

**Pleasant Grove City
City Council Meeting Minutes
Regular Session
Tuesday, August 6, 2024
6:00 p.m.**

Mayor: Guy L. Fugal

Council Members: Dianna Andersen
Eric Jensen
Cyd LeMone
Steve Rogers
Todd Williams

Staff Present: Scott Darrington, City Administrator
Denise Roy, Finance Director
Tina Petersen, City Attorney
Keldon Brown, Police Chief
Wendy Thorpe, City Recorder
Drew Engemann, Fire Chief
Kyler Brower, Assistant to the City Administrator
Daniel Cardenas, Community Development Director
Neal Winterton, Public Works Director
Megan Zollinger, Recreation Director

Excused: David Packard, Human Resources Director
Lauren Langston, Intern

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. and welcomed those present.

2) **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Finance Director, Denise Roy.

3) **OPENING REMARKS**

The Opening Remarks were offered by Council Member LeMone.

4) **APPROVAL OF MEETING AGENDA**

City Administrator, Scott Darrington, reported that there were no changes to the Agenda.

ACTION: Council Member Jensen moved to APPROVE the Agenda. Council Member Williams seconded the motion. The motion carried unanimously with Council Members Andersen, Jensen, LeMone, Rogers, and Williams voting “Yes”.

5) **PRESENTATIONS.**

There were no presentations.

6) **OPEN SESSION**

Mayor Fugal opened the Open Session. There were no comments. The Open Session was closed.

7) **CONSENT ITEMS**

- A. **City Council Minutes:
City Council Minutes for the July 9, 2024 Meeting.**
- B. **To Consider for Approval Payment No. 8 to HydroVac Excavation for the Pressurized Irrigation Meters Installation Project.**
- C. **To Consider for Approval Payment No. 2 to Awolf Construction for the 200 W; 400 N to Center Street Waterline and Roadway Reconstruction.**
- D. **To Consider for Approval Payment No. 4 to J. Lyne Roberts and Sons, Inc. for the BLVD Well Facilities Project.**
- E. **To Consider for Approval Payment No. 8 to Big D Construction, Inc. for the Cook Family Park.**
- F. **To Consider for Approval Payment No. 4 to Geneva Rock Products, Inc. for the 2024 Pavement Preservation Project.**
- G. **To Consider for Approval Payment No. 3 to Kilgore Contracting for the Nathaniel Drive Waterline and Roadway Improvement Project to Kilgore Contracting.**
- H. **To Consider for Approval Contract Change Order No. 2 to Kilgore Contracting for the Nathaniel Drive Waterline and Roadway Improvement Project.**
- I. **To Consider Approval of Payment Reports for July 25, 2024**

Council Member LeMone recused herself from the vote as she is related to Awolf Construction.

ACTION: Council Member Williams moved to APPROVE the Consent Items. Council Member Dianna Andersen seconded the motion. The motion carried unanimously with Council Members Andersen, Jensen, Rogers, and Williams voting “Yes”. Council Member LeMone did not participate in the vote.

8) **BOARD, COMMISSION, COMMITTEE APPOINTMENTS**

There were no appointments.

9) **PRESENTATIONS**

There were no presentations.

10) **PUBLIC HEARING ITEMS**

- A. **Public Hearing to Consider for Adoption of an Ordinance (2024-019) to Apply the C-G (General Commercial) Zone to Approximately 2.191 Acres on Property Currently Zoned Downtown Village Commercial Subdistrict Zone, located at approximately 169 West 200 South. (Applicant, Kevin Gurr).
*Presenter: Director Cardenas.***

City Administrator, Scott Darrington, identified the following points to be considered:

