

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD JUNE 7, 2007 AT THE CIVIC CENTER, 83 WEST MAIN, HYRUM, UTAH.

CONVENED: 6:30 p.m.

CONDUCTING: Mayor W. Dean Howard

ROLL CALL: Councilmembers Martin L. Felix, Paul C. James, Stephanie Miller, Craig L. Rasmussen, and Douglas L. Stipes present.

CALL TO ORDER: There being five members present and five members representing a quorum, Mayor Howard called the meeting to order.

OTHERS PRESENT: City Administrator D. Brent Jensen, Zoning Administrator Ron Salvesen and twenty six citizens. City Recorder Stephanie Fricke recorded the minutes.

WELCOME: Mayor Howard welcomed everyone in attendance and invited audience participation.

PLEDGE OF ALLEGIANCE: City Administrator D. Brent Jensen led the governing body and the citizens in the Pledge of Allegiance.

INVOCATION: Mayor W. Dean Howard

APPROVAL OF MINUTES:

The minutes of May 3, 2007 were amended as follows: 1) Page 5, paragraph 1 after "phase where engineering works to" add "be"; and 2) Page 8, paragraph 1, change "3) Some of the proposed locations of the fire hydrants are too far apart;" to "Some of the proposed locations of the fire hydrants weren't shown;".

ACTION Councilmember James made a motion to approve the minutes of May 3, 2007 with the above amendments. Councilmember Stipes seconded the motion and all five councilmembers voted aye.

The minutes of May 17, 2007 were amended as follows: 1) Page 3, paragraph 5, after "Consideration and award of bid for the asphalt" add "at"; and 2) Page 5, paragraph 2, last sentence change "The original site plan included some landscape but the proposed site plan doesn't include any landscaping it is all hardscaped." to "The original site plan included some landscape but the proposed site plan doesn't include any landscaping. It is all hardscaped."

ACTION Councilmember Rasmussen made a motion to approve the minutes of May 17, 2007 with the above amendments. Councilmember James seconded the motion and all five councilmembers voted aye.

AGENDA ADOPTION: A copy of the notice and agenda for this meeting was faxed to The Herald Journal, mailed to each member of the governing body, and posted at the Civic Center more than forty-eight hours before meeting time.

Mayor Howard recommended amending the agenda by removing item 10.B. Approval of Security Bond for Rolling Hills Phase I Subdivision.

ACTION **Councilmember Stipes made a motion to approve the agenda with the above amendment. Councilmember Rasmussen seconded the motion and all five councilmembers voted aye.**

AGENDA

8. SCHEDULED DELEGATIONS:
 - A. Kathryn Fielding - To request a home occupation business license for a preschool at 110 East 100 South.
 - B. Kelton Wilcox - To request site plan approval for a cabinet shop at approximately 10 West 300 North.
 - C. Gary Clawson & Richard Nielsen -To discuss irrigation liability.
9. INTRODUCTION AND ADOPTION OF RESOLUTIONS:
 - A. Resolution 07-09 - A resolution setting application and process fees for annexation services. *First Reading*
 - B. Resolution 07-10- A resolution accepting a petition for annexation of certain real property under the provisions of Section 10-2-405, Utah Code Annotated, 1953, as amended (West Hyrum Annexation). *First Reading*
10. OTHER BUSINESS:
 - A. Adoption of tentative 2007-2008 operating budgets and setting a date for a public hearing.
 - ~~B. Approval of Security Bond for Rolling Hills Phase I Subdivision.~~
 - C. Consideration and award of bid for the substation transformer.
 - D. Mayor and City Council reports.
11. ADJOURNMENT

SCHEDULED DELEGATIONS:

KATHRYN FIELDING - TO REQUEST A HOME OCCUPATION BUSINESS LICENSE FOR A PRESCHOOL AT 110 EAST 100 SOUTH.

