Minutes of the Payson City Council Meeting held at the Payson City Center, 439 West Utah Avenue, Payson, Utah on Wednesday, July 3, 2013 at 6:00 p.m.

Mayor Rick Moore presiding.

ROLL CALL: Mayor Rick Moore; Councilmembers: JoLynn Ford, Kim Hancock, Mike Hardy, Scott Phillips, and Larry Skinner; City Manager Dave Tuckett, and City Recorder Jeanette Wineteer. City Attorney Mark Sorenson excused.

PRAYER & PLEDGE OF ALLEGIANCE

Prayer offered by Councilmember Ford and Pledge of Allegiance led by Councilmember Hancock.

CONSENT AGENDA

MOTION by Councilmember Hardy to approve the Consent Agenda consisting of approval of June 19, 2013 Joint City Council & Redevelopment Agency Minutes. Motion seconded by Councilmember Phillips. Motion carries.

PUBLIC FORUM

Judy Bills read the following statement:

“Payson City Fee Schedule—Adopted 02-20-2013, page 10 reads:

Parks and Open Space Picnic Areas:

Residents $25/4hrs

Non-residents $50/4hrs

Monday morning, July 1, 2013, I went to Payson City Office to see whether McMullin Park would be available for reservation on Labor Day weekend. I was told the park was open for the entire day that I requested, but as of this day the fee would double, plus there would be a cleaning deposit required. I then said that I would like to rent the park and told the woman what time block I wanted. She told me that I could not reserve the park for the time block I wanted but I would have to choose from a schedule she then read to me. I said those times don’t work for me. She then walked to the counter with a paper in her hand, showing me the time slots and telling I needed to choose a slot from the paper.

We have scheduled a family reunion at this park, on this day, at this time for many years and I fail to understand why a lifetime resident in good standing with the city can’t use a public park at his convenience when he is willing to pay the fees and abide by all outlined ordinances.

My first concern is the fact that this council approved a fee scheduled February 20, 2013 and implemented a 100% increase 5 months later.

Secondly, it appears the city is trying to regulate the private affairs of citizens.

However, my greatest concern is that elected officials are pandering to the whims of employees instead of representing the interest of citizens who elected them. If there are patrons who do not abide by the rules of good citizenship then tag them and impose the restrictions on the offender, not the 99.

“My reading of history convinces me that most bad government is too much government.” ---Thomas Jefferson

“We have learned by sad experience that it is the nature and disposition of almost all men, as soon as they get a little authority, as they suppose, they will immediately begin to exercise unrighteous dominion.” ---D&C 121:39

Judy Bills, 209 West Utah Avenue July 3, 2013”

Councilmember Ford wondered if the times were full during the other time of day. Ms. Bills said no they weren’t full but she was told she would have to pay for two four hour blocks.

Manager Tuckett read the resolution that was adopted June 5th by the City Council that included the 4 hour blocks and a refundable cleaning deposit.

Councilmember Ford wondered if we could adjust the blocks of time rather than have the set blocks. Tracy Zobell said it has always been a four hour block they just weren’t specific. Manager Tuckett said that if the Council wants to reconsider the resolution they adopted, we can place it on a future agenda.

Tracy Zobell reminded the Council that we received data from all the cities and towns in the County and got their fee schedules and park schedules, to see what we should do. Our thought was the revenue that we would receive from these rentals was to put the money back into the park to make them nice.

Discussion was held regarding a schedule per hour with a pro-rated amount. Consensus of the Council was for staff to look into this item and bring it back at the next meeting.

Elaine Williams from Payson Business Strategy Team said they are kicking off 2013 “Acts of Kindness” Service to our community with a free workshop EFT- Emotional Freedom Techniques to be held next Tuesday, July 9, 2013 from 7-8:30 p.m. at NEXEO’s Office 887 E 100 N, Suite 3. She wanted to invite everyone to attend.

Rhett Huff said he is concerned with the un-kept walks around town. He said there is an abandoned house next to his business and he has contacted the owners to clean it up and nothing has been done. He also noticed a “letter to the editor” in the last paper regarding un-kept walks.

