

**Pleasant Grove City Council Work Session Minutes**  
**August 25, 2009**  
**7 p.m.**

**PRESENT:**

Mayor:

Michael W. Daniels

City Council Members:

Mark K. Atwood

Cindy Boyd

Bruce Call, City Council Member

Lee Jensen

Jeffrey D. Wilson

Excused: Colleen A. Mulvey, Deputy Recorder

City Recorder:

Kathy T. Kresser

Others:

Frank Mills, City Administrator

Tina Petersen, City Attorney

Gary Clay, Finance Director

Ken Young, Comm. Dev. Director

Richard Bradford, Ec. Dev. Director

Lynn Walker, Public Works Director

Tom Paul, Police Chief

Deon Giles, Leis Services Director

Marc Sanderson, Fire Chief

Karen Bezzant, Treasurer

Libby Flegal, NAB Chair

The City Council Members and staff met in the Library Auditorium 30 East Center, Pleasant Grove, Utah 84062 at 7 p.m.

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**AGENDA**

**1. Call to Order**

Mayor Daniels called the meeting to order and indicated that Council Members Call, Boyd, Jensen, Atwood and Wilson were present.

**2. Opening Remarks**

Council Member Atwood gave the opening remarks.

**3. To discuss the recent culinary water rate increase for the Manila Water System customers and provide for citizen comment.**

Mayor Daniels read this item. He then turned the meeting over to City Administrator Mills to give a brief history of the Manila Water Company and Pleasant Grove City's involvement with them.

Council Member Boyd asked to make a comment. She stated that there had been a discussion as to whether or not she should recuse herself from this item because she lives in the area. She said that this is about the water rates that affect the City and felt that she didn't need to recuse herself.

Administrator Mills explained that about 14 or 15 years ago Pleasant Grove City received a call from a member of the water board for the Manila Water Company and asked if they could go in with Pleasant Grove City because they didn't have the storage capacity or the pressure that the State was requiring for the hookups. The Manila Water System was operating as a separate system within the city limits of Pleasant Grove, part of American Fork, Cedar Hills and the County. Pleasant Grove met with the water board and came up with some ideas on what they could do and came up with a proposal that they thought would be a viable solution. One of the first things was to come up with a franchise agreement with the water company. Pleasant Grove City along with the attorneys and the Manila Water Board drafted a franchise agreement which would allow them to operate within the boundaries of Pleasant Grove City with the understanding that the Manila Water Co. and Pleasant Grove City and the other entities that are involved with the Manila Water Co. were working towards the goal of eventually absorbing the Manila Water systems into the different systems. The Manila Water Co. asked Pleasant Grove City to come in and run and maintain the water system and Pleasant Grove City entered into another agreement to operate and run the Manila Water system. Looking at the water system they did not meet the water pressure that was needed during high demand times for fire, they did not meet the storage capacity of the number of residents for inside and outside usage for fire protection, so Pleasant Grove started taking some of the water users off the Manila water system and connected them to the Pleasant Grove system, which was part of the agreement that was worked out. Still the Manila water system had a hard time coming into compliance and at that point the City made an emergency connection between the two systems which will allow the transfer of water to the Manila water system to count as part of their storage capacity for their fire protection to keep them in a position to operate. Eventually American Fork and Cedar Hills took the homes that were in their boundaries off the Manila water system which helped with the water storage. As time went on the City started looking at sites for an underground tank in Cedar Hills and the north end of Pleasant Grove. The problem that we ran into is that the sites that were looked at when the geotech study was done the State said that the City couldn't build a tank on the property because the ground was unstable. Finally we found property in the 1500 East 400 South area which met the requirements of the State. At the same time the City purchased the Ekins Well from Robert Schow and was able to run a line from the Ekins Well to the 1500 East property. That tank is called the Manila tank and it provides the storage that is needed for fire protection and pressure.

At that point the City kept operating the Manila Water Co even though the Board of Directors disbanded. In the agreement with the Manila Water Company it states that Pleasant Grove City has the right to raise the water rates on the Manila Water system. They cannot be raised any higher than what the citizens of Pleasant Grove are paying. In working with Kent Wells, who is the treasurer of the company, he was told that the City would hold the rates until the secondary system was installed in the largest percent of the Manila area and that has been completed this year. In determining the rate that will be charged to the Manila Water Co, there will be a different rate for those who do not have access to the secondary system. One of the questions that will come up, that won't be answered tonight, is how is the City going to be able to provide those areas with the secondary. So this year the City decided to go ahead and make the change to the

water rate to the same as what the City charges.

