

MINUTES  
EAGLE MOUNTAIN CITY COUNCIL MEETING

December 2, 2014

Work Session 4:00 p.m. Policy Session 7:00 p.m.

Eagle Mountain City Council Chambers, 1650 East Stagecoach Run, Eagle Mountain, Utah 84005

**4:00 P.M. WORK SESSION – COUNCIL CHAMBERS**

ELECTED OFFICIALS PRESENT: Adam Bradley, Donna Burnham, Ryan Ireland and Tom Westmoreland. Richard Steinkopf participated by telephone.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Paul Jerome, Assistant City Administrator/Finance Director; David Mortensen, City Treasurer; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy City Recorder; David Norman, Public Works Director; Chris Trusty, City Engineer; Adam Ferre, Energy Director; Steve Mumford, Planning Director; Linda Peterson, Public Information Director; Rand Andrus, Fire Chief; Eric McDowell, Sheriff's Deputy.

Mayor Pengra called the meeting to order at 4:08 p.m.

1. CITY ADMINISTRATOR INFORMATION ITEMS – This is an opportunity for the City Administrator to provide information to the City Council. These items are for information and do not require action by the City Council.

No City Administrator items.

2. AGENDA REVIEW – The City Council will review items on the Consent Agenda and Policy Session Agenda.

12. Dispatch Building Agreement

City Administrator Ifo Pili has been on the Dispatch Special Service District Board, representing Eagle Mountain. Originally, the Board wanted to issue a bond to construct the building. Mr. Pili encouraged the Board to pay for the building outright, rather than have a group of entities committed to a bond together. Each entity will pay a proportionate share of the cost, based on the call volume from each city in the district.

Councilmember Ireland noted that the first payment is due on June 30, in this fiscal year. He expected it to be due on July 1. Mr. Pili felt that it would be all right to make the payment in the next fiscal year. The contract also allows entities to make two payments – one in June and one in December. Mr. Pili said that he would check on the dates with the district.

Mayor Pengra felt that this agreement is a good idea. It has been revised from a very expensive to a much less expensive plan.

13. Impact Fee Reimbursement Agreement

City Attorney Jeremy Cook stated that a reimbursement agreement was approved by the Council in September, 2014, for construction of a water line. This amendment adds construction of a road to the agreement.

14. Military Utility Abatement Program

Mr. Cook said that staff has reviewed the recommendation from the Military and Veterans Advisory Board. The Board recommended a 25% reduction in utility bills for service members deployed on active duty. Staff determined that in Springbrook, the City's financial software, it would be very difficult to administer a percentage reduction. They recommend a \$25 per month abatement. A flat fee will also encourage conservation more than a percentage will.

In addition, fewer families will qualify for the new program. The Board recommended a \$10 per month reduction for those on the current program, until the \$100 abatement ends. Staff felt that this is too long, and recommends a two-month reduction period. Not only would ten months be difficult to administer, but by March the gas and electric utilities will be sold. The City would be faced with cutting checks to many of the families on the program, due to the reduction in their City utility bills. Those who will qualify for the new program may apply for it.

Councilmember Bradley asked Finance Director Paul Jerome how much the City will pay for each account on the current program in January and February. Mr. Jerome responded that it would be \$100 per month. Mr. Cook explained that, after February, only those who qualify for the new program will receive a \$25 per month abatement.

Mayor Pengra stated that staff tried to stay as close as possible to the spirit of what the Board recommended. Staff will inform families of the change as soon as possible, so they can prepare. For those for whom this will be a financial burden, staff will work with them on payment plans to relieve some of the stress of the change in programs.

#### 15. Harmony Preliminary Plat

Planning Director Steve Mumford introduced David Church, an attorney will be presenting the Harmony preliminary plat. Harmony is a 772 acre development near the intersection of Pony Express Parkway and Eagle Mountain Blvd.

Councilmember Burnham asked how close the project is to the possible site of the State Prison relocation. Mr. Mumford said it was between two and three miles away.

