

**MINUTES OF A COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS
SEPTEMBER 17, 2003**

At 7:00 P.M. Mayor A. LaDue Scovill called the meeting to order. Council Members attending: Marilyn Clayson, Walter Callaway, Wesley Morgan, Shayne Durrant and Allen Reed.

Others attending: City Manager Roger Carter, City Engineer Shon Fullmer, City Planner Jim Bolser, Charles Hedelius, Mike Carter, Gregg Magleby, Dennis Brandon, Todd Starley, Steve Thomas, Kim Barlow, Rex Bean, Kay Bean, Paul Terry and other unidentified individuals.

PLEDGE OF ALLEGIANCE

Council Member Morgan led the Pledge of Allegiance.

PRAYER

Kay Tischner offered a word of Prayer.

CONSENT AGENDA

Approval of the minutes

Approval of the minutes of a Regular Meeting held on September 3, 2003.

Bills - \$98,024.20

Council Member Clayson moved to approve the items on the Consent Agenda. Council Member Callaway seconded the motion. Council Member Durrant indicated that he had read the minutes, but did not attend the Council Meeting.

Council Member Clayson – Aye.

Council Member Durrant – Abstained.

Council Member Callaway – Aye.

Council Member Morgan – Aye.

Council Member Reed – Aye.

PUBLIC FORUM, BID OPENINGS, AWARDS, AND APPOINTMENTS

Mr. Tischner approached the Council on behalf of the Chamber of Commerce. He reported that Chamber members would rotate and have someone attend City Council Meetings. Mr. Tischner expressed the Chamber's appreciation for the support given them by the City. He commented that the new bowery at the park on Main Street was near completion. He asked that the City Council do all they can to promote the Chamber of Commerce.

Mr. Tischner referenced the Wal-Mart in Payson expressing concern about the aggressive recruiting that might have ramifications to Payson, Santaquin and the surrounding area.

He expressed the desire of the Chamber of Commerce to have an open relationship with the City Council and the Mayor.

Mayor Scovill asked for verification of the September 26th Chamber of Commerce fall banquet. Mr. Tischner indicated that the Mayor, City Council and Chamber of Commerce were invited. This banquet was not open to the community. During the banquet, a plaque will be installed at the park. Council Member Morgan asked about the status of the picnic. Mr. Tischner reported that the City employees are putting the tables together. City Manager Carter reported that the tables are built and ready for installation on September 26th.

Mr. Larsen commented that he is running for one of the Council seats and indicated that he had received several letters from the City regarding finances, signs, etc. He indicated that it would have been helpful to have some sort of orientation for those running for a City seat. Items covered could include requirements, contributions, spending, etc. He apologized for prematurely putting up his campaign signs. Mayor Scovill reported that he would take Mr. Larsen's suggestion to the City Recorder.

Charles Hedelius discussion with regard to the sewer connection fees for the 900 South 100 West project.

Mr. Hedelius presented a map of the sewer project to the Council Members. He explained that he had previously visited with Mayor Scovill who explained that he could compose a petition to take to the residents in the area. (See attached). Mr. Hedelius explained that there are 10 lots along 100 West and 900 South with existing homes. He explained that when some of the homes were being built in 1995, there was no sewer service in the area. Three residents who tried to pre-pay a sewer connection fees to the City were denied. Mayor Scovill commented that he understood that the City could not receive payment for services not offered. Mr. Hedelius continued by explaining that since that time, one resident has paid the connection fees at the current rate. He indicated that the residents felt that the existing homes should not be subject to the impact fee. He further indicated that the impact fee could be assessed on the undeveloped lots at the time of construction. Mr. Hedelius asked the Council Members to consider the concerns of the residents by assessing the same 1995 connection fee of \$375.00 to the current residents, as well as the narrow construction corridor. He indicated that residents were concerned about the access to their homes and the lateness of the contract with possible weather delays. Mr. Hedelius presented a petition signed by 15 of 18 residents in the area. He provided a copy of the petition and indicated that Mr. Lunt; Mr. Brunson and Ed Westover did not sign the petition.

