

SOUTH WEBER CITY COUNCIL MEETING

DATE OF MEETING: 26 November 2013

TIME COMMENCED: 6:01 p.m.

PLEDGE OF ALLEGIANCE: Councilmember Thomas

PRAYER: Councilmember Gertge

PRESENT: MAYOR: Jeff Monroe

COUNCILMEMBERS: Joseph Gertge
Randy Hilton
Michael Poff
Farrell Poll
David Thomas

CITY MANAGER: Rodger Worthen

CITY RECORDER: Erika Ahlstrom

Transcriber: Minutes transcribed by Michelle Clark

*A PUBLIC WORK MEETING was held at
5:30 p.m. to REVIEW AGENDA ITEMS & WARRANT REGISTER*

VISITORS: Layne Kap, Brent Poll, Brandon Jones, Scott Casas, Marlene Poore, Tammy Long, Jason Poll, Lyle Jorgensen, Suzanne Mitchell, Susan Knight, Mark Dayton, Natalie Dayton, Barbara Shupe, Lilian DeLong, Joe DeLong, Chris Poll, Cymbre Rowser, and Lynn Poll.

APPROVAL OF THE AGENDA: Councilmember Poll moved to approve the agenda as written. Councilmember Gertge seconded the motion. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted. The motion carried.

CONSENT AGENDA:

- ◆ Approval 12 November 2013 City Council Meeting Minutes
- ◆ Approval 19 November 2013 City Council Work Meeting Minutes

Councilmember Poff moved to approve the consent agenda amended in the work meeting. Councilmember Poll seconded the motion. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted yes. The motion carried.

DECLARATION OF CONFLICT OF INTEREST: The City Council declared no conflict of interest.

Councilmember Gertge moved to open the public hearing for Resolution 13-19. Councilmember Hilton seconded the motion. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted yes. The motion carried.

******* PUBLIC HEARING *******

RESOLUTION 13-19: Easton Village Subdivision Phase One Amended (16 lots), located at approx. 1075 East Lester; Developer Layne Kap Rodger Worthen, City Manager, stated this public hearing is required by state law because the plat is being amended. He said there is a discrepancy on the west boundary line based upon a survey conflict with an existing fence line that has been in place for some time. Mr. Kap, the developer, has agreed to submit a boundary line agreement with the property owners to the west of the development to rectify the 9' discrepancy. Basically, the survey point for the subdivision indicates it is 9' further to the west than the fence line so there has been a dispute as far as where the actual boundary is that has been in position for a long time. There is a proposed boundary line agreement that should be recorded prior to the recordation of the amended plat Phase 1.

Mayor Monroe asked if there was any public comment. There was no public comment.

Councilmember Thomas moved to close the public hearing for Resolution 13-19. Councilmember Gertge seconded the motion. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted yes. The motion carried.

******* PUBLIC HEARING *******

Councilmember Gertge stated since there was no public comment from property owners involved he assumes all parties involve must be in agreement.

Layne Kap, 8085 S. Juniper Ct., stated he found out some information today. He said the Jorgensens and Mitchells have a family member who works in the title business that told them what should actually happen is the amended plat should be recorded before the boundary line agreement is recorded.

Brandon Jones, City Engineer, was in agreement with the sequence of recordation.

Councilmember Thomas moved to Resolution 13-19- Easton Village Subdivision Phase One Amended (16 lots), located at approx. 1075 East Lester; Developer Layne Kap with the condition that a Boundary Line Agreement is signed by all property owners adjacent to the west and recorded after the amended subdivision plat is recorded. Councilmember Gertge seconded the motion. Erika called for the vote. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted yes. The motion carried.

RESOLUTION 13-20: Amend December 11, 2012 Development Agreement between South Weber City and Calvin Kap, Keith Kap, and Layne Kap: Rodger Worthen, City Manager, explained that upon approval of the Easton Village Phase One development, the developer

entered into an agreement with the City for the development. In addition to entering into a cost share for the regional detention basin, the agreement also permitted them to move forward with the subdivision prior to meeting the requirement for a second ingress/egress.

Rodger stated at the time of this agreement, City Ordinance required a second ingress/egress for this development. This exception was allowed because there were/are extenuating circumstances out of the control of the developer that would have halted development altogether. The developer, in exchange for this allowance, was required to install a temporary fire access along 1025 east and a fire crash gate. This has not been completed and there is a three to four foot drop off between the adjoining property and equipment is parked along the road making it impossible to get through.

