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3 PLEASANT GROVE CITY  
4 PLANNING COMMISSION MEETING MINUTES  
5 May 26, 2022  
6

7 **PRESENT:** Chair Jeffrey Butler, Jim Martineau, Lindsey Hargett, Dustin Phillips, Todd Fugal  
8

9 **STAFF:** Daniel Cardenas, Community Development Director; Jacob Hawkins, City Planner;  
10 Aaron Wilson, City Engineer; Kara Kresser, Planning Assistant; Kirsten Haggard, Planning Tech  
11

12 **EXCUSED:** Tim Clyde, Peter Steele, Wendy Shirley, Karla Patten  
13

14 Chair Jeffrey Butler called the meeting to order at 7:00 p.m.  
15

16 **Commission Business:**  
17

18 1. **Pledge of Allegiance and Opening Remarks:** Commissioner Dustin Phillips led the  
19 Pledge of Allegiance. Commissioner Lindsey Hargett offered the opening remarks.  
20

21 2. **Agenda Approval.**  
22

- 23 • **MOTION:** Commissioner Phillips moved to APPROVE the agenda. Commissioner  
24 Todd Fugal seconded the motion. The Commissioners unanimously voted "Aye".  
25 The motion carried.  
26

27 3. **Staff Reports:**  
28

- 29 • **MOTION:** Commissioner Fugal moved to APPROVE the Staff Reports.  
30 Commissioner Jim Martineau seconded the motion. The Commissioners  
31 unanimously voted "Aye". The motion carried.  
32

33 4. **Declaration of Conflicts and Abstentions from Commission Members.**  
34

35 There were no declarations or abstentions.  
36

1 **ITEM 1 – Public Hearing: Relief Petition – Property Located at approx. 1585 North**  
2 **Murdock Drive.**  
3 **(Big Spring Neighborhood)**

4 Public Hearing to Consider the Request of Robert Isaac Bingham to be Exempted from the  
5 Installation of Infrastructure and Connections for the Required Pressurized Irrigation Systems  
6 (Secondary Water) on Approximately 2.73 Acres of Property Zoned Single-Family Residential  
7 (R1-20), Approximately located at 1585 North Murdock Drive.

8  
9 Community Development Director, Daniel Cardenas, presented the staff report and stated that the  
10 applicant is seeking an exemption for his property, located at 1585 North Murdock Drive, from  
11 the requirement that property owners connect with the City’s pressurized irrigation system. Using  
12 a zoning map and an image of the property, Director Cardenas identified the subject property  
13 identified as Lot 7 of an existing subdivision containing a single-family dwelling. The property is  
14 2.5 acres in size and is on the City’s border. Director Cardenas noted that the applicant has water  
15 rights related to natural springs located on the property that generate 10 gallons of water per  
16 minute. The water rights were passed with the land through prior sales.

17  
18 Director Cardenas stated that next to the subject property, the City has a secondary pressurized  
19 water irrigation system that requires property owners to pay for the installation of a connection to  
20 the system and the use of water. The applicant was seeking relief from that requirement to connect  
21 or pay any subsequent fees as his water rights provide more than adequate water. He allowed the  
22 balance of water he did not use to return to the City. Staff confirmed that that was the case. After  
23 reviewing the petition, staff concluded that the proposal was fair and recommended that the  
24 requirements to pay be waived and that the applicant be allowed to connect to secondary water.

25  
26 Chair Butler asked if any further information about the ownership of the property had been  
27 received or obtained by the City. Director Cardenas stated that there had been no additional  
28 information obtained other than what was provided in the staff report. He also spoke with the City  
29 Administrator about this item and noted that because the transfer of the water rights took place a  
30 long time ago, there was nothing in writing to confirm the transfer despite multiple requests.  
31 Director Cardenas further stated that the City Administrator was comfortable with the verbal  
32 representation regarding the water rights and that part of the agreement would need to include the  
33 status of the water rights. The Administrator indicated that they would eventually need to amend  
34 the Code, which would resolve the issue. Chair Butler stated that it needs to be clarified that access  
35 to the natural springs runs with the land in perpetuity.

36  
37 The applicant, Robert Bingham, confirmed that since 1956 he and his family have owned the  
38 subject property and had continuous access rights to water from the Big Springs. The water they  
39 are entitled to but did not use has been returned to the City at no charge. In the 1930s, the prior  
40 owner purchased the entire 135 acres in bankruptcy, including the entire spring area, and turned it  
41 into one of the first farms in Pleasant Grove. Mr. Bingham provided a history of the land and its

1 uses and noted that a lot of different people, including the City, have owned the land over the years  
2 and the land has been parceled off in phases.

