

Pleasant Grove City Council Minutes
May 6, 2008
7:00 p.m.

PRESENT:

Mayor: Michael W. Daniels

Council Members:

Jeffrey D. Wilson

Mark Atwood

Cindy Boyd

Lee G. Jensen

EXCUSED:

Bruce Call

City Recorder:

Amanda R. Fraughton

Deputy Recorder:

Mary Burgin

Others:

Frank Mills, City Administrator

Gary Clay, Finance Director

Lynn Walker, Public Works Director

Deon Giles, Leisure Services Director

Ken Young, Community Development Director

Richard Bradford, Economic Director

Degen Lewis, City Engineer

Tom Paul, Police Chief

Marc Sanderson, Fire Chief

Sean Allen, City Planner

Jay Dee Nielson, Rec. Manager

Libby Flegal, NAB Chair

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

Mayor Daniels called the meeting to order at 7 p.m. and welcomed everyone.

1. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atwood.

2. OPENING REMARKS

The Opening Remarks were given by Administrator Mills.

3. ROLL CALL

Mayor Daniels acknowledged Council Members Wilson, Boyd, Jensen and Atwood. He excused Council Member Call.

4. APPROVAL OF MEETING'S AGENDA

Mayor Daniels asked if there were any additions to the agenda. Director Young indicated that item F needed to be continued to the May 20, 2008 Council meeting. He said the applicant had asked for the item to be continued. The Mayor then asked for a motion.

ACTION: Council Member Wilson moved to approve the agenda, with Item F being continued to the May 20, 2008 Council meeting (at the applicant's request). Council Member Boyd seconded and the motion passed unanimously with Council Members Atwood, Jensen, Wilson and Boyd voting, "Aye."

5. CONSENT AGENDA (Consent items are only those which have been discussed beforehand, are non-controversial and do not require further discussion):

MINUTE REVIEW AND APPROVAL:

1. City Council Minutes for April 15, 2008
2. Work Session Minutes for April 29, 2008
3. To consider approval of Change Order and Partial Payment Number 1 to Cody Ekker Construction, Inc. for the 500 South Water Improvements Project.
4. To consider approval of Partial Payment No. Nine to Dunn Construction, LC for the Pressure Irrigation System – Schedule 5B Project.
5. To consider approval of Partial Payment No. Eleven to HDX, LC, a Dunn Company, for the Pressure Irrigation System – Schedule 6 Project.
6. To consider appointment of Harmony Packer to serve as new Library Board Member.
7. To consider approval of paid vouchers (April 25, 2008)

Mayor Daniels asked if everyone had an opportunity to review the consent items and if there were any questions or concerns with them. Council Member Atwood asked if on Item 3 (regarding the payment to Cody Ekker) was the entire payment to finish the job Mr. Ekker was doing on the water line on 500 South. Mayor Daniels asked if Council Member Atwood wanted to pull that item off the agenda for the time being. Council Member Atwood said yes, he would.

The Mayor then asked if a member of the Library Board would like to introduce the suggested new board member, Mrs. Harmony Packer. Board Member Louisa Gough then came forward and introduced Mrs. Packer. She explained that Ms. Packer was a Utah native who had moved to Pleasant Grove with her family in the summer of 2007. She is married to Jeff Packer, a German professor at Utah Valley University. As a stay-at-home mom of four boys, she said she is thrilled for the chance to raise them in Pleasant Grove. She is a graduate of Cedar City High School and holds a bachelor's degree in Family Science from Brigham Young University (BYU). In addition to reading and community service, her interests include genealogy, mental health, choral music, photography, gardening, fitness and sports. She is looking forward to helping the library become an educational, cultural and aesthetic center of our community, she noted.

Mayor Daniels thanked Mrs. Packer for agreeing to serve on the board. He then asked for a motion.

ACTION: Council Member Boyd moved to approve the consent items, removing item #3 from the consent agenda. Council Member Wilson seconded and the motion passed unanimously with Council Members Wilson, Boyd, Atwood and Jensen voting “Aye.”

Mayor Daniels then asked for the discussion to continue on Item #3. Administrator Mills explained that the payment for the work Mr. Ekker was completing was the full amount, less the normal 5% retainage amount. Council Member Atwood then apologized, and said he must have been reading the staff report incorrectly. The Mayor then asked for a motion.

ACTION: Council Member Atwood moved to approve Item #3 of the consent agenda regarding the payment of \$118,887.75 (with a retainage of \$6,257.25) to Cody Ekker Construction. Council Member Jensen seconded and the motion passed unanimously with Council Members Wilson, Boyd, Atwood and Jensen voting “Aye.”

6. OPEN SESSION

Mayor Daniels explained that the open session was a time when people could come forward to express their concerns regarding issues generally not on the agenda. He asked that they state their name and address.

Director Young then came forward. He said he wanted to take advantage of this opportunity to announce his department’s, “Great Employee Award--2008. He explained that the award is determined upon recommendations from other employees in the department as well as his own observations. He then announced that Planner Sean Allen had been chosen.

He then explained that Planner Allen had been very meticulous with his research into current reports that had been created. He said these would include the sign ordinance as well as the design standards for The Grove, amongst other projects. Additionally, Planner Allen had shown the ability to be helpful to other members of the staff as well as the public.

Director Young then presented Planner Allen with a plaque and a gift certificate. The public and Council applauded his achievement.

7. NEIGHBORHOOD ADVISORY BOARD REPORT

Chair Libby Flegal said that she didn’t have anything to report at the time.

8. LIBRARY BOARD REPORT

Mrs. Gough from the Library Board came forward. She noted that the 20th anniversary was coming up on July 28, 2008 for the opening of the current library building. She said that there would be a celebration, recognizing how it was growing. Also, the library foundation was still looking to receive cook book recipes.

