

**ELK RIDGE  
CITY COUNCIL MEETING  
April 13, 2010**

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5 TIME & PLACE  
6 OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for Tuesday, April 13, 2010, at 7:00 PM; this was preceded by a City Council Work Session at 6:00 PM. A City Council Closed Session was scheduled for 8:20 PM, at the conclusion of the regular Session. 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 as well as an Amended Agenda of these Meetings were provided to the  
11 Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on April 7, 2010.

13 **6:00 PM –**

**CITY COUNCIL WORK SESSION AGENDA:**

15 ROLL

*Mayor: Kenneth O. Lutes; City Council: Julie Haskell, Sean Royslance, Derrek Johnson, Weston Youd & Erin Clawson; City Planner: Shawn Eliot; City Attorney: David Church; Utah Division of Drinking Water: Kim Dyches; Sheriff: Deputy Tindall; Building Official: Corbett Stephens; Fire Chief: Seth Wait; Deseret News: Rodger Hardy; Public: Nelson Abbott, Lucretia Thayne, Devin & Hayden Hoole, Jamie & Jim Towse; and the City Recorder: Janice H. Davis*

*Mayor Lutes recognized the City Attorney, Mr. David Church, Mr. Kim Dyches from the Utah State Division of Drinking Water and Deputy Tindall from the Utah County Sheriff's Dept, and thanked them for their attendance.*

25 PLANNING &  
26 ADMINISTRATIVE  
27 UPDATE

Shawn Eliot: For better training and a better understanding of the various roles of the City Council, Planning Commission and Staff of the City: "Two Hats Syndrome"

All three of these above mentioned groups wear "two hats" when making decisions: Legislative and Administrative...it is important to know the difference between these.

Legislative decisions include:

- Creating or amending Code (making law)
- Re-zoning
- Holding public hearings & meetings
- Approving the General Plan
- Adopting resolutions

State law allows broad uses of "land use authority", however there are limits in the procedures required to exercise these powers. There are not too many limits in State code on our land use abilities. There are some areas of concern where the State does dictate terms on a stricter basis: like group homes, bill boards or homes for the elderly, etc. Usually, the State has left it up to the cities, as long as the laws remain within the Constitution and State statutes.

The courts usually do not intervene in legislative decisions; instead the due process is reviewed. Did the city follow the proper procedures? Cities need to be able to say that their actions are for the "general welfare" of the citizens; but procedures will be scrutinized.

Mr. Eliot applied this specifically to Mr. Gowers and his right to be at the meeting where his proposal is being considered. When he requested to be removed from the agenda and moved to another meeting, his proposed zone change should not really be discussed in his absence. Procedurally, it would be wise to wait until the applicant is present to discuss the issues associated with that applicant.

During the legislative process, "public clamor" is allowed and even encouraged. When making new laws that affect the citizens, then the Council can allow people come in and state the reasons they are either for or against a particular proposed law.

Administratively: This could include subdivision approvals and completions. Example: When the laws are made (legislatively) and a zone (say R-1-15,000) is allowed certain uses, conditional uses, setbacks, etc., the laws can be made as the Council deems appropriate; but, once the laws are in place, and an applicant comes in to begin the subdivision process, the approval of that subdivision is not "legislative", it is "administrative".

Changing the rules on that applicant cannot be done in the middle of that subdivision process. The City cannot impose requirements on a developer that are not expressed in the code; to do so could be considered a "taking".

Other "administrative" issues: building permits, business licenses, conditional use permits, land use code enforcement, signs, etc.

So, once the ordinances are in place, they must be followed, or the City can get into trouble legally.

- During the "administrative" process, "public clamor" is not allowed. Using the example of a subdivision again: If someone were building on the Hillside hill, a public hearing would be held to take information from the public to say that perhaps the City is not following its own code; but, if the code allowed that person to build on the hill and there were not information that is contrary to the code, then public clamor should not be allowed.

- It is very important the land use code is "where we want it to be". Over the years the code has been updated to get it in the best place possible.

*Duties:*

City Code lists the responsibilities of the Council, the Mayor, the Planning Commission and staff; the Code is a bit vague on some of these.

- Land use: Code mentions the “Land Use Authority”, but doesn’t state who that “authority” is. The code should state who that is.

*Rolls & duties:*

- City Council is administratively over the approval of subdivisions
- Planning Commission recommends to the Council
- Staff makes sure the application is complete

*Development:*

-Due process is required of land use applications and time limits are required for the City to act upon land use applications. Developers can call the City on seeming to “drag their feet” on the process (that has and can go both ways).

- Politics should not interfere with the application process. Specifically< going to an applicant as a politician and making threats to fight it or speaking for the Council, can get the City into trouble.

- “Exparte contact”: (Off the record contact) Any written or verbal communication initiated outside of a public meeting between an official and a decision-making authority and one or more, but not all the parties”

Example: Basically, if we are taking about a development issue with another Council Member or two Council Members...or whomever...those are supposed to be discussed in the public view, rather than privately.

Mr. Eliot discouraged discussing with one another how a vote may go on an issue...this could be seen as being treated “unfairly” procedurally.

- All parties are entitled to be heard before an “impartial” body. If individual Council Members have already made up their minds on an issue before the individual comes before the body...that is not right.

Sean Roylance: Questioned: In general, a Council Member can talk to the Mayor or another Member, if there is not a “quorum”...are land use issues handled differently?

Shawn Eliot: It is when a specific application is being discussed...that should be done in the public view. If it is

Sean Roylance: He asked about questioning a developer regarding points of interest needing further clarification, say after a meeting.

Mr. Eliot: (He invited correction from the City Attorney) If a Member of the Council does talk to someone in that context; then you should come to the next meeting and disclose that conversation.

David Church: It depends on what is meant in “talking to a developer and what the issue is. If it is an “administrative” decision...example: there is a decision to be made on an application...that is different than say, a zone change where an applicant is, in effect’ “lobbying” the Council for a legislative change in the law...that is really what is meant by “exparte...it is not really against the law, but can be deemed as “unfair”. It can go the other way, too...as in a neighborhood being against an issue and meeting with that group...without the applicant being involved.

When it is a simple application for a subdivision or a site plan approval and a member of the Council has a question for a developer...there are theoretically not two sides on an application...it is an administrative action. A land owner is simply asking how to develop under the current code; it should not be adversarial...the land owner is simply exercising their rights under the law as it has been written. This should not be a “contest” between town opposing groups.

In land use, there may be things like variances or appeals where there could be two sides; then it is clearly improper to meet with one side where the other side is not present.

When ambiguous language in a code is being interpreted, the land use authority (in Elk Ridge, it would be the City Council) is going to make an interpretation...then an aggrieved party can appeal that decision. IF it is non-adversarial, then he sees no problem; but if there is an adversarial aspect, caution should be taken.

He added: there is a specific part of the State Code that whenever you specifically discuss a pending land use application, there is a section in the State Code now that does require you to invite the applicant and give him/her notice of the meeting.

*The Mayor thanked Mr. Eliot for the education. He Asked the Council to keep their information sent out on Mr. Gowers’ Zone Change request until May 11, 2010.*

0:19:06

ATV HELMET LAWS

Deputy Tindall: (Utah County Sheriff) In the process of enforcement of the helmet law in Elk Ridge for ATV riders, he discovered an issue with the governing laws: there are no laws dictating the requirement of helmets for those riding in the side cars of ATV’s. He wanted the Council to be aware of this problem. The State Code says there are alternate types of “All Terrain Vehicles” (ATV’s)...Type 1 and Type 2; and currently, the State Code requires helmets to be worn on a Type 1 (Something that can be straddled). The new types (like a side-by-side Rhino for instance) do not require helmets to be worn. He has gotten calls on why citations are not being issued on some of these.

