

**ELK RIDGE
CITY COUNCIL MEETING
August 10, 2010**

TIME & PLACE
OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, August 10, 2010, at 6:00 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 this Meeting was provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the Governing Body, on August 5, 2010; as well as an Amended Agenda on 8-9-2010.

6:00 PM –

REGULAR CITY COUNCIL MEETING AGENDA ITEMS:

ROLL

Mayor: Kenneth O. Lutes; *City Council:* Julie Haskell, Sean Royslance, Weston Youd & Erin Clawson (Absent: Derrek Johnson); *Building Official:* Corbett Stephens; *Sheriff:* Deputy Brent Butters; *Fire Chief:* Seth Waite; *Asst. Fire Chief:* Jon Hoschouer; *Planning Commission:* Dayna Hughes, Paul Squires, Randy Jones; *Public:* Robert L. Siemer, Marielen Christensen, Neil & Ilene Dykstra, Alan Hughes, Greg Pozernick, Scot Bell, Gary & Lynn Frankovich, Cheyn & Tricia Gunnerson, Amy Boswell, Jamie D. Towse, Karla Adams, Brett Black, Russell Sly, Kristin Royslance, Jodi McKee, Chad Christensen, Ed Christensen, Kevin Clark, June E. Christensen, Janine Nilsson, Lucretia Thayne, Robert Goodwin, Nelson Abbott, Jack & ShaMayne Mason, Stephanie Spencer, Cathie & Daniel Allred, Rex & Mary Ann Sessions, Allison Thaut, Ken Lutes Jr., Lyndell Lutes, Jeri Evans; *and the City Recorder:* Janice H. Davis.

OPENING REMARKS &
PLEDGE OF
ALLEGIANCE

Opening Remarks: Mr. Ed Christensen offered an opening prayer and Ken Lutes, Jr. led those present in the Pledge of Allegiance, for those willing to participate.

APPROVAL OF THE
AGENDA TIME FRAME

WESTON YOUD MOVED, SECONDED BY ERIN CLAWSON, TO APPROVE THE AGENDA TIME FRAME; ADJUSTING THE START TIME TO 6:10 PM; AND TABLING APPROVAL OF THE CITY COUNCIL MINUTES (MINUTES NOT COMPLETED)
VOTE: YES (4) NO (0) ABSENT (1) DERREK JOHNSON

03:32
PUBLIC FORUM

1. Mayor Kenneth Lutes: (Addressing certain issues that had come forth)

The Mayor welcomed all in attendance and expressed appreciation for the support extended.

Background: (for those unacquainted with the Mayor)

- He did not “seek” for the Office of Mayor; he was recruited for the job. He is not in Office for monetary gain; he is simply in Office to do a job that citizens asked him to do. Perhaps this gives him a slightly different attitude than most.
- He is not a “politician”; so all he knows is one “story” he sees as the truth.
- He is not trying to “cover anything up”; he wants the public in on the City business
- He was pleased to have the public present; they have been needed for other meetings in the past...the attendance has not been high. When there is not much of the public present; the actions do not reflect what the citizens want; they reflect what somebody else wants.
- His training included an appointment to West Point, at the age of 17. At West Point, there is an “honor code”; they had to live the honor code or be demoted in rank; the cadets learned to do that. They learned that a cadet “shall not lie, cheat or steal...nor tolerate anyone who does”. That included such things as taking unfair advantage of people or any kind of deception.

If we look at what goes on in the world today, there are not a lot of people ready to live that code completely. He is not perfect; but he tries to do that; which goes along with his religion.

- At West Point, he also learned a great deal about leadership. Most people do not know that much about “leadership” because most schools teach “management”.
 - o Leadership: One does not say, “Take that hill”; one says “follow the leader”
 - o If the leader cannot do a task; how can it be expected for others to do it?

He has tried to lead out in his professional life; and show people how to do things...solve the problems...remove road blocks. He has tried to do this here in the City; and because of that, much has been accomplished:

- City Offices have been remodeled and cleaned up. This was done with some initial “seed” money authorized from the Council; but mostly through volunteerism. About \$25,000 or \$30,000 worth of work has been done for under \$5,000.
- Many things have been done due to people being willing to work together.

Issues that have been brought up:

1. Why is he involved in so many things?

“I don’t want to do everything;” he said he delegates to staff all he can. There are some things he feels a leader “needs to do”. (Examples):

- He has accompanied the snowplow drivers in the middle of the night to keep them company...bring some hot chocolate. He is not driving the snowplow; he is simply trying to assist the staff in little ways.

- Water Meters: why is he reading them? (Why not delegate?) He will be glad to delegate "as fast as he can". There were problems: the software needed to be fixed, we needed to get an ATV...you find these things as a leader by trying these things to see how they work. There are still some things that need to be improved upon; but now it is at a point where someone else can do it.
- Sprinklers: He has been working on the sprinkler system in the park because Mr. Stephens did not have time and there was no one else to do it..."I could, so why not?" The sprinklers are fixed and the system has a map...now Mr. Frandson can run it. The Mayor does not do it anymore; but it was set up so others can do so.

"This is the kind of thing I do; I pitch in and work. I don't think it's right for me to sit in a chair and point and say, 'go do this...or go do that'. The main thing is, I want everything to be public and in the light. You all have a right to know what's going on...this is public business. I don't want secret meetings." He felt the majority of the public was in agreement with that.

He expressed his disappointment at some of the things that went on the previous week in his absence. He is also "greatly appreciative of the support from the people".

10:41

Issues brought up at the last Meeting:

- ❖ *Claims that the Mayor "keeps thing off agendas:* He is not aware of anything that would apply to this.
 - There was a "last-minute request" by Council Member Youd to place *Weed Abatement* on the agenda and that was done.
 - He knows of no request to have something placed on the Council agenda that has not been honored. "I have to do that. If the Council wants something on the agenda, I have to put it on."
- ❖ *Attempt to keep Officials out of the process regarding things coming from the Planning Commission to the Council.* Some do not believe the Mayor has the right to review things before they go onto the agenda; that the Council should have to see things at the same time. He does not believe this is required. He feels he has been elected to over-see what goes on in the City; and "if I see something that needs to be adjusted...then we can work on that".
- ❖ *The Code Change Process:* "This application process has been a 'big thing'."
 - The recommendation, in the form of a memo from the Planner, did not come at the appropriate time. The request was to have anything coming from the Planning Commission to the Council received "early so I could look at them and get them on the agenda...and instead it came after the Agenda had already been set". The Mayor felt it was a complex matter, so he decided to send it out to the Council to have time to review the information; but he found that there were discrepancies in the memo from the Planner, referred to as the "staff report":
(Discrepancies: The views of the Fire Chief and Corbett Stephens were not accurately represented in the staff report.) With these discrepancies, it was felt that it would be best to place it on the agenda for discussion only and on the agenda for the following meeting for action (8-10-2010).
The Mayor made the point that he does not have a vote; but he feels it his duty to get information out to the Council, so they can then deal with the matters and vote.
The staff report provided to the Planning Commission was flawed. To research this matter has been difficult since there are no minutes for the Technical Review Meeting held (there are supposed to be).
With the discrepancies and questions; his question: why is this matter being pushed through? Why not send it back to the Planning Commission and follow proper process?

- ❖ *Questions on "communication"...that the Mayor will not talk to the Council:* Back in January or February, 2010; there was a "heated" discussion, plus a discussion after the meeting...and it was decided between a certain Council Member and himself to meet at the Mayor's home on the 1st and 3rd Tuesdays to further discuss things that there was no time to discuss at other times. "He did that once, maybe twice...and did not come anymore." The Mayor was not sure why that was broken off. "The communication is always open on my end; my door is always open...they can come anytime." "Another Councilman came to see me one time in the office and we were talking about some of the nuisance issues; and I asked him if he could help us with some of these nuisance issues and maybe talk to some of these people or something. He cited State Code to me...that he couldn't do anything but make law...he couldn't talk to me; he couldn't help me...he could only make law." The Mayor felt that perhaps the problem in communication is on the part of certain Council Members in not being willing to talk or help.

- ❖ *Fence around the Tank:* The Mayor tried to talk about it and he was told he would have to wait until Tuesday night to find out what their thoughts were. He felt that is poor communication.

He said that he did not mention these matters to "rile everyone up"; but he feels the public has the right to know the truth...and this was the way it happened...particularly since he was not present at the previous meeting when these things were brought out.

Another issue:

- ❖ *1/3 of the City's staff is gone:* He was not sure where that percentage came from. One staff member at the beginning of his administration had resigned; and he felt that had been with the "consent of the Council"...not the entire Council, but the majority. He was curious why he would be accused of "eliminating staff"...when they were part of it. There is no one else..."so what are we talking about?" *Deputy Sheriff:* He was not staff. The Dept. was asked to replace him; it was time for a change. He feels he gets along well with staff; as evidenced by the birthday card and balloons in his office from staff. He feels the assumptions are simply erroneous.

16:34

- ❖ *Harassment of staff:* The Mayor felt the public should be aware that some of the staff has been harassed by certain members of the Council...trying to get them to find something wrong that the Mayor is doing. It has been said that "they do not have to do what I say"...if the Mayor ever tells you to do something you don't want to do, just come and tell me". He feels undermining the staff is unprofessional.
- ❖ *Resignation of Planner:* That was his decision; and it came about due to the Mayor pressing him as to the reason why the 16 lots vs. the 30 lots issue could not be discussed. He did not want to. The Mayor said he asked why they could not discuss this and when the Planner refused, he asked him who he was working for...and he left and ended up resigning.

18:43

The Mayor feels there are conflicts of interest going on. He feels it best if the Council would start working with him "instead of holding meetings when I'm not around...because we could do a whole lot more together. There's a lot of talent here; and we could all work together and there is so much more we could do. But with all this bickering going on, it's hard to get anything done...it causes hard feelings. I do not want to bring up these things...this is the first time I have ever said any of these things to the public; and I wouldn't be saying them now except this situation...I think...warrants it, based on what happened last week."

The Mayor agreed that the City needs a planner; but neither Woodland Hills nor Salem have planners. He does not feel the City needs a full-time planner; but "we need some planning from time to time; and we can do that. We have access to people who do that." He did not feel this is a crisis.

Accomplishments:

- City Hall remodeling
- Saving money on crack & seal by doing it ourselves
- Installing curb & gutter (in house) at discounted prices (to assist residents) to those who have had flooding
- Upgraded backhoe
- Fence around Water Tank (in house to save money)
- Money has been saved on power to the water system (running water downhill rather than uphill)
- Bond payment (Sales Tax Revenue Bond) has been cut in half by turning in the extra money back onto the Bond.
- Web Site: Council Member Roylance did a lot of work to put this together and it was implemented in January, 2010.

- Newsletter (Bugle): Has a new look and feel to it, which has received many compliments from the public
- Over 100 homes with low water pressure have been assisted in receiving adequate pressure

"We have done a lot of good things and could do so much more; if we could all work together and stop the bickering and special interests and whatever is going on. We just need to follow the rules and the code we have and just get the job done." Mayor Lutes asked for the public to support him and help look out for the interests of the town. He asked that the City Council not "tie my hands and say I can't look at anything until they look at it...that I just have to put it on the agenda blindly."

He further stated that the wrong code had been quoted and it was misapplied regarding the Secondary Access request.

He wanted the public to know some of what has been going on; he said he was not trying to "hide anything". He said he wants it all open; that he wants people to participate and to feel they can come to his office any time. The staff is available for questions. There are staff meetings every Thursday afternoon and it is open...no secrets. "We make a lot of decisions as a group so I get their input...I don't even publish the Bugle without first having it go through the office to have them all critique it...to make sure it is accurate."

He said he was not trying to boast; he just wants the public to know the facts.

The Mayor opened the Meeting up for public comment and asked that speakers come up to the microphone and to keep their comments to a couple of minutes.

23:31

1. Paul Squires:

1. Apologized for comments and actions at the last Council Meeting when he resigned from the Planning Commission. He was frustrated with a nuisance issue and he was complaining about the code book that had not being kept up to date.
2. The City Recorder and his wife have been assisting him in updating his code references via the web site.
3. He had training with the Planning Commission and they learned that Public Forums are for the public to be heard; it is the Planning Commission and the Council's job to listen and learn...not to have "back and forth conversations". After the Forum is closed, then the Council should be able to go through the rest of the meeting without interruptions from the audience.
4. He was unsure when the Planning Commission turned the application for Secondary Access Code Change over to the Council. He would like that information.

27:35

2. Robert Goodwin:

Secondary Access Code: He read from minutes of a City Council Meeting held in July of 2009...The minutes quoted then current code which allowed 16 units on a cul-de-sac and the point was made in the motion that unless the plats (Elk Haven) work together, the City could not allow 25 or 30 units. It was felt that changing the code would not have served the City at the time.

He feels we live in a City that has a great deal of variation and it makes more sense to him to keep the lower number of units, with the option of being able to negotiate in case the terrain is such that it could handle more units.

3. Lynn Dykstra:

Last week was the first City meeting she had ever attended; she wanted to say as a citizen of Elk Ridge that she loves the City we live in. Her biggest concern is that she does not want to have to make a decision for her "team". As far as she is concerned, the Council is "her team". Contention prohibits making progress on important things. She does not see how this group of people, who the people are supposed to stand behind, can make any progress if the public cannot go out of this meeting confident that they will end the "side-taking". What assurance can the Council give the public that this will happen and how can the issues be discussed without quarreling? The Council was elected as a "team" and the public has confidence in the Council as a "team".

4. Jamie Towse:

She agreed with Mrs. Dykstra. Those who have shown less than good faith need to "bend over backwards" to regain the people's faith. There are many and varied talents to be utilized. Suggestion: Roberts Rules are used in meetings rather loosely; perhaps they should be used more to insure fairness and order. This might be preferable to having a lawyer trying to teach everyone how to get along.

5. Marielen Christensen:

Question: She wanted to be able to expand her understanding and wanted to know where to go online for information about the TRC Meeting for the current application. Who is on the committee? She requested that be addressed.