Kathryn Fielding said wants to teach preschool in her house at 110 East 100 South. She will have ten to twelve students in a class. There is a circular driveway for the parents to drive through when dropping off and picking up the students.

ACTION **Councilmember James made a motion to approve Kathryn Fielding's request for a Home Occupation Business License**

to teach preschool at 110 East 100 South. Councilmember Miller seconded the motion and all five councilmembers voted aye.

KELTON WILCOX - TO REQUEST SITE PLAN APPROVAL FOR A CABINET SHOP AT APPROXIMATELY 10 WEST 300 NORTH.

Kelton Wilcox said he wants to build a cabinet shop at approximately 10 West 300 North. A dust collection system about 8 to 10 feet in diameter will be installed. All materials would be stored inside, and any scraps will be put into dumpsters. His cabinet shop will operate from 8:00 to 5:00 p.m. and he will have four employees.

Zoning Administrator Ron Salvesen said on May 10, 2007 the Planning Commission recommended approval of the site plan with the following conditions: 1) Site plan be redrawn to show where the vacuum system will be placed; 2) Curb, gutter and sidewalk to be installed on 300 North and Center Street; and 3) Two trees minimum be added on each side of the street.

Councilmember Rasmussen said the site plan doesn't show the grade of the property nor where the asphalt connects to the sidewalks. Street grades need to be determined before the design for installation and construction of sidewalks, curb, and gutter can be completed. He asked if a sidewalk, curb, and gutter would be installed along the entire frontage of the remainder lot and the lot being built upon.

Zoning Administrator Ron Salvesen said Hyrum City's ordinance does not require a grade to be shown on the site plan, however, a grade will need to be determined before the City Engineer reviews the plans.

Kelton Wilcox said he does not want to install sidewalk, curb, and gutter in front of the remainder lot until the remainder lot is developed. Due to the costs of utility extensions and connections, he can not afford to install these improvements on the remainder lot right now. He also wants to wait to pave the area on the east side of the building until he has more money.

Councilmember Rasmussen said he is concerned about the location of the building on the site plan being close to the east side of the property. The City Council just reviewed a site plan for a cabinet shop that was moving into a building that has been vacant for a couple of years. The structure was built so close to the east property line it didn't allow for enough space for a functionable parking lot. The only way for the cabinet shop to provide the required amount of parking spaces was for the City to allow them to use City property. He does not want to have the same problem with the Wilcox's building that the City Council just had to deal with.

Zoning Administrator Ron Salvesen said City Staff has recommended

sidewalk be installed along the frontage of all commercial developments. Wilcox's do not want to install sidewalk along Center Street, because the road does not go anywhere.

Shari Miller said she lives on 300 North and she is concerned about the looks of one small area having sidewalk, curb, and gutter. She suggested the City Council waive the requirements for curb and gutter along 300 North, which would give them additional space to plant trees or shrubs.

ACTION Councilmember Rasmussen made a motion to approve Kelton Wilcox's site plan for a cabinet shop at approximately 10 West 300 North with the following conditions: 1) Site plan be redrawn to show the location of the vacuum system; 2) Sidewalk, curb, and gutter be installed along the property being developed on 300 North; 3) Two trees minimum be added on 300 North Street and Center Street; 4) The final design be approved by the City Engineer; and 5) All of the area planned for hardsurfaced needs to be paved before occupancy. Due to the lack of a second the motion did not move forward.

ACTION Councilmember James made a motion to approve Kelton Wilcox's site plan for a cabinet shop at approximately 10 West 300 North with the following conditions: 1) Site plan be redrawn to show the location of the vacuum system; 2) Sidewalk, curb, and gutter be installed along the property being developed on 300 North; 3) Two trees minimum be added on 300 North Street and Center Street; 4) The final design be approved by the City Engineer; and 5) The east side of the building be paved when needed. Councilmember Miller seconded the motion.

