

**ELK RIDGE  
CITY COUNCIL MEETING  
October 13, 2009**

TIME & PLACE  
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, October 13, 2009, at 7:00 PM**; this was preceded by a **City Council Work Session at 6:00 PM**. The City Council moved to a **Closed Session at 7:55 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 October 9, 2009.

6:00 PM -

**CITY COUNCIL WORK SESSION**

ROLL

*Mayor: Dennis A. Dunn; City Council: Derrek Johnson, Julie Haskell, Raymond Brown; Sean Roylance & Nelson Abbott; City Planner: Shawn Eliot; City Council Candidates: Kenneth Lutes, Jason Bullard, Erin Clawson & Weston Youd; Public: Chris Salisbury, Tom Henriod, Dane Kimber & Scout Dallin Kimber, Nelda Callor, Sara Callor, Matthew Thurman, Tyrei Carter, Emily Holcomb, Derin McQuade; and the City Recorder: Janice H. Davis*

ANNEXATION UPDATE

Mayor Dunn: Mayor Dunn briefly explained the annexation process; it is extensive and detailed. He has been looking into the process; even attending a class on annexations at the Utah League of Cities & Towns (ULCT) Conference. This topic is one of particular interest currently since there are individuals seeking annexation into Elk Ridge: Gary Hansen, Harris' & Ryan Haskell (for Lee Haskell). Mr. Hansen has submitted a Petition to Annex before, but was denied by the County due to the proposed annexation creating an "island" of unincorporated land across Loafer Canyon Rd. from his property. Harris' also submitted a Petition, but was also denied by the County because a "peninsula" of land would have been created as a result of the annexation. Mr. Haskell (representing Lee Haskell) has inquired regarding the possibility of annexing into Elk Ridge (that land lies within the area that is declared as Payson City's "annexation declaration area"; however Payson City cannot service that area.

The Mayor's thought would be to take care of all of the annexations at one time; and he wanted to be acquainted with the process and the implications prior to speaking to the property owners.

The Mayor wanted to know the financial affect on property if it was annexed into a municipality...so he contacted the County Clerk/auditor; who responded back to the Mayor: and included several things in his response:

- Each property was identified by number
- He reviewed the tax benefit: it would be cheaper (tax-wise) for the property owners to annex into the City. He used an average \$200,000 piece of property, with about \$32 in property taxes.

The Mayor asked Shawn Eliot about zoning that could be attached to that land...could that new zoning change that tax rate?

Gary Hansen has kept in touch with the Mayor; he is anxious for the annexation to take place. Mr. Hansen has been unaware of how long the process takes.

*\*(The Mayor will let him know what he has found out.)*

City Recorder: The annexation process can take anywhere from several months to a year or more. *(There was a simplified review of the process.)* She reminded the Council that accepting a petition to annex in no way binds the Council to accept the actual annexation; that can be denied during the process.

Question: When a property annexes into a municipality, when do the property owners have to connect to existing water and sewer lines? Are they allowed to stay as they are upon annexation, unless there is further development?

Mayor Dunn: That is a good question; that should be determined. He believes that Hansen's are the only ones thinking about development at this point; however, he does not wish to annex if it will cause any hardships for his neighbors across Loafer Canyon Road.

Shawn Eliot: A couple of things to point out:

1) Hansen Property:

- The City has met with the Hansen's and talked about a main road being constructed through that area, to realign it to connect to Loafer Canyon Rd. They were also informed that a future park is planned for the area northeast of town.

- The future plan is for ½ acre lots: the Code says the zoning has to be according to the General Plan/Future Use or 75% of an adjacent zone; the Code does not allow just any zone to be picked.

If a plan is in place for the area under consideration, then the City can enter into developer agreements at the time of annexation to have in writing what amenities the City desires.

It has been discussed to have ½ acre zoning with a PUD overlay (which the Planning Commission is currently working on)...this would be more affordable for the developers to install the desired amenities.

When land is annexed in as it is, with no development agreements, it is difficult to require certain things after the annexation has taken place (the Hall property southeast of town is an example of this).

2) Area around Elk Horn Drive: The Payson Council did consider Elk Ridge's proposal at their last Council Meeting; but the Planner wants to talk to Mr. Eliot next week to review the issues. He does know they did not like the matter of the road coming onto Elk Ridge Drive (part of the conditions of approval from Elk Ridge).

Differences regarding over-lapping boundary areas do not always get worked out. Ryan Haskell, representing Lee Haskell, would like to annex into Elk Ridge; but the Planner advised him to wait until the issues with Payson are resolved. The Haskell's are concerned that Payson will not annex them in the near future; in fact, Payson recently denied a 285 acre annexation around the orchards...northward to the Highway. Mr. Eliot recommends getting a plan in place to be able to guide any annexations through the process in a way that will benefit Elk Ridge and the land owners.

Cities can hold off on annexations until they are ready for a particular part of town to develop...Lehi is an example of that.

Mayor Dunn: The information he obtained from the ULCT Conference is excellent and very thorough; he is willing to make copies for the Councilmembers. He wants all of the property owners that could be involved to be completely informed as to the process and their options.

There is no "land grab" going on; just gathering of information.

The Mayor had Mr. Eliot create maps of the possible annexation areas and a list of the property owners.

The possible annexations could impact the boundary between Elk Ridge and Woodland Hills; as could the development of property along Loafer Canyon Road...including Don Mecham's land.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73

WOODLAND HILLS  
BOUNDARY  
ADJUSTMENT

LOAFER CANYON  
ROAD REPAIRS

PUD PARK  
DISCUSSION –

Mayor Dunn: One of the maps the Mayor had for the Council to look at showed ownership of the land along Loafer Canyon Road and the boundaries showing County, Woodland Hills and Elk Ridge ownership. The reason for looking into this was instigated by one of the members of Loafer Recreation Association, Mr. Paul Tervort...he requested that the City repair Loafer Canyon Road, which is in pretty bad shape. He provided a name and the number of a man that works for the State Road Dept. and deals in "road chip". The State will give this "road chip" to cities (not private entities, such as the Association), if there is excess. The Mayor thought that the County had deeded Loafer Canyon Road to Elk Ridge; it is actually owned by various owners. The Mayor asked different members of past Administrations to see if there was any memory of the County deeding the road to the City...there was not. The Mayor spoke to a man that works for the County Road Dept. and asked the same question...the answer was, "No". Where the road falls within County boundaries, they have responsibility for those sections; where the road falls within Elk Ridge, the City has responsibility for those sections. The Mayor mentioned to John McMullen (UDOT) about the possibility of receiving some of the "road chip" and if a joint venture between the County and Elk Ridge could be arranged. The road budget for this fiscal year is gone, but it could be planned for next year. ("Road Chip": When the State mills a road, they bring all of the milled material back to a certain location and mix it with tack oil...heat it up and re-lay it. If there is excess, they will give it to municipalities. Mr. McMullen said he would get back to the Mayor after bringing up this request to the County Administrators. (That was about three weeks ago and he has not gotten back to Mayor Dunn.) \*It was suggested that the Mayor update Mr. Tervort regarding what he has found out.

*(Memo from Planner to the Council, dated 10-13-09)*

**"Background**

The council has been discussing the park and open space issues of Elk Ridge Meadows phases 1 and 2 over the summer. At the last council meeting, the council gave staff permission to discuss a land acquisition proposal with the developers. Meetings were held with Tom Henriod (phase 1) and Chris Salisbury (phase 2). The city has the option to call the surety bond for the park/OS improvements in phase 2. This can happen whether the city acquires the park or requires it to stay as an HOA in private hands. The surety bond just guarantees that the improvements will be done to these areas.