Rodger explained that since the time of the agreement, the City Ordinance has been amended to allow developments up to 30 units (including existing parcels/developments). Phase one has 16 lots, and proposed phase two, 8 lots, and existing parcels, so the development is under the allotted 30 units (per the new ordinance). This now makes the current development agreement stricter than current ordinance.

The amended agreement would allow the development to proceed with up to 30 lots (per ordinance) without a second emergency access.

Councilmember Thomas stated in the prior approval the city required a secondary access for fire safety. He asked Mr. Kap, from his perspective, why isn't that something that can still be done. Mr. Kap said we have a 20' right-of-way that goes out the west end of our property and when this was approved and drawn the city assumed they had a right-of-way for a main water line going through there. Mr. Kap said if you look at the plan that was approved, it shows it going right off the end of the road and narrowing down to a 20' right-of-way, but after it was approved they found out that they didn't have a right-of-way but a prescriptive right-of-way and the other thing that can be in the right-of-way is the water line. It is not a utility easement. He believes this ordinance came about because before it didn't give a number of lots and now the ordinance has 30 lots. Councilmember Thomas asked where the other access would be? Mr. Kap discussed the options for another access through 1200 East or Steven Poll property and through the Larry Williams property where they brought the sewer line in.

Councilmember Thomas moved to approve Resolution 13-20 amending the December 11, 2012 Development Agreement between South Weber City and Calvin Kap, Keith Kap, and Layne Kap for Easton Village Subdivision. Councilmember Poll seconded the motion. Erika called for the vote. Councilmembers Gertge, Hilton, Poll, and Thomas voted yes. Councilmember Poff voted no. The motion carried 4 to 1. Councilmember Poff stated the city entered into the agreement as part of the development went in and regardless of how the ordinance has changed over time, he feels the agreement needs to be honored.

Councilmember Thomas moved to open the public hearing for Resolution 13-21. Councilmember Gertge seconded the motion. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted yes. The motion carried.

***** PUBLIC HEARING *****

RESOLUTION 13-21: Easton Village Phase Two Final Plat (8 lots), located at approx. 1100 East 7500 South; Developer Kastlerock Excavation This is the second phase of the Easton Village development. The Planning Commission granted preliminary approval of the entire development on June 28, 2012. The proposed phase two contains eight additional lots. The Planning Commission recommended approval of the second phase of the subdivision at a public hearing held on September 26, 2013.

Mayor Monroe asked if there was any public comment.

Lillian DeLong, 7382 S. 1025 E., stated she has copies of all the minutes for this development. She said she has never seen a city council approve a subdivision without conditions for further development on things like egresses/ingresses. This is causing the city to end up with a street that is 3 ft to 4 ft high and not being used. She doesn't care where the second ingress/egress ends up, but she is concerned about the safety issue. She said right now the only ingress/egress out of this subdivision is going through the elementary school. There are buses, teachers along with future homeowners that will be using this street. She would like the city council to look at where the second ingress/egress will go before approving another phase to this subdivision.

Brent Poll, 7605 S. 1375 E., said the City Council has seen the response from Hill Air Force Base on his request. He sent this request in because the City Council was absolute and knew where there were boundaries to pollution coming off the base. There is a major super fund site and three operable units and the city was certain there were boundaries to risk and endorsed by the EPA so he sent in this request and after a thorough review HAFB said they could find no such boundaries. He said they never existed, except in the city's imagination, and yet the city managed to put these in the 2011 general plan and approved two different subdivisions right beneath a major super fund site leaking where there are absolutely no dynamics for stopping the pollution from continuing to migrate into town and contaminate the people, the land, and everything there. He feels the city screwed up. He feels the city should have had the base buy up the development rights as to not put people at risk.

Councilmember Thomas said the reality is unless there is actual contamination on that property, it is a taking, if the city were to say you can't do anything on it. He said it would be nice if HAFB would buy up all the development rights, but he doesn't see that happening, especially with the maps. He said the maps mean there has been testing by HAFB and based on the testing the best available data, they drew out the plumes. Councilmember Thomas said with the Petersen subdivision he had them put together a series of maps which showed over time what was happening. Mr. Poll said the maps were never designed for land use purposes. Councilmember Gertge said when the K-2 school was built he heard that HAFB did extensive testing. Mr. Poll feels the city should have evidence. He suggested the council table this and let the next administration take a look at it.

Councilmember Poll asked if the property south of the elementary school is still contaminated. He asked Mr. Poll if he still owns the rental properties in that area and whether or not he is concerned about that. Mr. Poll said there isn't a person there he hasn't told about the contamination. Councilmember Poll said Mr. Poll comes in and condemns (the City Council)

yet he continues to rent to individuals and benefit and put them at risk. Mr. Poll said he always tells people before they move in.

