

**ELK RIDGE
CITY COUNCIL MEETING
August 24, 2010**

1
2
3
4
5 TIME & PLACE
6 OF MEETING

This Regularly Scheduled Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, August 24, 2010, at 6:00 PM.**

The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

7
8
9 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 20, 2010; as well as an Amended Agenda on 8-23-2010.

10
11
12
13 **6:00 PM –**

REGULAR CITY COUNCIL MEETING AGENDA ITEMS:

14
15 ROLL

Mayor: Kenneth O. Lutes; City Council: Julie Haskell, Sean Royslance, Weston Youd, Erin Clawson & Derrek Johnson; Building Official: Corbett Stephens; Sheriff: Deputy Brent Butters; City Attorney: David Church; Planning Commission: Dayna Hughes, Paul Squires, Kelly Liddiard & Jason Bullard; City Payroll Clerk: Janine Nilsson; Deseret News: Rodger Hardy; Allied Waste: Gordon Raymond; Public: Ann Brough, Neil Dykstra, Alan Hughes, Tricia Gunnerson, Amy Boswell, Jamie D. Towse, Kelsey Cain, Dr. Elizabeth Dayton, Ed Christensen, Ray Brown, Deborah Squires, Lucretia Thayne, Jenny Evans, Shamayne Mason, Robert Goodwin, Ken Lutes Jr., Stewart Jolley, Don Duncan, Dennis Jacobson, Jane Watson, Rosalie Hooks, Careene Eliot, Malea Simmons, McKay Simmons, Janene Thorpe, Jesse Conway and Gregg Magleby (LEI Engineering) & Cliff Hardy; and the City Recorder: Janice H. Davis.

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

Opening Remarks: Mr. Kelsey Cain offered an opening prayer and Deputy Butters led those present in the Pledge of Allegiance, for those willing to participate.

28
29 APPROVAL OF THE
30 AGENDA TIME FRAME
31 01:59

The Meeting started on time; with no adjustment.

32 PUBLIC FORUM

33 *1. Kelsey Cain: (Storm Drainage)*

This is s topic of concern for him; particularly in the area of Hillside Dr. and Mahogany. As a result of construction performed by RL Yergensen, there is a drainage pipe that runs through his back yard. The drainage that flows through his yard extends all the way to the top of Elk Ridge. His back yard was to have been left "natural" with the "natural drainage. He encouraged the Council to look carefully at the ability to handle big storms and the subsequent run-off. He was told there would be sumps in his area. The City's Master Plan must include ways to mitigate the run-off.

34
35
36
37
38
39 *2. Lucretia Thayne: (Several Issues)*

- She was at the Planning Commission Meeting when there was discussion regarding changing the Development Code. The intent behind the proposed code change was to lessen the influence of some of the City's elected officials. That attitude concerns her.

- She had contact with several people the past week and they have expressed "surprise" that two the Council Members "are still here". It was felt that there would be resignations after the response to the perhaps "legal", but "unethical" special meeting that was called. It is felt that "trust has been betrayed". She feared that accusations have been made against the Mayor and though the business at hand my move forward, the thoughts are already in people's minds and damage has been done. She and others do not agree with this method of planting thoughts in the minds of the public.

The Mayor closed the Public Forum at 6:10 PM, as there were no further comments.

40
41
42
43
44
45
46
47
48
49
50 08:04
51 SANITATION –
52 PROPOSALS

(Memo from Recorder to Council, dated 8-24-2010)

"Sanitation: The current contract with Allied requires 6 months notice to cancel services; we would have had to notify them by July 1, 2010 to cancel at this point. So, for the time being, Elk Ridge is continuing services with Allied.

They will be presenting the terms of their proposed contract and will prorate the rates to August 1. In considering service from Allied, perhaps the one-year option would be preferable; leaving options open for the future.

Following are the rates proposed by Allied:

- 1 year – 1st carts (cans)...\$9.73

 Add'l carts..... \$4.33

- 5 year – 1st carts..... \$9.55

 Add'l carts..... \$4.15

- The 3 year option is included in the copy of the Amendment #2 (In packets)

Depending upon which option the City chooses, the City will save approximately between \$425 to \$575 per month.

Mr. Gordon (Allied) will be expecting to hear from the Council regarding questions on proposed rates...or if they left something out that the Council was expecting. (Suggestion: Perhaps the lower rates would be acceptable for the 1 year option?). He did not have information in regards to "free disposal trips" for residents...but thought he could secure a 'preferential rate' for the City disposal at the landfill."

(Mr. Raymond was present to address the Council.) The Mayor explained the above information.

Mayor Lutes: Before introducing Mr. Raymond, he said that Allied is willing to go to a 90 day termination/renewal time period rather than the current 6 month requirement.

Gordon Raymond: (Brief Description of size of company) Allied Waste has serviced Elk Ridge since 1997; they think of the agreements they have with various entities as “partnerships”. He described how Allied’s services benefit the schools. Allied, with the School & Institutional Trust Lands Administration (SITLA), contributes over \$425,000 annually to Utah Schools. Allied and SITLA have an agreement which allows Allied to operate a landfill; “increased volumes to the landfill leads to increased revenues, which in turn means more funding for our schools.”

Allied Waste operates over 210 landfills, 240 transfer stations and 78 recycling facilities nationwide. They feel their experience makes them a good choice for servicing the City’s needs.

(There were handouts that summarized Allied’s services.)

Basically, the longer the contract, the lower the fees; he reviewed the fees: (roughly)

Agreements:

- 1 Year: Save about \$400/month
- 3 Years: Save about \$450/month
- 5 Years: Save about \$475/month

Questions:

Neil Dykstra: He asked about recycling “green” waste and any future plans for this. Is there a possibility to share recycling?

(There are recycle bins for newspapers in town at the LDS Chapel on Alpine; as well as some in Payson.)

Gordon Raymond: Utah is behind the nation in the recycling curve; particularly Utah County. This is a “subscription based” program. It is tougher in Utah County because the processing facilities are located in Slat Lake County and there are transport fees.

19:50

*Mr. Dykstra suggested sharing recycling information with the residents in the next newsletter.

Mayor Lutes: He felt the Council has had time to review the numbers associated with the various options for sanitation services; he feels that consideration of the City entering into the garbage business should have an impact on the length of the agreement entered into with Allied.

Allied’s Offer:

- They have been good to the City
- There are the various options proposed by Allied
- Due to the chance of the City doing the business, perhaps a one year contract would be best
- 90 day option for termination or renewal
- Could the contract be prorated to August, 2010? (Probably, but not on a 1 year agreement.)

No further questions for Mr. Gordon.

22:13

- Elk Ridge City Sanitation:

Council Member Roylance offered to research the figures with the Finance Director, Curtis Roberts. There was a conference call between the Mayor, Council Member Roylance, Corbett Stephens and the Finance Director. 2012 would be the soonest a City sanitation business would be possible.

Sean Roylance: (No projector for a screen to be able to show figures to all.)

(Review of Spreadsheet provided by Mr. Roberts)

There are many “assumptions” that have to be considered. He was trying to determine what kinds of projections to expect. He wanted to high-light some of the key assumptions:

1. There are costs per ton:

2 Options:

- A. Buy into the solid waste district
 - \$100,000 one-time buy-in
 - Permanent members with vote on what happens in the district
 - Dumping fees/ton: \$32
- B. Go with Payson:
 - No buy-in cost
 - No say in future costs/fees (Possibly negotiate terms to limit increases)
 - Price per ton: \$35
 - Other risks of unexpected costs

The City has about 1,000 tons/year to be disposed of. It would appear that going with Payson could be the better choice.

2. Garbage truck:

- A. New truck: Between \$175,000 to \$250,000 (initial cost)
- How long will truck last? The estimate on the spreadsheet was 15 years. Is that realistic?

3. Charges per can:

- Woodland Hills charges \$9.70 for 1st can + \$7.80 for 2nd can
- With a \$.50 break on each can, that would result in a savings of about \$4,000/year

4. Contingent Expenses:

- (spreadsheet) \$2,000 was allowed for “contingent expenses: which could be anything from maintenance to trucks, dumpsters...or anything else unforeseen.
- Is \$2,000 enough?

28:38

Sean Roylance:

5. Parking / Location: (More Assumptions)

- Parking the truck at Spanish Fork at no charge
- Back-up trucks to borrow for free from Provo

Question: How long are those offers good for? This could change and charges could result.

