

**MINUTES OF THE GRANTSVILLE CITY COUNCIL BUSINESS MEETING  
HELD 12/05/01.**

The meeting was held in the Grantsville City Council Chambers at 429 E. Main Street in Grantsville, Utah. Present were Mayor Merle E. Cole, Council Members Byron Anderson, Kevin Hall, Justin Linares, and Craig Anderson, Attorney Ron Elton, and Zoning Administrator Shauna Kertamus. Absent was Council Member Karen Watson. Also present were Judd Lawrence, Reporter Mary Ruth Hammond, Alan Johnson, Neil Blackburn, Bonnie Gardner, Ozzie Gardner, Brian Roberts, Gerald Hill, Jeff McNiell, and Mrs. Jeff McNiell.

**MEETING OFFICIALLY CALLED TO ORDER AT 7:06 P.M. BY MAYOR  
MERLE E. COLE.**

**CONSIDERATION OF CHANGE TO PHASING FOR HERITAGE GROVE:**

Shauna stated all appeared to be in order with the final plat and in the development agreement. Ron stated he had not seen the development agreement, and would like time to review it. Ron asked what would happen with this agreement if Watt Homes is successful in their lawsuit? We should table this for the 19<sup>th</sup> stated the Mayor, until all of this is worked out. Byron Anderson moved to table this item until the 19<sup>th</sup> of December and until Ron, Shauna and Alan have time to sit down and review the development agreement together. Kevin Hall seconded the motion. All voted in favor and the motion carried.

**CONSIDERATION OF CULINARY WATER REQUIREMENTS FOR**

**HERITAGE GROVE PHASE 1A:** Ron Elton stated that the current ordinance requires that any dedication of water be sent to a water attorney of our choice and the developer pay the cost of that review. The attorney will then render an opinion as to the transfer of that water. Kevin stated that on page six (6) it defines the amount of irrigation water, and he asked Alan to clarify just what he is turning over. "Who determines what the irrigated acre will be," asked Kevin? Alan stated that he thought the irrigation company should decide. He said that this agenda item is just for the church site, phase 1A, not the whole project. The Church has submitted their landscape plan, so they know how much water they need. They have their own but they are going to buy some of mine, stated Alan. Ron asked, "what is the definition of additional irrigated acreage, that it talks about in the agreement?" Anything outside of the lots, stated Alan. Kevin said that Alan probably falls under the old laws. Justin said that the question is, for you as a developer, how much of it is or isn't irrigated? One share per lot, stated Alan, is what I am planning to turn over. We will have meters on each individual unit and they can get whatever they can out of that one (1) share, if they need more they can buy it. The homeowner should go over their landscaping with the irrigation company and that's who should provide the amount of irrigatable land they have. Justin stated, "well, this is open ended and we will have an ordinance soon. Can you say you will live under that ordinance?" Alan did not respond to that question. Craig asked about the park areas in phase 1A? Alan stated that there are three (3) shares per irrigated acre of the park. Alan said that what he anticipates a total of almost two (2) shares on the acre lots, which is how it will work out. The Mayor asked if half of the retention basin going to be irrigated also? I plan to incorporate the two (2), the park and the retention area, and then one end of it will have to be irrigated. Ron directed the Council to approve the exact amount of secondary water for the property. Justin stated, "well, after tonight we should have that, it is on the agenda." "We can't adopt this until the public hearing on the 19<sup>th</sup>," stated Kevin, "but we have negotiated to allow for those types of things." The Mayor stated that this should be tabled until all of this is worked out. "We want to record that final plat and we need to know how much water is going to be required for Phase 1A. They have three (3) shares of water now and they are willing to buy more, but they need to know a figure for culinary water. Ron stated that should be in the Capital Facilities Plan or the engineer should be able to provide that. Craig Anderson moved to require the engineer provide a figure on how much culinary water the church will need for its' Heritage Grove site, or the ERU's. Byron Anderson seconded the motion. All voted in favor and the motion carried. Mayor Cole will determine what attorney will review the deeds.