- When the matter was last before the City Council, concerns were identified and the matter was continued for further resolution by staff. Staff has since worked with the applicant on the rezoning. It was determined that to accommodate the developer, a unique resolution was reached that resulted in a zoning line running through a building. The initial discussions with the property owners included the need for a plat map to be associated with the rezone.
- The location of the property was identified on the zoning map, which is in the Downtown Village Commercial Subdistrict Zone. A drawing of the proposed building was displayed with the proposed zone change with one zone in the front of the building and another in the back of the building. Staff evaluated the proposal and was satisfied but recommended that a plat map specifically delineate the line between the two zones.
- The matter was reviewed by the Planning Commission at which time the applicant asked that the requirement for a plat map be deleted. The Planning Commission concluded that a plat map was not needed and recommended that the rezone be approved without it.
- City Attorney, Tina Petersen concluded that a plat map needs to be associated with the rezone to delineate the boundary line between the two zones. Her concern is that if the line is not drawn, there could be issues regarding where that line is actually located. It was clarified that the current request is for a rezone.
- As a result of previous discussions with Attorney Petersen and Director Cardenas, staff recommended continuing the item with instructions to the developer to have a plat map prepared that could be adopted at the same time as the rezone; or the City Council could approve the rezone contingent upon developer providing a plat map to the City. In this case, the zone change would take place after approval of the plat map. Staff recommended continuing the matter until the plat map is complete.

Attorney Petersen reported that currently the City Council is being asked to approve a rezone that is identified by a boundary line being drawn through a building that hasn't even been built yet with no legal description. The City does not have an accurate way to identify how each part of the

building is zoned. Council Member Williams asked if the vote should take place before or after the public hearing. It was concluded that the vote could be taken after the public hearing.

Administrator Darrington commented that if a developer disagrees with the City's legal interpretation, there are administrative remedies. The requirement for a plat map is not a legislative issue that the City Council votes on. An Administrative Hearing Officer process is available to address the plat map requirement should the developer not want to do one. The State Ombudsmen could also be involved. If the developer is amenable to providing the plat map, the City Council can continue the hearing or approve the rezone contingent on the submission and approval of the plat map and rezone at the same time.

Council Member Rogers acknowledged that there may be a different legal opinion regarding the plat map requirement between the City and the developer and asked if the City's legal opinion was outlined and available for his review. Attorney Petersen addressed the following points:

- State Code 10-9a is the Municipal Land Use Code.
- The applicants assert that they are doing a lot line adjustment, which they believe does not require a subdivision. Their proposal seeks to combine six parcels and a remnant parcel into one, construct a building on it, and have the zone boundary change run through the building.
- The Code definition of "subdivision" means "any land that is subdivided, re-subdivided or proposed to be divided into two or more lots or other divisions of land for the purpose, whether immediate or future, for offer, sale, lease or development either on the installment plan upon any and all other plans, terms, and conditions."
- A subdivision includes "the division of development of land whether by deed, metes and bounds description, devise, intestacy, map, plat or other recorded instrument regardless of whether the division includes all or a portion of the parcel or lot."
- Subsection (b)(ii) states, "except as provided in (68)(c), divisions of land for residential and non-residential uses including land use are to be used for commercial (which this qualifies) agricultural and industrial purposes."
- The applicant wants to not be considered a subdivision and to use subsection (c)(iii) and revise the legal description of multiple parcels into one legal description encompassing all such parcels.

The six parcels were identified on an aerial map displayed. Attorney Petersen reported that the applicants want to make the area into one lot for the building. The City is asking for two lots that will represent the two different zones. Council Member Rogers agreed that at some point in the future, a legal description of the zone line would make sense.

Director Cardenas clarified that the matter is a rezone request. Originally, the Planning Department received an application from Kevin Gurr for a new building to be located on property on which there is one building in the Downtown Village Commercial Subdistrict Zone. He made the following points:

- The applicant was advised of the zoning regulations and indicated that some of the contemplated uses for the new building will not be allowed in the current zone. The zone

further requires specific building materials and design. It was noted that the back of the proposed building was designed in such a manner that it also would not be allowed in the zone.

- The applicant then applied for a rezone of the entire 2.7-acre property from the Downtown Village Commercial Subdistrict zone to C-G (General Commercial). The Planning Commission heard the matter and recommended denial of the rezone as it did not comply with what is desired in the area.
- At a subsequent City Council hearing, staff and the applicant were asked to work out the issue. A Development Review Committee (“DRC”) Meeting was held to explore alternatives. They agreed to try an atypical approach with the front of the building being in the Downtown Village Commercial Subdistrict Zone and the back in the C-G Zone. The suggestion was based on having a plat with two different lots. The front would have downtown characteristics while the rear would have more commercial features such as bay doors.