Mayor Scovill responded to the concern regarding the connection fee, indicating that the City's intent was to already propose that the connection fee be the same as it was at the time of sewer system installation. He commented that the lateness of the season had been considered and indicated that the project would probably be delayed until next spring. He thanked Mr. Hedelius for his presentation and indicated that the Council Members are sensitive to the concerns and issues presented.

Appointment of a City Council Member to serve on the Economic Development Committee.

Mayor Scovill recommended Council Member Reed represent the City Council on the Economic Development Committee and asked if any of the Council Members had any questions or concerns.

With no concerns or questions, Council Member Reed accepted the appointment.

FORMAL PUBLIC HEARINGS

Public hearing with regards to the rezoning of the Blackhawk Hills Subdivision

Council Member Durrant moved to enter in the formal public hearing regarding the rezoning of the Blackhawk Hills Subdivision. Council Member Reed seconded the motion.

Mr. Carter approached the City Council and explained that he had spoken to several City Council members regarding the rezoning. He commented that the rezoning proposal would not affect the current residents. The road alignment would not change, but the number of building lots would increase by 3 lots on each side of the road. He indicated that he would like to change the configuration of the subdivision and create a homeowners association. He commented that the zoning for the existing homes would remain the same. Mr. Carter explained that he would landscape the front yards of the rezoned lots.

Council Member Reed moved to close the formal public hearing regarding the rezoning of the Blackhawk Hills Subdivision. Council Member Clayson seconded the motion with a unanimous vote.

UNFINISHED BUSINESS

Council Member Reed moved to accept the Santaquin Meadows Plats "C", "D", & "E". Council Member Clayson seconded the motion.

Council Member Morgan indicated that he was satisfied that his concern raised regarding the road has been addressed properly. He indicated that he would like to know the time frame for the widening of the road. Mayor Scovill responded that the 4' of asphalt would be added before the season turned cold. Council Member Clayson asked if this would take place this fall. Mr. Magleby responded in the affirmative.

With the motion made and seconded, the Council Members voted unanimously to accept the Santaquin Meadows Plats, "C", "D", & "E".

NEW BUSINESS

Discussion and possible action with regard to the Carter IV Annexation.

Mayor Scovill commented that he was not sure the Carter IV Annexation was ready for discussion at the Council meeting. City Manager Carter indicated that no annexation agreement had been made between Mike Carter and the City.

Mr. Carter commented that the 100 acres had been approved and he expressed his confusion as to what step he should take next. City Planner Bolser commented that the Planning Commission recommended R-10 with combination zoning because of the extensive property involved in the annexation. City Manager Carter commented that the staff had been aware of discussions regarding the Carter IV annexation. He further indicated that the Council Members would have to determine what should be included in the annexation agreement.

Council Member Durrant indicated that the Council Members need to have a work session with regards to the annexation. Mayor Scovill indicated that a work session to discuss annexation agreement issues for the Carter IV Annexation would be scheduled.

Council Member Callaway moved to table the discussion and possible action with regards to the Carter IV Annexation until a Work Session is scheduled. Council Member Durrant seconded the motion with a unanimous vote.

INTRODUCTIONS AND ADOPTION OF ORDINANCES AND RESOLUTIONS

Nothing

PETITIONS AND COMMUNICATIONS

Ordinance 09-01-2003 Approval of the rezoning of the Blackhawk Hills Subdivision, Plats "B" and "C".

Mayor Scovill commented that the annexed property for the Blackhawk Hills Subdivision had originally been zoned as R-15. He explained that Mr. Carter has reconsidered the zoning and is requesting a rezoning of the subdivision to R-10.

Council Member Clayson moved to approve Ordinance 9-01-2003 regarding the rezoning of the Blackhawk Hills Subdivision Plats, "B" and "C".

Council Member Morgan indicated that he would like to have staff include a map and the name of the subdivision included in the Ordinance. City Planner Bolser responded that the map could not be prepared until the Ordinance was approved by the City Council.

