EAGLE MOUNTAIN
CITY COUNCIL MEETING MINUTES

August 6, 2019, 4:00 p.m.
Eagle Mountain City Council Chambers
1650 East Stagecoach Run, Eagle Mountain, Utah 84005

4:00 P.M. WORK SESSION – CITY COUNCIL CHAMBERS

ELECTED OFFICIALS PRESENT: Mayor Tom Westmoreland, Councilmembers Colby Curtis, Benjamin Reaves, Donna Burnham, Melissa Clark, and Stephanie Gricius.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Paul Jerome, Assistant City Administrator/Finance Director; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy Recorder; Steve Mumford, Community Development Director; Michael Hadley, Planning Manager; Aaron Sanborn, Economic Development Director; Chris Trusty, City Engineer; Mack Straw, Public Utilities Manager; Brad Hickman, Parks and Recreation Director; Linda Peterson, Communications Director; Zac Hilton, Streets and Storm Drain Manager; Jeff Weber, Facilities Operations Director; Ross Fowlks, Fire Chief; and Eric McDowell, Chief Deputy.

Mayor Westmoreland called the meeting to order at 4:13 p.m.

1. CITY ADMINISTRATOR INFORMATION ITEMS

1.A. PRESENTATION – City Emergency Plan

Facilities Operations Director Jeff Weber explained the City's emergency operations plan is being rewritten. The City has hired Matthew Chase, an Eagle Mountain resident, to write the updated plan. Mr. Chase has written emergency plans for other municipalities, including American Fork City.

Mr. Chase said he is the Deputy Fire Marshal for South Salt Lake City, and the Assistant Fire Chief for Cedar Valley Fire. He will send out surveys to obtain information and will then shadow key personnel. Once that is completed, he will have a tabletop discussion with City staff and elected officials. His goal is to create a self-sufficient community.

1.B. UPDATE – Municipal Code Residential Zone Amendment

This item was discussed after item 13.A. during the agenda review.

Community Development Director Steve Mumford informed the Council that the Utah Valley Home Builder Association communicated concerns regarding setbacks, architectural standards, the landscaping cash escrow, minimum lot sizes, buffer requirements, square footage minimums, and number of units per building in the proposed draft ordinance.

Mr. Mumford explained after reviewing the previous City Council meeting minutes, he believes the Council's concerns regarding architectural standards related to the number of required building materials, the use of stucco, and street-facing and rear elevations. Regarding the number of required building materials, he said an option is to state single-family developments should include variation in exterior materials (fiber cement siding, board and batten or vertical siding, stone, brick, stucco) and/or colors, instead of requiring at least three building materials.

Councilmember Curtis stated he would not approve that language as it is less restrictive than the current Municipal Code. Councilmember Clark stated the word "should" does not allow the City to require that variation.

Councilmember Gricius expressed concern that requiring variation would prohibit all brick or log homes, and stated requiring three materials is too restrictive. Councilmember Clark asked if the amendment could exempt all brick or log homes from the variation requirement.

Councilmember Burnham stated residents should be able to build what they want to build; the Council should not be legislating building material preferences. Councilmember Curtis stated residents do not have the options they want when building homes. He said protecting home values is the job of the Council.

Councilmember Gricius said homeowners associations will have architectural requirements; if residents are concerned about surrounding home types, they will chose to build in a development with a homeowners association. Councilmember Burnham agreed and stated the variety of homes seen in Eagle Park would never be built again in the City if three building materials are required, which would be a shame.

Mr. Mumford said another concern from the previous meeting was regarding buildable square footage of large lots. He proposed at least twenty percent of lot area be buildable. This would require that one acre of a 5-acre lot, 0.5 acres of a 2.5-acre lot, and 8,712 square feet of a 1-acre lot be buildable.

Councilmember Curtis stated his concern is that residents on large lots may not be able to build outbuildings. Councilmember Clark expressed concern that approved large lots with animal rights may be too encumbered by a wash or ridgelines to have room for animals.

Councilmember Burnham stated the amendment could require the lot to have enough room for a primary structure and an outbuilding, instead of a percentage of buildable land. She said if a home and barn could be built on 8,712 square feet on a one-acre lot, it can also be built in that amount of space on a five-acre lot.

Mr. Mumford confirmed that the Council would like a buildable footprint for a home and a buildable footprint for an outbuilding for all large lots, regardless of lot size.

Mr. Mumford stated the Council requested that MF1 and MF2 be combined and MF3 be eliminated. The MF1 zone now allows single-family homes and multifamily structures up to six units per building, and MF2 allows multifamily structures up to twelve units per building. Councilmember Curtis expressed concern that developers will only build six units per building and asked if the amendment could require a variety. Mr. Mumford explained this proposed change was a result of the Council's input at the previous meeting, and stated he would need to break the zones up again to require fewer than the allowed six units per building. Most projects in the City have a variety of number of units per building; the exact number in each building depends on the land topography, space available, as well as other limitations.

