

**Pleasant Grove City
City Council Meeting Minutes
Regular Session
Tuesday, April 11, 2023
6:00 p.m.**

Mayor: Guy L. Fugal

Council Members: Dianna Andersen
Brent Bullock
Eric Jensen
Cyd LeMone
Todd Williams (excused at 7:00 p.m.)

Staff Present: Scott Darrington, City Administrator
Deon Giles, Parks Director
Tina Petersen, City Attorney
Daniel Cardenas, Community Development Director
Drew Engemann, Fire Chief
Sheri Britsch, Library and Arts Director
Neal Winterton, Public Works Director
Kyler Brower, Assistant to the City Administrator
David Packard, Human Resources Manager
Keldon Brown, Police Chief
Megan Crowley, Customer Service
Megan Zollinger, Recreation Director

The City Council and staff met in the Community Room, 108 South 100 East, Pleasant Grove, Utah.

6:00 P.M. REGULAR CITY COUNCIL MEETING

1) CALL TO ORDER

Mayor Guy Fugal called the meeting to order at 6:00 p.m. All City Council Members were present.

2) PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Human Resources Manager, David Packard.

3) OPENING REMARKS

The opening remarks were offered by Council Member Andersen.

4) **APPROVAL OF MEETING AGENDA**

City Administrator, Scott Darrington indicated that Item 8A would be tabled to another date. He also announced that Item 10C was to be heard before Item 10B.

ACTION: Council Member Jensen moved to APPROVE the Agenda with the changes noted by Administrator Darrington. Council Member LeMone seconded the motion. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. Motion carried unanimously.

5) **OPEN SESSION**

There were no public comments.

6) **CONSENT ITEMS**

- A. **City Council Minutes:
No Minutes to Approve.**
- B. **To Consider Approval of Change Order No. 2 and Payment Request No. 2 for Fullmer Excavation for the 2022 Battle Creek Park Sewer Project.**
- C. **To Consider Approval of Change Order No. 1 and Payment Request No. 2 for Cody Ekker for the 2022 PRV Project.**
- D. **To Consider Approval of Payment Request No. 2 for Great Western Landscape for the Old Cemetery Irrigation Project.**
- E. **To Consider Approval of Payment Reports for March 23, 24, and April 6, 2023.**

ACTION: Council Member Andersen moved to APPROVE the Consent Items as read. Council Member Jensen seconded the motion. The motion carried unanimously with Council Members Andersen, Bullock, Jensen, LeMone, and Williams voting "Aye".

7) **BOARD, COMMISSION, AND COMMITTEE APPOINTMENTS**

There were no appointments.

8) **PRESENTATIONS**

- A. **Recognition of Service on the Fox Hollow Board- Kent Wells and John Park.**

The above matter was continued to a future date.

9) **PUBLIC HEARING ITEMS**

A. Public Hearing for Adoption of an Ordinance (2023-6) for a Vicinity Plan Amendment, Approximately located at 517 North 910 East in the R1-20 (Single-Family Residential) Zone. (GROVE CREEK NEIGHBORHOOD) (Randall Guernsey Applicant) Presenter: Director Cardenas.

Community Development Director, Daniel Cardenas, presented the Staff Report and stated that the applicant is requesting a Vicinity Plan Amendment to further develop a new subdivision. He identified the 1.5-acre subject property and noted that there are two east-west connections, one of which has already been built. The second east-west connection has not yet been built and is located on the subject property. The proposed property is currently zoned R1-20 (Single-Family Residential) and surrounded by R1-8 (Single-Family Residential) and R1-10 (Single-Family Residential). Rather than requesting a rezone to allow for a subdivision of smaller lots, the applicant seeks to consolidate three of the lots into one large 1.5-acre lot and eliminate that second east-west connection. When considering the request, staff evaluated and found that the connectivity of the area is adequate with the one east-west connection, there are no impediments to the development of the surrounding properties, and no detrimental impact to the City. The Planning Commission unanimously recommended approval to the City Council.