0:21:31

The Council could amend the City Code with an addition of certain wording (he gave an example of wording). - He also could not find in the State Code how many people are allowed on an ATV. The question comes up; he has no code to dictate this. Again, if the Council wishes to amend the code, he cited sample wording. *(If the Council decides to act on amending the code, the wording can be found in the taped version of the meeting at the reference point indicated in the left margin.)*

Sean Roylance: The question then would be to require helmets on all ATV’s, even side-by-sides? (Yes.) He felt somewhat split on the issue of helmets, but would be willing to consider the appropriate usage (numbers & how the vehicle is ridden).

Weston Youd: The reason for the “no helmet” requirement: He said that side-by-sides are constructed with certain protections built in:

- Roll bars
- Seat Belts
- Upgrades

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2 Deputy Tindall said that he brought this up so the Council could be aware of the issue, if calls come in. That is  
3 why citations are not being written on these violations.

4 \*Mayor Lutes suggested re-visiting the issues on another Work Session in the future.

5 0:26:35

6 FENCING FAIRWAY  
7 TANK & PUMPHOUSE

Mayor Lutes: The Mayor provided a numbered summary of the issues that have been and still need to be considered:

8 “To help us prepare for our discussion about the Fairway tank security during the work session on the 13<sup>th</sup>, I  
9 wanted to review some of the salient points. Perhaps some of these will help us do our best for the citizens of  
10 Elk Ridge.

- 11 1. We all agree that we need to protect the Elk Ridge water system, which is vital to the “health, safety,  
12 and welfare” of our citizens as stated in our Constitution.
- 13 2. We all agree that at a minimum we need to install a security fence around the Fairway pump house  
14 (Option C on map) and increase the security of the hatch and vent on top of the tank.
- 15 3. We all agree that we want to minimize the visibility of any fencing.
- 16 4. There is disagreement as to the safety of children having access to the tank and pump house and the  
17 dangers imposed by the steepness of the tank slope with the retention basin at the bottom.
- 18 5. There is disagreement as to the necessity of allowing public access to the tank and pump house area  
19 because the tank was built in an area planned as open space.
- 20 6. All professionals invited to give opinion on our situation—city attorney, insurance risk management,  
21 law enforcement, Utah Department of Drinking Water, our fire chief, and public water system  
22 experts—recommend fencing the entire footprint of the Fairway tank, pump house, and access road  
23 (Option A on map, estimated to cost \$15,000).
- 24 7. Applicable documentation recommends securing public water systems with fencing and other  
25 security devices—state drinking water guidelines, US Environmental Protection Agency, and  
26 American Water Works Association.
- 27 8. Most citizens who have given opinions favor fencing the entire area (Option A).
- 28 9. A few citizens would rather fence just the pump house (Option C at a cost of about \$4000) and leave  
29 the tank area open.
- 30 10. Option A would place the fence generally along the scrub oak where it would be less obvious than a  
31 prominent fence around the pump house.
- 32 11. A modified Option A could place the fence at the east edge of the access road, which would still  
33 allow a trail between the fence and the scrub oak.
- 34 12. A compromise between options A and C would be to fence the tank and the pump house (Option B)  
35 at a cost of about \$10,000.
- 36 13. Options D and E would place a 4-foot fence around the south and north retention basins,  
37 respectively, to prevent small children access.
- 38 14. Option F is to place a gate only across the access road at the city property line to prevent vehicular  
39 access (about \$650).
- 40 15. To provide the additional security for the hatch and vent is estimated to cost about \$2,500.
- 41 16. The state Department of Drinking Water assessed us 124 points in August 2009 for deficiencies in  
42 our water system. If we exceed 150 points, we will have an “unapproved water system.” Typically,  
43 banks will not lend on homes with an unapproved water system. One bad water sample could cost us  
44 30 points and put us over the 150. (We do get 10 points credit because Corbett is over qualified, so  
45 our current net point total is 114.)
- 46 17. We can be assessed 20 points if access to the storage tank is not prevented, putting us at 134.
- 47 18. If we do not fence the access to the water storage system, we are “assuming liability” and are subject  
48 to lawsuits.
- 49 19. The most reasonable way to provide the additional security for the hatch and vent on the tank is to  
50 install a 6-foot chain link fence with barbed wire on top (Option A or B).
- 51 20. Additional security for the hatch and vent could be provided by constructing a steel box to cover the  
52 hatch and a steel box with baffles, allowing air venting, over the vent.

53 Please study the material provided so that we can come to a consensus during our work session. We need to  
54 take action to provide a better level of security for the Fairway water system. In summary, we are:

- 55 • Vulnerable to water system vandalism.
- 56 • Subject to becoming an “unapproved water system” if assessed an additional 36 points.
- 57 • Vulnerable to lawsuits for injury or negligence at the Fairway tank site.
- 58 • “Assuming liability” for all consequences of not taking action to adequately secure the system.
- 59 • Negligent in providing for the “health, safety, and welfare” of our citizens if we do not act prudently.

60 *The memo also included suggested motions regarding the options available.*

61 *(A colored map of the various options was also provided by City Planner, Shawn Eliot.)*

62 After reviewing the summary, Mayor Lutes asked for comments from the City Council:

63 Weston Youd: He asked for clarification of Option “X – Y” on the colored map.

64 *The Mayor explained that this is an added option which basically takes Option “A” and cuts it in half...including  
65 the tank; pump house, upper retention basin and surrounding area.*

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3 Sean Roylance: At the last Council Meeting, discussion included what the proposed fencing would secure  
4 against:

- 5 1. Vandal/Prankster
- 6 2. Someone meaning to do harm to the Community
- 7 3. Some type of terrorist
- 8 - He feels that with the mechanisms the City has approved to be installed to “harden” the top of the tank,  
9 that we will be able to...without a fence...secure the water system from #1 (Prank/Vandal).
- 10 - A determined attacker: He expressed at the last meeting that he felt that the security measures to be  
11 implemented on the top of the tank would be more difficult for an attacker to penetrate than a fence.  
12 A fence may slow an attacker down for a few moments, then the greater problem of actually getting into  
13 the well would challenge the attacker due to the security measures taken.

14 He felt that a fence would not provide any additional significant security against that type of attacker.  
15 He asked the question if there is another plausible situation where a fence would actually make a difference.  
16 So far, he does not feel one has been presented.

17 Julie Haskell: She has not come up with anything else.

18 Erin Clawson: She had submitted a summary of some of the main points made from the information she  
19 researched...this was included in the Council packets. Councilmember Clawson also provided the complete  
20 list of information to the Council via email.