Discussion ensued regarding what types of units currently sell; the Council requested staff obtain more information regarding the current market for multifamily units.

Regarding potentially prohibiting one-bedroom units, Mr. Mumford said the only reason this is a point of discussion is because staff added a minimum square footage requirement and an open space requirement for one-, two-, and three-bedroom units. One-bedroom units are not currently prohibited in Municipal Code. An option regarding limiting one-bedroom units is to let the market dictate the number of bedrooms in units. He explained there are no one-bedroom units in the City at this time.

Councilmember Curtis expressed concern that this will incentivize developers to build one-bedroom units because they require less open space than three-bedroom units. Councilmember Gricius stated one-bedroom units have less density and fewer people to use the open space.

Discussion ensued regarding whether or not one-bedroom units fit the vision of the City.

Mr. Mumford said the minimum dwelling sizes include the garage and unfinished basement area. He has reduced the minimum dwelling size requirement in MF1 to the same as MF2. He presented current minimum dwelling sizes that are being built in subdivisions throughout the City.

Councilmember Burnham stated some residents won't have basements or second stories due to accessibility concerns. This minimum dwelling size will prohibit single-story homes with no stairs in smaller lots.

Mr. Mumford explained the intent of this requirement is to protect home values. He stated Saratoga Springs has smaller minimum dwelling size requirements, which mainly prohibit tiny homes.

Discussion ensued regarding resale difficulties of one-bedroom homes.

Mr. Mumford explained the current minimum garage standard is 20 feet by 20 feet. The Planning Commission requested the minimum standard be increased to 22 feet by 20 feet. He stated it can be reworded to require a minimum of 440 square feet, or the required driveway length can be increased from 22 feet to 24 feet to allow larger vehicles in driveways, if preventing on-street parking is the reason for the garage size increase.

Councilmember Clark stated she received information that the larger garage would cost six to eight dollars a month over the lifetime of the home mortgage.

Mr. Mumford asked the Council if they would prefer large pools that serve more people or smaller pools that serve fewer people, and if the amendment should include a maximum pool size. The current proposal is a minimum of 1,000 square feet and at least four square feet per unit. The Planning Commission also included a hot tub requirement.

The Council agreed that the ordinance should not require a hot tub. Councilmember Curtis expressed concern that pools will serve single-family homes as well as multifamily units. He asked that any additional homes outside of the multifamily project which will be served by the pool be included in the four square feet per unit.

Councilmember Burnham stated she would prefer more flexibility in amenity options, as pools can only be used a portion of the year. Mr. Mumford said the draft allows for flexibility as long as the proposed alternative amenity is similar in cost and value to the residents. Councilmember Clark said clubhouses are required when pools are required, so there is useable space year-round. Councilmember Curtis recommended outlining four or five alternate options. Mr. Mumford explained it would be difficult to codify all of the creative options developers could propose, especially as the market changes.

Regarding lot sizes, Mr. Mumford said the Council expressed concern that large outlier lots can increase lot size averages. He proposed adding a footnote that states the average lot size requirement is intended to result in some variety in lot sizes in a development. If the average lot size is increased by several large outlier lots, then those lots may be removed in calculating the average lot size. Councilmember Curtis asked if the draft could include a maximum size of the outlier lots to be included in the average calculation, such as 150% of the median lot size in the project; any lots over that size would not be counted in the average lot size.

Mr. Mumford said the current required lot frontage for the base density is the same as is required for large lots in the proposed draft. The current required frontage for half-acre lots is 125 feet; the draft requires 100 feet.

Discussion ensued regarding lot frontages that currently exist within the City. Councilmember Curtis requested that smaller frontages that may cause potential flooding issues not be included.

Mr. Mumford asked the Council to send their preferences to him, and he will attempt to draft an ordinance with the input.

2. AGENDA REVIEW

9. BID AWARD

9.A. SilverLake Pressure Reducing Valve

Councilmember Reaves asked if this item is for a replacement valve. City Engineer Chris Trusty said this is a new valve, not a replacement. It will better manage the water pressure in the area.

10. BOND RELEASES

10.A. Overland Phase A, Plats 2 & 3 – Into Warranty

Councilmember Clark asked if the developer has completed all required items to allow this release. Mr. Trusty said the inspectors have cleared the development for this bond release. There is some landscaping that is not complete, and the clubhouse construction has been delayed. Councilmember Clark asked when the clubhouse is required to be completed. City Recorder Fionnuala Kofoed stated that, according to the Master Development Agreement, the park and Club Ivory must be completed by the 150th building permit. Mr. Mumford said there was an amendment to that requirement; he will inform the Council of the current requirement during the policy session.

12. MOTION

12.A. Carson Commercial Corner Master Site Plan

Planning Manager Michael Hadley explained this commercial project is located within the Oak Hollow Master Development Plan along Pony Express Parkway. The developer has suggested widening Bridleway Road at the entrance to the Oak Hollow subdivision to install a right-turn lane at that intersection. Mr. Hadley noted that the community mailbox is located across the street from that access point. The traffic impact study recommends including the fifth access, as well as relocating the community mailbox. The traffic impact study states this access point will increase traffic during peak hours by a total of five vehicles per hour. This access point will provide better traffic flow for vehicles heading south of the commercial site.