9. BUSINESS:

A. PLEASANT GROVE ARTS COMMISSION REPORT (HEATHER PACK)

Mrs. Heather Pack, the Chair of the Pleasant Grove Arts Commission, came forward and thanked the Council for the time to address them.

Mrs. Pack explained that a survey had been completed by a BYU MBA class regarding what the community wanted for an arts center in Pleasant Grove. Prior to a center being built, she said it was important to see if the residents felt there was a need or interest. Also, she said it was good the class did the survey. She noted that a third party doing the survey made it more credible.

The students decided to call residents with their questions. The students received permission to do the phone survey after they had submitted their application to the IRB. They interviewed over 200 people. She said it was not what would be considered a comprehensive study.

They asked if it would be worth it to them to build an art center in the City. They also asked if the resident had attended an arts event in the City. She said 60% had attended such an event. They were also asked if they felt that tax dollars spent on arts was money well spent. Respondents said yes, it was. A total of 12 questions were asked each person. The ages were from 18 to 65. A lot more females agreed to the survey than males.

Mayor Daniels asked what kind of art center was being proposed to be built. Mrs. Pack said a performing arts center was being considered. The center would include seats and a stage. Council Member Boyd asked if recital halls and practice rooms would be included. Mrs. Pack said yes, it would. She said they are looking at a facility that could handle smaller venues, also.

Mayor Daniels asked if the report could be sent to the Council electronically. Mrs. Pack said she thought it could.

Next, Mrs. Pack noted that the Arts Council would like to have a group of people that could help them with the arts. She said she found this can be done (by City Ordinance) with the permission of the Mayor. These members don't have to live in Pleasant Grove, and serve at the pleasure of the Arts Commission. Attorney Petersen agreed that it is allowed by Ordinance. Mayor Daniels said he thought it was a good idea to utilize the knowledge of such people.

Mrs. Pack said that the Skyline Chorus will no longer be under the City Arts Commission. She said they are to turn in their keys for their past use of the library for practices. Mayor Daniels said they can no longer rehearse in the library because they didn't want to apply for another grant. The Mayor asked if the Council was concerned about the chorus. No one responded from the Council.

The Utah Children's Choir, she indicated, is in financial trouble. The portion of the arts board that is over programs looked at the choir's financial numbers, and was put on probation for a year. She said if they don't bring their numbers up, the Council will drop them. She said the parents have reported that the organization is "sucking them dry" with expenses.

Mrs. Pack said the ordinance that formed the Council states that the Chair only serves for three years. She reported that she is coming up on her three-year mark, and will need to be replaced. She said she knows someone that has the community's welfare at heart. Mrs. Pack explained that she will be starting graduate school this fall, and feels that there is wisdom in leadership

change. Her schooling will last about two years. She would like to serve in some capacity again when she has completed her Master's program.

Mayor Daniels thanked Mrs. Pack for being such an excellent advocate for the logistics and financial points for the arts in Pleasant Grove. He said that there needed to be a replacement chosen soon, as Mrs. Pack will need the three months left to train someone.

B. TO CONSIDER AWARDING BID FOR FITNESS EQUIPMENT FOR THE NEW PLEASANT GROVE COMMUNITY CENTER.

Mayor Daniels read this item.

Recreation Manager Nielsen then came forward. He said there had been a bid opening the week before, with five vendors submitting bids for fitness equipment for the new recreation center. All of the bids were very close. However, the final award went to Star Track, Option 1 for 28 cardio pieces. These include treadmills, elliptical machines, stair steppers, rowing machines and weight equipment. Mayor Daniels asked when the equipment will be in place. Manager Nielsen said that it will be in place by the time the facility opens in June.

The Mayor asked if the cost for the equipment was built into the bonds. Manager Nielsen said yes, it had been.

Council Member Jensen asked how the new recreation center was doing with their budget. Manager Nielsen said that they were under budget, so far.

Mayor Daniels asked if there were any questions or comments. There were none. He then asked for a motion.

ACTION: Council Member Wilson moved to approve the bid from Star Track, Option #1 in the amount of \$155,996.00 for fitness equipment for the new Pleasant Grove community Center. Council Member Atwood seconded and the motion passed unanimously with Council Members Wilson, Call, Atwood and Jensen voting "Aye."

C. TO CONSIDER LEWIS BAILEY'S REQUEST FOR FINAL PLAT APPROVAL OF A 4-LOT SUBDIVISION, WITH LOTS 2 AND 3 BEING FLAG LOTS, KNOWN AS LOADER LANE, LOCATED AT APPROXIMATELY 850 EAST 900 SOUTH, IN THE R1-9 (SINGLE FAMILY RESIDENTIAL; 9,000 SQ. FT. LOT AREA) ZONE. (SCRATCH GRAVEL NEIGHBORHOOD)

Director Young indicated that this was a final plat proposal for applicant Mr. Lewis Bailey. The project location was for 850 East 900 South in the R1-9 (Single Family Residential) zone. The acreage is 1.65. The request was for the approval of the 4-lot Loader Lane subdivision final plat. Lots 2 and 3 were flag lots. All lots comply with the requirements of the R1-9 zone (lot size, frontage, lot width, etc).

The project area currently has two homes along 900 South. As part of the project, the existing homes will remain and two flag lots will be created to the north of the existing homes. The Loader Lane Subdivision went before the Planning Commission on October 9, 2003 and the City Council on February 15, 2005. Both bodies approved the plat but it was never recorded. For

that reason the request must go back before the Planning Commission and City Council for approval.