Suzanne Mitchell, 7494 S. 1025 E., asked city council to table this item. She said the boundary line agreement has not been signed yet. The plat recorded with the County is incorrect and should be amended. She is concerned about the current homes that have been built and those homeowners now dealing with the fact that her animals will be closer to them than they thought. She said her sister, Natalie Dayton, her dad, Lyle Jorgensen, and she signed a warning letter to the city saying this was going to take place. In her opinion, the city needs to table until the boundary line agreement is completed.

Lynn Poll, 826 E. South Weber Drive, said there is a real traffic hazard down there. More development will bring more buses to the elementary school. He then discussed HAFB contamination and the hazards surrounding it. Councilmember Poll asked if the contamination is so bad, then why did Mr. Poll put his family at risk by building there.

Layne Kap discussed taking care of the boundary line agreement. He said the County said “we are right and they are wrong,” but he is willing to change it. He then discussed the elementary school when the new K-2 building was constructed and the fact that the school district did traffic studies. He also has evidence of fifteen years of testing that has been conducted and no contamination has been found.

Brent Poll said when you talk about this being all financial. He said the council has failed because they haven’t protected the health and welfare of the people.

Lyle Jorgensen, 7420 S.1025 E., suggested not approving this until the fence line is taken care of.

Councilmember Gertge moved to close the public hearing for Resolution 13-21. Councilmember Thomas seconded the motion. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted yes. The motion carried.

******* PUBLIC HEARING *******

Councilmember Gertge asked if construction can begin prior to plat approval. Councilmember Thomas asked the city engineer about the second access. Brandon Jones said his opinion is that the street possibility of going through Williams property and where it would come out on South Weber Drive is not a good location. The one through Steven Poll property would line up with 1200 East but doesn’t fulfill the requirement because it is too far east. Brandon said it would make the most sense to extend Lester to 7775 South and connect it there.

Councilmember Poll said there are too many selfish interests in play and it is sad because sooner or later someone is going to want to come to the city to develop their property for their children or grandchildren. The city will take the blame, but he is trying to do what is best overall. Councilmember Gertge is also concerned about safety, but he isn’t sure how to resolve it. Councilmember Poff said he has also been concerned about safety. He knows 1250 East needs to be improved. He understands property rights issues. He is concerned about the issue with pollution. He said the pollution hasn’t stopped people from building in a city that they love. He

understands we all take risks to live in this city. Each one of us has chosen to live in this community.

Councilmember Thomas asked about the time frame for the boundary line agreement. Layne said the paperwork isn't completed but he has discussed this with the surrounding property owners. Suzanne is just requesting that the paperwork be completed before approving everything. Layne said the property line dispute is a civil matter. Councilmember Thomas said but it is important that the plat be accurate.

Councilmember Thomas moved to table Resolution 13-21; Easton Village Phase Two Final Plat (8 lots), located at approx. 1100 East 7500 South; Developer Kastlerock Excavation until the next city council meeting on December 10, 2013. Councilmember Gertge seconded the motion. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted yes. The motion carried.

NON-SCHEDULED DELEGATION:

John Cooney, of Layton, Utah, said he bought Easton Village, Lot #5, and he is wondering when he can move into his house. Mayor Monroe said when all improvements are completed and the occupancy authorization is approved. Mr. Cooney asked doesn't the city have money in escrow if the improvements aren't in. He asked if he can get a final inspection with no occupancy. Rodger stated the improvements need to be completed prior to final inspection.

MAYOR'S ITEMS:

Christmas Party: City Christmas Party will be held on December 14th at Jeremiahs from 8:30 a.m. to 10:30 a.m.

CITY COUNCIL ITEMS:

Councilmember Poff:

Youth Council: They will help with the Breakfast with Santa on December 21st at the Family Activity Center.

Councilmember Gertge:

Flag at Veterans Park: Flags need to be taken down during high winds and bad weather.

Fire Hydrant Flags: There are several flags that are bent and considered a safety hazard.

Councilmember Thomas:

Gravel Pits: He discussed a feasibility study to be conducted by Bowen & Collin for the gravel pits. There is a possibility of partnering with Weber Basin and spend \$20,000. He would suggest putting this item on the next city council agenda.

HAFB Contamination: He suggested contacting HAFB and having them put together maps for Operable Unit #2 just as they did for Operable Unit #1.

