

# SOUTH WEBER CITY CITY COUNCIL MEETING

**DATE OF MEETING:** 20 December 2016

**TIME COMMENCED:** 6:00 p.m.

**PRESENT: MAYOR:**

Tammy Long

**COUNCILMEMBERS:**

Scott Casas  
Kent Hyer  
Marlene Poore (excused)  
Merv Taylor  
Jo Sjoblom

**CITY RECORDER:**

Elyse Greiner (excused)

**CITY MANAGER:**

Tom Smith

**CITY ATTORNEY:**

Doug Ahlstrom

**Transcriber:** Minutes transcribed by Michelle Clark

**VISITORS:** Layne & Jill Kap, Rhett & Keelee Weaver, Lynn Poll, Diane & Mike Ford, Mark & Natalie Dayton, Brandon Jones, Lyle Jorgensen, Lilian DeLong, Karen Cordon, and Cole Fessler.

Mayor Long called the meeting to order and welcomed those in attendance.

**PLEDGE OF ALLEGIANCE:** Mayor Long

**PRAYER:** Council Member Hyer

**AGENDA:** Council Member Hyer moved to approve the agenda as written. Council Member Taylor seconded the motion. Tom called for the vote. Council Members Casas, Hyer, Taylor, and, Sjoblom voted yes. The motion carried.

Mayor Long excused Elyse Greiner and Council Member Poore from tonight's meeting.

**CONFLICT OF INTEREST:** None

## **ACTION ITEMS:**

**Review of RES 16-34: Final Plat for Weaver Estates Subdivision:** Mayor Long said for those people who want to have more homes in this area with one egress, she suggested going down to the school to see what happens with traffic in that area.

Tom said Title 11.04.040A3 of the South Weber City Code limits the number of residential building units to 30 past the last intersection with two means of ingress/egress. The Weaver Estates Subdivision consists of one lot that fronts on Lester Drive and is less than 250 feet from the intersection of 1250 East. There are currently 30 approved residential building units past this intersection. Therefore, a strict interpretation of the code would restrict this one-lot subdivision from being approved. Tom said however, this was not caught by the City staff, the developer, the developers engineer, the Planning Commission, the City Council or the public until after it was fully approved by the City Council as per staff recommendation.

Tom said he has met with Brandon Jones, City Engineer, as well as Doug Ahlstrom, City Attorney. He said the City staff, City Engineer, and City Attorney recommend approval of this subdivision.

Mayor Long asked the procedure for submitting a subdivision application. Tom reviewed the process of submitting an application and the process of going to Sketch Plan and then to Planning Commission.

Doug Ahlstrom, City Attorney, said in his opinion, the City made a mistake and no one caught it along the way. He said on the other hand, the developer's engineer missed it too. He said courts always favor the developer in a situation like this against the City. He said there could be a lawsuit filed by the developer because of the cost they have spent. He said the options are: 1. City can revoke approval and code is what it is. 2. City can take a softer approach and admit mistake and go ahead with approval. Doug said typically the 30 lot rule comes from the international fire code. He said it is normally recommended to cities. He said for more than 30 lots it requires two ingress/egresses. He said this code is for emergency purposes. He also pointed out another code (11-02-010) which he read. He said this code is saying that any new applicant will still have to abide by the 30 lot requirement, just in case the Council may be worried about setting a precedent. He would advise taking the softer stance, admit the mistake, and recommended approval of this particular subdivision. Council Member Taylor is concerned about what happens when others approach the City and want the same treatment. Doug said another developer would need to show damage. Council Member Taylor asked if there have been any other applications. Tom said, "no". Tom explained the living document or checklist that will be used in the future on every subdivision. He said there are core rules that each subdivision must follow.

Council Member Taylor asked if the developer has incurred expenses. Tom said he has been told that the developer has incurred some expense. Brandon Jones, City Engineer, said this doesn't usually happen. In fact, he has been here for 11 years and he hasn't seen this happen before. He agrees with the City Attorney. He said had it been pointed out sooner, the City would have taken a different approach. He said given the point we are where we are at, and given the fact there is no detrimental effects, he thinks it should move forward. He said in the future they will take every precaution to make sure this doesn't happen again. He said there were two public hearings held in which there wasn't any public that picked up on it either. Brandon said public comment was brought to the Council after approval.

Doug said in development situations when a developer decides to sue the City, the courts almost always side with the developer in that situation because the City is presumed to know better than anyone else, its own code. He can see where a judge would say the City should have caught this

earlier. Council Member Taylor said then the City would be responsible for the court cost and attorney fees. Tom did speak to the Fire Chief. He is concerned about access to a fire hydrant, in which there is sufficient.