Councilmember Ford said that we have talked about sending letters from the City, but a lot of these are bank owned properties and they don’t do anything. Manager Tuckett said that if we have the addresses, we can see what we can do. Some of these are going to have to be torn down and they are in the process. Sometimes there are legal notices that have to be done before anything can be done.

COUNCIL AND STAFF REPORTS

Golf Pro Tracy Zobell reported that the Eagle Project is just about complete in Memorial Park, and the drinking fountain should be operable before Scottish Festival.

Councilmember Hardy attended an Economic Development luncheon last week with prospective buyers of property in Payson and he feels that went very well.

Councilmember Ford said the roads are looking very well with use of the new paver, and they are working on a lot of the older parts of towns. She said that the parks also look very good.

Councilmember Hancock said there is a “For Sale or Lease” sign on the property west of the Huish and he wondered if we could look into leasing that for extra parking.

He said the South Utah Valley Municipal Water study regarding replenishing the aquifer is complete and recommendations will be given. He will bring that information back to the Council next time.

Councilmember Phillips said we are saving a lot of money with the new paver and he asked if those pictures and schedule could be presented to the Council. He is impressed and said that along with crack sealing this will help our streets last longer.

He commended Peteetneet on the water conservation efforts. He said the Maples Subdivision is the greenest place in town and he wondered if they were being contacted about overwatering. Manager Tuckett said letters have been sent to those that we know about and Councilmember Phillips asked if the Council could get some of those letters to drop off to violators that they see.

He said the interview panel has narrowed the applicants down to 6 to interview for the Public Works Director.

Councilmember Hancock said large trucks are filling at Spring Lake and he wondered if we had an agreement with them. Manager Tuckett said the agreements would be with Spring Lake Water Company, but in Payson for the UDOT project, they get a meter from us and then they can fill their trucks from the fire hydrants then are billed.

Mayor Moore feels the roads are looking great, however understands we still get complaints.

He said the parks are also looking very good and they have raised the mower blades so if we keep the grass longer it will save water. He asked citizens to help with water conservation.

Mayor Moore agreed with Councilmember Phillips and feels we have good choices for the interviews for the Public Works Director.

PRESENTATION OF SCOUT ATTENDANCE CERTIFICATES

Councilmember Hardy presented attendance certificates to scouts in attendance: TJ Sorenson, Adam Rennik, and Isaiah Hall along with scout leaders Morgan Tribbit and Brian Hall.

CHAMBER OF COMMERCE – BUSINESS OF THE MONTH

Zac Voorhees, Chamber of Commerce introduced Denise Winley and said Payson Chronicle was chosen as Payson Business of the Month.

Denise said that being chosen is a great honor and she thanked the Chamber of Commerce and everyone, especially Carolyn Bowman.

REQUEST FOR APPROVAL OF A PLAT AMENDMENT AND MODIFICATIONS TO THE DEVELOPMENT AGREEMENT FOR THE HIDDEN GROVE ESTATES DEVELOPMENT

Planner Spencer presented the following staff report:

The Hidden Grove Estates Planned Residential Development (PRD) is a triangular shaped development located west of 600 East at approximately 1300 South near the entrance to Payson Canyon along the Nebo Loop National Scenic Byway. The original approval (September 6, 2006) included thirty-five (35) residential building pads with open space areas and a variety of amenities. Primarily due to an extended period of challenging economic conditions, the developer relinquished ownership of the project to the financial institution and will no longer complete the project. The provisions of the Development Agreement and project entitlements transfer the obligations of the agreement to be completed by the successor, and in this instance, the new owner.

Dean Ingram and Dave Scoville are willing to explore the purchase of the remaining lots from the financial institution, but would like the City Council to consider various changes to the development layout and the terms of the Development Agreement for the Hidden Grove Estates Planned Residential Development. There are five (5) existing single family dwellings and two (2) dwellings under construction. The applicants will need to demonstrate the proposed changes will not negatively impact the existing dwellings. To formalize the request, the applicants are requesting approval of a plat amendment and modifications to the Development Agreement.