The Planning Commission has reviewed the preliminary plat several times since 2009. The latest version was approved by the Planning Commission earlier this year, with a recommendation that the development agreement be approved by the Council. Council review was requested because of the size of the plat. The developers believe the 2009 plat is already approved under the 1997 Development Code, and that they are making voluntary concessions requested by the City.

Mr. Mumford said the plat doesn't meet the improved open space requirements under the current code. The plat has no minimum residential lot frontage, which are required under the current code. The design standards, for the most part, comply with the 1997 Development Code. Some of the designs meet the current standards, rather than the 1997 standards. The approved preliminary plat vests the project with single-family density, street configuration and lot layout. Any multi-family or commercial site plan or final plat application submitted after the Eagle Mountain Properties master development agreement expires in three years must be approved according to the Development Code in effect at the time of submittal. Any that are submitted before the expiration would be reviewed under the 1997 code, unless the developers applies under the current code.

Councilmember Burnham asked for clarification that single-family homes will be approved under the 1997 code. Mr. Mumford said that's correct.

If the Alpine School District or the LDS Church chooses not to buy the school or church sites, the developers may re-plot the sites as single-family lots with a density of 3.86 units per acre, with 50-foot-wide frontages. No multi-family structures will be allowed on those sites.

Councilmember Ireland asked what would happen if either of those entities bought a different lot. Mr. Mumford stated that the density would transfer from the new site to the old site. The number of units overall would remain the same.

Mr. Mumford said that the improved open space and trail areas need to be designed with each final plat. Parks and trails need to be built along with the infrastructure for each plat, or the Council may choose to put the park funds in escrow and build a larger park later.

The developers are requesting a ten-year renewal, with automatic renewals not requiring any standard of performance. Mr. Church stated that the developers are adamant that they will not accept any standard of performance requirement for renewals. They plan a 25-year time frame for completion of the development, but they don't want any required termination date.

Mayor Pengra stated that he saw an email in which the developer stated that he and Mr. Pili agreed to the requested renewals. He wanted to make it clear that they had not agreed to it.

Councilmember Burnham expressed her frustration that this is a way to extend the master development agreement that expires in three years. As proposed, this development will continue to create the same problems caused by the master development agreement. Other developers don't have the right to design projects like this one.

Mr. Mumford stated that the City's current Development Code has two-year approval expirations for preliminary plats, unless final plats, however small, are approved within that time. Final plat approvals expire in one year, which provides some incentive to move developments along.

Councilmember Burnham asked what the Council can do to prevent the developer from continuing to build problematic projects. Mr. Mumford responded that the expirations written into the current code will help.

Mr. Mumford explained that there is a long history of meetings and discussions about this project over several years.

Councilmember Burnham asked what happens if the Council votes "no" on the development agreement. Mr. Church responded that the developers will deem the 2009 preliminary plat approved. The purpose of this agreement, in his mind, is to clarify concessions they feel they're making to the City. If the City fails to approve this agreement, the developers believe they can go forward with the 2009 plat and will begin legal action if they're not permitted to. They feel that the 2009 plat vested them with the right to use the master development agreement past the 2017 termination date.

Councilmember Westmoreland stated that, if the Council approves this agreement, they would be relinquishing some of the purposes of City government. Mr. Church agreed, stating that the 1997 City Council vested the developer with extensive rights for 20 years. This proposed agreement does so to a lesser extent. However, the 1997 did provide substantial benefits to the City at its formation.

Councilmember Burnham asked what could be done to inform buyers that they will be purchasing homes near a prison, if the Eagle Mountain location is chosen for the prison. Mr. Church said the prison relocation will be well-known by then. Councilmember Burnham felt that the development will appeal to very young buyers who aren't likely to do adequate research before buying. Mr. Church felt that the City could spread that information, but realtors and others will provide it adequately. Current homeowners will have more negative impacts.

Mr. Mumford discussed the design requirements for single-family homes and frontages for residential lots. They're based on variations required in a "single row of homes." Councilmember Ireland asked how a single row is defined. Mr. Church said he thought it meant from intersection to intersection. Mr. Mumford said that could be specified in the development agreement.

