

ROLL

Mayor: Dennis A. Dunn; City Council: Nelson Abbott, Raymond Brown, Julie Haskell & Sean Roylance & Derrek Johnson; City Planner: Shawn Eliot; and City Recorder: Janice H. Davis

Discussion of Land Acquisition Negotiations

REGULAR CITY COUNCIL MEETING AGENDA ITEMS (CONT.)

EXPENDITURES:

General: None

1. Ratify Polled Vote: Purchase of Flag Pole with Park Impact Fees:

MOTION WAS MADE BY DERREK JOHNSON AND SECONDED BY JULIE HASKELL TO RATIFY THE POLLED VOTE FOR THE PURCHASE OF THE FLAG POLE WITH PARK IMPACT FEES

VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, RAYMOND BROWN-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE (5) NAY (0)

Passes 5-0

2. Backhoe Tires:

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY SEAN ROYLANCE TO APPROVE \$1,775.70 FOR TIRES FOR THE CITY BACKHOE FROM AMERICAN CAR CARE

VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, RAYMOND BROWN-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE (5) NAY (0)

Passes 5-0

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO APPROVE \$1,550.00 FOR THE PURCHASE OF A SNOW PLOW BLADE AND CUTTER BAR

VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, RAYMOND BROWN-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE (5) NAY (0)

Passes 5-0

CITY COUNCIL
MINUTES

City Council Minutes from 6-23-09:

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO APPROVE
THE CITY COUNCIL MINUTES OF 6-23-09, AS CORRECTED
VOTE: YES (5) NO (0)**

City Council Minutes of 7-14-09:

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY RAYMOND BROWN TO APPROVE
THE CITY COUNCIL MINUTES OF 7-14-09, AS CORRECTED
VOTE: YES (5) NO (0)**

Derrek Johnson: He asked if Chris Salisbury had commented that the Fire Suppression Code is not coming to the States. Councilmember Johnson was talking to a family member (he was a full-time firefighter for American Fork...now he is for Pleasant Grove) and he said that it is coming forward. That needs to be checked out. *Mayor Dunn: He is going to check this out to see if HB81 is coming to the States or not.

NON-AGENDA ITEM

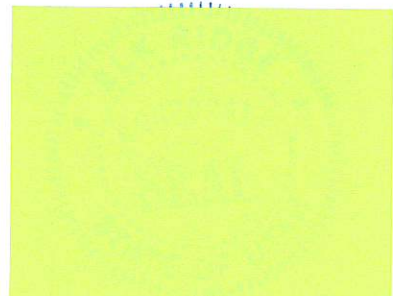
Mayor Dunn: John Hocshouer gave the Mayor a letter from Congressman Jason Chaffetz regarding the support he is giving the City's request for the 2.5 million dollar grant applied for. Senator Orin Hatch also wrote a letter of support. This is good news for the City.

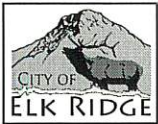
ADJOURNMENT

At 9:45 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

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, September 22, 2009, at 7:00 PM, to be preceded by a City Council Work Session at 6:30 PM; & a City Council Closed 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 CLOSED SESSION

Acquisition of Land (Negotiations)

CITY COUNCIL WORK SESSION

6:30 PM - Sheriff's Presentation

6:45 PM - 1. Subdivision Requests:

- A. Elk Ridge Meadows PUD, Phase 1 – Request for Extension on Overlay - Tom Henriod
- B. Oak Hill Estates, Plat D – Entrance into Durability Time Period

7:00 PM - REGULAR COUNCIL MEETING AGENDA ITEMS:

Opening Remarks and Pledge of Allegiance Invitation

Approval/Agenda Time Frame

7:05 2. Action on Subdivision Requests:

- A. Elk Ridge Meadows PUD, Phase 1 – Request for Extension for Overlay
- B. Oak Hill Estates, Plat D – Durability Retainer Time Period