Summary:

- \$35/ton (Payson)
- \$175,000 truck
- \$.50 break to Woodland Hills
- Do not join the Solid Waste District
- Contingent expenses = \$2,000
- Free offers from Spanish Fork & Provo
- Part time employees are factored in
(2 days worth of a full-time employee)

Results:

1. City operates on our own: the City would be in the "red"
 2. Add Woodland Hills: That would put us in the "black" about \$24,000/year
- Based on the offer from Allied, that would put the City in the "black" only \$10,000 to \$12,000/year
 In addition: Once the truck is paid off, then there would be about \$20,000 added to the profit.
 Assumption: 15 year life to truck with an 8 – 10 year pay-off time = about 5 to 7 years without a truck payment.

Cost of Cans:

Once paid for initially, all the City would pay for would be replacements (Initial costs are figured in)
 This is one side of the equation...the other side of the equation is the Payson offer: Part of the Payson concept sounds good; but there are problems with no control.

33:39

Over the long range...going into our own business would be a "good option". 8 to 10 years down the road, Woodland Hills could even discontinue their agreement and the City would still be in the "black" a bit (comparable to the arrangement with Allied Waste; but the City may not be in the "black").

- He is not sure what the difference in the truck would be at \$250,000 vs. \$175,000; but Elk Ridge is a "hilly" Community and the grades of the roads may be harder on trucks and may dictate that we get a 4-wheel drive vehicle.

- If Woodland Hills gets a discount of \$.50; is that worth it to them to contact with Elk Ridge with one truck vs. going with a larger company with multiple trucks? Some of the original figures allowed a higher discount than \$.50 for Woodland Hills. Allied is willing to discount Elk Ridge \$.50/can; so perhaps we could change the numbers around to allow more of a discount to Woodland Hills.

(Mayor Lutes: Since running our own business is not possible until 2012, we are trying to determine if the Council is interested in pursuing this in the future...so we know how to vote now with Allied (length of contract).

- There are many assumptions and contingencies that could be made; in fact, he feels it is the contingencies that affect a new business. The unforeseen expenses can catch a new business financially unprepared. \$2,000 per year is less than 2% of the overall expenses...this seemed low to Council Member Roylance.
- The City could be making a profit once the initial purchases are paid off; or contingencies could "flip" those numbers and work against the City.
- Trucks: Payson said they replace their garbage trucks every 3 to 4 years.
 Provo: Their trucks have a bit longer life span...he does not know what that is...but they were willing to sell us a truck that was 6 years old because it was being replaced.
 If the City were to have to replace a truck in the 8 to 10 year range, then he does not feel the business would be profitable.

(The point was made from someone in the audience that Elk Ridge would not be using a truck as often as these larger cities.)

Council Member Roylance reviewed percentages of use with the various cities; and agreed that Elk Ridge's use would result in less wear on a truck.

Derrek Johnson: He wanted to know what the Finance Director's opinion was, based on the conference call.

Sean Roylance: Mr. Roberts was supplying facts and he said that, with the assumption of certain things, the business has the potential to make money and be profitable.

The biggest difference between his first recommendation and the most current one is the difference in raising rates and keeping them the same or even decreasing them slightly. The variation in rates changes the numbers quite a bit.

41:21

Erin Clawson: She contacted Mr. Roberts to see what his opinion is: He feels the idea of going into business is a viable one. The numbers he supplied were based on the very worst case scenarios; it could be better, depending on things. He agreed that there is risk involved with starting a business; but does the City want to control "our own destiny" or allow someone else to do that.

Weston Youd: But, does the City want to assume that risk?

Sean Roylance: Mr. Roberts had some numbers that are somewhat "in the middle" of what we are discussion. Council Member Roylance said he gave "one end and then the other end" and that Mr. Roberts had some numbers that are actually more "in the middle". One aspect that Council Member Roylance did not agree with was the contingency number of \$2,000 and that there was no money allotted for backup trucks or parking...clearly some things were not "worst case". The cost of the truck was listed at the high end...so some of the numbers were conservative.

"He did not tell us where the estimate of 15 years came from."

Elizabeth Dayton: *(Comment)* She pointed out that Provo was trying to sell a truck at 6 years; so there was likely life left in the truck.

Weston Youd: Perhaps their depreciation schedule dictated that they sell the truck off at 6 years. He agreed that the actual life of the truck should be based on a balanced figure.

Sean Roylance: He speculated that possibly they could be selling off the truck due to an increase in repair costs. Maybe they felt it best to get a new truck at that point.

44:39

Weston Youd: His “Google” search for depreciation of a garbage truck and it shows a depreciation time for 6 years.

Cliff Hardy: Suggestion: Lease/Purchase of a truck or a Federal Grant.

Sean Roylance: According to his knowledge, no one has looked into a grant; not has a lease option been explored.

Lucretia Thayne: She reminded those present that the issue being discussed that night was an approval of a contract with Allied and how long that contract would be for. These questions did not have to be decided at that point...there is time to further discuss and decide.

(The Mayor explained that the Council needed sufficient information to be able to decide the length of time for a contract with Allied. If going into business for our selves is not feasible, then perhaps the agreement would be for a longer period of time. The Mayor asked if the Council had enough information to be able to make a decision.)

Weston Youd: He questioned why Payson City was not at the Meeting; they were to come to present their proposal.

Mayor Lutes: He did not feel there was any point in having Payson present their proposal now, since Allied's contract would be extended until 2012.

Weston Youd: He argued that the contract with Allied would be shorter so other options could be considered.

(The Mayor agreed that when we get closer to 2012, then the options could be presented and considered at that time. “They want to reassess it at a later date.”)

Council Member Youd asked who “they” are.

(The Mayor responded: “Payson.”) Council Member Youd replied that he was told otherwise when he called Rich Nelson (Payson) and he said he was told not to worry about coming...so he said he was trying to “figure out what was going on”.

(The Mayor answered that when Allied's contract was automatically renewed, there was not point in pursuing Payson's proposal now...just like there is no point in pursuing going into business for ourselves. That is what he spoke to Rich Nelson about.)

49:42

DERREK JOHNSON MOVED, SECONDED BY ERIN CLAWSON, TO ENTER INTO A ONE YEAR EXTENSION OF THE CONTRACT WITH ALLIED WASTE; WITH A 90 DAY RENEWAL/TERMINATION OPTION

Discussion:

Derrek Johnson: He asked Mr. Raymond if he was willing to negotiate further on lower rates for one year.

Gordon Raymond: He responded that he would be willing to meeting and discuss the rates and perhaps changing to a fiscal year rather than calendar year for the agreement; which would extend it 6 months to July of 2013...from December, 2012.

*Mr. Raymond will meet with Council Member Johnson and the Mayor.

The original motion died due to lack of a vote taken. The motion was re-stated:

DERREK JOHNSON MOVED, SECONDED BY ERIN CLAWSON, TO TABLE ANY DECISION ON THE AGREEMENT UNTIL AFTER NEGOTIATIONS ARE CONTINUED BETWEEN MR. RAYMOND (ALLIED) COUNCIL MEMBER JOHNSON AND MAYOR LUTES

VOTE: YES (4) NO (1) JULIE HASKELL

55:09

STORM DRAINAGE

Mayor Lutes: *(Brief Background)* In 2004 the City Council set the \$3.00 Storm Drain Fee to be charged to residents; it was meant to be a temporary fee and was to be reviewed three years from that time (2007); that review did not take place. The Fee continues at \$3.00 per household/month. That Fee generates about \$20,000/year in the Strom Drain Fund. \$ 5,000/year is budgeted to pay Twin D to clean out sumps and inlet boxes and \$15,000 has been designated for the installation of sumps; as well as \$10,000 budgeted to clean 1/3 of the sewer lines per year.

“Corbett Stephens, who has been the Public Works Director since the beginning of the current Administration, provided a map of the system.” He has been looking into the records of the services rendered by Twin D and discovered that last year, only 5 culverts were cleaned throughout the City, for just under \$5,000.

The map is partially completed with over 118 storm drain units being noted. The estimate is that there are over 200 units throughout the City to be cleaned...the revenue generated may not be sufficient for the City's needs. Solutions need to be discussed:

- Possibility of purchasing a vac/jet truck to be able to better maintain the system
 - Possibility of raising the Storm Drain Fee
 - Possibility of contracting out the work as we have in the past, but more frequently than in the past
- Council Member Youd has researched this and the time was turned over to him.