21 She wanted the summary included in the Minutes of the Meeting:

22 **“1.2.2.2 Legal and Liability Issues:**

23 A basic tenet of legal liability may compel a water utility that is made aware of a condition to take reasonable  
24 steps to eliminate or mitigate a hazardous condition. Publications such as this one that discuss the need for  
25 water utility security, and the materials published by EPA and other entities, could be considered notice that a  
26 hazardous condition may potentially exist. Once a vulnerability assessment is complete, the resulting  
27 recommendations also could be considered as notice of a dangerous condition. This notice could potentially  
28 result in liability if the recommendations are not addressed. In some cases, water utilities may be able to claim  
29 immunity based on their charters or municipal laws; however, some state laws waive or limit this immunity. A  
30 finding of negligence for damages stemming from a security breach generally would require:

- 31 • Knowledge or reasonable ability to foresee the damages
- 32 • A duty to the injured person
- 33 • Violation of the duty proximately causing the injury

34 Generalized warnings of terrorism against water utilities may not impact liability, but a warning relating to a  
35 specific plant or location could. The paraphrased axiom that, ‘the best defense is a well thought out and  
36 implemented security program,’ can be applied here. Court rulings have found that a water utility must  
37 exercise reasonable care in operating and maintaining its system. The definition of ‘reasonable care’ is key in  
38 determining liability. As more water utilities implement security improvements, it could be argued that the  
39 definition of reasonable care is evolving to include installation of security systems that only a short time ago  
40 were rarely found in water systems. This document will include a two-tiered approach to security-related  
41 improvements using Basic and Advanced categories. A water utility can identify those measures that actually  
42 provide security improvements and that are a balance of the available resources, the utility’s ability to execute  
43 the improvements, and ongoing operational aspects of the utility.

44 The Basic category is a reasonable care approach to reduce identified risk levels at the most critical assets.

45 **1.2.3 Other Reasons:**

46 Other reasons that water utilities have cited for the implementation of security systems included:

- 47 • Providing protection against non-terrorism threats such as vandals, low-level criminals, and  
48 disgruntled employees. Vandalism and theft are a problem for many utilities, especially those in larger  
49 urban areas...one that installing security systems can help to mitigate or prevent.
- 50 • Protecting employees from outsiders entering plants.
- 51 • Providing operational benefits beyond heightened security. For example, installing backup generators  
52 to provide power in the event of an attack on the power substation feed will also provide mitigation for  
53 power outages caused by other events, such as natural disasters or construction-related incidents.  
54 Similarly, as part of vulnerability assessments, utilities that add redundant pumps for pumping  
55 systems would significantly reduce process-related consequences if the main pumps are no longer  
56 operational.
- 57 • Assuming the responsibility to maintain public confidence in the water system and provide service to  
58 the community.

59  
60 Systems serving populations greater than 3,300 conduct a vulnerability assessment (VA). The VA’s have  
61 helped utilities to understand the most likely threats, the most critical facilities and assets, and the relative risk  
62 for those security facilities and assets. The results of the VA provide a framework for the utility to enhance the  
63 physical security of its water systems so that its mission may be achieved.

64 **1.4.1 Definition of Vulnerability:**

65 As defined in the Sandia National Laboratories’ RAM-W™ approach, ‘vulnerability’ is an exploitable security  
66 weakness or deficiency at a facility. Further definitions of vulnerability include these:

- 67 • A characteristic of a critical infrastructure’s design, management, or operation that renders the  
68 infrastructure susceptible to destruction or incapacitation by a threat.

- A flaw in security procedures, software, internal system controls, or operation that may affect the integrity, confidentiality, accountability, and/or availability of data or services. Vulnerabilities include flaws that may be deliberately exploited and those that may cause failure due to inadvertent human actions or natural disasters.
- Any weakness that can be exploited by an aggressor or, in a non-adversarial threat to the environment, that can make an asset susceptible to hazard damage.

**1.4.2 Definition of Risk:**

As defined in the Sandia National Laboratories' RAM-W™ approach, “risk” has two components: 1) a measure of the potential damage to or loss of an asset and 2) the probability of an undesirable occurrence to that asset. Further definitions of risk include these:

- The potential for realization of unwanted, adverse consequences to human life, health, property, or the environment.
- The quantitative or qualitative expression of possible loss that considers the probability of a hazard causing harm together with the consequences of that event.

Risk is usually expressed as a function of the probability of the occurrence of an adverse effect and the consequence of the affect on the ability to maintain function.

**1.5.1 Malevolent Acts:**

Deliberate, malevolent events are intended to affect as many people as possible in order to create concerns among the public and promote distrust of the authorities. This, in turn, causes dissention and division and makes it easier for adversaries to affect the political and economic well-being of the community.

**1.5.1.1 Types of Malevolent Acts and Adversaries:**

Other types of malevolent acts include:

- Physical damage and destruction to the infrastructure assets
- Use of explosive devices
- Arson
- Introduction of a flammable liquid into the water system
- Vandalism
- Sabotage of valves, tanks, etc.
- Introduction of a chemical agent that can permanently contaminate the interior of pipes and storage tanks
- Damage to the power supply
- Destruction of vital infrastructure
- Disruption of the water system
- Introduction of a toxin into the source water, treatment facility, or distribution system
- Hacking into the SCADA system
- Removing hardcopy files or deleting electronic files
- Sabotage of valves, tanks, etc.
- Interrupt operations supporting the public
- Harming the workers and public
- Release of toxic substance (e.g., chlorine)
- Personal assault with or without a weapon on employees
- Kill, injure, or affect the health of large numbers of people
- Use of facilities for other malicious purposes
- Access of customers' financial information
- Equipment theft for personal gain
- Threat of contamination to invoke public fear

There are numerous types of adversaries as shown in Figure 1-4. Threats may originate from an “insider” or from an “outsider”. An insider is a person with knowledge of the water utility and who has access to the facility or portions of the system as part of his or her daily work activities. Insiders typically have access to information systems as well. The appearance of an insider at a utility facility does not typically cause suspicion. Example of insiders included employees, vendors delivering materials, and onsite contractors.

Figure 1.4:

- ❖ *Current employee*
- ❖ *Former employee*
- ❖ *Spouse/partner of employee*
- ❖ *Vendor of contractor*
- ❖ *Customer*
- ❖ *Vandal*
- ❖ *Criminal*
- ❖ *Saboteur*
- ❖ *Terrorist*

An outsider is a person who is not normally allowed access to any of the water facilities. Suspicions might be raised if such a person is seen on utility property. Outsiders typically do not have access rights to buildings or information systems. Some outsiders, however, can have insider knowledge. These outsiders can include former employees, contractors, or consultants who have some access or knowledge of the facility.

**Motivation:**

The motivation of perpetrators ranges from the mischief of vandals to the desire of adversaries to undermine the well-being of society. In between these two extremes are a variety of motivating factors that include persons angry at the utility or individual of the utility.

- Establish a citizen's watch program and a law enforcement education program to help provide monitoring of hydrants and water utility system sites with the intent of preventing unauthorized use or entry.

**1.6.9 Sharing Information:**

Utilities have a number of opportunities to share information that can reduce costs of enhancing physical security of their water systems.

- Benchmarking and other industry activities. Participation in benchmarking or other related industry activities can provide the utility with early access to best management practices that can be cost-effectively integrated into a program.
- Provide cyber attack details to the local FBI office. The local FBI has established capabilities of researching and investigating both successful and unsuccessful cyber attacks on utility systems.
- Coordinate/cooperate with contiguous utility systems. Coordination of security-related programs with contiguous systems can provide additional redundancy and potentially reduce the costs of securing the utility's water system."

Erin Clawson: In the research she has done, the suggestion is "to deter and detect". A fence, though not 100% effective, would be an extra deterrent; particularly if the area is patrolled by someone in the City. If the fence was broken into, then the citizens could be warned and the water tested...this could save lives. If there is open access to the tank, how would the City ever know of an intrusion? A fence presents a clear boundary and could help with liability issues as well.

