

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD MAY 1, 2008 AT THE CIVIC CENTER, 83 WEST MAIN, HYRUM, UTAH.

CONVENED: 6:30 p.m.

CONDUCTING: Mayor Pro-Tempore Stephanie Miller

ROLL CALL: Councilmembers Paul C. James, Thomas C. LaBau, Stephanie Miller, and Craig Rasmussen present.

EXCUSED: Mayor W. Dean Howard, and Councilmember Martin L. Felix

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

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

WELCOME: Mayor Pro-Tempore Miller 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 James

APPROVAL OF MINUTES:

The minutes of April 17, 2008 were amended as follows: Page 2, Paragraph 3, after "...leaving item" change "12.C." to "10.C.".

ACTION Councilmember Rasmussen made a motion to approve the minutes of April 17, 2008 with the above amendment. Councilmember LaBau 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 James seconded the motion and all four councilmembers present voted aye.

AGENDA

9. PUBLIC HEARING:

- A. To receive public comment concerning a proposal to amend Title 16 (the Subdivision Ordinance) and

Title 17 (the Zoning Ordinance) of the Hyrum City Municipal Code as follows:

- I. Section 16.24.060 to require a ten day noticing period for public hearings if the City Council elects to hold a public hearing.
 - II. Section 16.20.010 to no longer require the City Council to review and approve subdivision construction drawings.
 - III. Section 16.20.070 H. to require areas not being irrigated to be shown on the subdivision plat.
 - IV. Section 16.16.030 C. to eliminate the Planning Commission's certificate of approval from the subdivision mylar and to require all other utility companies servicing the development to indicate their approval by signature on the subdivision mylar.
 - V. Section 17.08.100 B. to require site plans to contain provisions required by Fire Officials.
 - VI. Section 17.08.100 C. to require a business to install a privacy fence around any outside storage areas.
 - VII. Section 17.49.020 C. to permit sexually oriented businesses as a conditional use in the Manufacturing Zone M-2.
 - VIII. Section 17.60.010 to include the Planning Commission and City Council may impose additional conditions on Planned Unit Developments as deemed appropriate.
 - IX. Chapter 17.16 to replace the Board of Appeals with an Appeal Authority.
 - X. Sections 16.04.010 and 17.40.070 to define the "Administrative Appeals Hearing Officer".
 - XI. Section 17.08.100 G. to require applicants appealing City Council decisions to file an appeal with the Administrative Appeals Authority.
 - XII. Section 17.80.020 to eliminate the Board of Appeals from determining the status of a noncomplying use.
 - XIII. Sections 17.80.080 and 17.84.090 to replace the Board of Appeals with the Administrative Appeals Hearing Officer.
 - XIV. Repealing Section 16.20.110 Appeals.
 - XV. Adding Section 16.24.090 Appeals.
10. SCHEDULED DELEGATIONS:
- A. Michael Nelson - To request extension of the pressurized irrigation system to 6274 South 600 West.

11. INTRODUCTION AND ADOPTION OF ORDINANCES:
 - A. Ordinance 08-11 - An ordinance revising and adopting a policy for impact fees for water, sewer, public safety, transportation, parks, irrigation, and electrical power services in Hyrum City; establishing service areas for equitable distribution of impact fees; repealing conflicting sections of Chapter 3.24 of the Hyrum City Municipal Code; and other related matters.
 - B. Ordinance 08-13 - An ordinance amending Title 16 and Title 17 of the Hyrum City Municipal Code to replace the Board of Appeals with an Appeal Authority; to require a ten day noticing period for public hearings; to no longer require the City Council to review and approve subdivision construction drawings; and other minor housekeeping items.
12. OTHER BUSINESS:
 - A. Consideration and approval of Blacksmith Industrial Park Subdivision Surety Bond.
 - B. Consideration and appointment to the Hyrum City Senior Center Board.
 - C. Consideration and appointment of the Hyrum City Appeal Authority.
 - D. Present the 2008-2009 Operating Budgets.
 - E. Mayor and City Council reports.
13. ADJOURNMENT

PUBLIC HEARING:

TO RECEIVE PUBLIC COMMENT CONCERNING A PROPOSAL TO AMEND TITLE 16 (THE SUBDIVISION ORDINANCE) AND TITLE 17 (THE ZONING ORDINANCE) OF THE HYRUM CITY MUNICIPAL CODE AS FOLLOWS: I. SECTION 16.24.060 TO REQUIRE A TEN DAY NOTICING PERIOD FOR PUBLIC HEARINGS IF THE CITY COUNCIL ELECTS TO HOLD A PUBLIC HEARING; II. SECTION 16.20.010 TO NO LONGER REQUIRE THE CITY COUNCIL TO REVIEW AND APPROVE SUBDIVISION CONSTRUCTION DRAWINGS; III. SECTION 16.20.070 H. TO REQUIRE AREAS NOT BEING IRRIGATED TO BE SHOWN ON THE SUBDIVISION PLAT; IV. SECTION 16.16.030 C. TO ELIMINATE THE PLANNING COMMISSION'S CERTIFICATE OF APPROVAL FROM THE SUBDIVISION MYLAR AND TO REQUIRE ALL OTHER UTILITY COMPANIES SERVICING THE DEVELOPMENT TO INDICATE THEIR APPROVAL BY SIGNATURE ON THE SUBDIVISION MYLAR; V. SECTION 17.08.100 B. TO REQUIRE SITE PLANS TO CONTAIN PROVISIONS REQUIRED BY FIRE OFFICIALS. VI. SECTION 17.08.100 C. TO REQUIRE A BUSINESS TO INSTALL A PRIVACY FENCE AROUND ANY OUTSIDE STORAGE AREAS; VII. SECTION 17.49.020 C. TO PERMIT SEXUALLY ORIENTED BUSINESSES AS A CONDITIONAL USE IN THE MANUFACTURING ZONE M-2; VIII. SECTION 17.60.010 TO INCLUDE THE PLANNING COMMISSION AND CITY COUNCIL MAY IMPOSE ADDITIONAL CONDITIONS ON PLANNED UNIT DEVELOPMENTS AS DEEMED APPROPRIATE; IX. CHAPTER 17.16 TO REPLACE THE BOARD OF APPEALS WITH AN APPEAL AUTHORITY; X. SECTIONS 16.04.010 AND 17.40.070 TO DEFINE THE

"ADMINISTRATIVE APPEALS HEARING OFFICER"; XI. SECTION 17.08.100 G. TO REQUIRE APPLICANTS APPEALING CITY COUNCIL DECISIONS TO FILE AN APPEAL WITH THE ADMINISTRATIVE APPEALS AUTHORITY; XII. SECTION 17.80.020 TO ELIMINATE THE BOARD OF APPEALS FROM DETERMINING THE STATUS OF A NONCOMPLYING USE; XIII. SECTIONS 17.80.080 AND 17.84.090 TO REPLACE THE BOARD OF APPEALS WITH THE ADMINISTRATIVE APPEALS HEARING OFFICER; XIV. REPEALING SECTION 16.20.110 APPEALS; AND XV. ADDING SECTION 16.24.090 APPEALS.

ACTION Councilmember James made a motion to open the public hearing at 6:35 p.m. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

Mayor Pro-Tempore Miller asked for public comment, there being none she called for a motion to close the public hearing.

ACTION Councilmember Rasmussen made a motion to close the public hearing at 6:37 p.m. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

SCHEDULED DELEGATION:

MICHAEL NELSON - TO REQUEST EXTENSION OF THE PRESSURIZED IRRIGATION SYSTEM TO 6274 SOUTH 600 WEST.

Michael Nelson said he purchased two one-acre lots from Larry Gittins at approximately 6274 South 600 West (county address). This property was annexed into the City in 1998, and subdivided in 2005. He wants to connect to the pressurized irrigation system, but was told he would have to enlarge and extend the line from 200 East 300 South. He owns two and one-half acres of irrigation water from the Paradise Irrigation Company. He would give the City one and one-quarter of irrigation shares in exchange for an irrigation connection. He wants to keep one and one-quarter irrigation shares for the property he owns in Paradise.

