

**ELK RIDGE  
CITY COUNCIL MEETING  
July 14, 2009**

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5 TIME & PLACE  
6 OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, July 14, 2009, at 7:00 PM**; this was preceded by a **City Council Work Session at 6:30 PM**. The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

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9 Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on July 9, 2009.

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12 **6:00 PM –**

**CITY COUNCIL PLANNING COMMISSION WORK SESSION**

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14 ROLL

*Mayor:* Dennis Dunn; *City Council:* Raymond Brown, Nelson Abbott, Julie Haskell, Sean Roylance & Derrek Johnson; *City Planner:* Shawn Eliot; *Planning Commission Member:* Dayna Hughes, Paul Squires, Kelly Liddiard; *Public:* Russell Sly, Alvin & Cecilia Harward, Kirk & Lisa Denning, F. Lucretia Thayne, Ciera Thayne, Heidemarie Foulger, Kenneth Lutes, Tyler Denning, Blake Denning, Kristin Roylance, Chris Salisbury, Jared Peterson, Tom Henriod, Krisel Travis, Gayle Evans & Karl Shuler; and the *City Recorder:* Janice H. Davis

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20 PROPOSED ANIMAL  
21 CONTROL CODE

*(Memo from Planner to Council, dated 7-14-09): Included in the Council Packets...*

**“Background**

22 The city council asked that the planning commission look at the household pet code in regarding the amount of cats allowed in a housing unit. The planning commission discussed the current code regarding cats and recommended that the city limit the amount of cats per household to 2. A public hearing was held on Nov 13. The commission tabled any action to allow time to study the information gained from the hearing. After hearing public comment regarding the proposed chicken code at the Dec 11 meeting and reviewing public comment from the survey sent out regarding chickens and other animals, the planning commission asked staff to review the nuisance code to see if strengthening it would be a better way to control animal problems rather than picking specific numbers. At the Jan 8 meeting, the commission reviewed various other city codes regarding the issues of allowed animals, nuisance code, lot sizes and such. Since then the commission met numerous times to review the proposed code and make changes. On May 14 the commission held another public hearing on the new proposed code. Attendance at this meeting was much lower than the previous meeting (survey probably gained more interest at previous meeting). Both meetings on the animal code and the survey results had public sentiment basically split. The commission drafted the proposed code mainly based on other cities experience. A lot of input and time went into this code.

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There are two parts of the code that the commission is forwarding to the city council. The Animal Control Regulations are a part of the criminal code and are basically what we have adopted with the Utah County Animal Control Code. The Land Use Animal Regulations is the main changes to the code that allow chickens and other animals with limits.

One important topic taken from the public that the planning commission wants to impress upon the council is animal control. Many people spoke about current problems with animals; mainly dogs, some pigeons. The concern was how can you propose new allowances for animals and while not enforcing the code now. The planning commission would like to suggest that better ways of handling complaints be addressed.

**Planning Commission Motion**

Weston Youd made a motion and Kelly Liddiard seconded to approve the new animal code with the for mentioned changes, which are setbacks clarification and the restriction of large animals within the R-1-20,000 and R-1-15,000 zones and submit this to the city council for their approval and that the city council address concerns regarding the enforcement of this code. Vote: yes – (4), Kevin Hansbrow, Kelly Liddiard, Weston Youd, Paul Squires, no – (3), Jason Bullard, Dayna Hughes, John Houck, absent – none (0)

**Draft Animal Control Regulations**

1. This is the Utah County code that is currently adopted by reference in our municipal code.
2. Made minor changes to add reference to Elk Ridge in the code (where needed) rather than county code.
3. Reformatted numbering and some layout.
4. Removed portions of hobby breeders and kennels permit code to development code.
5. This code is what is proposed to be used for animal nuisance issues.
6. Since this portion of code is under the criminal code and not the development code, the commission can only make recommendation to the council, but the council is required to hold the public hearing.

**Draft Land Use Animal Regulations**

1. This is new code placed in the development code to regulate animal uses in zones.
2. Better defines household pets and limits dogs and cats to 2 each.
3. Allows, as a conditional use, hobby animals.
4. Hobby animals include 3-6 dogs or cats, 6 chickens, 6 ducks, 2 ferrets, and 50 pigeons.
5. Total amount of household pets (dogs and cats) and hobby animals allowed is 6 (except pigeons).
6. Revamped the livestock code would allow less total animals than currently allowed.
7. Made limited livestock a conditional use in R-1-20,000 and R-1-15,000 and must have half an acre of land
8. Livestock are required to be setback from neighboring homes and have a livestock management area all based on the size and amount of animals. Only allows small and medium sized livestock in these areas.
9. Only allows livestock as a commercial use in the RR-1, HR-1, and CE-2 zones (these zones allow it now).
10. Allows for exceptions to lot size, setbacks, and numbers of livestock animals through conditional use permit.
11. Expanded kennel code to clarify.
12. Made changes to each zones permitted and conditional uses (added household pets, hobby animal, livestock animal, etc. as permitted or conditional uses. Also made minor clean ups to each zones permitted and conditional uses.
13. The current pigeon code is adjusted and removed from criminal code and placed in proposed land use code.

**Council Discussion**

The best way to review and pass these codes is in sections.

**Household Pets**

- 1. Is the proposed Household Pets code appropriate (clarification of animal types and limits and places Household Pets as a permitted used in all zones except the commercial zone).
- 2. Should cats be limited to 2 (more than half the cities in the county don't limit cats).

**Hobby Animals**

- 1. Is the proposed Hobby Animal code appropriate?
- 2. Some cities allow hobby permits for additional dogs and cats? Is the proposed code right for Elk Ridge?
- 3. Should chickens, duck and ferrets be hobby animals or household pets?
- 4. Should chickens, ducks, and ferrets be required to have a conditional use permit?
- 5. Pigeons currently require a permit; this new code requires a conditional use permit. Is this appropriate?

**Livestock Animals**

- 1. Are the proposed changes simplifying the livestock animals' code appropriate?
- 2. Should medium and small livestock animals be allowed in the R-1-15, and R-1-20,000 zones with a conditional use permit (done mainly to provide a way for current miniature horse and goats)?
- 3. Would it be better to allow miniature horses and or goats as a hobby animal and not open these zones up for other livestock animals?

**Animal Control Regulations**

- 1. Should these minor changes to the code be added to the criminal code?

**Council Action**

The council can accept the planning commission recommendations, make changes to the proposed code, table for further discussion and information, or deny the code for the proposed Land Use Animal Regulations.

The council can discuss the proposed Animal Control Regulations and make any changes they warrant, but a public hearing must be set and heard prior to its adoption.

Due to the complexity of this issue, no proposed motion is being made by staff.

**Comments:**

Raymond Brown: In reviewing the documents and proposed Code; one thing he did not see was the inclusion of the other side of the issues in the Code...or a representation of the rights being taken away from current residents in the zones. He further clarified that there should have been something in the Code requiring the concurrence of neighbors.

Shawn Eliot: The current version being presented requires a "hobby permit" as part of the conditional use permit...with a management plan.

Raymond Brown: There is a difference between notifying neighbors and allowing them the right to object to the ownership of certain animals or fowl by a neighbor...

Dayna Hughes: She explained the process of being allowed to come to a Planning Commission Hearing for the consideration of a Conditional Use Permit; and that would be the arena to voice those objections.

Raymond Brown: His point was that when he and others moved to this City and a particular zone; it was with particular expectations:

- Not to have farm animals near his property (that is now being taken away)  
"Now, to keep the right I thought I had, I've got to go to the Planning Commission now and say, 'Please, let me keep my rights'?"

Mayor Dunn: He asked if the Conditional Use Permit requires the applicant to visit their neighbors.

Shawn Eliot: It requires a notice to the neighbors to come to the meeting; it doesn't require them to go and talk to them.

Raymond Brown: His point is that we "had this big divide here...50X50...I read all the letters, & some are very good and some are very bad...but they were pretty heated...I think we are going to further divide the Community. If you put 6 hobby dogs next to me; you and I are going to have a strained relationship; whereas before, we didn't. I think we are creating more problems." He thought the Code would allow for neighbors to be able to protest the ownership of chickens (or other animals) and that the applicant would have to produce a signed document that all the neighbors agree and have no objections...that option has been taken away with this proposed Code. "We take away rights from one group of people, so other people can have these new rights. But, when you move up here and you pay upwards from \$200,000 to \$2,000,000 for a home, there are certain expectations; and one of them is maybe not having a 'barn' next to me." He feels if a person needs farm animals, there are places to go that already have animal rights; but people should not be able to come into a Community and then change it to fit their needs. The proposed Code has left no avenue for those people that had expectations for their property when it was purchased.

Shawn Eliot: He felt the intent of the Planning Commission all along was...after the public hearings and survey, it was clear that ½ the people wanted the change and ½ did not. The next step was gathering information from other cities and their experiences...and he felt that is what tipped the scales toward their recommendation.

On the chicken issue; there are many cities in the County that allow them and the number is growing...Provo just passed a Code that allows for 6.

In talking to inspectors from other cities, the question has been, is 6 chickens worse than 2 dogs?

Raymond Brown: He offered his opinion that it is not always a good idea to follow the line of thinking of, "let's do what everybody else does"...he cited as an example a time in the past when Provo was dumping their sewage into Utah Lake...other cities followed their example...until the Lake has for the most part, died and the attempt is now going on to try to reclaim it...so he is not of the opinion that "following" always brings good results.

Shawn Eliot: This was based more on talking to the inspectors to find out what problems they have had to deal with. In the last Public Hearing, Linda Cooper was present and spoke of complaints that come into the City Office...some of the problem has been that people do not want to "tell on their neighbors".

One lady called about pigeons and said that her neighbor's pigeons were roosting in her attic...it is hard to go by what the inspectors or City staff say, because we/they do not hear it all. There are dog problems all over town; but there is a certain level that people are willing to live with.

Raymond Brown: Referring to dogs: the City has Codes and Ordinances about dogs that many people do not abide by...there are some in his neighborhood that cause problems everyday. His concern is, if the City has a problem enforcing a small problem; what will the City be able to do when 6 "hobby animals" are added to those animals? There are issues with cleanliness and health, etc. He feels a bigger problem is being created.

Shawn Eliot: He agrees that dogs are a problem, but he does not feel it is a huge problem.

One of the things that came out of the public hearings was that the City needs to do better enforcing the Code.

Raymond Brown: He agreed with that statement; sometimes the lack of enforcement is due to finances, at times it is due to there being so many Codes to enforce. This new Code creates even more laws to try to enforce...example: Many years ago this issue of animals came up and it went to a new Council...one of the issues (application for change) was denied and then was ignored. Where was the enforcement? The City tried at one point, but nothing happened. He feels there is an attitude that people can "do what they want" in Elk Ridge, because they can "get away with it".

Shawn Eliot: The City Attorney advised that the City can go after top 15% of the offenders...the "bad" ones and make an example of those...like with the issue of "cats"...he feels the cat problem has centered on feral cats. In their research on cats, more than 1/2 of the cities do not even try to limit the number of cats.

Raymond Brown: The City does not seem to be able to enforce the landscaping laws; the point being that the City's enforcement plate" is full...now we create more...he is not sure the City can afford to hire an "enforcement officer".

Mr. Eliot: Since he has been working for the City as the Planner, he has received about 5 complaints that have gotten to him. HE asked the City Recorder if the City staff keeps a log of the calls that come in. (*She responded that the Police reports indicate that the majority of their calls are for animal control.*)

Mayor Dunn: He reminded those present that they were in a Work Session; so he would not necessarily recognize the public, if they raise their hands to speak.

Paul Squires (Planning Commission): He spoke regarding the enforcement of the landscaping ordinances; if need be, he said he would act as the "enforcement officer".

Raymond Brown: He suggested to Mr. Squires that he start with one of the Planning Commission, who doe not have his yard in; his time period expired last December. He does not feel it is appropriate that a member can sit on the Commission or the Council and violate the Codes.

Mr. Squires: These Codes can be enforced and with considerable fines, if necessary...he thinks they started off with a \$700 fine...with \$100/day thereafter. These laws can be enforced. He said he is for property rights, until a situation infringes on the property rights of others and results in "dragging down" their property values..."then it is time to do something about it".

Raymond Brown: A point to remember: "we have rights, but we also have responsibilities...sometimes we scream and yell about our rights; but we don't say a whole lot about what our responsibilities are". Example: if a person has a dog that barks constantly; he is legal in having the dog...the responsibility is to "shut the dog up".

Mr. Squires: That would fall under the Nuisance Code.

Shawn Eliot: (Explanation of proposed Code...Continued) One of the problems with the City's current Code is that the County Code was adopted, which actually allows for hobby breeding. If someone goes online to find out what the City's Code says, they would not be able to locate it; because the code simply refers to the County Code that is "kept on file at the City Office". The goal has been to get the regulation actually written within the City's Code so that,

1. Staff can get to and use the Code
2. Citizens can get to and use it

*I. Enforcement:*

The discussion that had been taking place regarding enforcement has been what is needed...how will the Code be enforced and by whom?

*II. Land Use Regulations:*

This is broken into three parts:

- Household Pets
- Hobby Animals
- Livestock

If any part of this Code is passed, the Council must decide what animals are designated as "hobby" animals and which are "household pets"?

Dayna Hughes: If the animals are already here, make them legal; if they are a nuisance, let the Nuisance regulations take care of the situation.