3  
4 Mr. Bingham stated that the prior owner sold the springs to the City for \$32,000 as part of a sales  
5 contract that gave the property owner the right to use 10 gallons per minute for use on the farm.  
6 In 1982, the City wanted to redo the collection system. As part of that work, the applicant stated  
7 that his water access line was cut and he replaced the pipe with a new PVC line to re-establish use.  
8 At the time the line was cut, the City was not aware of his use. Approximately two weeks later,  
9 City Administrator, Frank Mills, who was overseeing the project, told him that he had conducted  
10 research and learned that the applicant owned the rights to the water. He told Mr. Mills that  
11 something needed to be done to confirm this information to preserve his rights. He was concerned  
12 that when the current employees left the City, that information about the water use would vanish.  
13 He was angry about the matter and wanted the water rights recorded and attached to his Petition  
14 for Relief, so they do not have to face this issue again. Mr. Bingham was seeking relief from the  
15 connection requirements and the related fees. He pointed out that he cannot use a fraction of the  
16 water he is entitled to and that the City is getting that water free of charge. While he in turn is not  
17 getting relief from his costs. He felt that to require compliance with connection requirements and  
18 fees was unfair.

19  
20 In response to a question raised, Mr. Bingham indicated that he purchased some of the property  
21 but inherited most of it. His father purchased 52 acres in 1956 and the applicant subsequently  
22 purchased additional acreage. Commissioner Fugal asked about the purchase price of the property.  
23 Mr. Bingham stated that around 1972, he and his wife, and his parents entered into a Purchase  
24 Agreement for just over one acre of land, which contained a house and water rights. They  
25 subsequently purchased additional acreage and built a warehouse in 1976. Commissioner Fugal  
26 asked if the property had been surveyed with regard to water rights. Mr. Bingham stated that the  
27 property had been surveyed but not with respect to water issues. He denied that there had been  
28 any enforcement issues within the past 10 years. When asked about recorded liens or  
29 encumbrances against the property, Mr. Bingham stated that the property is paid for but he has  
30 taken out a business loan or line of credit against the property.

31  
32 Commissioner Fugal commented that it appeared they could be comfortable with the request for  
33 relief from connection costs, user fees, or any other fee pertaining to the water. He stated that it  
34 appeared inequitable for the City to charge for those fees as his water rights appear to have been  
35 established. Mr. Bingham commented that this issue had been addressed before and he wanted  
36 written documentation.

37  
38 It was noted that the Planning Commission makes a recommendation to the City Council, who will  
39 make the final decision. Mr. Bingham asked that the paperwork involved in the original sale of  
40 the spring to the City be located so that the water rights issue could be fully resolved.

41  
42 Director Cardenas stated that the matter would be heard by the City Council on June 7, 2022.

1  
2 Chair Butler opened the public hearing.

3  
4 *Laura Bingham Montague*, Mr. Bingham’s youngest daughter gave her address as 1587 North  
5 Murdock Drive and wanted the record to reflect her presence.

6  
7 There were no further public comments. The Chair closed the public hearing and invited the  
8 Commission to either continue the discussion regarding this item or he would entertain a motion  
9 if no further discussion was necessary.

10  
11 Commissioner Fugal appreciated the background and stated that he believed it would be  
12 inequitable to charge the fees. He stated that the water being given back to the City was far more  
13 than any fees to be recovered.

14  
15 **MOTION:** Commissioner Fugal moved that the Planning Commission forward a  
16 recommendation to the City Council to APPROVE the request of Robert Bingham to be exempted  
17 from the installation of infrastructure and connections for the required pressurized irrigation  
18 systems (secondary water) on approximately 2.73 acres of property zoned Single-Family  
19 Residential (R1-20), approximately located at 1585 North Murdock Drive and adopting the  
20 exhibits, conditions, and findings of the staff report. The Commission found that the applicant has  
21 shown that it would be inequitable to charge the fees since the water being donated back to the  
22 City for its use is water owned by the applicant. The motion was subject to the following condition:

- 23  
24 1. Should any future property owner or owner of water rights decide to charge for the  
25 water being sent back from those water users, they will be subject to all of the  
26 connection hook-up costs and fees, user fees, as well as any other fees associated  
27 with the pressurized irrigation systems (secondary water).  
28

29 Commissioner Phillips seconded the motion. The Commissioners unanimously voted “Aye”. The  
30 motion carried.

31  
32 **ITEM 2 – Review and Approve the Minutes from the May 12, 2022, Planning Commission**  
33 **Meeting.**

34  
35 **MOTION:** Commissioner Martineau moved to APPROVE the minutes of May 12, 2022, as  
36 printed. Commissioner Hargett seconded the motion. The Commissioners unanimously voted  
37 “Aye”. The motion carried.