Councilmember Rasmussen said the pressurized irrigation system was designed and established to serve a specific area, which does not include property on 600 West. Before the City could authorize the expansion and extension of the line the pressurized irrigation system would need to be evaluated. He is concerned about allowing new connections to the pressurized irrigation system in that specific zone because the City has limited pump capacity in that area. He wants to know the amount of water that one and one-quarter shares of Paradise Irrigation water shares are equivalent to before making any decisions. One and one-quarter shares of Paradise Irrigation may not be enough water to irrigate two-acres of ground.

Councilmember Rasmussen said it will be very expensive to enlarge

and extend the pressurized irrigation line from 200 East 300 South to Michael's property at 6274 South 600 West. Michael would be responsible for the cost to extend the line.

Councilmember James said if Hyrum City grants Michael a connection to the irrigation system the other residents on 600 West may want a connection to the system and there is not enough water nor pressure to serve that area.

Councilmember LaBau said he is concerned about over extending service to the pressurized irrigation system. There have been several years that the City has had to ration irrigation water use due to low river flow.

City Administrator D. Brent Jensen said there is a four inch pressurized irrigation line at 200 East 400 South. A four inch line is not large enough to service all of the property on 600 West. In order for the City to provide irrigation service to the residents on 600 West the irrigation line would have to be enlarged at 300 South. The properties on 600 West do not have irrigation shares to turn into the City and most of these lots are over one-acre. Hyrum City's Hyrum Irrigation water shares are based on river flow, so there is a lot of water in May and June but very little water in July, August and September. Hyrum City would not be able to provide adequate irrigation service to its residents if it weren't for the Porcupine Reservoir shares it owns. Hyrum City stores those water shares in Porcupine Reservoir until July and August when river flow does not keep up with demand for pressurized irrigation service.

Michael Nelson said his irrigation shares are storage shares in Porcupine Reservoir. He wants to landscape his property but in order to do that he needs a connection to the pressurized irrigation system. It would be very expensive to water two-acres of ground with culinary water. He spoke with Hyrum Irrigation President Jared Clawson and the State Water Engineers Office about reallocating the water from Paradise to Hyrum and they didn't think there would be a problem. If he is willing to pay for the extension would the City allow him a connection.

Councilmember Rasmussen said it is cheaper for the City to provide culinary water than irrigation water to the residents on 600 West. If the City has to pump irrigation water, which it will to this area, then irrigation costs far exceed the costs of culinary water. The only way for it to be possibly feasible for Michael and the City is for all of the residents along 600 West to agree to pay for the extension of the irrigation line and provide Hyrum City with the required water shares for the amount of property being served.

ACTION

Councilmember LaBau made a motion to deny Michael Nelson's request for extension and connection to the pressurized irrigation system. Councilmember James

seconded the motion and all four councilmembers present voted aye.

Councilmember James said this item could be readdressed if Michael Nelson and the other property owners on 600 West would pay for all extension and enlargement costs to bring the line from 200 East 300 South and if they were able to provide water shares, that were useable by the City, equivalent to the amount of area to be serviced.

INTRODUCTION AND ADOPTION OF ORDINANCES:

ORDINANCE 08-11 - AN ORDINANCE REVISING AND ADOPTING A POLICY FOR IMPACT FEES FOR WATER, SEWER, PUBLIC SAFETY, TRANSPORTATION, PARKS, IRRIGATION, AND ELECTRICAL POWER SERVICES IN HYRUM CITY; ESTABLISHING SERVICE AREAS FOR EQUITABLE DISTRIBUTION OF IMPACT FEES; REPEALING CONFLICTING SECTIONS OF CHAPTER 3.24 OF THE HYRUM CITY MUNICIPAL CODE; AND OTHER RELATED MATTERS.

Councilmember Miller said on April 24, 2008 the City Council adopted Ordinance 08-11 amending impact fees for water, sewer, transportation, parks, irrigation and electrical power services in Hyrum City.

Councilmember James said he asked for this ordinance to be placed on the agenda for the City Council to reconsider the electrical power impact fee. He is concerned the electrical power impact fee will stop growth in Hyrum because of the exorbitant costs.

