

**Pleasant Grove City Council Minutes**  
**August 18, 2009**  
**5:00 p.m.**

**PRESENT:**

Mayor Pro Tem

Bruce Call

Council Members:

Mark K. Atwood

Cindy Boyd

Lee Jensen

City Recorder:

Colleen A. Mulvey, Deputy Recorder

Others:

Frank Mills, City Administrator

Gary Clay, Finance Director

Tina Petersen, City Attorney

Ken Young, Comm. Dev. Director

Degen Lewis, City Engineer

Excused:

Michael W. Daniels, Mayor

Jeffrey D. Wilson, Council Member

Kathy T. Kresser, City Recorder

Richard Bradford, Economic Dev. Director

Deon Giles, Leis. Services Director

Lynn Walker, Public Works Director

Marc Sanderson, Fire Chief

Tom Paul, Police Chief

Libby Flegal, NAB Chair

The City Council and staff met at the City Council Chambers at 86 East 100 South, Pleasant Grove, Utah

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**1. CALL TO ORDER**

Mayor Pro Tem Call called roll for the Council and noted that Council Members Atwood, Boyd, and Jensen were present, and stated that Council Member Wilson was excused.

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was lead by Boy Scout Sam Harris.

**3. OPENING REMARKS**

Opening Remarks were given by Mayor Pro Tem Call.

**4. APPROVAL OF MEETING'S AGENDA**

Mayor Pro Tem Call asked if there were any changes to the meeting's agenda.

Attorney Petersen stated that we will need to continue item "A" and that she would like to make an explanation and a presentation regarding why.

Mayor Pro Tem Call stated that we then would want to continue any action on item "A." The Mayor Pro Tem then asked for a motion to approve the amended agenda.

**ACTION:** Council Member Boyd moved to approve the agenda with continuing item “A.” Council Member Jensen seconded and the motion passed unanimously with Council Members Atwood, Boyd and Jensen voting, “Aye.”

## **5. BUSINESS**

### **A. TO CONSIDER ADOPTION OF A RESOLUTION (2009-030) AUTHORIZING THE MAYOR TO SIGN AN AMENDED DEVELOPMENT AGREEMENT WITH TROPHY HOMES, ET AL, FOR THE MAYFIELD DEVELOPMENT (SAM WHITE’S NEIGHBORHOOD) THIS ITEM IS TO BE CONTINUED**

Attorney Petersen stated that this item is for the amended Development Agreement for the Mayfield Development with Trophy Homes. Just yesterday Trophy Homes was able to reach a final agreement with the Royal Bank of Canada (RBC) who is providing the funding for continuing this project. Attorney Petersen explained that this has not allowed them enough time to obtain all of the signatures necessary on the document, stating that she did not want to bring an incomplete document before the Council so it is her recommendation to continue this item.

Attorney Petersen added that many of the items that we originally requested to be done in the draft agreement have been accomplished such as the soccer field transfer, some boundary lines and quit claim deeds have been taken care. Attorney Petersen stated that they have been moving forward diligently.

Attorney Petersen reported that because RBC did not send us a final extension on their letter of credit which had been extended from July 19, 2009 to August 19, 2009, we faxed them a letter today that notified them that we were executing on the bond. Attorney Petersen said this was done to preserve our rights so that they do not have any problems with saying that we let it run out and we can always change our minds if negotiations go forward.

Attorney Petersen wanted to add that the current proposal for the amended plat includes plans for some twelve plexes and in the negotiations between the parties involved there is actually a chance that these twelve plexes will not be built and that it will be the two four plexes that are currently approved and the rest would go back to commercial development.

Council Member Jensen asked if the improvements were still going forward. Attorney Petersen stated that Massey Construction has been going forward with the public improvements. Engineer Lewis added that Liahona has put in the landscaping and there has been a lot of progress on the improvements in the area.

Mayor Pro Tem Call asked if there were any other questions, there were none. The Mayor Pro Tem then asked for a motion to continue this item at the September 1<sup>st</sup> City Council meeting.

**ACTION:** Council Member Jensen moved to continue item “A” at the September 1<sup>st</sup> City Council meeting. Council Member Boyd seconded and the motion passed unanimously with Council Members Atwood, Boyd and Jensen voting “Aye.”

**B. CONTINUED ITEM. TO CONSIDER A RESOLUTION (2009-031) 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**

Attorney Petersen stated that this item is a continued item; it is with regards to our policy and procedure manual the selection of employees, specifically the elected officials. Currently our policy and procedure manual requires that any elected official who desires to apply for a position as a City employee must resign their office prior to applying for the position. Attorney Petersen said that there was some discussion by Council after the budget meeting where the current language was approved, that perhaps that language was too harsh. Attorney Petersen explained that she was directed to come up with some alternative language which is what is before the Council this evening. There are basically two alternatives with this proposed language: *An elected official who desires to apply for a position as an employee must resign their office: (1) upon submitting their employment application if applying for a position that will be screened in-house; or (2) upon being selected for an employment interview with any interviewing board if applying for a position that will be screened by an independent body.*

Attorney Petersen stated that subsequent to submitting this for Council to review, Council Member Call made a suggestion of inserting the word “in-house” in subsection two after the word “any,” so that it would read: *upon being selected for an employment interview with any in-house interviewing board if applying for a position that will be screened by an independent body.* Attorney Petersen said that this language was discussed at the last meeting and with Council Member Jensen not being present at that meeting the vote was deadlocked.