Councilmember Curtis asked City Attorney Jeremy Cook if this project needs to go through the significant land disposal process. Mr. Cook said it does not; the City owns the land and will continue to own the land. The City will re-designate its use. He said this land is more similar to a park strip, versus a park.

Ms. Kofoed explained if there are deed restrictions, the City will request approval from the entity that conveyed the land to convert the land's use. This process was followed for the cemetery to change its use from public use to a cemetery, as the City felt the use was similar.

Councilmember Curtis stated Fieldstone Homes has informed him that they will no longer dedicate land to the City if it is used for other purposes. Ms. Kofoed said there are limitations if the City disposes of conveyed property, but that situation has not occurred.

Mr. Cook explained he has spoken with Fieldstone Homes' attorneys and he understands their concerns. He reiterated that this land is more of a park strip area, instead of a park. It is common to use park strip land to expand road widths. The City is not conveying the land to a private developer; the City will retain ownership of the land.

Councilmember Curtis stated that the sole purpose of allowing this is for the benefit of a private developer. Mayor Westmoreland disagreed and explained the reason for allowing this is to allow for traffic management for residents' safety concerns.

Councilmember Clark said roads in the City with commercial access points are wider and do not have driveways adjacent to the commercial access points. She stated access number four is similar to the Maverik gas station access point on Ranches Parkway.

Councilmember Gricius stated that turning left on Pony Express Parkway—a five-lane road—is not safer than widening the road to allow for the additional turn lane on Bridleway Road. She said widening Bridleway Road to three lanes can allow for a designated mailbox lane or can ease the current traffic queuing.

Discussion ensued regarding required distances between access points.

Councilmember Gricius explained she does not believe access point #5 is needed for the commercial development to be successful; she believes it will provide a safer turn for the residents who will return home to the south. Councilmember Clark stated residents often make left-hand turns at uncontrolled intersections.

Councilmember Reaves stated he does not want to fundamentally change the established residential area.

13. ORDINANCES/PUBLIC HEARINGS

13.A. ORDINANCE – An Ordinance of Eagle Mountain City, Utah, Amending the Eagle Mountain Municipal Code, Chapter 16.35.080 Street Trees and Chapter 17.60.140 Clear Vision Triangle.

Parks and Recreation Director Brad Hickman explained staff worked to implement the Council's direction from the previous meeting. He said the amendment will apply to new development only to stop problems that exist now from happening in the future. The specifications relate to spacing standards, tree types and tree locations. The required clearances presented at the previous meeting were eight feet over sidewalks and fourteen feet over roadways. Staff researched those clearance heights and believes they are appropriate. Mr. Hickman explained they have removed the required $600 escrow per tree. With new developments, before the development can be recorded, required street trees need to be installed, or the developer is required to put funds in an escrow until the trees are installed. The other change is to the residential street tree standards. It simply states the City's requirements for trees; the intent is to explain to residents which trees are appropriate in order to prevent issues the City currently has with existing residential trees.

Mr. Hickman explained some stop signs in the City can be up to fifteen feet from the intersection, due to road curvature. Trees must be thirty feet from regulatory signs, so the clear vision triangle, on the side of the intersection with the stop sign, will be forty-five feet long.

Councilmember Curtis expressed concern regarding placing an undue burden on residents. He requested staff research a process to enforce or inform residents of the tree requirements. Mr. Hickman explained the standard needs to be set in order to inform residents of the requirement. The City is not requiring residents to install street trees, but if residents choose to install one, they need to comply with the same standards established by the City.

Discussion ensued regarding a green waste program.

3. ADJOURN TO A CLOSED EXECUTIVE SESSION

No closed session was held. Mayor Westmoreland adjourned the meeting at 6:30 p.m.

7:00 P.M. POLICY SESSION – CITY COUNCIL CHAMBERS

ELECTED OFFICIALS PRESENT: Mayor Tom Westmoreland, Councilmembers Colby Curtis, Benjamin Reaves, Donna Burnham, Melissa Clark, and Stephanie Gricius.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Paul Jerome, Assistant City Administrator/Finance Director; Jeremy Cook, City Attorney; Melanie Lahman, Deputy Recorder; Steve Mumford, Community Development Director; Michael Hadley, Planning Manager; Aaron Sanborn, Economic Development Director; Chris Trusty, City Engineer; Brad Hickman, Parks and Recreation Director; Linda Peterson, Communications Director; Ross Fowlks, Fire Chief; and Eric McDowell, Chief Deputy. City Recorder Fionnuala Kofoed was excused.

4. CALL TO ORDER

Mayor Westmoreland called the meeting to order at 7:15 p.m.

5. PLEDGE OF ALLEGIANCE

Councilmember Curtis led the Pledge of Allegiance.