**Meeting Discussion Points / Options for the City Council**

The meeting with Chris Salisbury went well. We proposed the following:

1. The city accepts the surety bond for \$118.5k.
2. City starts restoring the park at 25% home occupancy in phase 2 (21 homes).
3. The city takes over ownership of the park/open space at 50% home occupancy (41 homes).
4. The developer pays the city \$114k in lieu of Park Impact Fees (payments to be negotiated).
5. The developer subdivides the small east/west trail area in the middle of the property into 3 lots, proceeds, minus costs to subdivide, go to city. The loss of this open space will be made up in phase 4 (townhomes).
6. Developer will come up with a plan for the open space with costs. Plan will include parking lot, bathrooms, and other sport facilities. The \$114k and proceeds from the sale of the 3 lots could go towards these improvements (at the council's discretion).
7. Front yards completed prior to occupancy.
8. Varying front elevations, rooflines and units.
9. A mix of fascia materials and Hardiplank or LP Smart Side instead of vinyl.

Chris was agreeable to these stipulations, but needed to go back and crunch the numbers. He will be at the council meeting to discuss the proposal.

The meeting with Tom Henriod was done after meeting with Chris. We proposed the following:

1. Developer restores and improves open space area, spends \$20k to do it.
2. Developer pays the city \$40k to take over the open space area (\$40k + \$20k = \$60k or the amount of Park Impact Fees the city would collect for phase 1).
3. Developer starts improvements at 25% occupancy of phase 1 (13 homes).
4. City takes over ownership of the open space at 50% home occupancy (25 homes).
5. Front yards completed prior to occupancy.
6. Varying front elevations, rooflines and units.

7. A mix of fascia materials and hard plank or LP Smart Side instead of vinyl.  
Tom doesn't have as much of an incentive to improve the open space (could spend less money just restoring it to wild flowers and native grasses). Was concerned with having to pay so much for other fees (impacts and building) and though that the city should be waiving these fees in the economic time. Staff reminded him that the he has already paid most of the Water Impact Fee (water tank payment). He will discuss his concerns at the council meeting.

**City Council Discussion**

1. The city should acquire the surety bond money whether they take over the park/OS or not.
2. What are phase 2-Chris Salisbury's concerns or proposal?
3. Is the phase 2 proposal sufficient?
4. Should staff prepare a Development Agreement based off the proposal above plus any discussion agreed upon in the council meeting? (Since Chris Salisbury only has an option to buy the phase, the agreement might need to be with the bank or we need to stipulate that the agreement cannot be entered into until ownership is acquired).
5. What are phase 1-Tom Henriod's concerns or proposal?
6. Is the phase 1 proposal sufficient? Should the city require less money in lieu of Park Impact Fees to compensate for the economy?
7. Should staff prepare a Development Agreement based off the proposal above plus any discussion agreed upon in the council meeting?

**Recommendation**

The data supports the city acquiring this land. The additional costs of maintenance will not occur until there are sufficient new homes to pay for the additional service. The city basically gets free money from the surety bond. The surety bond is our guarantee that the required improvements will be completed. Also, phase 2-Chris Salisbury is willing to pay the city \$114k in lieu of Park Impact Fees. This will free up these funds from the strings that are attached to impact fees making them available to any needs the council deems appropriate. Recommend that most of them go into improvements in the open space area of phase 2 to create a true municipal park. Acquiring the park and OS areas of both phases also give us public access to the trail system, park, and the 3 storm water retention basins that collect city street runoff. It is wise to have these in public ownership so there are no problems later on. "

**Comments:**

Shawn Eliot: There is conflicting code involved with landscaping: In the PUD Code, it says that all of the yard must be put in (front, back & sides) prior to occupancy; but that was not adhered to with the homes that have been built in the PUD...only the front yards were installed and that was approved. The new landscaping code regarding PUD's states the front yard and the side yard (corner lot) have to done...but the back yard is not included, as long as the weeds are kept cut.

The developers have requested that the front yard be required, but not the back yard. He reported that the Planning Commission considered the front and side yards, unless fenced (sight obscuring).

- A plan was submitted by Salisbury Homes showing front yard setbacks: currently the code waives all setbacks; but their plan showed a mix of elevations and varying setbacks.

- \$114,000 up-front payment: It needs to be decided if there will be one payment or two...this would be included in a developer agreement.

- The east/west trail (the open space in the middle of Phase 2): The City does not want to take possession of that open space; perhaps three lots could be created out of that strip. When Phase 4 comes into being, perhaps that open space could be moved to that Phase.

Chris Salisbury: He had a good meeting with Mr. Eliot wherein they discussed many of the possibilities; however there were a couple of "gray" areas that they were unsure of:

- (Regarding #7, "Front yard landscaping") He feels that requiring the back yards is too expensive; but they are willing to require that the front yards are planted.

- They are also proposing to put in shrubs at the back of the landscaping area that will block the back yards. The concern they had with the fencing was that it would create a "corridor" look (uninviting) and it costs more. Fencing could be an option, if the buyer can afford it.

(Shawn Eliot reminded Mr. Salisbury that corner lots would require side yard landscaping. Fencing was also discussed: the request was to come up with some type of agreement that would keep the back yards somewhat uniform.)

Mr. Salisbury said that it could be part of the development agreement they had discussed...they are not opposed to that. Hydro-seeding and sprinkler systems would be installed in the front yards.

- Setbacks: The setbacks are proposed to be varied to get away from the straight line look.

- \$114,000 Payment: This was discussed in Salisbury's office...he read from a prepared memo:

"With Elk Ridge City taking on the reestablishment of the park and open space in Phase 2, using funds from the surety bond; Salisbury would like to revert back to paying the park impact fee of \$1,385 per home, as permits are pulled. The maintenance of the park, which is equal to approximately \$12,000 per year (based on the estimates we've got), would rest upon Elk Ridge City. With the winter months approaching, minimal to no expense will be incurred by the City to improve and/or maintain the park. The winter months can be used by Salisbury to sell homes; and by paying the \$1,385 park impact fee for a permit, the City would be able to build a reserve of funds for use in the beginning of the spring of 2010."

- One "gray area" was the \$114, 000 that Salisbury was willing to pay...they would like to "spread that back over the lots" and pay as they go. The \$114,000 would have been spread out over payments to contractors, anyway; to be able to pay as they go would help them out and there would be a mutual benefit with the things they are trying to do.

Salisbury wants to hit the marketing plan hard and get homes sold; so the reserve of impact fees could be used to purchase equipment for the park.

- Another "gray area": the 3 lot open space. The idea was to turn that space into three lots; their engineers reviewed it. It turns out that rather than about 65' in frontages, it will be 75' in frontage; which would not be a problem for their planned homes.

One of the concepts discussed with LEI (engineers) was taking that section of open space and/or extend the Phase 2 park by that amount of square footage.

- Instead of multi-family units; they are considering single-family units; they do not feel multi-family units are as marketable as they have been in the past...this would keep the whole area with a consistent product.  
Shawn Eliot: RE: Park Impact fees per house...if this is the route that is decided upon; it would have to be something other than a "park impact fee". In taking over the park as public, the City cannot take impact fees. It would still be money that would be given as part of a developer agreement, but the agreement would simply have to state that it is \$1,385 per lot. The park is considered their "impact"; so the City would still be collecting the \$114,000 from the developer, just not up front.

Tom Henriod: He reviewed some of the things that have happened in the process: His firm (Rockworth) feels they have been fairly instrumental in the process of getting this in the forefront of the City's mind. It seems the City wishes to separate the Phases (1, 2 & 3) and address them separately. He wanted the Council to understand that this is not possible in the current state.

- They bought Phase 1 knowing that Phase 2's park was associated with their development through a Homeowner's Association...that still exists. They are interested in seeing something happen; but that which affects Phase 2 also affects Phase 1. The protective covenants are still recorded against every lot.

(Shawn Eliot: This is something that needs to be looked into.)

Phase 1, 2, & 3 are under the same Homeowner's Association...the open space for all was calculated for all the Phases mentioned; that open space is the basis of the density applicable to all three phases. They do not feel it is right for the Phases to be treated separately.