Councilmember Rasmussen said there are reasons for an electrical power impact fee. Based on current electric rates it would take a long time to recover costs that should be paid by new growth through impact fees.

Councilmember James said new businesses won't come to Hyrum because of the high commercial electric impact fee. Having a high commercial electric impact fee may be detrimental to future businesses coming to Hyrum.

Councilmember LaBau said the City Council has the authority to adjust impact fees as necessary in order to respond to unusual circumstances in specific cases. If a business is looking at coming to Hyrum, but can not afford the electrical power impact fee it can make a request to the City Council. The City Council can base its decision as to whether to reduce the rates by considering what type of business it is and the benefits that the business will bring to Hyrum, such as, sales tax revenue, employment opportunities, etc.

ACTION

Councilmember James made a motion to amend Ordinance 08-11 by repealing the electric impact fee until it can be further studied. Councilmember LaBau seconded the

motion.

Councilmember Rasmussen said new development has an impact on the existing system and if the City Council does not adopt an impact fee for the electrical power it will come back and financially hurt the City at a later date. He suggested rather than eliminating the electric impact fee to charge 10% or 20% of the maximum impact fee.

ACTION Councilmember James withdrew his motion.

ACTION Councilmember Rasmussen made a motion to amend Ordinance 08-11 by reducing the electrical impact fee from 60% to 20% of the maximum and exempt all lots that are platted/subdivided as of today from the electric impact fee. All other impact fees remain as adopted on April 24, 2008. Councilmember LaBau seconded the motion. Councilmember LaBau, Miller, and Rasmussen voted aye and Councilmember James voted nay. The motion passed.

ORDINANCE 08-13 - AN ORDINANCE AMENDING TITLE 16 AND TITLE 17 OF THE HYRUM CITY MUNICIPAL CODE TO REPLACE THE BOARD OF APPEALS WITH AN APPEAL AUTHORITY; TO REQUIRE A TEN DAY NOTICING PERIOD FOR PUBLIC HEARINGS; TO NO LONGER REQUIRE THE CITY COUNCIL TO REVIEW AND APPROVE SUBDIVISION CONSTRUCTION DRAWINGS; AND OTHER MINOR HOUSEKEEPING ITEMS.

Mayor Pro-Tempore Miller said Ordinance 08-13 amends numerous sections in the Hyrum City Code. Rather than addressing the ordinance in its entirety she suggested the City Council address each proposed amendment individually by motion.

ACTION Councilmember James made a motion to adopt Ordinance 08-13 in segments as outlined earlier in the public hearing. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

ACTION Councilmember James made a motion to adopt Section 16.24.060 as written in Ordinance 08-13. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

ACTION Councilmember Rasmussen made a motion to not approve the proposed amendments to Section 16.20.010 as written in Ordinance 08-13. Councilmember James seconded the motion.

Zoning Administrator Ron Salvesen said Mayor Howard asked him to amend the ordinance to no longer require the City Council to review and approve subdivision construction drawings. In most

cities the City Council does not approve subdivision construction drawings. If this change is adopted Hyrum City's engineer and staff will review the construction drawings to ensure they are complete.

Councilmember James said a City Councilmember should be able to have a copy of the construction drawings if he or she wanted a copy.

Councilmember LaBau said the proposed amendment does not restrict a City Councilmember from obtaining a copy of the construction drawings.

Councilmember Rasmussen said most cities that don't have the City Council approve construction drawings have an inhouse engineer. Hyrum City does not have an inhouse engineer and the City Council needs to have the final approval.

Councilmember James said Hyrum City is fortunate to have Councilmember Rasmussen, who is an engineer, on the City Council. Because of Councilmember Rasmussen's expertise in the field of engineering developers are submitting construction drawings that meet the requirements of City Code. However, since he is not an engineer he does not carefully review the construction drawings.

ACTION Councilmember James made a substitute motion to adopt Section 16.20.010 as written in Ordinance 08-13. Councilmember LaBau seconded the motion and Councilmembers James, LaBau, and Miller voted aye and Councilmember Rasmussen voted nay. The motion passed.