Mayor Scovill asked if the rezoning was approved, would it be for the primary or the alternative plat map proposed. City Planner Bolser explained that he could not find any

differences between the primary and alternative maps for Plat "C", although for Plat "B" the primary and alternate plats do differ. Mr. Carter confirmed that the maps for Plat "C" were identical.

Mayor Scovill asked Council Member Clayson to clarify her motion to approve the petition for the Blackhawk Hills Subdivision, Plats "B" and "C" to indicate either the primary or the alternative maps. Council Member Clayson commented that because Plat "C" primary and alternative were the same, the Council Members would only have to decide which proposal to accept on Plat "B".

Council Member Clayson moved to accept the rezoning of the Blackhawk Hills Subdivision, Plats "B" and "C" alternate plan. Council Member Callaway seconded the motion with the following vote.

Council Member Clayson – Aye.
Council Member Callaway – Aye.
Council Member Durrant – Aye.
Council Member Morgan – Nay.
Council Member Reed – Aye.

Council Member Morgan indicated he was voting against the selected alternative and not the action taken.

REPORTS OF OFFICERS, STAFF, BOARDS, AND COMMITTEES

City Manager

City Manager Carter had nothing to report, but asked if the Council Members had any questions.

Council Member Morgan requested information on a letter from City Treasurer Thomas regarding problems with delinquent rental utilities. Treasurer Thomas issued a written request for guidance from the City Council regarding tenant / landlord responsibilities for utilities used. Council Member Morgan asked if the City required a deposit from tenants for utilities. Mayor Scovill responded in the negative. Council Member Callaway commented that according to the City Ordinance, the landlord is responsible for the utility bill if the tenant vacates the premises.

Council Member Clayson commented that this issue was not on the agenda. Mayor Scovill agreed and indicated that the issue would be discussed when more information had been obtained.

Planning Commission

City Planner Bolser commented that he had nothing to report, but would answer any questions the Council Members may have.

Council Member Morgan asked for clarification regarding City plans. He indicated that there was a General Plan, a Long Range Master Plan, an Annexation Policy Plan and a Master Roads Plan. He commented that all these plans were separate, yet all were meshed together. City Planner Bolser responded that the Long Range Master Plan was an “umbrella” plan that included some features of other plans..

Council Member Morgan expressed his concern with future conflicts with map changes and separated, yet meshed City plans. City Planner Bolser responded that all changes are monitored by the City Recorder who keeps a master record with current information. Mayor Scovill commented that if any changes are made to City Ordinances, the Council Members would receive a copy.

Council Member Allen asked for an update of the review of signs. City Planner Bolser reported that he is in the process of preparing his staff recommendation. This issue would first go to the Planning Commission, then to the City Council.

Chamber of Commerce

Refer to Public Forum.

REPORTS BY MAYOR AND COUNCIL MEMBERS

Council Member Clayson reported that 3 residents have called her regarding items stolen from the City cemetery. Mayor Scovill responded that he also had received calls regarding theft. He had spoken with Police Chief Howard and indicated that plans are in place to patrol the cemetery.

Council Member Clayson asked if the City had any insurance that would cover the theft. City Manager Carter responded in the negative.

Council Member Callaway reported that the pedestrian strip on 300 West was working.

Council Member Callaway indicated that he had reviewed a letter of change application approval from the State Engineer for the water Mr. Evan Johnson would like to bank with the City. He indicated that the change deadline was September 2004. Council Member Callaway commented that he thought the City should take advantage of the offer now. He explained that the 20% carryover back to the Utah Lake Distributing Company

(ULDC) would be hard to trigger. He reported that a copy of the letter had been given to Legal Counsel Rich.

Legal Counsel Rich commented that he felt the 20% carryover was still an issue. With the Council's permission, Legal Counsel Rich reviewed sections of the Change Application Approval Agreement.