The current request was for 2.2 acres, which encompasses the back of the building. The intent is to make sure the zoning is clear. Uses allowed in the Commercial General zone were identified and include mechanic shops, long-term parking, warehousing, general storage, and service shops which are more intense uses. The Planning Commission recommended having two zones with Commissioner Butler being the only dissenting vote. He thought the area should remain in the Downtown Zone and that a plat should be required.

Mayor Fugal opened the public hearing.

The applicant’s representative, Logan Gurr, stated that they are proposing to construct a new building since the CopyTec Building is too small and is not functional for the business. The current use was grandfathered in. They were told that they can expand the use of the building but an expansion will not meet their future needs and a full redesign is needed. Staff has been supportive throughout the process. Mr. Gurr reported that their building site plan meets all zoning requirements and they received a positive recommendation from the Planning Commission. Although walkability was a key issue, the parcel backs up against State Street and has no access with railroad tracks on the opposite side of the property. It also faces another business that prevents walkability. The main issue is the City’s requirement to have a plat. The City’s interpretation of the law is that a plat is required. The applicants desire one lot since State Code allows for the configuration and combining of lots without the need for a plat. City staff supports two lots. If required to have two lots, they would need to install a firewall at the zoning line which, will be in the middle of the building.

Greg Robinson reported that he is a Professional Planner by profession and has worked in several different jurisdictions. He commented that there is some question as to whether the proposed development is a subdivision. He noted that they are not re-subdividing, dividing, or proposing to divide the property. They are in actuality, combining it. He stated that he has worked in multiple jurisdictions, which commonly have two zones within one parcel. Pleasant Grove City ordinances address that issue and he would be required to provide a legal description of the zones. He was of the opinion that a plat is required. He noted that he works for the County and addresses these types of issues frequently.

There were no further public comments. The public hearing was closed.

Director Cardenas reported that he has 11 years of experience and this is not common practice. During his time with Pleasant Grove City, he has never done one of this type of mixed zone. Because two different zones are involved, the differentiation needs to be clear. He reviewed the architectural plans that were submitted in 2023, which are ready to go under the current plans, a firewall would not be required. If the plans change, however, a separation firewall would be required.

Attorney Petersen stated that as presented, a rezone cannot be approved as no legal description was provided. Staff has required two lots to delineate the boundary line for the zones. It is unusual to allow one building to straddle two zones, which is yet another accommodation being offered to the applicant. Characterizing this as a difference in interpretation of the code is a misunderstanding. The City agrees that if the only action being taken is to combine the six parcels into one, a plat will not be required. The applicants, however, are also changing the zoning. Staff's position was that the rezone requires the two lots so that the boundary line is defined.

Council Member Rogers stated that in the long term, such a requirement protects the City. Administrator Darrington suggested that if the property is sold, the City wants to make sure the new developer is required to comply with the same requirements and prevent a property owner from changing uses simply because the area is not defined. The difference in Code interpretation is not for the City Council to decide and is the job of the Hearing Officer. Council Member Rogers thought the issue pertains to what the applicants are trying to accomplish. To get both zones, the City recommended a plat with two lots. He also noted that if the rezone is approved, the applicant could build a smaller building on the back portion of the lot and no longer have enough space to build in the Downtown Village Commercial Subdistrict Zone. The result would be to have no storefronts. He noted that they cannot tie the rezone to an eventual plan because there is none. He was also concerned about enforcement of a zone where there is no delineation.

Council Member Williams agreed and recommended that the matter be continued to allow for the two parcels to be put in place. The intent was to make sure that both the City and the applicant are protected. The concerns of the applicants included the cost of a firewall, the functionality of the building, the access easement, and the need for Covenants, Conditions, and Restrictions ("CC&Rs").

Procedural issues were discussed. Attorney Petersen stated that if only the rezone comes back no public hearing would be required, but the item would need to come back to Council for a vote. She suggested that the matter be continued since the applicants were not prepared to indicate what they would be willing to do.

ACTION: Council Member Williams moved to CONTINUE the public hearing on Ordinance 2024-019 to Apply the C-G (General Commercial) Zone to approximately 2.191 acres on property currently zoned Downtown Village Commercial Subdistrict Zone, located at approximately 169 West 200 South. Council Member Rogers seconded the motion. The motion carried unanimously with Council Members Andersen, Jensen, LeMone, Rogers, and Williams, voting "Yes".