The Mayor opened the public hearing.

Richard Guernsey was present on behalf of his son who is the applicant. They were pleased to see the Vicinity Plan before the City Council as his son plans to build a permanent home closer to him. Mr. Guernsey reported that some four or five years ago they appeared at Planning Commission and City Council Meetings and received approval for a Residential-Agricultural Overlay for the property. He requested that the Overlay be clearly identified on the Zoning Map and stated that their intent has always been for the land to be used in that manner.

Mayor Fugal asked Director Cardenas to address the agricultural overlay referenced. Director Cardenas reported that the Staff Report documents the presence of the Residential-Agricultural Overlay. The map being used to present the item was to show the road changes. Staff agreed to ensure that the Zoning Map clearly defines the overlay.

There were no further public comments. Mayor Fugal closed the public hearing.

ACTION: Council Member Andersen moved to ADOPT Ordinance 2023-6 for a Vicinity Plan Amendment, approximately located at 517 North 910 East in the R1-20 (Single-Family Residential) Zone. (GROVE CREEK NEIGHBORHOOD). Council Member Jensen seconded the motion. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; Cyd LeMone, Yes; and Todd Williams, Yes. Motion carried unanimously.

B. Public Hearing to Consider for Adoption a Resolution (2023-015) Authorizing the Mayor to Sign a Development Agreement with “The Boulevard Development, LLC” and McKay Christensen Regarding a Mixed-Use Development located at Approximately 220 South Pleasant Grove Boulevard,

Pleasant Grove, Utah, and Other Related Matters and Providing an Effective Date. Presenter: Director Cardenas.

Director Cardenas presented the Staff Report and stated that Development Agreements are normally not addressed in a public hearing before the City Council, however, the proposed agreement contains legislative action modifying a specific Code provision. Director Cardenas identified the location of the subject property and described the property that is proposed to be mixed-use residential and commercial with a density of 23 units per acre. It was noted that 75 townhomes have already been built on the property. On an aerial map displayed, Director Cardenas identified an area on the property marked in yellow that must, per Code, contain 25,000 square feet of Sales Tax generated uses. 190 residential units can still be built in the space. Per City Code, there is an additional 64-foot buffer area for commercial use only along Pleasant Grove Boulevard.

The proposed Development Agreement removes the commercial parking space buffer and allows the applicant to use part of the buffer area for residential parking rather than commercial. The agreement also contains a timeline requiring that 10,000 square feet of retail space be built and occupied within 2 ½ years of the date on which the Building Permit is issued for the apartment units. The Development Agreement does not entitle the applicant to waive the requirement to provide a total of 25,000 square feet of Sales Tax-generated uses. The agreement also requires a landscape buffer that is approved by staff and the Design Review Board ("DRB"). The location of the landscape buffer was identified and intended to soften the visual impact of the apartments in the rear. The Development Agreement also sets forth a penalty of \$50,000 if the applicant fails to complete the building and occupancy of the 10,000 square feet of retail space within the required time frame. That amount was estimated to cover the City's loss of tax revenue.

Council Member LeMone asked how the commercial space split of what was to be initially built was determined. She was advised that the size of the split is the result of negotiations with the applicant. It was noted that approximately 25% of the residential units have already been built. Council Member Bullock commented that the City Council was told years ago that this complex has plenty of parking and they now are being asked to give up commercial for residential parking. Director Cardenas noted there currently is no site plan being reviewed.

The applicant, McKay Christensen, reported that neither commercial space nor commercial parking are being reduced. They are asking that the resident parking areas be moved closer to the units. He reported that commercial parking will primarily be located behind or closer to each of the commercial pads. They are rearranging the parking areas to allow the parking stalls to be closer to their identified uses. He indicated that the retail is shown in yellow on the diagram and apartments are shown in orange. He understood that if he and staff can agree on the terms of the Development Agreement, it would be approved by the City Council. That was not Administrator Darrington's understanding. He stated that the applicant and staff will meet in an effort to reach an agreement. If they can, that would still not be a guarantee that approval would be granted by the City Council.