Shawn Eliot: Seeking to clarify, Mr. Eliot asked if Mr. Henriod meant that if the City takes over the park in Phase 2, then the City should take over the park in Phase 1, as well.

Mr. Henriod: He responded that the City should take over any of the open space within these Phases.

Another point: The issues associated with Phase 1 are not as complex as those associated with Phase 2:

- Phase 2: The City is dealing with a prospective buyer
- Phase 1: The City is dealing with the owner...the same "historical owner"
- Phase 2 has gone through several owners and now a prospective buyer
- The owners of Phase 1 stand to lose a great deal
- The owners of Phase 1 are still here...through everything; still maintaining a bond with the City.
- They have a warrantee on their work; this is not the case with Phase 2

They hope the City "appreciates" these continuing points about Phase 1. They want to see the PUD progress as a whole, not separately.

They want to get homes built affordably; so when it comes to park impact fees being waived, it would help in building affordably.

- He agrees with the landscaping being limited to the front yards
- Sprinkler systems: This does not seem to be something the City is willing to compromise on...and that is "fine".

Matthew Thurman: (Resident) He expressed his feelings that homeowner's associations (HOA's) are a "waste of tax-payer's dollars". He does not feel those covenants are necessary in Elk Ridge. He thinks that people should be able to decide for themselves.

Mayor Dunn: He needed to clarify ownership of Phase 3: The Mayor indicated on wall map, how the phasing went with the PUD...Phase 3 has changed and is now Phase 3 (School property), 5 (north portion of the "old" Phase 3) & 6 (south portion of "old" Phase 3). Phases 5 & 6 are still owned by Randy Young and Mark Rindlesbach.

Raymond Brown: His concern is dealing with different people (owners). The City has been working with Chris Salisbury and he has generated some ideas....he is not sure where Phase 3 is with the proposed ideas.

Tom Henriod: Mr. Henriod reiterated that there are protective covenants recorded against the lots; for those covenants to be removed, the owners would have to agree.

Mayor Dunn: He felt there may have been a misperception; the covenants do not belong to the City...they belong to a Homeowner's Association (HOA). When you belong to an HOA, they can do anything the owners wish to dictate. Mr. Henriod is correct in his concern that all the Phases except 3, 5 & 6 are all members of that HOA where the recorded covenants are still attached to the lots.

Shawn Eliot: What covenants are proposed to be broken?

Tom Henriod: The covenants regarding a minimum square footage of 1,600 sq. ft. (ramblers), 1,400 sq. ft. on the main (two-stories); the covenants that deal with materials to be used...etc. These are the covenants that Alpine Homes followed when they built their homes in Phase 2.

Chris Salisbury: The plan that shows what Salisbury is doing does not follow the CC& R's. The minimum sq. footage listed in the covenants does not work with any of the product line that Salisbury has; affordability sells product. He and Mr. Henriod have talked and working together seems to make sense.

Tom Henriod: The distinction between Salisbury and them (Rockworth) is that Rockworth is an owner and lot-buyer...they are not home builders. Salisbury Homes buy lots and they build homes and in some cases, they develop lots as well...in this case they would be buying finished lots and building homes...Rockworth are lot owners trying to sell to home builders...that is the difference. Rockworth has approached Salisbury Homes about buying lots in their subdivision.

Mayor Dunn: It is his understanding that Mr. Henriod and Salisbury Homes could decide to dissolve the HOA and those properties would revert to City Code. A developer's agreement could be drawn up (as Mr. Salisbury mentioned) that would decide on the preferred amenities, like shrubbery...this is not something the City is demanding; but could be mutually agreed on...to make the development look nicer. The Mayor commented that he did not see any purpose for the HOA to exist anymore.

Tom Henriod: “No, I don’t know that we necessarily do either; but I guess...our alarm came up in our meeting last week where it was stated that our open space doesn’t meet the minimum requirement for the density it was granted. What I am saying is that we bought into the entire subdivision.” The original developers priced the fact that they put open space into Phase 2 into their sale price to them...so they cannot be separated.

Shawn Eliot: The Mayor is correct on the CC&R’s (if there were to be dissolved)...when this process started back in June 2009, the issue of the housing size came up; he recalls that the size was fine and he (Salisbury) wanted even smaller. The Code allows for the size of home that Chris was talking about; so the CC&R’s are more restrictive than what the City Code has as a minimum. As a City, there is no preference; as an HOA, they would have to work that issue out

Chris Salisbury: Is there a reason why Phase 1 is being treated separately? Does the City not want to take on the park in Phase 1?

Shawn Eliot: It is because of two different owners. Mr. Salisbury has an option to purchase the development; so whichever route is taken, the City will either have to work with the Bank toward these agreements or Salisbury would have to purchase it first. The City is not going to enter into any agreements with a prospective buyer; it would need to be with the owner. Mr. Henriod is correct in that Phases 1 & 2 came in together; Phase 1 did not have 25% open space...it could not have come in as one phase...it was considered as one plan; but it is still being looked at with two owners.

Tom Henriod: It was intimated to them that the City was not interested in Phase 1’s portion of the open space (park).

Mayor Dunn: Part of the reason for treating the Phases separately is due to the surety bond covering Phase 2, not Phase 1.

Tom Henriod: He hopes the City sees the fact that the bond does not have to be drawn on for Phase 1 as a benefit to the City.

Mayor Dunn: He stated that he would hate to see Phase 1 penalized because they “did everything right and did not go into default” (*Mr. Henriod thanked the Mayor for that observation.*)

Shawn Eliot: The difference between the offers from Phases 1 & 2:

Phase 2:

- The City does have the surety bond
- Salisbury Homes was willing to put \$114,000 into fixing up the park (equaling the park impact fees)
- At an agreed upon occupancy, developer will deed ownership (& maintenance) to the City.

Phase 1:

- Rock Worth is willing to restore and improve the open space areas for \$20k.
- At an agreed upon occupancy, developer will deed ownership (& maintenance) to the City.

Later, in the Regular Session of the Meeting, direction needs to be given regarding the direction to go for a developer agreement.

Nelson Abbott: (Question regarding HOA) He appreciates where Mr. Henriod is coming from; because there are lots already purchased by various individuals who bought into the existing HOA. If the HOA were to be dissolved, wouldn’t it need to be put to a vote by the members of the HOA? He does not feel the City has any place in this.

Tom Henriod: Another point: It is Mr. Henriod’s understanding that Salisbury Homes would not be purchasing all of the lots at once from the Bank; (*Mr. Salisbury agreed.*) then Centennial Bank would have to agree and be included in any change with the HOA. Centennial and Phase 1 (together) have enough voting rights to make changes in the HOA; adhering to all the proper channels of informing all involved.

Shawn Eliot: He asked Mr. Henriod...if the City agrees, then he (Mr. Henriod) is agreeable to the changes in the CC&R’s?

Mr. Henriod: “Yes, I think that if we could treat the subdivisions the same...we’re together on that stuff...waive that park fee in return for me sprucing it up...I think we can come to a quick agreement and make that whole thing go. Whether it’s through development agreement or new covenants; a development agreement would allow the City a little bit more leverage in the ability to make people do what they want...with covenants, you are relying on an Association.”

Mayor Dunn: He said that he liked the lay-out with the setbacks...he feels it is preferable than the “grid-like” lay-out.

Mr. Henriod: This is the first time he has seen this proposal from Mr. Salisbury...they will “happily” work with them, as long it is feasible with the existing home builders they are working with.

Sean Roylance: (Directed to Chris Salisbury) He asked if he proposes that the City take over maintenance immediately.

Mr. Salisbury: “Yes, what maintenance there is...using the surety bond funds and then whatever funds are gathered through the sale of permits. We see this as an advantageous time because what maintenance would there be...going into this time of year? Hopefully, if there would be, it would be very minimal...and those funds that you are getting would be able to go toward that.”

Sean Roylance: He noted that this proposal is different than what was initially proposed. It was his understanding that the City would take over maintenance of the park at a certain level of occupancy.