58:04

Weston Youd: Under the direction of Mr. Stephens, he contacted Twin D. He spoke to Mr. Denning (one of the owners of Twin D) Mr. Denning felt the City would be paying approximately \$300,000 for the type of truck needed. He informed Council Member Youd that several cities have purchased jet-vac trucks and some are selling them off and renewing their contracts with Twin D...this is a concern. Considering Elk Ridge's history with Twin D, there seems to be a pattern of no concise plan being in place in the last couple of years. He wanted the chance to review their records and compare it to a map of the City to be able to determine how the City's money has been spent for Sewer/Storm Drain clean-out. They are willing to draft a storm drainage management plan for the City, based on the system that is in place. He understood that Mr. Stephens is creating maps of the City; those could be sent over to them for comparison. If the City needs to have the storm drain system cleaned-out soon, it would cost approximately \$15,000. If the City budgeted \$15,000 to \$20,000, they could come in and clean out the entire system and see how far that amount takes them.

Corbett Stephens: He was told they could do 10 to 15 units/day for \$200/hour. If he would be willing to service the entire City for \$20,000, we should sign a contract.

Mayor Lutes: Example: When Spanish Fork came up to assist, they cleaned out 8 inlet boxes in 2 hours; and when the demo truck came up, they cleaned 2 sumps in 2 hours.

Weston Youd: It was Mr. Denning’s opinion that to get the best estimate, we should send him the maps of the location of the sumps and inlet boxes in the City and he can develop a plan to assist us.

(The current map is incomplete.) A proactive plan is essential, regardless of which option the City decides on. Corbett Stephens: HE responded that completing the maps and the information that goes on them “just takes time”. He is involved in many City projects currently.

1:03:24

The Mayor asked the City Recorder to review some numbers regarding financing a truck, it that is the direction decided upon.

City Recorder: Based on a used truck, averaging perhaps \$150,000 to \$160,000: She spoke to Zion’s Bank, who does public financing (the City has a current “lease-purchase” agreement with Zion’s for out newest snowplow; which is due to retire in 2013)...

- Financing \$90,000
- City provides the balancer as a down payment (\$11,000 in Capital Projects Fund + Fund Balance)
- Terms:
 - o 10 years on \$90,000 = about 4% interest rate
 - ❖ Payment = About \$10,000/year
 - o 5 years on \$90,000 = about 3.4%
 - ❖ Payment = about \$20,000/year

- She added that Twin D could be offering a somewhat slanted perspective of the costs involved with doing the work ourselves, since they will certainly prefer to have the City’s business.

- Federal Surplus is an option that someone mentioned. The City has purchased surplus equipment and vehicles in the past.

- Grants with start-up businesses (another option).

Mayor Lutes: He pointed out that Mr. Stephens can take the estimate of \$200/hour and time that by the number of units in the City and come up with an overall projection for the cost to have the entire system cleaned out.

Council Member Youd asked if there is someone else he should contact.)

(Comment from Audience): Unidentified...A jet-vac trailer has been mentioned; is that still an option?

Corbett Stephens: There is an opportunity to buy-in to a jet trailer for \$7,500.

Jamie Towse: *(Comment from audience)* She agreed that Twin D may not lend the best perspective for how the City handles the cleaning of the system.

(Council Member Youd responded that he was directed to contact them.)

Mrs. Towse added that she felt his assignment was to investigate the options available and she felt he should have come to the meeting better prepared.

(Question) Unidentified: He asked if the Council could address the idea of an additional employee to assist if a truck were purchased. *(That item was on the agenda for later in the meeting.)*

1:09:51

(Recommendation from Audience) Unidentified: A sound bid is needed...proper information is needed to obtain that bid. He recommended that Mr. Stephens get the assistance needed to get accurate information and a solid plan of what is needed. That information should be submitted to several companies so we can get bid comparisons.

(Council Member Youd repeated that his instructions did not include obtaining bids; he was told to contact Twin D to find out about the City’s sumps.)

The gentleman went on to say he was not “pointing fingers”; he was merely making a recommendation to get whatever help Mr. Stephens needs to obtain accurate information.

Erin Clawson: (Addressing Council Member Youd) She asked if he was willing to assist Corbett Stephens in finishing the maps and gathering the necessary data on the storm drain system.

**(Council member Youd agreed to finish the map started by Mr. Stephens; which would require him to locate and measure the depth of the mud in each unit. He requested that Mr. Stephens instruct him as to the measuring procedure. Mr. Stephens said he would do that.)*

1:12:36

ELK RIDGE MEADOWS
PUD – DEVELOPMENT
AGREEMENTS

The City Attorney, Mr. David Church, was present to address this and other topics.

1. Elk Ridge Meadows PUD, Phase 1: MR. Tom Henriod could not be present at the meeting; so he requested that the City Recorder address his concerns:

City Recorder: She explained that Mr. Henriod is one of the developers of Phase 1 of the PUD.

(Brief History) The previous Administration voted to authorize Mayor Dunn to sign the proposed Agreement for Phase 1 (last City Council Meeting in December, 2009); signing this Agreement would mean that the City will accept the open space in Phase at a certain point of occupancy. The Planner at the time (Shawn Eliot) had suggested that the phases be handled separately; however Mr. Henriod made an emphatic point of keeping the Phases combined under the same PUD, which is how they were originally presented. The City had not considered taking over the open space in Phase 1; the park in Phase 2 was item being considered. Phase 2 came in almost as an after-thought. The motions regarding the Agreements for Phases 1 & 2 were different: *Phase 1:* The Council voted to sign the Agreement, with no conditions. The vote to accept that open space was not unanimous.

Phase 2: The Council voted to sign the Agreement only after the City received the Surety Bond money (the Agreement was signed prior to the actual receipt of the money from the Surety Bond Company, based on faulty information that the “check had been cut and was *in the mail*”).

The Agreement for Phase 1 was not signed and the Agreement for Phase 2 was signed (prematurely).

1:15:23

Mr. Henriod's Perspective:

He hoped that the Council re-read the Agreement and will recall that the authorization to sign was granted last year. Advantages to signing:

- The City receives fees-in-lieu of park impact fees (Which is actually less than the park impact fee, so may not actually be an "advantage to the City").
- \$20,000 will be provided by the developer to refurbish the open space
- The open space would go to the City "free" of charge at a certain point of occupation (50%)

The HOA is still in existence, though there was discussion of dissolving it. The Recorder asked Mr. Henriod how the HOA "fits in" with current plans. He said the disadvantage of keeping the open space with the HOA is the added cost of fees. The homes they are building are meant to appeal to those seeking "beginning" type homes and they typically have trouble qualifying for their loans; the added fees could be the difference between qualifying or not.

He also pointed out that this is back before the Council due to the problems associated with Phase 2 of the PUD.

The questions that came up were:

- Should the two Phases still be "tied" together even though?
- Is one City Council "bound" by the decision made by a prior Council?

Questions from Council Meeting on 8-10-2010:

- Is it legal for this Council to over-turn the directions of the previous Council for the Mayor to sign the Agreement?

(The Recorder felt that one Council would be "bound" by legislative decisions of a previous Council; there was a question on Administrative decisions.)

- What is the status with Phase 2 of the PUD?

1:19:57

David Church: (He thanked the Mayor for the invitation to be present.) He had no corrections toward the City Recorder regarding her statements.

Two Issues:

1. Elk Ridge Meadows, Phase 1:

He got a call from the attorney representing Mr. Henriod: they feel they have an agreement with the City that the City has refused to sign.

- The previous Council approved the Agreement, without conditions.
- They have been waiting for the required signatures; they do not know why it has not been signed.
- As summarized, the Agreement is an amendment to the existing Development Agreement.
 - o Some changes were made to some of the side yard set-backs and other things that were negotiated.
 - o The significant changes:
 - Take what was designated as "open space", owned by the HOA as part of the PUD; and make it public open space, owned by the City.
 - The open space would be dedicated to the City at no cost to the City
 - The developer agreed to do certain minimum level improvements at certain "bench marks" (referring to levels of occupancy).
 - The landscaping plan was changed somewhat to make it more economical

Key Issues re: Phase 1:

A. Authorization was granted to the Mayor to sign the Agreement (previous Council)

- The Council Minutes are clear on this
- The new Mayor was hesitant to sign the Agreement
- Mr. Church was asked if one Council is bound by a decision made by a previous Council. (He replied that the "short" answer is, "Yes, except in legislative matters. Contracts are contracts; I would never advise any client of mine to breach an agreement that was made in good faith.")

B. Advice: "We have agreed and we ought to sign."

He added that Mayor Lutes wants authorization to sign due to questions that were raised.