7:20 3. Civil Science Engineering – (City Engineering)

7:50 4. Storm Drain (Curb & Gutter Presentation) – Raymond Brown

8:00 5. Fire Department: - Julie Haskell

A. Insurance Comparisons

B. Fund Raiser – Movie Night

8:15 6. City Fee Schedule (Administrative Fee Minimum)

8:20 7. Temporary Salt Shed Update – Raymond Brown

8:25 8. City Council Minutes

8:30 9. Expenditures:

A. General: Eagle Scout Project - David Bell (Request for Additional \$100

8:35 10. Ordinance/Development Code Amendment regarding Durability Retainers
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 18th day of September, 2009.



City Recorder

CERTIFICATION

I, the undersigned, duly appointed and acting City Recorder for the Municipality of Elk Ridge, hereby certify that copies of the Notice of Agenda & Amended Agenda were faxed to the Payson Chronicle, 145 E Utah Ave, Payson, Utah, and were provided to each member of the Governing Body on September 18, 2009.



City Recorder

ELK RIDGE
CITY COUNCIL MEETING
September 22, 2009

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, September 22, 2009, at 7:00 PM; this was preceded by a City Council Closed Session at 6:00 PM; & a City Council Work Session at 6:30 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 September 18, 2009.

6:00 PM -

CITY COUNCIL CLOSED SESSION

ROLL

Mayor Pro-tempore: Raymond Brown; *City Council:* Nelson Abbott, Julie Haskell, Sean Roylance (Absent: Mayor Dunn & Derrek Johnson); *City Planner:* Shawn Eliot

Acquisition of Land (Negotiations)

6:30 PM -

CITY COUNCIL WORK SESSION

ROLL

Mayor Pro-tempore: Raymond Brown; *City Council:* Nelson Abbott, Julie Haskell, Sean Roylance (Absent: Mayor Dunn & Derrek Johnson); *City Planner:* Shawn Eliot; *Public:* Tyrei Carter, Mark & Talia Christensen, Jan Christensen, Darin & Tracie Magoffin, Brady Magoffin, Samantha Magoffin, Jordan Riley, Mitch Purdy, Jonathan Larsen, Chris Jorgensen, Kyle Comer & Erin Clawson; *Planning Commission Assistant:* Marissa Bassir

SHERIFF'S
PRESENTATION

Deputy Tindall: June 2, 2009, Elk Ridge had the opportunity to have a RAD's Kids Class. On the way to class, two youth, Talia Christensen and Brady Magoffin, came across a substantial amount of money at the side of the road. They did the right thing and turned the money in. After 90 days, no one claimed the money. He called the two youth up and presented them with certificates from the Sheriff's Office and ½ of the unclaimed money to each. He shook hands with the two young people and congratulated them for being honesty and integrity. Deputy Tindall added that the law recently changed; the old law stated that any unclaimed money was turned over to the State.

SUBDIVISION -
REQUESTS

1. *Elk Ridge Meadows PUD, Phase 1 – Request for an Extension on the required overlay:*
(Memo from Corbett Stephens to Council, dated 9-18-09)

"Re: Elk Ridge Meadows Phase I

Mr. Tom Henriod, developer of Elk Ridge Meadows Phase I, has requested that the required one inch (1") overlay be postponed until the end of the durability period. The overlay requirement allows for the project to be tested for failure prior to final release and allowing for fixes of any failures and the overlay, leaving the development looking new and for an increased performance period, prior to the overlay. The two (2) year durability period expires in April of 2010. The required overlay would be completed prior to final release and before the end of the paving season of 2010.

I recommend postponing the required overlay as requested by the developer. This, I feel, will strengthen the City's position in verifying the quality of workmanship for the installed improvements and still maintain the expense on the developer for this overlay."

Raymond Brown: Agreed with Mr. Stephen's recommendation. (Julie Haskell also expressed her approval.)