ACTION Councilmember Rasmussen made a motion to adopt Section 16.20.070(H) in Ordinance 08-13 with the following amendments: change the last sentence from "If the City Council waives a portion of the water shares required, then those areas justifying the reduction shall be indicated on the plat, with the notation that if they are returned to irrigated areas that sufficient water shares will be issued to the City at that time." to "If the City Council waives a portion of the water shares required, then those areas justifying the reduction shall be indicated on the preliminary and final plats to be shown by metes and bounds, with the notation that if they are returned to irrigated areas that sufficient water shares will be issued to the City at that time." Councilmember James seconded the motion and all four councilmembers present voted aye.

ACTION Councilmember James made a motion to adopt Section 16.16.030(C) as written in Ordinance 08-13. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

- ACTION** Councilmember Rasmussen made a motion to adopt Section 17.08.100(B) as written in Ordinance 08-13. Councilmember James seconded the motion and all four councilmembers present voted aye.
- ACTION** Councilmember James made a motion to adopt Section 17.08.100(C) as written in Ordinance 08-13. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.
- ACTION** Councilmember James made a motion to adopt Section 17.49.020(C) as written in Ordinance 08-13. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.
- ACTION** Councilmember James made a motion to adopt Section 17.60.010 as written in Ordinance 08-13. Councilmember Rasmussen seconded the motion and all four councilmembers present voted aye.
- ACTION** Councilmember James made a motion to adopt Chapter 17.16 as written in Ordinance 08-13. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.
- ACTION** Councilmember James made a motion to adopt Sections 16.04.010, 17.40.070, 17.08.100(G), 17.80.020, 17.08.020, 17.84.090, 16.20.110 and 16.24.090 as written in Ordinance 08-13. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

OTHER BUSINESS:

CONSIDERATION AND APPROVAL OF BLACKSMITH INDUSTRIAL PARK SUBDIVISION SURETY BOND.

City Administrator D. Brent Jensen said Celtic Bank of Salt Lake is prepared the letter of credit for the Blacksmith Industrial Park project. The City investigated the bank and finds no reason not to accept the bond.

- ACTION** Councilmember Rasmussen made a motion to accept the letter of credit from Celtic Bank for Blacksmith Industrial Park Subdivision. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

CONSIDERATION AND APPOINTMENT TO THE HYRUM SENIOR CENTER BOARD.

ACTION Councilmember James made a motion to appoint Sherma Petersen to serve a five year term on the Senior Center Board. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

CONSIDERATION AND APPOINTMENT OF THE HYRUM CITY APPEAL AUTHORITY.

City Administrator D. Brent Jensen said Attorney Brian G. Cannell at Hillyard, Anderson & Olsen, P.C. has submitted a proposal to serve as Hyrum City's Administrative Appeals Officer. He presently serves as the Appeal Authority Officer for North Logan City, Hyde Park City, Newton Town, and Nibley City. He will charge the City an initial flat fee of \$150.00 per matter. An additional fee of \$25 per hour will be charged for any case exceeding three hours worth of time. The City can pass these fees back on the applicant filing the appeal.

ACTION Councilmember James made a motion to appoint Attorney Brian G. Cannell as Hyrum City's Appeal Authority. Councilmember LaBau seconded the motion and all four councilmembers present voted aye.

PRESENT THE 2008-2009 OPERATING BUDGETS.

Mayor Pro-Tempore Miller said Mayor Howard asked her to distribute a copy of the 2008-2009 Operating Budgets proposal.

At the next City Council Meeting the City Council will adopt the tentative budget and set dates for a public hearing and workshop.

MAYOR AND CITY COUNCIL REPORTS.

Councilmember James said since soccer games for the younger children have been moved to Canyon Elementary there have not been as many parking problems on the east side of the soccer fields.

Councilmember Miller said she is waiting for the librarian comments on the Countywide Library System. Mary Leishman has done an excellent job with the redesign and decorating of Hyrum City's float.

ADJOURNMENT:

ACTION There being no further business before the Council, the Council Meeting adjourned at 8:30 p.m.

Stephanie Miller
Mayor Pro-Tempore

ATTEST:

Stephanie Fricke
City Recorder

Approved: May 15, 2008
As Written