32:50

6. Lucretia Thayne:

- She expressed her concern about the suggested code revision. She was at the Planning Commission meeting last year when this same matter was discussed. At the time, the Fire Chief and Mr. Stephens addressed their concerns and, as far as she could tell, their positions have not changed. The claim that other officials were influencing their positions does not make sense to her.
- It also concerns her that it appears that the matter has come before the Council with the Planning Commission acting on misinformation. She asked that the Council, as representatives of the citizens, when there are questions on matters that have a potential significant impact on the City, not allow it to go forward without clarification.
- There are also concerns regarding the working relationships between the Council Members. Based on inconsistencies with certain members of the Council, her trust level toward these members has gone down. She asked that each member think back over what has occurred and examine in their hearts and minds to see if there are personal grievances or personal agendas that have had an impact on what has gone on in our City; and if there are and they cannot let them go, she felt they should not be on the Council. The Council should be working for the best interest of the citizens they serve.
- She appreciated that the Mayor's statements had "internal consistency" as opposed to statements from other members of the Council, which had seemed very inconsistent to her.

She plead with the Council to "come back to the level of concern for the City".

7. Scot Bell:

He said, "thank you" to the Council for postponing the issues on the agenda for the special meeting the previous week to the regular meeting scheduled for that night. He felt it had been an "interesting week"; he heard many things and went to a "neighborhood watch meeting". It was refreshing to see the turnout.

He asked Deputy Badders, who was present if the crime has gone up or down since he was assigned to Elk Ridge.

(Deputy Badders: The overall number of incidents being reported has increased due to a higher level of awareness. The number of crimes has gone down. This is due to concerned citizens.)

Sometimes change is good. A Springville Mayor wanted to make a lot of changes and they ended up being good for their City.

Changes in Elk Ridge:

- Reduced the budget (not easy to be efficient)

This takes courage and he "applauds" the changes that have been made for the benefit of the City.

8. Trisha Gunnerson: *(Secondary Access Code Change)*

It is her understanding that the International Fire Code is a maximum standard or law; then we come to the State, County or city levels. The law is evaluated by those representing the various entities to see if it needs to be more restrictive. She asked Shawn Eliot about our "closest neighbors" position on this issue and he replied that Woodland Hills does not seem to have a comparable policy (this has not been verified). He said that Payson has a limit of 10 units...and Elk Ridge has 16 units. It appears that the Fire Chief and others are in favor of keeping it at 16 units with the ability to reevaluate all developments on a case-by-case basis. She is concerned for fire fighters as well as everything else. She encouraged the Council to consider that perspective.

Comments:

9. Sean Roylance: *(He asked to make a few comments.)*

1. He said he appreciated everyone showing up again. As difficult as the previous week was, he was "really happy" to see so many concerned citizens. He does not believe any of the Council would be in the positions they are if they did not rally care about the City.

2. He proceeded to inform the public present a little about the people on the Council:

- Erin Clawson: She has done many things in the short time she has been in Office:

- She has organized the volunteer program around the City; "spear-heading the renovation of the City Hall; park clean-up, etc. She has done an amazing job with these things.

40:25

- Julie Haskell: One of her main concerns since before she was elected has been the Fire Dept. and law enforcement, as well as support for these people to help make our Community safer in all respects. Council Member Roylance admires the way she meticulously reviews the City Council minutes and the lists of expenditures, ensuring accuracy and appropriateness.

- Weston Youd: Prior to being elected to the Council, he served on the Planning Commission. The Planning Commission is a volunteer organization and the members are appointed by the Mayor and City Council. They work very hard. Council Member Youd comes into the Council meetings as prepared as he was for Planning Commission. He is very diligent about doing things according to our own laws.

- Mayor Lutes: Since the Mayor took Office; there has been success in cutting the City budget. Taxes have been raised in the past; but this year, the Council did not, even with the possibility of a reimbursement from the State that was possible. One of the most important things when Council Member Roylance ran for Office was a "safety issue"...the distance the school children had to walk to get to their designated bus stop. One of the things he talked to Mayor Lutes and Corbett Stephens about was that about 15% or 20% of the City's school children have to walk a long distance to a bus stop that is located at the stop sign at Elk Ridge Drive and Park Drive...a dangerous location for a bus stop. The Mayor took immediate action:

1. He asked Mr. Stephens to re-route the snowplowing so that road could be plowed more thoroughly and earlier to allow the buses safer conditions.

2. He also convinced the School District to place a bus stop further south on Cove Drive and Elk Ridge Drive. The School District has been resistant in the past; but through persistence, they have agreed. This took care of one critical issue.

(Derrek Johnson was not present)

Council Member Roylance agreed that the Council needs to find a way to get along. They need to be busy serving the public rather than being reactive to one another...this is not productive.

He mentioned a couple of things he would like to see happen:

1. He felt there should be a way to reinstate Shawn Eliot as the Planner. This same feeling had been expressed by others, including some of the Planning Commission Members. The circumstances need to be sorted out. He felt there have been many improvements with Mr. Eliot as the Planner and it would be difficult to find another as well suited to serve the City in this capacity.

(Comment from the public that too much time was being taken...that much had been said the previous week and that everyone else in the Public Forum had kept their comments to the requested brief time frame...that there was much to accomplish on the agenda.)

(Council Member Roylance hoped that the public understood the intent of what he was trying to accomplish by his statements. The suggestion had been made to move forward. He said he would be as brief as he could.)

2. He felt the Council needed to "get on the same page" regarding the roles and responsibilities of each office so they can act effectively in those roles.

He added that though it is difficult to not answer things that are said that are not true; he felt to spend time answering those things would be counter productive to moving forward.

The two points he made were what he considers to be two key issues; he will not rest until they are solved and he would do his best to work with the Mayor and all of the City Council to get back to serving the City.

Much has been accomplished and more can be if all the Council is moving in the same direction.

10. Ken Lutes, Jr. *(he made the point "for the record" that his father had no idea he was planning on coming up to speak)*

He recently returned from a mission for the LDS Church and he feels very strongly about the teachings of Jesus Christ. He reminded all that God knows the intent of our hearts and we will be judged according to that intent. We must be just in our dealings rather than be about a type of "civil war". He quoted Abraham Lincoln when asked: "Do you think God is on our side?" Abraham Lincoln responded, "I hope we are on God's side".

The Public Forum was closed at 7:00 PM.

Mayor Lutes encouraged public participation during the following agenda items.

49:03

51:46

53:24

ELK RIDGE MEADOWS
PUD, PHASE 1 -
DEVELOPMENT
AGREEMENT

(Brief history of why this item was placed on the agenda, as per memo from Recorder to Council, date 8-5-10)

"The reason this was placed back on the agenda: This was to be signed by Mayor Dunn; it was not.

The signing became an issue when Phase 2; which was taken over for the most part by Centennial Bank...went under and was taken over by the FDIC. We are still unaware of who the new owner will be or what the arrangements will be for the Park, open space, conversion of part of the open space to 3 extra lots, etc.

In the meeting on December 8th, the Planner had wanted to separate the phases out; but Mr. Henriod (developer of Phase 1) was very insistent that all the phases still be considered as one unit...one PUD (which is how they started out). The open space was an issue since it was combined. Mr. Henriod wanted the City to treat his development with the same terms as Phase 2.

The acceptance of the open space in Phase 1 was not as well received as accepting the park in Phase 2; but it passed 4-1 (Council Member Haskell was the opposing vote).

The homeowner's association is still in tact as far as we are aware. The park impact fees are still being charged rather than the amount in the agreement for "fee in lieu of park impact fees". Homes are being built in that Phase.

The developer has been anxious to have Mayor Lutes sign the agreement. Mayor Lutes has been waiting on the advice of the Attorney, David Church.

The question: is one Council bound by the decisions of a previous Council? In legislative decisions (code, etc.) they are unless the proper amending process is followed. But, the legal counsel was that he should not sign the agreement without the direction from the current City Council. Could this be considered a "breach of contract"? Possibly...or not.

Mr. Henriod was not pleased to be back on the agenda. He feels the previous Council approved the agreement, and it should be signed. Mayor Lutes is acting on the legal advice from the City Attorney. Phase 1 has not been held up in selling lots or in building homes.

Please review the agreement and minutes to decide if these terms are still acceptable at this point in time; even though we are unsure of the outcome of Phase 2. If it is accepted and signed, what will happen to the homeowner's association? If dissolved, where does that leave the City with regards to all the Phases? These are the concerns."

Mayor Lutes: The referred to Agreement was not signed by Mayor Dunn and the legal counsel was to have the current Council direct Mayor Lutes. Things have changed with Phase 2 and the two Phases are tied together. He asked for discussion:

Sean Roylance: When this Agreement was approved last year, it was the intent that the signing was tied to Phase 2. It was unknown at the time that Centennial Bank would fail and plans would "fall apart". If there is any legal option, he said he would prefer not signing the proposed Agreement with Phase 1; but if obligated, legally, then he feels there is not much choice in the matter.

It seemed like there might be some options. He asked if that was the impression from the City Attorney.

Mayor Lutes: He said that it is "our decision, whether we want to sign it or not. If we do not sign it, there is the possibility that we could be sued for 'breach of contract'. Whether that would happen or not would be up to Mr. Henriod". It is not known if that charge would stand in court. The Council can decide what direction to give.

56:37

Erin Clawson: (Directed to Mr. Henriod) Since building is happening and lots are being sold, does it matter if this proposed agreement is signed or not?

Tom Henriod: To them (developers), the point is: at the time that the agreement was made, Phase 2 was out of their control..."it never has been in our control...we never owned it". They understand that the intent was that they are together. They asked the Council to keep in mind that Phase 2 was never under their control. They (Wentworth) have lived up to their end of the bargain and fully intend to do so. Their neighbors have defaulted and the bank has failed; they continue to make payments...have begun selling lots and building homes, based on the assumption that the agreement was made with the City. He said he was still trying to determine the reason they were back on the agenda for something that was agreed to in December of 2009. The previous Mayor was directed to sign the Agreement. Mr. Henriod assumed it was a formality, since the Council has voted on it. It was not signed, for whatever reason. Mr. Henriod contacted Mr. Eliot many times; he did not return the phone calls. Finally Mr. Eliot returned his call and informed Mr. Henriod that he had been instructed not to call him back because the City was undecided as to the action they would take. He expressed to Mr. Eliot that he did not understand because it had been voted on and was "done".

Mr. Henriod spoke to Mayor Lutes and he felt they were patient in waiting for him. After speaking to the Mayor in May, 2010; he did not hear back with any information. About 10 days prior to the Meeting (8-10-10), he heard that the matter was being placed back on the agenda for reconsideration.

The point of the Agreement was to try to get some homes built and to reduce some of the fees by eliminating the HOA. 6 permits have been issued; they plan to apply for many more. Once they get to 25..."the interior park will be restored by us at our expense and at that point the park will be deeded to the City and the City would then maintain it from that point forward". That is where things are. If the Council votes against signing the Agreement, "I suppose that is your prerogative; it is our prerogative to seek other means to do something else. I thought we had an agreement; it seems you people are interested in going back on that agreement".

Mayor Lutes: He apologized for the delays in getting back to him; he responded when he was directed by the City attorney. He was not trying to do harm in any way.

Weston Youd: He was trying to get a time line and make sure everything was clear. He reiterated the previous process of two Phases coming before the previous Council and the instructions were to sign one agreement and not the other until certain conditions had been met. What happened was the previous Mayor signed the one that he should not have signed rather than the one he was instructed to sign.

1:01:29

Sean Roylance: (He sought to correct Council Member Youd's understanding) The other Phase had an appealing element...the park. They (Phase 2 owners) were going to give the land and an improved park to the City...free. Considering the price of land available, that had the Council's attention. They came forward with that plan and Phase 1 came forward as part of that because they are combined through the HOA. In order to get enough votes in the HOA, the cooperation of Phase 1 was required. Phase 1 asked was to also "sign off" on this land that they had that they "wanted to rid themselves of". After deliberation on the part of the Council, the Phase 2 element (park) was the "carrot" that the Council wanted. The Council at the time assumed that the two were joined together. It seems to have turned out that perhaps the two phases were not joined after all. Since then, the Bank that owned the majority of the lots in Phase 2 "fell through" and the lots were turned over to the Federal Government...and it has been in a mess since that time.

From Council Member Roylance's perspective: "If we have no legitimate leg to stand on, my opinion is we should go ahead and sign it; but if all that has happened legitimately changes things with respect to Phase 1, then that is where I think we should pursue it." He was not sure if the circumstances changes things regarding Phase 1.

1:03:36

Tom Henriod: He added that Salisbury Homes was a prospective buyer...not a buyer or an owner. Salisbury Homes was looking to the expected surety bond to assist in the restoration of the park...that has been held up in the process of multiple failures on their part. He encouraged the Council to remember that they (Wentworth) were completely agreeable to anything the City wished to do on that property. "We were going to deed the property to the City and improve it at our cost up to \$20,000. We were completely agreeable to whatever landscape plan the City wished." He expressed his frustration at this indecision. He is still willing to abide by the same terms of the proposed agreement.

Weston Youd: The open space in Phase 1 was not defined as a "park".

Scot Bell: It sounded like the developers want all the benefits. As he recalled as a member of the Planning Commission at that time; the developers also agreed to maintain the park...the park has not been maintained and there is a possibility that there is a breach of contract on the part of the developers. Now those same developers want the benefits.

Tom Henriod: He disagreed and said that the agreement stated that at the time of the 25th permit, and then the open space would be restored.

(Mr. Bell was referring to the original Performance Agreement that developers sign at the time of bonding wherein they agree to maintain all improvements until the Durability time is complete.)

Tom Henriod: He agreed that the open space has not been maintained. He said a great deal of money had been lost on this development; but that it not the issue. His point was that an agreement was made with the City...they pay their water bill and they are building homes. He did not understand why the City does not wish to work with them. To issue HOA fees will slow down the building of homes with the economy the way it is. It is difficult to obtain financing for prospective home owners.

1:07:56

Sean Roylance: He felt that the Council understood Mr. Henriod's position. He hoped he understood the reasoning that it was the "other 1/2 that was the attractive part of the agreement; when that "fell apart", that caused the Council to want to consider what other options they may have.

SEAN ROYLANCE MOVED TO AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT, CONTINGENT UPON HIM CHECKING WITH THE CITY ATTORNEY FIRST TO SEE IF THIS IS REQUIRED; OR AS A RESULT OF ALL THAT HAS HAPPENED WITH PHASE 2, DOES THAT IMPACT THIS AGREEMENT, GIVEN THAT THEY WERE NEGOTIATED JOINTLY...IN GOOD FAITH...AS A COUPLE OF AGREEMENTS

Discussion:

City Recorder: She explained that in a conversation with the City Attorney, the question was asked if one Council is held to a decision of a previous Council. He responded that in legislative decisions (passing law), that yes, they are...unless the proper amending process were to be gone through. In administrative decisions, that is up for discussion. That is when he advised that Mayor Lutes take this decision to the current Council for direction. She was not sure the Council would get a definitive answer as to whether the Council should give direction to the Mayor to sign the agreement or not. That was the impression she got from the conversation with David Church.

