



EAGLE MOUNTAIN CITY COUNCIL MEETING MINUTES

September 1, 2020, 4:00 p.m.
Eagle Mountain City Council Chambers
1650 East Stagecoach Run, Eagle Mountain, Utah 84005

4:00 P.M. WORK SESSION – VIA LIFESIZE ELECTRONIC MEETING

ELECTED OFFICIALS PRESENT ELECTRONICALLY: Mayor Tom Westmoreland, Councilmembers Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. Councilmember Jared Gray was excused.

CITY STAFF PRESENT ELECTRONICALLY: Paul Jerome, City Administrator/Finance Director; Steve Mumford, Assistant City Administrator/Community Development Director; Pete Kane, Long-Range Planning Manager; Michael Hadley, Planning Manager; Jessa Porter, Planner; Fionnuala Kofoed, City Recorder; Elizabeth Fewkes, Recording Secretary; Chris Trusty, City Engineer; Aaron Sanborn, Economic Development Director; Jeremy Cook, City Attorney; Brad Hickman, Parks and Recreation Director; Mack Straw, Public Utilities Manager; Zac Hilton, Streets and Storm Drain Manager; Jeff Weber, Fleet and Facilities Operations Director; and Jeanie West, Community Improvement Officer.

Public meetings will be held electronically in accordance with Executive Order 2020-1 Suspending the Enforcement of Provisions of Utah Code 52-4-202 and 54-4-207 due to Infectious Disease COVID-19 Novel Coronavirus issued by Governor Herbert on March 18, 2020.

Mayor Westmoreland called the meeting to order at 4:02 p.m.

I. CITY ADMINISTRATOR INFORMATION ITEMS

1.A. DISCUSSION – Eagle Mountain Arts Alliance Agreement

City Recorder Fionnuala Kofoed explained the Eagle Mountain Arts Alliance (EMAA) desires to renew an agreement with the same terms as the previous contract with the addition of a section to provide for an affiliate program to allow other arts organization in the community to partner with the City for sponsored events, as permitted in State statue. This affiliate program will enable staff to direct arts organizations petitioning City support to EMMA and improves staff's ability to oversee and manage art events and activities.

Communications Director Linda Peterson explained EMMA will implement a membership program similar to the Chamber of Commerce for participating organizations.

EMMA representative Zac Summers explained the affiliate program is to facilitate municipal involvement and events for other art organizations.

Ms. Kofoed stated staff will add a clause regarding the affiliate program to the agreement and include the item for review and approval at a future City Council meeting.

Discussion ensued regarding potential library box locations in the City.

1.B. DISCUSSION – Mayor and City Council Powers and Duties, Succession Planning

City Administrator Paul Jerome introduced the item and explained the City Council's questions will direct the discussion.

General Counsel Representative for the Utah League of Cities and Towns (ULCT) David Church provided his background in municipal law and stated he frequently conducts trainings regarding municipal officials' powers and responsibilities.

Councilmember Curtis requested clarification regarding the City Council's responsibility to provide advice and consent regarding mayoral appointments.

Mr. Church provided the historical background relating to Eagle Mountain City's form of government. Historically, Utah cities were governed by committees whose size, composition, and mayoral vote was determined by population, and the type of government automatically changed in accordance with increasing or decreasing population. At the behest of cities, the Utah State Legislature implemented changes with the Alternative Forms of Government Act which allowed voters to choose either a Mayor/Council form of government, mimicking the State and Federal forms of government with government branches, or a City Manager form of government, mimicking the corporate system with a board of directors that hire a Chief Executive Officer (CEO). Cities with any population size could select the Mayor/Council or the City Manager form of government through a citizen vote. In the larger cities, the administrative needs varied, and some cities desired a system without the mayor functioning in a CEO capacity. The State Legislature allowed for a City Council, through ordinance, to delegate some or all of the mayor's statutory administrative and executive powers to the City Manager, except for the mayor's chairmanship of the Council, right to vote in a case of a tie, and any ex officio positions. Many of the larger cities determined to adopt a City Manager form of government. In 2008, the Utah Legislature amended State Code and created a Forms of Government section. The cities with City Manager positions retained the City Manager form of government. The State standards established a six-member council with the mayor functioning as CEO and a legislative-only City Council as the default form of city government, with the option for cities to have a City Manager form of government. The City Council may only establish a City Manager form of government with the mayor's consent and a majority vote of the City Council, or with the mayor's objection and a unanimous vote by the City Council.

Mr. Church explained that as the City did not have a City Manager form of government in place in 2008, Eagle Mountain City has a Mayor/Council (Strong Mayor) form of government with the Mayor acting as CEO and Chief Administrator. The City allows for the Mayor to appoint a City Administrator. Without a City Manager ordinance, the City Administrator is a mayoral-appointed position with the advice and consent of the City Council. The City Administrator is endowed with functions and powers determined by the Mayor. Utah Code Section 10-3b-104 states the mayor "is the chief executive officer of the municipality to whom all employees of the municipality

report,” including the City Administrator. The mayoral powers can be taken from the Mayor by ordinance and given to a City Administrator or a City Manager.

Councilmember Curtis requested clarification regarding Utah Code Section 10-3b-303 “The council in a municipality operating under a six-member council form of government exercises any executive or administrative power and performs or supervises the performance of any executive or administrative duty or function that has not been given to the mayor under Section 10-3b-104.”

Mr. Church stated the City Council retained the powers not granted in Utah Code Section 10-3b-104 and explained the purpose of the verbiage in Utah Code Section 10-3b-303 is due to the ability for the City to revert to a Commission form of government, where every Councilmember is an administrator and executive. The Mayor has the authority to delegate mayoral powers and administrative functions to individual Councilmembers, such as City department stewardship responsibilities assigned by the Mayor. He stated in theory, the City Council can through ordinance grant themselves administrative functions over City departments, but he is unaware of any city that has taken administrative authority from the Mayor by force through an ordinance. He stated that City Councils have granted themselves the authority to hire a City Manager and given the City Manager mayoral powers and authority; however, he has never seen a City Council take mayoral authority and give it to themselves.