Mr. Church does not feel it is a "bad" agreement; but we "do have a proposed, re-stated amended Agreement that we voted on in December to accept and to sign and it hasn't been signed yet; and we have Mr. Henriod and his attorney who want to know why it has not been signed."

Recommendation: Unless there is some reason that has not been discussed; he feels the City should not be in breach of the City's side of the Agreement. He does not feel the previous Council can be repudiated...it is not a legislative matter.

1:24:22

2. Elk Ridge Meadows, Phase 2: (Status)

- There is a dispute with the Surety Bond Company
 - Development Agreement for Phase 2 was "conditioned" and was signed by the previous Mayor.
- Brief History: The Agreement was signed on their part by Centennial Bank and about 4 weeks later, the Bank went under and the FDIC took over. The FDIC is marketing the lots they own. There are other parties to the Agreement that are not members of the FDIC.
- The FDIC is interested in getting a letter from the City that says the Agreement will be honored and that the lots will be buildable. Mayor Lutes asked Mr. Church to prepare a letter.
- The Development Agreement is with either the original developers, or their successor. The question is: when people buy from the FDIC, they want that buyer to be treated like a "lot buyer" not the developer. His opinion is whoever that person or entity is (buyer); is just like any other "lot buyer" buying a lot in a subdivision. There are responsibilities from the City; one of which would be not to

Surety Bond:

- He has spoken to all associated with the Surety Bond and they are suing the original developers. T
- The City has filed a claim against the Surety Company
- The Surety Company has filed a claim against the guarantors
- The guarantors and the Surety Co. are involved in litigation
- The City has a potential litigation; they know we may sue them due to the City thinking we had a firm settlement with the Surety Co.
- The Surety Co. is hoping that their litigation brings the personal guarantors to the “table” to come up with sufficient money to satisfy the City’s claim.
- The Surety’s position with the City is that they will come up with a certain amount of the demand; but if the City demands more, litigation may be required.
- Whatever the City hopes to regain from the Surety Co.; they hope to recover back from the 3rd parties.
- 3rd parties: Individual (personal) guarantees on the Surety Bond.

Mayor Lutes: He summarized what action the Council could take on:

1. Signing or not signing the Development Agreement for Phase 1
2. Phase 2: FDIC wants a letter acknowledging that the City will treat the purchaser as if they are like any other lot purchaser in a subdivision. (Mr. Church added that het FDIC is still holding \$17,000 to cover inspection costs. They are acknowledging that they will deposit that money with the City to recover our inspections costs. They also want the City to indicate to them that the buyer of the 50 lots has no direct obligation for the improvements...he/they are not stepping into the shoes of the developer. The FDIC is like an insurance company that has taken over the Bank’s assets; they are selling off those assets. The Bank [Centennial] is gone and the developer has gone broke. What we have is whatever claim is decided on the surety bond and the \$17,000 to make up whatever deficiencies there are...the obligations are the same with or without the bond.)

Mr. Church advised against further discussion of pending litigation in an open meeting.

Corbett Stephens: He asked if the money received from the Surety Company is restricted. It was his understanding that Rick Salisbury has purchased the 50 lots.

Question from the audience as to the projected benefit to the City to signing the Agreement for Phase 1.

David Church: He replied that here is always a benefit to honesty; the Council at the time felt that it was beneficial to sign the agreement. He feels the entire City will benefit if lots are bought and homes built. “Cities exist to serve people; one of the things making you successful or not successful is when those empty lots have new families...the school is full and the parks are full.” He simply feels that more people in the City to share in the costs is a better situation. A “growing Community” is a successful community. It is a detriment to have derelict subdivisions, with dead and dying parks. “You can have slums without houses.”

1:40:27

The water system I the City is designed for more homes and currently, a smaller population is paying for it. Recommendation: “It is my recommendation, as your attorney, that you sign the Henriod agreement...unless there is something I don’t know of wherein you think he is in breach...there was a vote...good or bad.”

Sean Roylance: He felt the point is that the agreements had been negotiated as a pair; and the way the motion occurred, they do not seem to be “tied together”. Considering this history, the question was, “Is there any way we can legally, legitimately...honorably say that the two were a ‘package deal’? If the answer is ‘No’; then...” (interrupted)

David Church: “Well, they are two separate agreements...separate individuals...there were two separate votes...and the other side, if we do say they are a ‘pair’, has been signed. The more owners on the agreement that sign, the less of a burden we have...which is why Mr. Henriod is confused. He thinks it is a benefit to both of us; considering the obligations we have under the first... (recording unclear). That’s up to you.”

WESTON YOUD MOVED, SECONDED BY ERIN CLAWSON, THAT THE ADVICE OF THE CITY’S LEGAL COUNSEL BE FOLLOWED AND AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT FOR PHASE 1, ELK RIDGE MEADOWS PUD, AS STATED

VOTE: YES (4) NO (1) JULIE HASKELL

1:42:38

Elk Ridge Meadows PUD, Phase 2:

Mr. Church has drafted a letter requesting acknowledgment of the following:

- Currently there is litigation between the original developer, Elk Ridge City and the bonding company in regards to construction durability bond
- Building permits have not been issued on the 50 subject lots
- The City can terminate a few building permits to get development moving in the subdivision
- The City to acknowledge the bond obligation between the City, the original developer & the bond company that does not obligate the FDIC
- The City to acknowledge that if the City “wins” and the bond company has to “settle up”; that would have no bearing on the FDIC; or
- If the bonding company “wins” and has to settle or declare bankruptcy, then the City would then have to go after all lot owners equally to do any kind of “assessment area” (not just the FDIC lot owners); or
- There is \$17,000 being held in escrow, by Centennial Bank, that is to cover the City’s costs for inspections and that money shall be released to the City

He did not believe any of the terms were questionable.

Mayor Lutes thought that Mr. Church was going to have a letter drafted. Mr. Church said he has a letter drafted that includes the above mentioned issues. He was waiting to see if the Council would authorize the Mayor to sign the letter.

1
2 1:46:19

3 **SEAN ROYLANCE MOVED, SECONDED BY JULIE HASKELL, TO AUTHORIZE THE MAYOR TO SIGN**
4 **THE LETTER TO THE FDIC; ONCE IT HAS BEEN DRAFTED BASED ON THE INFORMATION AS**
5 **PRESENTED BY DAVID CHURCH**

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

7 1:46:40
8 CITY COUNCIL
9 TRAINING –
10 DAVID CHURCH

Mayor Lutes: (Introduced the topic, as requested by Mr. Church) The Mayor introduced the City Attorney, David Church, as one experienced in administrative policies and procedures regarding government. He is also the Attorney for the Utah League of Cities and Towns; and he literally wrote the book on how Councils should run as well as the responsibilities of the Mayor. Appreciation was expressed for Mr. Church’s willingness to respond favorably to the Mayor’s invitation to come and address the Council and general citizenry.

David Church: He invited question as he proceeded with the topic he refers to as, “Who’s in charge?” (He provides this service to many other cities.

It seems to be the growing opinion that government is not a functional as it has been in the past, which seems to be the case with Elk Ridge’s elected officials. This is a confusing area of government to understand for all associated with governments across the State of Utah.

He discussed the three forms of government allowed by State statute, as well as the City Manager form (grandfathered in for those cities that have it...like Orem). Within these forms, there are many legal ways to go about governing. Local government is set up so that cities can design their own way of doing things.

He used the analogy of purchasing a computer with built-in “defaults” and settings; those defaults can be changed to suit the particular city. “That is the same thing the Legislature has done with us.”

He continued, “But you guys have bought a used computer. It doesn’t have the factory set-ups...someone has previously changed a bunch of defaults. It has been changed over time by previous Mayors and City Councils.”

- 1. “Six-Member Form of Government” – Elk Ridge
- 2. “Five-Member Form of Government” – Vinyard Town
- 3. “Mayor–Council Form of Government” (Only one in Utah County id Provo City)

The only differences between 1 & 2 are the number of people sitting on the stand and in a “5 Member Form”, the Mayor votes on every issue. In a “6 Member Form”, the Mayor only votes on specific issues and when there is a tie vote.

(Handout: State Law on Six Member Form of Government...*certain key points highlighted...* “default settings”) “Powers & Duties of Mayor in sex-member council & five-member council forms of government” (10-3b-104)

Highlighted points:

- (a) The Mayor “is the chief executive officer of the municipality to whom all employees of the municipality report”
- (ii) He has the obligation to, “ensure that all applicable statutes and municipal ordinances and resolutions are faithfully executed and observed”
- (iv) He has to “perform all duties prescribed by statute or municipal ordinance or resolution”

The reason the above was highlighted was that the source of those statutes, ordinances and resolutions is the Council. As a group, the Council gets to decide what laws govern the Community and the Mayor has to carry those out whether he agrees with them or not.