Administrator Mills then commented that the Mayor had a presentation on the water usage in Manila.

Mayor Daniels said that the City regularly receives a report from the water engineer and we just happened to have a meeting last week in which they showed us how the water systems throughout Pleasant Grove are doing. There is a section that covers the Manila Water Co. and there are four sources that go into the Manila Water Co. There is the Atwood Well, the Peterson Well, the Adams Well and the Wadley Springs. There are two wells that cannot be operated at the same time because they draw from the same aquifer; they are the Peterson and the Adams Well. The Mayor then showed the first slide of his presentation. He said that they have taken information on the number of gallons produced by the four wells and combined that together to show the peak usage for June, July and August for 2008. We are not through the month of August for 2009 so we will just be comparing the three months in 2008. The Mayor then went over the production vs consumption slide. This slide shows that the production from the four wells and the consumption of these four months there is a difference of up to 28 million gallons of water that the Manila water didn't produce but was used and the water had to come from one source. The other source was Pleasant Grove City that pumps the water from Pleasant Grove to the Manila so that people could continue to use culinary water and at that time irrigation water. The reason that we are looking at those 3 months in 2008 is because many people started to convert from straight culinary water to a combination of culinary water and pressurized irrigation. So when you take a look at the 2009 numbers they are different. He then showed the slide 2008 vs 2009 consumption and indicated that when you look at the 2008 numbers and look at the culinary consumption for 2009, remember that there is a partial month of August and we have not gotten the usage from those meters that have to be manually read. There has been a net decrease in the culinary water usage. None the less the entire amount of water is still being consumed either in the form of culinary or in irrigation, and that difference is still coming from the Pleasant Grove system.

The Mayor then went over a few common facts. He stated that there are one thousand two hundred users on the Manila system. Two hundred and three used more than fifty thousand gallons of water in the month of July; eighty six of the two hundred and three had access to secondary water. So what we are talking about is that there are a small number of people that are using a huge amount of water and that could cause some problems that either the user is not aware of or they choose to not do anything about it. He indicated that a citizen approached him and was wondering why his water bill was so high. The Mayor asked him to send him the water bill which this person did. The first thing that the Mayor did was look at the usage and it was quite high. Looking into the water bill it was discovered that the person had renters and the renters did not notify the owner that there was a water leak. So if you have received a big bill then there are some things that need to be looked at either on the property or with the meter or something else.

Mayor Daniels then commented if the secondary irrigation system is available to you and you have not chosen to hook up then you will be charged a different rate for the water than those who do not have access and if it doesn't look like you will be getting secondary you will be charged a commercial rate for your water usage. If you are one of the unfortunate people that have had some kind of a problem that you weren't aware of and it is just now making itself known because

of this high bill that you are getting, then bring the bill down and we will try and work something out.

The Mayor then said that we need to discuss the one hundred and seventeen residents out of the one thousand two hundred and figure out what we need to do as far as conservation of water to bring the bills and the usage down.

Mayor Daniels asked if there was any discussion from the Council before this item is turned over to the residents for discussion.

Council Member Jensen stated that what he has to say is just his comments and they do not represent the Council. There is a lot of out pouring of real concern by the citizens in the Manila area. He said that he has had a chance to look at some of the water bills and right now he would also be upset at the increase of the bill. He commented that his concern as a City Councilman is to whether or not in this process that has resulted in the water rates that the Mayor showed, that we have put the cart before the horse without a more in depth look at the rates and how they impacted the citizens whether if it be a home or a farm. As a City Councilman he would like to say that he has done his due diligence in asking the right questions to get a clear picture of exactly what the impact was going to be. He then stated that he would like to make a motion that has several comments with the motion. One of them is that he understands that the water board is not functional. We should look to reconstitute the Manila Water Board. Second, he would like to see that the water rate be rolled back to the rates that were being charged until we can get this issue resolved, if that means issuing credits to those that have overpaid. He would also like to see a thorough water study done and look at the overall impact. So for the time being he would like the Council to step back and look at these things before moving on.