Mayor Fugal stated that the City Council Members are stewards of the City. They were excited about the mixed-use plan presented four years earlier and approved an increase in the number of

units from 12 to 23 per acre. He asked the applicant to comment on whether the agreement for the 23 units was fair and made as part of a good-faith agreement. He commented that it is frustrating to see only residential units being built when commercial units are part of the plan. Questions from citizens are becoming more frequent as to why only residential units are being constructed without any of the promised commercial space. Council Member Jensen was frustrated that the higher number of units was given in exchange for substantial commercial use. Offering only 10,000 square feet of commercial space in a timely manner is a breach of the agreement. He wanted to see more commercial space developed in a timely manner.

Mr. Christensen commented that as a developer, they have their own frustrations and challenges. When they previously appeared before the Council, the agreement for 23 units per acre was fair because both the developer and the City wanted something. The City wanted Pleasant Grove Boulevard to be improved along the length of the property and for the 100 South Intersection to be installed. That City requirement was noted to be a requirement for whoever purchased the property. Mr. Christensen noted that at that time that the then-property owner would not do the work and the requirement made the property virtually undevelopable. His company, however, has done the work requested at a cost of around \$2 million. Immediately after that, COVID hit, and the plans changed. Currently, most retail tenants are requiring drive-thrus, which makes the commercial sites more challenging as there is less parking available. He commented that they are in discussion with three potential tenants all of whom want drive-thrus.

Council Member Williams reviewed the status of the development discussions held four years ago and noted that there was a representation that the applicant was proposing a commercial retail establishment. Over time, that representation changed. He stated that as soon as possible the City should obtain the full 25,000 square feet that were agreed to when the higher density. He considered the \$50,000 to be an insufficient penalty. Mr. Christensen commented that they are developing the property as best they can. There was discussion regarding frustrations the City experiences with developers who promise residential and commercial property but develop only residential units. They also described the logistical and monetary difficulties and constraints faced by developers.

Council Member Williams was excused from the remainder of the meeting. Mr. Christensen reminded the City Council that the terms of the Development Agreement require 10,000 square feet of commercial space to be developed within a set time from construction commencing on the apartment units.

Mayor Fugal opened the public hearing. There were no public comments. The public hearing was closed.

The Council discussed the terms of the Development Agreement. Administrator Darrington reported that they have several options including continuing the public hearing for additional discussion, considering what was being offered in terms of square footage, considering increasing the penalty amount or denying the motion outright. He stated that it may be necessary for the developer to reduce the number of units given the tenant's preferences for details such as drive-thrus, which impact parking ratios. He noted that the buffer was included to protect the commercial

nature of the downtown area. Administrator Darrington remarked that this was the applicant's first appearance before the City Council since entering into the Development Agreement.

ACTION: Council Member Bullock moved to DENY the Resolution. The motion died for lack of a second.

ACTION: Council Member Jensen moved to CONTINUE the Public Hearing to May 2, 2023, to consider for adoption a Resolution (2023-015) authorizing the Mayor to sign a Development Agreement with "The Boulevard Development, LLC" and McKay Christensen regarding a mixed-use development located at approximately 220 South Pleasant Grove Boulevard, Pleasant Grove, Utah. Council Member Andersen seconded the motion. Vote on motion: Council Member Andersen-Yes, Council Member Jensen-Yes, Council Member LeMone-Yes, Council Member Bullock-No. The motion passed 3-to-1. Council Member Williams was not present for the vote.

