

MINUTES
CITY COUNCIL MEETING
FRUIT HEIGHTS CITY
910 South Mountain Road
August 23, 2016

CITY COUNCIL MEETING

The City Council Meeting was called to order by Mayor Don Carroll at 8:05 pm.

The Pledge of Allegiance was recited and Council Member Julia Busche began the meeting with a prayer.

COUNCIL MEMBERS PRESENT: Council Members Diane Anderson, Gary Anderson, Julia Busche, Brandon Halliday and Mayor Don Carroll were present. Council Member Scot Poole was excused.

STAFF PRESENT: City Manager Brandon Green, City Planner Jeff Oyler, City Manager Brandon Jones, City Attorney Brad Christopherson and Recording Secretary Kelli Rollins were present.

VISITORS: Carol Elliott, Connie Franey, Steve Franey, Marc VanOene, Dana Hales

AGENDA ITEMS:

1. APPROVAL OF MINUTES FROM PREVIOUS MEETING

Council Member Brandon Halliday made a motion to approve the minutes of August 2, 2016. Council Member Julia Busche seconded the motion and it was approved unanimously.

2. SPECIAL PRESENTATIONS

Mr. Marc VanOene addressed the City Council and Mayor. He stated that he has noticed that on the east bench the City is putting in a parking lot. He mentioned that last year the City Council passed a new tax increase that was supposed to go toward roads. He stated that the revenue should not be being used for other things including parking lots. He mentioned that he believes the Fruit Heights City coffers are continuing to increase. Mayor Carroll recommended he get on the City website and look at the road projects that are happening all over the City. These are being bundled with water and sewer projects where possible. Mr. VanOene mentioned that the parking lot was on Eastoaks Drive. The Mayor explained that there was a turnaround being put in at the end of that street.

Mr. Dana Hales addressed the City Council about the progress on the construction South of Eastoaks Drive. Mayor Don Carroll informed him that the construction that Mr. Hales was referring to is a water project where the pipes are being upgraded, a loop will be installed and a retention pond would be going in on the former forest service property. He explained there was not a road going in there but a pipe trench. Mr. Hales asked about the projects taking place in the City. He also asked the Mayor and

City Council if there were going to be any developments on the property that involves residential homes. Mayor Carroll emphatically replied in the negative. He informed everyone that the City must use the property as directed by the act that deeded the property to Fruit Heights City. He mentioned that there has to be an easement for the Bonneville Shoreline Trail. Mayor Carroll said the City Council will be responsible for deciding how this area is used. City Attorney Brad Christopherson was asked to describe what the restrictions are on the property. He stated that the land must be used for public use. Public use can include parks, a fire station, cemetery or a police station for example. The City cannot sell the property to a developer or turn it into homes. Mayor Carroll mentioned that there is a cemetery committee just beginning to function and that no decisions have been made about considering this area for a cemetery. Mr. Hales mentioned that he had heard rumors and decided to come get his information right from the Mayor and City Council. Mr. Hales spoke about the history of ownership of the area which is also detailed in the deed. Mayor Carroll encouraged him to inform others that there would not be a residential development. A copy of the deed will be put on the website so that the residents can read it.

Mr. Steve Franey addressed the City Council and Mayor asked a few questions about the deed of the forest service property and then asked if his wife could read a statement.

Mrs. Connie Franey addressed the City Council and read a document they had prepared. She stated it had been about 10 years that the City had been trying to acquire their property. She outlined dates where the City Staff had contacted them regarding their property. It began in May when City Manager Green left a handwritten note on their door asking to meet with them. On May 17th they met with City Manager Green where he mentioned that he could get their property appraised and pay them for it. She mentioned that her husband wanted two appraisals. One appraisal should be based on the property being forest service property and one based on it being a future development. She read a quote from that meeting stating that he would bring a copy of the deed when he received it but that it would not be able to be developed. On June 3rd she reported that City Manager Green came to her husband and asked if he had decided anything. Her husband asked for a copy of the deed or anything in writing. The City made an offer that gave the Franey's till August 19th to decide. She mentioned that on August 16th they received an email from City Manager Green stating that the deed had been signed and that it designated that the property could only be used for Public Use. She concluded that she and her husband feel that the property will eventually be developed and that they have been treated unfairly by the City and had never received the proper paperwork that the City had promised to send. They feel they should be compensated for a prime access point to this property.

