

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD JULY 19, 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, Craig L. Rasmussen, and Douglas L. Stipes present.

EXCUSED: Councilmember Stephanie Miller

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

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

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

PLEDGE OF ALLEGIANCE: Councilmember Rasmussen led the governing body and the citizens in the Pledge of Allegiance.

INVOCATION: Councilmember Felix

MINUTES:

The minutes of June 21, 2007 were amended as follows: 1) Page 1, paragraph 7, sentence 1 delete "twenty"; 2) Page 5, paragraph 8 after "the site plan" delete "approval" and after "submitted to the City" add "and the site plan drawing be amended to include the radius of street corners"; and 3) Page 8, paragraph 1, sentence 3 after "adopted the above" delete "the".

ACTION Councilmember James made a motion to approve the minutes of June 21, 2007 as amended. Councilmember Stipes seconded the motion and all four councilmembers present 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.

ACTION Councilmember Rasmussen made a motion to approve the agenda as written. Councilmember Felix seconded the motion and all four councilmembers present voted aye.

8. SCHEDULED DELEGATIONS:
 - A. Ron Hales, McKay Development Hyrum, LLC - To request concept plan for Elk Mountain Planned Unit Development located at 300 South between 1100 East and Hammer Road.
9. INTRODUCTION AND ADOPTION OF A RESOLUTION AND ORDINANCE:
 - A. Resolution 07-16 - A resolution adding a temporary surcharge to all billings for irrigation service. *First Reading*
 - B. Ordinance 07-10 - An ordinance annexing the Municipal Zoning Map and annexing certain real property and extending the Corporate Limits of Hyrum City, Utah (Savage/Poppleton Property). *First Reading*
10. OTHER BUSINESS:
 - A. Award of bid for waterline projects.
 - B. Consideration and approval of South Ridge Acres Subdivision Phase IV Security Bond.
 - C. Mayor and City Council reports.
11. ADJOURNMENT

SCHEDULED DELEGATIONS:

RON HALES, MCKAY DEVELOPMENT HYRUM, LLC - TO REQUEST CONCEPT PLAN FOR ELK MOUNTAIN PLANNED UNIT DEVELOPMENT LOCATED AT 300 SOUTH BETWEEN 1100 EAST AND HAMMER ROAD.

Ron Hale with McKay Development said he purchased 80 acres of property at 300 South between 100 East and Hammer Road and wants to develop it into a Planned Unit Development. The Concept Plan for Elk Mountain Planned Unit Development includes 158 townhouses, 118 single family houses, and 11 acres of green space for walkways, retention ponds and five neighborhood parks. Total density for the project is 3.45 units per acre broken down as follows: 1) The outside perimeter of the subdivision includes fifty eight 12,000 square foot single family lots; 2) Seventeen 9,000 square foot lots next to the townhouses; 3) Seven 10,000 square foot lots next to property that is designated for a church; and 4) Eleven 11,000 square foot lots and twenty five 12,000 square foot lots mixed inside the development.

The townhouses are in the center of the development and have two car garages with an additional parking pad for two more cars. Throughout the development there are 57 additional parking spaces located adjacent to parks and near the townhouses. Each townhouse has its own garbage can rather than one large community dumpster. A Community Clubhouse with a pool is shown on the drawing as an optional improvement. The exterior of the houses will be brick, rock, and/or stucco. A wood fence will be installed around the perimeter of the subdivision.

Elk Mountain is a development with upscale single family dwellings and townhouses that is governed by a Homeowners Association. The Homeowners Association will be responsible to enforce the protective covenants. The restrictive covenants will

be a lengthy document that will include landscaping requirements; parking restrictions for trailers, boats, snowmobiles, four-wheelers; types of building materials required on houses; and any other design criteria or concerns that the developer or City Council wants addressed.

Clay Stucki said he is Ron Hale's attorney for Elk Mountain and has written over 500 Home Owners Association By-laws and Protective Covenants. The Home Owners Association By-laws and Protective Covenants are recorded with deed for each lot in the development. A Home Owners Association can enforce its protective covenants without paying legal fees by requiring the violator of the covenant to pay them. Anyone in the Home Owners Association can contact the attorney, appointed by the Home Owners Association Presidency, to complain about a violation. There are a couple of attorneys at his firm that just enforce Home Owners Association Protective Covenants.

Zoning Administrator Ron Salvesen said on July 12, 2007 the Planning Commission recommended approval of the concept plan for Elk Mountain Planned Unit Development with the following conditions: 1) Plan and examine development of Hammer Road; 2) Copy of Protective Covenants, Homeowners Association Budget including parking and fence around property; and 3) Determine feasibility for dual access roads.

Councilmember Rasmussen asked what happens if the Home Owners Association is unable to collect monthly dues from its members and eventually ends up dissolving its association.

Clay Stucki said if the Home Owners Association By-laws and Protective Covenants are written correctly the Home Owners Association can not be disband as long as there is one member in favor of keeping it. Hyrum City can be a member, which will allow City officials to call an Attorney with violations and will also prevent disbandment of the Homeowners Association.

Lane Southwick said he is a partner in McKay Development and one-half of the sales price on each unit will be deposited in a reserve account for the Homeowners Association. The developers of Elk Mountain will maintain control and enforcement responsibility of the Home Owners Association for at least two years after the development is completed. Before the developers relinquish control of the association at least 95% of the owners have to be making monthly payments and a reserve of 25% of the association's budget over the last two years must be in an account.

Councilmember Rasmussen said Planned Unit Developments must conform to the City's Standards and Construction Specifications. All of the perimeter lots have double or triple frontage and Hyrum City's ordinances prohibit double and triple frontage lots unless the City Council grants a special exception. The roads in the development do not meet Hyrum City's width requirement and he is concerned that

it will create problems with parking and snow removal.