Other contractors have requested putting the overlay off due to lack of activity within the subdivisions. It makes sense to wait.

Nelson Abbott: (Question) Another part of the code allows up to two years, if warranted.

Shawn Eliot: If extended another year for the overlay, does that allow the City to keep that portion of the Retainer for that amount of time? IF the Retainer is released and the overlay is not installed, then there is nothing to go back on.

Raymond Brown: That is a good question that should be asked.

Shawn Eliot: The State Code says that one year is the time limit; but there are exceptions based on certain criteria. The Code does reference calling the bond if the City finds fault in the improvements. Perhaps the City Attorney should be consulted with on this matter.

Raymond Brown: He agreed that only a portion of the bond should be held back for the overlay; but, the bond should be held until that point.

Shawn Eliot: Maybe the approval of the extension should state the condition of carrying the bond until the release of the improvements.

Raymond Brown: This needs to be checked out with David Church about this specifically. Corbett Stephens would have to determine how much to be held in the bond. It should be at least 10% to 20% more than is needed for the overlay.

*The Planner was given direction to contact the City Attorney.

Julie Haskell: If we are giving them extra time, then she thinks that the City can make an extra requirement. (The Planner agreed.)

2. Oak Hill Estates, Plat D – Entrance into Durability Time Period:

(Memo from Corbett Stephens to Council, dated 9-18-09)

"Re: Oak Hills Plat D

Dear Mayor Dunn:

The final inspection for the above referenced subdivision has been held and the contractor has satisfactorily completed all of the required items. I recommend durability be granted as of September 17, 2009. The required 1" overlay is to be completed in June of 2010 to insure optimum conditions for asphalt placement."

**ELK RIDGE
CITY COUNCIL MEETING
September 22, 2009**

**TIME & PLACE
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7:00 PM -

CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS

ROLL

Mayor Pro-tempore: Raymond Brown; *City Council:* Nelson Abbott, Julie Haskell, Sean Roylance (Absent: Mayor Dunn & Derrek Johnson); *City Planner:* Shawn Eliot; *Public:* Tyrei Carter, Mark & Talia Christensen, Jan Christensen, Darin & Tracie Magoffin, Brady Magoffin, Samantha Magoffin, Jordan Riley, Mitch Purdy, Jonathan Larsen, Chris Jorgensen, Kyle Comer & Erin Clawson; *Planning Commission Assistant:* Marissa Bassir

**OPENING REMARKS
& PLEDGE OF
ALLEGIANCE**

Opening Remarks were offered by Raymond Brown and Jonathan Larsen led those present in the Pledge of Allegiance, for those willing to participate.
Opening Remarks: Councilmember Brown played a moving recording of the inspiration behind the creation of the Star Spangled Banner.

**AGENDA TIME
FRAME**

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO APPROVE THE AGENDA TIME FRAME

VOTE: YES (4) NO (0) ABSENT (2) MAYOR DUNN & DERREK JOHNSON

**ACTION ON
SUBDIVISION
REQUESTS**

1. *Elk Ridge Meadows PUD, Phase 1 – Request for Extension for Overlay:*

Raymond Brown: The Attorney is going to be asked about the ability to extend the bond when the Council is asked to grant an extension beyond the legal time period for the Durability Retainer.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO APPROVE THE REQUEST TO EXTEND THE TIME FOR THE INSTALLATION OF THE REQUIRED 1" OVERLAY FOR ELK RIDGE MEADOWS PUD, PHASE 1; CONTINGENT UPON REVIEW BY THE CITY ATTORNEY TO VERIFY THAT THE DURABILITY RETAINER CAN ALSO BE EXTENDED TO THE SAME TIME FRAME

VOTE: YES (4) NO (0) ABSENT (2) MAYOR DUNN & DERREK JOHNSON

2. *Oak Hill Estates, Plat D – Entrance into Durability Time Period:*

MOTION WAS MADE BY RQAYMOND BROWN TO APPROVE THE REQUEST TO EXTEND THE TIME TO INSTALL THE 1" OVERLAY UNTIL JUNE OF 2010 FOR OAK HILL ESTATES, PLAT D; WITH THE CONTINGENCY THAT THE CITY RETAIN SUFICIENT FUNDS IN THEIR DURABILITY RETAINER TO FUND THE OVERLAY; AND TO BEGIN THE DURABILTIY TIME PERIOD AS OF SEPTEMBER 17, 2009

(No second on the motion...so the motion dies.)