Tom Henriod: If City Councils across the Nation had the luxury of making agreements and then delay execution until another Council was in place...would the Council "feel good about that"? "What a luxury; to be able to make an agreement and then delay it...wait for a new body to be in there and then not make the agreement."

THE MOTION DIED DUE TO A LACK OF A SECOND.

Discussion:

Sean Roylance: He stayed with the same motion and restated it:

SEAN ROYLANCE RESTATED HIS MOTION TO AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT, CONTINGENT UPON HIM CHECKING WITH THE CITY ATTORNEY FIRST TO SEE IF THIS IS REQUIRED; OR AS A RESULT OF ALL THAT HAS HAPPENED WITH PHASE 2, DOES THAT IMPACT THIS AGREEMENT, GIVEN THAT THEY WERE NEGOTIATED JOINTLY...IN GOOD FAITH...AS A COUPLE OF AGREEMENTS. IF THE ATTORNEY RESPONDS THAT THERE IS AN IMPACT TO THIS AGREEMENT, HE WOULD WITHDRAW HIS APPROVAL TO AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT

THE MOTION DIED DUE TO LACK OF SECOND TO THE MOTION

WESTON YOUND MOVED, SECONDED BY ERIN CLAWSON, TO TABLE THE DISCUSSION UNTIL THE CITY ATTORNEY RESPONDS TO THE FOLLOWING POINTS:

- 1. THE LEGAL POINTS MENTIONED IN COUNCIL MEMBER ROYLANCE'S MOTION: DOES THE STATUS OF PHASE 2 IMPACT THE REQUIREMENT TO SIGN THE PROPOSED AGREEMENT FOR PHASE ONE?**
- 2. WHAT IS THE STATUS OF PHASE 2 OF THE PUD?**

THIS MATTER WILL BE PLACED ON THE AGENDA FOR THE NEXT CITY COUNCIL MEETING ON 8-24-2010

VOTE: YES (4) NO (0) ABSENT (1) DERREK JOHNSON

1:17:08

STORM DRAINAGE

Mayor Lutes: There are issues throughout the City with Storm Drain; he asked Mr. Stephens to update the Council and those present.

Corbett Stephens: He was given direction to gather information as to the current status of the sumps and inlet boxes in the City. He created a map showing location and the type of equipment attached.

The map included a "legend" with colored dots that describes the status of each facility.

- Red dots: sump with grate in gutter

According to the engineer, the worst thing to do is to place a sump in the flow line of a gutter. Anything that is on the street washes to the gutter and into the sump. Sumps are considered "classified injection wells"; which means is that it is a direct line to the aquifer. The contaminants from the road wash into the gutter and right into the ground. The best thing would be to put a curb inlet box with a "snout", which provides EPA approved pre-treatment to the water, so the oil and debris has a chance to settle out before it goes back into the ground.

The curb inlet boxes with snouts are, for the most part, full of mud.

The Recorder provided minutes from Council Meetings back into Mayor Fritz's Administration and the need to maintain these has been evident for a long time.

Twin D is the name of the company the City has contracted with to clean out the sewer lines and sumps in the City. One of the owners provided a letter responding to the City's plan for storm drain maintenance and that he has been directed where to go for cleaning and what to do. There has been no map available, except for some that the drivers themselves have drawn that show the work they have done.

1:20:32

The current status is not good. There are sumps that have 10' to 12' of mud in them, and curb inlet boxes that are starting to seal off as the mud gets close to the bottom of the snout. The closer the mud gets to the bottom of the snout; the worst it gets because the velocity of the water trying to get under the snout and into the pipe to go into the sump speeds up the closer the mud gets to that bottom of the snout. As that happens, the sumps get "blinded off"...that is when a sump gets so much fine material in it, the water cannot settle through the mud to get back into the ground.

Along with the map, Mr. Stephens provided a list of 118 devices and their current conditions. The map is still incomplete at this point. The problem at Ray Brown's was mainly due to the curb inlet boxes that are uphill from him; they were full of mud...those boxes are only two years old.

Something has to be done often; the conditions are only going to get worst with time and the engineers tell us that the cleaning should take place annually.

(Mayor Lutes asked what his recommendation would be:

1:23:20

- funds to increase service with Twin D?
- funding for a "vac" truck?)

Mr. Stephens continued: Mark Denning (Twin D) said if we could provide a list, he could give us an estimate of what it would take to clean all the devices. He (Mr. Stephens) is a firm believer that you will pay more to someone else to do that which can be done one's self. Currently, the City budgets \$10,000/yr to jet sewer lines because we have to...the Insurance dictates that we will jet our sewer lines on a 3-year rotation, so we do 1/3 every year. The City is supposed to be pulling every single manhole every year.

The question: Do we need a vac truck? He feels it would benefit the City to be able to get caught up and maintain the storm drain system as it should be; but that is also more work. If the City saves the money going out to a contractor, that money could be applied to payments...however, additional assistance would be needed.

1:25:35

The Mayor asked for any questions:

Weston Youd: He asked how many could be pumped with the existing "set up".

Corbett Stephens: Last year the City hired Twin D to pump out 5 culverts (no boxes, no sumps) for just under \$5,000. The City pays Twin D \$15,000 for two weeks of work; with a vac truck, the work could be done year round.

Price: (Used truck) Beaver City got a Federal Grant and bought a vac truck. Part of the conditions for the grant was that they had to sell their old truck for what they had invested in it...they sold it for \$25,000.

(New) \$250,000. So, the price would be somewhere in between. He has seen quotes for a used truck at about \$90,000.

Mayor Lutes: Would it be best to authorize up to a certain amount so that when a deal comes up, it can be taken advantage of? This is what was done with the ATV the City purchased and it worked well.

Corbett Stephens: He is concerned with the amount of work that the City needs to have done; which of the jobs do we quit doing due to lack of time: crack fill, curb & gutter, installation of sumps, putting up the fence around the tank? We would save money by doing our own jetting and sump cleanout; but at the expense of which of the other jobs?

He had all of Twin D's reports for the last several years; the Council is welcome to review these.

Weston Youd: What is needed is an estimate of the cost per sump, culvert and inlet box, so we can get an overall estimate for the entire storm drain system. Then a comparison can be made between the costs to contract the work out vs. the costs associated with owning a truck.

Corbett Stephens: He reminded the Council that the list he had provided of 118 devices is incomplete; there could be at least 250, perhaps 300.

Weston Youd: Though he did not feel it required a motion; he felt that the City should:

- Find out from Twin D the cost of servicing a sump, inlet box and culvert (If the cost is more than the purchase of a truck, including depreciation; then the Council will know the direction to go).
- The cost of an additional employee could be added into the calculations

June Christensen: She asked if consideration could be given to share the costs with other communities.

The Mayor asked Mr. Stephens to address this

Corbett Stephens: He responded that the neighboring communities are very "protective" of their vac trucks...there are other uses for a vac truck: dump truck with a 12 yard "hopper", a backhoe. Some cities are willing to assist in an emergency situation; Spanish Fork came up to assist and in two hours, 8 inlet boxes were cleaned out... but how long can we "abuse" that?

The engineers say that a sump can be "revitalized" by sucking the mud out. "Surging": where you pump water in and suck the water back out...when the water comes back out, all the mud comes with it. The City has 60 or 70 sumps; do we replace them at about \$15,000 each; or do we maintain them properly.

Weston Youd: All the "intangibles"; like sharing costs with Woodland Hills should be figured into the comparison.

**Mayor Lutes: This will be placed on the next City Council Agenda.*

Nelson Abbott: Previous Council Member Rugg found a vac truck and brought it before the Council for consideration. It was discussed and some issues came up:

- Where to park it (does it have to be indoors?)
- Maintenance

Provo City cycles their out; that is where this particular used truck was to come from.

At that point, it did not make sense to the Council to purchase a truck. He does not believe things have changed much. Perhaps other equipment could be parked outside to make room

Corbett Stephens: He said the City could do without the "10-wheeler"; it sat so long that when they did pull it out, it had 3 flats. *(Council Member Youd suggested selling it.)*

Scot Bell: When he was still on the Planning Commission, he recalled speaking to Bruce Ward (at that time he was still with Aqua Engineering) about options in storm drainage in the City. The cost was prohibitive for a city-wide storm drain system; that is why sumps were decided on as an alternative. Bruce Ward's recommendation was to clean those boxes annually. If the cost is nearly \$5,000 to clean 5 culverts, that is about \$1,000 per unit. Even with 118 units, that would be about \$118,000. *(That would increase with the addition of the other units to \$200,000 - \$300,000)*

1:36:33

This would have the 3-year rotation for cleaning the sewer lines on top of that. The engineering advice should be followed; however, the storm drain fee should likely be reviewed...\$3.00/month per household is obviously insufficient to meet the needs.

Corbett Stephens: Responded to Dennis Jacobson regarding Woodland Hills: they are not interested; they do not have sewer, nor do they have storm drains...it is all open ditches on the sides of the roads, or no ditch...

Mayor Lutes asked that the Storm Drain fee set years ago be discussed.

City Recorder: The \$3.00 fee was set in 2004 by motion. The Council knew it would be insufficient but something was needed to generate money for cleaning the sumps. The motion actually stated that the fee was temporary and should be reviewed by the Council again in three years (2007). That review has not happened. The Storm Drain Fund is an Enterprise Fund, which is not contributing anything administratively to the General Fund; so the General Fund is actually subsidizing the Storm Drain Fund (The Finance Director, who was present, agreed with that assessment).

(The Mayor noted that the original recommendation was to set the fee at \$8 per household.)

1:39:22

Curtis Roberts: (Finance Director) The Storm Drain fee has been discussed briefly nearly every year since it came into the budget (2004) when the annual audit is presented; that the fee is at a bare minimum and that it is not adequate. When this has been discussed, there are always other issues that need to be addressed that take precedence over a review of the fee. The issue has been in the background.

Mayor Lutes: This is a matter the Council is going to need to address and take into consideration the current needs of the City.

Ed Christensen: He had heard there is a jet trailer being considered that would be less expensive than a truck.

Dennis Jacobson: There are a number of ways to approach this. He suggested auctions for good deals; as well as looking in trade magazines. Contractors use these methods all the time.

Weston Youd: He mentioned checking government surplus for equipment.

*Council Member Youd offered to contact Twin D for more information on an estimate for costs per sump and inlet boxes; plus the average time. He would need to get the contact numbers.

Russell Sly: He asked which Council Member has the assignment of the Storm Drain Dept.

(The Mayor responded that no assignment had been made to the Council for Storm Drain; that it was not required to make that assignment.)

Mr. Sly suggested that a Council Member be assigned to that Dept.

Comment:

The question was asked if there are grants available to Elk Ridge. The response was that the median income is too high in Elk Ridge for most grants. Cities with "depressed areas" tend to be awarded grants.

Mayor Lutes: He reiterated that Council Member Youd was willing to assist Mr. Stephens in reviewing the numbers.

*Weston Youd: He said he would get together as much information as possible and submit them to Mr. Stephens to check over.

1:44:12

SANITATION

Curtis Roberts (Finance Director for the City)

Mayor Lutes explained that there are options available to the City:

- Continue with Allied
- Payson City has made an offer to collect garbage for Elk Ridge
- Elk Ridge go into the business

Mayor Lutes turned the time over to Mr. Roberts.

Background: The City contracts out garbage service and has for as long as he can recall. There is less than \$1,000 difference between the amount the City collects and the amount paid out. Some of the challenges in with the garbage budget:

- Costs have gone up
- The rates have remained fairly "flat"
- 1. Allied has proposed to reduce the fee; but an added fuel surcharge to be considered; as the cost of fuel fluctuates, so will the surcharge...the proposal adds about \$.15 per can (1st can pick-up charge).

Proposed rate: \$9.64 per month for the 1st can + \$.15 surcharge = \$9.79 + \$4.22 for an additional can.

If the rate to the citizens stays the same as it is currently (\$11 for the 1st can and \$5 for the 2nd can) the amount of revenue in excess of the contract expenditure would be about \$13,000 for the General Fund; however the contract does require a 2% increase in the fees every year for the life of the contract. They are proposing a 3 year contract (the proposed 1 year or 5 year contracts would be slightly more and slightly less than the 3 year contract).

(Corbett Stephens added that currently, Allied charges the City \$10.17 for the 1st can and it would decrease about \$.35.)

Allied also offered 15 roll offs for clean up (no extra charge).

- 2. Another new option /a private citizen interested in getting into the garbage business:
Offer: \$9 (1st can) + \$6.50 for 2nd can per month (no fuel surcharge). This would be an individual purchasing a truck. Mr. Roberts felt there would be risk like in any "start-up" business.
- 3. Payson City: They would require that the City lower the fee charged to citizens to \$10.40 per month regardless if it a 1st and the 2nd can would be also \$10.40 (increase of \$5.40/can).

1:52:32

Elk Ridge would be required to purchase all of the cans and maintain them (Payson said they do not want to be in the "can" business with Elk Ridge). Elk Ridge would still be responsible for all the billing and paper work; Payson would allow \$2/can of the charges to stay in Elk Ridge to cover administrative costs. \$8.40/can would go to Payson.

Other Allowances:

- Green waste: Residents could haul green waste to their facility for free.
- They offer either: 1 week of spring clean-up/year or 3 punch-passes/yr (any added = \$3)
- Library passes
- No out of town charges for sports or swimming lessons (same status as residents)
- 4. Elk Ridge Sanitation Business ("in house"):
 - Purchase garbage truck and locate place to park it
 - Provide for driver(s) – with back-up
 - Woodland Hills: They have been contacted and they are willing to having service from Elk Ridge, if it could be at a comparable cost (less to save them money). They are favorable to a 10-year contract.
 - Elk Ridge would have to purchase and maintain the cans

Many cities that he has done work for (those that are in the garbage collection business) have been successful.

Options for Dumping:

- 1. Payson: \$35/ton
- 2. Join Solid Waste District:
 - A. Elk Ridge would have a voice on their Board
 - B. Buy-in Fee: Just over \$100,000 (Could pay off over time)
 - C. Cost: \$32/ton

One of the key factors to be addressed by the Council: "The more you take it in-house, the more you have the ability to control your own destiny. You are not at will of someone else changing the contract on you, forcing you into raising fees if other places decide to raise the rates...we wouldn't have any say in it and that could force a rate increase all the way through."

How much risk is the Council willing to take in running a business vs. how much control is desired?