10) **ACTION ITEMS READY FOR VOTE**

- A. **To Consider for Approval a Commercial Site Plan, located at 470 South Pleasant Grove Boulevard in The Grove Commercial Sales Subdistrict. (SAM WHITE'S LANE NEIGHBORHOOD) (Elliott Smith Terraform Companies, LLC Applicant) *Presenter: Director Cardenas.***

Director Cardenas identified the location of the subject property on an aerial map displayed. He used the site plan map to address the parking requirements. There will be 24 parking stalls with five from a Shared Parking Agreement with the Hyatt Hotel. The proposed Chipotle restaurant will have a drive-thru operated by phone or a website application. The interior of the restaurant is proposed to be less than 5,000 square feet in size and will have a small seating area. Driving access to the restaurant is shared with the Hyatt through Evermore Lane. The site plan was determined to meet all zoning requirements and was previously approved by the Planning Commission.

ACTION: Council Member Bullock moved to APPROVE a Commercial Site Plan located at 470 South Pleasant Grove Boulevard in The Grove Commercial Sales Subdistrict. (SAM WHITE'S LANE NEIGHBORHOOD). Council Member Jensen seconded the motion. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; and Cyd LeMone, Yes; Motion carried unanimously. Council Member Williams was not present for the vote.

The hearing on Item 10B was deferred and heard after the hearing on Item 10C.

- B. To Consider for Approval a Final Subdivision Plat called The Grove Subdivision Plat 'C', on 19.868 Acres, Approximately located at 812 South Pleasant View Drive in The Grove Zone – Commercial Sales Subdistrict. (SAM WHITE'S LANE NEIGHBORHOOD) (St. John's Properties Applicant) Presenter: Director Cardenas.**

Director Cardenas reported that the proposed changes to the plat were minor and resulted in the Preliminary and Final Subdivision Plats being almost identical. The primary modification was that Pleasant View Drive is being dedicated to the City. The Planning Commission unanimously recommended approval of the request.

ACTION: Council Member Jensen moved to APPROVE a Final Subdivision Plat called The Grove Subdivision Plat 'C', on 19.868 acres, approximately located at 812 South Pleasant View Drive in The Grove Zone – Commercial Sales Subdistrict. Council Member Bullock seconded the motion. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; and Cyd LeMone, Yes; Motion carried unanimously. Council Member Williams was not present for the vote.

Item 10C was heard and considered before the hearing on Item 10B.

- C. To Consider for Adoption a Resolution (2023-016) Authorizing the Mayor to Sign an Agreement to Accept Private Infrastructure (Pleasant View Drive) in the Grove Subdivision Plat A at Approximately 800 South Pleasant Grove Boulevard, Pleasant Grove, Utah, and Other Related Matters; and Providing an Effective Date. Presenter: Director Winterton.**

Public Works Director, Neal Winterton reported that Pleasant View Drive is currently a private road. He did not recommend turning a private road into a City road due to challenges that arise. It was noted that 1400 West is already a City road and Pleasant View Drive acts and functions like a City road. Through negotiations with the owner and the owner's representative, the terms of transfer were agreed upon and several conditions to be corrected were identified. The City will be compensated \$90,000, which is to be used for future work. Council Member Bullock asked about a nearby trail connection and was advised that accommodations were being made for that area.

ACTION: Council Member Andersen moved to ADOPT Resolution 2023-016 authorizing the Mayor to sign an Agreement to Accept Private Infrastructure (Pleasant View Drive) in the Grove Subdivision Plat A at approximately 800 South Pleasant Grove Boulevard, Pleasant Grove, Utah, and other related matters; and providing an effective date. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; and Cyd LeMone, Yes; Motion carried unanimously. Council Member Williams was not present for the vote.

D. To Consider for Adoption an Ordinance (2023-7) Amending Title 8 Chapter 8 Subsection 35 of the Pleasant Grove Municipal Code (“Pressurized Irrigation Schedule of Use”) Establishing Restrictions on Time of Use and Providing an Effective Date. *Presenter: Director Winterton.*

Director Winterton reported that requirements for secondary water monitoring are mandated by the State and the grant application has been approved. Accepting the grant money requires the City to implement certain water conservation ordinances, which have previously been recommendations only. Previously, it was recommended that watering not be done between the hours of 10:00 a.m. to 6:00 p.m. The proposed ordinance specifically prohibits watering between those hours except under the direction of the Public Works Director to effectively run the utility. If there is a need to water during those times, the Public Works Director would need to be contacted.