Kelly Liddiard: IF there are neighbors complaining, then the City could use the nuisance Code

Nelson Abbott: The Nuisance or County Code: Violations are considered "criminal"; so there are more 'teeth' in there enforcement. Question: Is it possible to adopt most of the County Code, but not all of it?

Mr. Eliot: Yes, the City falls under the Health Dept. anyway.

Nelson Abbott: There is a certain amount of overlapping between the City Hobby Animal Code and the County Code; he felt the City Code was more refined...some neighbor with a problem could not simply complain and cause problems when no problem exists...an issue could not be made without "probable cause".

Mr. Eliot: Under the Hobby Animal Code, it is proposed that there be an annual inspection to see if the Code is being adhered to.

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3 Mayor Dunn: That is one of the areas he has concerns with:

- 4 - Code Enforcement Officer: How would the City pay for this?
- 5 - Annual Inspections: How to pay for this
- 6 - “Wild Animals” (Question):

7 He had an overall concern that <things got a little more complicated”.

8 Chicken Coops (Feeding pens): The areas must be cleaned and maintained regularly to avoid odor...this will  
9 take either “self-policing” or a complaint by a neighbor (Neighbors do not really like to do that) and it will take  
10 an enforcement officer to check out things...again, how to pay for this service?

11 “We are actually tightening something up that is going to cost more...in time, money and manpower. The City  
12 has already eliminated three positions this year to try to save money.”

13 Dayna Hughes: She reviewed the Conditional use process with fees attached; they felt that would generate  
14 added revenue to help in covering the added costs associated with enforcement.

15 Mr. Eliot: He reviewed the fees: Conditional use fee (\$50 for animals)

16 Mayor Dunn: (Seeking to clarify) The \$50 Conditional Use fee would cover the Hearing at the Commission  
17 level and the work the Planner puts into it; then is there an annual fee?

18 Mr. Eliot: \$15/year had been suggested...

19 Dayna Hughes: It would be some sort of fees to cover the costs.

20 Mayor Dunn: He suggested that a fee schedule for the finances attached to these violations.

21 Mr. Eliot: The penalties tend to classify the types of violations, like a Class B Misdemeanor...but amount of the  
22 fine is not indicated...it just says “up to \$1,000”. There should be a fee schedule for the various offenses.

23 The frustrating part of trying to work with the City’s Code is dealing with confusing or competing issues.

24 With what is being proposed, there are steps in how the process work, with the timing of fees and how they  
25 are paid. Tracking the complaints that come in is part of creating a file. There have been examples where  
26 complaints that come in; the City send someone out to “fix” the problem and a year later they are back where  
27 they started...so a file would be good to have on each case. It all really comes down to the owners; people  
28 need to be “good” owners and be responsible for their pets. The inspectors form other cities that he has  
29 spoken to say that usually, if someone has taken the time to go out an point out that an owner is out of  
30 compliance, that typically the will remedy the situation...but not always.

31 Mayor Dunn: He agreed that owners need to be responsible and Councilmember Brown said that when he  
32 mentioned that. The Mayor recalled that there was a “blatant” response to an issue (violation) by an  
33 owner...and when the Mayor attempted to address the response in a letter...the next thing he knew was that  
34 the Planning Commission was looking at “livestock animals” within this same issue. He has a problem with  
35 livestock animals in residential zones, where they have not been before. One of the reasons it still bothers him  
36 is that this issue was visited thoroughly about 4 years ago...and a decision was made then...now it is back. He  
37 asked the Planning Commission if the City is “opening up ‘Pandora’s box’ with all livestock animals in this  
38 issue”.

39 Mr. Eliot: He feels that it is there to try to address the “pony issue”.

40 Raymond Brown: He reminded the Planner that this is the “2<sup>nd</sup> bite of the apple” (meaning that the miniature  
41 horse issue has come up in the past, was voted down and the owner kept the animal on his property...when  
42 asked to remove it, has not...now it is before the Council once again). He said he is “tired of this Community  
43 (in a general term) asking for forgiveness vs. permission...it’s wrong”. He went on to say that these same  
44 people will pick out which laws they intend to abide by and he feels this is “rude and irresponsible”. He finds  
45 the regulations and set-backs complicated and difficult to enforce.

46 Mr. Eliot: Raising more dogs or cats...it is almost like a kennel...there are different definitions: some are  
47 “commercial” and some would be considered “hobby”. Where the animals are being raised outside, that is  
48 where the set-backs come into it. O

49 On the livestock issue; he feels there are two ways to view this:

- 50 1. We are allowing for small to mediums sized animals with a conditional use permit; or
- 51 2. We would view it as a hobby permit and only allow certain animals under the hobby permit

52 Both of the perspectives were discussed.

53 Kelly Liddiard: He feels the maintenance of those animals is built into the Code; if there are complaints, those  
54 can be dealt with within the Code. He wanted to know whose fault it is if a Code is not enforced.

55 Mayor Dunn: A letter was written to the owner of the pony, saying he was in violation and asking him to  
56 remove his horse to an area where rights would allow him to keep a horse...not on his property. The owner  
57 has been aware that he has been breaking the law for 4 years...”he knows it for a fact”. The Mayor did not feel  
58 it appropriate to share with the group gathered at the meeting that night; due to how “unsettling” it was. The  
59 Mayor said that when he tried to enforce the ordinance, which is his duty, his efforts were ignored. This owner  
60 even contacted the City Attorney and was told the same thing the Mayor had told him; without the Mayor even  
61 contacting the Attorney beforehand. When the Mayor did call the Attorney, he told the Mayor that the individual  
62 had already called him. After that, nothing happened to remedy the situation on the owner’s part.

63 (In answer to “whose fault it is”...) The Mayor said that then the Planning Commission was recommending that  
64 livestock be part of the issue. The Mayor had not requested that the Planning Commission look at this;  
65 because the Council had already looked at it four years earlier.

66 Mr. Liddiard: The Planning Commission realized, once they got into the Code, that they could not just look at  
67 certain parts of the Code, without addressing other “incomplete” issues within the Elk Ridge Code. They felt  
68 the Code needed to be broader.

69 Mayor Dunn: (Referring to “incomplete”) One of the things the Mayor has concern about...when the issue  
70 came up about a year ago, he called the City Attorney and said that the City had some people that wanted to  
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change the zoning ordinances. He explained to the Attorney that the City does allow animal rights (contrary to the chart that was included in the Council packets referring to a comparison of the rights allowed by various cities, including Elk Ridge) and that the City's animal rights zones are residential (RR-1 & R & L – 1 20,000 Zones).

Mr. Eliot: HE clarified that the chart refers to normal residential zones like R-1-15,000 & R-1-20,000). He was not referring to "Livestock Zones".

Mayor Dunn: (Continuing) When he talked to the Attorney about this issue, he said that he has been through this many times...and his recommendation was to protect the zones the way they had been written...to leave residential zones intact and to leave animal zones in tact; and to be as "fierce" with both sides as one can be. So if someone moves into an animal zone and doesn't like the smell or the animals next to him/her and a change to dis-allow animals in that animal right zone is proposed...he advised not to let that happen. He said to fight fiercely to protect the rights that each zone has. This is the position he, as Mayor, has taken. He followed his counsel.

Nelson Abbott: That has not happened consistently. There have been examples when animal rights were taken away from zoning that had them (Oak Ridge Lane area).

Dayna Hughes: She said that it seems like the fear is that this whole issue comes down to the worry that the number of those that are non-compliant will multiply...that is why there has been the attempt to put together a reasonable ordinance that is a compromise between these two opposing views. The intent is to bring some of these people into compliance and perhaps create a more unified Community. People do not like to complain about their neighbors...they can make complaints anonymously; they do not have to be in writing...if there is a call, then "things happen". It seems like it keeps coming back to the one "bad experience".

Raymond Brown: He said that he agreed with what she said, except he does not believe it comes down to this one issue. He feels that the fact that rights would be taken away from those current residents in residential zones, so that a few can have these "new rights"...without a person having no ability for input. Example: If someone is going to have chickens next door, that person should be able to approve that action. The applicant should have to obtain written agreements from all of his/her neighbors to obtain a permit.

Nelson Abbott: He pointed out that when his neighbors built a house, he did not sign-off on the size house he could have built. The Code is there to protect us and within that Code one can build a certain size house on a certain size lot...the Code puts the parameters in place; but the neighbors do not sign-off on the building permit. He does not know if that should be required in these cases either.

Raymond Brown: If someone's rights are being taken away, he would like the chance for a person to say he/she objects.

Nelson Abbott: That is where the public hearings at the Planning Commission level come in.

Raymond Brown: That simply allows someone to come to the Planning Commission...it doesn't mean anything will happen. People have expectations when they move into an area; and those expectations in a residential zone do not included livestock.

Dayna Hughes: She felt that the Planning Commission listens to information that is pertinent to the issues at hand.

Mayor Dunn: He feels one of the problems of making "anonymous" complaints is that the person complaining is not going to stand up in a public meeting and make a complaint, when by phone, that person's name is not attached to the complaint. He spoke to the neighbors of one of the chicken owners and one of the contiguous neighbors said that they do like them (chickens) and that they don't want them and never had...yet the chicken claims that all their neighbors are oak with the chickens. The Mayor informed that owner that was not the case and that the neighbor came to the Mayor to express this objection...this person did not come to the Planner, or to the chicken owner...but came to the Mayor at his office. So this owner's perception was not entirely correct; there is a good neighbor that does not want to offend the owner, who came to the Mayor.

Dayna Hughes: Those objections can be made known in public hearings.

Raymond Brown: He had a lady call him saying that there was a violation with one of her neighbors; Councilmember Brown told her to write down the complaint and action would be taken. The person refused to do so since they "went to the same church". Due to the close associations, people will seldom make the complaint.

Kelly Liddiard: If the people are unwilling to make a complaint; does that mean the ordinance should just be "thrown out"?

Raymond Brown: No, but the point is why are the ordinances not being enforced? "Because we don't have the people that complain about it".

Kelly Liddiard: Why has it taken four years? It was known that "this guy" (referring to Mike Brockbank and his pony) was out of compliance; then all of a sudden, there has been no issue taken with it?

Raymond Brown: There has been. Councilmember Brown explained the measures that had been taken to abate the problem of being in non-compliance...letters had been written, he was told to move the horse...and now he is told to "hold off" while a pending change to the Code is being considered...this allows him to "get another shot".

Alvin Harward (Public: former Councilmember, former Planning Commission Member) *Comment on "grandfathering"*: If a person breaks the law, you can't grandfather an illegal use in. Grandfathering comes in when a use is legal and then if that use is taken away, if the use remains on a particular piece of land...unbroken, then that use is "grandfathered".

Mayor Dunn: To simplify it even more: you can't grandfather illegal actions.

Kelly Liddiard: He agreed. But his point was: if the one in violation of the Code had not responded to letters or warnings, then the case should be filed with the courts through an "administrative citation"; and that should have been done.

Mayor Dunn: Agreed and added that a year ago, his counsel was for those in violation with chickens was to get rid of the chickens and to leave the Code the way it is...and here we are a year later debating the same issue. His position is still to leave the Code the way it is and enforce it. He looks at some of the additional Code being proposed and he has concerns:

Example (quoting from the proposed code): "The owner of a dog or cat (hobby animal) may keep one litter in tact until the puppies or kittens reach five months of age"...who is going to go ask that owner how old the cats or dogs are? (Continuing) "One animal from the litter may be retained until it reaches 12 months of age." How will this be enforced? (continuing) "At no time may the holder of the permit retain more than 7 dogs or cats over 5 months of age." Are we going to go count the dogs and cats?

Kelly Liddiard: This is common in other cities, though.

Mayor Dunn: His concern when he looks at this proposed Code is again...how does the City enforce this? Where do we get the money to do this? This is more complicated than simply leaving the animal rights in the animal right zones.

Dayna Hughes: There are enforcement issues on both sides. The things being referred to are going on currently and no one is enforcing the Code. So will codifying certain things make enforcement more difficult? There should be enforcement going on now.

Mayor Dunn: He felt that his words were being twisted into another meaning. He is trying to keep it simple. A year ago he was trying to keep it simple and enforce the existing Code...and a year later he still desires to enforce the Code that is on the books and to look at the realistic ability the City has to implement enforcement procedures. The proposed Code is more complicated and will take more enforcement and more inspections...and it includes more animals.

Nelson Abbott: HE feels that it will only take more enforcement if "we take it upon ourselves to but into everybody's life". If the Code is used when a problem in the form of a nuisance comes up, then there is something in place to dictate specific enforcement criteria...this will build a more concrete case against those in violation. The County's Code is fairly well-written...with a few exceptions. Whether the Code is adopted or not, he does not think that any of the current problems are going to go away. There will always be problems with dogs and cats, even without chickens...and with wild animals. He is convinced that many of the complaints that come in are regarding wild animals and fowl and are being blamed on current owners, who are taking care of their animals. There are feral animals in this Community (dogs, cats, pigeons & doves, etc.) To say that residents cannot have animals because there are problems with feral animals, he feels is narrow-minded.

Sean Roylance: (Comment)

- He agrees with the advice the Attorney gave to take the Code as it is and protect it the best that we can...through enforcement and also that you don't change it "willy-nilly".

- That being said...there is a reason why our laws are set up to allow the Codes to change. The Constitution and on down to City laws...have components in them that allow for change.