- Mid-way through paragraph 5: defines the rights of the applicant and ULDC. He indicated that the paragraph did not have anything to do with the State Engineer. Mr. Johnson implied that the intent was only to be used for the Change Application; however the paragraph does not refer back to the return flows and does not say who would make that determination. Farther into the paragraph, it agreement specifies that the ULDC would make that determination. Legal Counsel Rich suggested that if that is the intent of the ULDC and Mr. Johnson, then Mr. Johnson needs to provide a letter from the ULDC regarding the intent and the 20% not being applicable any longer.

Council Member commented that he would prefer Legal Counsel Rich talk to Mr. Johnson. Legal Counsel Rich agreed and indicated that he had met with 2 other attorneys and had also asked a Stewart Water representative to address the provisions of the agreement to corroborate his concerns. He reported that this matter should be resolved before the exchange takes place. He commented that he may be over technical, but he's priority is to protect the City.

Council Member Morgan asked if the other points of concern had been resolved, i.e.; clear title. Legal Counsel Rich responded that he had not as yet received a letter addressing the declaration of forfeiture issues. Mayor Scovill asked if Legal Counsel Rich had received verification that the warranty shares of the water was acceptable. Legal Counsel Rich responded that he understood Tony Fuller would address that concern and indicated that an affidavit should be obtained from ULDC. Legal Counsel Rich commented that if the water is not put to beneficial use by the September 30, 2004 deadline, the shares would be of no use to the City.

Mayor Scovill indicated that Mr. Johnson is frustrated because the water has been put to use, but Mayor Scovill is not sure how to obtain that information from the ULDC. Legal Counsel Rich indicated that the ULDC could provide an affidavit stating that all the ULDC water had been put to beneficial use at this time.

Council Member asked if Mr. Johnson would be paying all fees involved in the transfer. Legal Counsel Rich indicated the Mr. Johnson would pay for the report from Stewart Water. Legal Counsel Rich recommended not purchasing the water until all precaution had been taken and added that other cities require a title for the water.

Council Member Durrant extended his compliments to the City commenting that the improvements to the City building adds to the professionalism of the City. Mayor Scovill

indicated that the improvements have been done by City staff with a minimal cost to the City. He also extended his appreciation to City employees and staff volunteers.

Council Member Morgan asked Council Member Durrant for clarification regarding Mr. Tischner's Chamber of Commerce report on the sign situation being resolved. Council Member Durrant explained that he has obtained the necessary approval from the Utah Department of Transportation (UDOT) regarding the sign placement. He further reported that Jr. Kester would donate to the construction of the new sign, the same brick used on the existing entrance sign.

Council Member Morgan commented that Meet the Candidate Night was approaching and asked if the Council Members had any responsibilities for the event. Mayor Scovill responded that the City Recorder had taken care of everything. Council Member Clayson reported that Mark Robbins had accepted the call to be the moderator. He will monitor the questions and direct them to the candidates. She indicated that the candidates should prepare an introduction.

Mr. Starley asked if one of the candidates had dropped out of the race. Mayor Scovill responded that one candidate had dropped out. Mr. Starley asked how much time each candidate would be allotted to respond to questions. Council Member Clayson indicated that each candidate would have approximately 5 minutes to respond.

Council Member Morgan reported that the Payson Chronicle had offered to run an article free to candidates. The information and photograph would have to be turned in by September 26th.

Council Member Allen commented that he felt the Utah League of Cities and Towns seminar was very educational. He enjoyed attending.
Mayor agrees.

BUSINESS LICENSES

None

EXECUTIVE SESSION (May be called to discuss the character, professional competence, or physical or mental health of a individual)

Nothing

EXECUTIVE SESSION (May be called to discuss the pending or reasonably imminent litigation, and/or purchase, exchange, or lease of real property)
Nothing

ADJOURNMENT

At approximately 9:44 P.M., Council Member Clayson moved to adjourn. Council Member Callaway seconded the motion with a unanimous vote.

Approved on October 1, 2003.

Original minutes signed by A. LaDue Scovill, Mayor and attested to by Darlene Gray, Community Development Secretary.