



EAGLE MOUNTAIN CITY COUNCIL MEETING MINUTES

June 15, 2021, 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 Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. Councilmember Jared Gray was excused.

CITY STAFF PRESENT: Paul Jerome, City Administrator; Steve Mumford, Assistant City Administrator/Community Development Director; Fionnuala Kofoed, Director of Administrative Services/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; Embret Fossum, UFA Battalion Chief; B.J. Eccles, Sergeant; Tyler Maffitt, Communications Manager; and Angela Valenzuela, Human Resource Manager.

CITY STAFF PRESENT ELECTRONICALLY: Kimberly Ruesch, Finance Director; Tayler Jensen, Senior Planner; Jessa Porter, Planner; Jeff Weber, Fleet and Facilities Operations Director; Michele Graves, Library Director; and Chas Glenn, Administrative Assistant.

Mayor Westmoreland called the meeting to order at 4:03 p.m.

1. CITY ADMINISTRATOR INFORMATION ITEMS

Mayor Westmoreland said the City will be evaluating firework restrictions in the City to increase safety due to the drought, heat, and wind creating unfavorable conditions in the City. The State and Federal government have restricted fires and target shooting on federal lands. A mock hearing was held with the Administrative Law Judge in preparation for court hearings for Municipal Code violation cases. The Airport Road project is being accelerated. He thanked Elizabeth Hora from the Utah State Historic Preservation Office and other volunteers for cataloging local petroglyphs for protection in preparation for vandalism removal.

1.A. UPDATE – City Administrator Items

- The Airport Road Phase One project to the north entrance of Overland with a traffic light on Pony Express Parkway has been funded in this fiscal year's budget. Staff will explore bonding for Phase Two in association with the budget for the next fiscal year.
- The widening of Pony Express Parkway is ongoing and is anticipated to be completed in late September. The road will be reduced to one lane on Wednesday through Friday for utility tie-in installation.
- Materials for the traffic light for Lone Tree Parkway and Pony Express Parkway were delivered today. The project will hopefully be completed by the end of the month.

- Phase Two of Wride Memorial Park will be completed this summer. Fencing and landscaping are in progress.
- A bid award for preventive micro-surface road treatments is on this meeting's agenda. Projects include roads within the City and a joint project with Saratoga Springs for treatment of Pony Express Parkway. Temporary road closures will be required to remove cars from the street.
- Negotiations for the sewer treatment expansions are ongoing.
- The trans-valley sewer line life station is completed and the line is fully operational.

1.B. PLANNING UPDATE – Upcoming Items

Senior Planner Tayler Jensen provided an update on upcoming planning items:

- Jeppson Auto Site Plan – after receiving public comment both for and against the project, the Planning Commission unanimously recommended approval.
- The District at Eagle Mountain Town Center Rezone – the Planning Commission unanimously recommended approval with a CN zone buffer between The Landing residential development and the CC zone to comply with zoning transitioning requirements.
- Rush Creek General Plan Amendment and Concept Plan – the Planning Commission unanimously recommended approval of the General Plan amendment and provided feedback on the concept plan. The conversation centered on concerns with the buffering between incompatible land uses.
- Deer Haven General Plan Amendment – the Planning Commission unanimously recommended approval.
- Deer Haven Rezone – the Planning Commission voted 3 to 2 to recommend approval with the condition that the property remaining Agricultural Rural Density One be rezoned to RD2.
- Deer Haven Preliminary Plat – the Planning Commission voted 3 to 2 to recommend approval with the conditions that a 53-foot right-of-way be utilized, the City be deeded the property in the Wildlife Corridor Overlay with slopes in excess of 25%, and the Wildlife Corridor Overlay be applied to all property within fifty-feet of the wash. The dissenting votes for both the rezone and the preliminary plat were due to connectivity concerns due to the removal of the staff-recommended road connections.

Mr. Jensen explained that the applicant for the Deer Haven project desires to retain the land within the wildlife corridor as privately owned and to apply a conservation easement to the properties.

Wendy Fisher with Utah Open Lands, an accredited land trust, said that a conservation easement is one of the strongest tools that can be used to protect a piece of property in perpetuity. She stated that retention of the land by private owners creates a host of issues that can be guarded against, but it is likely landowners will build fences and walls within the easement, especially considering the size of the proposed lots. The preferable method to protect the land is for the City to take ownership of land and apply a conservation easement. Should the City elect to allow private ownership, and should Utah Open Lands obtain stewardship over the conservation easement, they would need a stewardship endowment to cover legal fees to prevent onerous financial impacts and liability issues. She said they are willing to be stewards for the conservation easement on private property but would need to discuss the necessary bond to ensure adequate funding. She offered to present and discuss options at a future meeting.

Discussion ensued regarding potential methods and mechanisms to protect the conservation easement to be discussed and considered when the item returns to a future meeting.