Example: When he first moved to Elk Ridge with his family, their road (High Sierra) was classified as a minor road; this was a big issue in moving to that area...safety was foremost in their minds. When they first moved in, there was little traffic. The circulation plan for the City said that High Sierra was a minor class road...6 months after they moved in, a development that could include 500 new homes off of this same road and the classification needed to change; regardless of his own assumptions when he moved in.

- The nature of a growing Community and the nature of our government is

- 1. there will be change in the community; &
- 2. we need to allow for change when it makes sense

The real question for him is: is this a change that makes sense? Is it needed?

When one looks around the Country, there are cities like New York and Chicago that are allowing for chickens. Probably within a year, most any city in Utah County will allow for chickens. He asks why that is? Why the change? He thinks it comes down to a couple of things:

- ❖ As population grows, tastes and hobbies change and diversify; the more people you get, the greater the variety of tastes. We, as residents, need to respect that our neighbors are not all like us. So how do you say, chickens "stack up to other things that are allowed"...like dogs for example? To be honest, I would much rather have a chicken next door than a dog. A dog is going to bark...a dog is going to come damage my house and poop on my lawn...and eventually, could offer up a physical threat to me or my family. A chicken isn't going to cause any of those problems." It could create a nuisance situation, bur compared to a dog, it he feels it would be far less of a problem. Perhaps a higher standard than a dog should be used...going back to guarding the Code.
- ❖ Looking at the current economy...in an inflationary period, the most valuable thing you can have are food products and the ability to produce your own food. So if someone can have chickens, they can produce eggs and meat at a time when it could become difficult to afford these items. A dog or cat will not provide much of those advantages.

In the end, he feels it is at least weighing the options. He is not saying it is "right" or wrong" to have a position on either side of the issues; but the bottom line is that we can make changes when they make sense. He feels we should be careful in saying that "it was this way before...and it can't every change". He also feels we need to be careful not to assume one person's likes should be shared with everyone. He made the comparison to development with the attitude of preferring no further growth after a person moves into their home. He believes that ways should be sought to allow people to exercise their freedoms and not restrict freedoms unnecessarily, unless it would cause some serious nuisance...but then enforcement can fall back on the nuisance laws.

There are people that moved here with certain expectations; perhaps that expectation should be upheld...at the same time, he does not feel other people should be dismissed that want to exercise their freedoms...in the Country we live in.

Raymond Brown: He wanted to add another perspective on the “food” aspect of Councilmember Roylances’s comments: He figured out, through experience, that people can purchase food (vegetables, eggs, meat, etc) a lot cheaper than one can produce it. When the need becomes apparent, then this type of reasoning makes sense; but not under current conditions.

Sean Roylance: He agreed that it is cheaper currently; but with inflation and the problems that accompany that situation, then it can go another direction quickly...as it has in other nations.

Mayor Dunn: Even tough public comment is not part of a Work Session, the public will be allowed to voice comments during the regular session. The Mayor reviewed for those people coming into the meeting late. He asked the Council for any further comments regarding the proposed Code changes. He also pointed out that it is the five Councilmembers that have the vote...he, as Mayor, does not. He expresses his personal opinion, but he cannot take a vote on it.

*Comments:*

Julie Haskell: She feels the Code should be left as it is and enforce it. She feels it is reasonable to be able to expect zoning to protect the expectation of not having barnyard animals in that residential zone. She also feels it is reasonable if one has property that has animal rights attached to be able to continue in that use. This changing back and forth is misleading.

Shawn Eliot: Typically during the Public Forum portion of a meeting, the public is allowed to address the Council on a topic that is *not* on the agenda for that meeting...he recommended holding public comment until the agenda item comes up regarding animal control, since there are other agenda items to be addressed prior to that one.

The Code that is written, the Land Use portion...was re-written for other reasons other than chickens. There were many parts of the current Code that were unclear and confusing. He wanted to go through those points and ask if they make sense...point by point. There are issues with “household pets” and “livestock” that were very hard to understand and hard to find. The Code was written to not only add things but to clarify as well.

Mayor Dunn: There was another issue he meant to address: Section 10-18-10 “Wild Animals”: “The keeping of any wild animal which existed prior to the effective date of this ordinance may be continued; except that if it is discontinued for six months or more, it shall then be deemed abandoned and any future keeping of wild animals shall be in conformity with this ordinance.” The Mayor understands that wild animals are not legal. His concern is that he got the impression that it would be legal to own them.

Kelly Liddiard: He agreed that they are illegal; there must be a typo because it is not legal to keep wild animals.

Mayor Dunn: The proposed code is non-specific regarding the type of wild animal; it just says “wild animal”.

Shawn Eliot: They would be legal only if they were. All that says is if there were a case where it was allowed, then this is how it would be dealt with.

Paul Squires: There are occasions, in his experience in working with Wild Life Services, where one could have an animal; particularly a bird (like a raptor) that is injured in some way...a permit can be obtained to care for this animal.

Kelly Liddiard: He thinks that that part of the code it there to allow permits for animals like skunks or that kind of animal; but most animals are illegal. He recalls that the code should not allow wild animals.

Shawn Eliot: It is simply saying that if you had an animal prior to this code, you are grandfathered.

Mayor Dunn: (Referring to another section) 10-18-6-3 “Livestock Animals not listed”: “Only one male goat or rooster can be allowed by the Planning Commission”...he understood that roosters are not to be allowed.

Mr. Eliot: That is under “livestock”...that was put in there because the “livestock ordinance” was looking at livestock parts of town, which allow roosters now.

Mayor Dunn: Do we need to put in further definitions to declare the areas that allow roosters?

Mr. Eliot: Yes, we could. Adding the livestock designation in the conditional use was a way to allow for the miniature horse...and then it was indicated that only small or medium sized animals would be allowed.

Raymond Brown: (Clarification) With small horses...a person could have 1,500 sq. ft. and be allowed an ostrich, emu, sheep, donkey, llama or a female goat?

Mr. Eliot: The “management area” is 1,500 sq. ft. per animal...you would need ½ acre 1<sup>st</sup>; then an area would be set aside that is 1,500 sq. ft. for the management area.

Nelson Abbott: The set-backs from neighbors and property lines, etc. would have to be met.

Councilmember Abbott had requested that Item 4-A be placed on the Agenda (“Enforcement of Code – Roosters & Goats”). He wants to make sure that those that choose not to abide by the law, regardless of the vote on the proposed code, be held to the law. He feels that enforcement should be stringent, according to the law.

*The Mayor asked if the Council and the Planning Commission were all okay with the Work Session discussion...there were a few added comments: Dayna Hughes asked that the code not be sent back to the Planning Commission...she feels they have done their very best to recommend what they feel is a reasonable code and it is what it is...to be accepted, denied or changed by the Council.*

The Mayor added his great appreciation of the detailed work that has gone into the effort of providing information and recommended code to the Council. He knows how difficult their job is and can be.

Raymond Brown: (Former Planning Commission Chairman) He knows how hard it is to face certain topics...the animal code has been reviewed in the past.

Paul Squires: (Miniature Horse issue) He did not know the background of the horse owner when the information was presented to the Planning Commission. The benefits were presented in a thorough manner and there was much discussion regarding the issue.  
Raymond Brown: The same things were discussed the first time the information was presented. There was an appeal made listing the benefits, from the owner's perspective.

**ELK RIDGE  
CITY COUNCIL MEETING  
July 14, 2009**

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TIME & PLACE  
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, July 14, 2009, at 7:00 PM**; this was preceded by a **City Council Work Session at 6:30 PM**. The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on July 9, 2009.

7:15 PM -

**CITY COUNCIL MEETING – REGULAR SESSION AGENDA ITEMS**

ROLL

*Mayor*: Dennis Dunn; *City Council*: Raymond Brown, Nelson Abbott, Julie Haskell, Sean Roylance & Derrek Johnson; *City Planner*: Shawn Eliot; *Planning Commission Member*: Dayna Hughes, Paul Squires, Kelly Liddiard; *Public*: Russell Sly, Alvin & Cecilia Harward, Kirk & Lisa Denning, F. Lucretia Thayne, Ciera Thayne, Heidemarie Foulger, Kenneth Lutes, Tyler Denning, Blake Denning, Kristin Roylance, Chris Salisbury, Jared Peterson, Tom Henriod, Krisel Travis, Gayle Evans & Karl Shuler; and the *City Recorder*: Janice H. Davis

OPENING REMARKS  
& PLEDGE OF  
ALLEGIANCE

An invocation was offered by Nelson Abbott and Scout Blake Denning also led those present in the Pledge of Allegiance, for those willing to participate.

AGENDA TIME  
FRAME

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO APPROVE THE AGENDA TIME; ADJUSTING THE START TIME TO 7:20 PM**  
**VOTE: YES (5) NO (0)**

PUBLIC FORUM

Russell Sly (Former Councilmember): (*Read memo from Mr. Sly to Council, dates 7-14-09, re: Flooding*)  
"There is a recurring problem with flood waters in certain areas of Elk Ridge. This letter is to address the problem at Oak Ridge Drive where damage has occurred on several occasions.

The drainage of water collects from Cortez Dr. with its connecting streets and includes Ama Fille Ln. and then proceeds down the upper part of Oak Ridge Dr. to a point where the curb & gutter ends. This is a large collection area and produces a significant flow of water during a heavy rainstorm.

The City has installed new sumps in Oak Ridge Dr. to try to alleviate this problem and these sumps can handle a moderate amount of water. IF the flow is fast enough, the water travels over the grates and the sumps do not collect all the water which then follows the path of least resistance and then flows between my property and McGee's property. Each time this occurs there is a new gully washed between us. The water causes damage to McGee's front yard and enters his garage. The major portion flows down our fence line washing a gully and impacts the neighbors below us. Mrs. Foulger has had significant damage on more than one occasion. The latest storm created flooding and fence damage. Her neighbors brought in a backhoe to dig a rather large ditch across the bottom of my property and also McGee's. This ditch now empties onto a vacant lot below me. This is an unsatisfactory arrangement.

Marsha Wilson also experiences flood damage during these rainstorms and I believe the Erickson's do too. The water problem exists because the curb and gutter ends at my property and does not continue along Oak Ridge Drive again until three lots are skipped. When these homes were built (presently McGee, Wilson and Erickson) the curb and gutter were not required and so was not installed. Now the question becomes what is to be done and who is going to pay for it? I leave it to the City Council to find the remedy and implement action required.

I have had to repair the damage to my property several times and I see no hope for a long term solution other than the installation of the aforementioned curb and gutter.

Respectfully, Russell Sly (46 W. Oak Ridge Drive)"

(Also attached to the letter, were photos of some of the affected areas mentioned in the letter.)

Raymond Brown: (Question to Mr. Sly) "When you were on the City Council, the Council refused to put in curb & gutter..."

Mr. Sly: "No money...they agreed we needed it, but couldn't come up with the money."

Raymond Brown: "so, when the developers were developing, you didn't make them put in curb & gutter?"

Mr. Sly: "At the time those three homes were built, it was not required."

Raymond Brown: "During your administration, when they were building new homes, you guys did not require curb & gutter...you refused to put it in..."

Mr. Sly: "That is not true; we did require curb & gutter in new homes from that point on."

Raymond Brown: "No, Prestwich said that no curb & gutter would be put in, in Elk Ridge...and that was four years of no curb & gutter."

Mr. Sly: "That is not my understanding...to the best of his knowledge, it went in."

Raymond Brown: "He was on the Council with you..." Councilmember Brown went to Mr. Prestwich and asked him why we are not putting in curb & gutter...no curb & gutter went in. It was supposed to go in, but it did not. The City is putting it in Loafer Canyon in house.

Dayna Hughes: Some of it that went in was paid for by the residents (as on Fremont Way).

Mr. Sly: On existing homes, the cost was assessed to the owner; but on new development...

Raymond Brown: This "newly developed property" is impacting some of the other homes. He went to look at Mrs. Wilson's property...the flooding did not go into her house; it did go across her yard. Three sumps were put in...1 1/2 in front of Mr. Sly's lot; the other 1 1/2 on the other side of the street...and then another one on Amerigo lane. There should be one on Hudson Lane. Those sumps are about \$13,000 each.

Mr. Sly: Another problem that is associated with this...whether or not curb & Gutter is installed for those 3 properties, there is a significant amount of water that continues down Oak Ridge Drive that has to be dealt with at the end. Right now, the water empties into a vacant lot, which is illegal.

Raymond Brown: Another thing to remember...a property owner is responsible for the water coming off his/her own property. It is unfortunate that there are acts of nature that the City cannot control. When that amount of rain is involved, the sumps installed will take somewhere around 3,000-5,000 gal. per minute...there was more than that coming down during this last big storm. Curb & gutter would help...previous administration decided not to install it in certain areas and that is impacting other areas of the City.

Mr. Sly: His house does have curb & gutter...that is where it ends.

Mrs. Foulger: It goes through her yard...she had photos to present to the Council showing damage.

- 1<sup>st</sup> she wanted to thank the Council for the sumps and for the assistance

- At times like these, with emotions running high, is a time when patience is required

She is an avid reader of Mayor Dunn's articles and appreciates the wisdom he shares. She does disagree with the last article when he mentioned that a major flood could be expected every 25 or 50 years. Since she has moved in, three years ago...she has had two floods (one in 2006 and this last one). In 2006, her new landscaping was destroyed. She and her neighbor installed railroad ties and made an effort to prevent this happening again. The last storm was severe and frightening. "Waves" of water were cascading down her stairs and within minutes, were filling up her back yard. Her neighbors assisted her to try to prevent the water from going into her finished basement...they managed to do this; however there was a great deal of mud on the lawn that once again destroyed much of her landscaping. Her landscaping insurance will not cover this damage. She was thankful for her neighbors and their assistance. She cannot afford to continue to replace expensive landscaping every two years. The right thing at this time is that something needs to be done.