Councilmember Burnham stated her understanding of the role of the City Council in providing advice and consent in the City Administrator hiring processes is to simply vote for or against the candidate presented by the Mayor and to inform the Mayor of the reasoning behind their votes. As other Councilmembers have expressed differing understandings of their roles, she requested clarification regarding their specific responsibilities.

Mr. Church concurred with Councilmember’s Burnham’s explanation, and stated her understanding is supported by his research of the legal definition of “advice and consent.” He stated the City Council may recommend names for appointed positions or express objections to the mayoral candidate; however, the appointment authority is retained by the Mayor. He stated the process is like Presidential appointments of Supreme Court Justices, which require the advice and consent of the Senate. The City Council may implement policies and procedures that require the Mayor to post open positions externally and receive and review applications, as it does not interfere with the Mayor’s powers. However, changing the policies and procedures to require the Mayor to appoint a City Council-selected candidate is not appropriate and is outside of the scope of advice and consent. The power of appointment is protected in Utah statute as an ex officio mayoral duty and the City Council cannot delegate the mayoral appointment power to a City Manager or the City Council.

City Attorney Jeremy Cook recommended clarifying City employee appointments in City statutes.

Councilmember Love recommended formalizing the Council’s role regarding City employee appointments and asked if the City Council can discuss potential candidates in closed sessions prior to voting on the Mayor’s candidate.

Mr. Church stated a process can be formalized with requirements to discuss a potential candidate prior to a public announcement to prevent potential embarrassment of an individual the City Council would not appoint. He said closed session discussions may include the character and competency of an individual, but appointments cannot be made in a closed session. No subjects other than those listed in State Code may be discussed in a closed session; the purpose of discussing the character and competency of an individual in a closed session is to protect the individual's privacy, not the politician's ability to openly state an opinion.

Ms. Kofoed suggested only holding closed sessions in the event a Councilmember expressed specific concerns regarding an individual.

Councilmember Curtis expressed concern regarding the process of formalizing a closed session requirement.

Councilmember Clark stated that formalizing the closed session process would necessitate a written record of concerns regarding an individual or could indicate the Council has reservations regarding a candidate, should a closed session only be held when formally requested. She suggested requiring a closed session for all appointments.

Discussion ensued regarding requiring an application or letter of interest to ensure potential candidates desire the appointed position if the appointment requires an obligatory closed session.

Mr. Church stated the City's Planning Commission ordinances include the mode of appointment for Planning Commissioners and should include procedures for filling vacancies and removal from office. Any specific concerns the City Council has with the Planning Commission appointment process need to be addressed in a City ordinance. As Planning Commissioners are community volunteers and differ from City staff in appointed positions, policies and practices for the appointments should reflect those differences.

Councilmember Love said the City should consider a large group of people for each appointment.

Ms. Kofoed stated at times the City has multiple willing applicants and at other times no qualified individuals express interest in an appointment. In October, the City examines upcoming board vacancies and potential candidates. Staff can implement policies and procedures adopted by the City Council for the process.

Councilmember Clark expressed her support of publicly posting positions with the required experience and description of the responsibilities, and she requested that applications be available to the City Council to review privately. She advocated for a clear process to notify non-selected candidates and to inform current appointees if they will not be reappointed.

Councilmember Curtis expressed concern regarding the lack of a public process for internal hiring and stated a public process enables Councilmembers to better address resident concerns involving internal appointments.

Councilmember Clark suggested having one set policy for filling open positions which includes both internal and external applicants.

Mayor Westmoreland expressed concern regarding creating a single policy for all appointments due to timing constraints, potential delays, and individual position and department needs. He recommended allowing flexibility in the process.

Councilmember Clark stated government processes can be cumbersome but are in place for the protection of the people and transparency of government. She stated that Councilmembers have received complaints regarding the City's appointment process and concurred with Councilmember Curtis that a predetermined policy will assist Councilmembers in addressing resident concerns.

Mayor Westmoreland stated creating a more detailed process that will not affect the outcome of appointments, simply for the sake of perceived transparency, is deceptive. He advocated for succession plans as the ideal to promote employee morale and to create a genuine process with staff. He clarified he is not against Councilmember suggestions; however, he desires to identify and mitigate potential unintended consequences while accomplishing Councilmember goals.

Councilmember Curtis clarified he is not against a succession plan and advocated for the implementation of a program that also requires external applications, while allowing for priority to be given to internal candidates. Councilmember Love concurred with Councilmember Curtis.

Councilmember Burnham stated that the City Council provides advice and consent to the Mayor for appointments to City boards, and of the City Administrator, City Recorder, and City Treasurer. The hiring of all other City positions is under the direction of the Mayor and the City Administrator.

Mr. Church verified that the City Council may legislate the requirement of external posting for all higher-level City positions. State standards require the posting of certain positions through the office of the Department of Workforce Services with a posting exception if hiring internally, and the City Council can implement additional hiring processes and policies.

Mr. Cook stated a change in job function of existing employees should be considered and provided for in policy adjustments as well.

Councilmember Curtis explained his desire was for additional clarity regarding City policies and stated he and the other Councilmembers had not been provided the entirety of the Policies and Procedures Manual until January 2020. He later apologized and clarified, during the meeting's Policy Session, that he had in fact receive the manual.

Discussion ensued requesting clarification of the delineation between mayoral and Councilmember responsibilities and City policies and procedures.

Mayor Westmoreland directed Mr. Cook to draft a document based upon the discussion for Council review at a future meeting.