11) **ACTION ITEMS READY FOR VOTE**

- A. **To Consider for Adoption a Resolution (2024-034) Authorizing the Mayor to Sign an Interlocal Agreement Providing for a Multi-Jurisdictional Utah County SWAT Team by and between Utah County, Pleasant Grove City, Alpine City, Spanish Fork City, Santaquin City, Springville City, Payson City, Nephi City, Lehi City, Eagle Mountain City, Lindon City, Juab County, Salem City, and American Fork City. *Presenter: Attorney Petersen.***

Attorney Petersen presented the proposed Resolution Report and stated that the request involves an Interlocal Agreement that has been in place for 20 years. None of the provisions had been changed. The agreement was between the referenced cities to operate a special team called SWAT. The particulars are that each city that assigns a Public Safety Officer to the team individually covers its own officer as a city employee. The legal obligations such as liability, wages, and injuries remain with the individual city. It was noted that the officers train together for special situations.

ACTION: Council Member Andersen moved to ADOPT Resolution 2024-034 Authorizing the Mayor to sign an Interlocal Agreement providing for a Multi-Jurisdictional Utah County SWAT team by and between Utah County, Pleasant Grove City, Alpine City, Spanish Fork City, Santaquin City, Springville City, Payson City, Nephi City, Lehi City, Eagle Mountain City, Lindon City, Juab County, Salem City, and American Fork City. Council Member Jensen seconded the motion. The motion carried unanimously with Council Members Andersen, Jensen, LeMone, Rogers, and Williams, voting “Yes”.

- B. **To Consider for Adoption a Resolution (2024-035) Authorizing the Mayor to sign an Interlocal Cooperative Agreement between Cedar Hills City and Pleasant Grove City for the Pleasant Grove Waterline Project and Providing for an Effective Date. *Presenter: Attorney Petersen.***

Attorney Petersen presented the proposed Resolution and stated that Pleasant Grove City owns a water line located on a road that belongs to Cedar Hills that is to undergo a capital improvement. Pleasant Grove City has agreed to cover the cost of replacing the waterline. Cedar Hills has engaged Bowen Collins & Associates to design the project. Pleasant Grove City has agreed to pay \$19,532, which covers its portion of the design fees. The remainder of the applicable construction costs are being negotiated. The work can be done in-house or by the contractor doing the actual work. The full amount of the estimated costs was unknown, but Pleasant Grove will be responsible for all costs associated with the waterline replacement.

Public Works Director, Neal Winterton, reported that the in-house work was to be done by Cody Ekkert Construction. The line is about 200 feet and the project cost was estimated at \$400,000. Staff was comfortable with the process and pricing. He was pleased that Cedar Hills is open to Pleasant Grove being involved in the project.

ACTION: Council Member Williams moved to ADOPT Resolution 2024-035 Authorizing the Mayor to sign an Interlocal Cooperative Agreement between Cedar Hills City and Pleasant Grove City for the Pleasant Grove waterline project and providing for an effective date. Council Member Andersen seconded the motion. The motion carried unanimously with Council Members Andersen, Jensen, LeMone, Rogers, and Williams, voting “Yes”.

12) ITEMS FOR DISCUSSION

A. Staff Business.

Police Chief, Keldon Brown reported on the following:

- A Retirement Event was held the previous week and a Farewell Lunch was planned for Officer Locke earlier in the day. There are not yet any potential prospects to fill the two positions. Chief Brown stated that he will monitor manpower deployment to continue to meet community needs and ensure that services are not delayed.
- After reviewing the past two weeks of reports, he reported there were 45 animal calls with 21 being taken to the shelter. There were 39 traffic accidents ranging from fender benders to major incidents; 18 responses to alarms; disorderly conduct calls; and 15 domestic violence calls. They are averaging 100 traffic stops per week and are responding to speeding complaints on 2600 North, 1500 North, 500 North, 1300 West, and 1000 North.
- The Party in the Park was scheduled for the following night between 4:00 p.m. and 6:00 p.m. The event was open to the public.