Example of “default setting”: (a) Mayor is chief executive officer; however, the Council decided things like the number of employees, the pay they get, the budget, etc.

The Mayor has the option of how he/she will carry out those duties.

- (A) He can, with the Council’s advice and consent, “assign or appoint a member of the council to administer one or more departments of the municipality”

He can “share the load, if he/she wants to...if the Council consents to it. It is the Mayor’s choice.

- (2) The powers and duties in Subsection (1) are subject to:
- (a) municipal ordinances in effect on May 4, 2008 modifying the powers and duties of the mayor; and
- (b) the council’s authority to limit or expand the mayor’s powers and duties under:
- (i) Subsection 10-3b-303 (2)(a), for a municipality operating under the six-member council form of government

55 1:55:05

That is what he meant when he said Elk Ridge’s current Council has started with a “used computer”. If it is “fresh out of the box”, the above are the Mayor’s duties. If there was an ordinance passed before May 8, 2008, that changes those Mayor’s duties...that ordinance is still in effect. If the Council passes a new ordinance, that changes the Mayor’s duties (adding or taking away), that is also an opportunity to customize.

The last page of the handout addressed adding or removing powers:

10-3b-303:

(Summary) “If the Council wants to remove any of those powers from the Mayor (following the section in the code), they have to do it by adopting an ordinance and in order to adopt that ordinance that either removes from the Mayor powers or gives the Mayor any powers back...that ordinance requires the affirmative vote of the Mayor plus a majority or a unanimous Council.” In essence, “if there’s at least one Council Member who will vote with the Mayor, then the Mayor is given basically an effective ‘veto’ over being given more power or having some of his powers taken away from him”.

The current position of Elk Ridge: “unless you have an ordinance that specifically says otherwise, your Mayor is the chief administrator and executive officer...and gets to run the day-to-day affairs of the City; but must do so in accordance with the policies, ordinances and resolutions that you adopt.”

He is the “chief executive officer (CEO), but the Council is like the board of directors”

Mr. Church said he has looked at the City’s ordinances and he does not think the City has anything that changes that.

1:58:42

If the Council wants to change the ordinances, “you could change it in almost any way you can think of and it would be legal...if the Mayor and three of you agree...or all five of you agree over the objection of the Mayor.”

Weston Youd: He questioned the logic behind this legislature requiring a unanimous vote to change the procedure.

David Church: Previously, three members of the council could do it with just a majority vote and they did so in Lehi in this County (most recently) as well as in other counties...all at about the same time. All of those communities have very aggressive mayors who fought it, met with their legislators and senators...that is what led to the re-writing of the bill...this was the “grand compromise” between the mayors and the councils at the legislature. The legislature felt they should not be designing local government for every community; but they could decide who is going to “win” when there is a fight.

Previously: If the mayor and the council were not getting along, the council could take the mayor’s duties and give them to a city administrator or a city manager...but they could not take them away and give them to themselves.

Options:

- Theoretically, if all 5 members of the council agree...you could take it and basically create a ‘commission system’.
- Divide it up among the six members and each take a piece (Mr. Church does not suggest that)
- You could appoint one member of the Council to be a city manager, as well as a council member (done in Morgan City)
- If the Council disagrees, there is an outline of who is in charge...and the key is...the Mayor is in charge if the Council disagrees...unless there would be a unanimous vote to override the mayor.

(Weston Youd: When the Mayor is newly elected, all the previous assignments are returned back to the Mayor...correct?)

“That is the normal thing...but if the Mayor has made an assignment with the advice and consent...the new Mayor may not have to make the same assignment.” He added that he could not locate an ordinance that requires the mayor to make assignments. The State code says that *he can* with the advice and consent; “but there is no ordinance that says he *must*”.

On the other hand, “council members cannot be forced to take an assignment if they don’t want to”.

(Weston Youd: “When you take those assignments, you then assume the responsibility of that ...”)

“You would assume whatever it is that is assigned to you...and you guys don’t have any ordinances that describes what that is. Without an ordinance that describes what it is...if it is executive or an administrative function, it is the Mayor’s prerogative. If it’s a ‘policy’...‘budget policy’, it is the Council’s prerogative...not individual council members, but the council’s prerogative. And you have the power, as the council, through your resolutions, your procedures, your budgeting...to basically describe in as much detail as you can...how the Mayor runs the day-to-day affairs. But you will never have the power without a unanimous council...to remove the mayor from carrying out those policies...but, you do get to decide what they are.”

Example: If there were a majority today that said, ‘we think the policy of the City should be to get into the garbage business...we are going to do that’...then the Mayor would be required to ‘get it done’...it is a policy decision.”

Mr. Church cited other examples of policies, like cleaning out the sumps in town every year and budgeting for it...the mayor would be required to carry that out.

It is not *what the mayor does...but the money he can spend...*

- Legislative power = the power to make policy
- Executive power = power to carry out policy and appoint those that do (“its execution...carrying out...doing...that’s the mayor’s job, if elected.”)

2:05:40

Questions?

(Julie Haskell: She understands that he Mayor is the “Chair” of the Council Meetings?)

Correct. “The Mayor is the chair of the Council Meetings and the Council may not take the chair away from the Mayor.” He pointed out that the rules of running the meeting is for the Council to decide and the chair’s duty to carry it out.

He has 30 years experience with city government; he can tell what the points of conflict are:

1. How the agenda is made up (Again...in the absence of specified rules, it is the chair’s prerogative)
2. How to keep a meeting orderly...what the rules are (Again...specific rules or it’s the chair’s discretion)

(Question from audience: Lucretia Thayne...She asked what other issues require a unanimous vote from the vote from the council.)

- When there is a tie on an ordinance that either removes or enlarges powers
- The mayor gets to vote who to hire or who to fire as a cite manager

(Erin Clawson: “Hiring or firing...who is in charge of that”)

Without policy in place, it obviously will be the mayor...with a policy; the mayor will follow the policy. Many Small cities and towns create a policy that states that every employee decision is an important decision and those decisions will be made as a group. ...but the policy must be passed. Most larger cities do not involve politicians in hiring and firing; they want professional HR people to do it. The problem arises when the city is somewhere between small and large and deciding who has that responsibility.

(Weston Youd: How does the Council interact with staff? Are there limitations with that?)

There are no limitations in law about how councils interact with staff; but the policy is that the mayor is the CEO to whom all employees report...so how do you interact with employees who do not report to you? It is difficult for the staff, particularly if they are being instructed to do things that are different than what the supervisor or the Mayor is telling them...then they are being placed in a “bad position”. Unless the Council is specifically assigned to an area, he would avoid putting employees in a position where they have more than one supervisor.

(Weston Youd: It would be wise to route things through the Mayor if something is needed from staff.)

Mr. Church agreed; unless the Council passes something else.

(Erin Clawson: IF there is a problem with an employee; should that be routed through the mayor...or just handle it?)

Through the mayor...or a supervisor. This is important for the Council to understand: Currently the employees have a grievance procedure that eventually comes to the Council..."you can't be both ends of it". Another system would have to be decided on if the council is going to be involved in personnel issues.

No further questions for Mr. Church. Mayor Lutes thanked him.

CITY PLANNER –
ENGINEERING FOR
DEVELOPMENT
PROJECTS

Mayor Lutes: There are some pending project facing the Planning Commission and there is a need to hire a City Planner and some engineering expertise. LEI was invited to come and address the Council regarding services offered by them:

(LEI Engineering: Jesse Conway & Gregg Magleby) They were introduced by the Mayor.

Jesse Conway: LEI were the City Engineers for Elk Ridge from 2000 to 2005; they are well acquainted with the City and would look forward to serving once again. Office is based in Spanish Fork, but they also serve in Bluffdale as well. It is a full-service engineering firm, with land surveying and planning.

Gregg Magleby: He listed the services provided to municipalities and listed some of the communities served: (Elk Ridge, Woodland Hills, Salem, Payson, Spanish Fork...as well as other communities).

Planning: They plan for subdivisions, master plans, roadways, trails & parks & utility studies.

Engineering: Provide subdivision review, structure design, inspections, surveying, building inspector (back-up), state and federal funding programs.

Advantages:

- Local firm
- They have been in the industry for about 15 years
- Very familiar with the area and infrastructure and the requirements of the city and surrounding area
- Extensive experience in all aspects of municipal and commercial developments

Staff Provided:

- Greg Magleby – Lead with the full complement of staff

(Cost?)