Councilmember Burnham recommended only requiring an additional process for hiring department heads or other high-level positions.

2. CONCEPT PLANS

2.A. DISCUSSION – Ault Farms Concept Plan

Long-Range Planning Manager Pete Kane presented the item and stated the initial concept plan was reviewed by the Planning Commission on December 10, 2019, and by the City Council on January 21, 2020. Concerns expressed included the proposed density, land uses incompatible with the General Plan, the request that commercial land in the plan may revert to residential if not developed within a set timeframe, the creation of new zoning districts not currently in Municipal Code, and questions regarding the need to utilize property designated as Business Park for residential purposes. He verified the lot frontages proposed in the concept plan do not comply with Municipal Code standards.

The residential portion of the plan includes 2,995 lots on 438 acres, including 983 single-family lots, 796 townhome units, 296 four- and six-plex units, 460 apartment units, 460 condominium units. The plan also includes 12 acres of commercial property and open space. The remaining 200 acres is reserved for technology uses.

The applicant has been working closely with the developers of adjacent projects to ensure proper connections and traffic flow. The concept plan includes several connections throughout the development including pedestrian crossings for the safe movement of residents and visitors. The majority of the subject property is identified in the General Plan Future Land Use Map as Neighborhood Residential One (NR1). The southwest corner of the subject property has been designated as Business Park/Light Industry (BPLI). While most of the single-family areas comply with the General Plan land use designation, the townhomes, apartments, and condominiums do not. The plan proposes using half of the area designated for BPLI for apartments, which is not a compatible land use based on the General Plan designation and would reduce the overall commercial/industrial potential of the subject property. Staff believes additional commercial zoning would be appropriate on the north side of the proposed major arterial road, across from existing commercial land uses as it would provide a commercial entryway to the development.

Applicant representative Pete Evans with Flagship Homes presented images to provide context for the size of the property and stated he is working in conjunction with other developers to create a master plan and to install infrastructure in the area. He explained changes made to the concept plan include a reduction in the overall density unit count; an increase in the BPLI area; additional detail including coordination with adjacent property owners, infrastructure and utility planning and design; a completed transportation impact study with coordination with City Engineer Chris Trusty; an environmental report; an economic study; and a completed open space master plan. He explained the updated concept plan integrates product types throughout the development and adds road curvature and connectivity to surrounding trails and open space. It provides buffering to surrounding uses and clusters density around transportation corridors. He compared the concept plan presented on January 21 with the updated plan and explained that the unique zones proposed are intended to increase product segmentation efficiency and specificity within the City's zoning

standards. One of the purposes of working with surrounding developers is to offer diversity in product type. He presented land use percentages and acreage details and thanked staff and the Council for their efforts and feedback.

Councilmember Love requested the addition of an east connection from the south end of the Ault Farms residential development to the Triumph development. She expressed concern regarding the density of the project and the drastic variance of the proposed project to Municipal Code standards.

Mr. Evans stated the plans include an eastern connection to the Triumph development along Tiffany Lane; however, the area Councilmember Love indicated includes a segment of land owned by a third party with whom he does not have a current connectivity agreement.

Councilmember Curtis stated the concerns he had expressed during the previous presentation of the concept plan had not been addressed in the updated plan and expressed his desire for the project to adhere to Municipal Code standards.

Mr. Kane stated the open space requirements have not been calculated at this stage of the project and clarified the Triumph and Scarlet Ridge developments are not included in the density calculations for this project. He explained the single-family residential density standards are based upon the lot size and setbacks, not dwelling units per acre.

2.B. DISCUSSION – Triumph Concept Plan

Mr. Kane presented the item. The concept plan includes 252 single-family units with an overall density of 1.56 units per acre; 184 are 1/2-acre lots and 68 are 1/3-acre lots, and the plan includes 3.53 acres of open space with three trail accesses. The development is centered around Lake Mountain Road and includes one north connection to Tiffany Lane, three connection points to the east, a southern connection via Lake Mountain Road, and no connections to the west due to the location of the powerline corridor. The General Plan and Future Land Use Map designates the parcel as RD2. The 1/3-acre lots in the concept plan do not meet the zoning or land use designations but may be appropriate as a transition to the proposed single-family development directly to the north, which currently is conceived as 8,000 to 10,000 square-foot, single-family lots. Mr. Kane reviewed the Planning Commission feedback from the August 25, 2020 meeting.

Applicant representative Scot Hazard advocated for smaller lots along the powerline corridor, transitioning to larger lots along the bench areas, as the market may not support large lots along the powerline corridor. He proposed a Foothill Residential rezone to allow for appropriate transitioning for the property and to offset the proposed major roadway running through the property. He offered to set a density requirement to allow for some smaller lots without greatly reducing the overall density of the project. He proposed a 77-foot major collector road designation for Lake Mountain Road and stated Mr. Trusty recommended locating Airport Road to the west of the development along the powerline corridor. Mr. Hazard stated a north-to-south 122-foot corridor for a minor arterial will utilize 15 acres of property, and he requested the approval of smaller lots to buffer along the major roadway. These will transition to 1/2-acre to one-acre lots. He explained the developers desire a diversity of product in order to reduce competition and offer

variety and expressed his opinion that larger lots will find more marketability along the bench areas.

Councilmember Curtis explained the intent of the General Plan was to locate smaller view lots along the bench with larger lots on the level ground. He expressed concern Airport Road was not included in the concept plan and stated the buffering consideration is likely to change due to the Ault Farms concept plan not adhering to standards.

Councilmember Clark stated her support for a move-up product and requested clarification regarding the location of the major roadways.

Mr. Hazard stated his willingness to adjust the project to accommodate Airport Road and said Lake Mountain Road can be reduced to a regular residential road.

Councilmember Clark expressed apprehension to allow buffering along a non-compliant project and stated the powerline corridor can be used as a benefit to residents due to increased open space.