2. AGENDA REVIEW

9. BID AWARDS

9.A. 2021 Eagle Mountain Spray Applied Seal Coat Project – Morgan Pavement

Streets and Storm Drain Manager Zac Hilton said Morgan Pavement is scheduled to begin work on June 28, 2021. M&M Asphalt will complete the approximately 1,000-square foot area they previously began and will warranty the area for two years. Having Morgan Pavement redo the section would cause warranty responsibility complications.

12. RESOLUTIONS

12.A. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Amending the Policies and Procedures Manual Regarding Continuing Education Reimbursement and Paydays.

Director of Administrative Service/City Recorder Fionnuala Kofoed requested to remove item 12.A. and to place it as a regularly scheduled item after the vote on the fiscal year 2020-2021 budget due to the budgetary component of item 12.A.

12.D. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Adopting Firework Restrictions for 2021.

Mayor Westmoreland stated that the City has received input on the fire restrictions and desires to prevent fire issues experienced last year and the resulting drain on scarce resources.

Councilmember Curtis expressed concern regarding adherence to and enforcement of restrictions.

Sergeant B.J. Eccles said the Utah County Sheriff's Office will promote public education and enforcement of restrictions determined by the Council. Difficulties arise when large groups of people are involved in a single incident and when determining legal and illegal fireworks. Despite staffing limitations, they will do their best to enforce restrictions.

Councilmember Clark suggested allocating additional funding or manpower to assist with enforcement as prevention is less expensive than extinguishing fires.

Discussion ensued regarding potentially funding additional resources for fire prevention and enforcement, Sheriff resources being redirected to assist Unified Fire Authority should fires occur, enforcement difficulties, firework fines, and financial liability of responsible parties for starting a fire.

City Attorney Jeremy Cook stated that an individual that starts a fire will be aggressively prosecuted. Responsible parties have been bankrupted due to penalties, regardless of whether property or lives are lost. Violations of City-imposed restrictions adds an infraction and up to a \$1,000 fine in addition to any criminal charges. He cited Utah Code 53-7-225(1)(a) Civil Liability “An individual who negligently, recklessly, or intentionally causes or spreads a fire through discharge of a class C explosive is liable for the cost of suppressing that fire and any damages the fire causes.” Parents or legal guardians are liable for the costs and damages accrued due to the actions of a minor and discharging fireworks in a prohibited area automatically constitutes negligent, reckless, or intentional conduct.

Councilmember Burnham stated that due to serious drought conditions, a single fire could have a catastrophic impact on the City’s limited water supply. She asked her fellow Councilmembers to consider if allowing a few neighborhoods to have fireworks is worth the overall risks or if it would be better to prohibit fireworks in the City this year. She said she thinks the residents would understand a firework ban.

Mr. Cook noted 300,000 gallons were used to extinguish a housefire, and the City lacks the water to fight fires right now.

Discussion ensued regarding multi-faceted public service announcements to inform residents of the restrictions and penalties and potential celebratory events or a professional firework display to provide as an alternative to traditional family firework activities.

Ms. Kofoed said staff could clarify that the fine of up to \$1,000 is at the discretion of the Administrative Law Judge to waive, reduce, or enforce.

Mayor Westmoreland requested to remove the item from the consent agenda and to place it as a scheduled item.

13. HIDDEN HOLLOW PHASE C

13.A. MOTION/PUBLIC HEARING – Disposal of Significant Real Property – Identified as a Portion of Utah County Parcel Number 58:040:0013. **this is not an action item - discussion only**

Assistant City Administrator/Community Development Director Steve Mumford explained staff recommends the 1.5-acre City-owned property within the Hidden Hollow Phase C development be sold to the applicant due to the relocation of the road. Per EMMC 3.30, the Council must hold a public hearing to consider disposition of City-owned property that is considered significant. If determined the disposal may be appropriate, the Council shall determine the best method to dispose of the property to maximize value to the City. Two new appraisals have been completed and are included in the packet. EMMC 3.30.060 requires a 14-day notice to neighboring property owners. Since the appraisal was not completed in time to post the notice appropriately, staff recommends the Council discuss this item then table it to the next meeting to allow time for a 14-day notice.

Ms. Kofoed said that the property is surrounded by City-owned property; however, the City will notify the property owners directly adjacent to the entire parcel. The public hearing can be continued until the future review of the item.

13.B. MOTION – Hidden Hollow Phase C Preliminary Plat and Site Plan

Mr. Mumford explained the preliminary plat and site plan proposals have remained unchanged since the previous discussion. In relation to the project, items of consideration include the land disposal and the Planning Commission recommendation to convert the private roads in the middle of the project to public roads with 53-foot rights-of-way. Requiring the addition of a foot of asphalt and a foot of sidewalk without park strips would result in the same road and sidewalk width as a public road. Sale proceeds for the property could be used to reimburse the applicant for improvement of the trailhead under the powerline corridor, or the funds could be applied towards City improvement of the area.

