

Lake Point City Council Business Meeting Minutes

Date: Wednesday, Sept. 18, 2024

Place: Lake Point Fire Station 1528 Sunset Rd Lake Point, UT 84074

Time: 6:00 PM

1. **Call to Order-** 6:00 pm
2. **Prayer-** Kirk Pearson
3. **Pledge of Allegiance-** Doyle Garrard
4. **Presiding Officer-** Ryan Zumwalt
5. **Attendance Roll Call-**

Lake Point Council & Staff (C=Council)	Public	Public
Ryan Zumwalt (Chair)	Doyle Garrard	
Kirk Pearson (Vice Chair)	Lori Chigbrow	
Jonathan Garrard (C.)	Robin Frederickson- Tooele County Emergency Services	
Kathleen VonHatten (C.)	Tooele County Emergency Services	
Alexis Wheeler (C.)		
Jamie Olson (RCDR)		
Joel Whitehorse (Attorney) excused at 9:24 pm		

6. **Legal Training – Joel**
 - A. No training
7. **Staff Report-**Jamie Olson (1:55 recording)
 - A. (Jamie) reminded the Council that they have an additional meeting on Oct 16, 2024, 6pm for a work session (for procurement training) and asked the Council if they preferred a time limit.
 - i) Council agreed to keep it at about 2 hours or less.
 - B. (Jamie) let the Council know that Marriot has reached out and is trying to move forward with their plans for a hotel in Lake Point.
8. **Public Comment-**
 - A. No Public Comment
9. **Approve the Minutes**
 - A. No minutes to approve
10. **Reports/Presentations**
 - A. Treasurer Report (4:30 recording)
 - i) (Doyle) asked the Council if they had any questions about the budget report he sent to them.
 - 1) No questions from the Council
 - ii) (Doyle) asked for clarification on the Stormwater and where in the budget the funds were coming from.
 - 1) (Kathleen) gave Doyle the correct code in a previous email.
 - iii) (Doyle) mentioned Engineering Inspections and separating them between permits and other items that need inspections.
 - 1) The Lake Point Roads would come out of the General Fund under a specific budget line and the Permit Inspections would come out of the permit funds
 - iv) (Doyle) asked if the city's second engineer was being used

- 1) (Jamie and Kathleen) he has not been responsive, so Jamie explained she is just having Jones and DeMille do the inspections so they get done.
- B. Emergency Report (12:15 recording)
 - i) (Kathleen) reported how the Health Fair went.
 - 1) It went well, for it being held on a holiday weekend.
 - 2) There were about 26-28 vendors.
 - 3) ACE donated money for first aid kits and Walmart donated cookies
 - 4) She thinks she will try to do it next year in Sept. but not on a holiday weekend
 - ii) (Kathleen) reported how the POD, Point of Distribution event was on Monday at Beehive.
 - 1) The pizza was gone in about 30 minutes.
 - iii) (Kathleen) reported how the Alluvial Fans meeting went with State of Utah under FEMA
 - 1) The Council can decide at the depth of the water from an alluvial fan is between 6-12 inches if the Council wants to deem it a flood plain. If the water level is above 12 inches, the Council has no choice. There is the Council Meeting that the Division of Emergency Management will attend on Oct 23, if the Council has further questions.
- C. "What if Game" prepared by Tooele County Emergency Managers (21:55 recording)
 - i) The Council played a game to help them think of what they need to consider or do for different types of emergencies they may encounter.
 - ii) The County recognized Kathleen last night for her effort in preparing the City for emergencies and her excellent leadership.