Councilmember Love concurred with the desire to see Airport Road included on the concept plan and requested a stub road to allow for a future western connection between the residential and tech campus areas.

Councilmember Burnham stated overall she approves of the plan. She concurred with lot transitioning along a noisy, major roadway; however, larger lots would allow placing homes farther from the roadway. She concurred with the need to see the inclusion of Airport Road on the concept plan.

3. AGENDA REVIEW

10. AGREEMENTS

10.A. First Addendum to the Black and McDonald Professional Services Contract

Streets and Storm Drain Manager Zac Hilton clarified the contract allows for labor and equipment adjustments effective as of March 1, 2020, which represent cost increases over a five-year time period.

Councilmember Love asked for clarification regarding contracting the labor versus completing the work in-house.

Mr. Hilton explained the work was outsourced due to the City selling the electric utility and it is preferential for a city without a municipal power company to outsource this type of project.

4. ADJOURN TO A CLOSED EXECUTIVE SESSION

No closed session was held. Mayor Westmoreland adjourned the meeting at 6:31 p.m.

7:00 P.M. POLICY SESSION – VIA LIFESIZE ELECTRONIC MEETING

ELECTED OFFICIALS PRESENT ELECTRONICALLY: Mayor Tom Westmoreland, Councilmembers Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. Councilmember Jared Gray was excused.

CITY STAFF PRESENT ELECTRONICALLY: Paul Jerome, City Administrator/Finance Director; Steve Mumford, Assistant City Administrator/Community Development Director; Pete Kane, Long-Range Planning Manager; Michael Hadley, Planning Manager; Jessa Porter, Planner; Fionnuala Kofoed, City Recorder; Elizabeth Fewkes, Recording Secretary; Chris Trusty, City Engineer; Aaron Sanborn, Economic Development Director; Jeremy Cook, City Attorney; Brad Hickman, Parks and Recreation Director; Mack Straw, Public Utilities Manager; Zac Hilton, Streets and Storm Drain Manager; Jeff Weber, Fleet and Facilities Operations Director; and Jeanie West, Community Improvement Officer.

5. CALL TO ORDER

Mayor Westmoreland called the meeting to order at 7:05 p.m.

6. PLEDGE OF ALLEGIANCE

City Recorder Fionnuala Kofoed led the Pledge of Allegiance.

7. INFORMATION ITEMS/UPCOMING EVENTS

- Free meals for seniors are available at the Eagle Mountain Senior Center, Monday through Thursday from 12:00 to 12:30 p.m. Reservations are required. Details about the program are available on the City website.
- The City offices and library will be closed Monday, September 7, 2020, in observance of the Labor Day holiday. The library will also be closed on Saturday, September 5, 2020.
- The Census response deadline has been moved up one month to September 30, 2020. If you have not taken the Census yet, it is easy to respond online at my2020census.gov. Census workers are going door-to-door for those who have not responded. Census takers will always have a badge with a Department of Commerce watermark and expiration date that can be checked before giving any information. Please visit the Census website for more details.
- Free fall cleanup dumpsters will be provided for Eagle Mountain residents on the west side of Cory Wride Memorial Park off of Mid Valley Road September 17 to 20, 2020. Details are available on the City website.
- To receive City notifications, including emergency info, news, events, and traffic alerts, sign up at emcity.org/notifyme.

8. PUBLIC COMMENTS

Mayor Westmoreland opened public comment at 7:09 p.m.

Shane Hill with the Division of Wildlife Resources emailed the following statement: "Referring to the document detailing how the migration corridor would fit into the Parks and Trails Master Plan. The Division of Wildlife Resources recommends a minimum of 330 ft width for a successful corridor. This discrepancy may do to the conversion of yards to feet. 110 yards=330 ft. As the plan stands the corridor is listed to be 110ft. Thank you for the opportunity to connect."

Marian Burningham with the Eagle Mountain Nature and Wildlife Alliance acknowledged City staff and MHTN Architects for being receptive to Alliance feedback. She noted the width of the wildlife corridor was listed in the plan as 110 feet, not yards, as recommended, and advocated for the inclusion of the kestrel project in the plan. She reported the Eagle Mountain Nature and Wildlife Alliance organized and hosted a tour on August 1, 2020 for a variety of local, state, and federal government officials and foundation representatives in order to share wildlife preservation efforts in the City. All feedback from the tour was overwhelmingly positive and included offers of support.

Bettina Cameron with the Eagle Mountain Nature and Wildlife Alliance expressed appreciation for Ms. Burningham, MHTN Architects, and City officials and staff for their efforts in open space wildlife preservation. She expressed concern that privately-owned land is included in the City trail system and advocated for measures to preserve and protect trail connectivity. She requested that the City Council table the resolution to amend and adopt the Eagle Mountain City Parks, Trails, and Open Space Master Plan to provide additional time for residents to adequately review the 300-page document. She requested clarification regarding how the document will be implemented by the City and the reason the plan was not reviewed by the Planning Commission.

Mayor Westmoreland closed public comment at 7:22 p.m.

The following emails were received by the City and read into the record after item 17.

Sandy White: "I know the city is planning the next phase of Cory Wride Memorial Park. I saw on the plans that lighting is planned for the pickleball courts, which I am very excited to see. However, I would ask that the City Council consider adding in additional courts, even if those courts are unlit. Pickleball is becoming very popular in our city, and as our city grows there will be even more demand. Already, it can be difficult to get a court most nights of the week. We play in the morning at 7:00 a.m. and by 8:00 a.m. most, if not all, courts are full. On August 24 at 7 PM, all the courts were full and our group waited 30 minutes for a court to open up. Lights will likely increase the usage, and decrease the likelihood of people wanting to go home and freeing up a court. Saratoga Springs is a smaller city, and they have 8 pickleball courts at Patriot Park that are even more packed than ours. Please reconsider the layout of the proposed expansion, and see if there is a place to add a few more courts. Thank you for your consideration."