The Planning Commission recommended approval with a vote of 3 to 1 on May 11, 2021, with the following conditions:

1. The project is contingent upon the sale/purchase of the 1.5-acre of City property at fair market value, based upon a new appraisal. The applicant shall reimburse the cost of the large gravel parking lot, once completed;
2. The garage sizes shall comply with EMMC 17.25.050(C);
3. No blasting shall be permitted within the development;
4. The cluster mailboxes shall be located adjacent to the park, near the parking stalls;
5. The approximately 35 acres of open space near the project shall be dedicated to the City with the final plat for this project;
6. Retaining walls shall be stepped to not exceed 5 feet high and include at least 5 horizontal feet between walls;
7. The developer shall grade and prepare the entire Hidden Valley Parkway right-of-way for future expansion, including providing a method to direct the stormwater to the existing retention basin;
8. Additional architectural detailing shall be provided on the townhomes in order to comply with EMMC 17.72.040(E)(2);
9. The applicant shall obtain Kern River Gas and Rocky Mountain Power approval (and provide it to the City) and coordinate with them during construction of the gravel parking lot within the utility corridor;
10. The developer shall install a six-foot privacy fence (Simtek) at the rear lot lines of lots 129-134, as required by EMMC 17.60.170 (B); and
11. The two private roads shall be changed to 53-foot public rights-of-way.

Mr. Mumford said he believes the quality of the materials and the facades are similar to Phase B. He recalled that the lots on the loop road are slightly under the frontage width requirements. The dissenting Planning Commission vote was due to the location of the garages.

14. ORDINANCES/PUBLIC HEARINGS

14.A. ORDINANCE/PUBLIC HEARING – An Ordinance of Eagle Mountain City, Utah, Adopting the Final Budget Amendments for Fiscal Year 2020-2021.

Finance Director Kimberly Ruesch said the changes to the budget are included in the meeting packet materials.

14.B. ORDINANCE/PUBLIC HEARING – An Ordinance of Eagle Mountain City, Utah, Adopting the Fiscal Year 2021-2022 Budget and Certified Tax Rate.

Ms. Ruesch said the City received the certified tax rate from the County yesterday and the rate naturally decreases as property values in the City increase. Last year's property tax was approximately \$1,700,000 compared to \$1,900,000 for this year.

3. ADJOURN TO A CLOSED EXECUTIVE SESSION

MOTION: *Councilmember Burnham moved to adjourn to a closed executive session for the purpose of discussing the purchase, lease, or exchange of real property pursuant to Section 52-4-205(1) of the Utah Code, Annotated. 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 5:25 p.m.

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

ELECTED OFFICIALS PRESENT: Mayor Tom Westmoreland, Councilmembers Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love.

ELECTED OFFICIALS PRESENT ELECTRONICALLY: Councilmember Jared Gray.

CITY STAFF PRESENT: Paul Jerome, City Administrator; Steve Mumford, Assistant City Administrator/Community Development Director; Fionnuala Kofoed, Elizabeth Fewkes, Recording Secretary; Aaron Sanborn, Economic Development Director; Jeremy Cook, City Attorney; Embret Fossum, UFA Battalion Chief; B.J. Eccles, Sergeant; and Angela Valenzuela, Human Resource Manager.

CITY STAFF PRESENT ELECTRONICALLY: Kimberly Ruesch, Finance Director; Tayler Jensen, Senior Planner; Director of Administrative Services/City Recorder; Chris Trusty, City Engineer; Brad Hickman, Parks and Recreation Director; Zac Hilton, Streets and Storm Drain Manager; Jeff Weber, Fleet and Facilities Operations Director; and Tyler Maffitt, Communications Manager.

4. CALL TO ORDER

Mayor Westmoreland called the meeting to order at 7:02 p.m.

5. PLEDGE OF ALLEGIANCE

Councilmember Curtis led the Pledge of Allegiance.

6. INFORMATION ITEMS/UPCOMING EVENTS

- Eagle Mountain City Hall will be closed on Monday, July 5, 2021, for Independence Day. You can still report problems through the Eagle Mountain City website's Resident Portal.
- Shopfest will be held on August 7, 2021. Businesses are welcome to promote themselves, their products, and their mission at this event which is open and available to the public. Additional details about vendors, dates, times, and locations will be forthcoming.
- Construction work on Pony Express Parkway continues. If there are questions or problems, do not hesitate to reach out through the City's social media and staff will be happy to get information for you.
- Recently, Elizabeth Hora with the State Historic Preservation Office was in Eagle Mountain to assess and catalog some of Eagle Mountain's Petroglyphs.

A video was presented detailing the State Historic Preservation Office's efforts and highlighting some of the preservation efforts in Eagle Mountain.

To receive City notifications, including emergency info, news events, and traffic alerts, sign up at emcity.org/notifyme.

7. PUBLIC COMMENTS

Mayor Westmoreland opened public comment at 7:10 p.m.

Jeff Ruth requested for fireworks to be banned this year due to drought conditions and the potential for property damage and injury and the difficulty of proving responsibility.

Bob Clegg spoke in support of banning fireworks. He lives on Cedar Drive and is concerned regarding the dry fuels near his home.