Discussion:

Shawn Eliot: The one year Durability Time period has not begun due to other circumstances; so the overlay in June 2010 would still be within that one year time period.

Nelson Abbott: The developer was supposed to do some re-vegetation.

Shawn Eliot: The developer (RL Yergensen) did put top soil in and seeded it. There was direction for him to cut the weeds to allow the seed to come through.

Sean Roylance: Wasn't he supposed to plant scrub oak trees?

Shawn Eliot: Yes; and he did not do that...as far as he knows. He said he would do that. Perhaps Corbett Stephens should follow up with him to see if these things have been completed.

Nelson Abbott: He did not feel the developer was ready to go into the one year Durability Time frame; because he has not completed all that is on his list.

Shawn Eliot: He did make an effort; but the seeds have not been taken care of through proper procedure.

Nelson Abbott: He suggested conferring with Paul Squires, due to his expertise in vegetation.

Raymond Brown: This item will be on hold for now; and it is the Council's recommendation that Mr. Stephens recheck the re-vegetation areas and the conditions that were to be met.

CIVIL SCIENCE
ENGINEERING –
PRESENTATION

Sean Roylance: The direction last year was that fall and spring are good planting times; in case the seeds have to be re-planted.

The City is considering contracting with an engineering firm that is closer than Aqua Engineering is. Craig Neeley (Aqua) was in to speak to the Council at the previous Council Meeting and to answer any questions. Civil Science Engineering was asked to address the Council this night.

Representatives of Civil Science Engineering were present and Mayor Pro-tempore Brown turned the time over to them:

Their firm is located in Lehi, Utah.

Kyle Comer (A Principal with the Firm) has been with Civil Science since 1991. Chris Jorgensen accompanied Mr. Comer (Project Engineer). Both gentlemen have met with Mayor Dunn and Kent Haskell.

The Firm has been in existence since 1978...under various names. The core Office has been in place in Utah County since 1978...starting in Provo.

- Main emphasis: City Engineering services and transportation services.
- They have served as City Engineers for Highland and Lehi...Genola, Fairfield; Cedar Hills are other Cities they have serviced.
- They offer a full range of services: (In-house) CAD, support, survey, etc.
- They try to stay away from certain services: geotechnical, soil services, which are very technical...so they partner with other firms that specialize in these services.
- Generally, any engineering service that Elk Ridge would need, they could provide. (Water, Sewer, Storm Drain, Roads, Planning, Financing support, economic Analysis, etc.)
- They maintain 13 professional engineers and 3 professional land surveyors.
- There is a focus of value / cost...what are you getting for your money?
- They had handouts for the Council in the form of folders with their professional information contained.
- They also had a slide presentation to share.
- They wanted to address some of the current concerns and issues facing the City at this time...Annexation, open space, application of impact fees in the potential development of a park.
- GIS (Gather up information on maps, documentation of data...and streamline that information
- Responsiveness: How do we get to the City; how do they serve the City; make sure the partnership has value over time

The cities they have worked for, they have long-standing relationships with. They are interested in providing value over the long term.

Chris Jorgensen:

Annexation Issues: Civil Science has experience in annexation planning. Even though the sewer and water systems are pretty much in place in the prospective areas, they understand that there is still some engineering planning that needs to take place.