On an "as needed basis" for particular projects, as requested by the Council...on hourly charges. A schedule of hourly rates to be provided.

If services become more regular in Elk Ridge, then a standard fee would be charged for development.

(City Recorder: She asked about how the arrangements would work with the Planner.)

The Planner would be involved along with engineering at meetings. The Planner and engineering would be available in interpretation of code and assisting the Planning Commission. They see the need to protect the City while not asking developers to do that which is not in the code.

(Question: Writing or re-writing code...would there be assistance and guidance?)

Again, both engineering and the Planner would be involved. There are pit-falls involved with writing code that they are well-aware of.

Any specific project would require a "work release" or a proposal that outlines the work to be done and the cost associated with it.

Weston Youd: He mentioned code (2-1-5) wherein it states that money can be allocated to the Planning Commission to hire these professionals. According to the code quoted, the Planning Commission can ask for funds to be appropriated to hire a planner, as needed, as a consultant.

City Recorder: She understands that contracts will be approved by the Council.

Weston Youd: Quoted the code stating that the Planning Commission may appoint or contract with consultants As long as the funding is appropriated for that purpose by the City Council.

Dayna Hughes: (Planning Commission Chair) In the nearly five years she has served on the Planning Commission, Mrs. Hughes stated they (Commission) had been very dependent on a City Planner. The previous Planner seemed very comfortable and knowledgeable about the City Code. Her question to LEI was how they could "possibly know our code" when they do not work for the City?

Greg Magleby: (LEI) From 2000 to 2005, LEI was instrumental in development and code enforcement; which allows them to be familiar with Elk Ridge's Code. He said they are not familiar with the new HR-1 Code; but they can get updated rather quickly and they are familiar with similar codes from other cities.

Kelly Liddiard: (Planning Commission) He expressed concern over the amount of time it could take to send applications to LEI's office before they actually come before the Planning Commission.

Jesse Conway: Their office is in Spanish Fork; so he does not see how it would add time to the process.

City Recorder: The City has not experienced much development over the past few years; but when there were applications being submitted frequently, the established submittal process must include the engineer. Craig Neeley (Aqua Engineering) requested a month to review a Preliminary Plat application and about two weeks for a Final Plat review.

Jesse Conway: The hope is to have many of the problems worked out at the "staff" level, before an application reaches the Planning Commission.

Dayna Hughes: She is concerned that the Planning Commissioners, who are volunteers and are "lay members", will be "held accountable for specific code issues, since they do not have the expertise in planning or the time to research the code. In the past, that knowledge was brought to them with the previous Planner. She felt that a paid "employee" would be preferable to "an hourly person". It seems it would end up costing the City more to hire someone on an hourly basis than to pay a part-time employee whose specific job is to deal with planning.

(*It should be noted that the previous Planner was not an employee of the City; the City contracted with Mr. Eliot and with MAG for his services. Tax-wise, he received a 1099 form as “contract labor” rather than the W-2 an employee would receive.)

(Mrs. Hughes continued :)

She said she is “really worried” about the responsibility that would fall on her, Jason Bullard and Kelly Liddiard without a “dedicated employee that knows our code and is there to basically protect us from making a mistake”. She felt our Planner has been so well-versed in code that he could guide the Commission...”so we don’t make mistakes and things have been going really good the past couple of years”. Mrs. Hughes referred to re-writing the development code in the recent past, which they would not have had the expertise to do without a Planner. She is concerned that “LEI would have too many fingers in the pie, so to speak”.

Neil Dykstra: He asked if LEI would be willing to update themselves on the current code without a charge to the City during that time...so that they would be “as qualified as anyone in the past has been”.

Greg Magleby: They never charge to get themselves versed in code. “You are not hiring us to train us. You are hiring us for our expertise and knowledge of your code.”

Robert Goodwin: He was on the Planning Commission when the City worked with LEI Engineering. He felt that the Planning Commission then was just as upset when they lost LEI as the current Commission is at the loss of their Planner. “LEI did a very good job for us; and we were very sorry to lose them.”

Sean Roylance: He assumed the discussion was to “fill the void left by our Planner...” he wondered if the City is also looking to replace Aqua Engineering as the City Engineer.

City Recorder: The City’s current contract with Aqua Engineering allows the City to contract with other firms on projects. The City is still using Aqua Engineering on a water rights project. Locating an engineering firm that is closer than Bountiful has been discussed in the past. When Aqua Engineering was initially hired, they had a Payson Office and the Field Engineer was Bruce Ward (now with Salem City). The City changed from LEI at that time due to their Field Engineer not being what we needed (that individual no longer works for LEI). Aqua’s Payson Office closed and Craig Neeley (who is a great engineer) is based in Bountiful.

Sean Roylance: He said that was why he wondered; because the Council has talked about getting a firm that is closer.

Mayor Lutes: He added that for the time being, the City can use both or other firms.

2:35:46

Weston Youd: (Proposal) Under the code he referred to earlier, the City Council can allocate funds to the Planning Commission. (He re-read the code referred to earlier.) The appropriated funds could be for the specific projects pending with the Planning Commission at this time. This could be a trial period to see how the relationship works with LEI. If things work out with these specific projects, then the Planning Commission could recommend that a permanent contract be negotiated between LEI and the City.

Dayna Hughes: “Or perhaps contract with another expert...”

Weston Youd: “Yes. You would have the funds to do what you need to do and if you find that it works out for you and for the Planning Commission, you can promote that to the City Council for a Planner position for the City.”

Mayor Lutes: He was not sure why the City would want to take the authority away from elected officials and give it to appointees.

Weston Youd: “because the Planning Commission is specifically an ‘a-political’ bode...that is why they are not elected. They need to have no influence whatsoever from a political entity.”

Mayor Lutes: He pointed out that currently there is a member of the Council assigned to the Planning Commission. There is “elected influence sitting in on every Commission meeting”.

Weston Youd: He did not feel the Council should have any influence at all on the Planning Commission decisions.”

Dayna Hughes: The City Council Member is there to report the “doings” of the City Council.

Weston Youd: He still maintained that a “political entity” should have influence on the development process until such time that action is to take place.

Jesse Conway: He stated that their experience has been to work with the City Council and the Mayor of the cities they contract with; they have never had a relationship with the Planning Commission regarding approvals of contracts entered into.

They were invited to summarize their services to the Council. It should be clear who they (LEI) would report to in the City; and who they would take orders from. He pointed out that the City Council is over the budget and it is his understanding that it is the Council that authorizes work to be done.

Kelly Liddiard: He wanted to know if the City was considering other Planners and firms; so that hourly rates can be compared...bid to bid.

Jesse Conway: He said he would be glad to provide names, positions and hourly rates; he and Mr. Magleby were invited to present information only at that meeting.

2:40:11

Mayor Lutes: He recommended a trial period for LEI and the Planner associated with them; and that they could address the pending matters. Based on experience, the City has worked well with LEI in the past. The City could take bids from other firms, as well; if the Council desires. In the meantime, LEI could handle the pending issues on a trial basis. He felt that was “a good place to start”.

Erin Clawson: She agreed that pending issues need to be addressed; and that there is a need to obtain other bids as a comparison with other firms. The Council could allot a portion of the budgeted money to hire a Planner on a trial basis. If other issues come up, perhaps the City would want to try other options. The pressing issues should be dealt with on an immediate basis.

Weston Youd: He confirmed that there is about \$25,000 budgeted for the fiscal year for a City Planner. Part of those funds could be utilized to contract with a consultant; whether LEI or another firm or person.

Jesse Conway: He will get the requested proposal, with a cost breakdown of hourly fees, to the City.

2:45:02

Dayna Hughes: She felt it would be a good idea for the Council to allocate an agreed upon amount (a smaller amount to start with) that the Planning Commission can use to contact experts. The Commission would have to stay within the confines of that allotted amount; or come back to the Council with a recommendation to hire a full-time planner. *(Council Member Youd pointed out that the City has allocated \$25,000 toward a Planner for the year... 10% of that (10 months left of the fiscal year) = \$2,500 could be allocated for now.)*

WESTON YHOUD MOVED TO ALLOCATE \$2,500 TO THE PLANNING COMMISSION FOR THE HIRING OF A CONSULTANT/PLANNER; TAKING LEI INTO CONSIDERATION FOR THEIR SERVICES

Discussion:

Dayna Hughes: “Who would be responsible for hiring the expert?”