Sean Roylance: One document provided by Council Member Clawson was thought provoking; it had a list of suggestions of what could be done to prevent problems...most of which has not been discussed by the Council for one reason or another. The suggestions are either:

- Too expensive
- Reasonable and effective and could be afforded

There was a "key" comment: Patrolling...if an employee were not properly trained, would patrolling be effective? If the budget could afford someone regularly patrolling the fence, then he agrees that it would make a difference. He does not feel that private water systems are in high danger from extreme types of attack.

Derrek Johnson: It was pointed out by Mr. Dan Steele that there have been attempts to do harm.

Sean Roylance: If that is the case, does the City want to employ 24 hour security, including night patrol. He was doubtful the City has the resources to do that. A fence is a "tool", but without the person to employ that tool, it would not make a lot of difference.

Weston Youd: Patrolling the top of the tank, once secured ("hardened") could be more effective than patrolling a perimeter of a fence. Employees could go up a couple of times per day to check and actually install an electronic surveillance device, as well as fencing around the pump house...this would be easier and faster to patrol.

Derrek Johnson: He still preferred Option "A" (fencing the entire property line); but He might consider Option "C" with a gate at the bottom (Option "F"). He said he was perplexed with the resistance demonstrated; considering all of the expert advice the City has received recommending fencing the water tank. Why would past Councils secure the other two tanks in the City, if it was not necessary?

Erin Clawson: Other cities do secure their tanks with fences.

Sean Roylance: He felt that that is simply "default" behavior, with no major reason not to.

Mayor Lutes: Since a question arose as to the qualifications of Dan Steele to make recommendations; Mayor Lutes summarized those:

- He has worked for 25 years on water systems (local resident)
- He volunteered his time to assist with the telemetry
- He was involved with the Olympics' security
- He travels and works with cities and their systems as his occupation

The Mayor asked if the Council had any more comments at this time...they did not. He introduced Kim Dyches

**(Utah State Division of Drinking Water)**

Kim Dyches: (Handout of Utah State laws governing Drinking Water Storage Tanks...18 pages) He has been with the Division of Drinking Water for almost 13 years; he also has a background in electronics and welding as well as teaching classes at UVU. He has experience in working with Jordan Water Conservancy District and he was also the water security person for the 2002 Olympics in Salt Lake City.

He wished to address "Due diligence as a water operator":

He was not at the meeting to attempt to influence anyone; he simply wished to talk "straight" with the Council. He agrees that no fence will keep everyone out; but a fence establishes a perimeter.

He was glad to see three key people: Fire Chief, Public Works and the police...they are the people the Council should listen to because they are in charge of making sure that the water facilities are secured. If there is a perimeter fence, it establishes that if someone is inside that perimeter, he/she is considered a threat. Without a fence, the City has allowed access to the area, so the city has openly allowed someone on that facility...whatever they are doing on the property. A perimeter fence says, "No you can't go in there". If someone crashes through the fence and rolls the vehicle, liability drops due to the establishment of that perimeter. Without a fence and someone gets hurt in the area, the people will sue the city. He knows that from being in the water business...people will go after what they determine to be the "deepest pockets".

In government, we have to protect people against themselves at times.

\$15,000 for a fence will be miniscule with a law suite on your hands. Three reasons for perimeter fencing:

1. Keep people off the facility
2. Anyone that breaches the fence is a threat
3. Early warning

53:39

- "Normality": If there are people in the area of the tank, with no fence, it is a "normal" occurrence; if there is a fence, it is not "normal" and alerts neighbors and others (he cited examples of this happening).

- "Precedent": He will let the Council discuss this topic at their convenience.

- How critical is this facility? (The Council must determine this)

A. Vandalism is likely to occur

B. Can the City afford to have this facility down while testing occurs (some of these samples are thousands of dollars)

Once the system is compromised, then testing will be mandatory...there is a whole list of testing that will have to be performed.

A fence will not prevent the problem; but it would deter that type of activity.

C. Besides testing, cleaning and flushing would be required to disinfect the tank...it could be required to drain the tank. (He cited a situation in Texas where kids were swimming in a tank: Not only were the kids arrested since it is a Federal offense; but the tank had to be drained as well.)

D. Can we do without one of the tanks for fire flow? There would be insufficient pressure in the system.

- If the Council decides against securing the tank area; he suggested having an alternate plan in place of how to get water to the people and how to pressurize the hydrants.

- The hope would be that some type of event does not happen during the summer months.

- Water restrictions would also result from a tank being down.

- Fencing limits the "pool" of suspects that have to be considered in the case of an incident.

Mr. Dyches quoted from the handout he provided:

1. (Page 8 of 18: top of page) *"The site location and design of a drinking water storage reservoir shall take into consideration security issues and potential vandalism."* This is a State rule.
2. (Page 15 of 18: mid-page) *"Guidance: Fencing is advisable where the reservoir is highly accessible to the public or livestock. Where electricity or telemetry is available, consideration should be given to the installation of electronic security equipment."*

Over time heavy equipment and vehicles driving on top of the tank could compromise the seals and seams of the tank. If animals are on top of the tank, defecating on top could eventually infiltrate down into the drinking water system. The integrity of the roof of the tank needs to be a priority. That is why fencing drinking water facilities is common.

3. Amendment to the Safe Drinking Water Law:

A. (1<sup>st</sup> page: "Terrorist and Other Intentional Acts")

*"The vulnerability assessment shall include, but not be limited to, a review of pipes and constructed conveyances, physical barriers, water collection, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems which are utilized by public water system, the use, storage, or handling of various chemicals, and the operation and maintenance of such system."* (Underline added since Mr. Dyches drew attention to the physical barrier portion of the statement.)

B. (Page 3 (d): "Guidance to Small Public Water Systems")

*"The Administrator shall provide guidance to community water systems serving a population of less than 3,300 persons (Elk Ridge would fall into this category) on how to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks or other intentional actions designed to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals."* This is a Federal mandate that this be taken into consideration.

C. (Page 3 – mid-page: (2) (b) Funding is available that can be used to go *"to community water systems for expenses and contracts designed to address basic security enhancements of critical importance and significant threats to public health and the supply of drinking water as determined by a vulnerability assessment conducted under subsection (a)."*

(2) (B) *"the purchase and installation of fencing, gating, lighting, or security cameras:"*

D. Sec. 1434 *"Contaminant Prevention, Detection and Response"* Stating that Administrators (as in cities) are supposed to be addressing and implementing various methods to prevent, detect and respond to the possibility of intentional introduction of various contaminants to water systems and water sources:

*"(4) Procedures and equipment necessary to prevent the flow of contaminated drinking water to individuals served by the public water systems."* That is part of what public officials are charged to do.

E. § 300i-1: *Tampering with Public Water Systems*

Anyone tampering with or threatening to tamper with a public water system can be subject to:

- 10 to 20 years imprisonment
- from \$100,000 to \$1,000,000 fine

F. Mr. Dyches reviewed various Utah incidents with the Council.

He strongly encouraged the Council to listen to law enforcement, fire officials and the City's water operator regarding their recommendations for securing the tank area.

Questions:

Julie Haskell: Could the purpose still be served with a smaller footprint for the proposed fence?

1  
2  
3 Mr. Dyches: If the tank were secured and fenced, then it could be minimized. The other thing to consider is the  
4 property owned by the City; if someone were to be injured on it...this is why the District fences around their  
5 entire property line...for liability issues. They would not want the chance for any injury on their property.

