Minutes of the Payson City Council Meeting held at the Payson City Center, 439 West Utah Avenue, Payson, Utah on Wednesday, April 16, 2014 at 6:09 p.m.

Mayor Rick Moore presiding.

ROLL CALL: Mayor Rick Moore (left the meeting at 6:30 p.m. and returned at p.m.); Councilmembers: JoLynn Ford, Kim Hancock, Mike Hardy, Scott Phillips, and Larry Skinner; City Manager Dave Tuckett, City Attorney Mark Sorenson, and Zoning Administrator Jon Lundell.

PRAYER & PLEDGE OF ALLEGIANCE

Prayer offered by Austin Biggs and Pledge of Allegiance led by Denver Anderton, both scouts in attendance.

CONSENT AGENDA

MOTION by Councilmember Phillips to approve the Consent Agenda consisting of Addendum to Heritage Village Development Agreement, Resolution #04-16-14, A Resolution Approving Load Flow and Protection Coordination Study, and Approval of April 2th, 2014 City Council Minutes. Motion seconded Council Member Ford. Motion carries.

PUBLIC FORUM

Kelly Morgansen expressed appreciation to the merchants on Main Street, however was concerned about the filming on Main Street and how difficult it was for customers and business owners. He requested that the filming be limited to just Sunday's or not at all.

Councilmembers asked about the frequency of filming, the duration of each film, and if there are current controls.

City Manager Tuckett stated that there is an application for filming and maybe we need to have an organization/committee to send the applications to go over them.

Sheril Wilson an officer in Old Field Irrigation said that they are not receiving the irrigation water because the canal is being repaired. The water department has sent some sewer water down, but the flow quit due to the issues with the ditches. He felt the City needs to have someone follow the water flow to see where exactly the issues are. There is a lot of water is going down Dry Creek but it is not going to the Old Field. Council referred the matter to Travis Jockumsen for action and info.

Resident Brent York is concerned because he feels the city has excessive utility charges. Mayor Moore stated that a comparison was done with Rocky Mountain Power, Spanish Fork, etc. and Manager Tuckett explained that our commercial rate is lower and residential is higher.

Manager Tuckett noted that the General Fund of the City must have transfers in order to operate Streets, Parks, Recreation, etc. because taxes just don't cover those.

Mr. York felt the funds should be made up through other means, not transfers. Discussion was held regarding franchise taxes and GO Bonds and Mayor Moore suggested that Mr. York meet with the City Manager and Electrical Superintendent to clear up any confusion.

Amanda Peterson is concerned about the news on the sign at Wagon Wheel Park not being updated timely.

Kenneth Abbot applauds the City for lower property tax and was glad that utilities rates are where they are; he feels the city has been managing the utilities well with comparable rates.

MAYOR PRO-TEM
MOTION by Councilmember Phillips to appoint Councilmember Skinner as Mayor Pro-tem in the Mayor's absence. Motion seconded by Councilmember Hancock. Motion carries.

Mayor Moore was excused from the meeting at 6:30 p.m.

COUNCIL AND STAFF REPORTS
Manager Tuckett stated a need for a work session to have some discussion regarding the budget and would like to hold that Saturday, April 26, 2014 at 10:00 a.m. UTOPIA will also have someone in attendance to explain what is going on there.

Councilmember Ford commented that Memorial Park looks great.

SCOUT ATTENDANCE CERTIFICATES
Councilmember Phillips presented attendance certificates to scouts in attendance: Shawn Hamaker, Mark Peterson, Denver Anderton, Erik Knight, Gage Downey, Domenic Poulson, Wiliam Ivie, Dwight Romrell, Austin Biggs, and Christian Riggs.

CHAMBER OF COMMERCE - MOVIES IN THE PARK
Manager Tuckett explained that the Chamber of Commerce would like to partner with the city for three free movie nights at Peteetneet. The estimated cost would be $500 per night. They would like the city to contribute $750 for the events. He felt we could cover this out of the economic development fund without any problem.

Councilmember Phillips asked who would receive the credit, get permits and would be responsible for services.

Councilmember Skinner asked if there would be any liability associated with being a co-sponsor. Attorney Sorenson explained that liability was assumed and permits are required for the event. Additional costs are accrued aside from just the cost of holding it.

Councilmember Hancock asked how was it going to be limited and applicant stated that the business would purchase one hundred wrist bands and the businesses would distribute those wrist bands.