Nelson Abbott: (Restating the proposal) The City would immediately start receiving the funds as the permits come in; but according to his understanding, the City would not start restoring the park until 25% occupancy is reached. The only maintenance would be to keep the weeds down. As the percentage increases, then the City starts the restoration process.

Mayor Dunn: (Summarizing)

- City receives the \$118,500 from the surety bond; & places that in an interest bearing account.

- Additional money to the City comes with each permit issued within the development...this could be placed in a similar account.

- At 25% occupancy, the City begins the restoration of the park

City Recorder: Does the Council wish to consider taking over the open space within Phase 1? This has not been something the Council has discussed or considered yet.

Shawn Eliot: There is no bond money to draw on; that is why the developer is willing to put \$20,000 into the park.

Mr. Henriod: \$20,000 also makes it into a park that requires more maintenance...that is something to think about. If Rockworth just brings the open space up to the original plan...“seed a little bit more, pull some weeds, plant trees where the dead ones are...it is a ‘no maintenance’ park, basically”.

“Because it was requested, the plan they proposed was to make it a little bit nicer...give it some turf, some type of active open space area...rather than just natural seed”.

Shawn Eliot: There is not a lot of turf, because of the retention basins taking up most of the space...the only turf grass would be south of the retention basin in the middle of the open space.

There would be no money coming in for maintenance, if park impact fees were waived...it would be the additional tax income that would have to be used for Phase 1; that would not be sufficient until 50% build-out.

Julie Haskell: From the discussion about the park and open space in this meeting, she said she would prefer to keep the HOA; accept the surety bond of \$118,500...and she does not agree with waiving the impact fees for the open space. The City is experiencing hardship with the current economy, as well; she feels the Council must consider the welfare of the existing citizens.

Sean Roylance: Another question for Tom Henriod: He referred to lights and sidewalk needing to be installed; is there a cost estimate available? *(He can provide it.)*

Chris Salisbury: If the open space were left the way it is, there would be weeds to maintain...there would be no grass...

Mr. Henriod: The \$20,000 would go to create a bit more than ½ acre of turf in the open space area that would need to be cut every week. As it is now, it is “passive open space area”; seeded naturally where the trail goes through it...with a drip irrigation line that runs to the trees along that path...with street light, as well.

Chris Salisbury: If that were left off, it would not be something the City would have to maintain, if they took that open space over, as well. Is that something that could be established down the road when there is the necessary tax base? It only makes sense that it be financially feasible, but it would not have to be done right now; particularly sense there are things being worked out in Phase 2 to provide plenty of open space for now.

Sean Roylance: Is the open space in Phase 2 useable? There is a retention basin, which might be good if the City had control over it. Is there another use for the open space?

Nelson Abbott: Many cities do take the retention basins...put grass in them...level them out a bit and use them for parks

Shawn Eliot: Phase 2 open space is 7 acres...so Phase 1 is about 2 ½ acres...the current City Park is under 4 acres.

Mayor Dunn: Since there were no further comments, he suggested closing the Work Session.

City Recorder: She suggested that the City Council may want to move to go into a closed session to discuss the newly presented information, prior to making any decision in the regular session.

Nelson Abbott: Any action could also be tabled.

Julie Haskell: She said she would prefer to move into a closed session to further discuss the information.

Raymond Brown: There are people waiting to be heard that are on the Agenda; like the young man that has his Eagle Project to present.

Julie Haskell: It would not need to be prior to the Regular Session; it could be between items 5 & 6.

Derrek Johnson: Would it be helpful to have the Planner summarize this newer information and present it to the Council at a later time...and not rush through it?

Mayor Dunn: Mr. Tomeo (Surety Bond Adjuster) is eager to have direction from the Council and be able to close the account.

Nelson Abbott: He did not feel that settling with the Surety Bond Company affects any negotiations regarding the open space. The money will be used for restoring the park, regardless of when. It could either be the City or the developers that use the money for that purpose.

Mayor Dunn: The \$188,500 from the Surety Bond should not be attached to the rest of the Project.

Shawn Eliot: The road repairs will be hired out by the Surety Company. They are going to do that part themselves; the \$118,500 is separate.

*\*Question: How long will asphalt be available for road repair? The Mayor will find out. There is a good chance the repairs may not be done this year; they may have to wait until spring. The Mayor called Corbett Stephens in the Meeting to find out if the \$118,500 has anything but the park included in it. The road money is separate. Mr. Stephens commented that the road work had not been scheduled yet. The bid the Insurance Company was from Alan Anderson (contractor in the City).*

**MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY SEAN ROYLANCE FOR THE CITY COUNCIL TO MOVE INTO A COUNCIL CLOSED SESSION AFTER AGENDA ITEM #5**

**VOTE (POLL): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, RAYMOND BROWN-AYE & SEAN ROYLANCE-AYE (4) NAY (1) NELSON ABBOTT**

*Passes 4-1*

**ELK RIDGE  
CITY COUNCIL MEETING  
October 13, 2009**

1  
2  
3  
4  
5  
6 TIME & PLACE  
7 OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, October 13, 2009, at 7:00 PM**; this was preceded by a **City Council Work Session at 6:00 PM**. The City Council moved to a **Closed Session at 7:55 PM**.  
The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

10 Notice of the time, place and Agenda of these Meetings were provided to the Payson Chronicle,  
11 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on October 9, 2009.

12  
13 **7:40 PM -**

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

14  
15 ROLL

*Mayor:* Dennis A. Dunn; *City Council:* Derrek Johnson, Julie Haskell, Raymond Brown; Sean Roylance & Nelson Abbott; *City Planner:* Shawn Eliot; *City Council Candidates:* Kenneth Lutes, Jason Bullard, Erin Clawson & Weston Youd; *Public:* Chris Salisbury, Tom Henriod, Dane Kimber & Scout Dallin Kimber, Nelda Callor, Sara Callor, Matthew Thurman, Tyrei Carter, Emily Holcomb, Derin McQuade, RL Yergensen & guest (No name on roll – Contractor who laid straw for Mr. Yergensen’s development); *and the City Recorder:* Janice H. Davis

16  
17  
18  
19  
20  
21  
22 OPENING REMARKS  
23 & PLEDGE OF  
24 ALLEGIANCE

Opening Remarks were offered by Julie Haskell (read a quote by J. Rubin Clark): “The task ahead of us is never as great as the power behind it”;  
& Scout Dallin Kimber led those present in the Pledge of Allegiance, for those willing to participate.

25  
26 AGENDA TIME  
27 FRAME

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY SEAN ROYLANCE TO APPROVE THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 7:40 PM; AND ADDING IN A CITY COUNCIL CLOSED SESSION AFTER AGENDA ITEM #5**  
**VOTE: YES (5) NO (0)**

28  
29  
30  
31 PUBLIC FORUM

There were no comments.

32  
33 EAGLE PROJECT –  
34 DALLIN KIMBER

Scout Dallin Kimber: There is a need for an area to store the City’s athletic equipment. It is currently being stored at Kara Cook’s house (Athletic Director). Scout Kimber proposes to construct a shed to store the equipment in.  
The City Council was in agreement that it would be a good Project; however, there was discussion as to the best location for the shed. Originally, Scout Kimber suggested the southeast corner of the parking lot east of the Fire Dept. Bay area; however, it was felt that there could be a better location.  
Mr. Kimber (Dallin’s father) suggested building a “mobile” shed that could be moved if the need should arise. Construction would not begin until the spring of 2010.  
*\*Scout Kimber is to contact Public Works Superintendent Kent Haskell to determine the best location for the shed.*  
Sean Roylance: He asked about projected costs.  
Scout Kimber: He is not sure of costs, but he will utilize fund raisers to assist in generating cash for the Project. He understands that the Council will, at times, donate to Scout Projects; it would be appreciated, but not expected. He said he would call Kent Haskell the following Monday.