6 Julie Haskell: She pointed out that parks are open to the public and are typically not fenced.

7 David Church: (City Attorney) "When people fall and get injured...when people get hurt in parks; "we do get  
8 sued for it". "The key on liability is this: if we know or should have known about a hazard, and we don't take  
9 care of it...and that hazard is the legal cause of the injury...then we have the potential for liability. So, if you  
10 ask the attorney or you ask the risk manager from the insurance company, 'do you think this is a hazard? Or  
11 do you think we should fence this?' we are going to give you the most conservative answer.  
12 When you have public open space like that...you invite the public in...and you haven't made any  
13 improvements on it...you don't have any detention basins; you don't have any fences; you don't have any  
14 established road; you don't have a tank; you don't have a pump house...it's natural...that is the lowest  
15 possible risk. It is natural open space...it is just there; it is hillside...you're not inviting people in; you're not  
16 saying, 'Here's a road you can use', you're not saying, 'Here's a facility that you can use' and you haven't  
17 made any changes. Once you begin to make changes...to put in improvements...then you begin to positively  
18 create the risk...it is no longer just 'natural'...it's man-made. On that property, you have several man-made  
19 things...man-made by the City. You have a road that you know is going to be used; so if you are going to allow  
20 people to ride their ATV's or use that road, you're going to have to have a level of maintenance on it; if you  
21 don't and they get hurt, there's a potential claim. If you have a trail and you have an unmaintained trail, and  
22 someone trips and falls over a piece of metal sticking out, or a hazard that's there, and you knew or should  
23 have known about the hazard, then you have a potential claim...it's your trail.

24 When you build a water system and those debris basins and the pump house, when we talk about the liability  
25 issues, we are talking about two things:

- 26 1. Potential claim from damage to your water system (this is different)
- 27 2. The fact that you have it there (*the land*) and you know people are using it for recreation purposes...you  
28 know kids are playing there; you know that people are there with their sleds...you know that they are  
29 using it. This isn't a natural hillside; this is a man-made hillside; so there is a risk that you have created a  
30 hazard that you have invited people on...and you know about the risk; and you haven't mitigated the risk.  
31 That is one of the reasons why people fence their improved property...because they have created  
32 hazards or sometimes attractive nuisances that people play in; and so they want to take what people  
33 would say would be reasonable steps to prevent that.

34 We all know that a fence won't keep out a determined trespasser; but a determined trespasser...as the  
35 gentleman was saying...they don't give claim. Invitees have claims. Known trespassers that you allow or you  
36 tolerate...they may have claims. But you put up a fence and a kid climbs the fence and hurts himself; he  
37 doesn't have the same kind of claim as when you don't have a fence and a kid hurts himself.

38 That's one of the issues you have. That is why I say...if you ask the attorney, or the insurance company (risk  
39 manager); we're going to give you the most conservative answer. We think that you ought to protect people  
40 from themselves, especially when I heard that kids were using that thing (*hill*) for snow sports...that is not a hill  
41 that was designed for use in snow sports.

42 The other side of it is...you have valuable assets...you have a valuable water system...you ought to do some  
43 reasonable thing to protect the asset and the water system from vandalism (intentional or accidental), or just  
44 from people playing on it. What that level of protection is...that is for you to decide. I know you'll make a good  
45 decision on it; but you need to do something...in my mind because this is open space. Once the town made  
46 the decision to put that tank and that pump station there; you changed the nature of that open space. The  
47 public is still under the impression that they have free reign and free access there. You need to change that  
48 impression, because you have changed the nature of that open space and it is not as safe as it used to  
49 be...open and free. It is not safe for kids and you can't say that that whole property can be safe if used even  
50 for adult hikers. You never know what is going to happen to somebody.

51 My advice is that you need to do something. You need to take some actions that you think are  
52 reasonable...just simply because it is the City that is the one that built those debris basins or allowed them to  
53 be built...and the pump station...and you need to decide what is reasonable and prudent, and do it. The fact  
54 that we are sitting here and discussing the potential hazard...we know or should have known...now when  
55 somebody makes a claim, it will be even worse that you haven't done something."

56 Referring to the pipes between the basins, he added, "Whatever you do, don't allow little kids to play around  
57 places with little crawl spaces in them or for varmints to get in them."

58 So, his advice regarding hazards: "If you think it might be, you should take some steps to take care of it."

59 He pointed out that all the discussions and tapes will be used against the City in a claim.

60 Julie Haskell: After thanking the attorney, she invited the Sheriff and the Fire Chief to add their opinions.

61 Deputy Tindall: What is reasonable? He said he was not convinced that Option "A" is any more secure than  
62 Option "B". He said that he feels everyone agrees that the pump house and the hatch on the tank need to be  
63 secured. He said that Option "B" seems to be the most conservative and reasonable...that would secure both  
64 the tank and the pump house.

65 Derrek Johnson: He disagreed with Deputy Tindall; there are still the retention basins and the road that is on  
66 City property and those need to be secured because of potential risk. He feels the Attorney stated it clearly.

67 Deputy Tindall: He pointed out that the Attorney stated that whatever is "reasonable"...there is City property in  
68 other areas in town as well...are those locations exposed as well?

69 Derrek Johnson: But those other areas have not been improved. The road was installed as part of the tank  
70 project.

1:19:34

Weston Youd: He agreed with the Attorney's advice. Where the open space has been modified, it should be addressed. He feels that Option "B" does address the areas that have been modified. The trail could even be extended in the future.

Mayor Lutes: Even with Option "A", there is room for a walking trail beside the fence.

Erin Clawson: She asked if security is not more important than recreation.

Kim Dyches: Fencing can take into consideration future expansion. There is room in that area for other facilities. When you fence an area there will be an initial learning curve while people get accustomed to the fence being there.

David Church: He said that he agreed that Option "B" could be considered a reasonable option; but if you choose that option, the Council needs to decide what the road is for. Is it a trail, or is it an ATV trail...will vehicles be allowed? The road needs to be maintained for whatever purpose is assigned to it. It also needs to be decided if it will be allowed to go off the road into the other open space. The retention ponds will be destroyed by ATV's, even unintentionally...the burms and the banks will be gone and it will become a motor-cross jump. This needs to be evaluated. If ATV's are not going to be allowed off the road, then steps need to be taken to prevent that. He suggested to not discount the value of those retention ponds...they are there for a particular purpose; when a storm comes, the City will need those to work. People with ATV's will make those disappear in a hurry, if not maintained.

Mayor Lutes: If Option "B" is being considered; it would not be much different to take that line and include the basins; then there would be other risks mitigated. He also suggested simply including the deepest basin within the fenced area.

Sean Roylance: He stated that he did not believe that anyone has suggested not protecting that deepest basin...

*Mayor Lutes asked the Fire Chief if he had anything to add:*

Chief Wait: Whatever happens, if the tank has to be drained...that is when he and the Fire Dept. would be involved. If the City loses fire suppression, then they will have to figure out some other way to provide support to whatever homes would be affected. He agrees with all the comments about securing all the City-improved areas.

Deputy Tindall: There are few reports of incidents around the tank area...there was one report of someone snow sledding on the tank hill and a few reports of ATV's in the area...and that is all he has received.

Erin Clawson: She made the point that there would be no reason to report anything going on in the area, since it is not secured.

Deputy Tindall: He suggested "no trespassing" signs along with whatever fence is decided on.

1:31:42

Sean Roylance: Why are we concerned with minimizing the fence? (He wanted to answer that question.)

When the Planning Commission survey went out a couple of years ago, many were concerned with conserving open space and having access to it. People wanted the Council to do what was possible to get, preserve and enhance as much open space as possible. He does not feel that desire has gone away. With that said, he felt that there were two competing interests:

1. How to preserve the open space as much as possible...in a very prominent part of the City?
2. What can we do to minimize the impact?