Jared Peterson: He is a neighbor of Mrs. Foulger...living below her. He has done a lot of construction and he has some points:

- There is a storm drain containment problem (passed around photos)...and several people are impacted.

- When pavement is installed, water does not dissipate into the soil...the water will run on the impervious material (pavement).

- Typically within the design of a development, is the ability to handle a 25 year storm.

(Definition of 25 year storm) This is not a storm that will happen every 25 years...there is a 4% probability that it will happen during that one year and over an average, it should happen every 25 years...but you can have this type of storm several years in a row. He does not feel that what happened to Mrs. Foulger was a 25 year storm.

- Containment of this type of storm should be planned into the design of any development.

- a 100 year storm should be planned for...in the development plan application, item #19 calls for both the 25 year and 100 year plans.

- The General Plan calls for storm drainage and says that the City should plan for development to include storm drainage controls (he read from the General Plan).

He does not know if the City required a plan when the development including the problem area was approved.

The current arrangement is not a good plan to continue with the little control provided.

A problem exists and it needs to be fixed. This was not a case where water can be controlled by individual property owners. There are engineers that can assist in a remedy.

Mayor Dunn: These are all good points. The descriptions have been very accurate. The sump design that was installed in that area actually did take into consideration the 100 year storm calculations. Unfortunately other projects may be substandard and they are different...so problems exist upstream. The brand new sumps are being overwhelmed by the sub-standard sumps upstream. We end up with calculations being over-taxed.

Mrs. Foulger: What can be done?

Mayor Dunn: There are a couple of things:

- Install curb & gutter in front of the three homes without it (This does not fix *the* problem; it would fix the problem for the homes represented tonight.

- There would have to be additional calculations for down-stream and new sumps.

- Another option would be to go up-stream and replace the inadequate sumps

What is happening now is that these people are getting a type of "flash flood" that is a result of nearly 1 1/2" of water coming down in about an hour...that would overwhelm even some of the best systems.

The Mayor has maps of the homes in town with water migration; there were about 12 spots in the Community from up in the south end of Canyon View Drive down to 11200 South (all across town).

Mrs. Foulger: She wanted to know how soon the remedies could be done. (Mayor: As soon as we get money.)

Raymond Brown: The City has been addressing these issues for some time. The new sump design came about 5 years ago. The placement of these new sumps was carefully planned. All these remedies require money and there is a misconception that the City has money to do all these things...this is a mistaken impression. The City does not have it; currently, the City is battling a short-fall in the General Fund...we have eliminated 3 positions, we have cut expenses...

Mrs. Foulger: There is money for capital improvements?

Mayor Dunn: There is a Storm Drain Fund and currently there is not much, since we used most of what we had with the installation of the three sumps a couple of years ago. Thank goodness those sumps were there, or the damage would have been worse.

There are definite steps to assist in the problem:

- Sand-bags
- Installing curb & gutter
- Then they get more extensive and expensive...with the installation of additional sumps (both upstream and downstream)

- In an existing part of town, it does become the Council's obligation to figure out how to fix the problem. Usually, those sumps are developer-driven, and they install them.

- The City needs to retro-fit those issues...to be honest, it is going to take some thinking and one of the topics to consider is the possibility of SID's (Special Improvement Districts). This would be assessed out to existing home owners. It happens in all communities.

*(Unknown comment from a resident on Hillside Drive.)*

Mrs. Foulger: She suggested action as soon as possible...the time for debate is over. She is becoming overwhelmed when she sees clouds in the sky. There is no defense.

Mayor Dunn: Actually, the debate has just begun...and that includes where to find the funds to remedy situation all over town. There is no disagreement that there is a problem; but we are aware of several problems. The biggest struggle is where to find the money

Mrs. Foulger: She appeals to the honorable handling of these issues and at least have the curb & gutter installed now...to prevent any further major damage. She is sure that the Council would not like to see residents leave the City due to major issues not being addressed.

*(Question: Identity unknown):* Are there sandbags available in the City?

Mayor Dunn: Not at this time. We had some, but they were stored in the open yard in the Canyon and were rotted out. We need to get some more...he directed Kent Haskell to get about 200 more. This would be a great Eagle Project. They do rot; they have to be stored out of the sunlight and in a place where weather won't get to them...they are not stored with the sand in them. The City has the sand. This would simply divert the run-off.

*\*This can be on a future agenda to discuss possible solutions.*

Sean Roylance: (Question) What would the cost be to install curb & gutter...per linear foot?

Raymond Brown: About \$5,000 for about 125'...and that is last year's figures.

(So, it would be \$10,000 to \$15,000 for three lots...; and that is "in-house" with the Mayor and Councilmember Brown on the machine.)

Sean Roylance: The next question: If all the problem spots are considered, how many linear feet? And what would that overall cost be?

Raymond Brown: He spoke to Noel Hyatt to try to get a good price (discounted) for a number of homes installing curb & gutter...and he is working on that estimate now...the information is not available from him yet. He needs to see if he can get the property owners to pay for their own curb & gutter.

Dayna Hughes: 10 years ago, it cost them \$600 to install curb & gutter in front of their lot.

*\*The Mayor advised a discussion on this with maps available (prepared by the Mayor) for the next meeting.*

*He suggested creating a priority list and consulting the City Engineer.*

Raymond Brown: When he has talked to many of the citizens, they are very willing to pay for the curb & gutter to be installed...he has not contacted all to the affected citizens, but the ones he has spoken to are willing to pay for it. This is a good sign.

Mayor Dunn: The City will contact those interested regarding future discussions regarding storm drainage.

EAGLE PROJECT

Blake Denning:

He came forward to address the Council. His project has taken him to the Bureau of Reclamation to donate three large picnic tables that need to be refurbished, for the park area. He needs guidance as to where to locate them.

Is the City willing to donate part of the money for materials: bark, stain and water sealant for the tables?

Mayor Dunn: Read from the letter from Scout Denning: "While the teams are prepping the tables, there will be another team prepping the areas where the tables will be placed. This will include making a 6' X 14' area to lay the bark down where the tables will be placed. He mentions donated time and materials...he goes into safety preparations for those involved in the project. He thinks he is looking for locations for the tables.

Blake Denning: He was thinking out by the baseball field and the same on the other side of the park. The tables are moveable for City events.

Paul Squires: These tables were fabricated by the Conservation Corps. They are 8 to 10' long.

Sean Roylance: He asked for an estimate of the costs. Has the Scout thought about ways to raise the money?

Blake Denning: He figures about \$200 to \$300. No, he has not considered various ways to raise the money.

There are a couple of places that may donate materials.

Shawn Elliot: There are a few good trees in the park; he suggested placing the tables in the shade.

Nelson Abbott: There is a spot near the playground area that is in the shade.

*\*The Mayor suggested getting Blake Denning, Kent Haskell and Councilmember Johnson together to locate the best places to put the tables. The Council typically will donate \$100 per Project, after the Scout has determined how much he can earn and has made an effort to do so on his own.*

Woodland Hills has a "chipper" that the City may be able to use or rent.

Mayor Dunn: He will also check with Payson City to see what equipment they have available.

*\*Councilmember Johnson said he would call Blake Denning the next day.*

PUD  
DISCUSSION

Tom Henriod (Representing Rockworth Company and Elk Ridge Meadows, Phase 1) He was present with Mr. Chris Salisbury (representing Elk ridge Meadows, Phase 2). They were there to discuss the three Phases of the PUD:

- Phase 1: Wentworth Development, which is a subsidiary of Rockworth Companies. (They own all of the 50 lots they have.)
- Phase 2: (The majority of Phase 2) Chris Salisbury Centennial Bank took back the lots they lent to Elk Ridge Managers, but they are selling those lots to Salisbury Homes (62 lots of the 88). (Alpine Homes owns 10 lots and have built on 4...then there are some random, individual lot owners.)
- Phase three: Randy Young (owns all of the 82 lots he has)

Including these three owners; this equals about 90% of the owners of the PUD. It is their intention, as owners of the lots in the Elk Ridge Meadows PUD, to:

1. Dissolve the Homeowner’s Association that was created by Elk Ridge Managers, which company has dissolved through the foreclosure process...they are “defunct”. As they are no longer the owners in control, the current owners are going to create an instrument that will be recorded against the property that dissolves the HOA...this basically means (for the City) that this becomes a standard subdivision, ruled by default...by Elk Ridge City regulations.

Additional Intentions:

*Park Spaces...*

1. They spoke to the Mayor regarding those portions of the property, and they have agreed to bring those parks back up to “snuff”...put them back in the condition they should be in; and then have requested
2. The City take over maintenance of them, after they have been brought up to a standard acceptable to the City and accepted officially, after inspection...then maintenance taken over by the City.
3. As a result of constructing and re-constructing these parks; they request that the Park Impact Fee be waived...which will be for public use from this time forward.

That is basically the story; he welcomed any questions and comments.

They feel like, with all the property owners, they are confident that these are the “players” that are here to stay. He feels it is important for the City to know who they are dealing with, as well. They were looking for the vote to take back the park area and to waive the Park Fees.

Mayor Dunn: \$1,385 (Park Impact Fee) X 204 (lots) = \$282,540

Nelson Abbott: (Question) The improvements not completed will be covered by the surety bond? (Yes.)

Tom Henriod: They are not anticipating leaving the Durability Period without installing the 1’ overlay. He is not aware of any failures in the road for their Phase 1.

The Bond is still in place for Phase 1.

City Recorder: Another issue to work out with Phase 2 is the reimbursement of a portion of the Water Impact Fees in repayment for the up-front water money that each Phase paid. The Agreement is with Elk Ridge Managers; but Centennial Bank claims they loaned the money to them, so the reimbursement should come to the Bank...now Salisbury Homes has purchased 62 of the lots from the Bank, so does the reimbursement come to Salisbury Homes? The City Attorney advised paying the money to a 3<sup>rd</sup> party (either the court or placing it in an escrow account and then waiting until the details are worked out).

Mr. Salisbury: Those arrangements are being worked out with attorneys.

Shawn Eliot: Two issues:

- Phase 4: There is the common open space that is in Phase 2...do the town homes have to be in an HOA?

Tom Henriod: He does not know about Phase 4, since it was done separately. He thought it was independent of the other Phases.

City Recorder: That was the big issue at the Planning Commission when they re-applied...then it was discovered that the open space requirement is met through the open space in Phase 2. This is an issue that still needs to be addressed.

Shawn Eliot: The issue now is that the last time they came to Planning Commission with Concept...they wanted zero line lines; against the open space area in Phase 2. Now the proposal is to take the park and all the common areas and have those City-owned. He thinks that the town home development has to be a homeowner’s association.

The last discussion regarding the PUD issues, the City was talking about taking over the park area, not the trails as well. Issues:

- Can the City afford it?
- If the City does take over the park; one way to do it would be to include a clause that there would first need to be a certain number of homes occupied.

The City is below the appropriate ratio in park space per capita; that added park space would benefit the City.

Mayor Dunn: For the HOA in Phase 4, is it just the trails space they need?

Shawn Eliot: They were just asking that they fix up the trails space; but if the city ends up taking over the rest of the open space, including the trails, you don’t want that part to be HOA...you would want to keep the trails public. To take it over right now, with the financial situation the City is in...there would have to be some kind of clause that allows property taxes from occupied homes to assist in paying for the maintenance.

Derrek Johnson: He asked the Recorder what the Park Impact Fee is... (\$1,385 per household).

Tom Henriod: Though he appreciates the Planner’s perspective, he does not feel this poses a problem for the developers. If that were the case, then he feels it would only be fair that the developers be allowed to refurbish the park in stages...until that same level of occupancy is achieved. There is no sense in putting it all in when there is no one there to utilize it.

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3 Raymond Brown: He asked if that would take away from part of the appeal of the development; if there is an  
4 ugly park with a bunch of weeds, how will you sell lots? It would be to the advantage of the developers to bring  
5 it up to “speed”.

6 Mr. Henriod: It comes down to a cost benefit analysis...there are many lots sold without parks. It would be the  
7 decision of the developers; but if the City had the option to take ownership in stages, according to occupancy;  
8 then the developers would expect the same option...that seems fair.

9 Mr. Eliot: Perhaps a “phased” approach would be good; typically the City would wait for two years (durability  
10 time period) to make sure there are no problems, before taking ownership. Maybe the City could do something  
11 during that time to assist...like charging less on water, or not charging for water at all.

12 He knows that the weeds have been cut in that area.

13 *Mayor Dunn cut the weeds on a rented tractor.*

14 It would be good to save some of the trees; it looks as though the grass and some of the trees are done.

15 Mr. Henriod: The Salisbury's have collected 5 different bids from landscaping companies to assess the cost of  
16 restoring the park. Re-vitalizing will perhaps be costlier that starting from scratch, so the staging effect would  
17 be nice.

18 Chris Salisbury: The bids vary from \$25,000 (very low) to \$250,000 (higher side); one came in at \$275,000.  
19 They are working to a solution. The on-going maintenance would be \$10,000 to \$15,000/month on top of the  
20 cost of re-vitalizing it; so there would have to be an arrangement to be slowly turning this over to the City, so it  
21 doesn't become “off-balance”.