Councilmember Ford wondered if it would be better to purchase a license for the whole community.

Consensus of the Council was to table this item for consideration at a future council meeting after more information is gathered.

CONSIDERATION FOR ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF PAYSON CITY, UTAH (THE "ISSUER"), AUTHORIZING THE ISSUANCE AND SALE OF $9,000,000 AGGREGATE PRINCIPAL AMOUNT OF SALES TAX REVENUE REFUNDING BONDS, SERIES 2014 AND RELATED MATTERS

Manager Tuckett explained that this would refunding the pool bond and sewer bond and save approximately $30,000 a year

MOTION by Councilmember Hancock to adopt Resolution #04-16-14-B, A Resolution of the City Council of Payson City, Utah (The "Issuer"), Authorizing the Issuance and Sale of $9,000,000 Aggregate Principal Amount of Sales Tax Revenue Refunding Bonds, Series 2014. Motion second by Councilmember Hardy. Voting aye: Councilmembers: JoLynn Ford, Kim Hancock, Mike Hardy, Scott Phillips, and Larry Skinner. Motion carries.

PROPOSED AMENDMENTS TO THE HIDDEN GROVE ESTATES DEVELOPMENT AGREEMENT

Planner Spencer explained that the applicant, Dean Ingram is requesting approval from the City Council to amend the development agreement for the Hidden Grove Estates Subdivision located at 1250 South 600 East near the entrance of Payson Canyon. The proposed amendments include a request to modify the design and square footage requirements for the dwelling unit on Lot 28 in Plat D (existing clubhouse structure), and incorporate changes prompted by a Geologic Consultation completed by Earthtec Engineering that impacts the lots in Plat E of the development.

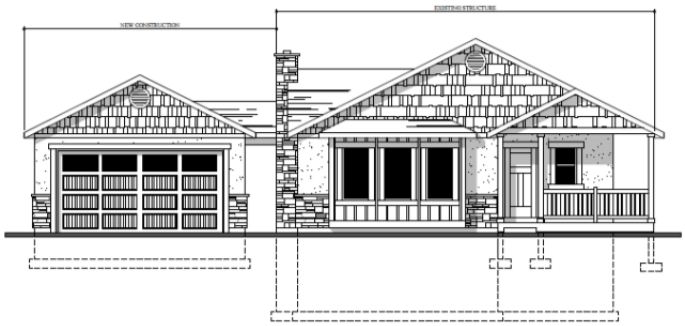
1. ***Amendments to Plat E.*** On July 3, 2013, the City Council granted approval of a plat amendment to modify the lot configuration of the development to accommodate building lots rather than building pads with common area, among other modifications. The development is divided into two (2) separate plats: Plat D and Plat E. (For informational purposes, Plats A-C have been vacated and the development has been re-platted in a new Plat D and the proposed Plat E.) Plat D has been recorded and new dwelling units are being constructed at this time. The City Council has approved Plat E, but the plat has not been recorded. As originally proposed, Plat E included eight (8) building lots, one of which contains an existing dwelling.

   However, following the additional examination of a geologic fault that traverses the property, and as recommended by the project geologist and geotechnical engineer, the development layout has been modified to remove three (3) building lots to accommodate a fault zone alongside the approximate location of the fault trace crossing. The applicant is requesting approval from the City Council to modify Plat E to reflect these changes as well as amend the relevant sections of the Restated and Amended Development Agreement. Staff would also

suggest that the project CC&R's be amended to reflect these changes. At a minimum, the Addendum to the Restated and Amended Development Agreement will need to include the following:

a. A change in the number of lots in Plat E and modification of any lot references which no longer apply.
b. Acceptance of the proposed dedication of property for a portion of the Dry Creek channel.
c. Acknowledgment of the fault trace and any protections that must be implemented.
d. Inclusion of a definition of *habitable structure*. It is recommended that no habitable structures be constructed within the fault zone.