Weston Youd: (Again quoted code: 2-1-5) He felt it should be the Planning Commission.

Kelly Liddiard: Whoever hires someone...”who is it that designates what their tasks are going to be as far as the system with the Planning Commission or the City as far as engineering...*(unclear on recording)* There are things’ as the Planning Commission, that we want them to assist with and I want to make sure your proposal contains that ‘stuff’.”

Erin Clawson: She suggested checking with David Church to make sure that this interpretation of the code is correct; since Mr. Church had just advised that it is the Mayor who hires and fires.

Dayna Hughes: She felt that applied to the hiring and firing of City employees; not this is regarding a service from a consultant.

Erin Clawson: She still maintained that it would be wise to get Mr. Church’s advice.

(Question: Unidentified person) Where is the accountability for those funds? What would they be used for and who would they be paid to...and have they met the needs of the City? There do not seem to be any guidelines addressing accountability so the City knows we are getting what we are paying for.

Weston Youd: That “accountability” could be part of the contract entered into.

Lucretia Thayne: She anted to know if Elk Ridge has ever given money to the Planning Commission before to be able to hire people. “Something feels funny about this...it seems to contradict everything that we have heard’. She wondered if the Planning Commission is going to enter into contracts for the City.

(Council Member Youd responded that they “would be entering into contracts for the Planning Commission.) Mrs. Thayne came back with: “But the Planning Commission is part of the City.”

Dayna Hughes: “It’s not a contract; it would just be like somebody going to work for McDonald’s...and they work for an hourly wage and they are employees ‘at will’. The Planning Commission would never enter into a contract on behalf of the City. That would be against our code.”

City Recorder: “each ‘Work Release’ is a contract. They will come forward with a work release...it will be signed...it will be authorized and then signed by the responsible party. Typically the responsible party is the Mayor, approved by the Council. The contract is approved by the Council; like our agreements at the beginning of the meeting...we entered into a contract. The Mayor wanted guidance from the Council.” He felt that if he were to enter into a contract, he needed the Council’s authorization to do so. Each “work release” that comes forward from any firm would be signed by the Mayor on behalf of the City Council. “That is who signed Shawn’s (Shawn Eliot) agreement...that is who signed out agreement with MAG” *(part of Shawn Eliot’s arrangement with the City)*. Example: Aqua Engineering does not do work for the City without a contract or a proposal in the form of a “work release” that states parameters of a project and expected costs. Whoever it is that signs the document, will enter into an agreement (contract) with that particular entity or party.

Dayna Hughes: “would it then be more appropriate for the Council to move that in the next ten days they will acquire a certified City Planner...for a short period of time...that works with the Planning Commission...whether it is LEI...I just like the idea of having a certified city planner. I am ‘locked in a mold’...this is what I’m used to.”

City Recorder: “But Shawn was not a certified city planner. He worked for MAG (Mountainland Assoc. of Governments) as a circulation director. When he first came to work for the City he said, ‘I am not a certified city planner’. He said, ‘I will learn along with you; but I don’t have expertise in municipal planning’.”

Weston Youd: He said the only reason he brought this up was so there could be an immediate response.

Dayna Hughes: “From what I am hearing, that is going to cause way more problems than it’s really going to solve. It’s going to cause contractual problems...” She did not think it would work if she were signing. She did not think it would be her signing contracts.

Rein Clawson: She discussed the advantages she saw with using LEI:

- They are closer
- The planner and engineer are in one firm and can work together
- Check and balances are already in place

Weston Youd: He said it could be done at the Council level.

Dayna Hughes: “It sounds to me like you have to.”

Bob Goodwin: The City Attorney advised that the City Council has the responsibility of policy decisions and the Mayor has the executive decisions; “which to me means that the Mayor is going to be the one who’s going to sign the contract and that cannot be delegated to the Planning Commission to hire individuals apart from the City.”

Weston Youd: He agreed in part, but referred to the code he quoted earlier that allows the Planning Commission to... *(he was interrupted)*

2:52:55

Bob Goodwin: “She’s (Mrs. Hughes) not going to sign the contract and be held liable by the City; “if she does, then I don’t think that would be very smart”. He feels the Council is responsible and any contract would need to be reviewed very carefully. He felt Council Member Youd was quoting “something out of the code that is not in line with the policy of the City”.

Paul Squires: He felt that Mrs. Hughes was asking the Council to make that decision.

2:53:37

Dayna Hughes: She felt they (Planning Commission) was at the point where they simply need a planner. (Council Member Youd noted that Mrs. Hughes had an issue with LEI...) She clarified that if she were on the Council, she would not move to hire LEI that night; without further information or anything in writing. She suggested a time period...that the Council could have someone available in the position of planner by the next Planning Commission Meeting...considering other bids. The Planning Commission would work with them on a short-term basis, on an hourly rate. There are problems that need to be solved soon.

2:55:17

Ken Lutes, Jr.: (Comment from audience): He expressed concern at sending a decision like this to the Planning Commission.

Erin Clawson: She agreed that the City should get other bids from other firms as a comparison before making any decision. She questioned the timing of reaching a decision prior to the next Planning Commission Meeting.

Council Member Youd's motion died for lack of a second.

*The matter was to be on the agenda for the following Council Meeting. Council Member Roylance noticed that there may not be another Council Meeting prior to the next Planning Commission Meeting. He suggested perhaps a polled vote.

Mrs. Hughes added that the Planning Commission meeting could be postponed until October. (It was agreed upon.) Mrs. Hughes did postpone the next Planning Commission Meeting until the 2nd Thursday in October and cancelled the September meeting. She will contact the Planning Commission Assistant, Marissa Bassir. This will give the Council time to work out the details in this process of reviewing bids to hire a planner.

Kelly Liddiard (Co-Chair of the Planning Commission) suggested waiting postponing the Planning Commission Meeting until the 4th Thursday in October. Mrs. Hughes saw no pressing reason why they could not wait until the 4th Thursday in October; with no September Meetings.

Mrs. Hughes asked that a planner be in place by the 1st Thursday in October; this would give time to update the new planner.

*Mayor Lutes will gather the bids from various firms and possible individuals to bring back to the Council.

Weston Youd: He would like that information to be forwarded on to the Planning Commission as well as the Council. (Mrs. Hughes said she did not want to be involved...she felt that may "complicate things".)

3:01:30

PART TIME
EMPLOYEE

Mayor Lutes: It has become apparent, with the amount of work already accomplished and the amount still to be accomplished, that it may be in the best interest of the City to consider hiring a part-time employee to assist. Woodland Hills has approached the City with an interest in sharing an employee, as they need help, as well. In fact, Woodland Hills has already budgeted the funds for ½ the cost of an additional employee. An additional worker would not only assist in the work load, but would be "back-up" for the current Public Works Dept. in case that were needed.

Discussion:

Neil Dykstra: He asked who would be responsible for benefits.

Mayor Lutes: Woodland Hills would share the cost, including benefits; but Elk Ridge would be the hiring entity. Perhaps the agreement would not be tied to just one individual; but maybe simply to provide one of the other employees if the new employee were busy on a project. He felt it would be to the City's advantage to train the employee to work with the City's Sept.

Derrek Johnson: He asked about projected costs.

Mayor Lutes: An exact amount was not known at that point; but it would be less than Mr. Stephen's salary...probably more in line with what other City employees earn. He estimated somewhere around \$50,000 to \$55,000...with the City covering ½ of that..."whatever it takes to get qualified help". If the Council thinks this is a concept to pursue further, then more specific information would be provided.

3:05:33

Julie Haskell: She pointed out that Mr. Stephens already has an assistant in Public Works in Wayne Frandson.

Mayor Lutes: He added that Mr. Frandson is looking forward to retirement fairly soon and another employee needs to be trained; and he pointed out that Mr. Frandson lack some of the qualification (water certification) that is needed for back-up. His services are still valuable to the City; but we either need to cut down on the projects assigned to them, or get them some help.

Neil Dykstra: He recommended that Mr. Stephens write up a job description outlining the duties and responsibilities of this position and what the requirements would be; then the expectations are clear when interviewing for the position. (The Mayor agreed with this.)

3:07:50

Sean Roylance: He wanted to know what Woodlands Hills' needs are; if their needs are equal to Elk Ridge's...then we would share in the costs equally...however, if their needs are greater or less, then the charges should be adjusted accordingly. He sees the advantage of bringing an employee on in the future, should the need arise...at that time, that person would have had time to be trained. Elk Ridge would need to be sure that the contract would allow this to happen.