22 Mr. Henriod: Fixing up the open space in Phase 1 will cost about \$45,000. Between this two estimates, the  
23 City would be getting their money's worth in waiving the Impact Fees...it will cost more to re-vitalizes it than  
24 would be gained.

25 Mr. Eliot: This is still dependent on the market and a certain number of homes selling...but it would be nice to  
26 get things done sooner rather than later.

27 Derrek Johnson: The City figured only about \$2,000/month to water that park. *(The City's costs are different.)*

28 Tom Henriod: Elk Ridge has a nice feel...it is a nicer place than most. That was part of the willingness to make  
29 the architecture higher than the normal standard. One of the standards they are aware of is the requirement  
30 for fire sprinklers, which they feel is unnecessary. They feel that there are fire service facilities close enough  
31 both in Elk Ridge and in Payson (& Salem) to service the subdivision well. The City requires 1” lines  
32 (connections), with standard fire hydrants. They had thought that, if it is important to the City, they would  
33 “entertain the idea of keeping some architectural standard that is higher than the minimum, in return for a  
34 waiver for the need for fire sprinklers”. They feel like that makes the subdivision appealing and they do not feel  
35 they are endangering anyone's public safety or health by removing fire sprinklers...they would be serviced like  
36 any other subdivision. The home are not huge homes up in the oak brush...they are smaller and down in the  
37 flatter areas of town. In this market, costs are paramount...and sprinkling homes that are 1500 square feet (on  
38 the main) is not very economical. The market back in 2004 – 2006 wasn't real; people cannot pay that price.  
39 They thought about perhaps offering to the City some nicer architecture than the minimums in exchange for  
40 that. He wondered what the Council's thoughts are.

41 Derrek Johnson: This has come up before; the developers want concessions from the City; but what will be  
42 charged for the lots; will there be concessions there?

43 Chris Salisbury: The figures they have put together to install sprinkler systems into the homes range from  
44 \$5,000 to \$7,000 per house. They could use the savings and “dress” up the homes with more architectural  
45 features, which would be \$3,000 to \$6,000...to do both in the current economy would be difficult. Adding both  
46 costs to the home would also make it more difficult and expensive for prospective buyers to qualify.

47 In the market that Salisbury Homes targets, they have seen buyers who would have had a difficult time  
48 qualifying if their debt were even \$50 more than what they had...perhaps that individual should not even by  
49 purchasing a home...this is how “tight” it is right now. If the sprinkler systems are not added into the equation,  
50 the prices can remain constant; with an upgraded product.

51 Derrek Johnson

52 He felt the question on the price of the lots had not been answered and asked again.

53 *(Councilmember Johnson was asked what his perspective of lot prices are at this time, because Mr. Henriod*  
54 *felt they had probably dropped.)* He reiterated that the just wanted an answer to his question.

55 Mr. Henriod: The fliers that are out say the lots start at \$79,900; but they are willing to listen to an offer; the  
56 “power” is with the buyers right now.

57 Mayor Dunn: The Mayor typically asks the Building Official for the City to keep up on any updates with the IBC  
58 (International Building Code). They have passed the necessity for fire suppression systems. He explained that,  
59 at that level, it takes a while for each state to adopt the Code; and then the municipalities will eventually adopt  
60 it. The Mayor estimated a 24 month “window” for this to come to the cities. “We know it's coming.” The  
61 question he has: if this is waived and only a couple of homes are built without the systems; when the cities are  
62 then mandated to have that requirement in place...what happens to any agreement to waive the requirement?  
63 Where would the savings be? We would be back at the same point we are currently. The City's Code is about  
64 two years ahead of schedule on this one issue...fire suppression. The Council has addressed this issue and  
65 they have “wrestled” with it. There are some who wonder why it would be necessary in some areas; but the  
66 fact is that we currently have the requirement throughout the Community and he sees some difficulty with this  
67 Code being reversed or waived.

68 Mr. Henriod: He understands that they are asking for something that is “outside of the current Code” and that it  
69 is the Council's call. It is simply a “judgment call” on their part...Salisbury Homes have built in many places  
70 and they (Rockworth) have developed in many places...the Code may well be changing over time; but they  
71 feel the market also changes the view of what is necessary and affordable.

Mr. Salisbury: He has checked into these changes, not only for this subdivision, but Statewide...The IBC Code for 2009 has passed Nationwide and should be ratified in the Utah State Code in 2011. When that happens, Utah State can actually amend the National Code; one of the amendments they propose happens to be the fire suppression portion of the National Code...they are proposing to amend it out of the Code...so it would not be mandated down from the State level. Each municipality also has the right to either accept the State's amendment, or they can stay with the IBC and leave the requirement in. As it stands right now, Utah State has removed it from the proposed Code, due to the complaints and appeals received.

Mayor Dunn: That is good information that helps with the overall perspective.

Mr. Salisbury: In researching this, he has found that there are valid arguments on both sides of the requirement. He appreciates the opportunity he has had to see things from another point of view besides the costs involved. Perhaps they should get into the fire suppression business.

Mayor Dunn: There would be no action on these issues at the meeting; this discussion was for information. Some of these issues have been discussed in various meetings with staff and developers; the Mayor wanted the information brought before the Council. The Mayor has tried to keep the Council informed as discussions have taken place, except for some of the additional information.

Mr. Henriod: They appreciate the opportunity to have "open discussions" with the Council. He would like for the Council to understand that he believes the current developers of Phases 1, 2 & 3 of Elk Ridge Meadows are people that are "here to stay" and "are here to make a successful, profitable, long-term subdivision" that will benefit the Community. They are not here to develop a "bad reputation" with the Council or the City; they want to work with the City "long-term" and the City's Codes...they want to "develop responsibly". It is good for understanding to be on both sides.

Shawn Eliot: He thinks that in the June Meeting, he understood that the Council's direction was to work with staff to go over the park issues; while the "fire sprinkler" issue would be a question of a possible Code change and the necessity to go back to the Planning Commission. Is this something that the Planning Commission should consider?

Mayor Dunn: The information provided by Mr. Salisbury creates an added perspective. *(Mr. Salisbury thought it may be State Bill 211.)*The Mayor suggested the City look over the Bill.

Nelson Abbott: (Question) He asked about various communities that adjust the timing of the payment of impact fees...some pay up front and others pay at the time of occupancy; is this something that seems helpful?

Mr. Henriod: Their view is that it is better on construction costs since it saves on interest perhaps on \$8,000 to \$14,000 (he is unsure of the total costs of building permits in Elk Ridge)...so about 36 days or more of interest savings during the building time.

Derrek Johnson: Would the City then be "sold short"? Wouldn't the City be losing interest on that money?

Nelson Abbott: He knows the City's perspective; he wanted the developers/builders' perspective.

Mayor Dunn: Everything the City does reflects in the final payment by the home-owner. He is concerned about the future resident/home owner.

\*Shawn Eliot: He, the Mayor & Corbett Stephens will meet with the developers this Friday morning (4/17), at 9:00 AM. The agenda item where a vote will be taken will be scheduled at the meeting.

Sean Roylance: He suggested a Closed Session to discuss the proposed amount of money for the park area. *(The Mayor agreed that this is an appropriate topic for a closed session.)*

Fire Suppression: For him, personally; hid mind is not completely closed to the idea of waiving the requirement; but it might be an "uphill battle". There are reasons that requirement is in place and if it would assist in alleviating on-going costs for the City in the area of fire protection, perhaps it is better to leave the Code as it is.

Mayor Dunn: He informed the Council that the Fire Department is doing their part in seeking assistance through grants; they just applied for a 2.5 million dollar grant to replace the current Fire Station. There are certain restrictions on this grant...it is a "full grant", not a "matching grant". The results of the applications will not be known until December, 2009.

Nelson Abbott: The City is in need of volunteers for the Fire Department.

Mr. Henriod: As the request to eliminate the need for fire suppression in these homes; and as the Mayor mentioned concern for the people who will buy those homes...they simply ask for the Council to look into the various areas in the town and where the most risk is created, as well as the costs involved.

REQUEST FOR  
DEVELOPMENT  
EXTENSION:  
ELK HAVEN  
SUBDIVISION, PLATS  
A & B; C & D; AND  
PLAT E

*Mr. Karl Shuler came to the Council at the previous Council Meeting requesting an extension for Plats A & B; the vote on that request was postponed to gather more information from the City Planner and his opinions on the possible impact of a vote, either way, on this request. There is the issue of the "old" Code vs. the "new" Code.*

*A brief history of certain aspects of approvals granted was reviewed by the City Recorder for the last meeting; a summary was provided to the Council for this meeting (7/14):*

*"Plats A, B, C & D all came in together last year (May 27, 2008) to request an extension at that time.*

**Plats A & B:** Their original Preliminary approval was due to expire in June, 2008 and Plats C & D were due to expire in August, 2008...so they all requested at the same time to get it all together. *(The motion was included in the packets)* The motion states that the extension would be granted from the date of May 27, 2008...which means this extension is expired...thus considered "null and void".

I spoke to Mr. Shuler, as did Mayor Dunn and he understands all of this, but asked to be allowed to submit the request to the Council anyway.

He also called the Planner and Mr. Eliot told him he did not think the second extension would be approved.

Issue: As the Council is aware of, the question to ask is, if there have been any significant changes (to the Plat or to the Code). The HR-1 Code is now in pace, whereas it was not, under the original approvals.

The pro's and con's must be weighed as to the possible benefits vs. problems of allowing these plats to stay under the old Code. If the request is denied based on the time period having expired...then these plats would be back to the beginning of the process (*meaning the approval process*).

Also included in the packet is the wording in the Code which allows an extension..."for a period not to exceed one year".

Shawn Eliot is in the process of clarifying this part of the Code to stress the intent of only one extension being allowed...not repeated extensions. It could be read that was now, but he feels it would be best to further clarify the wording.

Mr. Shuler feels there are examples of extra extensions having been granted...but there are also examples of "Finals" having been extended; but this was a mistake...nowhere in the Code is that allowed."

Plats C & D:

**Elk Haven C & D:** Gayle Evans (developer) submitted a hand written note requesting a four (4) year extension for Plats C & D from August, 2009...on.

**Elk Haven E:** Shawn Eliot asked that this be placed on the Agenda for discussion...along with A through D."

**Karl Shuler:** (*representing Plats A & B*) There has already been discussion at the previous Council Meeting and they also met with Shawn Eliot. *Brief Summary:* By the fall & winter of 2006 and the early spring of 2007, they had worked for about three years with the Planning Commission and the City Council and the Planners to develop the 5 phases of Plats A through E. They had progressed fairly evenly until some engineering problems came up with Elk Haven E, with some drainage problems...they had to re-design their drainage system perhaps 3 times...this is when they got separated. As the road had been approved under the Code they were vested under; then they met with the Planning Commission one final time, and at that point they asked all 5 developers to take one more look at the problem they had with crossing the main road across the steep face; and in the spirit of cooperation, they agreed to go to the other land owners one more time, since 3 years had passed since they had said they did not want to be involved. The other land owners had changed their minds and decided they did want to be involved; then the road had to be redesigned...that is where we all fell behind and then the economy aggravated the situation. A one year extension was granted.

In his opinion, it has been an extraordinary circumstance; they have tried to cooperate with the City...they considered a plan that would better suit the City with road being taken farther to the south to avoid the step face on the ridgeline...that is the primary reason for their delay. There were also added problems with the drainage plan which caused other delays. He felt the delays were no fault of the developers, there will be no adverse affect on the City if an added extension were granted. The City has also spent a lot of time on this development process; thus their request for an additional extension. They want to get caught up and get that road in, as planned. The current Code can be interpreted in different ways regarding extensions, as mentioned. There have been other communities that have issued a "blanket" extension to all developments due to the state of the economy; to allow developers and cities to save money by not having to start over.

**Gayle Evans:** (*representing Plats C & D*) She does not feel another extension will harm the City in any way; in fact she feels it will save the costs put out by the City as well as by them. They do not want to have a development that is ½ built, like the problems experienced in the PUD in the north part of the City. She feels that granting Plats a through D an extension is the economically sound thing to do.

*(The City Recorder mentioned that Mr. Shuler was asking for one additional year; while Mrs. Evans was asking for four additional years.)*

Mrs. Evans said she was asking for "up to four years".

**Karl Shuler:** He was hoping that the Council would grant up to four years to Plats A & B, if they were inclined to do so for Plats C & D.

**Shawn Eliot:**

- Plat E: (Regarding their approval process and the time that it took) Part of that was due to a big issue with drainage; but another issue was the road going through those step slopes. At one meeting the Planning Commission told them to go back and negotiate with the other land owners. When they came back 6 months later, they had failed to do as they were asked. They were directed again to go back and negotiate with those people. So part of that delay was based on them not responding to what they had been directed to do. The Planning Commission was fairly upset because they had not even tried to contact the other owners. Then when they did do as they were directed, there was a positive outcome.

**Mayor Dunn:** He interjected that the road, as currently designed, was laid out previously (3 years ago) by the Mayor. Two of the property owners, who did not want to participate, came and put a stop to the design. When the Planning Commission directed for the developers to go back and talk to these other owners, these other owners had already decided they did not want to be included...then the face of the hill came into the design.

We are now where it all started. He feels this is a better design for the road.

**Karl Shuler:** Everyone agrees that this is the best situation.

**Shawn Eliot:** He has been contacted about the proposed road that was talked about previously...the one that would go south of High Sierra; they are now interested in having that road put in...whereas three years ago, they were very opposed.