**CONSIDERATION OF STONE RIDGE BONDING EXTENSION:** Byron Anderson moved to extent the bonding for Stone Ridge stating there is really no issue for the City

in this request. Craig Anderson seconded the motion. All voted in favor and the motion carried.

**NORTH HALE STREET OBSTRUCTION CONSIDERATION:** Mayor Cole moved this item from #4 on the agenda to #1. Attorney Ron Elton had written a letter to Ruth Anderson stating the City's position regarding the fence and debris she used to close off both ends of Hale Street on the north and south. Ruth's attorney, Brian Roberts was in the audience and stated he was there to answer questions. He stated he had directed Ruth to remove the barriers immediately on both ends of the street, which she said she had done. He stated he would like to request our indulgence in waiting for the removal of the fences running along the road until Ruth has had time to have a survey completed, to avoid possibly having to move the fences again. Ron stated that in his opinion it would be fine to wait until the survey is done to move the fence as long as Ruth has removed the obstruction to the access. The Mayor said that Ruth had shown him a survey that was already completed. Ron said the one he has seen stops at the other side of the fence and he thinks she moved the fence to take in the land she purchased from the County. So the issue is the property that she acquired from the County and where it fits with our newly found land, stated Ron. We have a survey, stated Mr. Roberts, and it is suppose to be finished by the 10<sup>th</sup> of December. There was additional property acquired from the County, he said. "I think she just added that much more onto hers and then moved the fence," stated Ron. Justin asked, "can they sell just anything at a tax sale?" If they believe the taxes are delinquent they can sell it, but they do not guarantee it. You cannot get a title company to get you a clear title because of these issues, said Ron. He said that the title company told him the property overlaps, the County just missed the overlap. Justin stated it sounds like they are trying to work things out. The Mayor stated that if the fence and the debris are removed then we can wait for the survey and consider this again on the agenda for the 19<sup>th</sup>, but she must leave both ends of the street open. Mr. Roberts said it would be done. Mr. Gardner asked why Ruth can't just put it all back the way it has always been? Ron stated that is a separate issue, and could be our fall back response, as a prescriptive easement. Craig Anderson commented to Mr. Roberts that residents of Grantsville City take a dim view of this kind of action being taken. We try to live within our existing property and fence lines, he said. Mayor Cole said he would like to have this taken care of before the 19<sup>th</sup> of December, but it can wait until then if it needs to.

**CONSIDERATION OF ROAD STANDARDS AND STREET MASTER PLAN:** Ron asked, "do we want road standards in this book?" "And if so," he said, "how do they apply it to the General Plan?" Just by reference, said Craig. Craig said one question he has is if the City is going to rebuild one of our own existing streets, do we build it to this standard or do we just maintain it? Kevin stated that if it is just resurfaced we would only go to the existing width, if we completely rebuild a street then we would do it to the standard. However, we want to keep that flexibility. "But this plan doesn't mandate that you have to," said Ron. This is non binding for the City, but binding for the developers. There is a public hearing set on this for the 19<sup>th</sup> of December, stated Ron.

**CONSIDERATION OF WATER REQUIREMENTS AND ADOPTION OF A FORMULA FOR FIGURING THE AVERAGE IRRIGATED ACRE:** The Mayor stated that we have a chart from Judd Lawrence to act on. It was to be approved at the water board meeting, however there was not a quorum present to vote. This document was voted on by the irrigation people, stated Kevin, and they voted five (5) to three (3) to adopt the chart. Justin stated that even those that voted against had no real concerns. Kevin moved to approve the chart as brought in by Judd Lawrence for consideration at the public hearing on the 19<sup>th</sup> of December. Byron Anderson seconded the motion. Craig stated, "I think it requires a greater degree of water for use by new residents than we require of the current residents. It is against the statute of the impact fee law to require more from one person than another. It should be left up to the homeowner in conjunction with the irrigation company. The City does not need to be in that fight," he said. Craig stated, I think on the nexus of this alone it is against the legislative act that allows us to do impact fees, and it should be capped at ½ acre. To cap it at that is reasonable, but to go out on the five acres is unreasonable. Byron asked, "the irrigation company has allowed people to decide what they would irrigate, if the City adopts this does the irrigation company intend to adopt an absolute standard?" Craig said, "not to my knowledge." The irrigation company has not backed off of the share per third acre. Kevin stated the thing that we are trying to get away from is letting people dictate what