Travis Wendel: "We have witnessed many (many) vehicles using the pony express trail from the baseball fields to sage park, at a very high speed - 30-40 mph - which is very troubling. School is

in session and we have witnessed kids having to get off of the trail to avoid high speed vehicles. We have seen joggers or people walking their pets in the evening having to hurry off of the trail to avoid an accident. We were told this was a trail (ATV/UTV/Bikes/Joggers) not for vehicles (unless a public utility is needed in the section). What is in the plan to correct this before a family member (human or pet) is hit.”

9. CITY COUNCIL/MAYOR'S ITEMS

Councilmember Curtis

Councilmember Curtis corrected a previous comment where he had erroneously indicated he had not been provided the Policies and Procedures Manual; he stated that he had received a copy of the manual in 2016 and 2018.

Councilmember Love

None.

Councilmember Clark

Councilmembers Clark explained the intent of her “Team Taco” shirt is to promote Communities that Care family meal month in September and noted the positive impact of family meals on youth. She advocated for adults to monitor the additional stresses and mental health issues impacting children and teenagers during this difficult time. She noted the Pioneer Park restrooms were closed due to vandalism.

Councilmember Burnham

Councilmember Burnham expressed appreciation to Councilmember Curtis for his willingness to publicly correct his error. She thanked the residents for their involvement and said she hopes City residents feel heard.

CONSENT AGENDA

10. AGREEMENTS

10.A. First Addendum to the Black and McDonald Professional Services Contract

11. BID AWARDS

11.A. Two International CV515 Snow Plow Dump Trucks – Rush Trucks (State Contract)

12. MINUTES

12.A. August 18, 2020 – Regular City Council Meeting

MOTION: *Councilmember Burnham moved to approve the consent agenda. Councilmember Curtis seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

SCHEDULED ITEMS

13. ORDINANCES/PUBLIC HEARINGS

13.A. ORDINANCE – An Ordinance of Eagle Mountain City, Utah, Amending the Eagle Mountain Municipal Code Chapter 17.10 Definitions and Chapter 17.75 Standards for Special Uses.

Long-Range Planning Manager Pete Kane presented the item. The City Council recently approved amendments to the use tables in various zoning districts and created a permitted special use classification. Special uses must meet standards established within Eagle Mountain Municipal Code (EMMC) Chapter 17.75. When the standards were amended, language was included indicating that special uses were considered prohibited until special use standards were adopted. The item under discussion revises the chapter in order to organize the expanded list of special uses and includes proposed new language to be added to EMMC Chapter 17.10 Definitions to create definitions for all special uses not currently in the chapter.

The proposed changes to EMMC Chapter 17.10 Definitions include the addition of 23 definitions; no modifications were made to any existing definitions. The proposed changes to EMMC Chapter 17.75 include restructuring the chapter into use-related sections, the inclusion of an Applicability section that clarifies that the special uses must also comply with other relevant chapters in Title 17, the addition of proposed regulations for 16 of the new special uses, and updated language for some existing special uses.

Mr. Kane explained the proposed changes in EMMC 17.75.062 do not include a residential use element for the distance requirement when locating new gas stations. Based on previous discussions and research, the City Council could consider an amendment to the proposed change to G. Distance to Other Uses. Options may include, “The minimum closest distance from the automobile gas/service station or car wash with gas pumps site to an existing residence, school, park, playground, museum or place of public assembly will be not less than 300 feet,” or, “The minimum closest distance from the gas pumps and fuel vents at an automobile gas/service station or car wash with gas pumps site to an existing residence, school, park, playground, museum or place of public assembly will be not less than 300 feet.”

Mr. Kane noted a correction to a citation in the definition of “nuisance” from “78B-38-1 Utah State Code” to “78B-6-1101 Utah State Code.”

The Planning Commission recommended approval of the Municipal Code amendment with a 4 to 0 vote, with one Commissioner absent.

Councilmember Love expressed her preference that gas station standards be measured from the fuel pumps and vents to the residential property line as she had a greater concern regarding the potential for fumes reaching the residents’ yards than the actual homes. She prefers a 300-foot setback but agreed to consider other distances.

Discussion ensued regarding the distances from residences to existing gas stations within the City.

Councilmember Curtis advocated to prohibit gas stations closer to residences than the distance between the homes and the proposed 7-Eleven on the corner of Pony Express Parkway and Porter's Crossing. Mr. Kane stated the 7-Eleven setback is approximately 200 feet to residential property lines.

Mr. Kane explained gas station setbacks vary in Utah cities from 250 to 500 feet from schools, parks, museums, or places of public assembly; however, none of the cities included a residence setback requirement. He stated a large distance requirement from residences may prevent gas station uses in some areas of certain zones, resulting in the reduction of the accessibility of gas stations.

Councilmember Love noted gas stations are generally located on corner properties which should enable locating the vent farther from residences and hopefully allow buffering with other commercial uses due to frontage requirements.

Councilmember Curtis said a property line setback requirement could prevent locating gas stations near multifamily residences as well as prevent gas stations in inappropriate locations within the City. He also expressed concern requiring a standard that no other cities include and cited alcohol and tobacco sales, not health concerns due to fumes, as the likely reason for the setback standards. He expressed hesitation to approve standards without understanding the reasons why other cities do not include a gas station to residence setback standard.

Discussion ensued regarding potential gas station setback distance requirements.

Councilmember Clark expressed concern regarding determining a setback without understanding the reason and purpose of setback standard requirements in other cities. The Chevron gas station located on Ranches Parkway and Pony Express Parkway is approximately 90 feet from residences, and the proposed standards would have prohibited that gas station, which is heavily utilized.