**Analysis**

The applicants have discussed the proposed changes to the development with the City Council at previous public meetings. All property owners in the development were given an opportunity to attend these meetings and several of the owners contributed to the discussion during the January 2, 2013 City Council meeting. Neighborhood meetings have also been conducted with the applicants and more recently with staff. In general, the following represents the proposed modifications to the original development approval. Additional detail of each request is included in the amended development agreement.

* Amended plat to modify the lot configuration to accommodate building lots rather than building pads.
* Modification to the setback requirements to accommodate the transition from building pads to building lots.
* Increase in project density by one (1) single family dwelling.
* Modification of the existing clubhouse for use as a single family dwelling (reason for increased density request).
* Dedication of open space area along Peteetneet Creek to Payson City.
* Amendments to the land use transition requirements between Hidden Grove Estates and adjacent land uses.
* Elimination of the required recreational vehicle parking area.
* Modification of the housing product and amenity package for the overall development.

*Plat Amendment*

In accordance with §10-9a-609 of Utah Code Annotated (UCA), the City Council may approve a request to vacate, alter, or amend a subdivision plat. A public hearing is required if the petition does not include signatures of all property owners in the subdivision. In this instance, the applicants have received signatures from all property owners; therefore, a public hearing is not required. However, the property owners have been actively involved in the amendment process and the City Council may want to allow public comment before a final decision is made on the amendments to the development approval.

The applicants must demonstrate the amendments to the plat will not result in the violation of any municipal ordinance or inhibit public or private utility providers from supplying utility services. Following a review of the proposed plat amendment, there are some technical issues that will need to be addressed by the applicants. Staff would suggest the following conditions accompany the request for a plat amendment.