Mayor Daniels replied that looking at the agenda we will not be taking action on this item. Attorney Petersen responded that the Council cannot take action on this item to roll back the water rates but what can be done is that the Council can direct staff as to where the Council would like to go with this. She also stated that it was advertised that the public would be able to comment so we ought to allow those who would like to speak to do so. Mayor Daniels then turned the time over to the public for comment, and asked those who comment to state their name and address.

Delbert Atkinson, 4633 North Canyon Road, asked about the demand on the Manila system that was mentioned. He questioned how many building permits were issued by Pleasant Grove since 2000 that are served by the Manila Water System and how many are served by Pleasant Grove.

The Mayor asked Director Young if he had an answer for that. Director Young replied that he would have to look in to it. Mr. Atkinson replied that part of the problem is that new residences that have moved into the area. Mr. Robert Schow interjected that in the year 2000 the Manila Water Company served six hundred thirty three and today we are serving one thousand two hundred twenty four. The Mayor wanted to make it clear that we are talking about the Manila Water Company not the Manila area.

Maurice Millett, 4261 Wedgewood Dr., commented that he lives by the Peterson Well and it is one of the wells that cannot be run with the Adams Well. He asked if the rates for those who are not able to connect to the secondary will be charged a commercial rate. Mayor Daniels replied

those who do not have access to the secondary water will be charged the commercial rate. Mr. Millett then commented that while he has the floor he would like the City to be aware of what is going on with that well. He knows that when the well comes on it has to discharge water, but there must be a malfunction that doesn't stop the discharge priming and continues to run water for at least one half hour. That is a waste of water and the City should take their advice about conserving water. He also asked if the public could benefit from the water that is being discharged and not being used. Mayor Daniels responded that he did not have an answer for him at this time, but he would be willing to work with him about this concern.

Kent Wells commented that the Manila Water billing needs to go out within the next 5 days, and he can hold those bills for a few more days if the Council can decide tonight what they want to do. But as soon as those bills go out he would have to go through every bill by hand and change the water rate.

Dan Stewart, 4611 North 900 West, thanked the Council for the effort that has been made to resolve this issue. He voiced his concern about his water bill because he wasn't home for the month. We could have avoided this if someone would have alerted the residents in the area as to what was going to happen we could have taken care of this before it got out of hand. Mayor Daniels responded that the point is well taken. The City should have given more information and education about what was going to happen with the water rates.

Patricia, 4120 North 810 West, said that she is new in the neighborhood and was wondering when they were going to get the secondary water. Mr. Wells replied that they live on the other side of the canal and they are not likely to get secondary water out that far. The Mayor indicated that to his understanding there is not enough pressure to reach those on the other side of the canal. Patricia then asked how can Cedar Hills supply water to those in the area and the City cannot. Mayor Daniels replied that it is gravity feed and their system flows down stream and the City would have to pump up hill.

Jerry Dearing, 4211 Mill Creek Dr., stated that one of the difficult situations is that the Manila Water Company is a separate company and it has a constitution and articles of incorporation that have been ignored for sometime it appears. He said that he did not have the contract that was made between the City and Manila but he did have the articles of incorporation with the amendments and some of the points in there it says that only the share holders can serve on the board and that they can sell that water at cost to a municipality but there are a lot of legal things that need to be done before the City can start making changes. A meeting of the share holders should take place. Mayor Daniels responded that the Manila Water Company does not have an acting board.

Neil Flinders, 4336 North 900 West, commented that he has two basic reasons in coming to the meeting tonight. He said that he has 4 documents of the history of the Manila Water Company. One of those documents is the Manila Culinary Capital Water Stock Certificate. The next document is a copy of Resolution 2009-23 which is the tier increase of the City water rates. Another document is the interim operation from 1997 between the Manila Water Company and Pleasant Grove City where we had to reach out and find better equipment and better expertise to run the water system according to State regulations. And then we have the spreadsheet that shows the water usage of residents on the Manila water system. He then read two paragraphs from the agreement that indicates why we need someone to do the fact finding process to get information