38  
39 **MOTION:** Commissioner Hargett moved to ADJOURN the meeting at 7:48 p.m. Commissioner  
40 Martineau seconded the motion. The Commissioners unanimously voted “Aye”. The motion  
41 carried.

42

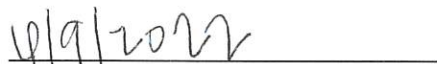
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Planning Commission Chair



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Kara Kresser, Planning Tech



\_\_\_\_\_  
Date Approved



BOB BINGHAM CO., INC.

1585 NORTH MURDOCK DRIVE, PLEASANT GROVE, UT 84062 • C: (801) 376-0166

**Relief Petition** from the requirements of the Pleasant Grove pressurized irrigation system.  
April 20, 2022

**Name: Robert Isaac Bingham**  
**Address: 1585 N. Murdock Drive, Pleasant Grove**

**Reason: I already have far more water than I could ever use. I don't need pressurized irrigation.**

**Explanation: I own a 10 gallon per minute water right to the Big Springs (Wade Springs). I have a private water line that is attached to the spring collection system that provides water to the farm home and out-buildings.**

**James Wade purchased the farm at a sheriff's auction some time in the 1930's, I think. The Big Springs (some call it the Wade Springs) was part of that purchase.**

**Some time later, James Wade sold the Big Springs to Pleasant Grove City, but he retained a 10 gallon per minute water right for the use of the farm.**

**In 1956 he sold the farm home and out-buildings and 54 acres including the 10 gallons per minute water right to Owen W. & Nona B. Bingham (both now deceased).**

**Years later, I, Robert I. & Ronnie Jeanne Bingham (Ronnie deceased) acquired the home, out-buildings, 17 acres and the 10 gallons per minute water right.**

**Frank Mills, City Manager, became well aware of this water right. He and I came to an agreement as follows.**

**I own 10 gal. @ min. = 600 gal. @ hr. = 14,400 gal. @ day x 365 days a yr. = 5,256,000 gal. @ year.**

**I use only a tiny percentage of that water. When the water isn't in use, the unused water backs up and goes into the City's water system. The City does not, and has never paid for this water. The City doesn't even assist in the maintenance of my water line.**

**In my mind, this free water is a very generous gift to Pleasant Grove City! I have never asked the City to pay me for this water, and I am O.K. With this arrangement if it is reciprocated.**

**In consideration of this gift, The City agreed to exempt me from the requirements to hook up to or pay for City water. I think that Frank may have had in mind to include sewer in that agreement, but I'm not sure.**

**Having to keep justifying my arrangement with the City is a real nuisance to me. Something needs to be done so that people in the future will know what's agreed to. Frank promised that he would take care of this, but he let it slip past him, obviously.**

*Robert Bingham*

## CHAPTER 9

# CITY PRESSURIZED IRRIGATION SYSTEM

### SECTION:

#### 8-9-1: Connection Fees

#### 8-9-2: User Fees

#### 8-9-3: Size Of Service Line

#### 8-9-4: Relief Provisions

#### 8-9-1: CONNECTION FEES:

The connection fee schedule for connection to the Pleasant Grove City pressurized irrigation system has been established by resolution of the City Council. Said fee schedule may be amended or modified from time to time by resolution of the City Council. (Ord. 2005-39, 12-6-2005)

#### 8-9-2: USER FEES:

The monthly user fee for the Pleasant Grove City pressurized irrigation system shall be established by resolution of the City Council, as shall be amended and modified from time to time as necessary by resolution. All bills sent to pressurized irrigation users shall be deemed to be correct if they are not disputed within thirty (30) days from the issuance thereof. In cases where a disputed bill is found to be in error, reimbursement for errors is limited to one year from the date the dispute is filed. (Ord. 2018-17, 7-3-2018)

#### 8-9-3: SIZE OF SERVICE LINE:

The size of the service line for the pressurized irrigation system shall be determined by the City. (Ord. 2005-39, 12-6-2005)

#### 8-9-4: RELIEF PROVISIONS:

A. Relief Petition: Any applicant for connection to the pressurized irrigation system ("applicant"), may file a relief petition with the City Recorder seeking a relief from all or part of the connection requirements as contained in this chapter on the basis that the requirements, as applied to the applicant or to the specific property for which the connection is requested is inequitable, or for any other reason should be modified.

B. Time For Filing Notice Of Petition And Relief Petition: No later than ten (10) calendar days from final action by the City on any connection application, the applicant shall file a notice of petition in writing with the City Recorder. Within thirty (30) days of filing a said notice of petition, the applicant shall file a relief petition with the City Recorder.