Councilmember Ireland asked what percentage of the improved open space is going to be usable space and how much will be detention bases with grass. The 1997 code allowed those to be counted as improved open space. The current code does not.

Mayor Pengra asked how the drainage will be managed. Chris Trusty, City Engineer, said the developer hasn't specified that yet.

Councilmember Ireland asked what the side setbacks will be for the garden court homes with the 35-foot lot frontages. Mr. Mumford said setbacks will be reviewed with the site plan. Councilmembers Ireland and Burnham expressed concern about drainage between homes. Mr. Church said that there are general building code requirements, not limited to Eagle Mountain, that make sure that drainage is piped to the street. Councilmember Ireland asked how the City can force the builder to do that. Mr. Mumford said there is language in the agreement to that effect, and more specific language can be added.

Councilmember Ireland asked that proper transition from single-family to multi-family housing be defined.

Councilmember Ireland asked whether the City would be confident that the developers would choose a qualified firm to do the traffic study. Mr. Trusty said the City could reject the study if it wasn't done by a qualified firm.

Councilmember Westmoreland asked if the City can require a 25-termination on the agreement, with an option for an extension, if needed, rather than an open-ended agreement. Mr. Church said he could take the request back to the developers. However, they believe they already have the right to an open-ended agreement.

Councilmember Ireland asked who would own and maintain the open space once it's improved. Mr. Mumford answered that it would be the City, unless specified otherwise.

3. ADJOURN TO A CLOSED EXECUTIVE SESSION – The City Council will adjourn into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the purchase, lease or exchange of real property pursuant to Section 52-4-205(1) of the Utah Code, Annotated.

**MOTION:**            *Councilmember Burnham moved to adjourn into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the purchase, lease or exchange of real property, pursuant to Section 52-4-205(1) of the Utah Code,*

*Annotated. Councilmember Steinkopf seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

The meeting was adjourned at 5:36 p.m.

## **POLICY SESSION – CITY COUNCIL CHAMBERS**

ELECTED OFFICIALS PRESENT: Adam Bradley, Donna Burnham, Ryan Ireland and Tom Westmoreland. Richard Steinkopf participated by telephone.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Paul Jerome, Assistant City Administrator/Finance Director; David Mortensen, City Treasurer; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy City Recorder; David Norman, Public Works Director; Chris Trusty, City Engineer; Adam Ferre, Energy Director; Steve Mumford, Planning Director; Linda Peterson, Public Information Director; Rand Andrus, Fire Chief; Lt. Eric McDowell, Sheriff's Deputy.

### 4. CALL TO ORDER

Mayor Pengra called the meeting to order at 7:13 p.m.

### 5. PLEDGE OF ALLEGIANCE

Adam Bradley led the Pledge of Allegiance.

### 6. INFORMATION ITEMS/UPCOMING EVENTS

- **Deck the Halls Tree Lighting** - Friday, December 5 from 6:30 p.m. to 8:30 p.m. at City Hall. Visit and take photos with Santa and enjoy free refreshments. Winners of the essay and gingerbread house contests will be announced. More details on the City website, Events calendar.
- **Santa on the Fire Truck** – Saturday, December 6 beginning at 8:00 a.m., Santa will be making his annual visit to Eagle Mountain neighborhoods on a fire truck and throwing candy to kids. Please note, the fire truck cannot go down dead-end streets. Please listen for the sirens and safely proceed to the closest area. For their safety, have children stay on sidewalks and not enter the street. There will be a post on the City Facebook page where people can comment with Santa sightings and locations.
- **Messiah performance** – The Eagle Mountain Arts Alliance, in partnership with the Saratoga Springs Arts Council will be holding a performance of Handel's Messiah on Monday, December 8 at Westlake High School, with an encore performance on Sunday, December 21 at the LDS Stake Center on Ira Hodges Parkway in City Center. Admission is free. Details are on the City website, Events calendar.
- **City Offices closed** – The City offices and library will be closed December 24-26 for the Christmas Holiday and January 1 and 2 for the New Year's holiday. The library will also be closed on Saturday, December 27.