on this before any action is taken. The paragraphs state: #12 talks about billing disputes, Pleasant Grove City shall accord Manila customers the same dispute process as provided to the customers of Pleasant Grove City customers except that the final appellant body should be the Manila Water Board of Directors. That is an interesting phrase since that Water Board is not functioning. Mr. Flinders read paragraph #18 which has to do with the fees. Pleasant Grove City agrees to provide a separate account of all fees and charges collected from Manila customers, and all funds collected are to be used solely for the operation, maintenance and repair and the construction of capital improvements of the Manila District. He then said that he has a suggestion or proposal for the consideration of the Council. Mr. Flinders read his statement. He stated that 1) he would like to register a recommendation that the implementation of the new rate schedule be suspended until the Manila Culinary Water Board is reactivated into a functional entity. 2) Create a small fact finding committee to supply information essential to a proper resolution of current water issues facing water company users. 3) To table the proposal to appropriately disperse the Manila Water Company in a fair, peaceful and constructive manner between Cedar Hills and Pleasant Grove.

Mayor Daniels thanked Mr. Flinders for the information that he has brought forward. He then said that one of the situations that the City is facing is that there is no counterpart for the City to negotiate with. There is no Board of Directors representing the Manila Water Co., and the City of Pleasant Grove does not have legal authority to force or compel the members of the Board to show up or make a decision. It seems as though the share holders of the Manila Water Co. need to get together and form a Board of Directors that the City of Pleasant Grove can work with in order to accomplish some of the things that are being recommended. Mr. Flinders agreed with that suggestion.

Council Member Boyd asked if someone could explain what the Manila Board would consist of. Mr. Dearinger replied that there are five members of the Board of Directors and the State lists that the people chose Robert Schow to be the president but he said he resigned a few years ago. Council Member Boyd asked how we come up with those five people. Mr. Dearinger responded that they are elected by the share holders. Mr. Kent Wells indicated that they are supposed to come from the different areas, one from the north end and one from the south end.

Mayor Daniels interrupted the conversation and said that Attorney Petersen would like to speak. Attorney Petersen said that before we get too far into this she wanted to make it clear that there are several things that need to be done before a board can be elected. There are mechanisms that need to be gone through like the bylaws or articles of incorporation for reconstituting a board.

Mayor Daniels thanked those for the suggestions but those items that need the legal entity of the Manila Water Company to take action or have a board are not issues that Pleasant Grove City has authority over. We have an operating agreement to provide water and that is really what we are doing.

Tony Boyer, 2242 North 850 West, voiced his concern about how the government is continually trying to raise rates. He said that he works for Provo City and also has a business there and his wages have been frozen and his business is down 10-15%. That doesn't mean that he can raise his rate 20% to make up for it, his customers wouldn't stand for it. He then said that government needs to really look at things and analyze it to see if it is better. Right now this rate hike will cause hardship on the customers.

Mr. Wells commented that since he has been using the secondary water on his property his water bill has gone down. The overhead to run the water company has gone down but the income has also gone down because of the secondary water; we have no choice but to raise the water rates to run the company.

The Mayor indicated that the secondary irrigation that has been put in place has been funded through the water funds of Pleasant Grove City. The Manila Water Co., has not had to pay for it. The entire infrastructure has been absorbed by Pleasant Grove City.

John Morris, 1003 North 1250 West, stated that he does not live in the Manila area but his concern is that where he lives the secondary water system will not be available in that area. Is that going to be addressed that the townhomes will not have access to secondary water? Mayor Daniels asked Public Works Director Walker if that comment was correct. Director Walker said that there shouldn't be a problem with connecting the townhomes to the secondary, but it would just go to the property line and the townhomes would have to connect from there.

Council Member Boyd commented that one of the issues present tonight is that the homes above the canal will not have access to the pressurized irrigation. We have to be fair in what we are charging. If some residents cannot get the pressurized irrigation will they have to pay the same amount as those who have the secondary irrigation? Whatever we do we need to be fair to all of the citizens.

Glenda Jensen, 786 West 3230 North, stated that they purchased their home last month and were told that they have secondary water only to find out that that development has the infrastructure but will not have access to it. Is that correct? Mayor Daniels replied that generally speaking if you are above the canal then the City is not able to get the secondary to you at this time. The pressure to supply the water to those on the north side of the canal is not feasible. Ms. Jensen then said that there are ditches all around their property and was wondering if there is a way that they can use the water from the ditches. Mayor Daniels said that they will have to contact the irrigation company, Art Estes, to see if that is possible. Treasurer Bezzant commented that the City does rent out water shares and that would be a way to get water. Administrator Mills interjected that the City doesn't have any water to lease at this time but there are people out there that do have water and Ms. Jensen could contact them about renting water. Mr. Wells responded that the Manila Water Co. does have shares of water they are willing to rent. Don Wadley said that there are a lot of people who would also like to sell water shares if they are interested in that.