1. Prior to recordation of the Final Plat, the applicants will need to submit a completed Utah County property tax form that demonstrates that all current and past property taxes have been paid on any property that will be dedicated to Payson City in conjunction with approval of the proposed subdivision. The dedication of open space to Payson City will need to be completed by Warranty Deed.
2. The applicant will need to demonstrate that a dwelling consistent with the size requirements of the development agreement can be placed on the smaller lots and odd-shaped parcels without the need to request a variance to the setback requirements of the project.
3. The request to transition from building pads with common area to individual building lots will require the installation of a separate pressurized irrigation connection to each lot. The applicants are required to install a pressurized irrigation main and provide a service connection to each lot in the development. The main line will need to be located within a public utility easement.
4. A landscaping plan will need to be provided for the planter area along 540 East. The types and sizes of landscaping will need to provide an adequate vegetative barrier between the development and the adjacent uses which are not residential in nature.
5. The applicant will need to work with the Fire Department to identify the fire-fighting needs of the project and satisfy the requirements of the adopted fire code. At a minimum, the fire-fighting plan will need to address the following:
   1. The project is located within the urban/wildland interface zone and specific construction practices will need to be implemented. In particular, internal fire sprinkling systems will need to be provided in the dwellings and the Fire Chief may identify other construction requirements.
   2. The design of the private streets and drives, including required turn-around areas, will need to satisfy the provisions of the Design Guidelines and Standard Specifications of Payson City. Initial improvements and repairs may be necessary to ensure adequate emergency access to each dwelling. The turn-around at the end of 540 East may need to be redesigned to accommodate emergency vehicles.
   3. The fire hydrants will need to be tested to ensure adequate pressure and volume is available for fire-fighting purposes. Any fees associated with the testing and inspection of fire hydrants are the responsibility of the applicant.
6. A slope stabilization plan will need to be prepared and implemented for the open space area west of 600 East and surrounding the pedestrian sub-grade crossing.
7. The existing dwelling located on lot 34 will need to be connected to city services and the applicants are responsible to submit payment of connection and impact fees, as well as the necessary inspections.
8. To maintain the open feel throughout the development as envisioned with the original approval, staff is proposing to limit fencing materials to wrought iron. The applicants are requesting that lots 20-27 be allowed to use other fencing materials. The City Council will need to determine the appropriate fencing materials in the development.
9. Several required improvements were not completed by the original developer. Therefore, the applicants are responsible to complete the unfinished items included on the project checklist prepared by staff and all conditions of approval imposed by the City Council.
10. A final plat will need to be prepared for review by staff. The final plat must be consistent with the regulations of Chapter 20.29 of the Subdivision Ordinance, the approval of the City Council, and the Utah County Recorder. At a minimum, the Final Plat will need to include:
    1. The addresses will need to be modified to indicate varying ending numbers, with the exception of the existing dwellings. For example, lots 1-8 all end in “6”. This will need to be changed to reduce errors in the delivery of mail or confusion in an emergency situation. The applicants will need to work with the Payson City engineering department to amend the addresses.
    2. A project note will need to be included that provides an indication of the access points for each lot. For example, lot 35 is limited to access 1300 South street. Furthermore, 600 East is classified as a collector status street and direct access to the street is not allowed which will affect the access for lots 1-8, 32, 33, and 36.
    3. The conversion from building pads, which result in significant common area, to private lots, will require the recordation of public utility easements around the perimeter of each lot and potentially additional easements in the development. The applicants will need to work with the City Engineer to identify the location for each easement and complete the necessary recordation of the easements.
    4. A note indicating the driveways will be located as far from an intersection of two access points as practicable will need to be shown on the Final Plat.
    5. The dwelling on lot 28 must front Canyon Road (1250 South) to avoid inconsistent backyard fencing along the street corridor.
11. The applicant will need to satisfy the applicable requirements of Preliminary Plan approval, the provisions included in the Development Agreement, and all other applicable requirements or conditions not completed by the original developer.
12. The applicants will need to enter into a restated and amended Development Agreement that clarifies the differences between the original development and the modified approval, the obligations of both the applicants and the City, and any requirements and regulations specific to the project.
13. Conditions, Covenants and Restrictions (CC&R’s) and Homeowners Association (HOA) Bylaws will need to be prepared for the project. These documents will need to address the organization and operation of the HOA and clearly define the responsibilities of the owners in relation to maintenance and operation of private facilities. Furthermore, the CC&R’s must be consistent with the applicable requirements in the Development Agreement in relation to project and housing design, fencing, access, etc. The applicant will need to work with the owners in the development to determine the appropriate HOA fees to adequately cover the costs of maintaining the private facilities and project landscaping. These documents will need to be recorded in the office of the Utah County Recorder and run with the land regardless of ownership.
14. A performance guarantee will need to be provided for project landscaping and amenities and all required improvements that will be dedicated to Payson City. The performance guarantee shall be equal to one hundred twenty (120) percent of the approved engineer’s estimate and in cash or in the form of an irrevocable letter of credit. The applicants are also responsible for inspection and testing fees in accordance with the Payson City Fee Schedule.
15. Water will need to be transferred for the additional dwelling unit (lot 36). The applicant will need to work with the Water Specialist to satisfy the requirements of Title 10, Water Ordinance.
16. An amended Plat D of the Hidden Grove Estates Planned Residential Development will need to be recorded in the office of the Utah County Recorder. The applicants are responsible to satisfy the applicable requirements of Utah County, including the payment of recording fees.
17. Modifications to existing site conditions such as sprinkling systems, landscaping, etc. will be an issue between the applicants and the property owners. Approval of a plat amendment does not obligate Payson City to be involved in the resolution of any private property issues.

*Additional Considerations*

1. A primary concern of staff is maintenance of the private facilities. There are private roads, privately owned infrastructure and other non-public areas in the development. The applicants must demonstrate how these facilities will be maintained on a long term basis. Adequate reserve accounts must be established and maintained by the HOA for general and emergency maintenance obligations.
2. The applicants will need to satisfy all applicable requirements of the Development Agreement prior to the dedication of the open space area to Payson City. Once completed, the City will assume the ownership and maintenance responsibilities of the open space area.
3. The applicants are requesting installation of an eight (8) foot fence along the common property boundary with Gary Jensen. The City Council will need to determine if an eight (8) foot fence and a heavily vegetated planter area will provide an acceptable land use transition method in this location. Fences are typically limited to six (6) feet in height unless a Conditional Use Permit is granted by the City Council. Because the applicant is requesting additional density, the application is in the purview of the City Council acting in a legislative capacity. Therefore, staff would suggest the City Council could approve an eight (8) foot fence without requiring the applicants to go through the conditional use process.