Nick Jessen spoke on behalf of the Friends in Need Animal Rescue/Sanctuary located on Lake Mountain Road. To support efforts to make the sanctuary self-sufficient through the sale of horticultural products, he requested approval for ladder signage to be located at the corner of Lake Mountain Road and Pony Express Parkway to advertise the sanctuary and possibly adjacent businesses in the vicinity to increase public awareness and patronage.

Mayor Westmoreland said that Economic Development Director Aaron Sanborn would follow up with Mr. Jessen regarding the request.

Jane McAfee requested staff contact information to discuss how the City makes decisions. She expressed frustration due to light pollution from the Tyson facility and requested trees to screen between the uses.

Director of Administrative Services/City Recorder Fionnuala Kofoed said she will contact Ms. McAfee regarding her concerns.

Carol Crane submitted the following email, “Cedar Pass ranch is a unique Equestrian/Rural development that was developed before Eagle Mountain was conceived. The roads, utilities, horse trails and personal properties were not set up for more than the mere homes spread out on large acreage. Eagle Mountain has grown around this community and yet our services and life style stay the same. It's bad enough that the congestion on 73 spills into our streets with more cars and speed. It can be scary crossing a street with blind spots on a horse on streets not developed for increased traffic-luckily this doesn't happen often. And yet I hear you are considering linking Cedar Pass to a new community as an outlet? Why? If Cedar Pass is to become a thru outlet for a large development with no seemingly reason to our residents than it's about time Eagle Mountain bring us it's sewer, it's Cable/Fiber Optics, traffic control and speed altering options. We will need side walks and horse trail established off the main trails since the roads are next to current trails. Road signage needs to be addressed and perhaps even roundabouts at our stop signs and trail crossings. Further, speed bumps and mirrors at blind corners and hills will need to be considered, not to mention widening already narrow roads. Why not spend your dollars on widening 73 and alleviating the problem where traffic is already? I thought the councils job was to make this city a positive place to live and increase property values and promote safety.”

Mayor Westmoreland said that the funding of the expansion of the Mountain View Corridor benefits the City's efforts to obtain funding for Wride Memorial Highway.

Mayor Westmoreland closed public comment at 7:27 p.m.

8. CITY COUNCIL/MAYOR'S ITEMS

Councilmember Clark

Councilmember Clark advocated for the City's responsibility to earnestly pursue completion of Airport Road due to connectivity concerns discussed during the previous Planning Commission meeting. She requested the City work with the landowner to remove the boulders from the dirt portion of Airport Road to allow the road to serve as an emergency evacuation route until the road can be improved. Residents have received letters from their homeowners associations (HOAs) regarding yellow spots in their yards. She desires to help the HOAs be more lenient regarding lawn requirements due to current drought conditions and requested staff explore if it is in the best interest of the City to retain existing turf requirements in developments in light of drought conditions. She recognized the commemoration of the Juneteenth celebration and the importance of what it represents and encouraged residents to learn more about Juneteenth. She requested an update regarding the wash disruption issue and asked if the City will take action as the wash was disturbed prior to application for a stream alteration permit.

Councilmember Burnham

Councilmember Burnham advocated for the completion of Airport Road and appreciates that the City is willing to bond for the project as she thinks it is critical due to development in the area. She agrees with Councilmember Clark that current landscaping and turf requirements conflict with the

City's climate. She encouraged the City to ban fireworks despite the potential for the decision to be unpopular.

Councilmember Curtis

Councilmember Curtis agreed with the importance of completing Airport Road as soon as possible especially in consideration of fire evacuation concerns. He expressed appreciation for the attendance and input from the public.

Mayor Westmoreland

Mayor Westmoreland said staff has been working on securing the right-of-way for Airport Road for months and bonding will likely be necessary to expedite the project. During the June 23, 2021 joint meeting with Saratoga Springs, the body will discuss Utah Transit Authority and improving transportation systems. Traffic light installation at Woodhaven Boulevard and Pony Express Parkway is also on the agenda. All permits for construction in the Tickville Wash have been halted.

City Administrator Paul Jerome said he will work to get the boulders removed and that City Engineer Chris Trusty is in the process of securing the right-of-way for Airport Road.

Regarding the Tickville Wash, Assistant City Administrator/Community Development Director Steve Mumford said the developer submitted a stream alteration permit to the State and review usually takes a few weeks. Improvement of the wash had been discussed during the preliminary plat and staff has been working with the development engineer on the project.

Councilmember Love

Councilmember Love recognized Mandy Anderson for her service efforts to assist refugees and presented her with a challenge coin from the City.

Councilmember Jared Gray joined the meeting electronically at 7:44 p.m.

CONSENT AGENDA

9. BID AWARDS

9.A. 2021 Eagle Mountain Spray Applied Seal Coat Project – Morgan Pavement

10. BOND RELEASES

10.A. SilverLake Plat 19 – Out of Warranty

11. MINUTES

11.A. June 1, 2021 Minutes – Regular City Council Meeting

12. RESOLUTIONS

- 12.A. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Amending the Policies and Procedures Manual Regarding Continuing Education Reimbursement and Paydays.
- 12.B. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Adopting an Interlocal Agreement with Mountainland Association of Governments for the Completion of Pony Express Parkway.
- 12.C. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Approving an Amendment to the Consolidated Fee Schedule for Central Water Project Water Use Rates and Administrative Fees.
- 12.D. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Adopting Firework Restrictions for 2021.