they will irrigate with. We loose control with that. They will say one thing in the beginning but before long they will be doing something else, and then it is a policing effort for the City. Craig stated that with a meter it is easy to police. Kevin stated that one big thing is that with the fee structure people will use culinary water to irrigate with because it is cheaper. Craig asked, "so, is that our fault?" Both Kevin and Justin responded no, we didn't say it is our fault. But the core of the City where there is 7,000 square foot lots, they aren't going to buy irrigation because it is too expensive. The irrigation company is going to need to do half shares, stated Justin, and they are starting to realize that. The Mayor stated that there is a motion and a second on the table and he called for a vote. All voted in favor with the exception of Craig Anderson, who was opposed. The motion carried.

**CONSIDERATION OF PROPOSED GENERAL PLAN:** Craig stated that Bruce Parker had sent his most recent map for their review. Justin stated that he doesn't think the map looks right. Kevin stated, "it isn't right." The Planning commission has not had a chance to review the changes either, he said. Ron stated that the process is the Planning Commission has a public hearing and recommends approval or denial of a project, you hold the public hearing and make the decision. The Mayor asked, "is this information stale?" Kevin stated there are some discrepancies on what and where we are today. The Planning Commission should have a chance to review this before we go any further. Craig stated, "I think it is time for the Council to make a decision." Kevin said, "then you are saying that the Planning Commission is out of it." That is exactly what their complaint has always been that no matter what they send to us we change it, he said. Craig stated again that it is time for the Council to sit down and vote on it. The Mayor asked if this is reference by the rural subdivision ordinance? This reflects what Mr. Parker believes the Council had voted on. The Mayor stated that the purpose of having this agenda was to make sure that we have everything in place, all of the standards, not to vote on it tonight. Kevin stated he would like to have the Planning Commission look at it one more time. This is a completely different map than the Planning Commission sent to us. Craig stated that he disagreed. Justin stated, "there must be a reason it was tabled before or we would have voted on it then. What was that reason, he asked? Craig stated that we directed Bruce to make certain changes. If it were really that simple we would have voted on it before and not tabled it, Justin said. Kevin requested again that it be sent back to the Planning Commission for their review. The Mayor stated that the procedure is the Council takes it in from the Commission and acts on it. Kevin said, "I agree with the process but I have a problem defining the one acre. Take that one-acre out of there, and then this is exactly the way it was." That is one thing we butted heads on, said Kevin, is taking the white area down to the one acre. I have a big problem with that. The Mayor stated it seems to me that when we approved the rural residential procedure, we provided a way around all of these items in the General Plan map. Justin why run it down to the bare minimum then? Kevin pointed out that if we have this one-acre available any developer will come in and take it down to that one acre zone. Every one of them will go for it. It takes away the protection. Byron stated that it would work out to be the same if you discuss density instead of acreage, that will be the point to take the negotiating out of it. Justin replied, "but that is the point that we got stuck on before, why it was tabled." The Mayor stated, "no more discussion, this will be on the next agenda."