### 7. PUBLIC COMMENTS – Time has been set aside for the public to express their ideas, concerns and comments.

Tiffany Ulmer stated that the proposed Harmony preliminary plat doesn't show any elementary school sites. She felt they'll be needed. She said that John Walden, the developer, is offering a piece of his land to the State for the prison relocation. She would like to find a way to inform buyers of the possible prison nearby, so they won't buy lots without realizing the value could go down.

Tobin Gardner said there's a prison relocation committee hearing tomorrow. He invited everyone to attend the meeting at 2:00 p.m. at the State Capitol Building.

Mayor Pengra announced a meeting tomorrow regarding the Utah State Medicaid plan.

8. CITY COUNCIL/MAYOR'S ITEMS – Time has been set aside for the City Council and Mayor to make comments.

Councilmember Steinkopf

Councilmember Steinkopf wished everyone a good and safe holiday.

Councilmember Burnham

Councilmember Burnham thanked everyone attending the meeting and everyone who volunteers for the City.

Councilmember Ireland

Councilmember Ireland thanked the staff. He announced that the City has a new website and acknowledged Linda Peterson, Public Information Director.

Councilmember Westmoreland

Councilmember Westmoreland wished everyone a merry Christmas and encouraged them to be safe.

Councilmember Bradley

Councilmember Bradley welcomed everyone to the meeting. He was grateful for those who get involved. He invited residents to contact their neighbors about the upcoming meetings and events affecting the City. He recognized Ms. Peterson for the new website and encouraged residents to make suggestions as it is rolled out. He wished everyone happy and safe holidays.

Mayor Pengra

Mayor Pengra said he was opposed to the State Prison possibly being relocated to Eagle Mountain. It won't fit with the community's growth and would create negative impacts to the City.

9. APPOINTMENTS

- A. Planning Commission
  - i. John Linton
  - ii. Matthew Everett
  - iii. Daniel Boles
- B. Cemetery Board
  - i. Steve Conger
  - ii. Tonette Roberts

**MOTION:** *Councilmember Ireland moved to appoint John Linton, Matthew Everett and Daniel Boles to the Planning Commission for three-year terms and to appoint Steve*

*Conger and Tonette Roberts to the Cemetery Board for four-year terms. Councilmember Steinkopf seconded the motion. Those voting aye: Ryan Ireland, Richard Steinkopf and Tom Westmoreland. Those voting no: Donna Burnham and Adam Bradley. The motion passed with a vote of 3:2.*

## CONSENT AGENDA

### 10. MINUTES

A. November 18, 2014 – Regular City Council Meeting

### 11. 2015 CITY COUNCIL MEETING SCHEDULE

**MOTION:** *Councilmember Ireland moved to approve the Consent Agenda. Councilmember Burnham seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

## SCHEDULED ITEMS

### 12. AGREEMENT – Consideration of a Dispatch Building Agreement between Eagle Mountain City and the Utah County Dispatch Special Service District.

This item was presented by Ifo Pili, City Administrator. The proposed agreement is for the construction of a new dispatch center to accommodate increased call volume experienced by the Utah Valley Dispatch Special Service District. The volume of calls has increased and it is necessary to build a new building to house dispatching equipment and personnel. Each government entity that is a member of the District will share in the construction costs. The building will be located in Spanish Fork.

Councilmember Bradley asked who will maintain the building and how will maintenance be paid for. Mr. Pili said that each member entity pays a proportionate cost based on its call volume.

Mayor Pengra explained that the other option was to bond for the building, but that would have tied the City to a bond with several other entities and required it to remain in the Service District. Avoiding a bond leaves the City free of entanglement and free to leave the District if that becomes preferable.