- Fitting new areas with old and the resulting impact is an area they could assist with regarding water, sewer, roads, etc.
- Feasibility studies
- Annexation process: They assisted Highland City with their new projects
- Parks: They love parks and have a great deal of experience in developing them...they have worked with Cedar Hills, which is much like Elk Ridge
- GIS: (Geographic Information Systems) Compiling data and maps to use for various projections (Software program that takes information from various depts. and compiles it into a single data base.) It needs to be customized to the particular city. (They brought a training manual for staff to review.)
- Responsiveness: They want to be on site as much as needed; but their desire to serve motivates them to offer a little "extra". They are willing to donate certain parts of their services: travel time (*Aqua also offers ½ their travel time*). Once a month they could come to a Council Meeting and donate that travel time.

(Julie Haskell: She asked if they charge both ways on travel time on a regular basis.)

Typically, that is on a case-by-case basis to arrange that...with most administrative services they could arrange that with Elk Ridge.

(Julie Haskell asked: If Elk Ridge were involved in some big project; would there be one field inspector assigned to the City...or would there be various people to deal with?)

They would assign a particular engineer to be the sole source of contact; but he may pull in various consultants to consult. These things are important to them to have a long-term relationship.

Shawn Eliot: When mistakes are made on the part of engineering, what is the policy (regarding development)?

Mr. Comer: There is not a particular formula; really it is case-by-case. They recognize they are not "perfect" and they do maintain professional liability insurance for major things. The long-term relationship is the important thing. "Bumps in the road" need to be worked through.

Shawn Eliot: He reviewed the current practice of collecting development fees (platting fees); he wanted to know what they think may work regarding fees and the number of reviews required. The City's current policy can leave the City covering extra engineering costs.

Mr. Comer: There are as many policies as there are communities. Most of the communities they work with are encouraged to pass those costs on to the developer; at times there are scales according to the size of the subdivision. The problem is when junior engineers are used at times and the cities can provide the "training ground". He asked if there are standardized check lists to follow; those are invaluable and must be applied. When applied equally to all developers, they will come to respect the City's process.

Raymond Brown: He thanked Mr. Comer and Mr. Jorgensen for coming to present their information to the Council. The City is looking for the best service for the best price. The City would like for a fee schedule to be provided to Mayor Dunn.

Nelson Abbott: The costs as well as what those costs provide will be considered. It is important to have the best service the City can afford. Engineering mistakes have cost the City in time, money and in ill-will of citizens at times. With a limited budget, these things place the City in a bad position.

Mr. Comer: Along with the rate schedule, he can also indicate the experience level of the engineers on staff at Civil Science Engineering.

Nelson Abbott: He brought up the current policy of having the City's own building official work with the engineers in doing some of the field inspections to save the City money.

Mr. Comer: They visited with Mr. Stephens and they could be flexible in working with inspections.

STORM DRAIN –
CURB & GUTTER
PRESENTATION

Raymond Brown: Some of the areas of concern regarding storm water run-off have been reviewed. His assignment was to gather up pricing. Corbett Stephens contacted Noel Hyatt and he gave the figure of \$12.50 per linear foot (plf). That would include all of the work; the next cheapest price was \$15 plf.

He would like to avoid an SAA (Special Assessment Area).

He has come up with the following for problem areas:

4 homes on Oak Ridge; 7 on Columbus; 4 on Magellan; and one home on Hudson = about 16 homes.

He has spoken too many of the owners (about 60 %) that are willing to install the curb & gutter. This would be a faster way of getting the improvements in before the spring thaw. This would not solve all of the problems...there are still sumps that are required; but it will greatly relieve the run-off issues.

Councilmember Brown had a sample agreement letter to review with the Council; this letter would go out to the affected citizens. The agreement would be to pay the City back in quarterly payments until the individual assessments are paid back...with no interest on the payments. An SAA would require a great deal of paper and legal work required on the part of the City and the costs would go up. Money could be saved and the work could be done now. This is strictly voluntary and the letters are to be back into the City as soon as possible.

He intends on hand-delivering the letters personally to the homes to be sure the individuals receive the letters.