Weston Youd: He felt the spread sheet provided was very helpful; are there any changes from the last time it came to the Council?

Curtis Roberts: "Not really. There is a lot of variation as to the cost of a truck. As far as is known, the cost for "buy-in" to the District is the same. The costs for cans has fluctuated some...those numbers can be "plugged in".

Based on the highest costs, his last projection indicated that this could be:

- Set up as an Enterprise Fund (no longer in the General Fund) and it could contribute to the General Fund \$20,000 in Administrative Fees.
- It would pay for 2 days of a person's time (employee)
- It would pay off the debt in 10 years (truck, shed, cans & buy-in to land fill)
- The first 10 years it would still "cash flow" over \$5,000
- After the 10 years, depending on how the equipment holds up, the Fund could be generating over \$50,000 per year in cash flow.
 - This could go into the purchase of vehicle(s), perhaps expand services to the citizens & possibly reduce rates.

There are advantages to owning our own business; but there are some risks.

Comments:

Neil Dykstra: He expressed concern about a back-up (contingency) plan...in case of break downs, etc.

2:00:25

Curtis Roberts: Those are valid concerns and have been addressed:

- Provo is willing to loan a truck in an emergency
- Elk Ridge is also welcome to utilize Provo's training for drivers
- Many of those "contingent factors" pertaining to an in-house business have been addressed
- Man-power during snowplowing months
- Agreements with other cities have been worked out for their back-up

Provo is a major player in the Solid Waste District and they see any additional member as a positive thing.

Sean Roylance:

There is a financial risk in the question posed by Mr. Dykstra: if there were a particularly expensive breakdown which exceeded the budgeted amount for repairs; then what is the City to do?

Curtis Roberts: When reviewing these projections, it is important to make sure "there is free cash flowing to the bottom line so that we have available cash for emergency situations." The first couple of years, there is more risk; that is why it may be better to purchase a newer or a new truck and build a model to plan for that. If the City went for a less expensive truck, that could free up cash which could be set aside for repairs that may be needed. There is still some flexibility. "The big thing we want to look at is; with the most costly scenario, would there still be free cash available for these emergency situations and the risks? The first few years, there is a risk.

(Question on increased insurance premiums)

The increased premiums were considered and they are minimal and have been factored into the projections.

2:03:19

(The Mayor asked Mr. Stephens if he had anything to add.)

Corbett Stephens: "There is money in garbage. Payson wants our garbage for a reason. They don't want to be your friend; as much as you might think they are. They want your money and they want your garbage."

Scott Pepper (Director of Operations for Provo City Sanitation) said: Their dept. contributes \$300,000 per year to their General Fund. They do run 3 trucks full-time and they pick up 1,200 cans/day. Elk Ridge would pick up 1,500 cans/week...not 1,200/day. He feels maintenance would not be anywhere near what Provo experiences.

- Green waste: In the summer, we dump 24 tons/week; in the winter, we dump 16 tons/week...that 8 tons difference is green waste. "Why do we pay to dump it? If we had our own sanitation set-up, we could take that green waste someplace else; perhaps for free." He said that Provo offers "green cans" for "green waste" and they pick them up every two weeks. Elk Ridge could do the same thing. Even with the initial cost of the cans, there would be a savings in dumping fees by not taking that green waste to the landfill. "Looking at the numbers, there is money in garbage; but we have to do it ourselves."

- Parking a truck: He spoke to Spanish Fork City and they are willing to let us park our truck at their facility for free. Mr. Stephens lives in Spanish Fork and could drive his truck to their yard and pick up the garbage truck.

He reminded the Council that he would need additional assistance unless some of the work now being done is eliminated. The garbage business could pay the wages of additional help.

Curtis Roberts: There are advantages where it helps defray some of the costs for an additional employee.

(Weston Youd: What is the cost/can that would be charged the citizens if doing the business ourselves?)

The cost structure would be equal to the current one: \$11 for the 1st can and \$5 for the 2nd can. Purchasing the cans has been factored in.

Regarding "risks": "All we can do is plan; which is why I would encourage us to make sure there is enough 'cushion' in the fee rate that we structure to have free cash flow coming back in to build up and have reserves in case something goes wrong."

2:07:07

(Weston Youd asked how long the contract with Payson would be for; and whether there is still room for negotiations.)

Mayor Lutes: The length of the interlocal agreement was not known at that time. Payson's proposal was preliminary. The Mayor felt some of the terms could still be negotiated. Every time Payson talks about it, the terms seem to change. There would have to be a counter proposal. Perhaps Payson and Allied should be invited to present their proposals to the Council.

Weston Youd: With the three offers, numbers would be available for comparison.

Curtis Roberts: He pointed out that, with Allied, the increase to the General Fund would be \$12,000 or \$13,000. Doing the business in house, the contribution to the General Fund would be about \$20,000; and this could help defray some of the cost of an addition to the Public Works Dept. There are some advantages; but there would be risk, as well.

Corbett Stephens: On major expenses and repairs, would the Department have to pay for that or would insurance cover those types of costs?

Curtis Roberts: He responded that it would depend on the type of accident and the coverage provided. Engine problems or some kind of mechanical failure would likely not be covered under insurance. A new truck would have a warrantee that would cover these types of failures while the cash reserves were building up.

Jamie Towse: She wanted to know if there would be a way to lower the fees, once the business is making money.

Curtis Roberts: That is where the City Council would have to be financially prudent with the residents' money; however, care must be taken to meet costs and take inflation into consideration. Last year the cost of living went up 2.2%. We must be mindful that not only should the operations be functional in the present; but in the future as well...while trying to keep fees constant and not raising them. Example: The water rates have stayed constant for 8 to 10 years...while many cities have doubled their rates

Weston Youd: What would the contribution to the General Fund be with Payson? *(Mr. Roberts barely received those figures; he has not had time to factor them into the spread sheet.)*

2:12:34

Corbett Stephens: With 800 cans...12 months...comes to \$19,200; but to get that, rates have to be raised. The 2nd can goes from \$5/can to \$10.40/can; so the residents pay an extra \$13,000 for the City to get \$19,000 back.

Curtis Roberts: The City would also have the overall purchase of the cans to consider; how would this be financed?

(Mr. Stephens commented that when new cans are purchased, there is a 10 year guarantee.)

Mr. Roberts re-stated that "worse-case scenario", \$20,000 would go into the General Fund and \$6,000 would be generated in cash flow...paying off the debt in 10 years.

(Nelson Abbott asked about dumpsters for cleanup, as provided by Allied. He would not like to see a decrease in services provided to the citizens.)

\$2,000 was factored in for "contingent costs" for things such as "cleanups", etc. How often and how long the dumpsters would be available would have to be decided.

(Ed Christensen asked about can replacement.)

The maintenance would have to come from the City.

Randy Jones: He felt the City should "get into the garbage business"; many of those present agreed with him.

Sean Roylance: (Question directed to Mr. Roberts) He referred to the last time Mr. Roberts addressed the Council, he had predicted that Allied's fees would increase by a couple of dollars; and in order to come up with the figures being discussed, that the fee would have to be raised from \$11 to \$13 (1st can). In reviewing the spread sheet provided at the time, he agreed with Mr. Roberts' assessment. He wanted to know how and where things had changed to allow the purchase of a new truck on an \$11 fee.

Curtis Roberts: The amount contributed to the General Fund was cut down as well the amount of cash available. It was decreased because the Mayor asked that the rate stay at \$11, if possible. He does not really like running off that little cash flow... it is "do-able", but risky. The more we push toward new cans, new truck and are able to get warranties on them...then we have more time to build up cash reserves.

Sean Roylance: He took the amount contributed to the General Fund to "0"; and with a "cheap" truck, "it still works"; but as soon as you get up into the \$100,000+ range, he found different results.

Curtis Roberts: Some of the difference may be because Woodland Hills was factored back in.

Sean Roylance: He said he also factored them in. That is an important "detail"...assuming that Woodland Hills is a part of this; because on our own, we do not have the volume. As in all businesses, larger volume is more profitable. With Elk Ridge alone, it does not make sense; but if Woodland Hills agrees to a long term contract...and if rates are raised, then it seems to make sense.

Russell Sly: He asked if Elk Ridge has a contract with Woodland Hills; and how that fits with Allied.

Mayor Lutes: The Mayor thought that a decision must be made prior to December 1, 2010; to give the 30-days notice for termination with Allied. If not, then the City would be locked in for another year.

Corbett Stephens: Woodland Hills is currently not under contract; they are waiting for Elk Ridge to decide which direction to go. Their contract expired at the end of last June.

Sean Roylance: Allied's offer of a \$.50 decrease as opposed to a \$2 increase is very different.

Mayor Lutes: He explained that Allied decided not to dump their waste at the transfer station anymore; but to make a deal with Payson to use their landfill...that deal ended up costing less to dump their garbage.

Sean Roylance: He feels it is very beneficial that negotiations and the other options are resulting in more competitive bids for services. He summarized by saying, "Suffice it to say that I know it sounded good...that we get into the garbage business; but until I can be shown where I am wrong on the spreadsheet, the math didn't quite work out that way".

Curtis Roberts: He offered to meet with Council Member Roylance to review the figures with him. He had been at the City working on the figures most of the day and he continued to hold to his calculations: without raising the fees (\$11 & \$5), buying a new truck, building a shed to house the truck and the cans +spare cans...

(He did not complete his statement as he was interrupted...Council Member Roylance asked again if there had been changes to the spreadsheet, other than the inputs.)

He replied that the inputs dropped down the administrative fee and the cash flow.

Sean Roylance: He put in Allied's bid and compared the two and in the end, he felt it "showed a little bit different story".

Curtis Roberts: He again said he would like to "sit down and discuss it".

Mayor Lutes: He reminded the Council that this was on the agenda as an action item; he asked them what they wanted to do.

Sean Roylance: He disagreed with Mr. Robert's figures:

1. He would like to know what changed; "because a month and a half ago or so, we were told that at \$13 it worked; now we are at \$11...I need to understand why it is different".
2. The Council just received the information regarding Allied's and Payson's proposals. He felt any decision would have been premature.

Mayor Lutes: He replied that this topic has been postponed "two weeks at a time" for some time, with no time to "crunch the numbers"...he wanted to know if there was any commitment and who would be willing to review the numbers so a decision could be made.

Weston Youd: He argued that he felt progress was being made; there are more numbers available. He wanted to have Payson solidify a proposal; he liked some of the additional offers. He had a concern with the cost of the 2nd can. Would they negotiate if the agreement were for a longer time? There would be benefits for Elk Ridge residents. He suggested that both Allied and Payson come and present their proposals to the Council. Those numbers could then be factored into the spreadsheet. He felt they were progressing in the right way.

2:23:44

2:25:17

Mayor Lutes: Then there could be presentations from both at the next Council meeting.

Erin Clawson: She thanked Mr. Roberts for coming down and working hard with Mr. Stephens on the figures to present at the meeting. "They have tried to make something positive happen for our City."

(Suggestion from the audience: To have one of the Council Members contact Payson and Allied for their proposals.)

Mayor Lutes: He felt it best to invite them to come to the next Council meeting. The meetings thus far with Payson have been with the Mayor, City Manager and Public Works; to have a Council Member do the same would be a bit repetitious. If they are invited to the meeting, then questions could be asked.

It is not out of the question to have someone go; but it may be best if they are here with firm offers...since they keep changing. There has been no written or formal offer from Payson. Perhaps they would be convinced that Elk Ridge is serious.

Russell Sly: It seemed to him that there should be two enterprise funds being considered:

1. Storm Drain
2. Garbage

He felt there should be a Council Member assigned to each of those on a temporary basis to develop those enterprise funds.

Curtis Roberts: He added that there is already an enterprise fund for Storm Drain. It is fully accounted for separately.

Russell Sly: "If we have an enterprise fund; why don't we have someone in charge of it?"

Mayor Lutes: He responded that there is someone in charge of it. When asked, "who?"...he replied that he (the Mayor) is in charge of it. He added that he delegates all that he can, if someone is willing. If he had a Council member that were really willing to put the time in and communicate; he would be more than happy to do that. In answer to Mr. Sly's comment that it is up to the Mayor to make those assignments, the Mayor agreed and said that is what he does.

(Comment from audience: One of the Council Members said he "could only make law".)

The Mayor continued: "That is what he told me; so I haven't been going back because he wasn't willing to help and said he couldn't do stuff...except 'make law'...so I haven't pursued it. He is willing now; tonight he has been very helpful...I'd be more than willing to talk about him doing some of these things. I need all the help I can get; but I have to have someone willing to actually do the work and to give it the time."

2:29:58

Weston Youd: He responded that if the comments were attributed to him, then he had to say something: "I did not say that I only make law." He said he did not want to delve back into the conversation; but his statement was that he would need to be given that ability to do that. "A Councilman cannot administer in a city...specific to that." He continued: "There is a separation of authorities that a councilman can do and a councilman cannot. It is clearly stated in not only our code, but in State municipal code, that the city council cannot order or enforce law; because we are a political entity. So it rests with an administrator, and unless that administrator divests himself of that duty...and he has to do that with the council's approval...or we would all have to unanimously agree to say, 'we would like to take that on'."

(Comment: [unidentified] It was felt that Council Member Youd had gotten off the subject.)

Council Member Youd said he was simply answering the Mayor's reference to "a council member that said he could only make law"...He wanted to clarify his position. That was not the intent of what he said.

(Comments regarding duties that are council members' that are not simply making law.)

But those duties are assigned to him/her.

It is different when there is code that needs to be enforced. For instance, he attends water meetings...he makes sure that is done appropriately; but if he was to take action, he would have to come back and turn that executive action back to the Mayor. He could not execute the law as an enforcement officer. As a political entity, they cannot get into that.

(Comment: [unidentified] Summarizing what the gentleman thought he understood: There is a difference between enforcing code and managing certain projects...as what Council Member Clawson has done.)

Council Member Youd agreed. "Or the Mayor can divest himself of that responsibility and say this is now under a specific Councilperson's purview...and they manage it; but then the Council has to accept that." It is voted on. "State code says the Mayor has to hold everything...and if he gives it away and there is an election, it all goes back to the Mayor and the Mayor holds all those responsibilities." He can assign various areas of operation to the Council Members, but the Council has to approve those assignments.

The Mayor has assigned different tasks; like attending the SUVMWA Meetings to represent the City. He (Council Member Youd) cannot direct an employee to solve a problem in the City and give direction on how to do it. That is against code. Council Member Clawson can manage volunteers and direct where they are working and what they are doing because that is not executing code.