6. INFORMATION ITEMS/UPCOMING EVENTS

- **Farmer's Market** – The Eagle Mountain Farmers Market is held each Saturday from 9:00 a.m. to 1:00 p.m. at Wride Memorial Park. Information and vendor or entertainer applications are available at eaglemountainfarmersmarket.org.

- **Back to School Safety Night** – Be Ready Eagle Mountain, Utah County Sheriff's Office and Alpine School District are hosting a Back to School Safety Night on Thursday, August 8 at Frontier Middle School from 6:00 p.m. to 8:00 p.m. Mike Browning from Alpine School District will speak at 6:00 p.m. in the Auditorium. From 7:00 to 8:00 p.m. there will be booths from participating schools, bus drivers, and other organizations to answer questions in the cafeteria. There will be a bike safety rodeo; bring your bikes, scooters and helmets to practice safety.

- **Beat the Heat Bonanza** – Our annual Beat the Heat Bonanza will be held Saturday, August 10 at Nolen Park from 11:00 a.m. to 2:00 p.m. This event offers free inflatable water slides. Don Taco and We Ice food trucks will be on site.

- **Cedar Valley High School Grand Opening** – A grand opening event will be held Saturday, August 17 from 7:00 a.m. to 3:00 p.m. at Cedar Valley High School. It is open to the public. A variety of activities are planned, including aircraft flyovers, tours of the school, booths, and special guests including the Candy Bomber Gail Halvorsen and Brigadier General Jake Garn.

- **End of Summer Dance Party** – Eagle Mountain City will hold its End of Summer Dance Party on Saturday, August 24. There will be glow sticks while supplies last, lots of prizes, food trucks and great music! This is for all ages.

- **City Notifications** – We encourage residents to sign up for City notifications to be aware of public safety emergencies and stay informed about road construction projects, City news and events. Register at www.emcity.org/notifyme. Notifications can be received by email and/or text.

7. PUBLIC COMMENTS

Mayor Westmoreland opened public comment at 7:24 p.m.

Bettina Cameron spoke against high-density housing and stated she prefers campus-style multifamily projects. She would prefer the City remain rural. She said the City owns an easement on the west side of Lone Peak on parcel 58:054:0004. It can be connected to Airport Road as a much better access point between Pony Express Parkway and Wride Memorial Highway.

Zac Summers said regarding Carson Commercial Corner, if property is being rezoned to allow additional road width for access five, it has not gone through the correct process. He stated left turns are not difficult and should not be used as a reason to allow access five. The property was part of the master development plan and should not be changed.

Steve Pew spoke against the Carson Commercial Corner access point #5 and said it would increase safety hazards in the area.

Rashel Cherry requested the Council deny access point #5 in Carson Commercial Corner as the City does not mix commercial and residential areas. She stated left turns are not difficult on Pony Express Parkway.

Troy Gabler with Fieldstone Homes spoke against changing the use of the open space dedicated to the City by Fieldstone Homes for access point #5 in the Carson Commercial Corner project. He stated it is a taking and referenced an email from Kirton McConkie, attached.

Joshua Utykanski spoke against allowing access five in the Carson Commercial Corner project.

Joshua Hansen spoke against access point #5 in the Carson Commercial Corner project. He stated a home will be built off Bridleway Road with the driveway located immediately opposite this access point. In his opinion, four access points are sufficient, and the original master development plan did not include the fifth access point. They gathered sixty signatures on a petition opposing the access point.

Jacob Summers stated the Oak Hollow subdivision is opposed to access point #5. He stated the land being used for the access point is either significant property being disposed, or is a rezone, and stated it violates the City's Municipal Code.

Justin Ricks submitted the following comment: I am opposed to access five because it will introduce unnecessary safety problems to our community. It's not right or fair to punish the residents for a developer's poor choice in location.

Pankaj Bhardwaj submitted the following written comment: Access # 5, for the new commercial development, is going to increase traffic and cause safety concerns for kids playing in the community.

Jesse Clark submitted the following written comment: I oppose access five as it connects to a residential street and takes away from our development's already limited open space.

Daniel Carrell submitted the following written comment: I disagree with access five because of safety, the precedent of allowing commercial access on a residential street, and the City selling land given to them in good faith by an HOA, against resident wishes.

Colin Slate submitted the following written comment: The developer needs to follow all legal requirements for the use of the open space designated for the HOA. Moreover, it is the burden of the developer to prove the need for access five, not the HOA/homeowners to fight against it.

Annette Webster submitted the following written comment: Please vote no on building access five through Bridleway.

Kevin Webster submitted the following written comment: I strongly urge the Council to vote "no" on Item 12. A.

Sarah Hansen submitted the following written comment: Opposed to access five.

Mandy Stephen submitted the following written comment: Against having access five. Safety concerns for neighborhood, commercial access on residential, City taking park space that HOA maintains. Plenty of access to the commercial center without it. Possibility of a light at

Clydesdale. Residential owners shouldn't have to fight developers for rights, property values for homes still being built will decrease as well as those finished.