11. Action/Business Items

- A. Continued Appeal 1779 Davies Place, Stop Work Order for fence over Swell, Public Utility Drainage Easement (1:11:00 recording)
 - i) (Jamie) reviewed documents and pictures showing the property with and without the fence.
 - ii) (Ryan) asked Jamie to clarify some of the statements that James made.
 - 1) (Jamie) explained that James said the swell wasn't altered and Jamie explained how the swell was altered by raising the west swell when to add the fence and make the fence more level.
 - iii) (Jamie) showed pictures of the swell inside the yard, she showed the small swell, and the piping of the driveway entrance into the backyard and the openings to the piped culvert.
 - iv) (Jamie) showed a picture of the cement pad around the fire hydrant that was covered with rocks, this was a picture Jamie shared with James to show him the cement pad was there and the rocks needed to be removed. James explained to her that he would remove the rocks he put over the pad.
 - v) (Jamie) shared some pictures of the easements
 - vi) (Ryan) asked if the appellant had talked to Jamie before this or had applied for a permit.
 - vii) (Jamie) explained James had not talked to her previously and had not applied for a permit.
 - viii) (Jamie) explained that the difference in the PUDE all the way around the lot compared to the PUDE where the swell is located. The specific verbiage in the recorded plat that protects the swell from being filled in, it is still an easement, but the developer wanted to protect the swells. (1:21:29 recording)
 - ix) (Kathleen) wanted to make sure the PUDE's for example, in the backyard, would allow for a fence.
 - x) (Jonathan) explained in his research defining structure, and felt like a fence was not a structure and was separate from a structure.
 - xi) (Jamie) read the Protection of Drainage Swells verbiage on the Recorded Plat
 - xii) (Kirk) doesn't think the fence is the issue, it is the alteration.
 - xiii) (Ryan) feels like it violates three of the city ordinances.
 - xiv) Council and Staff discussed further regarding their interpretation of easements and right of ways.

- xv) (Jamie) explained this is the first time she has seen a fence over a swell, and if this is allowed, does everyone get to put a fence over their 30 foot swell. (1:38:58 recording)
 - 1) (Joel and Ryan) they would be allowed and would follow the same interpretation of the law to be consistent.

xvi) Council continued discussing their concerns

xvii) Structure defined in RR-1 (1:50:40 recording)

xviii) Discussion on “private property”, “property rights” “trails” and “easements”.

xix) Council discussed what to do to move forward. (2:06:14 recording)

xx) Motion-Ryan that we deny his appeal and make him restore the swell back to the required engineered specks for the development and the water flow and he will need to move his fence back to the other side of the swell. Alexis 2nd (2:17:22 recording)

- 1) Roll Call Vote-[Jonathan-Nay] [Ryan-Yea] [Alexis-Yea] [Kathleen-Yea] [Kirk-Nay]
- 2) (Kathleen) would like “fence” to be better defined in the ordinance.
- 3) (Jonathan) feels the city is going to limit someone's property then the city should be buying up their property so that we obtain ownership. He believes an engineer could make it work. He does not feel what the majority of the Council has done is right.

(a) Motion passed 3 to 2

- 4) (Kathleen) would like the ordinances on the agenda so it can be more clear.

(a) (Jamie) there is the RR-1, ROW and the Swale Ordinance.

B. Ordinance 2024-12 to Adopt Public Roadways Standard adding Public Road Standard (2:23:25 recording)

- i) The Council went through the edits that were made and discussed whether to keep or make further edits.
- ii) The Council discussed how to express the options and requirements if someone chose to establish a private road.
- iii) Motion- Ryan to adopt the Ordinance 2024-12 as amended. Alexis 2nd (2:49:57 recording)
 - 1) Roll Call Vote-[Jonathan-Yea] [Ryan-Yea] [Alexis-Yea] [Kathleen-Yea] [Kirk-Yea]
 - (a) Motion passed unanimously

12. Attorney Clarification (2:51:10 recording)

A. (Kathleen) asked about permit fees on Accessory Dwellings and she feels the percentage is too high.

i) (Kathleen) talked to Civic Review and Kelly to try and figure out how it is calculated. She feels it needs to be realigned with what is being charged for those inspections.

ii) (Kathleen) asked if they did make an adjustment if they could refund past permits. (2:56:00 recording)

- 1) (Joel) said you could but he did not suggest it, it was based on the fee schedule. The Council could adjust the fee schedule and adopted it retroactively.
- 2) (Kathleen) The fee that was charged was correct according to the fee schedule adopted, she feels it might need to be adjusted.
- 3) (Lori) she questioned a fee and asked if the refund be issued to those who are paying attention and not to everyone who may have been overcharged.
- 4) (Joel) there are different ways it could be handled, but a reasonable effort would need to be made to inform the public.
- 5) (Kathleen) will look into it further and gather more information.

iii) The Council moved to public comment so a member of the public could ask the attorney a question. (3:03:30 recording)

iv) Council returned to Attorney Clarification

v) (Jonathan) asked Joel about Article 1 section 22 Taking Clause and if it might apply to what they the Council had done, that the Council was taking, and the property owner should be compensated. Jonathan quoting damaging property and compensation. (3:19:21 recording)

- 1) (Joel) it would be competing property rights
- 2) (Ryan) suggested maybe having a property rights ombudsman to come do training.