Robert Williams commented that if they use irrigation water you have to control where it goes, you have to retain it on your own property.

Michael Hewitt said that he was told that there is a City requirement that you have to put in a front yard is that correct? Attorney Petersen replied that that is correct. He then said that if that is a requirement and you put your yard in, in the middle of the summer people are going to be using more water at that time and paying the higher rates for that water and will there be a concession for that.

David Harvey asked what the rates were before the increase. Finance Director Clay replied that it was ten dollars for the first five thousand gallons and then eighty five cents a thousand after that.

Mr. Harvey asked why such a big increase? Director Clay responded that the City has been holding rates down until the secondary water was out there. The Mayor asked when the last water increase was for the water company. Robert Schow replied that it was done in 2006.

Robert Schow, 3548 North 900 West, showed that financial statements from Manila Water Company on the profitability of the water company. Last year there was a profit of fifteen thousand dollars and we had six hundred eighty six thousand dollars in the bank to cover any capital improvements. He said that he didn't believe that the rate increase is justified by the profitability that is shown by the company. His big concern is the impact of the secondary water on the water company. It takes an average of four hundred thousand dollars a year to operate the company as billed to them. The problem this year is that there is going to be a two hundred fifty thousand dollar short fall because people are buying secondary water and not spending it on culinary water. The loss will have to be made up by the share holders of the Manila Culinary Water. The loss of revenue should be considered when the study is done.

Bruce Hatch, 9894 North 4100 West, said that he does agree that there needs to be conservation of the water and there are ways to do that. He said he also agrees that there needs to be a reasonable increase in the water rates. He said that he has pressurized water in his yard that was put in by Cedar Hills and was told that he couldn't touch it. He commented that he understands that there has been discussion between Cedar Hills and Pleasant Grove about the utilities and wondered if it has gone anywhere? The Mayor said that at the last discussion it was said that if anyone wants to connect to utilities in Cedar Hills they will have to do a boundary line adjustment into Cedar Hills to receive those services.

Robert Williams stated that he used to work for Pleasant Grove City and did the water billing and when he left was about the time that they started talking about the Manila Water Company. The one thousand two hundred people that are in that area, about six hundred of them wouldn't be on that system if Pleasant Grove City didn't help them.

Administrator Mills wanted to make one more comment in closing. The secondary water is not always the cheapest way to go and you do lose revenues, but we have to look at the whole picture in five, ten, fifteen and even twenty years and leave the situation in better shape. Yes you are going to lose revenues in the beginning but you are not going to replace the well motors or the lines or you would have to buy water to take care of the needs of the people that will start to build when the economy gets better. There is more that goes into it than the dollars and cents on the spreadsheet.

Mayor Daniels then said that he would like to recap the recommendations that have been brought forward and see if we can't come up with a few things that we can do to help alleviate the problem and move us to where we need to be. Mr. Flinders had a couple of recommendations; that are dependent on a legal Board of Directors and that the Board is functioning so we can communicate. So an action item will be that the share holders of the company will need to get together and read the documents and reconstitute the Board of Directors. The other thing that has been expressed tonight is that the share holders and the Board unless they feel different today, need to come up with a resolution where the Manila Water Company needs to go away as a legal entity and the assets need to be divided between Cedar Hills and Pleasant Grove proportionate to the shares and the users and then the municipalities can actually manage and invest in other things in the systems to bring them up to where they need to be to provide for the people.

Mr. Schow said that one thing that he did before he resigned as the president of the water company was he provided to Cedar Hills and the City of Pleasant Grove a recommended distribution of assets and both cities were given a dead line and asked to work it through and get back to the Board and the Board will agree with whatever the cities agreed to and no one never agreed with anything.

The Mayor asked what other issues were brought up. A gentleman asked what will be done with the water bills that are hundreds of dollars. Mayor Daniels replied that if you are looking at your bill and you are within the hundred thousand gallons of water usage and you have a question of having a water leak then Mr. Wells will contact Director Walker and the water department will check it out.