The purpose of flag lots is stated in Section 10-15-14(A) of the Pleasant Grove Municipal Code:

Purpose: To facilitate the best use of interior areas of existing parcels which are no longer used for agriculture, the city may allow the use of flag lots. Flag lots may permit development of the interior of narrow, deep parcels not otherwise accessible using residential street standards. It is not the intent or purpose of this section to encourage odd shaped lots or the inclusion of flag lots in proposed new residential subdivisions merely to maximize the number of lots within the subdivision. Flag lots will be allowed only when it is impossible or impractical to develop interior areas using normal subdivision standards for public streets either at the time of the application or in the foreseeable future.

The subject property is bound on the north by the Locust Avenue Estates Subdivision and on the south by 900 South. The property is only accessible through the use of a common stem. The property is not wide enough to install a 56' wide road without requiring both the homes on 900 South to be removed. In analyzing the property, staff sees flag lots as the best way to develop the proposed property.

The proposed subdivision is a 4-lot subdivision located at approximately 850 E 900 South. Lots 1 and 4 both front and have access off of 900 South. Lots 2 and 3 will access via a stem going in between Lots 1 and 4.

All the properties surrounding the proposed subdivision have existing homes on them. The Loader property directly west of the proposed subdivision does have the potential for one additional lot; however, the locations of the homes do not make it possible for the property to be accessed via the stem for the Loader Lane Subdivision.

The engineering department has reviewed the proposed preliminary plat and recommended approval subject to meeting all of the final plat engineering requirements. n April 10, 2008 the Planning Commission approved the Loader Lane Subdivision preliminary plat.

The Mayor asked if there were any questions or comments. There were none. Mayor Daniels then asked for a motion.

ACTION: Council Member Jensen moved to approve Lewis Bailey's request for final plat approval of a 4-lot subdivision, with lots 2 and 3 being flag lots, known as Loader Lane, located at approximately 850 East 900 South, in the R1-9 (Single Family Residential; 9,000 sq. ft. lot area) zone, including the following condition: (1.) That all final engineering requirements are met prior to the plat being recorded. Also, with the following findings: (1.)The proposed subdivision complies with the development requirements of the R1-9 zone: (2.) The proposed subdivision complies with the flag lot requirements (10-15-14): (3.) The preliminary plat has been given a recommendation of approval from City Engineering: (4.) The proposed subdivision has been approved previously by both the Planning Commission and City Council: (5.) The Planning Commission approved the preliminary plat on April 10, 2008. Council Member Wilson seconded and the motion passed unanimously with Council Members Wilson, Boyd, Atwood and Jensen voting "Aye."

D. TO CONSIDER MICHAEL BENNETT’S REQUEST FOR FINAL PLAT APPROVAL OF A 2-LOT FLAG LOT SUBDIVISION KNOWN AS SIMMONDS, PLAT “C,” LOCATED AT APPROXIMATELY 1570 NORTH 600 WEST, IN THE R1-8 (SINGLE FAMILY RESIDENTIAL, 8,000 SQ. FT. LOT AREA) ZONE. (NORTH FIELDS NEIGHBORHOOD)

Director Young explained that this item was a request by applicant Michael Bennett for a final plat approval for a 2-lot flag lot subdivision known as Simmonds, Plat “C.” The project is located at 1570 North 600 West in the R1-8 zone. The acreage is .75 of an acre.

He next explained that this application has been a struggle for staff as well as the Planning Commission as there really wasn’t a completely satisfactory way to develop the back lot.

There is currently one home on the subject property. The home is set back in the lot which potentially allows for an additional lot with access off 600 West. In order to make this work, the existing home would have to become a flag lot. The applicant is proposing to locate the stem on the south side of the property. Staff suggested that the applicant explore the potential of gaining access off the already existing stem to the south or that the stem be moved to the north of the property so that future access can be given to the neighboring property owner to the north.

The neighbor to the south currently accesses their home off of a flag stem and the applicant has approached them about accessing their home using that stem but a price cannot be agreed upon. For that reason the applicant is proposing to locate the stem on the south side of the property running parallel to the existing stem. With previous proposals the City did not allow two stems to be located adjacent to one another; which is why the Planning Commission required that they separate the two stems with a grass strip. Relocating the stem to the north is not preferred by the applicant because it would have to bisect their property and property of the neighbor to the north. Additionally, this design would make their entire front yard area driveway because their garage is on south side.

All those reasons being considered, the applicant has decided to move forward with the initial proposal showing the stem on the south side of the property adjacent to the existing stem.

The General Plan calls for Medium Density Residential in this area which allows for the R1-8 and R1-9 zones. The zone and the proposed subdivision comply with the goals, policies and objectives of the General Plan. The current zoning on the property is R1-8. All of the lots comply with the development requirements for lots in the R1-8 zone.

The purpose of flag lots is stated in Section 10-15-14(A) of the Pleasant Grove Municipal Code:

Purpose: To facilitate the best use of interior areas of existing parcels which are no longer used for agriculture, the city may allow the use of flag lots. Flag lots may permit development of the interior of narrow, deep parcels not otherwise accessible using residential street standards. It is not the intent or purpose of this section to encourage odd shaped lots or the inclusion of flag lots in proposed new residential subdivisions merely to maximize the number of lots within the subdivision. Flag lots will be allowed only when it is impossible or impractical to develop interior areas using normal subdivision standards for public streets either at the time of the application or in the foreseeable future.

A flag lot scenario is the only option for the subject property; however there are still questions concerning the specific design of the flag lot subdivision. Both vicinities will be discussed in detail in the following section.