Nelson Abbott: He felt this is a step that has to be taken, even if the individuals choose not to participate. He feels it is better than forcing an SAA without first having offered them this option.

Raymond Brown: He agreed that this effort should be made to provide the work at a better price; he feels that the bid from Mr. Hyatt is as good as it gets.

Nelson Abbott: When a SAA was created for Fremont Way, the cost was \$17.50 plf.

Raymond Brown: The cheapest he has seen was about \$15.50; and at that time that price was considered a "good deal". The City would be purchasing the cement to put into Mr. Hyatt's machine...that would save about 2.5% (because the City is tax exempt).

Sean Roylance: How much is the City going to have to spend? What is the total; even though the City will eventually be paid back?

Raymond Brown: \$48,000...and this would be taken out of the Sewer Fund. It needs to be determined how much in the Storm Drain Fund is available for use; then the rest would come from the Sewer Fund.

Nelson Abbott: The first quarter's payments would be due fairly soon, so that would be \$12,000 paid back rather quickly.

Raymond Brown: He figured about \$3,000 per yard...some are a bit less or more; but that is an average.

Julie Haskell: She had a concern with the Storm Drain Fee...if all of the money is used, what will be used to clean out the sumps?

Raymond Brown: Part of the money will come back the 1st quarter. It will not be depleted to a zero balance.

The residents participating will have to sign off on the document, agreeing to the terms. Most of the people he has spoken to have been in favor of the arrangement (about 60% in favor, of the people contacted).

To be effective, the curb & gutter should be contiguous.

Shawn Eliot: (Question) He wanted Councilmember Brown to reiterate the list of residents in favor.

How long do the residents have to repay the debt? (One year.)

- The curb & gutter is to go into the easement, why should individual residents pay for it?
- The old code, if a person lived on a corner lot, only one side was expected to be paid for...the City was expected to pick up the other side with the storm drain fee.

Julie Haskell: She did not agree with that, since all the citizens would be paying for that person's curb & gutter.

Raymond Brown: He realizes that there will be opposition; but if 80% approve of the project, then there will be solutions to the problems.

Sean Roylance: He asked about the Week's home since it is a potential trouble spot with a double-sided lot...and the economy is hitting their business hard...and could the pitch of the road contribute to the problem? The City was responsible for the road above them (Magellan).

The Council agreed that the letter should go out and that the City needs to try this approach to the citizens first.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY SEAN ROYLANCE TO APPROVE THE STORM DRAINAGE LETTER DRAFTED BY COUNCILMEMBER BROWN

VOTE: YES (4) NO (0) ABSENT (2) MAYOR DUNN & DERREK JOHNSON

FIRE DEPT. –
INSURANCE &
FUND RAISER

Julie Haskell:

1. Insurance Comparisons:

There were three bids; one was very high with little coverage (Councilmember Abbott agreed that this was not the company to go with.

Continental Western Insurance has better coverage; but is expensive.

Nelson Abbott: After review, he feels that the City would not be better off going with Philadelphia than where the City is currently. He sees no added value or coverage. He felt a key matter was under the automobile portion of the coverage...the big difference is what is included. One of the driving forces behind this was an incident where an EMT backed into another EMT...and because they were in personal vehicles, the City's insurance refused to cover the accident. Personal vehicles are not covered for liability...there is huge exposure. The proposed insurance gives them some additional coverage that the City does not have with "hired or borrowed vehicles". With Philadelphia, the liability coverage is lower than what the City has currently...the coverage with Continental Western is higher. He feels it would be better to have more coverage.

Another thing with Continental Western includes is flood and earthquake coverage.

Julie Haskell: There is also coverage on EMT equipment; whereas the other does not.