ACTION: Council Member Andersen moved to ADOPT Ordinance 2023-7 amending Title 8 Chapter 8 Subsection 35 of the Pleasant Grove Municipal Code (“Pressurized Irrigation Schedule of Use”) establishing restrictions on time of use and providing an effective date. Council Member Jensen seconded the motion. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; and Cyd LeMone, Yes; Motion carried unanimously. Council Member Williams was not present for the vote.

Council Member LeMone asked that notice be provided to the public on the website so that they are aware of the irrigation schedule. Administrator Darrington reported that action had already been taken. There was additional discussion regarding notification requirements for the water turn-on date which is May 1, 2023.

E. To Consider Awarding Cody Ekker Construction, Inc. the Boulevard Well Site Street Crossing Bid in the Amount of \$144,989 and Authorize the Mayor to Sign the Notice of Award, Notice to Proceed, and the Agreement. *Presenter: Director Winterton.*

Director Winterton reported that the Boulevard Well Drilling is complete. The well tested at a final flow rate of 2,500 gallons per minute and is ready for further design construction and to be connected to the City’s water system. The Utah Department of Transportation (“UDOT”) will be performing work on North County Boulevard. It would be beneficial to get the water line that connects the well to the distribution system installed before any work is done by UDOT in that area. It was noted that the work will take place at night.

ACTION: Council Member LeMone moved to AWARD Cody Ekker Construction, Inc. the Boulevard Well Site Street Crossing Bid in the amount of \$144,989 and authorize the Mayor to sign the Notice of Award, Notice to Proceed, and the Agreement. Council Member Jensen seconded the motion. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; and Cyd LeMone, Yes; Motion carried unanimously. Council Member Williams was not present for the vote.

- F. To Consider for Adoption a Resolution (2023-017) authorizing the Mayor to Execute a Utah County “Mass Notification Interlocal Cooperation Agreement” with Utah County et.al., and Everbridge Inc., for Mass Communication and Notification Support Services, and Providing an Effective Date. Presenter: Attorney Petersen.**

City Attorney, Tina Petersen, reported that the system has been used for several years. The proposed resolution updates the Agreement with the County. She noted that because the Agreement includes other cities, the rate is better.

ACTION: Council Member Andersen moved to ADOPT Resolution 2023-017 authorizing the Mayor to execute a Utah County “Mass Notification Interlocal Cooperation Agreement” with Utah County et. al, and Everbridge, Inc., for mass communication and notification support services, and providing an effective date. Council Member Bullock seconded the motion. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; and Cyd LeMone, Yes; Motion carried unanimously. Council Member Williams was not present for the vote.

- G. To Consider a Proclamation Declaring April 27, 2023, as Arbor Day. Presenter: Director Giles.**

Parks Director, Deon Giles, reported that the Arbor Day Project will take place this year at Discovery Park. A few trees were lost due to vandalism with a hatchet. The trees were to be replaced. There was discussion regarding other acts of vandalism at the new Pickleball Court.

ACTION: Council Member Andersen moved to APPROVE a Proclamation declaring April 27, 2023, as Arbor Day. Council Member LeMone seconded the motion. City Council Member vote: Dianna Andersen, Yes; Brent Bullock, Yes; Eric Jensen, Yes; and Cyd LeMone, Yes; Motion carried unanimously. Council Member Williams was not present for the vote.

11) ITEMS FOR DISCUSSION

A. Continued Items from the Work Session if needed.

Police Chief, Keldon Brown, reported that Active Shooting Training at doTERRA was set for the following day. There will be a Swearing-In Ceremony for the cadets. Job interviews will be held in a couple of weeks for a full-time Officer and a part-time Process Server. He noted that they were able to identify the person responsible for the bomb threat who was referred to Juvenile Court.