#### C. Information To Be Submitted With Relief Petition:

1. The relief petition must be submitted on a form acceptable to the City, shall be signed by the applicant and verified, and must be accompanied at a minimum by the following information:

a. Name of applicant;

b. Name and business address of the current owner of the property, form of ownership, whether sole proprietorship, for profit, or not for profit corporation, partnership, joint venture, limited liability company, or other, and if owned by a corporation, partnership, joint venture, or limited liability company, the name and address of all principal shareholders, members, or partners.

c. Price paid and other terms of purchase of the property, the date of purchase, and the name of the party from whom purchased, including the relationship, if any, between the applicant and the party from whom the property was acquired;

d. Nature of the interest owned by the applicant in the subject property; the date of the application, related to the subject property;

e. All studies and reports commissioned by the applicant, agents of the applicant, or prior owners of the subject property with the previous ten (10) years concerning water usage, and/or availability, related to the subject property;

f. Information from a title report showing all recorded liens, encumbrances, and ownership interests related to all water rights and water shares related to the subject property as of the date of the petition;

g. The complete detailed factual basis for the applicant's assertion that the connection requirements for the City pressurized irrigation system are inequitable or should be modified as to the applicant, related to the subject property for which connection is sought;

h. A specific description of the modification from the connection requirements for the City pressurized irrigation system which the applicant asserts are necessary, to the minimum extent necessary to prevent the requirements from being inequitable, together with the factual basis for said assertion.

D. Request For Additional Information: The Planning Commission or the City Council may request additional information reasonably necessary, in their opinion, to arrive at a conclusion concerning the relief petition.

E. Failure To Submit Information: In the event that any of the information required to be submitted by the applicant is not reasonably available, the applicant shall file with the petition a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

F. Hearing By The Planning Commission: No later than thirty (30) days after the filing of a complete relief petition, together with all required and requested supporting information and documentation required by the City, the Planning Commission shall schedule a hearing. The hearing shall be held no later than thirty (30) days after the date of filing, unless a reasonable extension of time is agreed to by both the Planning Commission and the applicant. At the hearing, the applicant may testify, call and examine witnesses, and present facts and evidence. All witnesses shall be sworn and testify under oath.

G. Burden Of Proof: The applicant shall have the burden of proving that the strict application of the City's connection requirements are inequitable or should be modified, in whole or in part, as applied to the specific applicant or property for which a connection is sought.

H. Findings Of The Planning Commission: The Planning Commission shall, on the basis of the evidence and testimony presented, make specific findings as part of its report and recommendations to the City Council, which may include the following:

1. Whether the applicant has complied with the requirements for presenting the information to be submitted with a relief petition.

2. Whether in the opinion of the Planning Commission, the imposition of the connection requirements, are inequitable or should be modified, as applied to the applicant or to the subject property.

I. Report And Recommendations Of The Planning Commission:

1. The Planning Commission, based upon the evidence and findings, shall make a report and a recommendation to the City Council concerning the relief petition.

2. If the Planning Commission recommends to the City Council approval of the relief petition, in whole or in part, then the report of the Planning Commission shall discuss the type and extent of modifications necessary, in the opinion of the Planning Commission, to prevent the water connection requirements from having an inequitable effect.

3. The report and recommendation shall be submitted to the City Council and mailed to the applicant no later than thirty (30) days after the hearing.

J. City Council Review And Consideration: Sixty (60) days after receipt of the Planning Commission's report, the City Council shall hold a hearing to review the report and recommendations of the Planning Commission. At the hearing, the applicant may testify, examine witnesses, and present facts and evidence. All witnesses shall be sworn and testify under oath. At the hearing the City Council may limit the testimony and evidence to new testimony and evidence. The City Council shall approve, in whole, or part, or disapprove the relief petition. The City Council may modify or waive the pressurized irrigation system connection requirements to the extent reasonably necessary to prevent the connection requirements from being inequitable as to the applicant or as to the subject property and may condition such modification or waiver upon approval of specific development



plans. The City Council may take such action without the necessity of resubmission of the petition to the Planning Commission

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K. Findings Of The City Council: The City Council shall, on the basis of the report and recommendation of the Planning Commission and the evidence and testimony presented, make specific findings as part of its decision. The findings may adopt, change, or modify the findings of the Planning Commission.

L. Decision Of The City Council: The decision of the City Council shall be mailed to the applicant no later than thirty (30) days after the hearing.

M. Decision Final: The decision of the City Council shall be final. (Ord. 2005-39, 12-6-2005)