35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48 **7:55 PM -**

**CITY COUNCIL CLOSED SESSION**

49  
50 ROLL

*Mayor:* Dennis A. Dunn; *City Council:* Derrek Johnson, Julie Haskell, Raymond Brown; Sean Roylance & Nelson Abbott; *City Planner:* Shawn Eliot; & *City Recorder:* Janice H. Davis

Land Acquisition Discussion

**CITY COUNCIL MEETING - REGULAR SESSION AGENDA ITEMS (CONTINUED)**

51  
52  
53  
54  
55  
56  
57 PUD PARK  
58 DISCUSSION  
59 (PHASES 1 & 2)

Mayor Dunn: The time in Closed Session was well-spent. There is a lot to consider. The Council would like to take the proposals presented at the Meeting by the developers and think about them for two more weeks. The Council expressed strong concerns over the issues. They want to be fair and equitable to Phase 1 & Phase 2. They are not trying to destroy feelings or the efforts put into the plans presented to the Council.  
- The Mayor particularly wanted to commend Mr. Henriod for his efforts in doing what has been asked of him, as a developer. One concern the Council has is with the maintenance of the open space in Phase 1.  
- Mayor Dunn also commended Mr. Salisbury for his “courage” in taking on a project and trying to do it right.  
The Council wants both projects to be successful; while trying to protect the existing citizens of Elk Ridge.  
*Comments:*  
Sean Roylance: He suggested that the developers be informed as to the direction the Council seems to be leaning toward:  
There are certain aspects that the Council is unanimously opposed to and there are other aspects that remain undecided.

Raymond Brown: (Director to Mr. Salisbury) He wanted to know if Mr. Salisbury, with Centennial Bank, has enough votes to dissolve the HOA. (Mr. Salisbury said, "Yes, it would go away"...that Centennial Bank is ready to sign off on it now.)

Sean Roylance: He offered to outline the parameters that the Council discussed in Closed Session:

Phase 2:

- If the City takes over the park; they would not use the surety bond to make improvements to the park until 25% occupancy occurs.
- They would like for Salisbury to maintain the park until occupancy hits 50%.
- Depending on how the vote goes in a couple of weeks, the Council might be willing to agree on the taking ownership of the park.

(The Council feels that the cost of maintenance would be too high until there is more build-out. The Council is not comfortable in taking on any additional liability...until the costs are covered by the development, itself. They are willing to not require the \$114,000 upfront, and allowing it to come in along the way.)

Phase 1:

- The Council all felt strongly that they do not want to waive impact fees. (In Phase 2, there is improved land and Phase 1 has maybe lights and trail and possibly that is all. The Council did not feel it would be in its best interest to waive the fees.)

If the developers agree to this direction, there are Councilmembers that would be in favor of moving forward with the proposals; however, there are those that are undecided at this point.

Raymond Brown: In answer to Mr. Henriod concern about deciding on the "maintenance issue", Councilmember Brown responded that it would be the same expectation as with Phase 2...25% and 50% occupancy. He asked the Council if that was correct.

Sean Roylance: The Council did get detailed in discussing Phase 1...It was discussed to simply leave the open space for now and possibly address improving the space in the future, after impact fees had been collected. This was not decided upon.

Tom Henriod: He requested a meeting prior to the next Council Meeting; to be able to come to some agreement before the Council Meeting, so there is no further discussion at a Council...rather he requested that the Council could simply ratify what had already been decided. This would be to expedite the process. They would like to know that they are coming to the next Meeting with directions to draft an agreement.

(Councilmember Brown asked him how he felt about what had been proposed by the Council as a result of the Closed Session.) Mr. Henriod responded that he will have to consider and think about it. He came back to the point that he had purchased property that had open space shared with the overall PUD...and that is turning into a subdivision that shouldn't have had open space included ("non-PUD"). Whether the development should have more or fewer lots, he did not know at that point. He will have to consider the total acreage...he still has to sort through the possible separation from Phase 2.

Mayor Dunn: The use of time in the following two weeks can go toward considering proposals on both sides.

The Mayor reiterated that they (the Council) wanted it to work for the developers as well as for the City.

Mr. Henriod: He and Mr. Salisbury have not gotten too specific in sitting down in a meeting between the two of them; but the generally agree on many things many times. He felt that they could come to a mutual agreement regarding the HOA.

Raymond Brown: The Council simply wants this to be "self sufficient"; there are no extra funds to pick up any extra costs; in fact "we are running bare bones right now". There is no commercial and the tax base is heavily depended upon, as well as fees coming in from new construction. When the development reaches the point of being able to sustain the costs associated with maintenance of the park, then there would not be any additional burden on existing citizens. We just cannot take on any more financial burden.

Mr. Henriod: He and Mr. Salisbury and some of the Candidates running for office talked during the Closed Session; they think that the City has a great advantage right now...there are few, if any building permits being issued in the surrounding communities. If we can get this decided in two weeks, then Elk Ridge has the opportunity to have two subdivisions pulling 4 to 6 building permits per month...starting in November or December. Elk Ridge could be the "hub for growth".

Raymond Brown: The Council is aware of that. They all made the trip over to Salisbury Homes in Spanish Fork to see their development and were impressed with the number of homes sold and built. The Council is serious; but they want it to work for all parties involved, including the City.

*The City recorder asked about the meeting that Mr. Henriod had requested. When would that take place?*

*Mr. Henriod suggested perhaps emailing suggested agreements back and forth. Councilmember Abbott added that the developers know where the Council stands on most of the items; they should draft any agreement with those things in mind.*

ELK RIDGE MEDAOWS  
PHASE 2 -  
SURETY BOND –  
ACTION

Shawn Eliot: The Insurance Company that issued the surety bond for Phase 2 would like for the Council to make a decision on the \$118,500 to refurbish the park. The City could accept the money for the park and still have the HOA intact.

Raymond Brown: The money needs to be placed into an interest bearing account.

Nelson Abbott: He question if the bond could be left "open" to account for possible inflation. Insurance companies will agree to do that. He does not want them to just close the files on this, even though that is what they want to do.

Shawn Eliot: The City can ask; but if they do not agree...what is the City's position then?

Nelson Abbott: They could be told to fix the park like they are doing the road repairs.

Raymond Brown: The improvements that would be most affected by inflation would be the repairs on the infrastructure; not necessarily the park. He feels the City should be fine with the \$118,500.

Mayor Dunn: He clarified Councilmember Abbott’s suggestion, at the Planner’s request: The money could be placed in an interest bearing account and when it comes time to utilize the money, if there is a difference in the actual cost and the amount received, would the Insurance Company make up the difference?

Shawn Eliot: If the suggestion is refused; what is the City’s position?

Nelson Abbott: That depends on whether the other Councilmembers are comfortable with the amount.

Raymond Brown: He felt the Insurance Company has been fair in dealing with the City. The money, invested in a money-market account or something similar would start to earn the interest that could make up the difference.

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO ACCEPT THE OFFER OF \$118,500 FROM THE SURETY BOND FOR ELK RIDGE MEADOWS PUD, PHASE 2**

*Discussion:*

Sean Roylance: He questioned if the request could be made to leave the bond “open” and the Council agreed that the City could ask.

The motion was not formally amended; however, since the Council all agreed that the question should be asked, it is assumed that it should be included in the formal motion.

**VOTE: YES (5) NO (0)**

The Public Hearing on these proposed amendments will be at the next Council Meeting on October 27<sup>th</sup>.

The information presented in the Council packets is for review and discussion.

Mayor Dunn: (Section 4-2-2-90-1) “City Removal of Nuisance”: The Mayor is concerned about the proper process being conducted prior to entering onto someone’s property to “remove a nuisance”...and he is concerned with the rights of the individual. Are there any constitutional lines being crossed?

Shawn Eliot: If the City has gone through the entire abatement process with an individual property owner, the process outlines what the City is allowed to do; the State Code also states that the City has the right to act to remove the nuisance. This would be after everything else is exhausted.