(Comment: [unidentified] Directed to the Mayor: The Mayor needs help. He cannot do everything. Could assignments be made to assist in doing some of these things? In the spirit of working together, what can be done?)

When asked if a City Council Member could come to his house in the case of a violation, Council Member Youd responded that they could not cite him. He felt the discussion had gotten off and that these things could be discussed later.

Mayor Lutes: "But the issue at the time was that I wanted you to talk to somebody about their nuisance; we were not talking about enforcing...we just wanted you to talk to them to see what we could do, and you didn't want to do it. So that's where we are."

2:36:17

Dennis Jacobson: "If you ask him to do something and he basically says, 'no I don't want to do that'...is that what has happened? He has explained all this stuff and I'm getting confused."

Mayor Lutes: "That's basically what happened and we haven't talked anymore since." The Mayor thought that communication was not good.

He encouraged that the agenda should move forward.

WESTON YOUD MOVED, SECONDED BY JULIE HASKELL, TO TABLE THE GARBAGE DISCUSSION AND INVITE PAYSON CITY AND ALLIED WASTE TO MAKE PRESENTATIONS AT THE NEXT POSSIBLE SCHEDULED OPENING FOR A CITY COUNCIL MEETING...ALSO OPEN THAT UP TO A PUBLIC HEARING

Discussion:

Weston Youd: He wanted the public to hear the presentations.

(A suggestion was made to have the City business proposal as well, so all three could be heard and seen on a screen...with all the numbers.)

*The Mayor asked if Council Member Royslance would be willing to present this information...he agreed.

COUNCIL MEMBER YOUD AMENDED HIS MOTION TO INCLUDE THE CITY'S ENTRY INTO THE GARBAGE BUSINESS, AS WELL; AS PART OF THE PRESENTATION THE SECOND BY JULIE HASKELL HELD

VOTE: YES (4) NO (0) ABSENT (1) DERREK JOHNSON

2:37:49

SECONDARY ACCESS
CODE – REQUESTED
CHANGE –
ELK HAVEN, PLAT E

The Council has had the information provided that there have been discrepancies as to whether proper procedures were followed; the Technical Review Committee meeting seems to be without minutes of the meeting. The staff report referenced approvals from the Fire Chief and the Building Official that did not match their professional opinions; both of them put their positions in writing. They feel this request should not go through without good cause and they would have like the chance to review the issues.

A possible recommendation could be to send the request back to the Planning Commission where all the facts can be reviewed and discussed. That is what will be determined by the Council.

The Mayor mentioned that some of the Council felt he had held up the process. The matter was placed on the agenda for this meeting (8/10) prior to him leaving for Alaska so there would be action on this request.

The Council may:

1. Approve the requested code change
2. Deny the request
3. Send it back to the Planning Commission

(Tabling the matter or approving with changes are also options.)

Open for discussion:

Ed Christensen: He asked what the benefit to the City would be in changing the code.

Weston Youd: The change makes the code uniform. Currently there are conflicting areas in the code:

- One area in the code states that cul-de-sacs can only be 1,000 feet; and with overlays, there could be as many as 20 units on a cul-de-sac.
- Then there is the "dead-end" with the potential for an existing road going through; which is not clearly defined; but the International Fire Code states that 30 units (lots) are permissible.

Cul-de-sacs with no potential to be extended; then they can stay the same (16 or 20 units); but if the road is going to be extended, what is applied? The International Code or the cul-de-sac code; or does the City create new code? He has been through this issue twice (once when he was on the Planning Commission and once at the Council level.) He has not changed his opinion: he feels 30 units too high and that the International Code is too aggressive for developers to "punch through these roads where ever they want".

This particular case and the way the developer wants to apply the code for Preliminary Plat matches with the City's General Plan that indicates the road going through. Even in this case, he felt 30 units would be too high. He stated back in 2009 (he was on the Planning Commission then) that he felt 24 – 25 units is a "more manageable number, only with the 'through-put road' at the other end actually part of the General Plan that has been approved". He also felt there should be a "caveat", "if there is another part of town where it makes sense, that the Fire Chief, along with the Planning Commission can review that and say if there is an adjustment that needs to be made".

Summarized: He feels 30 units is too high; he agrees with 25 units, with the ability to review by the Fire Chief and the Planning Commission, to determine any needed adjustments.

(Comment [unidentified]: From his understanding, this issue has already been voted on last year, in favor of keeping the code as it is now. So what is the reasoning for going to a higher number of units? This still has not been addressed. What is the benefit to the City to go higher than 16 units?)

Jason Bullard: Ideally, the International Code is designed more for normal, flat ground than the ground that is being considered. Changing the code to allow 30 units with a single access point does not serve the City as well as leaving the code at the current level of 16. With it previously having been voted on at 16 and everyone talking about looking at each individual situation differently...where ever a development may be..."I don't think that we're trying to limit the units to 16; but he feels that each case would need to be looked at (involving the Fire Chief). If an applicant desires more units, the City wants to assist, but we also have to make sure it is safe for everyone. He recommended that "we leave it at 16...let the developer come in with a plat that says, 'we're shooting for 24'...let's look at that at that time. If 24 works and it is safe...we approve it for that. But to move it up to 30...there's no way we could ever go back. If there were a situation that would cause a bad safety issue, we could never go down.

Staying at 16 at least allows us to have the verbiage to say, 'let's look at each developer's situation...let's look at the ground it sits on...and let's involve the Fire Chief and Health Inspector or whomever needs to be involved.'

2:45:54

Sean Roylance: He felt he should answer the questions and why he felt they had not been answered.

1. Current code: 16 units (Mr. Bullard was saying 16, with a possibility of more)

- That would require change #1

2. He felt it was an oversight at the time that this was voted on previously; two things indicate that:

A. "In the exact same code in the exact same area, we allowed for up to 20 lots on a cul-de-sac; because of that...those 2 don't make sense together. One says 20 is okay (discussed at length); and the other one says, 16 is the maximum number." Because they were not discussed together (it was cul-de-sacs being focused on at the time); then the single access part was overlooked. It was an oversight...the two numbers do not make sense. It would have to be one or the other. "It was an oversight by all of us involved."

(Again; the same question (unidentified) What is the benefit to the City to raise the number? If a decision is to be made regarding the number of units; what is the benefit to the City to make it 20? In the interest of reconciling the discrepancy, why not make it 16?)

Sean Roylance: "First of all, it needs to be looked at." Once this is recognized, then the next question is with a cul-de-sac...there were very detailed conversations about cul-de-sacs...it was decided that 20 units would be acceptable for one road. The question for him would be: If you have one road that is going to be a through road, and another road that is a cul-de-sac (20 units okay)...then what is a fair additional number, if any? The Council has not discussed that number yet. That number must be fair to the existing residents in protecting the City; and is fair to the land owner. "I do not want anything that is 'unfair'...at the same time, "I think it is a little presumptuous of us as citizens if we want something that is unfair to the land owner."

(Comment: The question still has not been answered.)

Sean Roylance: So was the decision of allowing 20 units wrong?

2:49:40

(Comment [unidentified]: In a general sense, Elk Ridge is challenged in terms of access. We all understand that. We also have a problem where there are 80 homes (not an exact number) on a single access. It could be said that a mistake was made; but why perpetuate something that is not a good idea? Just because '20 units' was decided on, it does not mean that should be for everything else. What is the rational? Again, what is the benefit of going to a higher number?)

Sean Roylance: The problem he sees "with that line of thinking"... "why shouldn't we scale back to 5? Or zero...unless there is a dual access? How do we get to a starting point?" There are two ends of the spectrum: zero and the International Fire Code. The Fire Chief previously said that for a cul-de-sac, 20 units would be acceptable... (discussed last year). If there are 20 on one road...and then the International Fire Code that allows 30...what is the rational for 16?

(Comment [unidentified]: It seems like we are comparing 'apples to oranges'. The question still remains, what is the benefit to the City? The decision has already been made by a previous Council that the starting point is 16. I am assuming there was a rational for that. He wants to know the benefit...not what is acceptable or what can we "get away with"? But what is the benefit to the City to go up from 16? He wanted an answer to that.

Sean Roylance: #1) It is easy to have the mindset of limiting developers...what can we do to protect our scenic beauty? The code we have is very much about that. A concern he has is, are we going to step on the rights of the land owner just to protect something without a "real reason". The point has been made that the previous Council decided on 16 units...but his point at the beginning of the discussion was that the previous Council overlooked it. "To say they agreed upon it is a little bit of a hard thing to say."

#2) Another point: (he felt cut off before) The first application of the code (HR-1) right after it was passed; a cul-de-sac with 19 lots on it was approved...and the single access had 23 -25 lots on it. The single access was not brought up because it was a "complete oversight". He feels that '20 lots' is really what the Council previously approved. He agrees that a reasonable number should be picked as a starting point; but 16 was an oversight.

2:54:56

Erin Clawson: "Whenever the code is changed, it should only be done with the health, safety and welfare of the citizens that moved here in mind. I think that is what they tried to do with the 16...it is not just fire danger; there are other things. We have talked a lot about storm drainage tonight...people's homes flooding...and the more you put in 'up there' the more we inherit 'down here'." She feels that care should be taken with whatever goes up there. She spoke to Ray Brown and former Mayor Dennis Dunn to ask them who in the City knows most about storm drains, sumps and possible issues inherited by any development in the area above the City. They both agreed that, besides themselves that Scot Bell knows a lot about those things. She asked for Scot Bell to speak about the safety of the water issue.

Sean Roylance: (He said he would be more than happy to hear from Mr. Bell..."in a second".) He felt there is a problem with that line of thinking...when this was put into place, the water was taken into consideration to the point "that we have to accommodate a lot more than 16 or 20, or whatever..."

Erin Clawson: No one was saying not to accommodate them; the people are just saying to settle on a 'reasonable' number and take it up from there...they are not saying to stop it".

Mayor Lutes: He asked if Council Member Roylance could tell him what process took place, since there do not seem to be any minutes for the review committees that were supposed to take place. He was referring to this particular application for a code change. Why hasn't the proper process been followed? Why are we not willing to send this back to the Planning Commission to go through the proper process?

The Fire Chief and the Building Official should actually come to the Planning Commission meeting to share their positions. It sounded like that had not happened. He asked Council Member Roylance to address that, as the Council Member that goes to Planning Commission meetings.

Erin Clawson: Shawn Eliot said there are no minutes of the TRC Committee meeting...which should be attended by: the Planner, Building Official, the engineer, the Mayor and a City Council Member...there are no minutes to even review. It is all in someone's mind. How do you remember?

Sean Roylance: He gave a brief explanation about the difference between the process for code change and development.

1. Perhaps the best thing would be to send this back to Planning Commission

There is an issue that people seem to be concerned about lots being built as opposed to safety; and he insisted that there were discussions about safety at the time when the code was initially created.

He further explained that to be able to go up from the number of 16 units, a code change would be required.

Erin Clawson: She was concerned that the memo from the Planner and the recommendation from the Planning Commission was to go to 30 units...it was not to come to another number; as was being suggested at the Council meeting that night.

Krisel Travis: (developer/applicant) The reason it is on the agenda again was because they (developers) asked again. "We can ask as many times as they can deny us...as many times as necessary...or not necessary."

They had suggested 30 units to go along with the International Fire Code; but they are open to any kind of discussion to address concerns. She made the point that this is not part of the subdivision; they are requesting a code change..."so that we can have the tools to give the Community a quality development." She felt that if the number of units is limited to 16 or the 20, that the City encourages cul-de-sacs. The number of units needs to be that which developers can work with on a dual access road at a future point. "You would be giving them more tools to be able to create a quality development that will encourage the kind of people and the kind of community you want up here. If you limit it to a certain number without any flexibility, you encourage cul-de-sacs and dead ends and those types of things. The reason we asked again was that we want to have the tools necessary to bring a quality development to your area."

Weston Youd: He felt that was kind of an answer to the question of comparing "apples to oranges"...why are we addressing this? Because the 16 was based on a cul-de-sac premise; whereas a single access with potential for a "through-put" does exactly that..."it is not that we are going to have cul-de-sacs everywhere because a developer will come in and say, 'well I'll put a cul-de-sac and drive another 10'...put another cul-de-sac...and we'll have a bunch of cul-de-sacs..."

A developer will say, 'in this zone, how big of a lot do I have to have?' and they will plan a cul-de-sac to that point...even if you don't put a 'through-put' road there.

Another point: This facilitates the accomplishment of our General Plan (just passed by both the Council and the Planning Commission) showing that in this area and others, the City plans to have a lot of through roads. "To do that, you have to have the ability to develop in such a way that it fosters that 'through-put' ability for the developer."

Erin Clawson: If the City has a good plan, she did not feel it should be "given away cart blanche".

Dayna Hughes: (Planning Commission Chair) "This is a hornet's nest. It became a hornet's nest by simple human error. Our City Planner was given information that he thought was correct and he passed it on to the Planning Commission." They thought that the Fire Chief and Mr. Stephens had said they were okay with the proposed change. They had information from the developer that cited the International Fire Code. The Planning Commission said "okay". "That was a mistake. A mistake was made. It was not intentional; nobody should be pointing fingers." She suggested that "rather than hashing it out over and over again at this level, you either:

- drop it (table it)
- keep it as it is
- or send it back to the Planning Commission

She felt this is for the Planning Commission to go over. It will be sent on to the Council. "This is what we do...we look at these things. We don't have to deal with garbage trucks...we don't have to deal with budgets and all this other stuff." She saw that an error was made and that "we should just fix it" and send it back to the Planning Commission.

Jason Bullard: He wanted to make sure the Council knows that when a project does come (as in the one with the applicant wanting to change the code so she has a base to work from)...we need to be able to look at this project...and see the likelihood that this will be a through road at some point...then we would allow the developer to put as many units as is reasonable...it is important that each project is reviewed in light of future roads.

Mayor Lutes: Perhaps the developer needs to just put that road through; because we have examples where that has not happen.

Jason Bullard: He was saying 16 units, *with the option to go higher*, based on recommendations from all the key people.

Kenton Morgan: He agreed and he wanted to add to what was just said. "This is an issue of trust. This is not against the developer; she has a different intent...a different motive. She wants to maximize profit." As a City, a certain type of city is desired. He did not feel the City should give latitude to someone with a different motive than the citizens have. He would like to see the code stay the same...but see what the plans are.

3:02:23

3:04:45

We do want a quality development...but he did not think the code should change; but that whatever is proposed by each developer should be taken into consideration.