Vicinity Plans:

Vicinity Plan #1: This vicinity is the preferred design of the applicant. It shows the existing home accessing 600 West via a stem on the south boundary. They prefer this option because it will tie in to the existing garage. The vicinity plan shows the property owner to the north subdividing via a stem along their north boundary. This option would require a variance for the stem width, a variance for the side yard setback, and would require the property owner to the north to reconstruct their garage, which is currently a side entrance garage, so that the driveway is in the front of the house. The pros for this vicinity are that the stem would tie in with the existing garage and the stem would not have to take up the front yard. The con is that the neighbor to the north would have to modify their home and obtain multiple variances in order to subdivide; however, the applicant would contest that a variance would be required if the applicant worked with the neighbor to the south to access the existing stem or if the applicant did not want to subdivide.

Vicinity Plan #2: This vicinity was provided by the applicant at the request of Staff but is not the preferred design of the applicant. This design shows a stem road that runs along the applicant's north boundary half on the applicant's property and half on the neighbor's property. The stem would turn to the north and provide access for the neighbor's future lots and for the applicant's home; however, this design would make the entire front yard of the applicant driveway. The pro for this vicinity is that the property owner to the north can have a stem that would not require them to modify their home. One con is that the applicant will have to make the majority of their front yard driveway.

Both plans have their flaws that need to be discussed before a decision is made, but regardless, a flag lot is the only possible way at this time to subdivide

Engineering reviewed the plans and has indicated that there are no major outstanding engineering comments that need to be addressed. The Planning Commission approved the preliminary plat with the layout of vicinity plan #1 at a public meeting on October 11, 2007.

Mayor Daniels asked who requested the grass strip. Attorney Petersen responded that the Planning Commission did. Without the grass strip, one would be looking at a 50 ft. wide stretch of concrete. The Planning Commission suggested the strip as a way to break up the large concrete "road" and to provide some aesthetics.

After further discussion, Mr. Michael Bennett came forward. He said that he and his neighbor get along fine—but that the neighbor does not want Mr. Bennett to share his stem. This is why there are two stems at 25 feet wide each.

It was then recommended that the 3 foot grass strip on the stem be made part of the yard instead of part of the stems.

Mayor Daniels then asked for a motion.

ACTION: Council Member Jensen moved to approve Michael Bennett’s request for final plat approval of a 2-lot flag lot subdivision known as Simmonds, Plat “C,” located at approximately 1570 North 600 West, in the R1-8 (Single Family Residential, 8,000 sq. ft. lot area) zone with the stipulated 3 foot grass strip on the stem be removed and based on the following finding: (1.) That the use of flag lots within the development is necessary. Council Member Wilson seconded and the motion passed unanimously with Council Members Wilson, Boyd, Atwood and Jensen voting “Aye.”

E. PUBLIC HEARING TO CONSIDER PG VILLAS LLC’S REQUEST TO AMEND PLAT “D,” THE VILLAS AT MAPLEWOOD GROVE CONDOMINIUM PLAT, TO ADD 50 SQ. FT. OF SPACE TO THE BUILDING FOOTPRINT, PROPERTY LOCATED AT APPROX. 750 WEST 220 SOUTH, IN THE GROVE (GROVE MIXED USE SUBDISTRICT) ZONE. (SAM WHITE’S LANE NEIGHBORHOOD)

Following Mayor Daniels reading this item, Director Young explained that this was a public hearing to consider the PG Villas request to amend Plat “D,” of the Villas at Maplewood Grove Condominium Plat by adding 50 sq. ft. of space to the building footprint of each of the four multi-family structures. The property is located in the Grove Mixed Use Subdistrict at approximately 750 West 220 South.

The applicant approached the Community Development Department with the request to do a minor expansion of four condominium buildings previously recorded as part of Plat “D” of The Villas at Maplewood Grove. The request constitutes a revision of the recorded plat, which must be approved by the Planning Commission and City Council.

The Plat and site development were previously approved, which included the Conditional Use Permit to construct multi-family dwellings. The permit runs with the land; however, may be modified by the Planning Commission or City Council with review of the amended proposal.

The request is for an additional fifty square feet for each of the four buildings (9, 10, 11, & 12), for the purpose of increasing the dwelling area within each unit. The additional space can be seen in each corner of the buildings referenced above. The applicant has no intention of changing the design or architecture of the buildings. The request is consistent with The Grove land use intended for this area.

The Mayor then opened the discussion to a public hearing. The applicant said the reason he was adding the small amount to each corner was to better accommodate a laundry room and the flow of the space.

Mayor Daniels then brought the discussion up to the Council. There was no discussion. He then asked for a motion.

ACTION: Council Member Jensen moved to approve PG Villas LLC’s request to amend Plat “D,” The Villas at Maplewood Grove condominium plat, to add 50 sq. ft. of space to the building footprint, property located at approx. 750 West 220 South, in the Grove (Grove Mixed Use Subdistrict) zone, including the following conditions: (1.) The design & architecture of the buildings are to remain consistent with existing construction within the development: (2.) The ground along the east boundary, where the site construction has encroached onto the neighboring

property, is to be property restored to its previous state, with the possibility of the construction of a retaining wall, because of the difference in grade from the new drive to the east boundary, as determined by the City Engineer: (3.) That all remaining Fire, Planning, Zoning, Engineering, and Building Department requirements are met prior to recording the final plat. Also, based on the following findings: (1.) That there is no loss to open space. The applicant is not increasing the approved density. A public hearing was held. Council Member Wilson seconded and the motion passed unanimously with voice votes from Council Members Wilson, Atwood, Boyd and Jensen voting, "Aye."