Councilmember Love suggested the setback be from the fuel vents to the residences and stated the City Council should consider previously approved gas stations and set standards in accordance with desired gas station locations in the City.

Councilmember Burnham expressed concern regarding the location of the Chevron on Ranches Parkway and Pony Express Parkway and stated she is not in favor of approving a gas station closer to residences than the recently approved 7-Eleven on Porter's Crossing and Pony Express Parkway.

Mayor Westmoreland inquired if the City Council desired to table the item for additional time to research concerns.

Councilmember Curtis expressed concern regarding uniquely shaped parcels and recommended designating a setback as a placeholder in order to approve the other special use standards with the intent to address gas station setback standards separately at a future meeting.

Councilmember Love recommended a 200- to 250-foot setback to potentially be amended at a future meeting in order to approve the other special use standards.

City Administrator Paul Jerome stated he believes the vent for the Chevron gas station on Ranches Parkway and Pony Express Parkway is located approximately 190 feet from the closest residence.

Councilmember Clark stated as the gas station information was not published in the agenda materials nor publicly noticed, and due to previously expressed resident concerns regarding gas stations, gas station setback standards should return to a future meeting. She expressed concern regarding arbitrarily selecting a setback distance without properly researching the reason for setback standards in other cities and required government safety standards.

Councilmember Curtis concurred with Councilmember Love's assessment that the City Council is setting a precedent by adopting a setback standard. He stated he read the studies submitted by residents regarding gas station impact on resident health and although no proof of harm was established, concerns regarding the possibility of an association between gas station fumes and health concerns were presented to the City Council. He recommended 200 feet as a reasonable minimum setback to address health concerns without making commercial areas unviable.

Discussion ensued in support of implementing a 200-foot setback from the fuel vent to a residential property line to address resident health concerns without unreasonably impeding City development.

Mayor Westmoreland opened the public hearing at 8:03 p.m. No comments were submitted to the City Recorder's Office and no public was in attendance to make comment. As there were no comments, Mayor Westmoreland closed the hearing.

MOTION: *Councilmember Love moved to approve an Ordinance of Eagle Mountain City, Utah, amending the Eagle Mountain Municipal Code Chapter 17.10 Definitions and Chapter 17.75 Standards for Special Uses amending the nuisance statute citation as presented in the meeting, and amending 17.75.062 (G) to, "The minimum closest distance from the gas vents at an automobile/gas service station or car wash with gas pumps site to the property line of an existing residence, school, park, playground, museum or place of public assembly will not be less than 200 feet." Councilmember Clark seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

13.B. ORDINANCE – An Ordinance of Eagle Mountain City, Utah, Amending the Eagle Mountain Municipal Code Chapter 17.25.030 Residential Land Use Table.

Planner Jessa Porter presented the item and explained Eagle Mountain Municipal Code does not include regulations regarding roosters. Chickens are permitted in all single-family residential zones, except the RC zone. In order to address an increase in complaints regarding roosters, staff recommended a revision to the Residential Land Use Table (EMMC 17.25.030) to include a

footnote that states “Roosters are permitted in the Agriculture zone, prohibited in all other zones.” Ms. Porter reviewed the concerns discussed during the August 11, 2020, Planning Commission meeting and said the Planning Commission recommended approval with a vote of 3 to 1 to allow roosters in the Agriculture, RA1, RA2, and RD1 zones.

Councilmember Curtis asked what lot sizes contain roosters that have received complaints and how passing the ordinance will better facilitate code enforcement over the existing noise ordinance.

Community Improvement Officer Jeanie West said most complaints are from residents with small, 0.16-to 0.18-acre lots with shared private drives behind homes. Complaints have increased since the pandemic; the City has received nine rooster complaints since March, compared to two complaints in 2019 and three complaints in 2018. She said one of the issues may arise from residents purchasing chicks with the intent to raise hens but are unable to confirm the sex of the chick until after the family has formed an emotional attachment to the rooster. She said the City rarely receives complaints regarding hens and recommended permitting roosters on half-acre lots or larger. This ordinance would allow Code Enforcement to require the removal of a nuisance rooster to resolve complaints. She said other cities have standards regarding roosters and a set standard would provide clarity for Community Improvement Officers to address resident complaints.

Councilmember Burnham said she lives in a neighborhood with lots sizes ranging from 1/5 to 1/3 acre and her neighborhood has several roosters. She can hear the roosters, but dogs are a greater nuisance. She explained one of her neighbors mitigates noise issues by keeping the chickens inside the coop until 7:30 a.m. and the rooster does not crow inside the coop. She advocated for using the noise ordinance to address concerns and expressed concern that people could release roosters in the City if required to remove the rooster from their property. She concurred that residents may potentially purchase and hand-raise a chick and discover the chick is a rooster after forming an attachment. However, she said she was willing to consider prohibiting roosters on small lots.

Councilmember Clark concurred with Councilmember Burnham’s statements. She said she felt it is over-reach for the City to require residents to prohibit an animal based upon its sex, especially considering the difficulties in accurately sexing chicks. She said the City has a noise ordinance in place to address rooster noise concerns. She expressed her willingness to consider additional noise mitigations requirements such as crow collars or coops to address complaints. She would prefer to promote resident self-reliance by allowing chickens and stated roosters provide protection to the flock.

Councilmember Curtis stated that chickens are already restricted in the RC zone and advocated for prohibiting chickens on small lots.

Assistant City Administrator/Community Development Director Steve Mumford stated that the previous Residential Zone standards apply to all existing homes; these residences are permitted to have chickens unless and until the City rezones existing residential areas. He said specifying a lot size in the standards will only impact new construction.

Councilmember Love expressed her support of specifying a lot size standard, although issues may arise due to neighborhoods comprised of lots with varying sizes.