Sean Roylance: He feels that "exactly hits home"...but there seems to be a point of confusion: in order for the Council to approve something different, we would have to change the code, even starting with 16...but adding to that the option of going up in numbers...only if approved by the Council. Currently, no more than that can be approved unless changed.

Kenton Morgan: It must be kept in mind that the intent is not to maximize the profit of the land owner.

Sean Roylance: "Absolutely not. We do not want to get into a situation where we have in other parts of town...with the 85 on a single access."

Weston Youd: "That is why the City adopted a General Plan; to do exactly that...to guide us." This "guide" will tell us location of planned roads, what is the look and feel of particular areas; why should there be a development in a certain location?

Krisel Travis: "The concept proposed takes into consideration the HR-1 Zone: "We've change the road grades; I feel like we were kind of the 'test case' for the new Code for the hillside area...and to see if what you guys have written in your Code would work. And that is what our concept has been based on...what you saw the other night was based on that HR Zone...and 23 lots is what fits; so that's why we're asking. Actually, we have upper land that is even higher than what we are proposing that we can't get to because there are no roads. We are 'biting off a big chunk'...we won't ever see profits until we can get to those higher places and other people develop. We understand it is a process and there other things that the City has asked us to contribute. We have talked about new water lines, access roads and reclaiming vegetation...there are other things that we, as the developer have agreed to...but we need the tools first to be able to move forward. Our neighbors next to us have agreed to work with us." She asked that whatever number is decided on, that there is flexibility in that number so that all can work together."

Sean Roylance: He feels there is further misunderstanding on another point: If the Council changes the Code to a certain number with the option to go higher (example: 16 units with the option to go to 25 units), and the developer comes in with 24 units and gets an approval..."that is not going to be eights additional houses that never would have been built. Those houses are going to be built some day. All that's doing is just saying, 'That's going to be built as part of this project'. This Code, no matter what happens, is not going to change the number of houses that can be built on the hillside. That number is basically fixed according to other constraints. It is only a 'time 'issue'...that's it."

Dennis Jacobson: There will likely be future development south of this area under discussion; he wanted to know if the City Council has looked at the impact the development will have on the City's water system. (Council Member Roylance responded, "Absolutely.") He asked if the City would have to drill another well and install another tank. "You are looking at developing one area and leaving an open road and you are going to start developing...that's great; but what is the impact?" He wanted to know if rates will increase; and will he end up "paying" for that, like we did on the other tanks and other property? (Council Member Roylance answered, "No".) Mr. Jacobson wanted to know if that could be guaranteed.

Sean Roylance: "Unless a future Council decides to make you pay for it, then...no."

Dennis Jacobson: He felt the public should be aware of that. The people got "stuck" with the "last stuff"... "From what I understand, they've got to pick up the bill on this other stuff." He wanted to know if another 500 homes could be put on the upper well.

(Council Member Roylance responded that it would not be 500 homes up there.) Mr. Jacobson said that the last Mayor told him it would be 500 homes.

(Council Member Youd explained that before a plat is approved, "those things are taken into account...as to how many homes can be there, based on the infrastructure set-up; and if there is additional, that is assessed to the developer as impact fees. It is unknown at this point what the impact for this proposed development will be.) Mr. Jacobson wanted to know what the impact on the well would be with another 20, 30 or 100 homes added to it.

(Council Member Youd added that it is all part of the review process for a subdivision; he pointed out that the only thing they are considering is a code change..."You've got to separate the two". During the subdivision review process, the developer will propose the number of lots they desire, based on the Code. The City will then go through the development ("planning") process that determines if the infrastructure is suitable. Questions will be asked if there are sufficient water & sewer capacities; if the slopes are correct. The City will decide if we can "handle" the proposal. "They need to have this Code clarified so they know what kind of plat to put together.")

He felt that the City should know ahead of time the capacity of the well and what will be going in up there.

(Council Member Youd: The General Plan has the outline of the volume and capacity and where they go in zones; so to a degree, that information is available. When they submit the plat, the estimates are "refined" and go from there. So there is an understanding of the capacity and how many homes can be supported on that.)

Sean Roylance: He said that Mr. Jacobson brought up a valid point...that "we all feel burned" by the water tank that went in over here (referring to the Fairview Tank). The bottom line with that was that it could have been passed on to developers...all of the cost was not passed on to developers. The only thing we can do to prevent that type of thing is have the City Council...when that comes forward next time...not take the same kind of action.

Dennis Jacobson: He felt that people want to "push property up there"; if an additional well and/or tank should be necessary, he asked that the cost not be passed on to the residents, but to developers.

(Council Member Roylance replied that he hopes, if that should be necessary, whomever is making the decisions at that time will make the developers pay for it...that is what should happen.)

Mr. Jacobson went on to say, "But if you piecemeal it...20 home here another 20 homes...another 50 homes...where does it come to a point where that decision is made?"

(Council Member Roylance: "At some point, it will come to a stop; and then they are going to have to get a bunch of people together to be able to afford it...to make it work.") Mr. Jacobson encouraged the Council to do that beforehand.

(Comment: [Unidentified] He cautioned the Council to set the fees now for the future...start the process.)

City Recorder: (She asked the Mayor if she might make a comment...he agreed.)

The Fairway Tank was installed with mostly developers' money:

- Up-front money from Elk Ridge Meadows paid \$750,000 up front that the City agreed to pay back through impact fees
- Water rights purchase by developers made up about 1.2 million dollars of the project
- 15 years worth of water impact fees are committed to pay back and reimburse the City

She felt it is a wrong impression that the residents' money paid for that tank.

Sean Roylance: He agreed that most of the tank was paid for by developers; the City paid for part of it...we didn't have to pay for part of it...but we did and that was a choice that was made. The same process will go forward with other things. At the right time, the exact same type of process will happen. May hope is that developers pay for all of it next time."

3:18:48

Jodi McKee: If the Code is changed to read "an optional amount", the developer is still going to have to submit her plan...this is not going forward for approval tonight?"

(Council Member Youd responded, "No"; that the code change request was to help them know what kind of plat is possible under the City's Code. This is only one part of the process; drainage will be another issue to consider. Safety: there won't be a road in the subdivision that is not allowed by the Code. This request is to clarify the Code so she can move forward in the process.)

Mrs. McKee continued: She clarified that she understood what was being said; that the development was not going for approval and that she hoped the Council heard the public...that they do not want this to go forward to any approval without 1st reviewing all the information available, including the two opinions from Mr. Stephens and the Fire Chief. She hoped that all understood that this request needs to go back to the Planning Commission with accurate information, before any approval.

3:20:30

Scot Bell: (16 lots vs. higher number) He has been in public office a long time. He recalled a "cul-de-sac" & that he lives on that road. It is a "high risk" situation for fire fighters and for the residents. It is all about health, safety and welfare. He has been on the Planning Commission through different Administrations and asks how to mitigate some things done in the past.

The former circulation element extended to the top of High Sierra and terminated...with no additional plan to develop further. As a result of that situation that had been created, a new strategy was adopted: to connect High Sierra to another part of the City. The circulation element was changed to show a road connecting High Sierra Drive to Hillside Drive...or possibly canyon View Drive. The intent was to mitigate the problem and then to proceed with lots. The only reason anyone had the idea of putting in lots up in that area was due to this intent of eliminating the problem before it is expanded.

Today the proposal is a very different approach. (He asked Ray Brown, who served on the Planning Commission with him and later served as a City Council Member, if that was a fair representation...Mr. Brown agreed.)

Raymond Brown: He recalled that there was a developer that wanted to develop in that area (southern section of the City...on the hillside) and he was told that the only way to address the health, safety and welfare was that he needed to get together with the other land owners in the area and come in with a plan. That is how it started when he was the Chairman of the Planning Commission.

Scot Bell: As a result of planning on the part of the Planning commission at the time, it was recognized that there was an issue with developing in that area. With the new circulation element, anyone wishing to develop was given the charge to work collectively to mitigate the problem and then expansion can take place.

He feels "emphatically" that if the City allows development to occur without a master to plan to connect the roads, it won't happen. There are too many variables with the terrain, contours and drainage issues. "If we allow anything to happen, we expand the problem...if we start issuing building permits on any of it." If the City is to follow the circulation element put in place a number of years ago, then the City must insist, for the safety and welfare of everyone, that the two roads are connected before the issuance of even one building permit.

(He asked for a reminder of what he was asked to address earlier.)

Erin Clawson: Council Member Clawson restated that there is concern about having homes up in that area and adding to the risk of run-off and risking the safety of the residents.

Mayor Lutes: He asked if Mr. Bell had not been involved with sumps and their design in the past.

Scot Bell: Yes, he answered that he had been associated with sumps. He recalled discussion with the Planning Commission on possible routes to connect the two roads mentioned; many ideas were presented. None of the ideas became a reality. One concept presented was to take a road to allow homes to be laid out in the flat area...and then have the road connect Plats "A" through "E".

(Discussion on the slope of the terrain and what it would take to get a connecting road through that area, including high retaining walls)

Sumps are designed to control water on a road with a 56' right-of-way. Rather than just 56' of road, there is also the "hardscape" of retaining walls to deal with; resulting in more impact on the sumps. The issue of snowplowing also came up...would the roads have to be widened so there is someplace to "throw the snow" and place sumps? The infrastructure that goes under the road must be considered as well. There are problems on the "high side" of the road and problems with the "low side" of the road with the same 50' to 100' of fall to be retained. Due to the amount of run-off to retain, the sumps have to be increased.

Dayna Hughes: (Planning Commission Chair) She interjected that all of these issues are addressed in the HR-1 Code. She felt this discussion was "completely irrelevant".

Scot Bell: He felt that it was still an issue in regards to the depth of sumps and being able to service them.

Karl Shuler: (One of the developers of the proposed Elk Haven Development...Plat "A") He felt the point was missed that they did not go with that plan; they went with the "upper plan" and missed all of the problems Mr. Bell referred to. He felt that the view presented by Mr. Bell would "scare the people into thinking that the engineers couldn't figure out a way to do it".

Dayna Hughes: "This would never happen today; I just want everybody to know. We've fixed the Code...it would never happen. It came to us and the Planning Commission said, 'No, this is obviously not right'. We completely re-did the residential Hillside Code." She went on to say that the current Code is so restrictive that the number of lots is lower due to the restrictions in the HR-1 Zone.

Weston Youd: He felt it important to note that the concern about cuts and fills is addressed in other parts of the Code; but the subject that the discussion should be based on at this point is regarding "single access".

Scot Bell: He was using his reference as an example because what he mentioned it was a possible scenario that came before the Planning Commission; and it was discussed at length. The result of the discussion was the direction to the developers to create a connection between point A and point B. "If we allow a developer to start and there is not continuity and a plan to complete our circulation element, which is part of our City, we run the risk of somebody developing something and adversely never being able to connect back into it." He said that, yes...that "scares" him. He felt that none of the development should be allowed before the original problems were mitigated...and that additional risk to health, safety and welfare would be allowed as well. He felt that total continuity is a must with such serious terrain, topography and drainage issues. "You cannot fragment a segment one piece at a time."

Sean Roylance: He said that he completely agreed with the whole point... "that we have serious issues; which is why the Code was completely revamped a couple of years ago; and it is also why, with this particular piece, we need the flexibility to do it right instead of doing it the wrong way." He agreed that continuity is important.

Weston Youd: He felt that the General Plan should guide the actions of the Planning Commission and the City Council; and when a developer comes in, the first thing they should be handed is the General Plan for the City. They should understand the Code, including cuts and fills and all that Mr. Bell referred to; and they will have to apply it all to their plan. But, this discussion is supposed to be about a single access road. "On a single access point, with 23 lots, assuming they have met everything else...is that appropriate?" How many lots would be appropriate so the developers can create a plan that that addresses all these concerns? They would have to take into consideration cuts & fills, as well as drainage...but all of this is "after the fact". At this point, the developer needs to know how many units they will be allowed; then they will have to apply the Code to their plan. He felt they needed to provide clarity to the developer in the discussion that should be taking place.

Scot Bell: "Until we decide to embrace a concept that will complete the circulation element, they can't create a plan because they haven't worked in conjunction with the rest of the owners." This element was adopted to mitigate problems. The true intent should be considered at the time the circulation element was adopted...it was to mitigate the problem, not to expand it.

Dayna Hughes: The "Transportation Element" is complete and is in the General Plan...the Planning Commission has been working on it for three years.

Weston Youd: The new General Plan, with the Transportation Element referred to was approved by the Council in March.

Mayor Lutes: He asked if the General Plan guarantees that those roads will be installed, "or is that just "wishful thinking"?"

Weston Youd: The General Plan is the guide.

Mayor Lutes: "If they do this part, who says the road is ever going to get finished? What Scot is saying is that this needs to be taken care of." He suggested that perhaps they should be required to complete that road before any development. He felt that the action should be to send this back to the Planning Commission to be reconsidered; taking into consideration the opinions of the Building Official and the Fire Chief. He made the point that there are no minutes for the Technical Review on this issue meeting that may not have taken place.

Dayna Hughes: She did not agree that minutes were required for Technical Review meetings.

She said that she had an additional comment: She brought up that "this is why we need a City Planner".

(The Mayor reminder her that that topic was not on the agenda that night and that the meeting was already long.)

She said that everyone else had talked about their issues..."so don't shut me down".

(The Mayor reminded Mrs. Hughes that that was during the Public Forum. This meeting was set up as a public meeting and he did not feel it appropriate for Mrs. Hughes to be coming in and telling the Council how to run the City.)

Krisel Travis: She said she had been sitting there a long time waiting for the issue to be decided. Many things had been discussed about the "development"... "we're not up for development." She asked that the Council take action on the issue.

3:40:16

(There was a comment to allow Mrs. Hughes "to say her piece".)

Dayna Hughes: She felt it appropriate for her to be there as the Planning Commission Chair; that these are issues about the Planning Commission, not personal issues.

Jason Bullard: (Planning Commission Member) He requested that the Council send the proposal back to the Planning Commission to allow them to advise the Council.