*Development Agreement*

The process to amend a Development Agreement is rather straightforward if the applicants and the City Council are in concert with the proposed modifications. Unless and until the Development Agreement is restated and amended, the provisions of the original agreement are in full force and effect. Therefore, if the applicants and City Council agree that the modifications will result in an acceptable development, the City Council, by majority vote, may move to restate and modify the Development Agreement. If it is determined that the modifications proposed by the applicants will not result in an acceptable project, the proposed amendments can be denied and the existing provisions of the agreement will remain in place.

**Recommendation**

This staff report identifies items that are not in compliance with the development ordinances of Payson City. It was the intent of the staff to complete a thorough review and identify all items that do not satisfy the requirements of Title 10, Water Ordinance; Title 19, Zoning Ordinance; Title 20, Subdivision Ordinance; the Design Guidelines and Standard Specifications; and any and all other development requirements of the City. However, failure of the staff to identify an inconsistency with any City requirement does not release the applicant of the obligation to satisfy all development requirements of the City. If an item is identified at a later date, the applicants will be responsible to satisfy the relevant development requirements.

The applicants are seeking approval of a Plat Amendment and amendments to the existing Development Agreement for the Hidden Grove Estates Planned Residential Development. The City Council, in separate motions will need to consider the requests of the applicants.

Councilmember Hardy wondered what the plans were for the property dedicated back to the City and Planner Spencer said she understands it will be a nature park with **no** grass planting, benches, playground equipment etc.

He also asked about the type of fencing being required between Jensen’s and the development and Planner Spencer said it would be masonry and she indicated on the plat where that would be located. She also explained that they want to put vegetation in against that fence because the roadway would be for home frontages.

He asked about the playground equipment and Planner Spencer said liability was an issue so it will be left up to the developer if they want it on their property, because it will not be placed on the City property.

Dean Ingram thanked staff for all the work to get them to this point; they are excited about their development.

Councilmember Hardy said he was confused because he sees 1600 sq. ft. in the staff report and now he is hearing 1400 sq.ft. and Planner Spencer explained that they want to change it to 1400 sq. ft. that has to be completed at time of occupancy.

Mr. Ingram explained that they have agreed to fencing along the trail, however fencing for the west side of the trail they want to leave up to the homeowners whether there is a fence or not because of all the vegetation that is there, but if they choose a fence it must be wrought-iron.

Councilmember Skinner is still concerned not with today but tomorrow; HOA’s work well but he wants to make sure that when new homeowners move in they know there is an existing business in that area. Planner Spencer said it is anticipated that the HOA will maintain the landscaping and she is going to make sure that the appropriate documents are in place and the homeowners understand their responsibilities that come with that.

He also wondered if the removal of the additional parking would cause a parking issue with trailers, etc. on the streets. Planner Spencer has the same concerns and has mentioned that to the attorney that is setting up the Homeowners Association.

Councilmember Hancock said when the vote is taken for this item; his vote will not reflect his feelings for staff and developers efforts, but his feelings about the development.

MOTION by Councilmember Ford to grant final approval for the Hidden Grove plat amendment, Development Agreement and the additional requests by applicants which include increase height of fencing along Jensen’s, modify finished floor space requirements for interior lots to 1400 sq. ft. completed at time of occupancy, modify fencing materials for lots 20-27 leave it up to homeowners on west side whether they want fencing; along with all staff conditions and recommendations. Motion seconded by Councilmember Phillips. Voting aye: Councilmembers: Ford, Hardy, Phillips, and Skinner. Voting nay: Councilmember Hancock. Motion carries.

RESOLUTION – WATER RESTRICTIONS

Manager Tuckett explained that snowpack and irrigation water flow is substantially below normal based upon the measuring devices provided by the State of Utah. Staff is requesting that water use restrictions addressed in the proposed Resolution be put into place immediately in an effort to protect the Pressurized Irrigation system and to attempt to extend the City’s irrigation water to the end of August 2013.