Mrs. Robinson voiced her concern about not being notified about the rate increase and she wasn't prepared for such an increase and can't afford it. Mayor Daniels responded that there have been a couple of people that the increase has been shocking and they are not able to pay that bill right now. Rather than have Mr. Wells go though and make massive changes to the water bill right now, what he would recommend to do is have Staff look at what we can do because we have had this large increase, what can we do for the people to help either stretch this out or maybe divide it up in payments, but instead of deciding right now what can be done he would like Staff to look at it to see what can be done and bring the information back to the Council, and discuss it at a work session and then take action on it at a Council meeting.

Council Member Boyd voiced her concern about the billing issues and this should be discussed now. She said that Mr. Wells indicated that he is ready to send out the billing and there will not be enough time for Staff to review this and then come back to Council for review before the water bills go and the people have another large water bill. We should go with what Council Member Jensen suggested and roll back the rates before the billing goes out.

Mr. Wells said that he can delay the bills for one day so if you could come up with a solution tonight and then approve it on the Tuesday night meeting, then we will have a solution and I can send out the billing.

A lady from the audience who didn't state her name voiced her concern about not having any notice that the rates were going to increase. What should be done to be fair to the citizens is take the rate back to what it was in June and that will give us a chance to recover from this and not have another large bill and then readjust the next bill. Mayor Daniels replied that this was discussed and the legal answer was that we cannot do that, we have to go through the legal process to do that. Council Member Jensen questioned why can't we give Mr. Wells direction tonight and let him hold the bills for a day and move the rate back to what it was in June. Mr. Wells asked what about those who have already paid their bill. Will they get credited for the overage on their bill? The Mayor replied that there will be a credit shown.

Mayor Daniels again recapped what has been proposed. Item 1) Direct Staff to come up with a proposal that Council can approve on September first to change the Manila water rate back to what it was prior to implementing that change. This proposal is not to change the rate forever nor is it to erase any current bill. Item 2) Create a payment schedule that will make repayment more affordable Item 3) Take a look at those that do not have access to secondary water and will likely

not have access to secondary water, what kind of a rate structure is fair for them until the time that the secondary water is available to them.

A gentleman from the audience suggested that during the winter months when the water bills are lower, level out the payment structure over those months where it will be more affordable.

Nancy Lindquist voiced her concern about why did we have to go through this tonight. Was there no consideration to the water users before this rate was put in place? Mayor Daniels replied that for several years it was agreed that the Manila water rates would not change until the secondary water was completed. Unfortunately the messaging of the status, when, and how much it will be, just didn't get out there and he said that it was his fault.

Gary Wallace, Cedar Hills voiced his concern about the asbestos that is in the Manila drinking water and wondered what is going to be done about that. Mr. Wallace then handed the Mayor an article about the asbestos in the water. The Mayor thanked him for this information.

Mr. Wells commented that Pleasant Grove doesn't have to take a vote on this. There is an annual meeting where the Board of Directors can be elected but we only have two or three people show up. How can you elect a board if only three people show up?

Mayor Daniels then summarized the discussion to bring it to a closing. We have attempted to investigate some of the issues that have been raised. We took the time to look at individual facts, where we found a number of problems and tried to help the citizens with their individual circumstance. We didn't catch them all, but we are on our way of doing that. We recognize that there has been not been enough notice given to the water users that there would be an increase and the water users were not given enough time to react to it. What is going to happen is that direction will be given to Staff on what to prepare for and then a week from tonight Council will take action on how we are going to change the situation to make it affordable over the long term and also establish how we are going investigate what the proper message should be to implement these changes. In the future we will be careful and use other resources to get the message to you.

Mr. Wells wondered when he should send out the Manila water bills. The Mayor replied that the Council will make a decision next Tuesday, legally that is as soon as any action can be taken.

Mayor Daniels thanked everyone for coming. The Council then took a five minute break.

#### **4. To discuss and consider awarding the curbside recycling bid.**

Mayor Daniels read this item. Administrator Mills reported that the City put out a Request for Proposal (RFP) for the curbside recycling and two bidders returned the bid. One was Allied Waste and the other was Waste Management, both parties met the requirements. Council Member Jensen added that they were both in agreement about the time necessary for education purposes and also for purchasing the carts for use. Where they differ was in the actual bid. One company required a mandatory program and if the City didn't have a mandatory program their bid was sixty percent higher. The other company had an opt out program which didn't change the bid at all.