Councilmember Rasmussen said the City Council has just dealt with a situation where paving the parking lot, sidewalks, curb and gutter, and landscaping were not required as a condition of occupancy. The City allowed the business to occupy the building before the improvements were made and the City never had away of forcing the property owner to complete the required improvements.

That business has been an eyesore and for the past several years and it has been a real struggle for the City to deal with. Why would the City Council want to approve a similar plan that could turn into the same situation the City has been struggling to improve.

Mayor Howard called for a vote on the motion. Councilmembers Felix, James, and Miller voted aye; Councilmembers Rasmussen and Stipes voted nay. The motion passed.

GARY CLAWSON & RICHARD NIELSEN - TO DISCUSS IRRIGATION LIABILITY.

Gary Clawson said with all of the development taking place east

of 800 East he is concerned about the irrigation line that runs north and south along Hammer Road, and another line on 500 South from the Highline Canal to approximately 1000 East. The irrigation line along Hammer Road is a 10" line and puts out a lot of water in a few minutes. Houses are being built next to the line, trees are being planted over the top of the lines, and fences are being installed in the irrigation company's easement.

If the irrigation line on Hammer Road broke, in a matter of minutes, it would flood the basements of houses built adjacent to the irrigation line on Hammer Road.

City Administrator D. Brent Jensen said on January 15, 1998 Gary Clawson, Jay Tuddenham, and Richard Nielsen attended City Council Meeting to discuss its concerns regarding the location and maintenance of the irrigation lines that ran through the proposed Wasatch View Subdivision. The City Council made a motion to table final plat approval for Wasatch View Subdivision until the irrigation company and the developers of Wasatch View Subdivision met to decide where the irrigation lines were to be moved and who would be responsible in the event of a leak or pipe failure. Hyrum City wrote a letter to the developer of Wasatch View Subdivision on January 27, 1998 regarding the City's requirement for a copy of any agreement pertaining to the irrigation company. The agreement was to clearly state the party who was liable if failure occurs and the party was to be someone other than Hyrum City. On February 5, 1998 Hyrum City received a copy of an agreement signed by the Wasatch View Developers (Edgar Tibbits and Demar Hansen) and the Irrigation Company (Gary L. Clawson, Richard L. Nielsen, Gregory A. Nielsen, Chad Welch, and Jay Tuddenham). The agreement stated "We the undersigned, agree as per the drawing dated February 5, 1998 that the proposed irrigation lines be installed as indicated. Hyrum City will not be held liable for any ruptured lines or damages on the proposed said irrigation lines." Upon the City receiving this release the City Council approved Wasatch View Subdivision later that evening at City Council Meeting. In his opinion, there is no misunderstanding of the intent to release Hyrum City of all liability for the irrigation lines.

Gary Clawson said the irrigation company was trying to be a good neighbor by allowing the developers to move the irrigation line.

It was just suppose to be another agreement to maintain the irrigation line. The irrigation company made a mistake and should have never signed the agreement.

Shawn Peck, Attorney for the irrigation company said the agreement does not state the scope of the liability being released. This agreement was written to relieve the City of any waterline breaks not caused by development. It was not written to relieve Hyrum City of all liability. The City has been taking the position that it is not liable and it is not helping with the irrigation problems that could arise if one of these lines breaks.

Gary Clawson asked why the City hasn't informed the homeowners about the location of the irrigation lines and the irrigation company's easement. He asked the City to work with the irrigation company before a line breaks and causes damage.

Councilmember Rasmussen said there should be a recorded easement for the irrigation easement on each parcel of property the irrigation line runs through. If there is not a legal easement recorded then the irrigation company will have to work with the property owners. He agrees with the irrigation company that it is not the best situation, but Hyrum City has pressurized irrigation lines all over town that could break and flood someone's basement.

Chad Welch said the irrigation company had a 16' easement for the original locations of the irrigation lines, but doesn't know if easements were ever recorded for the new locations of the irrigation lines.

Shawn Peck said the irrigation company has every right to use its easement. Property owners will not be very happy if the irrigation company has to rip out trees or tear down a fence to get access to its irrigation line.