4. NEW BUSINESS

4.1 Review/Discuss/Approve/Deny Resolution 2016-003 Condemnation of Easements

City Attorney Brad Christopherson reminded the City Council that it is against the law to take property without compensation. He spoke about eminent domain and that there are very specific purposes where it can be used and definite steps that must be followed. He mentioned that besides offering an appraisal the City must also supply information about an ombudsman which gives them the opportunity to get another appraisal and also a mediator at no cost to the resident to ensure proper compensation.

City Attorney Christopherson mentioned there are two reasons that the City needs this piece of property. He reminded everyone about the 100 acres recently acquired from the Federal government. The ownership of this property makes it possible to solve a couple of problems that have caused the City residents some problems in the past but they need access to the property. This is the piece of property being discussed tonight. The first reason the City needs this property is so they can install a loop in both the primary and secondary water lines. The second reason the City needs the property is so they can have access to the retention pond that will be built there. The retention pond is needed to prevent flooding. These flooding problems have caused the residents problems and the result has been litigation against the City in the past.

City Attorney Christopherson laid out the steps that the City had recently taken to purchase the property from the Franey's. There was an appraisal done which was given to the Franey's with an offer to purchase the property for the appraised amount. There was a counter offer from the Franey's and then another counter offer from the City that expired at 5:00 pm on August 23, 2016. The Franey's were informed in the paperwork that they received that they were entitled to an attorney at no cost to them as well as another appraisal at no cost to them. The area that is needed is .023 of an acre and the City was looking to condemn only the easement although the appraisal is for the full value of the land.

City Engineer Brandon Jones reminded everyone that 1800 East and Eastoaks are both dead ends and there is currently no turnaround for snowplows, fire trucks and other service vehicles. Lower Eastoaks and 1800 East are also dead ends for the secondary and culinary water lines. Dead ends create buildup of fluoride and other issues since there is no way to flush the lines. Looping the lines creates a circulation so the buildup doesn't occur. It also makes it possible to protect the line. If there is a problem at one point you can close the two closest valves but everyone else still has water. Currently if there were a problem everyone would be without water.

City Attorney Christopherson informed the City Council that the Resolution in front of them allows the City to move forward with the eminent domain. The next step would be to file an action in district court. The City would deposit funds in the amount of the

appraisal. They will file a motion for immediate occupancy that would allow the City to be able to finish the projects that need to be done before the end of the construction season. The Franey's have the choice to either accept the money, negotiate or go to trial. Mayor Carroll inquired if all the ordinances and statutes had been followed and if all the notifications had been correct and if the Franey's had received the copies of the appraisal as well as the offers to have another appraisal. City Attorney Christopherson reassured him that everything was done correctly. The City Council discussed timing for the next steps also.

Mayor Don Carroll asked that any public comments on this issue be directed directly to the Mayor or City Council. He mentioned this had been an ongoing issue for multiple years. The Mayor stated that the Franey's were able to address their issues through the ombudsman or an attorney of their own.

Council Member Brandon Halliday made a motion to approve Resolution 2016-003 Condemnation of Easements. Council Member Julia Busche seconded the motion.

The roll call vote was taken:

<i>Council Member Brandon Halliday</i>	<i>Yay</i>
<i>Council Member Julia Busche</i>	<i>Yay</i>
<i>Council Member Diane Anderson</i>	<i>Yay</i>
<i>Council Member Gary Anderson</i>	<i>Yay</i>

Mayor Don Carroll asked that the City Attorney move forward being careful to follow the correct timelines and statutes laid out to make sure that our citizens are dealt with in all fairness. Council Member Diane Anderson asked the City Attorney if the Franey's rights would be outlined to them and the City Attorney reassured her that the documents very clearly outline what their rights are and will be. They have received the documents through certified mail. City Attorney Christopherson reminded the City Council that this is a very fair process and he mentioned that the City has been willing to compromise. City Attorney Christopherson mentioned that there were more demands to the Franey's counter offers than just money and that some of the demands would not be fair to every other resident in the City. City Engineer Brandon Jones mentioned that all the work going on currently in the area is taking place by cutting through the hillside to make sure that the Franey's property remains untouched. It is strictly being done from the upper road access. The contractor has been instructed to not touch his property.

4.2 Review/Discuss Carol Elliott Property and Hights Creek Reservoir Expansion

00:57:04

Mayor Don Carroll mentioned that there was a miscommunication with Mrs. Carol Elliott. There is currently construction on Green Road adjacent to the Elliott's home. The

Elliott's property line actually goes across Green Road into the area that is currently under construction. City Manager Green apologized for not communicating with Mrs. Elliott as he was not aware of the issue. He and Mayor Carroll and City Engineer Jones are planning on meeting with her. Mrs. Elliott spoke and mentioned she was looking forward to sitting down and resolving concerns. Mayor Carroll asked City Manager Green and City Engineer Jones to look for similar issues of which they may not be currently aware.