The Planning Commission reviewed present request for extension. He showed slope maps to those present and had provided smaller versions to the Council for review in their packets. He indicated the differences in the cuts and fills between the old code and the new Code. This issue alone was proof that the new HR-1 Code does what it was designed to do. The Planning Commission informed Plat E that they are required to develop under the new Code because they did not receive Preliminary Approval along with the other Plats. Under the new Code, there is less impact to the hillside. One of the issues with Plats A – D is the fact that, other than at the intersections, the vast majority of the roads are 10% grades. This has been a concern from the beginning under the old Code...this is why the Code was changed to the HR-1 Code.

**Karl Shuler:** He disagrees that the majority of the roads under the old Code are at 10%. He stated that they are at about 2 or 3% for about 1,200'; but there needs to be some way to get up to the top, and in that short stretch, it is at 10%. Once on the top, it goes back to 8% & under...across the top.

1  
2  
3 Shawn Eliot: The last version of the plat maps...in between the intersections, the roads were at 10%...  
4 At the intersections, they are at 4%. He will show this to Mr. Shuler; but he did not have that plat map with him  
5 at the time.  
6 - Another issue was with Plat C: The building envelopes within the lots along the top go right to the edge of  
7 The 20% & 30% slopes. The Ridgeline Code required 50' setbacks from those 20% slopes...so we do not get  
8 big "rock walls".  
9 The Planning Commission was "pretty unanimous" that they want to go to the new Code. He stated that there  
10 would be a net loss of no lots; but the homes would be set back further from the ridgelines and require open  
11 space. He does not feel that applying the new Code would cause a financial loss from the loss of lots.  
12 (*Plat E actually loses 2 lots.*) If there is an opportunity to adhere to the new Code, the Planning Commission  
13 was favorable of that option. Four years from now, how will we want this development to be?  
14 Karl Shuler: He questioned the grades of the roads under the old Code.  
15 Gayle Evans: The corner could not be leveled enough to install a cul-de-sac at one corner (under the old  
16 Code); why would the new Code make a difference? It won't work.  
17 Shawn Eliot: So then that would affect a lot in that area.  
18 Karl Shuler: He sees the road as being in close to being in compliance; with the majority of the road at 8% and  
19 2 or 3% down lower. The one corner going up the hill is 10% and it is longer than 300'. One would either need  
20 huge cuts & fills or the road would have to be re-routed.  
21 Shawn Eliot: When this was being looked at, they wanted the developers to "show us".  
22 Gayle Evans: She commented that they have been reviewing this for years...designed down to the 8%;  
23 costing the developers thousands of dollars to re-engineer their plats...to meet Codes in place. She does not  
24 see any reason for them to have to start over.  
25 Mayor Dunn: (Question directed to Mrs. Evans & Mr. Shuler) If an extension is granted, then what?  
26 Karl Shuler: Without a "crystal ball", there is no way to predict what the economy will do. These decisions are  
27 market-driven.  
28 Gayle Evans: That is why other cities have granted the "blanket" extensions; to see what the market will do.  
29 Karl Shuler: There does seem to be a bit of a positive turn in the market. This offers hope for the future.  
30 Derrek Johnson: But there have been dramatic changes in the Code that affects development.  
31 Karl Shuler: He finds the statements regarding "dramatic code changes" a bit contradictory: one hand, they are  
32 told that the changes are dramatic...while on the other hand, they are told that the Code doesn't change much  
33 at all. It cannot be both ways.  
34 Sean Roylance: He felt that the message has been that the code changes do not affect the lots much; but the  
35 roads are.  
36 Karl Shuler: It does not seem to impact the road that much either...the only 10% length they have is about a  
37 500' stretch...a little over the current 300'.  
38 Sean Roylance: In reviewing the maps drawn up by Mr. Eliot, the potential for change is there...  
39 Gayle Evans: The comparison is between maps that are engineered vs. the maps presented by the Planner  
40 are not.  
41 Karl Shuler: One road is just a change in the cuts & fills; it did not have to change the location of the road.  
42 The road may have to change on the other end.  
43 *Further discussion on road and associated slopes.*  
44 Sean Roylance: The point is, the way he sees it; there have been some important changes to the Code...Code  
45 changes may not significantly impact the number of lots.  
46 Gayle Evans: "Each owner is independent and it has worked that way for years."  
47 Mayor Dunn: If an additional extension is granted for another year, and if we are in the same position a year  
48 from now...He does not see another extension granted a third time. The new Code would be applied, with  
49 suggestion in trying to keep as many lots as the current plats show. The feeling he gets from the Planning  
50 Commission and the Council is the desire to keep the new Code working properly so they do not lose use of  
51 their land, even though the layout would change.  
52 Gayle Evans: "Anyone can make a 'pretty drawing'...there were lots of 'pretty drawings' before we started."  
53 Sean Roylance: Another concern: In a year, in order to make this work; the upper phase of Plat E would have  
54 to be ready to go at the same time. The developer of Plat E has not submitted anything for that phase.  
55 Krisel Travis: (Representing Plat E) They are planning to phase it; building the lower portion first; then when  
56 the other plats are ready, to go to the 2<sup>nd</sup> phase with the connecting road.  
57 Sean Roylance: That is why he wondered about the timing.  
58 Karl Shuler: Only the market and the economy will tell.  
59 Raymond Brown: His concern is that "this whole thing had to be a joint effort...from way back...5 or 6 years  
60 ago. We said, if you are going to build up there, everybody would have to have a road in & out." He is  
61 concerned that if one of the developers does not develop, and that section is taken out...then no one can  
62 develop. If everyone is not "in concert" and this road is not going in, then it would be a "no"...because that was  
63 what was required all along.  
64 Karl Shuler: They all have to be on board for Final Approval, or it won't happen.  
65 Gayle Evans: The Final was ready for signatures; but the road was re-visited and they were held up.  
66 Raymond Brown: His point was with Plats A – E...if anyone drops out, "it messes you all up". That needs to be  
67 plain (understood); that the development needs to be contiguous...if it is not, the development will not go  
68 forward. Plats A – D were granted an extension and were told that would be "it"...if another extension were  
69 granted, "that's it".  
70 Nelson Abbott: They have had one extension, whether the date was in May or June.  
71

Karl Shuler: It would not have been good to start developing a year ago...“We would have gone bankrupt” and the City would have Elk Haven in the same situation as Elk Meadows PUD  
The economy and the market have to be right to be able to be successful.

Nelson Abbott: He does not want to see the developers placed in a position of having their “hand forced”.  
Based on legal advice, when there has been a substantial change in the Code, a request for extension can be denied. He does not want the developers to have to declare bankruptcy...if they can just hold onto their development.

Sean Roylance: (Question) If things are looking a bit better and if Plat E is not online yet...it has been said you need to go to Final together, but Plat E is not even at Preliminary yet.

Gayle Evans: Would two years be considered?

Nelson Abbott: That is West Jordan’s Code; Elk Ridge’s Code does not allow for that.

Sean Roylance: With the first extension, an additional one would be two years.

Nelson Abbott: He thinks it comes down to what the Code will allow.

(Gayle Evans: They changed their Code (meaning West Jordan). Councilmember Abbott continued: “But they chose to go down that road, we haven’t.”

Sean Roylance: (Back to his question) So, if Plat E is not ready, what else could be done with that road to allow development...since, as Councilmember Brown said, the road has been an issue from the very beginning?

Karl Shuler: There have been discussions regarding a temporary road of graded road base being installed...for emergency egress. It is a possibility.

Gayle Evans: No bank would back installation of that type of road.

Nelson Abbott: Referring to Plat E: He had questions regarding the road location.

Whether Plats A – D get their extension or not, Plat E is on the other end and they could get their smaller subdivision approved, since they are on the end and can loop the road. Realistically, Plats A & B could loop their road as well, taking into consideration the length of a “dead end” road. They could do that within the current Code.

Shawn Eliot: Rather than waiting until later in the meeting, he discussed Plat E at this point  
With the Code as it is, Plat E (Phase 1) could go in with 16 lots. They are asking for 25 lots on that one access. He demonstrated referred back to Fairway Heights (Fitzgerald’s portion)...they “stubbed” their road and planned a common turn around at the end; knowing that someday, the road would connect on through. At the time, even with the Hillside Code, longer cul-de-sacs were proposed. The City Attorney advised that, since the City was working on the new Code, the developers could be allowed to have a longer cul-de-sac, if the Council felt that they would pass that part of the Code. At the time the Planning Commission was going to recommend 1,000’ with 20 lots per access. That night at the Council Meeting, (he thinks it may have been Councilmember Abbott who mentioned the following): He added up how many lots would fit on 1,000’ and it came up to just 16 lots. The thing no one mentioned was, those 16 lots were on the 1,000’ of road...when the actual access was taken into consideration; there were actually 23 lots in the area.

Elk Haven, Plat E (Phase 1) is proposing 23 lots...they are designing the road according to the new Code (with ½ acre lots rather than 1/3 acre lots). At the Technical Review Committee, some questions came up:

- Kent Haskell was concerned with more cul-de-sacs in this area
- The proposal was, to take a loop road up the Gunderson’s dirt road and tie it into a cul-de-sac.
- The Canyon View route had 15% grades
- The cul-de-sac option had 12% grades

*(Neither fit the City’s Code.)*

- Another option was to shape our road standards to allow for an “all-weather access route” (a smaller road, not full-width)...but would allow snowplowing.

The actual design does not work. They are proposing to keep the cul-de-sacs (one a temp. turn around) The Code allows for both. Should this be removed from the Code, if we do not want cul-de-sacs?

Another issue was with the International Fire Code (IFC): Other cities were reviewed for the number of units per access: Payson allows 10; Elk Ridge – 16; Lindon allows 12; but the majority of the cities allow 20 unit...many cities are adopting the IFC, that allows 30 units (without fire sprinkling); if fire sprinkling is required, they allow more per access. The Planning Commission felt that 16 units would be appropriate, until they considered the access above the road and then they felt comfortable with 25 units.

The question of safety: Some cities require two accesses.

Plats A - D are concerned because if this is approved, and Phase 2 does not happen, that would not be good for them. Perhaps these concerns can be addressed in an agreement. With the current Code, 16 lots are possible; more units would require a Code change. This area is flatter where the lower phase is located.

Krisel Travis: In considering safety, the Fire Code does allow for 30 units. The developers do not intend to not do Phase 2; they would just like to get started as soon as possible and get to Preliminary with Phase 1...then get caught up with the other Plats and address Phase 2.

Sean Roylance: When 16 lots were discussed with regards to Fairway Heights, he recalls the discussion being based around one cu-de-sac; rather than an access.

Shawn Eliot: If more units than 16 are allowed, they would have to go back and apply for a change in the Code. This is what they are asking for. The total access should be talked about rather than the cul-de-sac; that is perhaps an error that needs to be addressed.

Nelson Abbott: There is a lot of difference in the amount of snow in the upper areas of the City; there could be problems in keeping the roads clear. The Public Works Dept. and their recommendation in this area are important. The school busses are a consideration. When the Planning Commission initially looked at the Preliminary where High Sierra was to be connected onto, that was an issue...to bring bus service in...and this comes back to grades.

Mr. Eliot: The length would only be twice as long as Oak Lane, which isn't really that far to walk for students.

City Recorder: This really comes down to whether the Council wants this development to go all together or whether each plat should be thought of as separate. If both ends loop the road, Plats C & D would be in trouble. The City has seen what the economy has done to other developments that have gone in phases...they had every intention of going forward, and through no fault of their own, lots did not sell.

Sean Roylance: Plat E can go forward on its own; the Council does not have to approve their request to allow more lots per access.

Nelson Abbott: The Council could force them to go with the Code, which is not necessarily a "bad thing".

Krisel Travis: They fully intend to go forward with both phases and keeping everything together. *(There were other comments, but the sound system could not pick up the comments.)*

Mayor Dunn: (Clarifying with Ms. Travis) So, you would not even be breaking ground for another year; right?

Ms. Travis: Yes, it will take about that long to get through the approvals and the engineering.

Shawn Eliot: They are at the Council Meeting simply to "get a feel" for how the Council would accept a recommendation to change the Code to allow more lots.

Mayor Dunn: asked the Council how they felt about going from 16 to 25 lots:

Raymond Brown: He was not in favor at all. He spoke to both the Public Works Superintendent and the Fire Chief and they are not even happy with 16 lots...he would go with the experts.

Julie Haskell and Derrek Johnson: Agreed with Councilmember Brown.

Nelson Abbott: He also agreed with the other Councilmembers.

Sean Roylance: He would not be opposed to 20 lots; he was thinking in terms of a "cul-de-sac" rather than an "access"...he feels this makes a difference.

Raymond Brown: He still feels the development needs to go together. He does not feel a section should be changed to allow a loop, rather that going together.

Mayor Dunn: He thinks that it should be considered...the number of 40 units would not be on this kind of terrain. The features of this do create other issues...he kind of likes the 16 lots; and if it means adding another phase.

Ms. Travis: It is the same roadway, just more homes on the other side; and the roadway would go through when the other plats come online. She does think fire suppression systems are good, even though they add cost. The IBC does allow above 30 units with fire suppression. They wanted 30 units, but backed off to 25 and felt comfortable with that number.