WESTON YOUND MOVED, SECONDED BY ERIN CLAWSON, TO SEND THE SINGLE ACCESS CODE CHANGE REQUEST BACK TO THE PLANNING COMMISSION FOR FURTHER REVIEW AND RECOMMENDATION

VOTE: YES (4)

NO (0)

ANSENT (1) DERREK JOHNSON

Dayna Hughes: "All of these questions that we're hearing about water, sumps and flow are all taken care of at the TRC level with the City Planner...that's why we need a City Planner. We are not City Planners. We have not gone to school to be City Planners...these people are elected officials...they are not experts at city planning. We need a City Planner. It says in the Planning Commission By Laws that the volunteer Planning Commissioners are not to be involved in the technical review part. We are to hear the issue after it's been seen by the technical Review Committee and then we look at it. That's what we do. We're not experts on all that stuff...that is what the City Planner is for; and for us as a City to assume that somebody is going to fill that void...is not responsible." She explained that "we have Code or law for our City that says we have to have a City Administrator looking at the development...not the Planning Commission.: She asked to hear from the individual members of the City Council as to what the plans are to "fix this problem"; because she did not feel the Planning Commission could "legally go forward". There was a meeting scheduled for the following Thursday that would not require a Planner; but they needs to have someone with the expertise who looks at the developments and the Code and answers all the questions..."that's what a City Planner does".

Mayor Lutes: He assured Mrs. Hughes that the Council will provide the Planning Commission with what they need.

Dayna Hughes: She interjected that she still wanted to hear from the Council Members. (The Mayor reminded her that he is a City Council Member.) She asked to hear from the rest of them.

3:43:47

Weston Youd: He said his plan was: in the next opportunity available, he would like to introduce a code change that will say that a planner should be utilized and that that individual should be presented to the Planning Commission as well as the Council for approval. He feels that a planner serves both bodies and both should have a say in who is hired. (Mrs. Hughes commented that it is already in the Code that the City needs to have a planner.) If the Code says that, then he wants the Code to read that both bodies be involved in the selection of a planner.

Erin Clawson: "I think everyone agrees that we need a Planner."

(Mrs. Hughes asked that all Members of the Council say that...for the record.)

Julie Haskell: She said she felt the Planner should be Shawn Eliot.

Mayor Lutes: He asked if they are referring to a full-time planner.

Dayna Hughes: "We need to follow our own process; and we're not. We are trying to circumvent the process...I don't know why...by going about things the wrong way. We need to follow our Code. The Code is there and there are certain steps to be taken. Once it leaves Planning Commission, those steps are not being followed."

(Comment [unidentified]: He wanted to know why, when the City had a Planner, things were not worked out.)

Sean Roylance: "The reason we don't have a City Planner is exactly what she just said (meaning Mrs. Hughes)."

(Unidentified: "Why didn't he do it?")

Council Member Roylance replied that he was trying to "do it"... (presumably that meant that he was trying to work things out).

(Unidentified: "It doesn't sound like he did it.")

"No, he was; that's why he left; because he wasn't allowed to do it."

3:45:52

Mayor Lutes: In order to clarify the issue, he said that "people need to understand what's going on here." He felt that the process that they are trying to implement and enforce is where the Mayor (or any one else...other than Sean Roylance, who is the representative of the Council to the Planning Commission) cannot see anything before the Council does." The Mayor referred to a meeting earlier in the year, where Council Member Roylance insisted upon this idea; he finally agreed that the Mayor could possibly see what comes from the Planning Commission at the same time as the Council sees it. He didn't have permission to read the information ahead of time; to figure out how to get it on the agenda or have anything to do with it.

"My problem about that is; I was elected to represent the people. In this case, when I finally was able to read the staff report, the staff report was not accurate. All I tried to do was to get the accuracy put back into it by having the Fire Chief and the Building Official write their positions and provide a history of what happened last year about the same thing; so that they could have the information to make a decision. What they're trying to say is that I don't have a right to do that...that the process, they think, is that it comes right straight from the Planning Commission (people who are appointed...they are not elected by the people...they're appointed) and they make decisions and it is supposed to go right straight to the Council for their approval or rejection without the benefit of the highest elected Official even looking at it."

Dayna Hughes: "That's not our Code. If you want to do that, that's fine; but that is not our Code. It may be what you want to do; but it's not the Code."

3:47:51

Weston Youd: "The Code specifically states that it goes from the Planning Commission to the City Council for five actions: approval, denial, approval with modifications, back to the Planning Commission..."

Mayor Lutes: (*Directed to the public*) "So, is that what you want? Do you want me to back off and just have it go straight forward?"

(*Many comments were called out from the audience...the loudest calling out, "no".*)

Sean Roylance: (*Directed to the public*) "Hold on a second. Before we say 'change' or whatever; let me just clarify one thing: One thing I think is misunderstood is what the responsibilities of the Mayor and what are the responsibilities of the City Council?"

City Council is in charge of:

- Setting the code
- Is in charge of all land use (exactly what we are talking about)

That is the City Council's responsibility.

The Mayor's responsibility:

- Is the administrative portion of the City"

He said he understood if a change is desired; but the public also needs to understand that they are talking about changing the fundamental roles of the Mayor vs. the City Council. "What has been happening is that the fundamental role of the City Council is to review this stuff and it hasn't been being brought to us as it is supposed to be."

Kenton Morgan: "It sounds like what the Mayor is saying is he just wants information. The process that Weston mentioned is a process of decision making; not a process of sharing information."

Sean Roylance: "No, that's not correct. You are misunderstanding, because all that information that he has...we should all be getting and he, as the Chair of the City Council (and we discussed this way back when) gets access to the same information. What needs to not happens is...it needs to not go through a 'filter' before it gets to us. We need to get this information and he can express his concerns. We can express our concerns. We all can have concerns...we can table stuff...we can send it back to the Planning Commission...we can do all kinds of stuff. We don't have to get it and one week later take action on it. But what we do need is we need the ability to get the information and to do our jobs. This is one of our core responsibilities."

Kenton Morgan: "So, you are saying that the information is being filtered before you get it? Is that what you are saying?"

Sean Roylance: "Basically, what our Planner has been asked to do on multiple occasions is to go through and change things before it gets to us."

Weston Youd: "Here's the response: You're absolutely right; the responsibility of addressing this is with the Council; and the Council has those five options. In gathering information they can...in this meeting..."

- Review the minutes from the public hearing that was at the Planning Commission to find out what the public says.
- Ask the developer questions or ask the petitioner who is wanting the code change questions
- Evaluate that and say: do we need to table it, do we need to deny it...all those five things.

It is the responsibility of the Council at that point to take that action."

(*Mayor Lutes asked if the Mayor is a Member of the Council.*)

Absolutely.

(*Mayor: "Then why am I not included?"*)

You are included.

Mayor Lutes: He reviewed what happened with the current agenda item: He told how he did not receive the staff report until a Wednesday afternoon; and as soon as he got it, it was sent out to the Council to review..."so you had it".

(*Dayna Hughes called out, "June 24th!"*)

Weston Youd: "Yes, and it is the Council's responsibility to take one of those five actions; but because it wasn't listed..."

Mayor Lutes: "When I saw it and saw that it was inconsistent and it was inaccurate..." He wanted to know if he should then have done nothing about it...if he should have just gone to the Council to allow them to discover that information on their own.

(*Dayna Hughes spoke over Council Member Youd and said, that is the procedure..."that's the law".*)

Weston Youd: "As a Member of the Council, you should have brought it up and said, 'This is up for action. The suggested code change has come from the Planning Commission and we're here to take action on it; and my (speaking for the Mayor) recommendation for action is to table it because I have these questions...send it back.' That is the role, as a Council Member that you play with respect to this process. It's not a gateway to say..."

Mayor Lutes: "So if there is an error, I can't talk to my Building Official...I can't talk to the Fire Chief to say...Did you really say that?"

Weston Youd: "Absolutely. And then you come...you can talk to them...and you can come to the Council..."

Mayor Lutes: "And they can't write a letter on their positions and include it with the stuff?"

Weston Youd: "Absolutely. And at the time it is presented at the meeting say, (speaking for the Mayor) 'These are the things that I found out; I would like to ask that we move to take it back to the Planning Commission because of these discrepancies'. You have to do that as that action."

Mayor Lutes: "Did you help me to do that? All I did was provide the information to the Council. And all you guys want to do is ignore it and go ahead and approve it."

(*The Mayor allowed the City Recorder to comment; however she was interrupted.*)

3:51:41

3:52:44

Kenton Morgan: "I really am confused. I must be misunderstanding. I thought you said that what you were objecting to was that the Mayor took the information...let's talk real specific so we know what we are talking about...that Shawn (the Planner) said that there was support from the Fire Marshall and from Corbett; that's what is says in here. But the Mayor is saying that that wasn't accurate and so he had each of them write a letter. I thought you were saying you were objecting to that and now I think I am hearing you say...I am confused."

Weston Youd: "To clarify that...he needed to it when it came for action; as part of the action for this code change. It goes to the Council as a code change. It requires action. It's not up for discussion at that point because the process says that you cannot adjust the recommendation of the Planning Commission prior to it going to the Council." He went on to say, "That is why he (the Mayor) makes the recommendation that says, (speaking for the Mayor) 'I see some inconsistencies and the action that we should take is to send it back.' You have to take action at that point."

Sean Roylance: "There are two issues going on here beyond that.
- One is: it should come to us instead of being delayed for a month."

Mayor Lutes: "Let's clarify that. It was not delayed for a month. You had it immediately, as soon as we got it."
(Dayna Hughes called out again: "June 24th!")

City Recorder: "That's not when he got it, Dayna."

Dayna Hughes: "Well, that's when we sent it off."

City Recorder: "That's not when the Planner sent it forward."

Sean Roylance: "It came in, in plenty of time to be on the first Council Meeting for July."

City Recorder: "The Mayor called on me and I think I have the floor." She explained that the process that everybody has been talking about is not the code amendment application process; it is a subdivision submittal process. "There is nothing in the Code Amendment process that requires this to go on within a week, to the City Council. That code that has been quoted on July 27th and in the last Special Meeting is *not* accurate. What you quoted was the subdivision code. We have heard this over and over again...this is *not* a subdivision approval...it is a code amendment. And that process in our own City Code and in the Utah Code does not have a time limit associated with it." (*City Code: Section 10-3-12 & Utah Code 10-9a-503*)
(*Council Member Roylance said, "It does not have a time limit..."*)

The Recorder responded, "Correct."

(*Sean Roylance: "But the process is that it should come to the City Council next."*)

"It comes from the Planning Commission to the Council,"

(*Comment [unidentified]: "How is he supposed to do his own research and bring his information to the Council if he hasn't had a minute to look at it before hand?"*)

Sean Roylance: "No, we all have plenty of time before hand to look at it. No one is saying that you can't look at it."

(*Comment [unidentified]: "I thought you said he wasn't allowed to look at it."*)

Weston Youd: "He is; as a Member of the Council."

City Recorder: "Administratively, he (the Mayor) creates the agenda."

Lucretia Thayne: (Question) "If you, Sean, received it and you saw discrepancies between X and Y; would you not have a meeting and if he is representing other people, try to talk to them as well...to see what was going on, as part of your position on all that is occurring?"

Sean Roylance: "Absolutely. So there are two things here. That is completely different...Yes; if we have something where we see one person saying this and then from another source, we see they are saying this...we want to investigate that...absolutely. No one is saying not to."

Lucretia Thayne: "Part of that question is...you say he doesn't have a right to change the Planning Commission's recommendation..."

(*Sean Roylance: "That's correct."*)

Mrs. Thayne explained that giving the Council information that the Planning Commission's recommendation was based off of wrong information is not changing the recommendation, it is simply giving you information."

Weston Youd: "You have to apply that action." He explained the types of action mentioned previously regarding taking action on an item from the Planning Commission. He said the Council has to take action.

He again reviewed the process of coming from the Planning Commission to the City Council..."There is not an interim there." He went on to say that the item needs to go forward; for the developer's sake and for the Community's sake..."you need to keep things orderly. You say, 'this looks wrong and the action that I take is to send it back to the Planning Commission.'"

(*Question [unidentified]: When he (Mayor) says that, do you vote on it and say, 'Yes, you're right?' Or do you vote and say, 'No, we're not going to?'*)

Weston Youd: "That's why we all have individual votes."

(*Much talking over one another*)

The process needed to be followed.

(*Comment [unidentified]: "What if he is just learning it?"*)

City Recorder: "What process, though? He did follow it. He put it on the agenda for discussion because there were some discrepancies. He put it on the agenda for action tonight. What wasn't followed?"

(*Weston Youd: "The action should have come..."*)

"The action did come... (too much noise from the audience)"

(*Weston Youd: "But we didn't discuss it."*)

City Recorder: "You discussed it and then you voted on it tonight...there's no time limit; so why can't it go on for discussion because there are discrepancies and then go on for action? Which it did, and you voted on it. So, I don't know what the discrepancy is."

3:58:36

Sean Roylance: "There are three things:

- From a time limit standpoint, there is no time limit
 - From an appropriateness standpoint, it should come forward in an appropriate time frame
- (*Public Clamor... [unidentified] "That is your opinion...but from the things the "girl" says, there is no time limit."*)
 Council Member Roylance continued: "Okay. Let's say there is no time limit...fine; and that we're fine waiting for a year or whatever..."

(*Public [unidentified] "No, that's not what we're saying..."*)

More clamor...

Allison Thaut: "What are we doing? Do you hear yourselves? It is embarrassing. Do you know why we don't come to the City Council meetings? Four hours and what has been accomplished? Nada. It's painful to sit here and listen to you guys drone on and you don't make any sense. It's common sense, people! The more you talk, the more embarrassing it gets."

Robert Goodwin: "It seems to me that we are right back where we were last week. We have a power struggle taking place and we're nit-picking over what code is and what not code is. I would suggest that the Council get together and put up some kind of a chart to say here's what has taken place...this is the responsibility. But, I still see that we have a power struggle taking place." He said he felt the effort was to try to replace the Mayor.

Sean Roylance: "So, I want to say three things..."

(*Several hands went up in the audience.*)

Mayor Lutes: (*Directed toward Council Member Roylance*) "Let's hear from somebody else; you've had the floor almost all night."

Lucretia Thayne: "I have one comment. First of all, I recognize that one reason that this meeting has taken a long time is because members of the audience have been asking questions. I do agree with what's being said, because listening to you and hearing what you say about the Mayor doing anything that is wrong or inappropriate. But, I do want to express my appreciation to each and every one of you tonight for your patience with us as citizens of Elk Ridge when, as Paul said...we're supposed to be quiet during this meeting; and I really appreciate in this particular meeting that opportunity to express feelings and ask questions. Thank you very much for that." (*Mrs. Thayne also said something about resolving conflicts, but it was inaudible.*)

Sean Roylance: Council Member Roylance did not feel like he had gotten a chance to respond to a couple of things: "The one thing in particular is that our Planner has been asked on multiple occasions to modify his opinion before it got to us."

Mayor Lutes: He did not agree and asked for an example from Council Member Roylance.

4:01:53

Sean Roylance: "Well, I was sitting in one of the meetings where it occurred."