4.3 Discuss and Schedule a Ground Breaking Event for the Forest Service Property

1:02:50

City Manager Brandon Green mentioned he had spoken to Congressman Rob Bishop who was thrilled that the transfer of the Forest Service Property had been finalized. Mayor Carroll asked the City Staff and Council Member Brandon Halliday to reach out to Congressman Bishop and Senator Hatch's offices to invite them to the ribbon cutting ceremony. He also asked them to invite Mayor Stevenson, Council Members Eileen Moss and Craig Hill, County Commissioners, and the Mayors of Farmington and Kaysville. He asked City Manager Green and Council Member Halliday to come up with an agenda, budget and proposed date. He recommended sooner rather than later. The City Council discussed improvements on the Bonneville Shoreline Trail and the lower trail as well.

5. OLD BUSINESS 01:11:55

5.1 Update on 2016 Projects

City Manager Green reviewed the ongoing water and street projects. He had met with the contractor and all the projects are moving well. There was an issue with the Burton elementary project. They had sent an excavation request to Kaysville on the 1st of July and only got permission last week. It should be wrapped up before the weather changes but they were hoping to have it done before school started. Council Member Diane Anderson recommended notifying the school about the progress. She agreed to contact them. Mayor Carroll asked City Engineer Jones about the landscaping concerns and cleanup. Mayor Carroll also mentioned that the construction crew had expressed many instances of kindnesses from the residents of Fruit Heights. They have never experienced anything like it before.

5.2 Founders Day Report and Chairman Discussion 01:18:33

Mayor Carroll asked for feedback from the City Council regarding their impressions and residents' comments about Founders Day. The comments were all positive. They included that the Council Members loved talking with and meeting the residents, the lanyards were a great idea, attendance was high with more teenagers than normal and the suggestion was made to have more of the activities together in one place.

The Mayor encouraged everyone to write down their thoughts and ideas to pass on to the new chairman.

6. UPCOMING CALENDAR EVENTS:

Mayor Don Carroll reminded the City Council to let City Manager Green know via email if they were planning on attending the ULCT Conference.

7. DEPARTMENT AND CITY OFFICIAL REPORTS: 01:45:49

7.1 City Engineer's Report

There was not a report given.

7.2 City Planner's Report

There was not a report given.

7.3 City Manager's Report

The City Council thanked City Manager Green for all the work he had done in the past several months with the budget and everything else. Council Member Busche asked about the scrap metal policies for the City. City Manager Green reported that they collect the scrap metal and then an employee drives it to the recycling plant in a city vehicle. There is a check issued to Fruit Heights City which goes into the sundry revenue fund.

7.4 City Council Member's Reports

Council Member Julia Busche asked for opinions about the landfill purchase in Utah County. Mayor Carroll requested that this issue be put on a future agenda and that City Manager Green invite Nathan from Wasatch Integrated Waste to attend.

Council Member Busche also mentioned that she was planning on passing along information to Fruit Heights residents about the Refugee Festival that will be taking place on September 24th.

Council Member Diane Anderson mentioned that the Cemetery Committee would be meeting and going on an investigatory site visit. She reiterated that the committee has not made any decisions or even recommendations regarding a future site. It is a good committee with Colin Wright acting as the chairman.

Council Member Brandon Halliday mentioned how awesome it was to have the Tour of Utah come through Fruit Heights. He mentioned that the CWPP would be meeting in the next few weeks.

8.5 Mayor's Report

Mayor Don Carroll mentioned that there was a resident who adopted a war dog and was interested in writing an article for the Ridgerunner. The City Council agreed that would be a good idea. Council Member Diane Anderson also suggested inviting them to participate in Veteran's Day.

Mayor Carroll also mentioned that the Youth City Council applications were online and asked the City Council Members to spread the news.

10. CLOSED MEETING

A closed meeting was held after the regular City Council Meeting.

11. ELECTRONIC MEETING

12. ADJOURNMENT:

Council Member Diane Anderson made a motion to adjourn the meeting. Council Member Brandon Halliday seconded the motion. The meeting was adjourned at 9:43 pm.

I HEREBY CERTIFY that the foregoing is a true, accurate and complete record of the Fruit Heights City Council meeting held August 23, 2016.

Not approved until signed


Kelli Rollins, Fruit Heights Recording Secretary

Date approved by City Council: September 16, 2016