**MOTION:** *Councilmember Ireland moved to approve a dispatch building agreement between Eagle Mountain City and the Utah County Dispatch Special Service District, requesting two capital payments, one on or before June 30, 2015 and the other on December 31, 2015 and authorize the Mayor to sign the contract. Councilmember Bradley seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

### 13. AGREEMENT – Consideration of an Amendment to an Impact Fee Reimbursement Agreement with Twelve Horse Ranch, LLC.

This item was presented by Jeremy Cook, City Attorney. The City Council approved an Impact Fee Reimbursement Agreement for Twelve Horse Ranch, LLC in September, 2014. Twelve Horse Ranch, LLC

is in the process of developing a portion of the Ranches Parkway Extension Project. The original reimbursement agreement was for a water line. This revised agreement includes roadway improvement costs in the amount of \$30,392.85. The costs will be collected through impact fees.

**MOTION:** *Councilmember Ireland moved to approve an amendment to an impact fee reimbursement agreement with Twelve Horse Ranch, LLC and authorize the Mayor to sign the contract. Councilmember Burnham seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

14. RESOLUTION – Consideration of a Resolution of Eagle Mountain City, Utah, Amending Resolution R-15-2008 and Establishing a Specific Military Service Member Utility Service Abatement.

This item was presented by Jeremy Cook, City Attorney. The proposed resolution amends the terms of the Military Utility Abatement Program. The program is designed to show appreciation to the families of military personnel who are deployed out of state or out of the country for sixty (60) days or more.

The Military and Veterans Advisory Board recommended that the new program have stricter eligibility requirements, a 25% abatement of monthly utility bills, and phasing out the previous abatement program over a ten-month period. Staff reviewed the recommendations and found that a percentage abatement would be difficult to implement with the City's financial software. Phasing the current program out over ten months would extend past the sale of the electric and gas utilities, which would require the City to make direct payments to third-party providers. Staff recommended a \$25 abatement from monthly utility bills and two months' notice of the discontinuation of the previous program. Abating a fixed amount also encourages conservation better than a percentage.

Mayor Pengra noted that the current abatement program has cost the City an average of \$250,000 per year, which isn't sustainable, especially in light of the sale of the electric and gas utilities.

Councilmember Bradley stated that he is the Council liaison to the Military and Veterans Advisory Board. He said they worked hard on this program. They are enthusiastic and will be a great asset to the City. He had recommended a voluntary donation program; however, it would have taken several months to implement. He hoped a voluntary program could be considered in the future, perhaps one that could help any resident going through hard times.

Councilmember Burnham asked Mr. Jerome to explain how a voluntary program would work. Mr. Jerome said the Finance Dept. would set up a general ledger account for the funds. The harder part would be to restructure the bills. At the moment, every payment automatically goes to the payer's account.

Mayor Pengra pointed out that the biggest difficulty would be deciding who gets assistance and how much assistance to give.

**MOTION:** *Councilmember Bradley moved to adopt a Resolution of Eagle Mountain City, Utah, amending Resolution R-15-2008 and establishing a specific military service member utility service abatement. Councilmember Westmoreland seconded the motion. Those voting aye: Adam Bradley, Richard Steinkopf and Tom*

*Westmoreland. Those voting no: Donna Burnham and Ryan Ireland. The motion passed with a vote of 3:2.*

15. AGREEMENT – Consideration of a Development Agreement for the Harmony Preliminary Plat.

This item was presented by Steve Mumford, Planning Director. The Harmony Preliminary Plat is a 772-acre project located southwest of the Overland Trails subdivision and west of Pony Express Parkway. The project contains 2,535 single-family lots, 92 acres of future multi-family, 27 acres of commercial land, 36 acres of improved open space, six church sites and a junior high school site. The developer expects it to be a 25-year project.

The project has undergone numerous reviews and revisions since the concept plan was submitted in 2007. In 2010, the developer asserted that the preliminary plat was deemed approved, based on a paragraph in the master development agreement. City staff disagreed. This preliminary plat was approved by the Planning Commission on March 25, 2014, with the condition that the developers obtain a development agreement from the City Council. The developer still asserts that this is an approved plat, and this action is approval of voluntary concessions.

The Eagle Mountain Properties master development agreement allows almost all land uses for many of its land use zones. It allows for submittal under either the 1997 Development Code or the current code. The 1997 code has no minimum lot frontage. The Pioneer Addition and Sweetwater subdivisions were hybrids of both codes.