F. PUBLIC HEARING TO CONSIDER AN ORDINANCE REGARDING LEGRAND WOOLSTENHULME'S REQUEST TO AMEND SECTION 10-11D-16, "MULTIPLE-FAMILY RESIDENTIAL DEVELOPMENT REQUIREMENTS," OF THE PLEASANT GROVE CITY MUNICIPAL CODE, FOR AN EXCEPTION TO ALLOW MULTIPLE-FAMILY RESIDENTIAL WHERE COMMERCIAL ALREADY EXISTS ADJACENT TO THE PROJECT AREA. (STRING TOWN NEIGHBORHOOD)

This item was continued to the May 20, 2008 City Council meeting at the request of the applicant.

G. PUBLIC HEARING TO CONSIDER AN ORDINANCE REGARDING JOE SPENCER'S REQUEST TO REZONE A 1.7841 ACRE TRACT OF LAND FROM RM-7 (RESIDENTIAL MULTIPLE) ZONE AND R1-7 (SINGLE FAMILY RESIDENTIAL, 7,000 SQ. FT. LOT AREA) ZONE TO CBD (COMMERCIAL BUSINESS DISTRICT) ZONE FOR PROPERTY LOCATED AT APPROX. 100 NORTH TO APPROX. 50 NORTH AND MAIN STREET TO APPROX. 50 EAST. (OLD FORT NEIGHBORHOOD)

Mayor Daniels read this item, and then recused himself from the discussion. He stated that he had a close, personal relationship with the applicant and felt it wise to recuse himself. He asked that Mayor Pro Tem Jensen please conduct the meeting during this item. He then left the Council Chambers at 8:09 p.m.

Director Young explained that this was a public hearing to consider an ordinance regarding applicant Joe Spencer's request to rezone a 1.7841-acre tract of land from R1-7 and R1-8 (Single Family Residential) zone to CBD (Commercial Business District) zone for property located at approximately 100 North to approximately 50 North and Main Street to approximately 50 East.

The subject property is adjacent to several commercial properties in the downtown area which front on either Center Street or 100 East. In 2006, a large portion of this property was rezoned from R1-8 to RM-7, with the anticipation of the development of a town home project. Much of this property has remained undeveloped for several years.

The applicant, Joe Spencer, has provided a review of his proposal, offering background and justification for the request. Although the applicant anticipates some type of mixed commercial / residential development on this property to tie into downtown, which may be presented for our review at a later date, it should be noted that this request does not refer to any particular development. It is only a zone change request.

The General Plan calls for Commercial Retail zoning on the subject property. The CBD zone was the anticipated zoning for this property when the General Plan was updated last year.

Mr. Spencer has stated that he will not make plans for specific development until the Downtown Advisory Board (DAB) has come back with their report on the proposed Downtown 2020 plan.

Mayor Pro Tem Jensen then opened the meeting to a public hearing. Mrs. Riddle then came forward. She identified herself as the chair of the Downtown Advisory Board (DAB). She said she felt that the approval of Mr. Spencer's request for a zone change was premature at this time. She also said that she didn't oppose the zone change. She noted that as was the sentiment at the planning commission at the Jr. High, there was a lot of opposition to Mr. Spencer's proposed project on his property.

Council Member Atwood said that Mrs. Riddle was off-base as the Council was just considering a zone change at this time—not a proposed project. He and Mayor Pro Tem Jensen asked that comments be kept to the business at hand.

Mrs. Riddle then indicated that a lot of people were against the rezone. She said that trust must be rebuilt with the citizens of the City. She asked that the DAB be allowed to finish their work before the rezone comes before the Council. Otherwise, she concluded that this would again give those with fears "ammo" to again become agitated as a "mob." She claimed that those in the downtown area were trusting the work of the DAB to make sure that the commercial was not "pushing itself" into the downtown neighborhoods.

She then asked Attorney Petersen if Mr. Spencer's property was zoned as a downtown business district, would he have a vested right. Attorney Petersen answered that he would not have a vested right until he had completed an application for a specific plan and have paid all fees.

Attorney Petersen said she thought she had understood that the DAB had made a positive recommendation for the zone change. Mrs. Riddle said she was not saying that. Director Young said the DAB had made a positive recommendation on the boundaries for the zone change.

Mr. Joe Spencer then said there had been discussion on the project, but at this point, all potential projects were "off," in that he was waiting to see what the DAB would be suggesting for the Downtown 2020 plan. He said there have already been delays, but his desire has been to work in tandem with the DAB and the City. He then explained that if the zoning was in place, he would then be able to take two to three months to see what was going to happen next.

Mayor Pro Tem Jensen asked how Mr. Spencer could proceed if the zoning perhaps didn't happen. Mr. Spencer said he would preface his answer by saying that a large group of people were misinformed regarding his possible development. He said that public clamor caused a great uproar. He then explained that he was just showing this possible development as a "litmus" test to see if the City was serious about redevelopment in the downtown area. He noted that changes will be made, he is sure, to what was proposed on his property.

Mayor Pro Tem Jensen said he didn't know if he appreciated that Mr. Spencer was asking the City to move forward with a pace that was perhaps not advantageous to the City or its citizens.

He said in the future, maybe developers needed to more carefully, “air out” their proposals first. He then went on to say that he didn’t like to see the City being “forced to reform.”

Mr. Spencer declared that this proposed rezone meets the General Plan requirements. He said he understands the concerns, but without the rezoning, he can’t get funding. Also, he said that the proposed rezoning fits the requirements of the proposed Downtown 2020 plan. He noted that the R/UDAT committee had recommended a park be placed on his property, but he would like to do something different than that proposal.

Council Member Boyd then observed that Mr. Spencer’s comment that he wanted to put the City to the test as an interesting choice of words. She said she felt that the City had already been put to the test; and had gone in the best direction for its citizens. She added that she felt that the City had passed the test, and was offended by Mr. Spencer saying that he felt he needed to put the City to the test.