Erin Clawson: Was the question of protecting the City's water source asked in that survey?

Sean Roylance: He doubted it...but everyone knows that it is important...but, is there a creative way to minimize that and still maintain the desired open space? That is why there is the question of what can be done to meet the needs of both sides of the issue. He is and has been in support of fencing the upper retention basin and the pump house.

He finds it difficult to deal with some of the inconsistencies: Why is this retention basin so critical, yet others do not seem to be? Why is it more critical to "harden" the top of this tank, but not the others? Sledding seems to be an issue in this area...what about across the road? There are many places where there are inconsistencies. *(It was pointed out that the property where sledding occurs across the street is property owned by Payson.)*

Weston Youd: (Addressing Council Member Johnson's concern with resistance to fencing) Rather than "resistance"; he prefers to think in terms of determining what would be best for this situation for this particular tank. He understands that there is advice from professionals, but he would like the perception of "resistance" changed. It is not resistance to a fence; it is trying to find the right solution.

Erin Clawson: She feels that the most important responsibility is to protect our citizens from negative consequences...more importantly than even the open spaces. There is still open space there...perhaps a compromise to move the blue line (Option "A") over and allow part of that to be a walking trail rather than a vehicle trail...maybe that would be easier to maintain.

We have heard from experts at the last meeting and at this meeting...as well as having expert information in the Council packets...she agrees with Council Member Haskell: the minutes of a Council Meeting held December 9, 2008, reveal that Council Member Haskell felt there was a lack of regard for the opinion of the City's hired professionals. We have had various professionals advise the City and a great deal of information that she has researched...she asked what research has been done or sought out to support not providing the most protection available.

1:38:55

Sean Roylance: He felt that Council Member Clawson might be surprised at his opinion at this point. He asked that there not be assumptions to what the opinions were after listening to everyone who had spoken and advised the Council. But he does feel there should always be a balance, and the extreme is not always the best solution.

He said he is actually leaning toward an option that would be between Options "A" and "B".

Erin Clawson: She is not saying to take away all the open space; but she feels the most important priority is to protect the most important asset to the community...which is provided to every single person. Most people were not even aware the Council was having that conversation...she feels they would be interested in their drinking water.

Mayor Lutes closed the Work Session at that time.

1:40:40

**ELK RIDGE  
CITY COUNCIL MEETING  
April 13, 2010**

TIME & PLACE  
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, April 13, 2010, at 7:00 PM**; this was preceded by a **City Council Work Session at 6:00 PM**. A **City Council Closed Session** was scheduled for **8:20 PM**, at the conclusion of the regular Session. The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

Notice of the time, place and Agenda as well as an Amended 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 April 7, 2010.

7:50 PM –

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

ROLL

Mayor: Kenneth O. Lutes; City Council: Julie Haskell, Sean Roylance, Derrek Johnson, Weston Youd & Erin Clawson; City Planner: Shawn Eliot; City Attorney: David Church; Division of Drinking Water: Kim Dyches; Sheriff: Deputy Tindall; Building Official: Corbett Stephens; Fire Chief: Seth Wait; Deseret News: Rodger Hardy; Public: Nelson Abbott, Lucretia Thayne, Devin & Hayden Hoole, Jamie & Jim Towse; and the City Recorder: Janice H. Davis

OPENING REMARKS  
& PLEDGE OF  
ALLEGIANCE

An invocation was offered by Jan Davis and she led those present in the Pledge of Allegiance, for those willing to participate.

AGENDA TIME  
FRAME

**DERREK JOHNSON MOVED, SECONDED BY SEAN ROYLANCE, TO APPROVE THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 7:50 PM**  
**VOTE: YES (5) NO (0)**

PUBLIC FORUM

Nelson Abbott: There was a letter provided to the Council from former Council Member Abbott: but to summarize, he feels the fence is important and reduces risk to the City.

Jamie Towse:

- Her greatest concern is public safety and protecting the City's water. That is basic and there should be no question that it should be taken care of.

- She agrees that there could be a trail along the fence.

- Safety and reducing the risk for liability are most important to her.

Lucretia Thayne: She appreciates the efforts taken to be thorough and to protect the rights of everyone. She observed that she has lived in Elk Ridge since the time when there was much more open space than exists now. We love the open space; but over the years there has also been a concern with the pumps and the wells and why there has not been more protection around those areas. She and her husband feel that the dangers and the risk of liability must be addressed.

She expressed that the City's water system is a far higher priority than open space...it could be a matter of life and death. She suggested that the line could be brought in to still include the problem areas.

*There was no other public comment and the Public Forum was closed.*

1:47:51

FENCING FAIRWAY  
TANK & PUMP HOUSE

Mayor Lutes asked for comments from the Council:

Weston Youd: After listening to the discussion, including the advice from the professionals; he feels a compromise could be made: Extend the yellow line (Option "B") to include the upper retention basin and leave the road open, without a gate across the road (so as not to invite it being knocked down). This would be the Option "X to Y", without the road being fenced.

He was firm about the need to "harden" the top of the tank and the hatches.

He even likes the gate at the bottom of the road; foot access is still available, but vehicular traffic is deterred.

He also agrees with "no trespassing" signs. This option allows foot traffic, ATV access, possibly equestrian use...while still protecting the drinking water facilities.

Mayor Lutes said that he was confident that all were in agreement regarding securing the top of the tank.

Sean Roylance: He agreed with most of Council Member Youd's proposal...he likes the idea of the gate and signs. He is now concerned about the other water tanks (*that will be addressed in a future meeting*).

He would like to preserve the foot traffic.

Derrek Johnson: His first preference was still Option "A"; but he would be willing to consider Option "C" with the gate at the bottom.

Mayor Lutes asked Corbett Stephens for his opinion:

Corbett Stephens: His preference was to follow the "blue" line around the outside (Option "A");

- No parking lot up at the top (do not give people access to the parking lot...they can walk around it)

- Bring the fence in a ways to allow for a foot path on the outside

Julie Haskell: She was in favor of moving the blue line; but allowing the full road to be open...with the gate, as well. (She agreed with Council Member Youd.)

Erin Clawson: She expressed her appreciation to the Council and the willingness to compromise; but she still felt Option "A" was the best solution. She still maintained that the City could not do too much to protect the water system. If any kind of compromise were made, she likes Option "B" with the line being away from the tank on the east side as in Option "A". What is a "reasonable" buffer? Would that be Option "Y to X"?

Moving the fence away from the edge of the tank denies direct access to the tank...she felt that would be safer. She felt that the City can be safe and still allow for open space.

Mr. Dyches: The further back you can keep vehicles, the better. Trucks could get close enough to be used as ladders. Fences tend to keep "honest" people out.

*There was continued discussion regarding a gate and that a gate is a determining point to alert anyone on patrol or neighbors. There was discussion as to the possible location of the gate, with Council Member Haskell suggesting moving the gate up to the "X" location on the map (just east of the pump house).*

Corbett Stephens: (Regarding a trail) If a trail is what the Council wants, then create the trail all the way on the outside of the fence. It would not take much to take equipment up there and flatten out the trail...use the pile of dirt up there to help create the trail. Put the fence inside the trail...between the trail and the road. That would fence more area, maintain the parking lot for the tank site (not for parking ATV's or trucks, etc.). It would put the fence further out than previously considered; but it gives people a trail...still maintaining the tank and protects the site.