Kathryn Porter submitted the following written comment: I am opposed to access five. It is a safety issue, will affect property values, will increase traffic flow and will provide more negatives to our community than positives for a few businesses.

Scott Porter submitted the following written comment: I am opposed to this due to increased traffic and it doesn't make sense to dump traffic into a neighborhood when they don't want to be there. Also, I'm worried about the children not being able to play in the front yards.

Mariah Pew submitted the following written comment: Lots of reasons. We do not want a fifth access point on Bridleway.

Mayor Westmoreland closed public comment at 7:56 p.m.

8. CITY COUNCIL/MAYOR'S ITEMS

Councilmember Gricius
Councilmember Gricius thanked those who spoke and said she has read every email received. The Council is listening to their concerns.

Councilmember Clark
Councilmember Clark thanked those in attendance. She stated residents have expressed appreciation for Zac Hilton and the Streets Department, and for Brad Hickman and Paul Jerome regarding their efforts in mowing weeds before the 24th of July. She received another email from a resident thanking the Parks Department for their care of City parks.

Councilmember Reaves
Councilmember Reaves thanked the residents for their input and their attendance at the meeting.

Councilmember Burnham
Councilmember Burnham thanked those in attendance for expressing their views. She said she thanks residents for their emails and wanted to explain that the decisions are made at Council meetings, instead of through emails, which is why her responses are limited to "thank you."

Councilmember Curtis
Councilmember Curtis said the appropriate place for discussions is during meetings and explained that even if the Council does not want to approve an item, it still needs to be heard during a meeting.

Mayor Westmoreland
Mayor Westmoreland thanked residents for their comments and recognized the youth in attendance. He said there are often multiple perspectives on issues and inevitably someone may approve of a decision while another does not. He explained it is important to respect each other. He requested that residents not text the Councilmembers during City Council meetings. He said

it is not appropriate, as these are public meetings and side or private conversations should not happen.

CONSENT AGENDA

9. BID AWARD

    9.A. SilverLake Pressure Reducing Valve

10. BOND RELEASES

    10.A. Overland Phase A, Plats 2 & 3 - Into Warranty

    10.B. Lake View Estates Phase A, Plat 2 - Out of Warranty

11. MINUTES

    11.A. July 16, 2019

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

SCHEDULED ITEMS

12. MOTION

    12.A. Carson Commercial Corner Master Site Plan.

Mr. Hadley explained the property was zoned commercial with the Oak Hollow Master Development Plan and stated the items for consideration have been discussed during the work session and during public comment.

Dan Ford, owner representative, said concerns discussed by residents included restricted access at Bridleway Road and Porters Crossing. He said Bridleway Road is 26 feet wide at that point, making it difficult for residents to pick up mail, or to turn right if a vehicle is waiting to turn left onto Porters Crossing. A suggested proposal by Councilmember Curtis is to remove the median at access four to allow left turns in and out of the property. Mr. Ford asked if that is a viable option for the City, if they remove access point #5.

Mr. Trusty said it may be viable as long as it meets required distances from other access points. He stated a potential concern would be vehicle stacking on southbound Porters Crossing turning left into the site, but moving access four to the south would mitigate that issue.

Councilmember Burnham stated her understanding is that would not meet distance requirements. Mr. Trusty said it is a driveway and not an intersection, so it would meet Municipal Code.

Mr. Ford said access and flow are important to the project and stated it could be difficult to turn left from Pony Express Parkway into the site. The traffic impact study stated access point #5 would have minimal impact, but they looked at other options due to resident concerns. He said the owner would approve moving access four to the south, if left turns are feasible.

Mr. Cook stated there are valid concerns from residents and stated he can go into more detail regarding legal issues, if the Council has specific questions.

Councilmember Burnham stated she has concerns about access four and would be more comfortable if it is moved to the south and has left turn access. She stated the City needs to support the Oak Hollow residents in moving the community mailbox. It is in a poor location and is not safe.

Councilmember Gricius asked how far south access point #4 will be moved. Councilmember Clark said a similar intersection is located near Six Sisters on Ranches Parkway. Councilmember Burnham recommended leaving the final location to staff.

Mr. Trusty requested residents email him regarding potential locations for the community mailbox.

MOTION: ***Councilmember Curtis moved to approve the Carson Commercial Corner master site plan with the following conditions:***

1. ***Access five be removed; and***
2. ***Access four be moved to the south, removing the median on Porters Crossing and adding a turn lane to allow left turns in and out of the site.***

Councilmember Clark seconded the motion.

Mr. Cook stated if condition number two is not feasible, the applicant should be allowed to bring the item back to the City Council.

Those voting aye: Colby Curtis, Stephanie Gricius, Benjamin Reaves, Donna Burnham, and Melissa Clark. The motion passed with a unanimous vote.