(*Mayor: "Well, tell me about it."*)

"So, basically, what happened was that the Planning Commission had come up with some code or a recommendation...I don't remember exactly what the specific incident was; but they made a recommendation. That recommendation is supposed to come forward to the City Council. The Mayor wanted some time to make revisions to it. Shawn (Planner at the time) said, 'No, that's not according to the process; in fact that's not according to the code either. So, forget process; that's not according to the code'. You can't make changes from the Planning Commission until it gets to the City Council. Now, we can then say, 'Hey, go back and change it some more; or we can change it. But, in between, nobody can go in and change that.'"

(*Mayor: "So, did you come and tell me about that?"*)

"Yes, I did. I can't believe you're saying, 'Did you come and tell me'. We had a very long discussion about that."

(*Mayor: "Did you tell about the time when you read body language and everybody was going to quit...was that the meeting you are talking about?"*)

"No, no, no."

(*Mayor: "Well, what meeting then?"*)

"I never said that either." (*The Mayor insisted that he did.*)

"So, here's what happened then: Shawn (Planner) said, 'I can't do that; because that is not legal.'"

(*Mayor: "So I forced him to do it?"*)

"And so you threatened him with his job right on the spot."

(*Mayor: "I never said that."*)

"You did, too. You can call him and ask him right now."

Weston Youd: He asked if he could move to send the single access point back to the Planning Commission for review. (*He was reminded that the motion had already taken place and it had been voted on.*)

Mayor Lutes: "All we're trying to do now is to straighten out the Mayor...to get it done."

Jason Bullard: He felt that everyone was doing a good job; but everyone needs to work together. He did have a comment about possibly threatening the Planner's job: "That is a pretty strong accusation. My question would be; from the beginning of your Administration (*to the Mayor*) how did you feel about the City Planner? Did you want to keep him?"

Mayor Lutes: "From the beginning of my Administration, when Andrew Jackson from MAG (*Mountainland Assoc. of Governments*) showed me the chart and all the fees we're paying, and I noticed there's this \$10,500 entry to Elk Ridge..." the Mayor asked Mr. Jackson why Elk Ridge is paying them \$10,500.

He explained it is because we have a "circuit rider". That's so Shawn Eliot could answer the telephone down there on our calls during his working hours with them. So, yeah, that's been a concern of mine. Why are we doing that?" He asked for an accounting and he could not find out how many hours were spent on City business; it is a "flat fee". When he asked Mr. Eliot, his response would be that he "spent a lot of time"; which the Mayor said was probably true. "So, I questioned whether or not we should be doing that. Other cities weren't doing that. Andrew (MAG) explained that other cities had gotten rid of their "circuit riders. Here we are, crunched for money and we're spending \$10,500..."

(Jason Bullard: "We are crunched for money; is that what you said?")

"We were in debt and still are."

(Mr. Bullard: [Most of his comment was not audible; but he did ask a question at the end of his short comment:]

"Were you in favor of getting rid of him?...my question."

"It hadn't reached that point, I don't think."

(Mr. Bullard: "so you hadn't made a decision?")

"No I hadn't made a decision. We talked about the hours he was spending and what the value was. I remember telling him, 'Well, let's go ahead and continue for six months and see how it goes. I spent a lot of time with him. I had him come over to my home and spent a whole morning talking with him about what we were trying to accomplish to see if he could help me and join the 'team' and accomplish the things we wanted to do. One of the things I asked him to do...it was my understanding of what a planner is supposed to do...is basically to be a 'fly on the wall'." He explained that he felt a planner should answer questions from the Planning Commission, but "not to orchestrate. The Planning Commissions I have gone to; the Chairperson goes to Shawn and says, 'Shawn, what are we doing tonight?' Shawn produces the agenda and that's what they do. I am thinking that's not what the Planner really should be doing. The Planner should be answering questions; and the Chair and the Planning Commission should be taking care of their own items and their own agenda. They should be working with the secretary to come up with the agenda; not the Planner. The Planner is to answer questions. We have a situation here where we've had Sean Roylance as the representative from the Council to the Planning Commission; who has told me he's best friends with the Planner and the Planner creating the agenda for the Planning Commission. I think there are conflicts of interest there that shouldn't be. I think that needs to be addressed."

4:07:23

(Jason Bullard asked what the conflict of interest is.)

"Because they are best friends. I think a planner maybe ought to be somebody from out of town...independent." *(The Mayor was asked if he was assuming this off of development.)*

"I'm not assuming anything. We're just saying that there's a possibility of conflict of interest. I have witnessed him basically running the meeting. 'Shawn, what are we going to do?' He says what to do, and you do it. I am saying that, in my opinion, is not what a planner should be doing."

Jason Bullard: He said that he and the Mayor have never talked; but he sees what is happening in the meetings. I was not even aware of Shawn resigning until the last meeting; but I see what's happening and it is obvious what is taking place. What I do not understand is; we had a City Planner and it was brought up in the last meeting that you (Mayor Lutes) made it known that you weren't in favor of keeping him or having him."

Mayor Lutes: "I would like to know the facts of where I made it known...maybe in my discussion with him he felt..."

Jason Bullard interjected: "So I just brought up the question. Who was that and who made it known? So, what I hear now is that Shawn, for whatever reason, has resigned...I don't know that anyone in here knows why. I know he loved his job and I know he did a great job. I don't know that there's anybody in here who worked with him...I'd love to hear a Council Member say that they did not feel he was worth the money; or a Planning Commission member say he wasn't worth the money...or needed. He loved his job; everyone thinks he did a great job. You weren't in favor of it...and he resigned."

4:09:35

Mayor Lutes: "And so he resigned; and so that's the end of the story."

Jason Bullard: "I just think it's kind of obvious that there's a reason why he resigned. The accusation is that you threatened his job."

(Lucretia Thayne said that was supposed to be a long time ago.)

"He was in the meeting and you threatened his job."

(Erin Clawson started to say that she was there; but was interrupted...)

Sean Roylance: "You were not there."

(Speaking over one another)

4:10:09

Erin Clawson: "I was there when he walked out...and resigned. *(Jason Bullard asked what the reason was.)*

There was a conversation going on about the secondary access. The conversation got heated and Shawn got up and left. The Mayor went after him. *(She was asked who was participating in the conversation)* It was between the Mayor and Shawn; I was just there to help Shawn do something." She went on to explain that Shawn Eliot got up and went out and the Mayor went after him. "We had an email later that he resigned. It was not even said at the time. I didn't know that until I received the email. So nothing 'threatening' happened at that meeting that I was present for."

Mayor Lutes: "All we were doing was talking about why...all the things we have been talking about. He could have talked about it...he could have said, 'This is the reason why'...but all he would do was 'sass' me saying, 'I did talk to them!' " The Mayor said he asked him (Mr. Eliot) if he had talked to Corbett...'I talked to Corbett!' The Mayor said he pressed Mr. Eliot and asked him why he would not talk to him (the Mayor) and finally he asked Mr. Eliot, "Well, who are you working for?" Mr. Eliot's response was, "Well, certainly not you."

And then the Mayor said that is when Mr. Eliot left. The Mayor felt, "If the Planner 'certainly isn't working for me'; how can we work together? I don't know what his reasons were for resigning, but what happened next was that I (the Mayor) got an email from Weston (Youd) demanding at the meeting reports about nuisances and what we had done about it...I realized that this was Shawn's thing. Shawn had gone out and made a list of the weed abatement letters that needed to go out, and so I forwarded the email to him and said, 'Shawn, could you please give me a brief?' This was on the forwarded email from Weston. He (Mr. Eliot) emailed back and said, 'Sorry, I can't give you a brief; I no longer work for the City; under the circumstances'...and said, 'This is my resignation.' So, that's what happened."

Jason Bullard: He wished to address each of the Council Members directly, to see if they felt Shawn Eliot did his job well.

Mayor Lutes: "The point is he resigned..."

Jason Bullard: "Because the power struggle that is taking place up there... *(the rest of his comment was lost in the noise in the room).*

(Much arguing among the members of the audience)

Sean Roylance: *(In response to something said)* "It is not hearsay, I was right there."

(More arguing)

"It was his choice because, to quote him, his life was a 'living hell since this last January'. So, basically, as far as politics...when it comes to the Planner...it has never been that way before."

(There were comments regarding the fact that the Planner was just being questioned.)

"Questioned is one thing; but being asked to do stuff that is against the code...against our laws...is another thing. He refused to do that, so he left."

(Comment [unidentified] "That is hearsay.")

(More arguing)

(Comment [unidentified] "They're talking about two different meetings. He was not at the meeting with the Mayor and...")

Jason Bullard: "I am referring to the meeting that Sean Roylance said he was in when he heard the Mayor threaten Shawn's job."

Lucretia Thayne: "And the Mayor said he didn't; so now you have 'he said she said'..."

(More noise and arguing)

Sean Roylance: "You want to call up Shawn, go for it."

City Recorder: *(Directed to Mr. Bullard and other members of the Planning Commission)* "Why don't you let the Council handle their own 'power struggle' with the City Attorney that's coming next week?"

Weston Youd: He asked if there was any further business or if he could move to table all additional items for a future meeting.

4:15:13

(Comment [unidentified]: "What is the Council going to do to? Because I think this is more than over Shawn. I think there are some more underlying issues here: a lack of trust...which I think is the reason for 'power struggles' when there are power struggles. What are you going to do to resolve that? We don't want that continuing to go on. We want it to stop.")

Weston Youd: "I think our discussion with David Church (City Attorney) will help that. I look forward to that."

(More comments about trust issues. Again the comment that power struggles come from a lack of trust. Whoever commented wanted to follow the progress; he did not want to see it "tabled" and forgotten. There were also comments about what it would take to re-hire Shawn Eliot.)

(Comment [unidentified] "We see that you're taking that on (referring to the upcoming meeting with the Attorney) and that is great. For me, that is another confidence that I can see you in action...doing. That's what I like to see. I would like to hear from Julie more often; I don't hear anything out of you. I'd like to hear more about you...what you are doing and how you are progressing and getting along. Sean (Roylance) showed up to the neighborhood watch thing...that was great to see him there. Those are the things that I, as a citizen...that helps me to know what you are up to and what you are doing.")

4:1745

City Recorder: *(She asked permission to make another comment)* "From what I understand, if someone resigns, it would take a unanimous vote to reinstate that person; is that correct?"

Weston Youd: "Resigns from what?"

A position at the City.

(Weston Youd: "It would take a majority of the Council.")

"From where do you say that? David Church said that it would take a unanimous vote to reinstate someone that has resigned."

(Weston Youd said that refers to a Council Member. The Recorder clarified that she referred to anyone else and Council Member Youd asked if she meant a City employee..."like a planner?" The Recorder clarified that a planner is not a City employee, he is a contracted person that we hired from MAG.)

The Recorder went on to say that we really do not know what it would take to reinstate him...that is a question for the City Attorney.

"The second thing is, there seems to be some controversy about Shawn (Eliot) one way or the other. He is a great guy; but there are other city planners. We have been expressing a need to get an engineer that's closer to us, because our engineer is in Bountiful. When we hired them, they had a Payson office... (this does have a point to it); we have been contemplating that for some time. LEI, who is in Spanish Fork, happens to have a planner. Is that a possibility? When we have hired others, we have actually advertised. I agree and hear Dayna's pain and the other Planning Commission members. You've got to have something to 'steer the ship'. Somebody's got to advise them; they are not professionals;

they are lay people that are appointed and they are willing to give their time without any compensation whatsoever...and that's terrible...but that's the law. But they need somebody to guide them through that process. It is true, other cities don't have planners; but they have full-time engineers that act as planners...like Salem. Bruce Ward (*Salem's engineer*) is a great engineer; he came over from Sunrise and then Aqua and joined them as their engineer. He plays an integral part in their TRC's. If we had a close-by engineer that we did not have to bring all the way from Bountiful, maybe we could have better TRC's and have them in our Planning Commission meetings, which is where they belong. Then the Planning Commission has first hand access to these people...maybe they could provide the planner, too.

I think there are some good solutions that would solve the problems at hand without everybody 'beating the heck' out of each other. I'm sorry, but you are my Council Members, too; and I know I'm supposed to stay neutral...and that's real tough for an opinionated 'old lady'...but, I will tell you that I see six, including Council Member Johnson (*absent*) very capable, intelligent, wonderful, willing, here, present...people...that could do wonders for this City. This has the potential to be one of the best Council's I have ever served under. Laws come and go and I have watched Administrations...the things that are so important to one Administration...another Administration comes in and it's not so important. Some people want curb and gutter and others don't. The Administrations change and they want something completely different. But there's one law that does not change and that is 'forgiveness'; and I think we need a great big dose of that...from every side to one another...because people make mistakes. The Mayor has made mistakes; the Council Members have made mistakes... I make them so often, I can't keep track. Janine (referring to the Payroll Clerk, Janine Nilsson) keeps track for me. But, we need to give each other a break; and understand that mistakes and personality conflicts happen. I am not trying to 'gloss' things over. There have been mistakes and miscommunication on both sides. I work with this man five days a week (referring to Mayor Lutes); he's not evil. He has things to learn; he admits that...and if you come to him and talk to him, he's willing to listen. Because he furrows his brow doesn't mean he is ready to 'plug' you in the nose. It is just his way of gathering information. I have talked with Sean (*Roylance*); I've talked with Weston (*Youd*); I've known Julie (*Haskell*) for a 'hundred years'; Erin (*Clawson*) and I have...I love these people individually. And it just kills me that you guys can't let it go and come up with another solution. I know I am "yapping" too long; and I will likely get 'heck'...one person told me to remember that I am only the 'Town Clerk'. I know I am just the 'Town Clerk'; but I am also a citizen of this City and I happen to care for this Council very much on all sides. Someone asked me what 'side' I am on. I am not on anybody's 'side'...I am on the 'side' of progress. When politics gets in the way of good governing, it's time for a shakeup; and I am glad that the public has shaken this up, because it is time for some changes."

WESTON YOUD MOVED, SECONDED BY ERIN CLAWSON, TO TABLE THE REMINDER OF THE AGENDA ITEMS TO A FUTURE DATE; AND TO EXTEND A VOTE OF GRATITUDE TO NOT ONLY THE CITIZENS BUT THE STAFF THAT HAVE MADE IT THROUGH THIS MEETING...TO BEAR WITH IT
VOTE: YES (4) NO (0) ABSENT (1) DERREK JOHNSON

Mayor Lutes adjourned the Meeting at 10:25 PM.

City Reorder