B. Council moved to Agenda item 13. Council Updates

13. Council Updates (3:24:50 recording)

- A. Ryan Zumwalt
 - i) No updates
- B. Jonathan Garrard
 - i) No updates
- C. Kirk Pearson
 - i) No updates
- D. Kathleen VonHatten
 - i) (Kathleen) Council needs to put feedback in the Master Transportation Plan
 - ii) (Kathleen) Council needs to put feedback in the Master Drainage Plan
 - iii) (Kathleen) she sent out info on Capital Assets and if it adequately addresses the following topics and Council discussed if they were adequate or not.
 - 1) the General Plan and
 - (a) Land Use (adequate)
 - (b) Transportation Plan (not adequate)
 - (c) Moderate income (adequate)
 - (d) Water Conservation (not adequate)
 - 2) Additional resources needed
 - (a) Sensitive Lands
 - iv) (Kathleen) updated on the extra police shifts for speeding
 - v) (Kathleen) speed signs, there has been a budget allotted for this and she has looked at some bids and wanted to know if the Council was okay if she pursued quotes.
 - 1) (Council) discussed
 - vi) (Kathleen) on road repairs, they are still being worked on, one area will need to be expanded.
 - vii) (Kathleen) suggested Ryan sit down with Eric and possibly Lori and compare notes so there isn't wasted time. (3:41:38 recording)
- E. Alexis Wheeler
 - i) No updates
- F. (Council moved back to Public Comment 14.

14. Public Comment (3:03:20 recording)

- A. Motion- Ryan to open Public Comment. Kathleen 2nd
 - i) Motion passed unanimously
- B. Lori Chigbrow
 - i) (Lori) would like to find out easement details in Bridlewalk. She wanted to know what was allowed in an easement and if there is a bus stop, is the school district required to ask property owners before putting a bus stop in front of their house.
 - ii) (Lori) there are bikes, skateboards, 4-wheelers, scooters in front of a driveway.
 - iii) (Lori) wanted to know if someone allows others to use an easement over a period of time that they could make you deed the property over to them.
 - iv) (Lori) suggested that there be an attorney that specializes in easements and that it might be helpful to the city.
 - v) (Lori) feels like there are better places for a bus stop.
 - vi) Discussion on the subdivision ordinance and how trails are related.
 - vii) Discussion on contacting the bus garage and school district to see if they could move the bus stop.
- C. Council returned to Attorney Clarifications
- D. Council came back to Public Comment 14. after Council Updates 13.
- E. Jonathan Garrard (3:43:00 recording)
 - i) He is not looking for a response from the Council
 - ii) His comment is regarding the fence on the easement

- iii) The city is guided by principles that protect individual rights including property rights. The fence is a use of the property and is a legitimate use of their property. The Property owner used his time and resources to build the fence. Forcing them to move it burdens them financially and also infringes on their right to use their property. The city's vision calls for limited government. The city should not impose unnecessary burdens when there are alternative solutions. The city should find less intrusive means to manage stormwater and still fulfill the city's responsibilities. An option could be a removable fence so the city can still manage the swell. The city could improve the design of the swells. Corner lots are more affected and may reduce quality of life, property values and the privacy a fence provides. The city risks overstepping as this fence does not represent a public health and safety risk. He feels an appeal authority is for checks and balances and allows the city to consider alternatives. He doesn't feel that happened well tonight.

F. Motion- Kathleen to close Public Comment. Ryan 2nd

- i) Motion passed unanimously

15. Closed Session- not needed

16. Adjournment-9:48 pm

Note- The minutes may include a summary of what was discussed and are not intended to be verbatim.

All public meetings have an audio recording, time stamps are included in the minutes to help the public find where certain topics were discussed. Please see the audio recording of this meeting for a full audio record of the meeting.

Note- Additional information concerning meetings including agendas, minutes, recordings, written/typed public comment, other distributed materials, ordinances, resolutions, public notices, and how to sign up for notifications on the Public Notification Website, can be found at <https://lakepoint.gov> under Departments-Recorder.

PASSED AND APPROVED but the Council this 23 day of Oct, 2024



~~Ryan Zumwalt, Chair~~
Kirk Pearson Vice Chair

ATTEST:



Jamie Olson, City Recorder