2. ***Conversion of the Clubhouse.*** In addition to the changes in the development layout, the City Council granted approval to increase the overall density of the project by one (1) unit to allow the existing clubhouse to be converted into a single family dwelling. By way of Agreement, the applicant agreed to modify the structure in a manner that would be similar in size and design to the other dwellings along 600 East. The development serves as an entry to the Nebo Loop National Scenic Byway and the City Council has emphasized the importance of building size and design throughout the development, a more particularly the dwellings along 600 East. In accordance with Section 15, Design Considerations of the Restated and Amended Development Agreement, the structure must maintain a "mountain home" design theme; include an interior floor space of 3,000 square feet with 2,000 square feet finished at the time of occupancy, and a two (2) car garage, among other features. At the time the City Council approved the additional unit, the applicant proposed a second story on the structure and the construction of a two-car garage to maintain the overall theme along the Scenic Byway. The applicant is suggesting the proposal of the two-story modification be abandoned and is requesting approval from the City Council to use the existing design and building footprint (2,000 square feet) for the single family dwelling. The proposal includes the construction of a two (2) car garage; however staff will need additional information on the timing of construction. Any changes to the design and square footage requirements will need to be included in an Addendum to the Restated and Amended Development Agreement and recorded in the office of the Utah County Recorder.



Anticipated Action by the City Council

The applicant is requesting the City Council amend the Development Agreement for the Hidden Grove Estates Subdivision to accommodate the proposed changes included in this report. The City Council may approve the request as proposed, amend and approve, or deny the proposed amendments to the Development Agreement. Any changes to the Development Agreement will be included as an Addendum to the Agreement and placed on the next City Council agenda for ratification.

Councilmember Skinner wondered if there was any concern from the neighbors regarding changing it to a single family dwelling and Planner Spencer said there has been no objection to the change.

Planner Spencer stated that the current development agreement would not include the club house or those amenities.

MOTION by Councilmember Ford to accept the proposed amendments to the Hidden Grove Estates Development Agreement, Plats E & D with timeline as proposed by staff at a later date. Motion seconded by Councilmember Hardy. Motion carries.

RESOLUTION ADOPTING THE INTERLOCAL COOPERATION AGREEMENT WITH UTAH COUNTY FOR COMMUNITY PREVENTION SERVICES

Manager Tuckett explained that Payson City received a $15,000 grant to help implement 2 sessions of our Strengthening Families Program. This is part of our Communities that Care Program. The Interlocal Agreement sets forth the terms to receive the $15,000.

MOTION by Councilmember Phillips to approve Resolution #04-16-14-C, A Resolution adopting the Interlocal Cooperation Agreement with Utah County for Community Prevention Services. Motion second by Councilmember Hardy. Motion carries.

REQUEST BY NEBO SCHOOL DISTRICT TO DISPOSE OF PUBLIC PROPERTY

Planner Spencer is requesting approval from the City Council to dispose of public property near the Nebo School District Transportation Facility ("Nebo Site") located at 676 North 300 East in the I-1, Light Industrial Zone. It is proposed that the transfer of property from Payson City to Nebo School District be considered as Payson City's contribution to resolve some property discrepancies that affect the District, Payson City, and the family of the late Steven Cannon.

There is a seventeen (17) foot wide parcel of land (Utah County parcel #30-027-0023) owned by Steven Cannon ("Cannon Parcel") located between the Nebo Site and a parcel owned by Payson City ("Payson Parcel"). The Payson Parcel encompasses the Paco Substation and the 600/700 North roadway. The District is working with the Cannon family to acquire the portion of the Cannon Parcel adjacent to the Nebo Site. Following a preliminary review of the parcels it was discovered that

the Cannon Parcel is being used by Nebo School District, Payson City and Strawberry Water Users Association. A portion of the Cannon Parcel is within 600/700 North roadway. The District is willing to negotiate and resolve the property issues with the Cannon family in behalf of the District and Payson City in exchange for 4,956 square feet of City-owned property along the 600 North frontage of the Nebo Site ("Road Parcel"). This acreage has been improved and is located within the fenced area of the Nebo Site.

Anticipated Action by the City Council

It is likely that Nebo School District will incur expenses to finalize the property transaction with the Cannon family. Rather than requesting money to contribute to the purchase of the Cannon Parcel, the District is requesting the disposal of public property (4,956 square feet owned by Payson City) that can be used for the operation of the Nebo Site.

Staff has confirmed that there are no municipal utilities within the acreage proposed for disposal. However, staff would suggest that Payson City retain a ten (10) foot public utility easement behind the sidewalk to accommodate any future utilities.

MOTION by Councilmember Hancock to approve the request of Nebo School District finding that it does clean up long past disparities and that they convey the 10 foot easement to us. Motion seconded by Councilmember Hardy. Motion carries.