MOTION: *Councilmember Burnham moved to approve the consent agenda removing items 12.A. and 12.D. and placing them as scheduled items. Councilmember Love seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, Jared Gray, and Carolyn Love. The motion passed with a unanimous vote.*

SCHEDULED ITEMS

- 12.A. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Amending the Policies and Procedures Manual Regarding Continuing Education Reimbursement and Paydays.

This item was discussed after item 14.B.

Human Resource Manager Angela Valenzuela explained the City currently reimburses employees up to \$1,500 for continuing education. Generally, three to four employees use the benefits each year. To be in line with other municipal reimbursement programs, staff proposes to raise the reimbursement up to \$2,500 per year per employee, or up to 75% of the cost. The funding supports job-specific certification programs or department head-approved college courses related to the employee's job duties.

The second change to the manual is to change the payday from Thursday to Friday to accurately reflect current procedures.

Councilmembers Clark and Love expressed their support of the program as a mutual benefit to and investment in the City and City employees.

MOTION: *Councilmember Love moved to approve a resolution of Eagle Mountain City, Utah, amending the Policies and Procedures Manual regarding continuing education reimbursement and paydays. Councilmember Burnham seconded*

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

This portion of the discussion occurred after item 17.

Ms. Kofoed informed the Council that the City received an anonymous comment from an employee regarding the proposal after the item had concluded and noted that the item did not include a public hearing. The employee explained that job certifications were previously covered 100% by the City and the approved amendment would now require employees to pay 25% of the cost.

Councilmember Clark recommended excluding certifications from being required to be funded 25% by the employees. She had not realized the amendment would negatively impact certifications and does not want to penalize employees.

Ms. Kofoed explained that the City has a portion of funding specified for employee travel and training and these funds would be in addition to that budget. Training programs are recommended by supervisors and approved by human resources if funding is available. She expressed her support of the City covering the full cost of certification programs, if funding is available.

Mr. Jerome said the travel and training program supports employee certifications and continuing education credits through attending conferences and other trainings. He explained that Ms. Valenzuela's analysis found the City was offering lower continuing education benefits than other cities and the proposal is a median benefit option compared to other programs. Some cities have a tuition reimbursement percentage cap. The Council could elect to remove the 75% coverage and offer to reimburse up to \$2,500 per employee per year. He is a strong supporter of education and sees it as a mutual benefit for the City in promoting employee continuing education.

Councilmembers Love and Curtis expressed apprehension to make changes to the proposal without discussing them with Ms. Valenzuela.

Ms. Kofoed stated the proposal was discussed during staff meeting and she has correspondence from Ms. Valenzuela expressing her preference to remove the requirement for employees to pay 25%. During the pandemic, programs were offered that expedited the certification process, and the reimbursement program assisted employees in utilizing the opportunities made available.

MOTION: Councilmember Curtis moved to reconsider item 12.A. a resolution of Eagle Mountain City, Utah, amending the Policies and Procedures Manual regarding continuing education reimbursement and paydays. Councilmember Love seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.

MOTION: Councilmember Curtis moved to approve a resolution of Eagle Mountain City, Utah amending the Policies and Procedures Manual regarding continuing education reimbursement and paydays removing the 75% cap on reimbursement. Councilmember Love seconded the motion. Those voting aye: Donna Burnham,

Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.

12.D. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Adopting Firework Restrictions for 2021.

This item was discussed prior to item 12.A.

Mayor Westmoreland stated fire restrictions in Salt Lake County were discussed during a Unified Fire Service Area meeting earlier in the day. They struck a balance between enforcement and safety. Residents in some areas of the City have requested additional restrictions to the Fireworks Restriction Map. The State and Federal government have restricted fireworks and open fires on all public lands. He believes it would be wise for the City to impose similar restrictions following the State and Federal guidelines in consideration of combustible materials, drought conditions, high temperatures, and winds.

Councilmember Clark said other cities have decided to provide professional firework displays as an alternative to family and neighborhood fireworks.

Mayor Westmoreland said that the City wants to encourage safely celebrating with alternative activities during the 4th of July and 24th of July.

Councilmember Curtis expressed reluctance to imposing restrictions that impact law-abiding citizens and are ignored by others. He is in favor of approving the more restrictive map but is hesitant to impose a City-wide fireworks ban.

Sergeant B.J. Eccles agreed with the likelihood that some citizens will light fireworks despite restrictions; however, the majority will comply. He applauded residents that follow regulations. If there are fireworks, there will be fires. He noted enforcement of firework restrictions in addition to regular duties becomes cumbersome, but the Sheriff's Office will strive to enforce the Council's directives.