Councilmember Burnham stated that multiple roosters housed together will compete which increases crowing. She suggested possibly limiting the number of roosters allowed per residence; however, she advocated for the noise issues involving roosters to be resolved with the noise ordinance.

Councilmember Clark recommended using the lot size standards for the number of dogs permitted per residence as a guide for rooster standards. She said most smaller lots are governed by homeowners associations (HOAs) and the covenants of the association will address rooster ownership and noise concerns.

Councilmember Curtis suggested a more robust noise ordinance to better resolve nuisances and said negatively impacting a person's ability to sleep infringes on that individual's rights.

Ms. West explained Community Improvement uses the noise ordinance to address rooster complaints, which has been effective in resolving most complaints. She expressed her willingness to continue to address rooster complaints through the noise ordinance if desired by the City Council. However, the City Council may need to revisit the item if problems continue.

Councilmember Love said Commissioner Wells had noted some of the benefits of roosters during the Planning Commission meeting. She requested clarification regarding current City standards as chickens are permitted, and Municipal Code does not distinguish between hens and roosters.

Ms. West explained one of the reasons for the ordinance amendment was to specifically address rooster permittance due to the ambiguity in the standards.

Ms. Kofoed stated roosters were prohibited by The Ranches HOA and complaints increased after the HOA dissolved.

Councilmember Curtis verified the nine rooster complaints in 2020 were from different complainants from various areas in the City and expressed concern that the ordinance will not reduce rooster complaints or decrease issues.

Councilmember Clark noted that two of the complaints came from areas of the City with ½-acre or larger lots.

Ms. West stated compliance response varies; sometimes a letter resolves the concerns other times additional intervention is required. She verified that dog complaints have also increased over the past six months and one of the complaints involved both dogs and roosters.

Mayor Westmoreland opened the public hearing at 8:40 p.m.

Ms. Kofoed stated an email had been received from Lisa Clawson. Lisa's daughter, Bella, has a rooster named Nugget. The email explained the benefits of owning a rooster and expressed concern regarding the ordinance as it would require the family to relinquish a pet.

Sandy White submitted the following comment: "I am asking the City Council to vote no on the proposal, which would prohibit roosters on lots less than 1 acre. Our city already has a noise ordinance. If the rooster is causing a noise problem, let the residents use that ordinance to get the city involved. The city should not prohibit the freedoms of all the residents because of one or two complaints, particularly when a code already exists that would address the problem. Roosters can be an essential element to a flock, providing protection and safety to the hens, both from predators and from each other. They also provide fertilization of eggs, allowing one to continue one's flock size. A rooster's crow is about the same decibel as a dog barking, and yet dogs are not restricted to 1 acre lots. One may argue that residents are expected to keep their dogs from barking at night, but again this relates to the noise ordinance which is already in place, and which would apply equally to dogs and roosters. In summary, please do not create additional restrictions on liberty when current city code already addresses the problem."

Mayor Westmoreland closed the public hearing at 8:43 p.m.

MOTION: *Councilmember Burnham moved to deny an ordinance of Eagle Mountain City, Utah, amending the Eagle Mountain Municipal Code Chapter 17.25.030 Residential Land Use Table. Councilmember Clark seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, and Carolyn Love. Those voting nay: Colby Curtis. The motion carried with a vote of 3:1.*

After the vote, discussion ensued regarding potential rooster noise mitigation requirements.

13.C. ORDINANCE – An Ordinance of Eagle Mountain City, Utah, Annexing an Area of Approximately 204 Acres, Commonly Known as the Butterfield Annexation.

Ms. Kofoed presented the item and stated the City received an application for annexation earlier in the year for 204 acres adjacent to the Arrival subdivision. The applicant only intends to develop 22 acres of the property. The area is designated in the General Plan as open space, and staff is working on an ordinance to create an open space zone. Ms. Kofoed explained the annexation process, if approved and not protested, results in agriculture zoning, unless the applicant has a master development agreement (MDA) with alternate zoning.

Ms. Kofoed explained concerns have arisen regarding the annexation of the area due to the difficulty in providing City services and the need for septic tanks. She explained approving the annexation with the Agricultural zone would allow for five-acre parcels. She recommended tabling the item to allow time to create an MDA for the property and for the completion of the open space zone designation, or to deny the annexation, if desired by the City Council. She stated that the planned property purchase through the Army Compatible Use Buffer (ACUB) is dependent upon funding and an agreement has yet to be signed.

Councilmember Curtis expressed concern regarding approving the annexation and zoning the land as Agricultural prior to preserving the ACUB open space land.

Ms. Kofoed explained staff desires to determine if the City Council is amenable to allowing the annexation to move forward with the development of 22 acres of residential property prior to drafting an MDA to determine zoning. She said access to the property will be contingent upon the development of the adjacent Arrival development.

City Attorney Jeremy Cook explained the developer of Arrival had to reconfigure the lots in order to accommodate septic systems, and a proposed community septic system for the area was denied. Septic system requirements led to nonideal compromises for the Arrival lot configurations. The City Council may require a minimum lot size for the Butterfield development to prevent lot size reduction due to septic system requirements.

Mr. Mumford presented a map designating the Camp Williams land under contract for an ACUB easement or acquisition in relation to the annexation property. The ACUB land acquisition is not dependent upon the annexation.

Applicant representative Braiden Rindlisbacher stated he had met with Master Planner/ACUB Manager Paul Raymond with Camp Williams and Mr. Raymond stated the ACUB agreement should be finalized by the end of 2020. The annexation is required in order to develop 22 acres of the property, and the remainder of the property is planned as open space.

Mayor Westmoreland opened the public hearing 9:04 p.m.

Bettina Cameron reiterated the importance of preserving the ACUB area as open space without development encroachment. There is a high probability that the wildlife corridor will extend into the ACUB property and annexing the property as Agricultural could threaten the area. The desired development area of the 22 acres of property does not impact the wildlife corridor.