Administrator Mills then went over the amount of the bids that were proposed; he then

recommended that the Council award the bid to Allied Waste.

**ACTION:** Council Member Jensen moved to award the bid for curbside recycling to Allied Waste, with the following conditions:

1. That there is a \$5.90 a month fee for the service.
2. There needs to be an education program which includes things that can be recycled.
3. That there be a ninety day opt out period for the residents, after that there is not an option to opt out. Council Member Wilson seconded. The Mayor asked for further discussion.

Council Member Atwood asked how long will the contract run. Director Clay replied that the contract will come up for review every year where the City will have an option to renew.

Council Member Call asked for clarification, will the education period be prior to the 90 day opt out period. Administrator Mills replied that it would. He also asked what will happen if someone moved in. Council Member Jensen responded that they will not have the option to opt out.

Mayor Daniels asked that Council Member Jensen restate his motion.

Council Member Jensen moved to award the bid for curbside recycling to Allied Waste, with the following conditions:

1. That there is a \$5.90 monthly fee required for the service.
2. That there is a ninety day window in which residents have the option to opt out.
3. That there be an education period to make sure that the citizens are fully informed so they understand that repercussions of opting in.
4. That the contract run concurrent with the garbage contract that is already in place.
5. All the residents that move into the City it is mandatory that they are in the recycle program.
6. After the ninety day period to opt out the residents do not have the opportunity to opt out.

Council Member Wilson seconded the restated motion and the motion passed unanimously with Council Members Atwood, Call, Wilson, Boyd and Jensen voting "Aye."

Mayor Daniels commended Council Member Jensen for the work that he has put into getting the recycling program going. Administrator Mills indicated that he would have Scott Wells create an opt out form that the residents will have to come into City Hall and fill out, that will include their name, account number and signature.

**5. To discuss and consider adopting the Owner/Landlord Utility Service Agreement for utility services.**

Mayor Daniels read this item. Attorney Petersen stated that the ordinance states that a utility service agreement be adopted by the Council. This agreement will make it clear to the Owner/Landlord that the tenant will not be responsible for the utilities but the property owner will.

**ACTION:** Council Member Jensen moved to adopt the Owner/Landlord Utility Service Agreement for utility services. Council Member Wilson seconded the motion passed unanimously with Council Members Jensen, Boyd, Call, Atwood and Wilson voting "Aye."

**6. To consider appointment of volunteers who will serve as poll workers for the September 15, 2009 Primary Election.**

Mayor Daniels read this item. City Recorder Kresser said that State code requires that the legislative body approve three poll workers and alternative poll workers for each precinct for the Primary Election.

Council Member Jensen asked why this is only for the Primary Election. Recorder Kresser replied that some of the poll workers will not be available for the General Election.

**ACTION:** Council Member Atwood moved to approve the poll workers for the Primary Election Council Member Call seconded and the motion passed unanimously with Council Members Atwood, Call, Wilson, Boyd and Jensen voting “Aye”.

**7. Discussion of items for the upcoming September 1, 2009 City Council meeting**

Mayor and Council reviewed the items for the September 1, 2009 meeting.

Mayor Daniels then asked for a motion to move into an executive session to discuss the character, professional competence, or physical or mental health of an individual. (UCA 52-4-205(1)(a)). The Mayor stated that he would also like to add to Item 8 as part of the executive session to discuss pending or reasonably imminent litigation (UCA 52-4-205(1)(c)).

Council Member Wilson said that before they go into the executive session he would like to know what is happening with the accessory apartment ordinance. Director Young said that he felt that with the timing of the elections this item shouldn't be brought forward until after the elections. The Council agreed that the discussion on the accessory apartments be brought forward after the elections.

**8. Executive Session to hold a strategy session to discuss the character, professional competence, or physical or mental health of an individual. (UCA 52-4-205(1)(a)) and to discuss pending or reasonably imminent litigation (UCA 52-4-205(1)(c)).**

**ACTION:** Council Member Jensen moved to go into executive session. Council Member Call seconded and the motion passed unanimously with Council Members Jensen, Boyd, Call, Atwood and Wilson voting “Aye.” At 9:40 pm the Council went into executive session to discuss pending or reasonably imminent litigation (UCA 52-4-205(1)(c)) and to discuss the character, professional competence, or physical or mental health of an individual.