**EMPLOYEE SALARY INCREASE:** The first is for Larry Bolinder stated Kevin. Kevin Hall moved to approve the increase for Larry Bolinder from \$14.85 an hour to \$15.29 an hour. Craig Anderson seconded the motion. All voted in favor and the motion carried. Byron asked, "is that a step increase? If it is a step I have no problem with it. All in favor, motion carried. The next one is for Robin Hensley stated Kevin. Kevin stated that Joel has included a letter on the recommendation for Robin. Her duties have changed. She has taken on more responsibility and Joel is recommending an increase of one grade instead of one step. Kevin Hall moved to approve the one grade increase for Robin Hensley from grade 8.1 to a grade 9.1. Craig Anderson seconded the motion. All voted in favor and the motion carried. The Mayor stated that Robin is a very hard worker. "She sticks with things no matter what and keeps on plugging," stated the Mayor.

**APPROVAL OF BILLS:** The Mayor stated that there is one other bill that is not in the printed report. It is for time the reserve officer spent and has approval to be reimbursed. It is for \$150.00. Kevin asked why there is a dumpster at the rodeo grounds? We don't

need to have that picked up during the winter, he said. Kevin directed Shauna to talk to JoAnn Hanson and have the dumpster removed. Byron Anderson moved to approve the paying of the bills, and the inclusion of Kathy Mullin's pay. Kevin Hall seconded the motion. All voted in favor and the motion carried. The Mayor praised Danny Johnson for the amount of grants he has been able to bring in for the City. Mayor Cole mentioned that we had a day of being in the red last month, but we should be ok now until the first of the year, he stated.

**APPROVAL OF MINUTES OF PREVIOUS MEETING:** No minutes to be approved. This item will be on the next agenda.

**OPEN DISCUSSION:** Kevin brought up the situation with some people in town needing to connect to the sewer system and pay the impact fees. I have instructed JoAnn to follow whatever process we have done in the past, he said. Typically we allow them one year to pay the fee and six months to connect. They have to connect if they are within 300 feet of a sewer main line. Once Cherry Grove went in, it made these two homes at the end of town within 300 feet of the sewer. The Mayor stated that it would have to run in front of someone's home. He would not make them extend the main line by that much. The Mayor stated that there is a law that will allow the waiver of impact fees if there are two homes and one meter with two bills, but we don't know if it is in two individual names or one. Ron stated they have the discretion to waive it under certain circumstances but they have to cover the loss from somewhere else. Byron stated that we would be setting a precedence, if we allow a waiver. He asked, "how can we do this on a one time basis and not open a can of worms?" The Mayor stated that there is a county standard for the low income level and we could adopt that. Would it be the entire impact fee, asked Byron? The Mayor stated that it could be, we have waived the whole fee for the low income housing that the school has built, and as long as it stays low income the fee would not be charged. However, if they sell it and it goes to someone who is not low income then that person would have to pay the fee. The Mayor stated he would get with JoAnn and direct her to contact these people in question and inform them that we are looking at an alternative approach to the problem.

The Mayor asked Ron if he would do the deed for the easement to take a water line across private property from Quirk to Hale. Ron stated he could do that if he has a legal description of the property involved. Ron stated it is typically done with a centerline indicated and then so many feet on each side of that line for a given length. The Mayor stated he will get a survey line.

The Mayor said that is going to make an executive decision this year regarding the employees working on Christmas Eve. "I would like to be a nice guy and close the office for employees working on that Monday," he stated. Ron stated that his legal opinion is that they cannot close the office unless the State offices are closed. The Mayor said he would consider that opinion before he makes his decision.

The Mayor stated that he had received a letter from Jeff McNiell on the 19<sup>th</sup> of November. Jeff lives in Erda but has been being charged a franchise tax from Grantsville City on his Utah Power bill. The Mayor stated that they realized in the beginning that there was a problem and Utah Power had told them they would work it out. "Are there other people being taxed," the Mayor asked Jeff? Jeff stated yes, everyone he has talked to. Mayor Cole stated he would like to get this whole thing resolved at once. There might be a statue of limitations, stated Ron. We have usually adjusted half of a bill saying individuals are responsible to read their bill, that is my policy, stated the Mayor. Jeff McNiell asked, "and do you think that is fair? "How does the City justify keeping a tax they got illegally?" Ron Elton stated he would research the issue and let the Mayor know. The Mayor stated he would talk to some other, and give Ron a chance to see what the City is obligated to do. We will have this on the December 19<sup>th</sup> agenda, said the Mayor. Byron stated that maybe we could look at the tax records and see what Utah Power is sending out.