Mr. Spencer said he didn’t mean any offense. He said he was just trying to see what direction the City was going. He didn’t mean to be derogatory. He again said that he was trying to do the financial legwork for a possible project; but that nothing could even begin without the zoning change.

Mr. Dean Richards then came forward. He said he owned Richards Labs, which was right next to Mr. Spencer’s property. He said he has some real concerns with the future of the property. He wondered if the rezoning took place, if it would give Mr. Spencer the freedom to do anything he wanted to do with the property. He said it was his understanding that if Mr. Spencer brought in a plan, and it conformed to the zoning, the City could not deny his plan.

Attorney Petersen then explained that Mr. Spencer’s property is currently zoned R1-7, which is multi-family housing. However, she noted that if plans came in the next day, and met all of the ordinances, the City would be obliged to look at it. But, with the Council knowing that possible ordinance amendments were in the works, they might not approve a plat until the ordinances were passed.

Mr. Richards then explained that his concern was that if the zoning was in place, that the City would be shooting itself in the foot with a project that couldn’t legally be stopped. He said he keeps hearing that Mr. Spencer has money invested in the project, so his plans need to go forward. Mr. Richards reminded those present that the City has money invested in the downtown area, also. He asked that the Council not pass the rezone until the DAB had completed their study.

Next, Mr. Robert Williams came forward. He said he was currently serving on the DAB. He noted that his property was in the Little Denmark area. Mr. Williams indicated that he felt the DAB was getting mixed signals from City staff in that they were getting pressure to work on a sign ordinance, also. He said that they only meet twice a month, and can only work so fast. He also said he felt that the City was making the DAB get the cart before the horse in that Mr. Spencer’s property area will be a transition zone. He said that the planning commission and the Council should hold off until July for a decision. He noted that he agrees that the area will, “go commercial.” But, he said that residents were watching the DAB and the Council closely, and he wouldn’t like to see them, “shut you down.”

Council Member Wilson asked Mr. Williams what he met by threatening to, “shut you down!” Mr. Williams said he meant that what had happened at a recent planning commission meeting, whereby so many people came, the meeting had to be moved to the Junior High.

Mayor Pro Tem Jensen then responded that he felt that such threats were counter-productive. He also said he objected to Mr. Spencer saying that he felt a need to test the City.

Mr. Williams then warned that if the word went out that Mr. Spencer’s rezone was approved, it would result in a public outcry.

Council Member Wilson said it wasn’t necessary for Mr. Williams to, “be so threatening!”

Mr. Williams said he was only trying to see that the Council postponed, not reject the rezone request.

Mrs. Ann Richards, wife of Mr. Richards, then came forward. She said their offices, as her husband had said, are at 55 East Center—which adjoin Mr. Spencer’s property. She then indicated that she is concerned that if Mr. Spencer’s property is rezoned, it could set a precedent in the area. She said that she would like to see that whatever is built on Mr. Spencer’s property would be “good for everyone.”

Mrs. Riddle then commented that she realizes that Mr. Spencer needs to know what he can do with the property. She said she doesn’t disagree with that. However, she said the DAB needs time to “educate our neighbors” with ordinance changes, etc. She said the deadline set by the Council for the DAB to return to the Council by June 6, 2008 was too soon. She then asked that the date be delayed further.

Mayor Pro Tem Jensen then closed the public hearing and brought the discussion up to the Council.

Council Member Boyd asked Director Young if, in fact, the proposed zone change would meet the requirements of the R/UDAT. She said she didn’t think it would.

Director Young explained that in reference to the R/UDAT recommendation of expanding the boundaries of the downtown area, this proposed zone change would do that. Also, he said that the zone change would meet the intent of the downtown area.

Council Member Boyd said she understood what Director Young was referring to. She said she also realized that this zone change was really the first step in what was being accomplished in the downtown area. She said, however, that she wasn’t sure that “all of the ducks were in a row” quite yet so that the area was ready for the zone change. Director Young responded that Community Development was responding to a request from Mr. Spencer for a zone change on his property. He added that with the more planning that is undertaken, this proposed zone change would be appropriate.

Council Member Atwood then observed that if there was a zone change, that in three months, Mr. Spencer can still build on his property. He said that the only way that could change would be if those that don’t want a development would buy his property. He then noted that he didn’t

really see the purpose of delaying, despite the conclusions of the DAB, etc; Mr. Spencer still had a legal right to build on his property—as long as he builds according to ordinances of the City.

Council Member Atwood then said that he would be very frustrated if he owned property that he couldn't develop on. He said he couldn't see any reason to deny him his zone change. He went on to say that he had not yet seen an argument that would deny him the change. Also, he said that so far he had been hearing that the DAB agreed with the way the City was going downtown.

Director Young then said he would like to make a clarification. He explained that this request is from existing zoning to what is currently on the books in the Central Business District. He said that anything proposed that doesn't fit into this category would require additional ordinance amendments to be put into place with an additional overlay.

Council Member Boyd then indicated that the DAB was commissioned by the Council to look at the ordinances, etc. She asked if the board had enough time to accomplish this. She also asked if this zone change should be addressed at this time.

Council Member Atwood said that the property owner has the right to come in and ask for a zone change. Otherwise, he said he can't think what the City would tell the property owner if they didn't allow them to make such a request.

Mayor Pro Tem Jensen then said that what he found interesting about this discussion was that he felt that the applicant had “shot off both feet” by discussing a project that was the “genesis of the outcry” of the citizens that had taken place at the junior high planning commission meeting several weeks before. He said he was sure that at this point, Mr. Spencer had wished that he had held off a bit until he had heard from those in the area of his property.