*(The Mayor asked where the section on “smoking” came from.)*

Mr. Eliot borrowed much of the proposed code from Orem’s Code, after researching many cities.

It would be more applicable for multi-family units. It could apply to homes that are close to one another; smoke from a neighbor could affect a person.

Mayor Dunn: He agrees that sights, sounds and smells can be considered “nuisances”; but he is concerned about enforcement if someone is smoking on their own back porch and the smoke wafts into the neighbor’s back yard...would the City really take action on that person?

Mr. Eliot: It can be removed from the proposed code. The sentiment is that second-hand smoke is quite dangerous...even parks are becoming “smoke-free”. IT was in Orem’s code; but was likely added to it.

Raymond Brown: HE was looking for a section on the destruction of private and public property; but did not see it in his review.

Mr. Eliot: This would also be considered “criminal” in nature. It could be listed in both areas.

Raymond Brown: He requested that a section be added covering the issues associated with vandalism; there is a lot of it in the City.

Mr. Eliot: The current code is vague and the fines are, as well. It states that violations could be considered a “Class C” Misdemeanor, and the charge states “up to \$1,000/day (or \$750). It also states that there is a \$10/day fine. It is confusing. The proposed code is defined as \$50/day for a “nuisance” charge.

*(Mr. Eliot reviewed the proposed process for abatement and the time element involved.)*

After the initial time period allotted to abate the nuisance, a citation and fine could be issued for non-compliance.

The Public Hearing for this code is on October 27, 2009; there are a number of complaints he would like to address, but he wants the Code in place for enforcement.

Mr. Eliot: (4-2-1-30-31) “Parking or Storage – Trailers, Boats, Recreation”

This is a big issue in the City. The proposed code says that trailer, RV’s etc. can be stored at the side of the house...there is an exception for a corner lot, where one would be allowed. The Planning Commission felt there should be an exception for interior lots to have just one, if there is not place to put it at the side or the back of the house. Some cities allow these items to be parked in the front. The current code is interpreted to say that one cannot have this type of equipment/vehicles on blocks; nor can they be “non-running”...this could be a 5<sup>th</sup>-wheeler or trailers people use to transport ATV’s and other “toys”.

Another part of the code deals with setbacks from the street (3’ fence height in front yards): This is saying that, other than parked cars in the driveway (that move or run) they do not want to have high fences and RV’s parked to the street because that “boxes” in the neighborhood and takes away from 1) attractiveness & 2) visual line of sight down the street. This is a big question because it applies to so many throughout the City.

Raymond Brown: He has had a couple of calls from people saying that they store their units during the “off season” and they are not on their property. What happens during the summer months when the trailers are used, parked for a time and them moved (used) again. These people do not want to have to store the unit for a week or two and have to go back and pull it back out for use. It has been “policy” that if the unit is being utilized and just parked for cleaning and re-stocking, etc...that is permissible.

Mr. Eliot: The wording simply states that there is a “reasonable period of time” to load, unload, clean or repair a trailer, boat or RV...in that case, the front of the home shall not be considered a nuisance. The question is what is “reasonable”? If they bring the unit home and park it in their driveway, should they have a place on their property on the side or at the back of the house? Is the Council okay with the unit in the driveway or with just one unit in the driveway? There is also the safety factor...with children and line-of-sight.

NUISANCE CODE  
ENFORCEMENT –  
FEE SCHEDULE

Mr. Eliot feels that perhaps exceptions could be made for one unit, but two or three ends up making the City resemble an RV Park. There are many examples in the City of various combinations of violations.

Mr. Eliot: One of the Planning Commission members brought up having setbacks on RV's themselves (at the side of the house)...perhaps a compromise.

Nelson Abbott: He suggested that the RV's should just stay back out of the easements where the line-of-sight becomes a problem. "In my mind, if you want to park it on your property, and you want to have a yard that looks like whatever...that is your business, to a degree; but when you start pushing it out towards the road, or it is in the road and it affects my ability to drive down the road safely...that is where we really need to have an 'iron fist'."

Mr. Eliot: The easement would be 9' from the curb.

Mayor Dunn: (4-2-1-30-29) "Noxious Weeds"...perhaps a coma should be added before "over 4 inches tall".

Derrek Johnson: He brought up construction noise...He suggested having the time changed from 6:30 AM to 7:00 AM start time. He feels 6:30 AM is too early. In West Jordan, it is 7:00 AM. He is in favor of changing the Code to 7:00 AM to 10:00 PM. (Councilmember Abbott agreed.)

Mr. Eliot: The current Code is 6:30 AM to 10:30 PM.

Mayor Dunn: In construction, it is good to get started earlier in the summer.

Raymond Brown: He wants to see a section added that addresses private & public property damage. He wants to have it easily found in the Code.

*\*Mr. Eliot said he would have the suggested changes included in the proposed Code prior to the Public Hearing.*

FIRE DEPT. SIGNS

Julie Haskell: Chief Waite and she got together and briefly discussed the last Council Meeting about a permanent Fire Dept. Sign. They like what Woodland Hills has done, but felt it may be a bit too wordy. The Chief would like to be able to post various events. What suggestion does the Council have regarding location?

Mayor Dunn: The entrances to the City have always been a good location, since more people see it.

Nelson Abbott: HE is not sure he would like to see any other signs by the new entrance sign on Goosenest Drive.

Shawn Eliot: He suggested further to the east at the entrance; perhaps where the election signs have been posted...up the hill further.

Mayor Dunn: The bulletin board by the park is rarely used; maybe that could be converted in some way to the Fire Dept. The entrances are seen by more people, though.

On Loafer Canyon Rd. it might be better down by the 4-way intersection.

*\*Shawn Eliot offered to assist with the signs. Councilmember Haskell will bring this back to the Council when there are designs to review.*

SUBDIVISIONS-  
DURABILITY TIME  
PERIOD

1. Kimber Estates, Plat A:

A written recommendation from Corbett Stephens were included in the Council packets, dated 10-13-09:

"The final inspection for the above referenced subdivision has been held and the contractor has satisfactorily completed all of the required items. I recommend durability be granted as of October 13, 2009.

The Kimbers have requested an adjustment to their required durability retainer to reflect the actual costs involved. The accepted engineers estimate for the cost of construction was for \$105,601.00; while the actual invoiced amounts total \$76,580.80. The durability retainer is 20% of the cost of construction, engineers estimate put this amount at \$21,120.00 and the actual invoiced amount would reduce the retainer to \$15,316.00

The inspection bond is automatically reduced to 5% of the Durability Retainer (at the time of entrance into Durability), and is to be no less than \$1,000.00; 5% puts this amount at \$765.00, so the minimum amount applies."

**MOTION WAS MADE BY JULIE HASKELL AND SECONDED BY RAYMOND BROWN TO ACCEPT THE IMPROVEMENTS AS COMPLETE FOR KIMBER ESTATES SUBDIVISION, PLAT A; AND TO START THE DURABILITY TIME PERIOD AS OF OCTOBER 13, 2009; AND TO AUTHORIZE A REDUCTION IN THE BOND, AS PER RECOMMENDATION FROM CORBETT STEPHENS**

**VOTE: YES (5) NO (0)**

2. Ridge View Meadows, Plat B:

Written recommendation from Corbett Stephens, dated 10-13-09:

"The final inspection for the above referenced subdivision has been held and the contractor has satisfactorily completed all but one of the required items. I recommend durability be granted as of October 13, 2009. The final item is a four foot section of gutter which will be completed with the concrete work for the house being built on lot #1 of this subdivision. The contractor installed a temporary asphalt gutter to help maintain flow across the affected section."

Julie Haskell: She and Kent Haskell visited the site of this development and Kent Haskell was concerned about the sewer manhole having been covered (asphalted over). IT needs to be uncovered, raised and a cement collar put on...but Mr. Haskell said that the actual connection to the sewer looked really good.