PRESENT:

Mayor:

Michael W. Daniels

City Council Members:

Mark K. Atwood

Cindy Boyd

Bruce Call

Jeffrey D. Wilson

Lee Jensen

Others:

Frank Mills, City Administrator

Tina Petersen, City Attorney

Gary Clay, Finance Director

Attorney Petersen and Mayor Daniels briefed the Council on the status of the John Q Hammons settlement agreement with regards to default and new progression dates and possible funding sources. Discussion was held as to legal strategy going forward on the breach of the original contracts.

At 9:45 pm Council Member Wilson moved to continue with the executive session to discuss the character, professional competence, or physical or mental health of an individual. (UCA 52-4-205(1)(a)). Council Member Atwood seconded with Council Members Wilson, Atwood, Boyd Jensen and Call voted "Aye" and the motion passed unanimously. At this time Mayor Daniels recused himself from the meeting and Council Member Call acted as Mayor Pro Tem.

PRESENT:

City Council Members:

Mark K. Atwood

Cindy Boyd

Bruce Call, Mayor Pro Tem

Jeffrey D. Wilson

Lee Jensen

Others:

Tina Petersen, City Attorney

**ACTION:** Council Member Jensen moved to go back into regular session. Council Member Boyd seconded with Council Members Jensen, Boyd, Call, Wilson and Atwood voting "Aye" and the motion passed unanimously.

The meeting reconvened at 10:10 p.m.

- 9. Continued item.** To consider a Resolution (2009-030) authorizing an amendment to the Policy and Procedure Manual modifying the requirements of Section IV Employee Hiring, Subsection 3 "Selection" regarding the timing of resignations for elected officials desiring to apply for employment with Pleasant Grove City. (**Continued from the August 18, 2009 meeting.**)

Mayor Pro Tem Call read this item. Attorney Petersen indicated that the Council had directed her to draft an amendment for the current policy and procedure manual regarding elected officials applying for employment with the City. Several changes have been drafted and there has been a deadlock as to what direction the Council would like to take. The three options are to either leave it as is written which would require any elected official to resign upon submitting an application for employment with the City. The proposed change that is in front of the Council would allow an elected official to maintain their office and then resign when they were selected for any interview. Council Member Call proposed that the words "in house" be added, that way the person being interviewed or screened by an outside party would not have to resign their position until they were selected to interview with

someone in the City. It is now up to the Council to decide what direction they would like to go.

Mayor Pro Tem Call asked for discussion on this item.

Council Member Wilson asked for clarification. The draft that was proposed tonight, does it mean that the Mayor retain being Mayor until he receives and interview. Attorney Petersen reiterated that if the Mayor decides to apply for employment with the City, he does not have to resign until he is selected for an interview, any interview.

Council Member Jensen voiced his concern about the perception that Pleasant Grove's manner of doing business is different in public than it is behind closed doors. It is the worst thing that the City can do for an elected official who wants to apply for a job within the City and put that person in the position that they only got the job for the City because forces behind closed doors have predetermined that this is the person that will get the position, while in public we look like we have gone through the motions to be above board.

Mayor Pro Tem Call asked if there were any other discussion. There weren't any, he then called for a motion.

**ACTION:** Council Member Boyd move to Deny Resolution (2009-030) authorizing an amendment to the Policy and Procedure Manual modifying the requirements of Section IV "Employee Hiring," Subsection 3 "Selection" regarding the timing of resignations for elected officials desiring to apply for employment with Pleasant Grove City. Council Member Jensen seconded. Mayor Pro Tem Call called for a voice vote. Council Member Jensen, Boyd, Wilson voted "Aye." Council Members Atwood and Call voted "Nay." Motion passed 3-2 to deny Resolution 2009-03.

## 10. Adjourn

**ACTION:** At 10:15 p.m. Council Member Wilson moved to adjourn the meeting. Council Member Atwood seconded the vote and the motion passed unanimously with Council Members Wilson, Atwood, Boyd and Jensen voting "Aye".

### **ADJOURN**

Meeting adjourned at 10:16 p.m.

This certifies that the Work Session Minutes of August 25, 2009 are a true, full and correct copy as approved by the City Council on October 6, 2009.

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Kathy T. Kresser, City Recorder