Next, Mayor Pro Tem Jensen said he would like to give some advice. He recommended that the DAB realize and put to rest that there is no project currently before the Council that involves Mr. Spencer's property. He said that Mr. Spencer was now before the Council for a zone change. He said that the question was whether the timing was right for there to be an enactment of that zone change at this time. He said the question had been raised as to whether the zone change should take place immediately, or for it to be delayed for a few weeks.

Council Member Atwood then asked Attorney Petersen what the Council would need, legally, to turn Mr. Spencer's request down. Attorney Petersen then explained that there would need to be, “some evidence to deny it.” She said once the Council has seen the evidence, which would include the Planning Commission report, staff report, how the zone change would fit into the General Plan, etc; the Council would be able to make a decision. She also noted that the DAB was saying a decision was premature at this time. She told the Council they were the legislative body, and whether they chose to approve or disapprove the zone change, they had to do it based on evidence. She added that it does fit with all of the criteria that they had looked at; however, a vocal public was now part of the evidence that the Council needed to consider in their decision.

Council Member Atwood said he was still confused why the DAB was opposing the zone change when they said they knew it would be rezoned. Council Member Boyd answered that the DAB representatives felt that by the rezoning coming up at this time, it was premature.

Administrator Mills then addressed the group. He indicated that by law, the body that makes recommendations to the City Council for legislative action is the Planning Commission. He added that the Planning Commission had recommended approval of the proposed zone change on Mr. Spencer's property on April 11, 2008.

Attorney Petersen agreed. She explained that; (1.) The Council does rely on the Planning Commission to be the recommending body, and; (2.) That Mr. Spencer had agreed not to submit any plans for this property until after June 6, 2008.

Mayor Pro Tem Jensen then asked Mr. Spencer how he felt about delaying the development of the property. Mr. Spencer said he was trustworthy, and had already discussed delaying submitting plans until the DAB had reviewed the Downtown 2020 plan.

Council Member Atwood then said that he saw the fact that if the rezoning was approved and Mr. Spencer was willing to wait to submit plans until later was a compromise on both parties part.

After further discussion regarding the possible delay in the implementation of the proposed ordinance, Council Member Boyd asked if a date could be agreed upon to delay the date of the of the rezoning on Mr. Spencer's property. Mrs. Riddle asked if it could be after their report was made to the Council on the Downtown 2020 plan. At this point, the scheduled Council meeting for July 15, 2008 was agreed upon. Administrator Mills then said that a motion could be made to grant the zone change, but that it wouldn't actually go into place until July 15, 2008. Attorney Petersen said that was a possibility. The Council, she said, had the authority to declare and effective date.

ACTION: Council Member Wilson moved to approve Ordinance No. 2008-11, regarding Joe Spencer's request to rezone a 1.7841 acre tract of land from RM-7 (Residential Multiple) zone and R1-7 (Single Family Residential, 7,000 sq. ft. lot area) zone to CBD (Commercial Business District) zone for property located at approx. 100 North to approx. 50 North and Main Street to approx. 50 East, based on the following findings: (1.) The zone change is consistent with the Pleasant Grove City General Plan; (2.) The zone change is consistent with other properties in the area; (3.) The zone change is in the interest of the public. This rezone will be effective on July 15, 2008. A public hearing was held. Council Member Boyd seconded and the motion passed unanimously with voice votes from Council Members Wilson, Atwood, Boyd and Jensen voting, "Aye."

(Mayor Daniels returned at 9:05 p.m.)

H. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING THE C-G/GENERAL COMMERCIAL ZONE, SECTION 10-11F-2, SUBSECTIONS D AND F, OF THE PLEASANT GROVE MUNICIPAL CODE, TO RE-CLASSIFY CERTAIN PERMITTED PROFESSIONAL SERVICES AS CONDITIONAL USES. (CITY WIDE IMPACT)

Director Young noted that in reviewing the code, staff had noticed that there was a need to amend the permitted and conditional uses in the C-G zone. Specifically, he said this was to

review whether or not behavioral treatment center uses should be listed as conditional rather than permitted uses in the General Commercial (C-G) zone.

The Planning Commission had recently requested staff to review whether certain professional services use classifications in the C-G Zone should be classified as permitted or conditional. Specifically, there was interest in re-classifying those permitted uses which regard the treatment and lodging of patients for substance abuse and behavioral problems as conditional use. This proposal is in compliance with the intent and objectives of the Plan.

The proposed code amendment moves the following land use codes in the C-G Zone from the permitted use listing to the conditional use listing:

- 6515 Behavior drug and alcohol treatment centers (no lodging)
- 6516 Sanitariums, convalescent, and rest home services (Lodging and meals offered with full time medical staff. Includes asylums, drug abuse, substance abuse and behavior treatment.)

The above uses are not normally considered to be the type of standard commercial uses anticipated in a general commercial zoning. The City would be better served to allow these types of uses to be reviewed in a public hearing, with the ability to require certain applicable conditions, prior to approval.

He then said that staff and the Planning Commission forwarded a positive recommendation for approval of this proposed ordinance.

Mayor Daniels opened the discussion to a public hearing. No one came forward. He then brought the discussion up to the Council. There was no discussion. He then asked for a motion.

ACTION: Council Member Wilson moved to approve Ordinance No. 2008-12, amending the C-G/General Commercial zone, Section 10-11F-2, Subsections D and F, of the Pleasant Grove Municipal Code, to re-classify certain permitted Professional Services as Conditional Uses with the following findings: (1.) The proposed changes are in the best interest of the community; (2.) The proposed changes follow the intent and spirit of the Pleasant Grove City General Plan. A public hearing was held. Council Member Jensen seconded and the motion passed unanimously with voice votes from Council Members Wilson, Atwood, Boyd and Jensen voting, "Aye."