ADJOURNED: Councilmember Gertge moved to adjourn the City Council meeting at 7:31 p.m. Councilmember Thomas seconded the motion. Councilmembers Gertge, Hilton, Poff, Poll, and Thomas voted yes. The motion carried.

APPROVED: _____ **Date** 10 Dec 2013
Mayor: Jeff Monroe

Transcriber: Michelle Clark

Attest: _____ **City Recorder: Erika Ahlstrom**

NOVEMBER 26, 2013
WORK/DISCUSSION MEETING PRIOR TO CITY COUNCIL

Those in attendance to the work session were: Mayor Jeff Monroe, Councilmembers Joe Gertge, Randy Hilton, Michael Poff, Farrell Poll, Dave Thomas, City Manager Rodger Worthen, City Recorder Erika Ahlstrom.

Visitors: Scott Casas, Marlene Poore, Tammy Long, Brandon Jones.

Councilmember Gertge moved to enter into a work session. Councilmember Hilton seconded. Work meeting commenced at 5:33 p.m.

Consent Agenda and Warrant Register: A few minor changes to minutes.

RESOLUTION 13-19: Easton Village Subdivision Phase One Amended (16 lots): This will be a public hearing. Rodger reported it deals with moving the 9 feet on the plat giving the property to the Jorgensens. Rodger said one description goes off the survey (recorded plat) and one goes off of the fence line (proposed amended).

RESOLUTION 13-20: Amend December 11, 2012 Development Agreement between South Weber City and Calvin Kap, Keith Kap, and Layne Kap: Rodger stated this amended agreement brings the current development agreement in alignment with current city codes. Councilmember Gertge said the amendment allows more houses without two accesses; he is concerned about the only exit being by the school, but he said the code is what it is. Councilmember Poff shares this concern. It was discussed that for the second access UDOT won't allow them to come through the Williams property because it violates UDOT's access policies. Councilmember Poll asked if there is a better alternative? Rodger responded yes to the west, all personal issues aside. Councilmember Poff asked why the developer didn't put in a fire access prior to the ordinance being changed. He said the road is three feet higher, and it was supposed to be a fire access. Brandon said that was the point of the agreement prior to their final design, as it was not obvious on the plans they submitted, physically it was impossible to do. They assumed they had access rights, and they don't. Mayor Monroe said if they would have let them go through the road it wouldn't have been three feet higher. Councilmember Poff said they were required to have the fire access road and they didn't do it, and if the ordinance hadn't changed we would be having a different conversation. Brandon said they would have to figure out how to do it if we don't amend the agreement. They would have to build a ramp from the road and get access approval from the land owners. Brandon said that staff felt like it made sense to amend the agreement to be consistent with current code. The Planning Commission has agreed with this recommendation. Rodger said the current agreement would be making a developer do something beyond the code, then it questions the validity of the city's code. Councilmember Poff said he is not against amending the agreement given the current situation, but were we too hasty not verifying the access? Brandon said the developer represented that they had access, and after the fact it came out the way the attorney interpreted the easement is they don't have access. They thought they could put the pipe in, but they couldn't. Mayor Monroe said the reason we are seeing this amendment is there is an issue with the 30 lots, we came up with a number, the Planning Commission reviewed the ordinance and 30 lots became the number. Brandon said it has been a challenge to get two accesses on most development and some developments it didn't make sense i.e. two lots. Councilmember Poff asked if moving forward they will have to have a fully improved access. Brandon said yes, there is no such thing as the "emergency access", so after 30 lots they have to have fully improved roads. It is figured on the last point where you have two ways to get out, then count the lots from that point, it considers lots in other developments as well when doing the calculation.

RESOLUTION 13-21: Easton Village Phase Two Final Plat (8 lots): Rodger reported this phase extends to the south of the current stub road. It was asked what the fire department thinks regarding the access? Mayor Monroe said as you look at the ordinance there is a 30 lot requirement, and the fire department didn't seem to have comments on that. Rodger said the 30-lot limit comes from the fire code.

Rodger stated there have been building permits issues in Easton Village Phase 1, although their improvements are not completed. There may be people coming in desiring to have occupancy, but the city cannot allow occupancy without the improvements being done. Brandon said an interesting observation is that Cottonwood Cove began development after Easton Village, however they have everything in. He said

it is unfortunate that people have to suffer because the developer hasn't followed through. Mayor Monroe said the city shouldn't have let them have building permits.

It was asked if the city can hold up the next phase of development since the first phase is not complete. Brandon said you cannot because the developments are independent of each other.

Work meeting adjourned at 5:59 p.m. Work meeting minutes by Erika Ahlstrom.