Council Member Casas said he has reviewed this over the last week. He said the Council has the ability to change ordinance. He would suggest looking at increasing the 30 lot requirement. Council Member Taylor said codes are enacted to be adhered too. He feels the Council needs to decide what is in the best interest of those involved. He feels the City needs to admit the mistake. Council Member Hyer said he visited the site today. He said the majority of the subdivisions on Lester are on the south side. He said this particular subdivision is on the north side of the Family Activity Center. He said in this situation he doesn't think there is anywhere near the concern for fire. He also feels the City needs to own up to the mistake. He is not in favor of amending the code.

**Lynn Poll, 826 E. South Weber Drive**, said he did not write a letter as was stated in the last meeting. Mr. Poll discussed the city code for a 70' right of way requirement. He asked if 1250 East is going to be 70' wide. He said the people along that street have not been contacted by the City.

**Karen Cordon, 1131 E. 7450 S.**, said she is very disappointed. She feels there needs to be justice for all. She said they have had to turn away people who want to develop in Easton Village but had to be turned away because of the 30 lot limitation.

**Lilian DeLong, 7382 S. 1025 E.**, said several years ago when this all began, they told the City they would be willing to sell their home. She would like a decision to be made. She said their lives have been in limbo because they don't know what the plan is for the street. She feels the City needs to make a decision and stick with it.

**Diane Ford, 1110 East South Weber Drive**, said she attended the meeting last week. She apologized if she offended anyone after last week's meeting. She is not in favor of bending the rules. She said when they went into business with Layne Kap, Easton Village Subdivision was scheduled for three phases. She said they approached the City several times concerning the third phase. She said on 3 December 2012 Layne signed the agreement stating he was aware that there was a 30 lot limit. She said they have spent a horrendous amount of money and it wasn't until they had many meetings with the Sketch Plan and Planning Commission that they were told there would be no exceptions.

**Layne Kap, 8085 S. Juniper Court**, explained that he thought Title 11.04.040A3 pertained just to Easton Village Subdivision. He said a mistake was made. He said the City staff and City Engineer made a mistake. He said the code is designed for the country. He said you can't compare this City to Ogden City. He said that is why you have a consulting engineer.

Council Member Taylor asked about the possibility of lawsuits. Doug said any person who sues has to show damages. Brandon Jones said the location of this one lot is important. He admits that the last point of egress was 1160 East but at a closer look 1250 East is the last means of an egress. He said this development is between the two. He then took responsibility and said he understands his job is to follow the City code. He feels this was an oversight because the lot

location is at the beginning. He said for all future applications, this will not happen again and his adherence to the code will be just as strong as it has been.

**Council Member Hyer moved to continue with approval of Resolution 16-34. Council Member Sjoblom seconded the motion. Tom called for the vote. Council Members Casas, Hyer, Taylor, and, Sjoblom voted yes. The motion carried.**

**COUNCIL ITEMS:**

**Council Member Hyer:**

**Youth City Council:** The Youth Council recently held the Breakfast with Santa and gave out awards for the City Christmas Light Contest.

**MAYORS ITEMS:**

**Mayor Long:** She recently attended a 3.83% increase from the Central Weber Sewer Improvement District.

**CITY ENGINEER ITEMS:**

**Connection with 7375 S. & Lester Drive:** Brandon feels this is something that the Council needs to look at. He is willing to meet with the Council to discuss what this will entail.

**PUBLIC COMMENT:**

**Natalie Dayton, 7420 S. 1025 E.** said she has been a resident for 55 years. She said in that time frame she feels she upholds the law. She wonders if the Council lives up to policy and procedures. She said she does have another access to her property because she has paid money to have these done. She feels the City staff needs to be doing there job.

**Lynn Poll, 826 E. South Weber Drive,** said he would hope the City Council will look at amending the 70’ right of way to 60’ right of way.

**Lyle Jorgensen, 7420 S. 1025 E.,** asked about the 4’ drop off of Lester Drive. Brandon said it was engineered for water run off. He said that rode can’t even be used.

**ADJOURNED: Council Member Taylor moved to adjourn the meeting at 6:56 p.m. Council Member Hyer seconded the motion. Tom called for the vote. Council Members Casas, Hyer, Sjoblom, and Taylor voted yes. The motion carried.**

**APPROVED:** \_\_\_\_\_ **Date**  
**Mayor: Tammy Long**

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**Transcriber: Michelle Clark**

**Attest:** 

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**City Manager: Tom Smith**