Nelson Abbott: Where there is a lot of mobile equipment, there needs to be good coverage. The only hesitation he had with making the change was with the way the City's insurance is written...if he could find a policy written like the current insurance is written, he would recommend that coverage...most policies are written fairly loosely. He recommends whichever policy they go with, that the City requires that there be an annual review and an initial review. One of the frustrating aspects of the current insurance was that prior to the claim for the EMT incident being denied; Councilmember Abbott and the Mayor met with the agent and were told this type of coverage is included.

Julie Haskell:

- Philadelphia Insurance: \$3,876

- Continental Western Insurance: \$4,588

Nelson Abbott: The Fire Chief needs to stay on top of this and meet with them and review it...and to keep the insurance company updated on a current list of equipment.

His recommendation was to go with Continental Western; it is considered to have an A+ rating. The current coverage will be discontinued for the Fire Dept.

The City Council was in agreement to go with Continental Western Insurance Company.

2. Fund Raiser:

There was to be a "movie night" as a fund raiser...then it was cancelled. The Chief felt that the Dept. was rushing the project a bit and he wanted to involve more of the Dept.

Chief Wait also wanted to check on the ability to use a film for the movie night without infringing on any copy right laws.

It was also suggested to have more than one, and to time one of the events to be in conjunction with the City Celebration for the 4th of July.

CITY FEE SCHEDULE

(Administrative Fee as part of the development bonding process)

The addition is simply placing a minimum on the fee of \$100. The current formula would not be sufficient to cover costs for staff.

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY SEAN ROYLANCE TO APPROVE THE CITY FEE SCHEDULE; WITH THE ADDITION OF A MINIMUM ADMINISTRATIVE FEE OF \$100

VOTE: YES (4) NO (0) ABSENT (2) MAYOR DUNN & DERREK JOHNSON

It was suggested to add:

- Out of town park/pavilion rental fee

- Higher deposit for rental of Pavilion and park

TEMPORARY SALT SHED – UPDATE

Raymond Brown: The Salt Shed is going to be placed where the existing tack barn on the City owned land is; the existing cement pad will be used. It will be delivered and installed within three weeks. This is likely not the permanent place for the shed...when the City Center is built. The cost will be \$7,565. This will save the City in the loss of salt.

CITY COUNCIL MINUTES

1. City Council Minutes of 8-11-09:

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY RAYMOND BROWN TO APPROVE THE CITY COUNCIL MINUTES OF 8-11-09; WITH CORRECTIONS

VOTE: YES (5) NO (0) ABSENT (2) MAYOR DUNN & DERREK JOHNSON

NON-AGENDA ITEM

Shawn Eliot: (Update on the question of the entrance onto Elk Ridge Drive – Payson City) The Planner met with Payson City staff and they were concerned with the entrance to the Golf Course trailer park...they want a driveway onto Elk Ridge Drive because they want it gated with a fancy opening. He relayed that this is not what Elk Ridge wants because of the concern with too many accesses all in the same place...plus the issue with the extra lot where there could be one house in Payson and two in Elk Ridge...right next to each other. Payson's Planner will present this to them to see how it is received.

EXPENDITURES:

General:

1. Eagle Scout Project – David Bell (Request for additional \$100 from the City)

MOTION WAS MADE BY SEAN ROYLANCE AND SECONDED BY NELSON ABBOTT TO APPROVE AN ADDITIONAL \$100 FOR THE EAGLE PROJECT FOR DAVID BELL

VOTE (POLL): JULIE HASKELL-AYE; RAYMOND BROWN-AYE; NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE (4) NO (0) ABSENT (2) MAYOR DUNN & DERREK JOHNSON

Passes 4-0


ORDINANCE –
DEVELOPMENT CODE
DURABILITY RETAINER

MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO TABLE THIS UNTIL THE NEXT CITY COUNCIL MEETING IN OCTOBER

VOTE: YES (4) NO (0) ABSENT (2) MAYOR DUNN & DERREK JOHNSON

ADJOURNMENT

The Meeting was adjourned at 9:16 PM.



City Recorder – Elk Ridge City