City Administrator D. Brent Jensen said the City will plow only the through streets and the Home Owners Association is responsible to plow all other roads in the development.

ACTION Councilmember James made a motion to approve the concept plan for Elk Mountain Plan Unit Development located at approximately 300 South between 1100 East and Hammer Road with the conditions recommended by the Planning Commission: 1) Plan and examine development of Hammer Road; 2) Copy of Protective Covenants, Homeowners Association Budget including parking and fence around property; and 3) Determine feasibility for dual access roads. Councilmember Stipes seconded the motion and all four councilmembers present voted aye.

INTRODUCTION AND ADOPTION OF RESOLUTIONS AND ORDINANCES:

RESOLUTION 07-16 - A RESOLUTION ADDING A TEMPORARY SURCHARGE TO ALL BILLINGS FOR IRRIGATION SERVICE. FIRST READING

Mayor Howard said on July 5, 2007 the City Council recommended City staff draft a resolution imposing a surcharge on pressurized irrigation if the pump has to be turned on that month, and another resolution, if needed, to increase the monthly rate to provide funds for infrastructure needs and upgrades to the distribution system. Resolution 07-16 will impose a temporary surcharge on all irrigation billings if the pump is turned on that month.

ACTION Councilmember Stipes made a motion to waive the first reading rule for Resolution 07-16. Councilmember James seconded the motion and all four councilmembers present voted aye.

ACTION Councilmember Stipes made a motion to approve Resolution 07-16 adding a temporary surcharge to all billings for irrigation service. Councilmember James seconded the motion and all four councilmembers present voted aye.

ORDINANCE 07-10 - AN ORDINANCE ANNEXING THE MUNICIPAL ZONING MAP AND ANNEXING CERTAIN REAL PROPERTY AND EXTENDING THE CORPORATE LIMITS OF HYRUM CITY, UTAH (SAVAGE/POPPLTON PROPERTY). FIRST READING

Mayor Howard said the Hyrum City Council held a public hearing to discuss a petition filed by Leon Savage and Craig Poppleton proposing the annexation of 104.35 acres of real property, located at approximately 100 North to 150 South between 600 West and 850 West.

City Administrator D. Brent Jensen said City Attorney Scott Wyatt has reviewed and approved the annexation agreement. However, there is still the issue of verification on the amount of acre feet that the irrigation shares represent in the Little Feeder Canal. Leon Savage and his son Bruce prepared a study on the Little Feeder Canal to determine the amount of water a share represented. Bruce's opinion is that one share of water from the Little Feeder Canal represents 8.2839 acre-feet of water. The City needs a letter from a water attorney, the Bureau of Reclamation, State Water Engineer, and/or another legitimate source stating that a share in the Little Feeder Canal does represent 8.2839 acre-feet and that the amount of water can not be challenged by another user.

Todd Pignataro said he has a contract with Leon Savage to purchase this land upon annexation. He understands that if the irrigation shares owned by Leon Savage do not represent three acre feet of water per acre of ground, as required by Hyrum City Ordinance that he will have to purchase additional water.

Leon Savage asked if the City will allow this property to be served by the existing pressurized irrigation system.

City Administrator D. Brent Jensen said it is the City Council's decision as to whether this property is served by the existing pressurized irrigation system.

Councilmember Rasmussen said if the City does allow this property to be served by the existing pressurized irrigation system a change of diversion application must be submitted and approved by the State Water Engineer.

ACTION

Councilmember Stipes made a motion to continue the discussion at the next City Council Meeting, since it is the first reading of Ordinance 07-10; and for Leon Savage to get a letter from an attorney or State Water Engineer validating the amount of water represented by an irrigation share in the Little Feeder Canal. Councilmember Stipes seconded the motion and all four councilmembers present voted aye.

OTHER BUSINESS:**AWARD OF BID FOR WATERLINE PROJECTS.**

Mayor Howard said the bids for the waterline projects were opened earlier in the week and the City Engineer is still reviewing the bids. This item will be placed on the next City Council agenda.

CONSIDERATION AND APPROVAL OF SOUTH RIDGE ACRES SUBDIVISION PHASE IV SECURITY BOND.

Mayor Howard said Troy Kartchner has submitted an Escrow Security

Bond from the Bank of Utah in the amount of six hundred nineteen thousand and no/100 (\$619,000.00) for the costs of installation of improvements in South Ridge Acres Subdivision Phase IV.

ACTION **Councilmember Stipes made a motion to approve Troy Kartchner's Security Bond from the Bank of Utah in the amount of \$619,000.00 for South Ridge Acres Subdivision Phase IV. Councilmember James seconded the motion and all four councilmembers present voted aye.**

MAYOR AND CITY COUNCIL REPORTS.

Councilmember James said attendance at the Elite Hall dances is increasing. There were at least 35 couples at the dance on July 14. He is excited to have the Jaguars and Cobras, (two local bands from 1960) perform at the Elite Hall on July 28. National Night Out Against Crime is on Tuesday, August 7 at 6:00 p.m.

Mayor Howard said he is a member of the UAMPS Board of Directors and a meeting is held each month to discuss power related issues. The last meeting he attended was extremely discouraging. There is a State Representative back east that wants to impose an additional tax on coal, which would increase the cost of coal by \$100 a ton. If this tax is passed it will drastically increase the cost of electricity. The California participants in IPP Unit 3 are trying to halt the progress of the plant and will not negotiate to release its initial purchase contract.

ADJOURNMENT:

ACTION **There being no further business before the Council, the Council Meeting adjourned at 8:00 p.m.**

W. Dean Howard
Mayor

ATTEST:

Stephanie Fricke
City Recorder

Approved: August 16, 2007 _____
As Written