The multi-family density is not approved. It is conceptual. It would have to be approved at the final plat or site plan phase. Anything submitted for approval after the master development plan expires in three years will have to be evaluated under the current code.

The 36 acres of improved open space includes detention basins. It is the amount required under the 1997 code, 2.5 acres per 400 homes. The City Engineer has discretion to require a traffic study for each final plat. If the plat will degrade any road's level of service to "D" or less, the developer will be required to improve the road or halt building until the road is improved through impact fees.

The developer is requesting automatic five-year renewals, unless doing so would present compelling, valid and substantial harm, which is a very difficult standard to meet.

Councilmember Westmoreland asked who chose how both Development Codes were hybridized in approving the previous developments. Mr. Mumford said he would have to research that. He said it generally involved architectural standards and narrower lot frontages.

Mayor Pengra said it most likely had to do with the flexibility provided for in the developer's original master development agreement. It did set a precedent that the City is willing to allow exceptions like that.

Councilmember Burnham stated that she has concerns about counting detention basins in the improved open space. That won't leave enough park space for new residents. They'll need to use existing parks, which will make those less accessible to current residents. She thinks the language on the alternative block designs is too vague. She doesn't like the section about lot layout and lot size variations. She thinks the developer's concession is very minor. The multi-family transitioning is not described. She would prefer the transition requirement in the current code; but

at least a specific description of what the transition will be. She has trouble with the architectural standards wording and especially with the wording of the expirations.

Councilmember Ireland felt driveway length was inadequate. It's important to minimize parking on the street.

Councilmember Steinkopf said room should be left so that cars parked in driveways won't extend over the sidewalks.

**MOTION:** *Councilmember Burnham moved to deny the development agreement for the Harmony preliminary plat and ask that the developer come back and meet with us over these issues that we've discussed to see if we can find some common ground in the development agreement. Councilmember Ireland seconded the motion.*

Before the Council voted, Mayor Pengra asked Councilmember Burnham to restate the motion. Councilmember Burnham stated that they would come back to the table with staff to address some of these issues, and bring back to the Council something that we could find more common ground with, especially some of the clarifying verbiage. Mayor Pengra summarized it as a motion to deny, and come back to the table to go through some of these issues with staff, with Councilmember input.

*Those voting aye: Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. Those voting no: Adam Bradley. The motion passed with a vote of 4:1.*

16. CITY COUNCIL/MAYOR'S BUSINESS – This time is set aside for the City Council's and Mayor's comments on City business.

Councilmember Steinkopf

Councilmember Steinkopf wished everyone a safe and happy holiday.

Councilmember Burnham

Councilmember Burnham expressed her support of those who serve in the Armed Forces. She didn't want her vote on the utility abatement to give the impression and she didn't support them. She feels that voluntary assistance is a better way to give support to them.

Councilmember Ireland

Councilmember Ireland echoed Councilmember Burnham's comments. He appreciated Linda Peterson organizing the welcome home processions for returning service members.

Councilmember Westmoreland

See board report.

Councilmember Bradley

Councilmember Bradley appreciated his fellow Councilmembers' comments and opinions. He felt it's important for the public to understand that the Council's job is to protect the current and future condition of the City. He was grateful that staff and Council can keep that as a priority. He's enjoyed his first year on the Council. He encouraged residents to be involved in any manner.

Mayor Pengra

Mayor Pengra wished everyone happy holidays.

17. CITY COUNCIL BOARD LIAISON REPORTS – This time is set aside for Councilmembers to report on the boards they are assigned to as liaisons to the City Council.

Councilmember Westmoreland said there is nothing new to report from the Parks and Recreation Advisory Board. The Economic Development Board is making progress on refining target clusters for promoting economic development.

18. COMMUNICATION ITEMS
  - a. Upcoming Agenda Items

19. ADJOURNMENT

**MOTION:**        *Councilmember Ireland moved to adjourn the meeting at 8:16 p.m. Councilmember Bradley seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*