13. ORDINANCES/PUBLIC HEARINGS

13.A. ORDINANCE - An Ordinance of Eagle Mountain City, Utah, Amending the Eagle Mountain Municipal Code, Chapter 16.35.080 Street Trees and Chapter 17.60.140 Clear Vision Triangle.

Mr. Hickman explained staff wants to create a guide for the City and for residents to avoid issues that currently exist. The amendment defines types of trees allowed, appropriate spacing, and clearance requirements. The street side clearance requirement is fourteen feet and the sidewalk side requirement is eight feet. A significant change from the previously presented draft is the tree escrow. This version removes the required $600 per tree. If a development requires street trees, the trees must be installed upfront, or the developer will be required to bond for the improvements. The escrow is based on the State's standard landscape estimate.

Mr. Hickman explained the intent of the residential portion of the ordinance is to inform residents that they are responsible to maintain the same standards that the City is maintaining.

Mayor Westmoreland opened the public hearing at 8:35 p.m.

Rod Hess explained he is a landscape architect and stated the City should consider the minimum width of the park strip when requiring street trees. He also recommended the ordinance clarify that the roadway includes all paved roadway, to include parking areas. He recommended removing amur maple, paperback maple, and crataegus from the approved small park strip trees. In the approved large park strip trees, he recommended either replacing the green ash with white ash, or adding white ash. In this same table, he recommended adding a note to only plant male ginko trees, as the female trees produce smelly, messy fruit. The dawn redwood should be replaced with bladcypress because it is more tolerant to high pH soil. Finally, he recommended removing callery pear from the list because it is over planted and susceptible to iron chlorosis and other problems.

Zac Summers spoke in favor of a green waste program and asked how the ordinance would be communicated to residents.

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

Councilmember Curtis asked if residents would be penalized if a developer plants an unapproved tree. Mr. Mumford said the builder is required to landscape the front yard, including the park strip. Street trees are not required, but if a developer or builder installs street trees, the City requires a plan detailing the tree types and locations.

Councilmember Reaves asked if the trees are checked before the bond release, and stated he approved of Mr. Hess' recommendations. Mr. Mumford said if the trees are included in a park, in open space, or along collector or arterial roads, they are checked. The City does not require an escrow for trees along residential roads.

Councilmember Clark asked if the road width clarification Mr. Hess brought up needs to be in the ordinance. Mr. Hickman explained the curb should be the end point, not a line in the roadway. He explained the tree list can evolve as more research is done. Staff can bring amendments to the Council as more information is obtained.

Mr. Cook stated "roads or parking" as it is noted in the ordinance is clear that it includes the entire asphalt width of the road, including parking areas. Mr. Mumford said on residential roads no road striping exists, so he would interpret the ordinance to mean the entire road width. Councilmember Curtis asked staff to add "entire asphalt area" or language that clarifies the ordinance's intent. Mr. Hickman recommended noting that roadway is all the way to the curb and gutter.

MOTION: ***Councilmember Clark moved to approve an ordinance of Eagle Mountain City, Utah, amending the Eagle Mountain Municipal Code, Chapter 16.35.080 Street Trees and Chapter 17.60.140 Clear Vision Triangle, and to direct staff to make changes as discussed. Councilmember Reaves seconded the motion.***

Councilmember Burnham asked if the motion included the tree changes Mr. Hess presented. Mr. Cook stated the Council can direct staff to consider the list of trees to be included in the ordinance and make appropriate changes, as needed, and bring amendments back to the Council.

Mr. Hickman recommended approving the list as it was presented, as the list is included as part of the ordinance. Staff can research additional trees and present changes to the Council at a future meeting.

Councilmember Curtis asked if the motion can authorize the Urban Forester to amend the tree list for a specific period without returning to the Council for approval. Mr. Cook explained that the table is a part of the ordinance. The ordinance can be amended to state the approved tree list may be amended periodically by the Urban Forester. The Council approved of that amendment.

Those voting aye: Colby Curtis, Stephanie Gricius, Benjamin Reaves, Donna Burnham, and Melissa Clark. The motion passed with a unanimous vote.

13.B. ORDINANCE - An Ordinance of Eagle Mountain City, Utah, Approving the First Amendment to the Fiscal Year 2019-2020 Budget.

Assistant City Administrator/Finance Director Paul Jerome explained two amendments are included in the General Government Fund. One is an increase of $5,000 for the Utah South Pacific Celebration Event, and one is an increase of $5,000 for the Independence Day Fireworks. He explained that both events were organized on short notice and have already taken place.

Mr. Jerome explained that there was a need for updated impact fees for both water and sewer. Both Impact Fee Funds were increased by $25,000 for impact fee analyses/impact fee facilities plans.

Regarding amendments in the Capital Projects and Impact Fees Funds, Mr. Jerome explained the City was approved for a $2 million loan from the Utah Department of Transportation for the Pony Express Parkway widening project from Lake Mountain Road to Frontier Middle School. Before the loan was approved, staff discussed possible options with the Council regarding funding. He stated one option considered was transferring funds from the Solid Waste Fund and loaning the City funds to be paid back with interest to some of the Enterprise Funds. Now that the City has received the loan from the Utah Department of Transportation, the City will no longer loan the funds to itself.