The Payson City Council is authorized, pursuant to Section 10.10.2 of the Payson City Water Ordinance, to regulate, restrict or limit the use of water during water shortage periods and shall have the power to take all necessary means to make any necessary regulations as circumstances may require to protect the users of the Pressurized Irrigation system.

He said that Public Works Secretary Debbie Bushnell is keeping track on a data base of letters sent out and the number of offences. He also reported what is going out in the City Newsletter regarding conservation and that it is illegal for cross connections.

Councilmember Skinner would like this put in the newspaper along with an explanation of why the City waters when they do.

MOTION by Councilmember Skinner to approve Resolution #07-03-13-A, A Resolution Restricting the use of Water during the Summer of 2013 Pursuant to Title 10.10.2 of the Payson City Water Ordinance. Motion seconded by Councilmember Hancock. Motion carries.

RESOLUTION – FIREWORK RESTRICTIONS

Manager Tuckett presented a resolution to prohibit the discharge of fireworks within specified areas of Payson City along with a map of the restricted areas, which include all of the wildland, canyon, foothill areas, and any lands used for agricultural purposes including all incorporated areas west of I-15. Incorporated areas of Payson City south and east starting on south Main Street north to 1150 south, east to Payson Canyon Road, north to 800 South, east to 600 East, north to 400 South, east to Goosenest Drive and continuing to Gladstan Golf Course. He said that a press release has already been sent out and it is in all of the firework stands.

MOTION by Councilmember Skinner to approve Resolution #07-03-13-B, a Resolution Prohibiting the Discharge of Fireworks within Specified Areas of Payson City. Motion seconded by Councilmember Hardy. Motion carries.

Also due to extreme dry and very hazardous fire conditions, Chief Spencer implemented fire restrictions effective Wednesday June 26, 2013. He presented a map showing where those fire restrictions would be in place which include all of the wildland, canyon, and foothill areas including (incorporated areas of Payson City) everything south and east starting on south Main Street north to 1150 south, east to Payson Canyon Road, north to 800 South, east to 600 East, north to 400 South, east to Goosenest Drive and continuing to Gladstan Golf Course.

His directive means:

1. All open fires of any kind are strictly prohibited except in approved fire structures. This closure shall include, but is not limited to, open burning, campfires, cooking fires, and charcoal barbeques.
2. Smoking is prohibited, except within an enclosed vehicle or building, a developed recreational site or while stopped in an area at least three (3) feet in diameter that is barren or cleared of all flammable material.
3. Possessing or discharging fireworks, tracer ammunition or other pyrotechnic devices on these lands is prohibited. Most wildfires that occur around July 4th and 24th holidays are related to fireworks.

DISCUSSION – 930 WEST PROJECT

Manager Tuckett said that at the last meeting, there was discussion regarding the 930 West reconstruction and whether we should extend the landscaping strip to the Temple. We were asked to place the item on the agenda.

His recommendation was to complete the project as bid. The bid came in under the engineers estimate. After the bid was awarded and the road was torn up, it was determined that the subgrade material was inadequate for the reconstruction. Therefore, there will need to be additional funds to import materials for the road subgrade.

If we do not have sufficient funds to finish the project, we will approach the council with a budget amendment.

There are items that are not part of the bid project that would be nice to complete. However, he believes it best to complete what we bid, knowing there will be a change order for the subgrade material. Once the project is done, we can approach the council with another project to complete the items not in the bid. (Such items include extending the landscaping strip to the Temple; rehabilitating the trail on the east side of 930 west).

Council agreed with Manager Tuckett’s recommendation.

Grant Leavitt lives on 930 West and wanted to let the Council know they liked the planter strip and felt that the contractor doing the project was a good choice.

Councilmember Ford asked to keep in mind that we don’t want anything in the planter strip that will obscure vision.

ADJOURN

MOTION by Councilmember Hancock to adjourn. Motion seconded by Councilmember Hardy. Motion carries.

Council adjourned at 7:50 p.m.