Mayor Dunn: The cement curbing in the road was temporarily installed with asphalt; because he did not want to bring a truck up for only about ¾ of a yard of cement...he would prefer to pour the cement when he pours footings and foundation and order extra yardage then. The cement collar will be done at the same time.

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO ACCEPT THE IMPROVEMENTS AS COMPLETE FOR THE RIDGEVIEW MEADOWS SUBDIVISION, PLAT B; CONTINGENT UPON THE MANHOLE COVER BEING UNCOVERED, RAISED AND A CEMENT COLLAR INSTALLED, AS WELL AS THE CEMENT BEING POURED FOR THE ADJOINING CURB & GUTTER PRIOR TO THE RELEASE OF THE PERFORMANCE BOND; AS WELL AS AUTHORIZING THE DURABILITY TIME PERIOD TO BEGIN AS OF OCTOBER 13, 2009**

**VOTE: YES (5) NO (0)**

3. *Burton Subdivision, Plat A – Release of Bond:*

Memo from Corbett Stephens to the Council, dated 10-13-09:

“The final inspection for the above referenced subdivision has been held and the developer has satisfactorily completed all of the required items. The required 2 year durability period will expire on November 16, 2009. As you are aware we have done an overlay on this section and the entire road to the intersection of Park Drive and Loafer Canyon Road. There are no outstanding issues required of the developer. I recommend final acceptance of the subdivision and release of the durability retainer.”

Note: The sewer line for that subdivision did fail; but was repaired and then the City overlaid over the top it.

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY JULIE HASKELL TO ACCEPT THE IMPROVEMENTS AS COMPLETE FOR THE BURTON SUBDIVISION, PLAT A; AND TO AUTHORIZE THE RELEASE OF THE DURABILITY RETAINER**

**VOTE: YES (5) NO (0)**

OAK HILL ESTATES,  
PLAT D - BEGIN  
DURABILITY TIME  
PERIOD

*(Memo from Corbett Stephens to the Council, date 10-12-09)*

“The final inspection for the above referenced subdivision has been held and the contractor has satisfactorily completed all of required items pertaining to construction. The City Council Meeting of September 22, of this year, raised concerns pertaining to the re-vegetation of the terraced walls. I recommend durability be granted as of September 23, 2009, with the contingency that the developer be held responsible to ensure that the re-vegetation that was performed survives. The method of re-vegetation was not done as recommended by the Extension Service contracted by Mr. Yergensen and therefore leaves question as to its success. I further recommend that this contingency gives the City the latitude to extend the required 1 year durability testing period to two years, if the seed used does not substantially survive, as allowed by House Bill 10-9a-604.5. The required 1” overlay is to be completed in June of 2010 to ensure optimum conditions for asphalt placement.”

Mayor Dunn read the memo to the Council.

RL Yergensen: He added that he did do the seeding according to the instructions of Mr. Hansen (Extension Services Re-vegetation Plan). Some claimed Mr. Yergensen failed to put down straw (as recommended in the Plan); however Mr. Yergensen say he did have straw put down...furthermore he brought the contractor that laid the straw with him to the Meeting that night. He carried bales of straw and spread it out.

Mr. Yergensen also said that he planted oak brush and even installed a drip system to irrigate it. He said that Corbett Stephens installed a meter onto one of the boxes...and he and Mr. Stephens walked along the very top of the area where a ditch had been installed around the entire perimeter, so no water could run into the rock walls. He and Mr. Stephens found that there was no erosion; and that there was grass growing in the ditch. He is not sure where the questions came from.

Mayor Dunn: The Mayor went to the site with Corbett Stephens and walked the area to check the improvements:

- The ditch is on top (as he indicated)
- He saw there is a drip system (there is about 180 feet)
- There are clumps of “gamble oaks on level 4; he did not see any oak on any of the other levels

RL Yergensen: He said he did not intent on putting it on any of the other levels; the Plan simply states that the stabilization of the walls needs to succeed with the planting...he thought that the addition of gamble oak and sage came later; after the grasses. He was unsure if the original Plan included gamble oak and sage.

Mr. Yergensen: He was sure that the Plan did included them both and bitterbrush, as well. He had the invoices for the grass; and he spoke to the people at the seed company to tell then he had not been able to identify any sage brush or bitterbrush. He was informed that the bitterbrush would not be notable until 2-4 years after planting (or even longer); the man at the seed company offered to answer any questions and gave Mr. Yergensen his card.

Mr. Yergensen declared that he planted what he was asked to plant. The Plan does not specify any particular amount or number of plants.

(He gave the seed invoices to the Council for his file at the City Offices.)

Mayor Dunn: One of the Planning Commissioners visited the site to look at the improvements; he told the Mayor that all he had to do was take a couple of oak scrubs and cut the roots in 4 or 5 inch pieces and plant those in holes and he told him they would grow, without a drip system. He said the Forest Service does this.

Mr. Yergensen: He replied that he purchased the oak plants from the Forest Service and has tried what the Mayor suggested and it has not worked. The ones he planted are growing due to the drip system he has installed. He said he would be willing to plant more roots, but he is doubtful they will grow under those circumstances...but he will try.

Mayor Dunn: He agreed with Mr. Yergensen...the re-vegetation plan is not specific as to how much sage and gamble oak.

Shawn Eliot: This was discussed at the last Planning Commission Meeting and the re-vegetation plan calls for cutting weeds down...he asked Mr. Yergensen if that had been done. Keeping the weeds cut helps the native plants to get established; otherwise the invasive weeds take over.

Mr. Yergensen: Grass is starting to sprout now. He feels that next year would be a good time to cut that wheat grass off; but now it makes a good bed for the plants growing.

City Recorder: Could Durability be granted with the contingency that the cutting of the weeds takes place in the spring?

Shawn Eliot: Since the City staff is not experts in the field of re-vegetation, he suggested that the person (Dave Hansen at Utah County) come back and review the site of the Development and assess the attempt at re-vegetation.

Sean Roylance: He pointed out that the re-vegetation was not for *beautification*; but for *stabilization*. It is critical that it works.

Derrek Johnson: He asked if anything had been done about the hill that was cut on Hillside Drive. He recalls that Mr. Yergensen was going to re-vegetate this hill; look into water and irrigate the hillside.

Mr. Yergensen: He replied that he did not know anything about that.

Shawn Eliot: It was brought up at the Planning Commission Meeting; and the concern was that it was dug up and never re-vegetated. Mr. Yergensen said he would work with the person who purchased the lot. It was tied to the plat approval earlier.

Mr. Yergensen: He denied any knowledge of this and request any minutes from meetings where this was agreed upon. He put top soil over the area where the hillside was cut off; the same grass that was growing there before is growing now...out of the top soil.

City Recorder: She reviewed the City Council discussion and recommendation from the Planning Commission which came forward to the Council: There was no mention of the hillside in the memo from the Planning Commission. It may have been discussed, but was not included in the information to the Council. It may be in the Planning Commission minutes; but was not on the recommendation from the Planner.

Mr. Yergensen: He feels he has done everything that was required of him. There is over \$200 worth of fertilizer in addition to what was required.

Nelson Abbott: (Seeking to clarify the discussion and the memo from Corbett Stephens) The Durability Retainer will not expire for another year; if the re-vegetation does not work, then it could be extended for an additional year. He does not see where all of this is a problem at this stage.

Mr. Yergensen: Corbett Stephens asked him if he would postpone the 1" asphalt overlay until next year...he actually had the asphalt all scheduled. Mr. Stephens asked that he make the patch this year and overlay next year. He was told the Bond would be released after the overlay in completed.

Sean Roylance: Directions to Mr. Yergensen might not have said specifically how many trees to plant; but "I don't know of any reasonable person that expected that it was only going to be 10% of the overall linear feet; and it is a safety issue". Councilmember Roylance feels:

- 10% is too little
- He is not comfortable saying it is acceptable unless there is someone with proper experience that can verify that the rock wall is safe

Mayor Dunn: The City Engineer looked at the wall a few months ago and said that the rock wall "is not going anywhere".