Kim Dyches: Enough space need to be left to allow service trucks and City trucks in to maintain the tank. *Corbett Stephens pointed out that a crane was up in that area and it needed room to be able turn it. A 10' buffer would not allow the crane to maneuver. The City could go to the expense of hiring a different crane; but this one is the property of SESD and they do not charge the City to come up and help us. He added that, when driving a truck/vehicle up the road in the winter, it is impossible to stop once you get going up the road...if you have to stop, you have to back all the way back down and get another start. The stop must be either at the bottom of the road, or up on top...not in between.*

*There were several suggested unofficial motions made, citing different modifications. Council Member Roylance considered these and attempted a motion.*

Council Member Roylance said he would like to combine the sample motions #1 and #3; with the addition of an improved trail, the location of gates to be determined by the Building Official and that he would like to have it noted that he feels "hardening" the other tank tops is a priority that should be addressed at another meeting as soon as possible.

**SEAN ROYLANCE MOVED, SECONDED BY DERREK JOHNSON, TO ADDRESS SECURITY ISSUES IN THE AREA OF THE FAIRWAY TANK, PUMP HOUSE AND RETENTION BASINS, UNDER THE FOLLOWING TERMS:**

- THE MAYOR IS AUTHORIZED TO PROVIDE ADDITIONAL SECURITY TO THE FAIRWAY TANK HATCH AND VENT BY INSTALLING STEEL BOXES TO PROVENT ANY TAMPERING WITH THE EXISTING HATCH AND VENT
- THAT THE MAYOR IS AUTHORIZED TO INSTALL A 6-FOOT CHAIN LINK FENCE WITH THREE STRANDS OF BARBED WIRE ABOVE IT; AS SHOWN IN OPTION "A", EXCEPT SHORTENED TO PASS BY THE PUMP HOUSE...FOLLOWING THE BLUE LINE ON THE MAP AROUND PAST POINT "X" TO THE EDGE OF THE PARKING LOT AND INCLUDING THE SOUTHERNMOST RETENTION BASIN (POINT "X" TO POINT "Y" ON MAP) TO GIVE PROTECTION TO THE WATER SYSTEM, AND MINIMIZING THE LIABILITY, WHILE LEAVING THE LOWER HALF OF THE ACCESS ROAD UNOBSTRUCTED
- INSTALL THE APPROPRIATE GATES, THE LOCATION OF WHICH IS TO BE DETERMINED BY THE PUBLIC WORKS DIRECTOR
- CREATE AN IMPROVED TRAIL ON THE EAST SIDE OF THE PROPERTY (EAST OF THE BLUE LINE, AS SHOWN ON THE MAP)
- NOTED: THAT THE CITY COUNCIL SHALL CONSIDER "HARDENING" THE OTHER WATER TANKS IN TOWN IN THE FUTURE

*Discussion:*

Sean Roylance: He thanked Mr. Stephens for pointing out certain improvements that would allow the possibility of an easily accessible trail. From a visual impact standpoint, he did not feel having the fence on one side of the trail or the other makes much difference. This also gives the appropriate access to all areas around the facility.

*There were no further comments.*

**VOTE (POLLED): WESTON YOUD-AYE, SEAN ROYLANCE-AYE, DERREK JOHNSON-AYE, JULIE HASKELL-AYE (4) AND ERIN CLAWSON-NAY (1)**

*Passed 4-1*

Erin Clawson: She added: though she appreciated the compromise, she still felt Option "A" would have been preferable.

2:25:17

UPDATE: JOINT CITY COUNCIL – PLANNING COMMISSION W/ PAYSON CITY RE: ANNEXATION PLAN

Shawn Eliot: There is an Interlocal Agreement between Payson and Elk Ridge regarding future annexation plans; which states that Elk Ridge will not annex west of 1600 West. The current Annexation Plan, contained with in the proposed General Plan states otherwise. - It includes part of the area west of 1600 West and north of Goosenest Drive. - Payson requested a Boundary Line Adjustment along the north edge of the Golf Course. Part of the Council motion included Elk Ridge’s intention to annex west of 1600 West; this put everything on hold for a while since the motion was not well-received by Payson City and then Councils changed in both Cities. The new Mayor seems to be in favor of Elk Ridge’s proposal. Payson City’s Planner suggested a public meeting with land owners (Haskell Ville). There is a joint meeting planned with Payson City on April 20, 2010 at 7:00 PM, at the Payson City Hall. \*Notice needs to go out for Elk Ridge’s Council and Planning Commission.

2:31:50

MAYOR'S UPDATE – CDBG INTERLOCAL AGREEMENT

Mayor Lutes: There was a polled vote taken in favor of authorizing the Mayor to sign a resolution that would commit the City to joining with other cities to join the County in qualifying for CBDG Grant money. The deadline to have this sent in was postponed; so the Mayor placed this on the agenda to either ratify the polled vote or to allow the Council a chance to re-vote with some additional information. It has come to the Mayor's attention that Woodland Hills' Council actually rejected the idea due to their concern with the Government involvement with the way the agreement is written; which has been a concern of the Mayor's in the past. The vote could change to opt out of the arrangement, if the Council chose to do so. Utah County needs a population of 200,000 to participate (not including Provo), which they already have without Elk Ridge or Woodland Hills. They will be considered and "urban county" regardless of how Elk Ridge votes.

Sean Roylance: One thing discussed with the Mayor on the phone was that if we vote "yes", then we can potentially qualify for some grants; however, Elk Ridge would not be a realistic recipient for that grant money, anyway. He felt that Woodland Hills' position was interesting and he (Council Member Roylance) is not really in favor of the government taking the City's money and then dictating when and how we would get it back. He would change his vote; all were in agreement. Council Member Roylance also pointed out that the chance to reconsider this would come up again in three years.

**WESTON YOUD MOVED, SECONDED BY SEAN ROYLANCE, TO AUTHORIZE THE MAYOR TO SIGN "NO" ON THE PROPOSED AGREEMENT FOR CDGB GRANTS**  
**VOTE: YES (5) NO (0)**

2:40:07

CITY COUNCIL UPDATES

Julie Haskell:  
1. The 911 Service District (Dispatch): The City's fees for this upcoming year will tentatively stay the same as this year...\$9,869.00  
2. There is no approved budget for Police Protection yet.

Erin Clawson:  
1. The new Council table will be finished soon; built by citizens.  
2. The City Offices are finished with remodeling  
3. 2 scout groups are committed to complete the clearing of the Cloward fields of rocks  
4. May Day (Volunteer Day) to come to the park to assist in weeding, trimming and cleaning up the park (9:00 -12:00). This is to be coordinated with Council Member Johnson.  
5. RE: Fencing the tank area...she would like to plan something for either this year or next for Arbor Day (Perhaps planting trees). There is a grant that can be applied for (\$250).

Mayor Lutes mentioned that the Spirit of Elk Ridge or "Catch the Spirit" is still on-going with services and donations.

Derrek Johnson: Playground Equipment: There was to be information in the Council packets; however, Council Member Johnson had been very ill; besides problems with his PC at home. He had been working with Corbett Stephens in figuring out costs. He wanted to know how to expedite an approval so he can move forward, once he gets the information to the Council.

City Recorder: Once he solidifies the information, he could get authorization to poll the Council or have the Mayor poll the Council for approval or denial, then ratify the vote at the next Council Meeting (May 11, 2010). He would hand-deliver the information to the Council.

Weston Youd:  
1. The SUVMWA Meeting scheduled for 4-14-10 was cancelled. There is a report due that is being worked on.  
2. Council Member Youd is reviewing the City's Administrative Code for "gaps" and "weaknesses" with the current code. He has done a preliminary review and will continue to study this. If the Council has any questions or concerns, he encouraged them to please let him know.