The transportation loan payment of $235,000 has been included in the Transportation Impact Fee Fund amendment, as well as $2 million for the widening project in the Capital Projects Fund. However, before the funds can be transferred from the Solid Waste Fund to the Transportation Impact Fee Fund, the City needs to notice the changes to residents through utility bills. Once the noticing requirements have been met, another amendment will be brought to the Council to transfer the funds from the Solid Waste Fund to the Transportation Impact Fee Fund.

Mr. Jerome explained that the Solid Waste Fund will be used to fund the first one or two loan payments. If the City is spending money on an impact fee-eligible project, which this project is, and funds outside of impact fees are being utilized, the funds are reimbursable. Once the Transportation Impact Fee Fund has a healthy balance and there are no projects pending for that fund, the loan payments can be paid back to the Solid Waste Fund. As the Solid Waste Fund will not be jeopardized by these loan payments, the current plan is to not pay the Solid Waste Fund back and allow the Transportation Impact Fee Fund to grow. This is tracked and is part of the City's record, so in the future, the funds can be paid back to the Solid Waste Fund, if so desired.

The Capital Projects Fund also includes an increase of $5,000 for accommodation and storage renovations to City Hall to provide an area for nursing mothers, as well as changes to the downstairs storage room. This fund also includes an increase of $50,000 for three trail connections in City Center to provide safe routes to school. One connection is funded fully through grants, and staff is researching grant possibilities for the other two.

The transportation impact fees also need to be updated, so the Transportation Impact Fee Fund was increased by $25,000 for an impact fee analysis/impact fee facilities plan.

Mayor Westmoreland opened the public hearing at 9:08 p.m. As there were no comments, he closed the hearing.

MOTION: ***Councilmember Reaves moved to approve an ordinance of Eagle Mountain City, Utah, approving the first amendment to the Fiscal Year 2019-2020 budget, as presented. Councilmember Clark seconded the motion. Those voting aye: Colby Curtis, Stephanie Gricius, Benjamin Reaves, Donna Burnham, and Melissa Clark. The motion passed with a unanimous vote.***

14. CITY COUNCIL/MAYOR'S BUSINESS

Councilmember Curtis
See Board Liaison report.

Councilmember Burnham
Councilmember Burnham explained residents were concerned regarding potential smells of the Tyson Foods plant. She visited the Tyson Foods plant in Sherman, Texas and no smells were present, even at the front doors. She asked residents if they noticed a smell, and no residents reported any smells. Another resident concern was that if a manufacturing plant is developed at

the Tyson Foods site, no additional technology companies will locate there. She explained there is a wide mix of uses in Sherman, Texas, and the Tyson Foods plant has helped the city's tax base.

Councilmember Reaves
None.

Councilmember Clark
Councilmember Clark recommended inviting Representative Moss, Senator Anderegg, UDOT and MAG to the joint meeting with Saratoga Springs. She stated the Be Ready Utah Back to School event will bring many entities together and encouraged residents to add the event to their neighborhood pages.

Councilmember Gricius
None.

Mayor Westmoreland
Mayor Westmoreland said he has spoken with the Department of Natural Resources and grant money is available to preserve the City's wildlife open space habitat and migration routes. Mr. Mumford is attending a meeting tomorrow to discuss mapping. The previous meeting was attended by representatives of the Department of Wildlife Resources, the Department of Natural Resources, the Utah Department of Transportation, and Camp Williams. He explained there should be more information regarding this project in the coming months.

15. CITY COUNCIL BOARD LIAISON REPORTS

Councilmember Curtis
Councilmember Curtis said Shawn Seager with Mountainland Association of Governments suggested the City work with Representative Jefferson Moss and Senator Jake Anderegg to assist in the process of the Utah Department of Transportation designating Pony Express Parkway as a state road.

Councilmember Burnham
Councilmember Burnham said the Eagle Mountain Chamber of Commerce is hosting a tour of Cedar Valley High School, and encouraged business owners to join the Chamber.

Councilmember Reaves
Nothing to report.

Councilmember Clark
Councilmember Clark said the Military and Veterans Board held an unofficial meeting, as there are only two current members, which is not enough for a quorum. The Council has discussed allowing the American Legion to replace the Military and Veterans Board, but those at the informational meeting were clear that there are military members who will not qualify to be a part of the VFW or the American Legion and requested the board remain active. Several people have submitted their names to Mayor Westmoreland for board appointment consideration.

Councilmember Gricius
Nothing to report.

16. COMMUNICATION ITEMS

16.A. Upcoming Agenda Items

17. ADJOURNMENT

MOTION: ***Councilmember Curtis moved to adjourn the meeting at 9:18 p.m. Councilmember Gricius seconded the motion. Those voting aye: Colby Curtis, Stephanie Gricius, Benjamin Reaves, Donna Burnham, and Melissa Clark. The motion passed with a unanimous vote.***

The meeting was adjourned at 9:18 p.m.