Mr. Yergensen: There was a water line break and only one rock was washed out (it was replaced).

Mayor Dunn: He walked the entire area and examined the rocks and could see nothing that looked like it was pulling away...it appeared stable.

Nelson Abbott: If the seeds planted do not make it through the winter, then the re-vegetation plan has failed. As he reads the recommendation from Corbett Stephens, then the time period can be extended at that point due to a failure.

Mr. Yergensen: He is confident (after talking to the "seed man") that there will be a lot of grass coming up next year.

Raymond Brown: He suggested going along with Mr. Stephens' recommendation and simply basing the motion on the points of the memo.

**MOTION WAS MADE BY RAYMOND BROWN AND SECONDED BY NELSON ABBOTT TO ACCEPT THE RECOMMENDATION OF CORBETT STEPHENS ON TO THE COUNCIL TO GRANT FINAL ACCEPTANCE OF OAK HILL ESTAES, PLAT D; AND TO APPROVE ENTRANCE INTO THE DURABILITY TIME PERIOD AS OF SEPTEMBER 23, 2009; WITH THE CONTINGENCY THAT THE DEVELOPER BE HELD RESPONSIBLE TO ENSURE THAT THE RE-VEGETATION THAT WAS PERFORMED SERIVES. IT IS FURTHER RECOMMENDED THAT THIS CONTINGENCY GIVES THE CITY THE LATITUDE TO EXTEND THE REQUIRED ONHE YEAR DURABILITY TESTING PERIOD TO TWO YEARS, IF THE SEED USED DOES NOT SUBSTANTIALLY SURVIVE; AS ALLOWED BY HOUSE BILL 10-9A-604.5.**

- THE REQUIRED ONE INCH OVERLAY IS TO BE COMPLETED IN JUHE OF 2010, TO INSURE OPTIMUM CONDITIONS FOR ASPHALT PLACEMENT

**VOTE: YES (2) RAYMOND BROWN & NELSON ABBOTT**

**NO (3) DERREK JOHNSON, JUIE HASKELL & SEAN ROYLANCE**

*Motion did not pass*

Mayor Dunn: He asked the Councilmembers that voted against the motion what they expected Mr. Yergensen to do to allow him to move forward.

Sean Roylance: He expects more than 10% re-vegetation and to have someone (a specialist) to come and check it out to determine if the vegetation is appropriate and that the area is safe...

Julie Haskell: She agreed with Councilmember Roylance.

Derrek Johnson: He would also like to see the hillside (located on Hillside Drive) he mentioned earlier in the Meeting to be addressed by Mr. Yergensen.

Mr. Yergensen: He did not feel that the Council could tie him to additional requirements on Hillside Drive. *(The Planner agreed that the Hillside Drive issue should not be tied to Plat D.)*

Mayor Dunn: There are concerns on Hillside Drive; but he agrees that they are separate issue and should be addressed separately.

Sean Eliot: He was not including Hillside Drive; he simply wants the expert (Dave Hansen) to:

- Look at the area
- Trees planted on more then 10% of the linear footage.

City Recorder: If these things were not required before, how can they be required at this point?

Sean Roylance: He said that if this were brought before a judge, the judge would ask what a "reasonable person would expect, based on the language...I don't think 10% is what a reasonable person would expect".  
Shawn Eliot: He feels the vegetation was put there to help stabilize the wall. The expert should determine if the other seeds are going to be adequate...and is the scrub oak more aesthetic or for stabilization?  
Mayor Dunn: The expert who helped create the re-vegetation plan should be asked if that amount of oak will satisfy the plan he put together.  
Shawn Eliot: He does not believe the original plan included gamble oak; the thought was that the hill was covered and the Planning Commission felt it should be replaced. He thinks a mixture would be good; but exact numbers were not part of the plan. He suggested looking for minutes from Planning Commission Meetings to see what was discussed. This has been a contentious issue.  
Mayor Dunn: He feels the oak that has been planted is doing well and that he feels the walls are stable...he has not witnessed any movement. The Plant expert did not feel the oak needs to be irrigated (*RL Yergensen was doubtful of that*).

List to be done:

- ❖ Contact Mr. Hansen (County) to see if he will examine what has been planted and to define the re-vegetation plan he wrote
- ❖ Find and review the Planning Commission minutes where gamble oak, bitter brush and sage were added to the requirements for Plat D...to determine the balance in all this.
- ❖ Get back to Mr. Yergensen with findings

Mr. Yergensen: He requested to be present during the review from the Plant expert.

CITY RENTAL PROPERTY

Mayor Dunn: He received a letter from the renters (Andersons') in the house located on the City property (corner of Gooseneck Drive and Elk Ridge Drive) requesting certain repairs on the heating system in the House; as well as other repairs to the home. After discussion, the Council decided the following:

1. Heating System: To have it repaired.
  - A. The Mayor will have Corbett Stephens look at it to determine what needs to be done.
  - B. It may be too old to repair
2. Propane Furnace: This is tied to #1 and the Council approved having it repaired
3. Willow Tree Split: Cut the tree down after making sure the split in the tree warrants that action. The Mayor will ask Kent Haskell to handle this.
4. Who is the new contact after the Elections? Kenneth Lutes will be the new Mayor (Landlord)
5. Reduce Rent? The Council did not agree with this request.

Sean Roylance: IF the renter could prove it is over-priced, perhaps the Council would be willing to review the request.

MINUTES OF CITY COUNCIL MEETINGS

1. *City Council Minutes of 8-25-09:*

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO APPROVE THE CITY COUNCIL MINUTES OF 8-25-09**

**VOTE: YES (5) NO (0)**

2. *City Council Minutes of 9-8-09:*

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY RAYMOND BROWN TO APPROVE THE CITY COUNCIL MINUTES OF 9-8-09; AS CORRECTED**

**VOTE: YES (5) NO (0)**

EXPENDITURES

*General: None*

*Ratify Polled Vote:*

*A. Sewer Line:*

Mayor Dunn: The Mayor polled the Council and heard back from 3 of the 5 Councilmembers regarding installing a sewer line (already approved) as an extension of the line installed by Kimbers' in conjunction with their one-lot subdivision. (N. Canyon View Drive & Bridger Lane)

Noel Hyatt allowed the City to use his track-hoe because the line was too deep for the backhoe.

The sewer line is 200' long with a manhole (purchased by Kimbers'). The City assisted in installing the line. The Council had to be polled with the cost due to the availability of the track-hoe.

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY JULIE HASKELL TO RATIFY THE POLLED VOTE TO APPROVE THE INSTALLATION OF 200' OF SEWER LINE FROM BRIDGER LANE NORTH TO KIMBER'S SEWER LINE ON CANYON VIEW DRIVE AT A COST OF \$\_\_\_\_\_ (TO BE SUPPLIED BY THE MAYOR)**

**VOTE (POLLED): DERREK JOHNSON-AYE, JULIE HASKELL-AYE, RAYMOND BROWN-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE NAY (0)**

*Passed 5-0*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

*B. Park Impact Fees – Railroad Ties for Flag Pole:*

**MOTION WAS MADE BY NELSON ABBOTT AND SECONDED BY DERREK JOHNSON TO RATIFY THE POLLED VOTE TO PURCHASE RAILROAD TIES FOR THE NEW FLAG POLE AREA; USING PARK IMPACT FEES FOR THE PURCHASE**

**VOTE (POLLED): DEREK JOHNSON-AYE, RAYMOND BROWN-AYE, JULIE HASKELL-AYE, NELSON ABBOTT-AYE & SEAN ROYLANCE-AYE (5) NAY (0)**

*Passed 5-0*

NON-AGENDA ITEM

*Curb & Gutter letters to affected residents:*  
Responses to the letters: 50% X 50% (for & against)

ADJOURNMENT

The Meeting was adjourned at 10:15 PM.

---

City Recorder – Elk Ridge City