Councilmember Burnham explained, in light of her statements during work session, that she dislikes taking liberties away from people; nevertheless, she has the right to drink water. One major fire would have a disastrous impact on the City's water supply. Her role and responsibilities as a member of the City Council require her to consider impacts. Banning fireworks City-wide simplifies and clarifies the restrictions. She supports the idea of an alternate celebration activity to commemorate the importance of the holidays. Her advocacy for restrictions is due to drought and water supply considerations.

Councilmember Curtis clarified he understands the gravity of the concerns. As State Code prohibits the banning of a specific type of firework, should the Council determine to implement a City-wide firework restriction, it must prohibit all fireworks.

Councilmember Love said that it is a difficult decision. In her opinion, lighting fireworks will result in fires. She agrees that it is important to reserve water for drinking rather than fighting fires; water needs are more vital than lighting fireworks.

Discussion ensued regarding the amount of water required to suppress a fire depending upon the size and severity of a fire and threat to life and property.

Councilmember Clark echoed the concerns of her fellow Councilmembers to balance the celebration of liberty with protecting the rights surrounding health, safety, welfare, and property, and preserving the water supply. She stated an alternate City celebratory activity would be far less expensive than putting out a fire.

United Fire Authority Battalion Chief Embret Fossum explained the City is in the middle of a red flag warning that includes high winds, heat and low humidity. This means the City faces a conflagration anytime that a fire sparks. The combination of the drought and heat during a red flag warning increases the likelihood of a severe fire. During similar conditions last year in Oregon, a fire burned through over 4,000 homes and caused major loss of life. Record-breaking temperatures this early in the year become problematic and the combination of factors places the City in a dire situation. He said it falls to the elected officials to determine restrictions for fireworks and open fires. Type One fires are the largest designation. Type Two fires are large and require teams of 500 to 2,000 firefighters. Already this year within the State of Utah, four type two teams have been assembled which was previously unprecedented this early in a fire season. Fireworks are an element that can be mitigated. Although enforcement falls to the Sheriff's department, he feels that a full ban is easier to enforce.

Councilmember Gray left the meeting at 8:15 p.m. due to technical difficulties.

Councilmember Love inquired if a restriction on open fires could be included in the motion.

Mayor Westmoreland and Ms. Kofoed clarified the State ban is for open fires on State lands and could be applied to public lands within City limits. The City Council may exclude fire pits on private land within landscaped areas.

Councilmember Curtis said after considerations, he is willing to stand with Councilmembers on a decision even though it might not be popular with some residents.

Discussion ensued regarding the complexities of the problem and the responsibility of the Council to mitigate the potential for a devastating fire due to current circumstances and the information provided.

MOTION: *Councilmember Burnham moved to approve a resolution of Eagle Mountain City, Utah, adopting a fireworks ban prohibiting fireworks during the July 4th and July 24th, 2021 holiday celebration and restricting open flame fires in undeveloped land until August 31, 2021. Councilmember Curtis seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

Discussion ensued regarding ideas for a safe community celebration for the July 4th and 24th holidays. Councilmember Clark requested the announcement of the fireworks ban include that the City is planning an alternative activity.

13. HIDDEN HOLLOW PHASE C

13.A. MOTION/PUBLIC HEARING – Disposal of Significant Real Property – Identified as a Portion of Utah County Parcel Number 58:040:0013. **this is not an action item - discussion only**

MOTION: *Councilmember Burnham moved to table the disposal of significant real property – identified as a portion of Utah County parcel number 58:040:0013. 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. MOTION – Hidden Hollow Phase C Preliminary Plat and Site Plan

MOTION: *Councilmember Burnham moved to table the preliminary plat and site plan for Hidden Hollow Phase C. Councilmember Clark seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

14. ORDINANCES/PUBLIC HEARINGS

14.A. ORDINANCE/PUBLIC HEARING – An Ordinance of Eagle Mountain City, Utah, Adopting the Final Budget Amendments for Fiscal Year 2020-2021.

Finance Director Kimberly Ruesch introduced the item and stated the requested amendments to the budget are outlined in the packet materials. The majority of the changes identified the allocation of the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding received by the City and impact fee transfers for development reimbursement through the end of the fiscal year. The City received additional funding this week to prepurchase additional Central Water Project water shares.

Councilmember Curtis requested staff provide a detailed accounting of the allocation of the CARES Act and American Rescue Plan Act funding received by the City, as time permits.

Ms. Ruesch stated the CARES Act funding has been spent and she will include federal funding in an update for the Council of the year-to-date expenditures.

Mayor Westmoreland opened the public hearing at 8:30 p.m. As there were no comments, Mayor Westmoreland closed the hearing.

MOTION: *Councilmember Clark moved to approve an ordinance of Eagle Mountain City, Utah, adopting the final budget amendments for fiscal year 2020-2021*

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

14.B. ORDINANCE/PUBLIC HEARING – An Ordinance of Eagle Mountain City, Utah, Adopting the Fiscal Year 2021-2022 Budget and Certified Tax Rate.