He mentioned that Elk Ridge will be the hiring entity and therefore will have more of a "liability" should Woodland Hills decide to back out of the agreement. He suggested that perhaps Woodland Hills should pay a bit more than ½ of cost.

Weston Youd: He cautioned that a balance be kept in mind so Woodland Hills continues on in the agreement. Discussion of sharing hours between the cities. Mr. Stephens sees a "settlement" at the end of each year. This would need to be negotiated. The City contracts with the Sheriff's Dept. for ½ of an officer and the County simply invoices Elk Ridge semi-annually for a flat assessment. Council Member Youd felt the invoices should be monthly to better monitor the time. The amount allotted for an employee needs to be a budgeted amount. (Further discussion of billing options)

SEAN RYOLANCE MOVED, SECONDED BY ERIN CLAWSON, TO REQUEST THAT THE MAYOR COMPILE A JOB DESCRIPTION; AND FOR HIM TO WORK WITH WODDLAND HILLS IN THAT PROCESS, TO BETTER REVIEW THE POSITION SOUGHT BY BOTH CITIES; TO INCLUDE PROJECTED COSTS ASSOCIATED WITH HIRING AN EMPLOYEE
VOTE: YES (4) NO (1) JULIE HASKELL

3:18:37
ASSIGNMENTS

Mayor Lutes: He pointed out that three members of the current City Council will be terminating their terms of office in a little over a year. There are responsibilities that need to be learned by others. With this in mind, the Mayor proposed the following Council Assignments (to be mentored and taught responsibilities):

- Planning Commission: Appoint Erin Clawson to assume the role of attending Planning Commission Meetings along with Council Member Sean Roylance.
- Parks and Trails (including the City Celebration): Appoint Weston Youd to be trained by Council Member Derrek Johnson; to eventually assume that role.

Council Member Johnson, as well as his wife and family, have done an outstanding job with this area.

Discussion:

No discussion.

SEAN ROYLANCE MOVED, SECONDED BY ERIN CLAWSON, TO APPROVE THE CITY COUNCIL ASSIGNMENTS AS FOLLOWS:

- **ERIN CLAWSON: PLANNING COMMISSION (ALONG WITH SEAN ROYALANCE)**
- **WESTON YOUD: PARKS & TRAILS; INCLUDING THE CITY CELEBRATION (ALONG WITH DERREK JOHNSON)**

Discussion:

The Mayor asked if the two Council Members were willing to accept the proposed assignments. There were no objections.

VOTE: YES (5) NO (0)

3:22:52
CODE ENFORCEMENT OFFICER

Mayor Lutes: One of the recommendations from the Planning Commission has been for the City to have a Code Enforcement Officer. The Mayor recommended Raymond Brown for the position. He is well-qualified for the position: he has been on the Planning Commission (served as Chair); he is a former City Council Member and has served in various areas of enforcement in the past. He has agreed to an appointment to this position.

ERIN CLAWSON MOVED, SECONDED BY DERREK JOHNOSN, TO APPOINT RAYMOND BROWN AS THE ELK RIDGE CITY CODE ENFORCEMENT OFFICER

VOTE: YES (5) NO (0)

3:24:24
LANDSCAPING EXTENSION APPLICATION - SHIPPS?

Mayor Lutes: This duty would typically be taken care of by the Code Enforcement Officer; but since that position was just approved; it came to the Council for a decision on the application. The applicant seeking an extension had not yet received an initial letter (no one had) regarding landscaping; yet these people acted on their own to come forward to apply for an extension for one year (October 2011). The Council had the following options:

- Approve the one year extension
- Deny the request
- Grant an extension for a shorted period of time (perhaps spring of 2011)
- Other?

(Letters were to go out to residents in violation of the code after a survey by the new Code Enforcement Officer.)

They asked for the extension due to financial hardship.

Comments were made that they keep their yard weed free.

ERIN CLAWSON MOVED, SECONDED BY SEAN ROYLANCE, TO APPROVE A ONE YEAR EXTENSION UNITL OCTOBER, 2011; FOR _____

VOTE: YES (5) NO (0)

3:27:17
ORDINANCE – EMPLOYEE COMPENSATION

City Recorder: The wages in force currently were approved back in May, 2010, when the Tentative Budget for 2010-2011 was approved. The wages are to be formalized in ordinance form.

The current wages were approved with no cost of living adjustments or raises.

WESTON YOUD MOVED, SECONDED BY ERIN CLAWSON, TO ADOPT THE PROPOSED EMPLOYEE SALARY/ WAGE ORDINANCE FOR THE 2010/2011 FISCAL YEAR

VOTE: YES (5) NO (0)

3:28:35
EXPENDITURES

General: None.

1. Planning Commission laptops:

It has been recommended and requested by the Planning Commission for the City to purchase 2 or 3 laptops to be able to view the code online, rather than have hard copies of the code, which can be out-dated. It has been mentioned that these could be purchased for less than \$100; but the Mayor was unsure if this was a reality. Marissa Bassir researched costs and she came up with the lowest cost of \$200 to \$250.

Discussion:

Weston Youd: He brought up that there are advantages and disadvantages to bringing personal laptops to the meetings to use. The benefit is being able to access the code easily; however, there may be associated security issues in possibly being able to get into the City’s network. If the City purchases the laptops, then the City controls the complete configuration of the computer so no one can get into the network; this would be preferable.

Neil Dykstra: The City is not just purchasing laptops; there is all the software to purchase as well...for each laptop.

(Council Member Youd pointed out that the laptops located for \$248 includes the software. The laptops are really considered "notebooks", with 10" screens.)

He suggested management "guidelines" to disallow personal use...a network administrator with someone that has the authority.

(Jamie Towse observed that it would be good to have updated code available for use in meetings. She also suggested getting just one that could be projected onto the screen in the Council Room.)

Weston Youd: There are other options, perhaps with surplus laptops (Example: Novell recycles their computers frequently and he thought a used laptop could be purchased from them for about \$110 to \$120. An investment of maybe \$500 that would last a number of years...so the Planning Commission would have updated information available to them...he feels this would be a good investment.

Neil Dykstra: He suggested having a computer set up in the City Hall that would be available for any of the Commissioners to come in to review code...or it could be used to project to the whole room. There would be less liability than having a number of laptops distributed to members of the Commission. There is much that can be done with the capacity for multiple windows on the screen.

**Council Member Youd said he would find out about the options on used laptops and bring that information back to the Council.*

Erin Clawson: She felt it was important to have this information by the next Council Meeting.

Sean Roylance: He liked the idea of 2 laptops...used; that would give the ability to have one for projecting onto the screen...and the other used to perhaps look something up at the same time.

DERREK JOHNSON MOVED TO TABLE THE ISSUE OF PURCHASING LAPTOPS UNTIL MORE INFORMATION IS AVAILABLE

The motion died due to lack of a second.

SEAN ROYLANCE MOVED, SECONDED BY JULIE HASKELL, TO AUTHORIZE AN EXPENDITURE OF UP TO \$250 FOR THE PURCHASE OF TWO LAPTOPS; PROVIDED THEY CAN BE LOCATED FOR THAT PRICE

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

Discussion:

Neil Dykstra: No criteria have been set as far as what those laptops need to have (power, processing, memory...and other specifications).

Weston Youd: He suggested using the criteria listed on the printout for the laptop found at Walmart for \$248. The Council agreed.

3:40:54

2. Check Registers for July, 2010:

ERIN CLAWSON MOVED, SECONDED BY SEAN ROYLANCE, TO APPROVE THE CHECK REGISTER AND PAYROLL FOR JULY, 2010

VOTE: YES (5) NO (0)

3:42:07

MINUTES

City Council Minutes from 7-27-2010 and 8-4-2010:

ERIN CLAWSON MOVED, SECONDED BY DERREK JOHNSON, TO APPROVE THE CITY COUNCIL MINUTES OF 7-27-2010 & 8-4-2010, AS PRESENTED

VOTE: YES (5) NO (0)

3:42:43

PROTECTION ONE
CONTRACT RENEWAL

The City Hall security system is provided by Protection One; the contract is up for renewal. Protection One proposed switching to a remote feature; but the Council and the City Recorder felt that this was not necessary at this time. The service has been satisfactory.

ERIN CLAWSON MOVED, SECONDED BY WESTON YOUD, TO APPROVE THE PROPOSED RENEWAL CONTRACT FOR THE CITY'S SECURITY SYSTEM WITH PROTECTION ONE

VOTE: YES (5) NO (0)

Mayor Lutes adjourned the Meeting at 9:45 PM.