Mayor Westmoreland closed the public hearing at 9:07 p.m.

Councilmember Love verified the majority of the property is undevelopable due to topographical challenges.

Discussion ensued clarifying the options available to the City Council regarding the annexation, the development of an open space zone, the fact that denial of the annexation would prevent the applicant from resubmitting the same annexation request, and the preservation of the ACUB area as open space.

MOTION: *Councilmember Burnham moved to table an Ordinance of Eagle Mountain City, Utah, annexing an area of approximately 204 acres, commonly known as the Butterfield Annexation. Councilmember Love seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, and Carolyn Love. Those voting nay: Colby Curtis. The motion carried with a vote of 3:1.*

14. RESOLUTIONS

14.A. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Amending and Adopting the 2020 Eagle Mountain City Parks, Trails & Open Space Master Plan.

Parks and Recreation Director Brad Hickman explained the City solicited bids earlier in the year and selected MHTN Architects to assist staff and local officials with updating the City's Parks, Trails, and Open Space Master Plan with input from the DWR and the Eagle Mountain Nature and Wildlife Alliance.

MHTN representatives presented an overview of the 2020 Eagle Mountain City Parks, Trails, and Open Space Master Plan included in the packet materials. MHTN Architects Community Planner Ryan Wallace explained the process to create visions and goals for the foundation of the project and the implementation process of these goals.

MHTN Architects Community Engagement Planner Amanda Dillon presented the community engagement methods used to inform, consult, involve, and collaborate with residents regarding the project. She highlighted the results of a 39-question survey that received 1,041 responses. She reviewed the focus interview participant list and the interview results.

MHTN Architects Landscape Architect Project Manager Vince Olcott presented park recommendations based upon the data collected. MHTN Architects' recommendations are to focus City resources on constructing more community and regional size parks and amenities as the City population increases, and to ensure that new and existing parks provide high-quality, diverse opportunities for the community.

Alta Planning Trails and Transportation Planner Dave Foster presented the trail recommendations, which include collaborative plans for future trail development on open spaces and adjacent federal lands; planning for the needs of all trail users including hikers, mountain bikers, equestrians, and motorized users; and expanding and enhancing the City's in-town paved pathway system.

Mr. Wallace said the open space recommendation includes embracing and enhancing the City's identity as a City with unparalleled access to preserved open space, intact wildlife corridors, and spectacular vistas to create a unique legacy, positive economic impact, and elevated quality of life. As Eagle Mountain continues to develop, it should identify and preserve important wildlife habitat and migration corridors valued by citizens.

Councilmember Curtis said although he supports the plan, he has concerns regarding some of the language in the plan, including setting an air quality goal as it is outside the purview of the open space and parks plan. He also expressed concerns regarding policies to encourage physical activity, as he does not support socially engineering resident behavior. He stated his preference to support rather than direct lifestyles, and that he does not want to adopt policies that drive a specific political agenda.

Councilmember Clark recommended changing "encourage" to "facilitate" to support rather than drive activity and behavior. She concurred with Councilmember Curtis that air quality is outside the scope of the parks, trails, and open space plan.

Mayor Westmoreland stated policies in the parks, trails, and open space plan may be appropriate to support State air quality requirements.

Councilmember Curtis requested clarification regarding the reason for air quality considerations being included in the plan.

Mr. Wallace explained the air quality considerations come from best practices for smart growth in urban planning, and some of the considerations coordinate with the City's General Plan. This plan is intended to implement other City documents and practices, and the language can be revised and amended. He explained other Utah cities have expressed air quality concerns as impacting quality of life, and if air quality is not an important or appropriate consideration for the City in this document, it can be removed from the plan.

Councilmember Burnham stated that air quality is an important issue for her. Her daughter's asthma greatly improved after moving to Eagle Mountain due to improved air quality. Providing open spaces and park areas impacts the quality of the air.

Mayor Westmoreland stated one of the purposes of the plan is to prevent typical urbanization.

Discussion ensued regarding including or excluding air quality from the plan.

Councilmember Clark expressed concerns that aspects of the General Plan have been used by developers to promote agendas and to create undesired exemptions.

Councilmember Love recommended tabling the item as requested by residents to allow time to better review the plan.

Mr. Wallace stated he could provide software to allow the Councilmembers to enter notes on the same document.

Ms. Kofoed explained that the use of a means of electronic software that is not publicly available for viewing can be problematic and stated it would be best for the City Council not to use the software to prevent potential issues.

Mr. Cook concurred with Ms. Kofoed. He clarified that comments by individual Councilmembers are not problematic. The concern is dialogue between Councilmembers regarding a policy item outside of a public forum that may impact a decision by the Council.

MOTION: *Councilmember Burnham moved to table a resolution of Eagle Mountain City, Utah, amending and adopting the 2020 Eagle Mountain City Parks, Trails, & Open Space Master Plan until the next meeting. Councilmember*

Clark seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.

15. CITY COUNCIL/MAYOR'S BUSINESS

16. CITY COUNCIL BOARD LIAISON REPORTS

Councilmember Clark

Councilmember Clark stated several residents received their Ham radio license certification.

Councilmember Love

None.

Councilmember Burnham

None.

Councilmember Curtis

None.

17. COMMUNICATION ITEMS

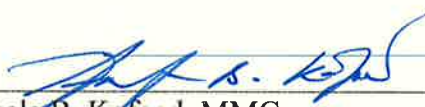
17.A. Upcoming Agenda Items

18. ADJOURNMENT

MOTION: *Councilmember Clark moved to adjourn the meeting at 10:24 p.m. Councilmember Curtis seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

The meeting was adjourned at 10:24 p.m.

Approved by the City Council on September 15, 2020.


Fionnuala B. Kofoed, MMC
City Recorder