Council Member Jensen indicated that his main concern was with the public confidence, that we do not undermine that and that we be concerned with the public impact on all decisions that we make.

Attorney Petersen pointed out that basically the issue is if you want the language to remain the same which would require them to resign prior to applying, the argument against that is that it is rather a harsh requirement given the fact that they may not even make the first screening of applications and we would be losing experience and being without that elected official in office. The proposed language currently would require them to resign upon being screened with any interviewing board if they were applying for a position that was initially being screened by an independent body such as in this particular case, the Application Review Committee (ARC) from the BYU Masters of Public Administration program. Attorney Petersen explained that she had crafted this language because it was her feeling that once the individual knows that they have made it to the first interview and they know who the next interviewing body is going to be, then that is when the doors start to open for lobbying and undue influence. The counter argument to that is that when the applicant makes the initial screening with the outside body and then they do not make it to the next part of the process to the interview with in-house interviewing body then

we have wasted some time when we could have had the benefit of that elected official continuing to serve the City.

Council Member Atwood expressed that he feels that after the individual has had the first interview then they should have a basic idea of whether or not they have a good chance at getting hired and then at that point they should be given the chance to resign. Council Member Atwood stated that this is an issue with timing.

Council Member Boyd stated that she feels it would be hard to create every single scenario that may come up and then make a rule based on all of those scenarios. Council Member Boyd said that she does not want the perception to be that we are trying to go around ourselves, but that the policy was created for the protection of the citizens and the City and all parties involved. Council Member Boyd stated that if it was her and she was going to make a life change and apply for a City job then that would be a risk that she would have to take.

Council Member Jensen expressed his concern about his sensitivity to the whole idea of the community's perception of how we do any kind of business as elected officials. Council Member Jensen stated that he prefers that we do not put ourselves in a position whether it is with an ordinance, a resolution or in this particular case with policy that in any way would lose the confidence of our citizens and of our ability to judiciously carry out our responsibility as members of Council and elected officials.

Council Member Boyd added that we have talked about transparency throughout this whole process and feels that we need to stick with that.

Mayor Pro Tem Call then asked the Council members what they thought the timing ought to be for when an elected official should resign.

Council Member Boyd stated that she thinks as it is currently written, they should resign upon application.

Council Member Jensen remarked that he admits he could be persuaded, but at this point he has not read anything that would persuade him to change it from the current language of resigning upon application.

Council Member Atwood said that he disagrees with having the individual resign as soon as they apply, stating that he feels that that is too harsh.

Mayor Pro Tem Call stated that he feels the same; it's not that it is harsh to the individual; it's not that we are just saying to the individual that you will have to take a chance on this job and you are losing your elected position, it also robs the City of a duly elected official.

Council Member Boyd asked to comment on that point stating that any good leader is actually able to walk away the next day and still have the company or organization being able to continue in their absence. Although someone may be very beneficial to the organization, a good leader can walk away and the bulk of that group can carry on.

Council Members Atwood and Jensen both expressed that the way that the policy currently stands; there is a timing aspect that applies.

Mayor Pro Tem Call stated that with the absence of Council Member Wilson, the vote is deadlocked again; the reality is if that is the case then the current wording stands as policy, so in this particular case as soon as this current Mayor submits his application he must resign.

Attorney Petersen informed Council that next week's Work Session meeting already has some action items on it so adding this action item could be done.

Council Member Jensen expressed his concern about Council Member Wilson's possible absence next week because of his illness and that we would need to address the possibility of voting by phone. Attorney Petersen stated that we do have a policy in place where we have established the ability to appear by telephone, we will need to put the noticing and mechanism in place.

Mayor Pro Tem Call explained to the public audience that this item is not continuing just to continue, this is an important policy item that requires the entire Council to be present to reach a decision. The Mayor Pro Tem then asked for a motion to continue.

**ACTION:** Council Member Jensen moved to continue item "B" at the August 25<sup>th</sup> Work Session meeting. Council Member Boyd seconded and the motion passed unanimously with Council Members Atwood, Boyd and Jensen voting "Aye."

## **6. STAFF BUSINESS**

- Attorney Petersen reported that they had oral arguments this morning on one of our litigation cases and she will brief the Council on this at an executive session next week.

## **7. MAYOR AND COUNCIL BUSINESS**

- Council Member Jensen stated that there will be a meeting this Thursday with the Fox Hollow Golf Course, the last report was that July's revenues were not as good as June's but that it was still better than last year and that they are about seventy to eighty thousand dollars ahead of their projected budget. They found out that the poles that were donated for the lighting required some type of sophisticated pouring of concrete with special attachments, so they decided to purchase poles that can be embedded into the ground and that would also mean that the crew at the golf course can do the actual installation.
- Council Member Boyd said that in regards to next week's meeting on the subject of the water bills, many people have called her and she feels that the Council Chambers will be too small to accommodate all of them.

Attorney Petersen suggested looking into using a room at the City's Recreation Center rather than paying to rent another facility. Mayor Pro Tem Call asked who would take

care of making that arrangement. Deputy City Recorder Mulvey stated that she and City Recorder Kresser would take care of securing a meeting place.

**8. ADJOURN**

**ACTION:** At 5:38 p.m. Council Member Jensen moved to adjourn the meeting. Council Member Atwood seconded and the motion passed unanimously with Council Members Atwood, Boyd and Jensen voting “Aye.”

This certifies that the City Council  
Minutes of August 18, 2009 are a true,  
Full and correct copy as approved by  
The City Council on September 1, 2009

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Colleen A. Mulvey, Deputy City Recorder