**MOTION WAS MADE BY RAYMOND BROWN THAT ELK HAVEN, PLATS A, B, C, D & E STAY AS ONE UNIT AND GRANT PLATS A, B, C & D A ONE YEAR EXTENSION FROM MAY 27, 2009 TO MAY 27, 2010 (NO SECOND ON THE MOTION)**

*Motion died for lack of Second*

*As a matter of formality, Councilmember Nelson moved to deny the request:*

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO DENY THE REQUEST FOR AN EXTENSION FOR ELK HAVEN, PLATS A, B, C & D**

**VOTE: YES (4) NO (1) RAYMOND BROWN**

*Passed 4-1 (to Deny Request)*

Gayle Evans: She asked for a "good reason" for the denial.

Derrek Johnson: He felt that they had already been granted an extension; the Council cannot keep granting extensions.

Nelson Abbott: He agreed that part of the reason was due to significant changes in the Code.

*Elk Haven, Plat E:*

Ms. Travis: Since she has no idea when the other Plats will move forward; she argued in behalf of the 25 lots.

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO STAY WITH THE CURRENT CODE, ALLOWING 16 (UNITS) ON A CUL-DE-SAC; AND UNLESS THESE PLATS WORK TOGETHER, THAT THE CITY DOES NOT ALLOW 25 OR 30 (UNITS)**

**VOTE: YES (4) NO (1) SEAN ROYLANCE**

ADOPTION – ANIMAL CONTROL CODE

Raymond Brown: Even though the Council and Planning Commission went through a Work Session on this issue; he still had the same concerns. He felt that Councilmember Roylance's comparison "expectations" regarding road classifications expressed more of a "hope" than an "expectation". He does think that there are expectations the citizens have when they bought their property. He feels the neighbors surrounding an applicant for a hobby conditional use permit should have a say in their ability to obtain that permit. He feels there are rights being taken away from the surrounding neighbors.

Nelson Abbott: Section10-9A-9-2 "Conditional Uses": (Read Conditional Use Regulations) "These uses can be denied if found the negative effects outweigh the positive, or if the health, safety and welfare of the people is jeopardized". He has had additional conversation with the Planner for additional clarification. Example: "If I, as an example, decided I wanted to have chickens and my neighbors were allergic to chickens, they could come

1  
2  
3 in and say they were allergic to them and that would be the ...pretty much the end of the discussion...if that  
4 was the case. Or, if there were other issues where maybe they work 'graveyards' and they're home during the  
5 day...". When he moved here he had the expectation that the hillside above him would never touched...  
6 (*Councilmember Brown feels that was a "hope" rather than an "expectation".*) He realizes this was a "hope";  
7 but he has seen other portions of the Code that have changed...that allow and facilitate different things to  
8 occur...like "building heights". He does not know that one can hold to the expectation that things will never  
9 change. The only constant he knows, for sure...is change.

10 He has read through the minutes of the various meetings held by the Planning Commission, and he feels there  
11 citizens need to be able to "back-up" their statements...it goes both ways. He feels the Planning Commission  
12 has worked very hard to come up with way to come to a common ground. They have provided a way to have  
13 the opportunity for input, whether they choose to or not...it is up to them. The attendance at this Council  
14 Meeting is not what was at the Planning Commission Public Hearing...if people choose not to come in to state  
15 their concerns, it is up to them. There are those who take the time to "jump through the hoops" and follow the  
16 Code and are trying to legitimize what they are attempting to accomplish. Prior to this, these people were in  
17 violation of the Code; but he feels this proposed Code is an opportunity to provide a chance for our citizens to  
18 do things beyond what the current Code allows. He believes opportunities should be sought to expand the  
19 rights when ever possible; as long as it does not "trample" the rights of existing citizens. Whatever the Code is  
20 when people move into the Community; that will be their expectation...it is a "snap shot" in time.  
21 Councilmember Abbott read the article in the Daily Herald with the Mayor of Provo's statement regarding  
22 vetoing the animal control code that came before him; his reasons...over regulation and the permit fee. Does  
23 the Council need to micro-manage people's lives. Perhaps allowing things to be handled as they become  
24 apparent and become a problem is better...the fire dept. puts out fires as they occur.

25 He feels people should be able to manage what goes on in the confines of their own yards.

26 Mayor Dunn: He asked Councilmember Abbott if he is suggesting taking the annual inspection requirement  
27 out of the proposed code. (*Yes, he does.*)

28 The Mayor reminded the Council and those present that the "applicant" is the City Council. When reference is  
29 made to the City helping citizens "who have made a request"...there has been no "request" nor has there been  
30 a fee paid to change the code...it is a City Council issue. The Council became the "applicant" by vote of the  
31 Council.

32 He agreed with Councilmember Brown...if his neighbors wanted to have a horse, chickens, etc.; he would love  
33 to be able to say, "No" to that. He does not want the smell or the sound next door; and when he bought ground  
34 and built in the 80's, he looked into that issue. He did not buy that property to raise farm animals. He thinks  
35 people that exist in a zone should have a say in keeping their current property rights protected.

36 Regarding "waiting for fires to pop up": that is what got the City in the place we are at now. In some instances,  
37 too much time was spent in waiting on certain violations. Putting out fires depends on who the neighbors are  
38 and what the violations are; he thinks it will become more complicated.

39 Raymond Brown: He asked Dayna to clarify a point: If he wanted to have a llama, he could evidently have two  
40 of them if he had 1,500 sq. ft. per animal...of pasture type land; right? (*It was mentioned that a ½ acre lot*  
41 *would be required.*)

42 Dayna Hughes: This would be with a conditional use permit.

43 Shawn Eliot: He described the requirements for setbacks for animal units. This was not part of the proposed  
44 code until the end of the discussions with the Planning Commission because they were trying to figure out how  
45 to allow for a pony. They considered placing ponies with "hobby animals" and specifying that particular animal;  
46 or list it as livestock...with a conditional use. Many cities with ½ acre lots and above allow this in residential  
47 areas. That is one of the questions listed in the "staff report"; which is more appropriate? Do we allow medium  
48 to small livestock animals in these zones (residential zones)?

49 Raymond Brown: He simply wanted to understand..."if my neighbor brings in a donkey...he has to have 1,500  
50 sq. ft. (not counting his home)... (*Unknown person: "Right."*)

51 City Recorder: She brought up the issue of "dogs" being listed as "hobby animals"...then a person could have  
52 up to six dogs.

53 Shawn Eliot: That was written in for people who already have that many and are raising them to sell; usually,  
54 under those conditions they are not "stirring up" the neighborhood. Under the "hobby animal" code, a person  
55 can have 6 animals total (including cats, etc.). If they want to apply for a hobby breeder permit, there are steps  
56 to go through the process....certain criteria to meet.

57 City Recorder: (To clarify) IF someone wants a bunch of animals and they do not have a permit for those  
58 animals; then enforcement would be under the nuisance code?

59 Mayor Dunn: Right; it becomes a "criminal" offense.

60 Shane Eliot: Many of the issues were discussion points, including reviewing the practices of other cities. If  
61 these issues do not meet the Council's approval, the Council can change the proposed code. Some owners  
62 with 4 or 5 dogs do not create a problem; others do...even with fewer dogs.

63 He suggested going through the various sections of the code with the Council.

64 Raymond Brown (re: cats): He asked if he would be allowed to have six (6) "hobby cats" without a run, a pen  
65 or a coop or anything...but they have to be kept 25' away from the residence.

66 Shawn Eliot: There should be some kind of "pen" for them, then yes. The issue on "cats"...again, many of the  
67 cities do not regulate them at all. That is a question under "hobby animals": the definition was specific.

68 Mayor Dunn: (re: cats) The city owns "cat traps" and there is a waiting list for residents to use those traps.  
69 They have been successful in getting rid of the cats that create problems...it has been interesting to hear the  
70 issues surrounding cats.  
71

There are problems reported to him and many are about feral (wild) cats. If owners do not take care of their animals, then it becomes a problem for the neighbors...those neighbors have the right to keep those cats (and other animals) off of their property.

Shawn Eliot: The nuisance code says that dogs are to be contained on your property...and cats are to be contained, as well...this is so that when there are problems, neighbors have a legal recourse.

Review of the proposed

- **“Common Household Pets”** (10-18-4) was redefined...the question is how to classify them and whether to limit the number. “Kennels” are in Commercial areas; “common household pets” must not be raised for commercial uses.

Council Comments:

Nelson Abbott: He had a “degree of discomfort” with neighbors being allowed to have 6 dogs...two is a problem. HE felt the code should be left as it was; not allowing dogs as hobby animals.

As the Councilmember that moved to send the animal control code to the Planning Commission; he does not feel the Council intended on expanding dog ownership opportunities. (Mayor Dunn: Agreed with Councilmember Abbott.) If they are listed as a “pet”, then if they have a litter, they have until the puppies are 5 months old to get rid of them (current code). He feels the Planning Commission was trying to be comprehensive in the handling of animal issues.

Shawn Eliot: This would not allow for a hobby permit for extra dogs...

Sean Roylance: He had a concern for the person who wanted to have four dogs and would be a responsible pet owner...that would not be allowed.

*It was suggested to get a “straw poll” on the Council’s opinion on each of the questions regarding the sections in the proposed code.*

Shawn Eliot: The Council could choose to leave out the sentence in the proposed code 10-18-4, “Additional dogs (or cats) can be permitted by obtaining a conditional use permit...”

Nelson Abbott: He was not sure that the number of cats should be limited; just deal with the problems as they occur.

Mayor Dunn: The City already faces problems; he sees that bigger numbers (more animals) will cause more problems.

Sean Roylance: His opinion on dogs: He would feel comfortable with 4 dogs...with a permit; until they become a nuisance...then they could be reduced back to two.

Nelson Abbott: Agreed with starting with 4 and adjusting the number if the need should arise.

Raymond Brown: He felt the Code should be left as it is; with 2 dogs and the possibility of a litter for a period of time.

Julie Haskell: She agreed with Councilmember Brown.

Derrek Johnson: He agreed with the current Code...2 dogs.

Shawn Eliot: What about cats?

Nelson Abbott: Requiring that cats be maintained on their own property give recourse to neighbors if a cat becomes a nuisance.

Shawn Eliot: It is in the County Code and there is no change from that.

Mayor Dunn: There has been a big problem in his area of town with “rogue” cats causing considerable damage.

Sean Roylance: He was not in favor of unlimited numbers for cats; but perhaps 8 to 10 cats...dogs are loud and can be dangerous; cats are not.

Raymond Brown: He was in favor of having the same number as for dogs...2.

City Recorder: The new code would allow six cats, if you have a permit...without a permit, two would be allowed.

Lucretia Thayne: To some people, cats are companions.

Raymond Brown: How many “companions” are necessary? He agreed with the Planning Commission’s recommendation.

Derrek Johnson: He also agreed with the Planning Commission...“nothing else makes sense”.

Lucretia Thayne: She asked if the number of cats is tied to the number of dogs one has...or other hobby animals.

Ciera Thayne: She feels laws should take into consideration people’s differences in preferences; people have different tastes. People can be responsible with their pets.

Mayor Dunn: It is the irresponsible pet owner that creates the problems that the City must address. There must be a reasonable number.

Raymond Brown: He recommended staying with the Planning Commission’s recommendation on cats...2 cats, unless there is a hobby permit.

*There was no dispute to the contrary.*

- **“Hobby Animals”** (10-18-5) *The definition was read.* The total number allowed would be 6 (total combined) per residential lot...except for pigeons (50 allowed)

Sean Roylance: He suggested 8 (combined).

Nelson Abbott: He felt the “defining line” would be whether they are inside or outside animals.

He had a question regarding ferrets: They were listed under “hobby” animals; yet they are typically purchased through a pet store.

Shawn Eliot: Usually people get two ferrets...so they could be under household pets.

*The Council felt ferrets should be under “household pets.”*

The total combined number of household pets and hobby animals allowed is 6 per residential lot (50 pigeons).

Chickens and ducks are listed as hobby animals, but can also be considered under the “livestock animal” regulations in zones that allow livestock. The combined number of 6 does not apply to livestock areas. He reviewed the proposed animals for the list of hobby animals: Dogs (Removed and left as household pets); Ferrets (Taken out and list as a “household pet”); pigeons (already in the code under conditions uses).

Nelson Abbott: The proposed code for pigeons is looser than the existing code. The code is specific regarding pigeons on people’s roofs...they just need to call and it will be taken care of. He does not want other people and their lack of responsible handling of their bird to affect him raising his birds.

Julie Haskell: She wanted to know how the setbacks were arrived at....Could the animals be located close to the property line?

Shawn Eliot: if the house was far enough away.

Nelson Abbott: The location must be closer to the owner’s house than to a neighbor’s house. It must be at least 40’ from the neighbor’s house.

Shawn Eliot: It is proposed that an applicant provide a management plan to show how and where the animals will be cared for.

The pigeon code was simply streamlined; it was not changed much. The conditional use permit has replaced the annual fee to own pigeons. If there is something that the Council feels should go back in; that can be done.

Mayor Dunn: (Polling the Council on the 30’ setback for hobby animals) *There was no disagreement.*

Shawn Eliot: If someone has 8 cats right now and they are not creating a nuisance, are grandfathered; the same with pigeons.

Mayor Dunn: He reminded those present that a use can only be grandfathered if it is a legal use...currently there is no regulation on the number of cats.

- **“Hobby Animals – Ducks & Chickens” (10-18-5-3)**

Shawn Eliot: *Review of proposed code)*

1) Do we allow ducks & chickens?

2) Will there be a permit process or will they be classed as “Household pets”?