Ms. Ruesch explained the importance of the budget as a mechanism to further the policies and visions established by the Council that make Eagle Mountain a city residents choose to make their homes. Changes to the proposed budget since the last meeting include over \$30,000,000 of investment in capital infrastructure development including the second phase of Airport Road, which staff will work aggressively to complete. Maintaining the current level of service provided by the City requires funding for an additional approximately 12.5 FTEs.

Councilmember Curtis stated he has been open with his objection to the Wasatch Wing and Clay road and requested verification that the project is excluded from this budget.

Mr. Mumford clarified the Wasatch Wing and Clay road will require an interlocal agreement with the County, which will require separate Council approval.

Ms. Ruesch stated the item includes the adoption of the certified tax rate for the City, which has declined from the previous year. The certified tax rate lowers as property values increase. The City experienced an increase of approximately \$200,000 in property tax revenue due to new growth.

Mr. Jerome verified the tax rate has lowered each year over the past four years and is currently the lowest rate in City history.

Mayor Westmoreland opened the public hearing at 8:39 p.m. As there were no comments, Mayor Westmoreland closed the hearing.

MOTION: *Councilmember Clark moved to approve an ordinance of Eagle Mountain City, Utah, adopting the fiscal year 2021-2022 budget and certified tax rate. Donna Burnham seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

14.C. ORDINANCE/PUBLIC HEARING – An Ordinance of Eagle Mountain City, Utah, Adopting an Impact Fee Enactment for a Public Safety Impact Fee; Providing for the Calculation and Collection of Such Fees; Providing for Appeal, Accounting, and Severability of the Same and Other Related Matters.

Lewis Young Robertson and Burningham Vice President Fred Philpot presented the item and explained the impact fee process. The Impact Facility Plan and Impact Fee Analysis process considered the service area and demand, level of service (LOS), existing facilities and buy-in, future facilities, financing, and proportionate share analysis. The police proportionate share analysis determined a total impact fee cost of \$11,109,356 and an \$820,971 cost to impact fee. The

proposed police impact fee schedule based upon a \$66 cost per call and 0.633 residential calls per unit and 2.190 non-residential calls per unit, per 1,000 square feet, resulted in a proposed impact fee of \$42 for residential and \$145 for non-residential units. Impact fees for non-standard developments will be calculated separately based upon the \$66 cost per call and the number of calls per calculation per unit for the non-standard use type. The next steps include holding the public hearing noticed for this meeting; the Council adopting, modifying, or rejecting the proposed impact fees; and a 90-day wait period prior to implementing an approved impact fee increase.

Mr. Philpot explained that the proposed \$42 residential impact is lower than the typical \$150 up to \$350 range found in other communities. The lower impact fee is due to the low square footage LOS. The City can reevaluate the LOS after constructing new facilities and adjust the impact fee.

Mayor Westmoreland opened the public hearing at 8:50 p.m. As there were no comments, Mayor Westmoreland closed the hearing.

MOTION: *Councilmember Burnham moved to approve an ordinance of Eagle Mountain City, Utah, adopting an impact fee enactment for a public safety impact fee; providing for the calculation and collection of such fees; providing for appeal, accounting, and severability of the same and other related matters. Councilmember Curtis seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

15. RESOLUTIONS

15.A. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Approving a Development Agreement between Eagle Mountain City, Utah and Curleybird, LLC.

Economic Development Director Aaron Sanborn presented the item. The 320 acres of undeveloped land is located adjacent to the Facebook site on two separate parcels within the Regional Technology and Industry Overlay zone. The proposal is for an enterprise-level data center with an initial investment of approximately \$600,000,000 and about 3,000 square feet of building space in the initial construction. The project has received previous approval from the Eagle Mountain Redevelopment Agency (RDA) Board for the creation of a community reinvestment area and associated tax-increment financing. Interlocal agreements have been approved by the RDA board and the individual taxing entities.

The development agreement defines the rights and obligations of Curleybird LLC and the City specific to a multi-year, large-scale data center project. If a company does not qualify for a State exemption on the Municipal Energy Tax (MET), the company is eligible for reimbursement of the MET, up to 80%, if using renewable energy sources. For comparison, Facebook receives a 100% reimbursement. Large investment in infrastructure will occur in several phases to be bid and built by the City and reimbursed by the company. Additionally, the City may request up to \$3,000,000 in reimbursement for damage and wear to roads due to the project.

The company is required to pay impact fees according to City policies. The company may not prepay impact fees and will be charged the impact fee rates at the time of building permit application. The company may receive impact fee credits according to City policies. The term of the contract is 40 years from the effective date. The contract will be renegotiated if the roadway improvements have not commenced within five years, if the plan is not submitted for the initial phase within seven years, or if construction has not commenced within ten years.

Councilmember Love asked if the agreement had a contingency clause to address construction delays.

City Attorney Jeremy Cook said the company is responsible for reimbursing any construction or improvements that benefit their project within the period specified and pre- and post-periods. Difficulties in structuring the agreement arose due to the uncertainty regarding the construction period, particularly regarding the water infrastructure, and the payment schedule was adapted accordingly. He requested the Council grant staff the authority to make adjustments to the agreements including language regarding lowering the liability cap and wording clarifications to remove ambiguity.