Approved by the City Council on August 20, 2019.

Fionnuala B. Kofoed, MMC
City Recorder

KIRTON | McCONKIE

Tyler L. Buswell
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August 6, 2019

VIA EMAIL

Eagle Mountain City Council
Attn: Ifo Pili, City Administrator
Attn: Steve Mumford, Development Director
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Eagle Mountain, Utah 84005
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Cohne Kinghorn
Attn: Jeremy Cook
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Salt Lake City, Utah 84111
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Re: Opposition to Taking Open Space from Oak Hollow Subdivision

Dear All:

Our firm serves as counsel to Fieldstone Oak Hollow, LLC ("Fieldstone"). As you may know, Fieldstone is the developer of the Oak Hollow Phase A Plat 1 subdivision (the "Project"). Eagle Mountain City (the "City") required Fieldstone to dedicate certain open space to the City in order to obtain the necessary land use approvals for the Project, including those areas identified as Parcel A, Parcel B and Parcel C on the Project's plat (the "Common Areas"). Fieldstone objected to the City requiring the dedication of the Common Areas because it was always anticipated that such parcels were amenities to the Project that would primarily benefit the Project's homeowners and such would be maintained by the Project's homeowners association (the "HOA"). As a result, parcels such as the Common Areas are typically included as common area that is owned, maintained and operated by the HOA in other Utah municipalities. However, the City refused to approve the Project unless Fieldstone dedicated the Common Areas to the City and included a note in the Project's plat that stated the Common Areas would be maintained by the HOA. Fieldstone ultimately dedicated the Common Areas to the City for the sole purpose of obtaining the necessary City approvals.

The City is now proposing to take a portion of Parcel A of the Common Areas for an access road to and from the Carson Commercial Corner development (see Item #12 on Eagle Mountain City Council Meeting Agenda for August 6, 2019) (the "Taking"). This Taking is being proposed without giving any compensation or deference to Fieldstone or the HOA. Fieldstone objects to the Taking for the following reasons: (i) it is completely contrary to the intent of having such open space like the Common Areas in residential subdivisions, (ii) it is potentially an illegal governmental taking without just compensation, and (iii) it sets a very dangerous precedent that could allow the City to unilaterally take open space and common areas from other homeowners associations.

First, Fieldstone objects to the Taking because it is completely contrary to the intent of having such open space like the Common Areas in residential subdivisions. The purpose of open space like the Common Areas is that it is an amenity for certain uses that benefits the homeowners in the relevant residential project. It is our understanding that the City recognizes this fact and that is one of the reasons why the City said they were requiring the HOA to maintain the Common Areas. However, with the Taking, the City is unilaterally changing the use of Parcel A of the Common Areas from (i) a nice open area that provides a buffer between the busy Porters Crossing right-of-way and the homes in the Project to (ii) a road that will likely increase the traffic in the Project and be an eyesore at the Project's entrance. It is not clear whether the City will still require the HOA to maintain Parcel A of the Common Areas after this undesired change in use, but the Project's plat and covenants, conditions and restrictions never contemplated the possibility of such a change. In short, the Taking would make the Project's plat and covenants, conditions and restrictions that govern the Project irrelevant for the management and operation of the Common Areas.

Second, Fieldstone objects to the Taking because it is potentially an illegal governmental taking without just compensation. As noted above, in order to obtain the City's land use approvals for the Project and the Common Areas are maintained by the HOA pursuant to the Project's plat. The City should compensate Fieldstone for the Taking because the proposed road has nothing to do with the Project. Similarly, the City should potentially compensate the HOA for the Taking because it is losing an area that was intended to be an amenity of the Project and has been maintained at the HOA's cost.

Lastly, Fieldstone objects to the Taking because it sets a very dangerous precedent that could allow the City to unilaterally take open space and common areas from other homeowners associations. It is our understanding that the City's rationale for the Taking is that it owns Parcel A of the Common Area and so it can use such area completely in the City's discretion. The result of such reasoning also means that any community pools, parks and other amenities built by developers in the City could potentially be taken by the City for any reason even though they were built, paid for and maintained by the developer and relevant homeowners association. This would give the City the ability to completely wipe out millions of dollars of community investment by developers, which is wholly opposed by Fieldstone and we anticipate will be wholly opposed by all developers that have or will work in the City.

I have spoken at length regarding these issues with the City's attorney, Jeremy Cook. Based on such conversations, I believe that the City is willing to consider making some changes in their land use approvals and documenting how homeowners associations will maintain any area dedicated to the City. Fieldstone looks forward to working with the City to address these issues. However, in the meantime, we urge the City Council to deny the Taking at this time until these issues can be resolved. Please let me know if you have any questions.

Sincerely,

KIRTON McCONKIE

Tyler L. Buswell

cc: Troy Gabler (via email)
Jason Harris (via email)