Kevin stated he has a couple of things to discuss. One is the situation with Neil Critchlow purchasing a candy bar. When I got home from our last Council meeting he called me and I kind of jumped on him, stated Kevin. I had to call him back and apologize to him. I explained that he probably deserved a whole case of candy bars, but it just didn't look good. He had purchased the bar as mice bait, not for his own

consumption, said Kevin. But I did not like the way it was handled. Also, is there a preference for swearing in the new Mayor during the day or could we do that at our night meeting? Ron stated that the law says that on noon of the first Monday the current Mayors term expires. If we wait until Wednesday night, we actually would have no Mayor for a few days. Byron stated he would stay with the policy of having the ceremony during the day on Monday. Another issue is with the building thing, stated Kevin. We looked at the bids on the buildings, as we reviewed them we went out for bid with a fairly simple bidding process. Two were metal buildings, the other was a ceramic. The bid does not match what we sent out. Kevin asked, "do you want us to start over?" Byron stated no, just keep it going. Byron stated we decided we needed new buildings so I asked Joel what they would cost and he gave me a figure back. Kevin stated that they haven't substantiated the price between what the metal buildings and the ceramic building costs. The cost is so much different that we would really have to bid again. Ron stated we are under no obligation to do that, and it would have to come back to the Council. Kevin stated that the differences between the buildings are not spelled out. He and Joel would like to find out what the "R" factors are and the gauge of the metal, so they could compare more fairly. Kevin asked for this item to be on the next agenda.

Craig stated that he attended a meeting hosted by the Division of Water Rights. They are trying to form a working group to avoid the adjudication of water rights. The Mayor stated that as far as water is concerned we are headed for big trouble in this valley. The Watt Homes water issue has to be decided. Justin stated the first option is to buy them if we cannot trade them. Kevin stated he hates to see us give up something the City already owns, because every time we give something away we are sorry for it later. I agree with Justin, stated Kevin, if there is a need, let's then negotiate trading them but hold on to the secondary water as much as we can. It doesn't cost us a cent to hold them. I say lets just purchase them if we have the money to do that, and hold them for the future. Justin stated we could spend what money we have then trade for the rest. Mayor Cole stated that culinary water is what our business is about. Byron stated that secondary is what is valuable now. Justin stated that he would like us to keep our secondary and buy any underground water so it doesn't leave Grantsville.

Craig stated that he and Shauna had attended a meeting with Sumner Swaner of Swaner Design. We went over plans for his water park out on Burmester Road. They are interested in taking Grantsville City water out to the area for residential use.

Mayor Cole stated that the court took in over \$16,000.00 last month. The Mayor stated that one concern he has is that he has heard the base closure people are waiting for him to leave office and the whole lawsuit will be dropped. "I hope that won't happen," he stated, "it is very close to my heart." Mayor Elect Anderson reassured Mayor Cole that wouldn't happen. "We have too much into it," he said, "what happened there was wrong."

Ron stated he has been researching the law and when you exempt low income housing from paying impact fees, you have to establish your source of funds to provide for that activity on your own. You may state that running the sewer line constitutes development. Byron asked if we could just define our own source. Ron stated that the City would still have to cover it from somewhere, such as the sewer capital improvement fund.

**ADJOURN:** Mayor Cole moved to adjourn at 10:00 p.m. Everyone seconded it and the meeting stood adjourned.

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**Shauna Kertamus**  
**Zoning Administrator**

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**Merle E. Cole, Mayor**