Mr. Sanborn explained that Exhibit D(1) Project Freemont Road Improvements was referenced in the agreement but excluded from the packet materials and will be included in the agreement.

MOTION: *Councilmember Curtis moved to approve a resolution of Eagle Mountain City, Utah, approving a development agreement between Eagle Mountain City, Utah, and Curleybird, LLC including Exhibit D(1) Project Freemont Road Improvements and permitting staff to make adjustments to the liability cap and non-substantive wording amendments. Councilmember Clark seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

Councilmember Curtis requested the City focus on expanding the business base in the City and not pursue additional data centers due to concerns with high water usage. Councilmember Love concurred with Councilmember Curtis' desire for increased business diversity.

15.B. RESOLUTION – A Resolution of Eagle Mountain City, Utah, Approving a Water and Sewer Agreement between Eagle Mountain City, Utah and Curleybird, LLC.

Mr. Sanborn presented the item. The Water and Sewer Agreement defines the rights and obligations of Curleybird LLC and the City, specific to a multi-year, large-scale data center project. The City will reserve 1,000 acre-feet of water initially that expires if certain milestones are not met. The company has the option of refusal on an additional 2,000 acre-feet of water and 30 days to secure water if the City's remaining capacity under current agreements drops to 3,000 acre-feet. The company will pay current prices for shares and water rates. An annual report will show actual water needs and the company will purchase enough water to meet demands. The City may use secondary water from the company for a water reuse system that can be used for other industrial customers, open space, and potentially for resident use in the future. Some businesses have

expressed interest in reusing the secondary water from the data centers to reduce their water use impact.

Mr. Cook stated that the liability cap changes also impact this agreement and should be included in the motion.

MOTION: *Councilmember Curtis moved to approve a resolution of Eagle Mountain City, Utah, approving a water and sewer agreement between Eagle Mountain City, Utah and Curleybird, LLC permitting staff to make adjustments to the liability cap and non-substantive wording amendments. Councilmember Clark seconded the motion. Those voting aye: Donna Burnham, Melissa Clark, Colby Curtis, and Carolyn Love. The motion passed with a unanimous vote.*

16. CITY COUNCIL/MAYOR'S BUSINESS

Mayor Westmoreland

Mayor Westmoreland announced that a notice was sent requesting residents in Oquirrh Mountain Ranch and the areas south of Unity Pass refrain from watering until the following day due to a malfunction with the water tank to allow time for the tank to refill. He apologized for the inconvenience.

Mr. Jerome said that pumping capacity is being temporarily increased to fill the tank as quickly as possible. Residents north of Unity Pass also delaying watering until the following day could increase the impact on the pumps.

Councilmember Clark

Councilmember Clark requested a review of the stacking distance standards for drive-throughs for food establishments and other businesses.

Councilmember Love seconded the request in consideration of high drive-through utilization by residents. Councilmember Curtis requested some flexibility for drive-through establishments in order to not discourage business investment in the City. Councilmember Clark agreed.

17. CITY COUNCIL BOARD LIAISON REPORTS

Councilmember Curtis

Councilmember Curtis explained that adjustments are being made to the Military and Veterans Advisory Board to include the American Legion.

Councilmember Burnham

Councilmember Burnham said the Seniors Citizen Advisory Council is working hard and at the end of the month they will hold a celebration to commemorate the December 2020 Christmas they missed spending together due to the pandemic. She was impressed with the Planning Commissioner's questions and discussion at their last meeting.

Councilmember Love

Councilmember Love said the Eagle Mountain Chamber of Commerce moved to a new location, held a ribbon-cutting for the recently opened McDonalds, and sponsored a luncheon with Governor Cox.

Councilmember Clark

Councilmember Clark suggested adding indoor farming as an approved use in the Regional Technology and Industry Overlay zone to encourage such developments in the City. The Be Ready Eagle Mountain held a water safety class taught by Wendy Ford and continues to hold weekly Ham radio check-ins and tests. The Eagle Mountain Arts Alliance is holding book walks on the 2nd and 4th Wednesdays at City parks.

Mayor Westmoreland

Mayor Westmoreland said he will be touring Grow Tech, an indoor farming facility, next week. They grow cattle feed that is utilized at a nearby facility which eliminates the costs to store the feed.

18. COMMUNICATION ITEMS

18.A. Financial Report

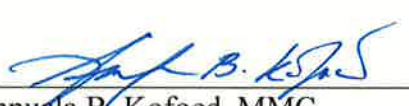
18.B. Upcoming Agenda Items

19. ADJOURNMENT

MOTION: *Councilmember Curtis moved to adjourn the meeting at 9:40 p.m. Councilmember Burnham 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 9:40 p.m.

Approved by the City Council on July 6, 2021.


Fionnuala B. Kofoed, MMC
Director of Administrative Services/City Recorder