Zoning Administrator Ron Salvesen said the City is considering installing a storm water swale along Hammer Boulevard that may help with the irrigation line.

Mayor Howard said he agrees with City Administrator D. Brent Jensen that the agreement was written to release Hyrum City of all liability. However, the City will work with the irrigation company to protect its easement along Hammer Road and will try to come up with a solution to help the irrigation company with its irrigation line.

INTRODUCTION AND ADOPTION OF RESOLUTIONS:

RESOLUTION 07-09 - A RESOLUTION SETTING APPLICATION AND PROCESS FEES FOR ANNEXATION SERVICES. FIRST READING

Mayor Howard said Hyrum City currently charges a \$50 filing fee and a \$500 deposit on all annexations. The \$50 filing fee is to cover staff time on an annexation, which \$50 won't even cover two hours of staff time. Most annexations will take numerous hours of staff time just in noticing and certification requirements, meeting with petitioners, and developing an annexation agreement.

The \$500 deposit goes towards legal, advertising, recording fees, etc. Usually the \$500 deposit will cover a simple and small annexation, but on larger or more complex annexation the cost far exceeds the required deposit. Hyrum City is not in a financial situation to subsidize annexation requests. Resolution 07-09 proposes a filing fee of \$1,000 plus \$25 per acre of ground and a \$1,000 deposit for all annexations.

ACTION Councilmember Stipes made a motion to waive the first reading rule for Resolution 07-09. Councilmember Rasmussen seconded the motion and all five councilmembers voted aye.

ACTION Councilmember Stipes made a motion to approve Resolution 07-09 setting application and process fees for annexation services. Councilmember Felix seconded the motion and all five councilmembers voted aye.

RESOLUTION 07-10 - A RESOLUTION ACCEPTING A PETITION FOR ANNEXATION OF CERTAIN REAL PROPERTY UNDER THE PROVISIONS OF SECTION 10-2-405, UTAH CODE ANNOTATED, 1953, AS AMENDED (WEST HYRUM ANNEXATION). FIRST READING

Mayor Howard said the City Council approved a previous Resolution accepting the annexation petition for the property included in Resolution 07-10. However, the previous annexation petition did not meet the certification requirements listed in Utah State Code. The property owners were given notice of the rejection of the annexation petition. On May 24, 2007 the property owners resubmitted an annexation petition that does not include property already included in another annexation petition (the Leon Savage/Craig Poppleton Annexation).

Vaughan Farnsworth said he is working with Steve Baugh on the annexation and development of this property. They have met with City Administrator D. Brent Jensen to discuss the annexation agreement and infrastructure needs. Vaughan and Steve have met with the Bureau of Reclamation about the development and to propose a trade of property. Vaughan and Steve want the Bureau to trade 138 acres adjacent to the proposed development for property that Vaughan and Steve own in another location. The Bureau is very supportive of the development and moving the road off of the dam. He asked the City Council to approve the Resolution accepting the annexation petition and schedule a public hearing in July.

Councilmember Miller said the annexation petition is not signed by Roy and Janis Hugie. The Hugie property is crucial to the development of the golf course and road, since it is the only piece of property that connects the north property to the south property. She asked Vaughan and Steve if they had a contract to purchase Hugie's property.

Steve Baugh said the annexation petition meets the requirements of State Law even though Roy and Janis Hugie have not signed the petition. He currently doesn't have a contract to purchase Roy and Janis Hugie's property, but he is working with them and is hoping to have it under contract soon.

Mayor Howard said accepting the annexation petition does not

obligate the City to annex the property. Once the annexation petition is accepted and certified the City Council will review and consider all of the issues pertaining to the annexation. If the developer does not have a contract to purchase the Hugie property then it may have a bearing as to whether the City Council annexes the property.