I. TO CONSIDER APPROVAL OF APPLICATION SUBMITTAL FOR THE UTAH COUNTY COMMISSION 2008 MUNICIPAL RECREATION GRANT PROJECT (TO BE USED FOR VETERANS MEMORIAL PARK PLAYGROUND EQUIPMENT).

Mayor Daniels read this item. Director Giles then explained that this particular grant used to be called the Restaurant Tax from the county. He explained that the application has to be approved by and submitted to the Utah County Commission as a 2008 Municipal Recreation Grant Project. The playground equipment is for the Veteran's Memorial Park—just west of the pool. He said if the City does receive the requested \$18,000 requested, they will move forward with the project.

Director Giles said the funds need to be spent by October 31, 2008. He said the same type of grant was used last year for playground equipment at Battle Creek park.

Mayor Daniels asked if there were any questions. There were none. He then asked for a motion.

ACTION: Council Member Atwood moved to approve the application submittal for the Utah County Commission 2008 Municipal Recreation Grant Project (to be used for Veterans Memorial Park Playground equipment). Council Member Boyd seconded and the motion passed unanimously with Council Members Wilson, Atwood, Boyd and Jensen voting, "Aye."

J. TO CONSIDER AWARDING BID FOR THE 700 SOUTH SEWER IMPROVEMENTS PROJECT (2008).

Director Walker came forward and indicated to the Council that a bid opening had been held on the 700 South sewer improvement project. He said that The Whittaker Company had the lowest bid; beating out the next closest bidder by 32%. He recommended to the Council that they approve the bid in the amount of \$324,597.00 from The Whittaker Company. He added that the company was licensed and bonded and the bid was in proper order.

ACTION: Council Member Atwood moved to approve awarding the bid to the Whittaker Company in the amount of \$324,597.00 for the 700 South Sewer Improvements Project (2008). Council Member Jensen seconded and the motion passed unanimously with Council Members Wilson, Atwood, Boyd and Jensen voting, "Aye."

10. STAFF BUSINESS

- Director Bradford reminded everyone of the upcoming Pleasant Grove Business Alliance (PGBA) meeting on Friday in the downstairs of the library at 12 noon. He said the founder of "Costume Craze" would be speaking on her 600% annual growth rate in her business.
- Administrator Mills explained that several residents on the east side of 100 East had asked for a boundary adjustment with Cedar Hills. He said there were also a couple of people that wanted to participate that were west of 100 East. These included those that wanted to boundary adjust in and out of Cedar Hills and Pleasant Grove. The current problem, he said, was that when Mr. Flinders built his new home, he hooked into the utilities of Cedar Hills. He also signed a document that said that he would boundary adjust into Cedar Hills. In reviewing the case with Attorney Petersen, she said that when the county sees Mr. Flinders' request to come into Pleasant Grove instead of Cedar Hills, they will reject it because he would form a peninsula. She said that normally, what happens is the county will send a letter stating that the boundary adjustment doesn't meet the statutory criteria. However, the final decision on whether to approve the boundary adjustment is left to the Council.

Administrator Mills then said that he had spoken with Cedar Hills about Mr. Flinders, and they said that if he doesn't boundary adjust with them by July 1, 2008, his water and sewer rates will go up 10 times the normal rate. He said this would put Mr. Flinders in a precarious position. He said Cedar Hills wanted to know the answer by the next morning as to what Mr. Flinders had decided.

Mayor Daniels said that the Council had already made a decision that if homeowners were hooked into the sewer and water of one of the two cities, they would have to boundary adjust to that city.

Administrator Mills said he had gone to see the new Community Center. He said that it might be nice if the Council, upon ending an upcoming work session, might want to have Manager Nielsen or Director Giles take them around for a tour. He said it was really a nice facility.

11. MAYOR AND COUNCIL BUSINESS

- Council Member Jensen said he had attended a recent Fox Hollow Golf Board meeting. He said they were requesting each City kick in \$50,000 each to cover expenses. Mayor Daniels said that Director Clay was working with Mr. Wells on the reconciliation of expenses.
- Council Member Boyd said plans were going ahead with the Heritage Festival on September 13, 2008.
- Mayor Daniels reported on the two bond rating trips he had just returned from. He said that the City had received an A+ rating. This was due to the history and track record of Pleasant Grove City. He said the high rating saves the City money in interest rates

The Mayor then reminded the Council of the budget meeting on Saturday, May 10, 2008 in the Council Chambers from 9 a.m. to about 12 noon. He asked they bring their laptops with them

12. SIGNING OF PLATS

No plats were signed.

13. REVIEW CALENDAR

There were no calendar items discussed.

14. APPROVE PURCHASE ORDERS

Mayor Daniels asked if the Council had reviewed the purchase orders for April 25, 2008. He said if there were not any questions, he would entertain a motion.

ACTION: Council Member Boyd moved to approve the purchase orders for April 25, 2008. Council Member Jensen seconded and the vote was unanimous with Council Members Wilson, Atwood, Boyd and Jensen voting "Aye."

15. ADJOURN

ACTION: At 9:28 p.m. Council Member Wilson moved to adjourn the meeting. Council Member Atwood seconded and the motion passed unanimously with Council Members Wilson, Jensen, Atwood and Boyd voting, “Aye.”

This certifies that the City Council Minutes of May 6, 2008 are a true, full and correct copy as approved by the City Council on June 3, 2008.

Signed _____
Mary Burgin, Deputy Recorder