DISCUSSION REGARDING THE 500 SOUTH 600 EAST RIGHT-OF-WAY ISSUE WITH MR. STANTON

Manager Tuckett explained that at the last council meeting the Council asked to place the 500 South 600 East right-of-way issue on the next agenda for discussion.

Engineer Jockumsen's opinion is that this is an issue we have heard a few times. He feels that we need to have a storm pond in this area, we own the property, and there is about 11 acres of storm run-off that we need to handle. It would take care of the 75 year storm event. If we do the storm drain pond, there are still options for development available.

Councilmember Skinner clarified that things flooding could be prevented with this pond.

Mr. Stanton stated that previous minutes from 2001 stating that 250 ft. back and 56 ft. wide would need to be retained so it could serve 3 properties in that area and everything else was deeded back. Also he said that a flag lot was discouraged and since then some improvements have been put in and would need to be removed.

He also expressed concern of talk and progression from a temp pond to a permanent pond and whether he would be able to develop a road and possible development of lot on his property. He stated that in the 20 years that he has lived on the property only one flood event has occurred.

Councilmember Skinner wondered if a future Council would be bound by the decision that this Council makes now. Attorney Sorenson stated that nothing should limit a future Council's ability to have some discretion in future decisions.

Manager Tuckett stated that the property was deeded as a sub division and we are not obligated to just give the property to the owner. He stated that a city has the right to install a storm water pond and not encumber a future council to any decision.

Mr. Stanton stated that his major concern was the ability to develop his property in the future.

Councilmember Phillips stated that it is a temporary pond, but we cannot give a timeframe when it could/would go away because this Council might not be here when we get a full storm drain system.

Amanda Peterson, a neighbor in this area, stated her concerns about not having storm drain system that a storm drain pond would be a short term solution to a long term problem.

Manager Tuckett to there is a need to develop regional ponds but because of limited funds it requires development of possible temporary ponds for the time being.

Discussion was held regarding properties downstream could be flooded without this facility. Also discussed were recent mandates for storm drain facilities that require a 5 year deadline that include intermediate steps that are outlined and we could be fined for not following through on our agreement. Engineer Jockumsen noted that the entire system is outlined and Council has held previous discussion on the MSW4 permit requirements.

MOTION by Councilmember Skinner to approve the construction of the storm water basin with guidance to future City Councils to allow flag lot development, and to try to include Mr. Stanton on the construction and design and maintenance of the pond. Motion seconded by Councilmember Phillips. Motion carries.

REQUEST TO MODIFY AND DELAY INSTALLATION OF IMPROVEMENTS IN THE I-1, LIGHT INDUSTRIAL ZONE

Planner Spencer explained that Mont Jensen, the owner of All Services Construction Company, is interested in purchasing a four (4) acre parcel located on the southwest corner of the intersection of 400 North and 1100 West in the I-1, Light Industrial Zone. The applicant intends to operate a construction business that is generally engaged in demolition, excavation, and concrete. The majority of the site will be used for outdoor storage, including construction dumpsters, heavy machinery, and trucking and transportation vehicles. Other improvements to the site such as an office building, off-street parking, and storage buildings are proposed to be provided at a future date, although no definitive timeframe, or scope of improvements, has been established.

Staff met with the applicant to discuss the details of the business plan and determine if the project and business activities are consistent with City ordinances. Following an initial review, staff identified some elements of the proposed project that are inconsistent with the adopted ordinances and will require additional consideration by the City Council. The applicant has indicated that a decision regarding the purchase of property must be made in the next few weeks. Therefore, the applicant would like to discuss the proposed project with the City Council to determine if the business plan and improvement schedule is worthy of additional consideration.

The applicant has been informed that the City Council cannot provide approval of the proposed project at this stage and that the project will need to be approved through processes established in the development ordinances of Payson City. However, neither the applicant nor staff desires to process an application that requires legislative exceptions from the City Council if there is not an interest from the City Council to modify the adopted regulations. The applicant is asking the City Council to consider the following modifications that would normally apply to this type of project:

1. *Outdoor Storage.* It is generally anticipated that outdoor storage will be an ancillary use associated with an established place of business. In this instance, the applicant is requesting the property be used for outdoor storage immediately upon purchase of the property. The outdoor storage would consist of heavy equipment, dumpsters, trucks and trailers, and construction equipment. Independent outdoor storage is not normally allowed because without some association with an established business, outdoor storage would result in placement of almost anything on-site including salvage materials, construction waste, or other undesirable materials.
2. *Permanent Structure.* Every business activity has some measurable impact on municipal infrastructure and services. The funds needed to provide municipal service and maintain infrastructure are typically generated through property tax, sales tax or utility rates. For this purpose, Payson City has regulations that require a permanent building to be constructed on each project site. In this instance, the applicant is proposing temporary facilities, storage containers and temporary shelters on the site, which are not taxed as real property, do not generate sales tax, and will not be connected to municipal services, with the exception of potential electrical service. It should be noted that the applicant is proposing the construction of a business office and shop in the future, possibly within two (2) years.
3. *Subdivision and Deferral Agreement.* The applicant intends to subdivide the parcel and request approval of a Deferral Agreement to postpone the installation of public improvements for the vacant parcel(s) not used by All Services Construction Company. A subdivision application that satisfies the requirements of Utah Code and City ordinance will need to be submitted for review and subsequent review by the Planning Commission and City Council. The City Council may consider a request to delay the installation of improvements for the future lot(s), but is not obligated to approve the request. All business activities related to All Services Construction Company must be conducted on the parcel improved for the proposed use.
4. *Ordinance Amendments.* The applicant would like a majority of the site to be covered with structural fill or a gravel surface so the heavy equipment and dumpsters will not destroy the concrete or asphalt surface. As proposed, the only portion of the property that would be hard surfaced with concrete or asphalt is a small parking area near the future building. City ordinance does not outline different improvement requirements for off-street parking for patrons and employees versus parking or storage of equipment. Therefore, all "parking areas" must be hard surfaced with concrete or asphalt. If the City Council is supportive of permeable surface materials, the ordinance must be amended. Issues to consider with permeable surface materials are tracking of mud and debris onto public streets, upkeep and maintenance of the gravel areas, storm drainage. Specific to this site is a consideration of the high water table and whether storage of heavy equipment should be considered without a properly designed parking area. A request to amend the ordinance must be processed consistent with the requirements of Utah Code and Payson City ordinance.
5. *Site Plan Review.* A site plan application and associated information will need to be submitted for review by staff. Business activities cannot occur until Site Plan approval is granted and the required improvements are installed by the applicant, and inspected and approved by Payson City.

It is unusual for the City Council to review a project before a land use application is submitted. However, the applicant would like feedback from the City Council before making a decision regarding the property purchase. It is critical to note that it would be inconsistent with the adopted development ordinances for the City Council to provide any sort of approval prior to the typical processing of an application. However, given the short timeframe in which the applicant must make a purchase decision, staff is seeking direction from the City Council. Information regarding the need for a permanent building, surface materials, and deferral of improvements will be primary factors in the decision to purchase the property. If the applicant chooses to proceed with the request, the necessary applications will need to be submitted for review and approvals granted before business commences on the site.

Anticipated Action by the City Council

Staff is only seeking guidance and direction from the City Council at this time. No approval from the City Council is necessary, anticipated or proper. The discussion on the potential modification of current regulations

and the possibility of deferring some of the improvements will allow the applicant to make a more informed decision on whether the proposed site is appropriate for the business and whether to purchase the property.

Discussion was held regarding the proposal, including surfaces, fencing, building, etc.

Attorney Sorenson stated that language in an agreement would state that the city could after proper notification, install the improvements and then place a lien on the property.

Planner Spencer explained that we cannot defer the building only the improvements.

Councilmember Ford noted that the business fits the zone.

Councilmember Hancock clarified the impact of changing the ordinance on future uses.

The realtor involved in purchase/sale of property from Jeff Cooper wondered if the installation of public utilities be delayed along 400 North and then installing improvements along half of the property on west road.

Mont Jensen stated his intention with the property is to fully develop the property and rent to future business and expressed his concern with the requirements of hard surface parking. His intent is to have a small warehouse.

Attorney Sorenson stated that the current uses existed before the annexation and Councilmember Ford noted the need to follow the general plan.

Planner Spencer stated that there is a possibility of a building to not be built.

ADJOURN TO CLOSED SESSION
MOTION by Councilmember Hancock to adjourn to a closed session to discuss land acquisition. Motion seconded by Councilmember Phillips. Motion carries.

Council adjourned to closed session and then reconvened.

ADJOURNMENT

MOTION by Councilmember Skinner to adjourn. Motion seconded by Councilmember Ford. Motion carries.

Council adjourned.