Fire Chief, Drew Engemann, reported on the following:

- The Department received 180 calls in June and 184 calls in July, which is busier than normal.
- They are two employees short and are in the process of filling those positions.
- A fire crew remains in California and was recently assigned to a fire in Yosemite. They have been there for over one month and have a few more weeks remaining.

Library and Arts Director, Sheri Britsch, reported on the following:

- The Summer Reading Program recently concluded and was a great success.
- The Summerbration Book Sale will take place from August 10 to 17.

Parks Director, Deon Giles, reported on the following:

- Preparations were underway to install the shade covers at the Discovery Diamond.
- Surface America will begin resurfacing work at the Discovery Playground on August 19.
- The new LED lights were to be installed before September 10, which is when Flag Football starts at Discovery Park.

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

- The Department continues to be very busy. In addition to City work, they are also involved with two Utah Department of Transportation (“UDOT”) projects on Center and State Streets.
- Striping on Pleasant Grove Boulevard was underway and crews are working to get the roadways completed by the start of school.
- The Cook Family Park preparation continued. The basketball and two futsal courts were ready to pour. All of the building and blockwork was finished. The environmental remediation was 90% complete.
- A water infrastructure grant was applied for several months ago and the City will be receiving \$900,000 for the pipe-to-the-lake project, which will help bridge the needed funding. The application process included showing the benefits and advantages of the project and the effect on the surrounding waterways.
- The Natural Resources Conservation Service (“NRCS”) funding has been challenging and national funding is no longer available.
- Applications were being accepted for the Foreman and Water Operator positions.

Recreations Director, Megan Zollinger, reported on the following:

- She was currently working on the operating indices. After reviewing the work done for the entire year, she was impressed with what this City does for its residents.
- The Tuesday Night Movie is *Kungfu Panda 4*.
- Staff was in the process of preparing for future activities.
- Staff was in the process of interviewing candidates for a staff vacancy and are accepting applications for Kylie’s position, which opens in September.

Community Development Director, Daniel Cardenas, reported on the following:

- A Community Development Map will be posted online to identify development activity.

Finance Director, Denise Roy, reported on the following:

- She preparing for the upcoming audit.

Administrator Darrington reviewed the following calendar items:

- Summerbration is scheduled for this Thursday, from 3:00 p.m. to dusk.
- August 12 is the staff Employee Swim Party at Discovery Park. There will be a myriad of activities offered. The pickleball courts have been reserved and Marvelous Catering will provide the food.

13) REVIEW AND DISCUSSION OF THE AUGUST 20, 2024, CITY COUNCIL MEETING AGENDA.

Administrator Darrington reported that the next Work Session will include the following:

- An Update from UTOPIA regarding its numbers and subscribers.
- Pleasant Grove Cares Youth Recognition.

Mayor Fugal reported that there will be a presentation by the Alpine School District on the proposed split between 5:00 p.m. and 5:30 p.m. during the Work Session.

14) MAYOR AND COUNCIL BUSINESS.

Council Member Jensen reported that a Ribbon Cutting is scheduled for this Friday at 11:00 a.m. for a drink business. An official Ribbon Cutting was planned for Wayback Burgers on September 21. He noted that the employee pickleball tournament is scheduled for September 19.

Council Member Rogers asked for a staff update on a potential ordinance addressing vacancies in Pleasant Grove. He provided staff with information about a national movement to battle blight created by vacant properties. The effort would require a Certificate of Vacancy to alert the City of vacant homes. The hope was that such a provision will prevent what is happening in some areas of the City. Administrator Darrington stated that he, Attorney Petersen, and Director Cardenas plan to meet during the next week to discuss the issue. Council Member Rogers commended staff for their efforts to address enforcement issues in the downtown and at Evermore.

15) SIGNING OF PLATS

No plats were signed.

16) REVIEW CALENDAR

17) ADJOURN

ACTION: At 7:24 p.m. Council Member Williams moved to ADJOURN the City Council Meeting. Council Member Andersen seconded the motion. The motion carried unanimously with Council Members Andersen, Jensen, LeMone, Rogers, and Williams voting “Yes”.

The City Council minutes of August 6, 2024, were approved by the City Council on August 20, 2024.



Wendy Thorpe, CMC
City Recorder

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