Sean Roylance:  
1. The Planning Commission has been reviewing the Development Code, as well. Some of the current code was brought in from other cities and some of it does not fit our City.  
2. He requested the Volunteer list and accomplishments; he wants to get those up on the web site.  
3. A Pay Pal account was suggested to be used to accept donations online; as well as sign ups for athletics. Perhaps Marissa Bassir would be best to address this and gather the information to be able to make a decision in the future.

Mayor Lutes would like to explore the options available. Council Member Roylance ""casually"" recommended that Mayor Lutes speak to the staff regarding gathering information about Pay Pal.

4. Some of the residents have expressed their disappointment in no longer having the accessibility of dumpsters for cleaning up the City. He felt the Council should re-consider having dumpsters available. (Other Council Members had heard the same response from citizens.).

5. Former Council Member Abbott would like to speak to whomever the new SUVMWA Representative is to be able to update and pass along valuable information from his term of Office spent as the Representative.

6. He attended a City Government conference in St. George for a day and a half. He was interested in a "slash park" example with one of the vendors. He was favorably impressed and would like to consider this in the future for Elk Ridge.

Derrek Johnson: This has been discussed in the past and one of the issues was that the water would have to be chlorinated.

Sean Roylance: IF the water is recycled, it would have to be chlorinated; not if it would be allowed to just run. He felt it would be worth considering for the residents.

7. Council Member Roylance contacted the County about the proposed road to Benjamin, to see what is happening. He also did some additional computations on the road and the various routes.

Given their traffic projections, in about 10 years, it would have a cost to Elk Ridge residents of somewhere between 1 million and 1 ½ million dollars per year...just in car and gas expenses; not to mention the value of time or pollution or anything else.

The County said that they are working toward the more "straight shots" to the freeway exit. He was told that perhaps a statement of support from the affected cities would be requested in a matter of weeks.

Personally, Council Member Roylance is encouraged by this; even counting the projected costs involved. He feels most people will be in favor of the more straight shots.

3:01:19

TENTATIVE 2010/2011 BUDGET

City Recorder: There were some updates to the Budget since the last discussion.

- Council Member Clawson requested that the line item for funding Eagle Scout projects be separated from the Volunteer Projects so the figures could be more easily tracked. *(Done)*

- It was explained that the "budget notes" include most of the explanations for the budget accounts

- The Recorder will consult with the Finance Director when she returns from her trip regarding how to handle transfers from the Fire Dept. to Capital Projects Funds.

- The Fire Dept. budget will have to be considered before placing the figures into the proposed budget.

The Fire Chief requested about the same amount to be transferred from the General Fund as last year.

Tentatively, the fund balance for the General Fund is increasing.

Erin Clawson: She wished to proposed a change for the future budget year: (Page 5 of the budget)

Proposal: to allow the ongoing donations to be utilized for future improvements in remodeling the City Hall as well as other projects, rather than paying back the original \$5,000 transferred in from Capital Projects to "kick start" the volunteer projects.

She presented a comparison of what some of the savings have been through the volunteerism. Example: the remodel including labor would have cost the City about \$24,230; however only \$3,842 was spent.

She sees the benefit of continuing on with the volunteer spirit to use the money coming in to go forward with continuing projects.

The nearly \$5,000 was originally transferred into the General Fund from unused fund balance in the Trails Fund. The Council voted to use this money in the General Fund.

Julie Haskell: She felt that the projects have been "volunteer" based and that it was voted on based on paying that money back; perhaps to be used for other expenses.

Mayor Lutes: The only thing that changes is perhaps the expectation that the donations would be used to pay back the original contribution. Would the momentum be jeopardized if the projects cease?

*Council Member Clawson was fine with whatever the Council decided; she just did not want to lose the interest in volunteerism that has been generated. There is still some money left.*

After discussion, the Council was split as to the benefits of paying back the money now; or to wait to pay it back until 2011.

**SEAN ROYLANCE MOVED, SECONDED BY DERREK JOHNSON, TO WAIT TO BEGIN THE PAY-BACK OF THE ORIGINAL \$5,000 UNTIL JANUARY 1, 2011**

*Discussion: Weston Youd and Julie Haskell felt that the basis of the pay-back should not change; but as Council Member Youd said, it is really an accounting issue and that it was agreed to use the money this fiscal year to match that contribution and that it is tax-payer money.*

*Council Member Clawson was reticent to vote for her proposal, taking into consideration all of the opinions expressed.*

*Council Member Roylance pointed out that, if the opposite were to occur, and the momentum were affected; then this would have to be re-visited. In other words, "We gave you a loan and I don't care to have it paid back right away."*

*Councilmember Johnson added that there is a "good thing going"; he would hate to see this interrupted.*

\*As of January 1, 2011, the budget will change to show the revenue coming in going to the expenditure code to show the pay-back.

**VOTE: YES (3)**

**NO (2) JULIE HASKELL & WESTON YOUD**

EXPENDITURES:

General: None

*Check Register & Payroll for February & March of 2010:*

**SEAN ROYLANCE MOVED, SECONDED BY ERIN CLAWSON, TO APPROVE THE CHECK REGISTERS AND PAYROLL REGISTERS FOR FEBRUARY AND MARCH OF 2010**

**VOTE: YES (4)**

**ABSTAIN (1) WESTON YOUD (HE DID NOT HAVE HIS PACKET INFORMATION AHEAD OF TIME)**

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MINUTES

*City Council Minutes of 3-9-2010:*  
**DERREK JOHNSON MOVED, SECONDED BY JULIE HASKELL, TO APPROVE THE CITY COUNCIL MINUTES OF 3-9-2010 AS PRESENTED**  
**VOTE: YES (4) ABSTAIN (1) WESTON YOUD**

*City Council Minutes of 3-19-2010: (Field Trip)*  
**DERREK JOHNSON MOVED, SECONDED BY ERIN CLAWSON, TO APPROVE THE CITY COUNCIL MINUTES OF 3-19-2010 AS PRESENTED**  
**VOTE: YES (4) ABSTAIN (1) WESTON YOUD**

OTHER BUSINESS

*It was pointed out that there are two open positions on the Planning Commission, she wanted to know when those would be filled.*  
Sean Roylance: The Planning Commission has had some issues with not being able to get a quorum to take action on items.  
Mayor Lutes: The last conversation he had was that this would be postponed until there was enough business to warrant another appointment. If there should be action taken, then perhaps this would be a good time.  
Sean Roylance: He went over that, including the alternate Member, the Commission could be down to 5 Members shortly. Kevin Hansbrow has not been attending, so the Commission could be losing him. The City Council agreed that action should be taken to fill these positions.  
  
*The Fire Chief was asked if he had any budget concerns; he responded that if the Council had any questions on his proposed budget for 2010/2011, please call him. (His proposed budget was emailed to each of the Council Members.) The Fire Chief and the Recorder will meet upon her return to work in a couple of weeks.*

ADJOURNMENT

The Mayor adjourned the Regular Session at 9:50 PM; and moved to the City Council Closed Session.

9:50 PM -

**CITY COUNCIL CLOSED SESSION**

ROLL

*Mayor: Kenneth O. Lutes; City Council: Julie Haskell, Sean Roylance, Derrek Johnson, Weston Youd & Erin Clawson; Public Works/Building Official: Corbett Stephens; & the City Recorder: Janice H. Davis*

Discussion of Business Negotiations and Discussion of Personnel

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City Reorder