Library and Arts Director, Sheri Britsch, reported that several grants were received including a Travel Grant in the amount of \$1,000; a Training Grant for \$1,000, and an \$8,000 Grant to update technology. An Open House honoring retiring Library staff member Carolyn Corry will take place on May 1, 2023, from 3:00 p.m. to 5:00 p.m. in the Library. It was noted that Ms. Corry has worked at the Library for 31 years.

Park Director, Deon Giles, reported that work has resumed on G Mountain. The last concrete pour will be on this Friday and the block will be flown up next week. The Sanitary Irrigation Project

was going well and the Battle Creek Sewer Project was nearing completion with all utilities installed and the pad poured. The building was expected to be delivered within the next few weeks. They were also working with the contractors on the punch list for the Pickleball Court. It was reported that the Easter Egg Hunt was a success. They also plan to open the restroom in the parks this weekend if weather permits.

Human Resources Manager, David Packard, reminded those present that the Employee Award Luncheon was set for the following Thursday at the Recreation Center. Awards for Team Member of the Year, Exemplary Service, Community Service, Innovation, and Service, will be announced and those with multiple years of employment with the City will be recognized.

Recreation Director, Megan Zollinger, reported that their focus is on the Pool. They have a new boiler and fully expect the pool to open on May 25, 2023.

Public Works Director, Neal Winterton, reported on the following:

- Public Works employee, Jerry Clark, has accepted a position elsewhere. He has been with the City for 15 years and has been a very dedicated employee who will be missed.
- Bids were solicited for the Loader Sidewalk above Valley View and the 300 East Waterline and Roadway.
- A meeting was held the previous week that included a Pre-Proposal Conference for the Citywide secondary water metering and the Kindness Park contractor.
- With regard to potential flooding, the goal is to instill confidence in residents regarding the City's response capabilities. Residents have access to information and sandbags are readily available. The County may set up sandbag disposal sites once flooding abates. If there is an infrastructure failure, residents and volunteers will be mobilized. Water levels will be closely monitored.
- The Spring Clean-Up dates were scheduled for April 29 through May 6 at the Pipe Plant.

A question was raised regarding 2600 North, which is set to go out for bid. It was reported that a Neighborhood Meeting will take place in June. One signature remained outstanding.

Appreciation was expressed to Community Development Director, Daniel Cardenas, for his work.

Fire Chief, Drew Engemann, reported that they set up a website for Cardiopulmonary Resuscitation ("CPR") classes to be offered to the public at no cost at regularly determined times. The schedule has already been put into operation and was going well. The Bike Safety Fair was scheduled to take place the following Saturday at the high school. Safety supplies and water bottles were to be distributed and there will be safety activities.

Assistant to the City Administrator, Kyler Brower, reported that the contractor for the Town Hall renovation has submitted an application.

12) **REVIEW AND DISCUSSION OF THE MAY 2, 2023, CITY COUNCIL MEETING AGENDA**

Administrator Darrington reported that they are in the process of preparing the meeting agenda and the budget will be one of the topics discussed.

A Volunteer Recognition Dinner is scheduled for April 25 at 6:00 p.m. to acknowledge and thank the many volunteers for their efforts on behalf of the City. The program is expected to last about one hour. Invitations were mailed out. Service Day for employees is scheduled for April 27 from 9:00 a.m. and 11:00 a.m. at Discovery Park.

13) **MAYOR AND COUNCIL BUSINESS.**

14) **SIGNING OF PLATS.**

15) **REVIEW CALENDAR**

16) **ADJOURN.**

ACTION: At 7:35 p.m. Council Member Jensen moved to ADJOURN. Council Member Andersen seconded the motion. The motion carried unanimously with Council Members Andersen, Bullock, Jensen, and LeMone voting "Aye". Council Member Williams was not present for the vote.

The City Council minutes of April 11, 2023, were approved by the City Council on May 2, 2023.



Kathy T. Kresser, MMC

City Recorder

(Exhibits are in the City Council Minutes binders in the Recorder's office.)