*(Many cities allow them as household pets)*

Mayor Dunn: Read from a letter from the Utah County Health Director. The Mayor and the Director were discussing the “avian flu”...in discussing various aspects of this flu, the Director said that the avian flu was found by migratory birds in the New England states. The Mayor wanted to know how the flu is spread. The response was: when wild birds are allowed to mix with un-cooped birds that are not protected. Is this an issue now? Not currently. Can it become a problem? Yes. The Director told the Mayor that in 3<sup>rd</sup> World countries, these fowl are allowed to enter dwellings and be a part of the family. He said that is when the people get the disease...when they co-exist and even slaughter their animals after they mix with wild birds. The Mayor asked if this could be a problem here in the US...and he said that it can. Protecting the birds is also a way to protect the people. He is unsure if slaughtering is allowed; he feels the code is unclear. *(The Planner said it was in the proposed code, but the Planning Commission removed it.)* Dr. Miner (Director) speaks on these issues and says it is not a matter of “if” it is “when”...it is an issue of cleanliness.

The conditions were reviewed. The Mayor called attention to the odor being kept under control and other possible nuisances.

- **“Hobby Animal – Pigeons” (10-18-5-4)**

Nelson Abbott: He pointed out the main difference between the new code and the current code: pigeon Licenses are no longer required; it is now listed as a conditional use.

Shawn Eliot: It has been recommended to change from the higher conditional use permit fee to a \$50 fee for animals.

There should be decisions on numbers and whether or not to require a permit.

Nelson Abbott: The conditional use permit process was utilized in the proposed code to “smooth out” the rough edges of an amendment that some felt was being forced upon them. It also gives the City the opportunity to take immediate action against those in non-compliance. If owners are not willing to adhere to the regulations then their animals “should be gone”. He feels if people are raising chickens, it is a hobby...it is not necessarily for produce or meat. Hens only lay eggs for about two years before they should be eaten.

*(There was no dispute with this assessment.)*

- **“Livestock Animals” (10-18-6)**

Shawn Eliot: This proposed code clarifies the existing code, which can be difficult to interpret.

The Planning Commission suggested using the livestock requirements for medium and small animals only (in the R-1-15,000 & the R-1-20,000 Zones) under the conditional use permit process, with a management plan. The code allows for exceptions for smaller lots...the Planning Commission can review the application.

Nelson Abbott: He sought clarification on how the sizes of animals compare with hobby animals...

Shawn Eliot: Reviewed the code. The size of the lot and the “livestock management area” is taken into consideration. There are about 80 lots in the residential zones with ½ acre or larger. There is a table illustrating these requirements (10-18-6-2).

The Planner also referred to an “Applicable Zones Table (10-18-8-1) showing what is allowed in the various zones as “permitted uses” and “conditional uses”.

Hillside Zone: This zone currently allows for “grazing”, with no definition of what “grazing” is; so does the CE-2 Zone...so it is recommended that livestock be allowed in those Zones. The R-1-15,000 & R-1-20,000 Zones are the most affected Zones. The question would be whether or not to allow medium to small animals in these two Zones; or would miniature horses be classed as “hobby animals” and not allow other animals in these Zones.

Raymond Brown: What is the policy for other miniature animals...like a miniature Brahma cattle. Are they just added in when they are brought into town?

Shawn Eliot: That is up to the Council. The code does also say, "...or like animal"; that would up to the Planning Commission to determine if an animal qualified as a "like animal".

Nelson Abbott: He added that the door is "closed" at this point in time; unless the owner would apply for a zone Change...they become the applicant.

*The Questions: Should livestock animals (medium & small) in the R-1-15,000 & R-1-20,000 Zones, or should just a pony or a goat be allowed as hobby animals; or not allow any of it and leave livestock in the livestock zones?*

Nelson Abbott: He feels miniature horses should be allowed as "hobby animals".

Mayor Dunn: He does not want to see livestock in either of these residential zones.

Kelly Liddiard (Planning Commission): *There is precedent for allowing more of a classification of a "hobby animal".*

Julie Haskell: She is not in favor of allowing any livestock in residential zones.

Raymond Brown: Not in favor of allowing livestock in residential zones.

Derrek Johnson: He is in favor of miniature horses being classed as "hobby animals".

Sean Roylance: He agreed with moving the miniature horse as a "hobby animal"...one pony.

*Decided: Move the miniature horse to "hobby animal".*

- **"Kennel"** (10-18-7)

Kennels are only allowed in the Commercial Zone....leave as is.

- **"Conditional Use Permit"** (10-18-9) Conditional Use Permits are approved by the Planning Commission.

The proposed code took the current code and "refined" it and made it easier to access; it also combines a bit with the County Code.

- **"Wild Animals"** (10-18-10)

The code basically says one cannot have wild animals in the City, unless the owner is "grandfathered".

The code also deals with various definitions.

Shawn Eliot: The "Criminal" portion of the code will require a Public Hearing at the Council level; the Planning Commission is over the land use portion of the code. The Mayor felt it was wise to vote on the land use part of the code at this meeting.

*Comments:*

Sean Roylance: He wanted to know what to expect in the way of fees for condition use permits.

Shawn Eliot: Conditional Use permits for animals would be lower; \$50 was suggested.

Nelson Abbott: What about inspections? (*Shawn Eliot: That is only on the livestock...hobby animals and conditional uses permits: they take place when someone complains.*)

Can the complaint be anonymous? (*If the sheriff is called, the sheriff will list the type of complaint and a description of what happened and the date...no address anymore.*)

City Recorder: If a resident has a complaint about a nuisance and it is checked out, would it still remain anonymous?

Shawn Eliot: If he were checking the complaint out, he would not bring up who complained. But if it goes to court, then there would have to be a witness willing to attest to the violation. Most people do not let an issue get that far. He would create a file on the violation.

He will have to re-write the section on a hobby permit for livestock.

Disease is under the County code.

\*Fees will be charged by resolution...a statement of this nature needs to be added...\$50 has been suggested for animals.

\*To be added: the portion about denial based on health, safety and welfare being jeopardized.

*Comments:*

Todd Phillips (Resident): He stated a hypothetical situation...if someone moved into the Community and moved next door to an existing resident whose health would be threatened by having livestock next to them; what recourse would the existing resident have? What if the existing resident had researched carefully the zoning and uses allowed the area they chose...based on the health of one or both of the residents? Is there adequate provision in the proposed code to avoid the nuisance aspect of these types of situations? It seemed to him that the focus has been on those who want relaxed zoning. He feels that current rights should be preserved. What is the process for the injured resident to appeal this?

Mayor Dunn: This was discussed; but a solution was not arrived at. One suggestion was to require the contiguous neighbors' approval for that conditional use permit...the code does not include that.

Neighbors would be noticed within 300' of the applicant's lot; then those neighbors would have to attend the public hearing at the Planning Commission or write a letter in the form of a formal complaint that they object to the applied for permit.

Todd Phillips: There are two sides to this issue; he is not favoring either side, but does have an interest in providing an adequate provision for the person opposing the application to be heard and have his/her opinions count toward the decision-making process...rather than waiting until the permit has been granted and then, if they are considered a nuisance, they would have to go through the whole abatement process of the nuisance code.

The issue is; can the City craft an ordinance that protects the rights of both sides to some degree?

Raymond Brown: This was discussed and one resident said that she has chickens and that her neighbors do not mind; then the conditional use permit would not be a problem. If there is a problem with any of the neighbors, conflict will be created, whether they complain or not. Common courtesy says that the neighbors should have a say in what goes on with their existing rights...this code proposes to take rights away from one group and give them to another.

Nelson Abbott: The Planning Commission can deny a conditional use permit application if the health, safety and welfare of the surrounding people are jeopardized. The neighbors should “raise the red flag” at the Planning Commission Public Hearing to voice their concerns. The Planning Commission should listen to and weigh those objections. The “Management Plan” that is required to accompany the application

Lucretia Thayne: (Question) She has 7/8 of an acre; perhaps larger than most lots in that zone. Is it possible to have more animals allowed due to the size of the lot (8 or 10 chickens)? She feels that is reasonable for that size lot. With four cats in the house, that only allows for two chickens...on a large lot.

Mayor Dunn: Another question: Are the chickens allowed to run free or would they be cooped up? The proposed code he examined a few months ago required that the chickens be cooped. The minimum space allowed is 4 sq ft per chicken.

*(Mrs. Thayne’s objection is that she is grandfathered with 4 cats; so she can only have 2 chickens. She wanted to know if the code could allow more chickens for larger lots.)*

Shawn Eliot: None of the cities that allow chickens have that “cumulative” requirement; it was a compromise due to the heated nature of the issues. It was more a consideration of the dogs involved in the total; that has been removed.

Julie Haskell: (Directed to Mayor Dunn) She asked if it would be appropriate to read a letter from the City Attorney, to all who have not heard it.

Nelson Abbott: All who are voting have read the letter.

Raymond Brown: He asked why Dayna Hughes (Chair of the Planning Commission) voted “no” on the proposed code.

Dayna Hughes: She replied that she did not understand the “conditional use permit” aspect of the code. After reviewing the current proposed code, she would vote in favor of sending the code on to the City Council for a decision.

*The question was asked about the “cumulative” aspect of numbering the animals; what was the Council’s opinion?*

Sean Roylance: He would not mind if a person had 1 dog, 1 cat and 6 chickens.

Nelson Abbott: He would say “6 outdoor animals”. *(The Planner commented that “outdoor” pets would be hard to define and figure into the numbering.)*

Mayor Dunn: He pointed out what is happening to this code...there is already a request to change it. The issues have become more complicated. Most people will recall what they want to apply to themselves. This is an issue when problems arise. He hopes that people will follow the laws and the guidelines; but people typically do not...that creates issues. The City office will still get phone calls complaining about nuisances and want the City to solve their problems.

*Question: Strike the “cumulative” aspect in the code, or not?*

Nelson Abbott: Yes.

Sean Roylance: Yes.

Derrek Johnson: Yes.

Julie Haskell: No.

Raymond Brown: No.

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY DERREK JOHNSON TO ADOPT THE ANIMAL LAND USE ORDINANCE AS PROPOSED WITH THE FOLLOWING AMENDMENTS:**

1. MINIATURE HORSES ARE CLASSIFIED AS HOBBY ANIMALS
2. REMOVE LIVESTOCK AS A CONDITIONAL USE FROM THE R-1-15,000 & R-1-20,000 ZONES
3. REMOVE THE CUMULATIVE ASPECT OF THE CODE FOR HOUSEHOLD PETS

**VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-NAY, RAYMOND BROWN-NAY, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE**

*Passes 3-2*

Mayor Dunn: He made the point that though the code passed; those who are currently violating the law are not grandfathered. Illegal activities under the existing code are not grandfathered. Application needs to be made to obtain a conditional use permit for these animals. Owners will have to follow and adhere to the new code.

**ENFORCEMENT OF THE CODE**

Nelson Abbott: (He asked that this item be placed on the Agenda.) Now that the code has been passed, a time frame should be established wherein people may apply for their permits and adhere to the new code; or the City should strictly enforce the code and “go after those who are unwilling to comply”. The opportunity has been granted; a window of time of perhaps 60 days should be granted for applicants to appear before the Planning Commission to either be granted or denied a “Conditional Use “Permit for their animals.

**The Council agreed and the date of September 8, 2009, was set as the cut-off date to file an application for a conditional use permit with the Planning Commission.**

*\*This announcement should go out in the August Newsletter.*

**RESOLUTION – CITY FEE SCHEDULE**

The Hobby Animal Permit fees had to be added to the Schedule and there was some general clarification of some outdated fees.

Nelson Abbott: To be amended:

- Add: Hobby Animal Fee (\$50.00)
- (Strike #4) Remove the Registration Fee and the annual Renewal Fee for pigeons

MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY SEAN ROYLANCE TO APPROVE THE RESOLUTION ADOPTING THE CITY FEE SCHEDULE WITH THE FOLLOWING AMENDMENTS:

- STRIKE THE CURRENT #4 OF THE SCHEDULE THAT REQUIRES A REGISTRATION FEE AND AN ANNUAL RENEWAL FEE FOR THE OWNERSHIP OF PIGEONS; AND
- REPLACE #4 WITH THE ADDITION OF A HOBBY ANIMAL CONDITIONAL USE FEE OF \$50
- THE PAVILION RENTAL FEE WILL BE \$25 FOR RESIDENTS AND \$50 FOR NON-RESIDENTS; WITH A REFUNDABLE \$50 DEPOSIT

VOTE: YES (5) NO (0)

CITY COUNCIL MINUTES

MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY NELSON ABBOTT TO APPROVE THE CITY COUNCIL MINUTES OF JUNE 9, 2009; WITH CORRECTIONS

VOTE: YES (5) NO (0)

EXPENDITURES:

General:

Computer Management Proposal:

Sean Roylance: After review and conversations with a representative of Harland Technology, Councilmember Roylance recommended the City not approve the proposed Management Package.

- They will replace defective equipment, but will not upgrade equipment (replace the PC's)
- The do not give software advice
- The change in services would go from about \$2,000/year to about \$5,000/year

The difference in price is for "remote monitoring"; he does not feel the differences are worth the change in price. He does feel the \$2,000 is reasonable for current services.

NON-AGNEDA ITEMS

Mayor Dunn:

1. A list of concerns for the flooding problems will be made up and he will get all members a map. We also need a general cost of the proposed improvements. Perhaps an SID could be considered.
2. He will call David Church again regarding the Surety Bond.

ADJOURNMENT

The Meeting was adjourned at 12:05 AM

\_\_\_\_\_  
City Recorder – Elk Ridge City