Brad Bearnson said he is Steve Baugh and Vaughan Farnsworth attorney and in order for his clients to move forward and get additional investors they need the City Council to accept this resolution. His clients are not saying they have the Hugie property under contract but they are committed in pursuing the purchase of this property. Accepting the annexation petition does not commit the City Council to approve the annexation.

Councilmember Rasmussen said if the City Council accepts the petition tonight, the developers need to be aware that the annexation can not be finalized until the Savage/Poppleton annexation is complete. The Savage/Poppleton annexation was submitted before the West Hyrum Annexation petition and the Savage/Poppleton annexation creates an island in the West Hyrum Annexation. State law does not allow a City to annex property that creates an island. If the City Council does not annex the Savage/Poppleton property, the West Hyrum Annexation petition will have to be rejected, since it would create an island.

ACTION Councilmember James made a motion to waive the first reading rule for Resolution 07-10. Councilmember Felix seconded the motion and Councilmembers Felix, James, Miller and Stipes voted aye and Councilmember Rasmussen voted nay. The motion passed.

ACTION Councilmember James made a motion to accept Resolution 07-10 a resolution accepting a petition for annexation of certain real property under the provisions of Section 10-2-405, Utah Code Annotated, 1953, as amended (West Hyrum Annexation. Councilmember Stipes seconded the motion and Councilmembers Felix, James, Miller and Stipes voted aye and Councilmember Rasmussen voted nay. The motion passed.

OTHER BUSINESS:

ADOPTION OF TENTATIVE 2007-2008 OPERATING BUDGETS AND SETTING A DATE FOR A PUBLIC HEARING.

ACTION Councilmember Stipes made a motion to adopt the tentative 2007-2008 operating budgets and to schedule a public hearing on June 21, 2007. Councilmember Felix seconded the motion and all five councilmembers aye.

CONSIDERATION AND AWARD OF BID FOR THE SUBSTATION TRANSFORMER.

Mayor Howard said Comlink Land Services received five bids for a 10/12.5 MVA, 46-12.47 kV transformer for the 600 South substation.

The bids were as follows:

<u>COMPANY</u>	<u>BID AMOUNT</u>	<u>CORE TYPE</u>
Codale Electric	\$324,000	Rectangular Core
Codale Electric	\$349,000	Circular Core
Waukesha	\$450,813	Circular Core
HD Supply	\$458,000	Circular Core
HD Supply	\$525,000	Circular Core

Comlink Land Services recommended accepting Codale Electric's bid for \$349,000 for a circular core. The circular core is more efficient and durable. Codale is estimating at least 52 to 54 weeks to build the transformer and have it delivered to Hyrum City. Comlink Land Services has also suggested the City use vegetable oil rather than mineral oil in the transformer. Vegetable oil is cheaper to clean-up after an accidental spill or leak and is safer for the environment.

ACTION **Councilmember James made a motion to award the bid for an ABB circular core transformer, as recommended by Comlink Land Services, to Codale Electric for \$349,000 with an additional \$24,500 for vegetable oil rather than mineral oil. Councilmember Rasmussen seconded the motion and all five councilmembers voted aye.**

MAYOR AND CITY COUNCIL REPORTS.

Councilmember Stipes reported on the progress of the High Valley Subdivision Homeowners Association. In 2006 the Homeowners Association retrofitted the sprinkler system and installed 21 new heads and six valves; in 2007 it hopes to finish the sprinkler system and refit old lines; in 2008 landscape the planter strip along the Highway; in 2009 make a walking path around the park; and in 2010 install playground equipment.

Councilmember James said the National Night Out Against Crime is scheduled for August 7. He asked the City Council to reconfigure its email address to the hyrumcity.org accounts.

Councilmember Miller reported on the progress of the plans for the July 4th Celebration.

ADJOURNMENT:

ACTION **There being no further business before the Council, the Council Meeting adjourned at 8:15 p.m.**

Mayor

ATTEST:

Stephanie Fricke
City Recorder

Approved: July 5, 2007
As written