

Pleasant Grove City Council Minutes
November 3, 2010
3:30 p.m.

PRESENT:

Mayor Pro Tem:

Cindy Boyd

Council Members:

Val Danklef

Kim Robinson

Jeffrey D. Wilson

City Recorder:

Colleen A. Mulvey, Deputy City Recorder

Others:

Scott Darrington, City Administrator

Dean Lundell, Finance Director

Tina Petersen, City Attorney

Ken Young, Comm. Dev. Director

Richard Bradford, Economic Dev. Director

Deon Giles, Leis. Services Director

Marc Sanderson, Fire Chief

Dave Thomas, Deputy Fire Chief

Degen Lewis, City Engineer

Sean Allen, City Planner

Excused:

Bruce W. Call, Mayor

Lee G. Jensen, City Council Member

Kathy T. Kresser, City Recorder

Tom Paul, Police Chief

Lynn Walker, Public Works Director

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

1. CALL TO ORDER

Mayor Pro Tem Boyd called roll for the Council and noted that Council Members Danklef and Robinson were present. Mayor Call and Council Member Jensen are excused and that Council Member Wilson would be joining the meeting later.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was lead by Engineer Lewis.

3. OPENING REMARKS

Opening Remarks were given by Director Bradford.

4. APPROVAL OF MEETING'S AGENDA

Mayor Pro Tem Boyd explained that business items "B" and "C" will be moved up on the agenda to be discussed before item "A."

ACTION: Council Member Robinson moved to approve the agenda with moving items “B” and “C” before item “A.” Council Member Danklef seconded and the motion passed unanimously with Council Members Boyd, Danklef and Robinson 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:

- a. City Council and Work Session Minutes:
City Council Minutes for September 21, 2010
- b. To consider approval of paid vouchers (October 22, 2010)

ACTION: Council Member Danklef moved to approve the consent agenda items. Council Member Robinson seconded and the motion passed unanimously with Council Members Boyd, Danklef and Robinson voting “Aye.”

6. OPEN SESSION

Mayor Pro Tem Boyd explained to those present that if an item was not a public hearing or not on the agenda, they were welcome to come forward and address the Council.

Rex Daley, 108 East Center Street came forward and explained that he is trying to refinance his property that he purchased as a tri-plex, it was built in 1924 with three kitchens and three separate gas meters and has been billed through the city for over forty years as three separate entities. Mr. Daley said that he is asking the Council to grandfather this property in because right now it is zoned commercial but not zoned as a tri-plex which he needs it to be for the refinancing process.

Mayor Pro Tem Boyd said that we need to refer this to Attorney Petersen and Community Development. Mr. Daley said that he has already tried that route.

Attorney Petersen said that the problem here is that the Council does not have the authority to do what he is asking; it is the Board of Adjustments that has the legislative authority to grant a non-conforming use or a grandfathering designation on property.

Mr. Daley said that the only reason he is here today is because the Board of Adjustment meeting was cancelled for this month and their next meeting isn't until later next month and in order to get his appraisal he really needs to have this zoned like it was when he originally bought it.

Mayor Pro Tem Boyd asked when the next Board of Adjustment meeting is. Attorney Petersen said that according to Director Young the next meeting will be in the third week of December and that they did not cancel this month, it's just that he didn't get his request in to Community Development in time to do the noticing for the meeting. Attorney Petersen asked Mr. Daley to call her tomorrow so that they can further discuss this. Mr. Daley indicated that he would.

Mayor Pro Tem Boyd asked if there was anyone else who wished to come forward and address the Council at this time, there was not. The Mayor Pro Tem then closed the meeting to the public.

7. BUSINESS

B. TO CONSIDER FOR ADOPTION A RESOLUTION (2010-054) AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH QWEST CORPORATION FOR A TEN FOOT RIGHT-OF-WAY EASEMENT TO INSTALL COMMUNICATIONS FIBER; PROPERTY LOCATED AT 485 WEST 220 SOUTH, SHANNON FIELDS PARK, PLEASANT GROVE, UTAH AND TO PROVIDE FOR AN EFFECTIVE DATE (SAM WHITE'S LANE NEIGHBORHOOD)

City Engineer Lewis explained that Qwest has approached the city with a request to have the city grant them an easement for placing a communications cable over to the cell towers just west of the rodeo grounds. Engineer Lewis said that in the agreement there is a relocation clause for the property west of the ball diamonds that Qwest has agreed to because we don't know exactly what our future development of this property will be and this will require them to relocate their facilities at their own expense if and when that time comes.

Mayor Pro Tem Boyd asked if there were any questions, there were none. The Mayor Pro Tem read the resolution and asked for a motion.

ACTION: Council Member Danklef moved to approve Resolution 2010-054 authorizing the Mayor to sign an agreement with Qwest Corporation for a ten foot right-of-way easement to install communications fiber; property located at 485 West 220 South, Shannon Fields Park, Pleasant Grove, Utah. Council Member Robinson seconded and the motion passed unanimously with Council Members Boyd, Danklef and Robinson voting "Aye."

C. TO CONSIDER FOR ADOPTION A RESOLUTION (2010-055) AUTHORIZING THE MAYOR TO SIGN A DONATION AGREEMENT WITH THE UTAH HOSPITALS AND HEALTH SYSTEMS ASSOCIATION (UHA); HEALTHCARE EDUCATION AND RESEARCH FOUNDATION (HEREF); AND PLEASANT GROVE CITY FOR A ST ELEVATION MYOCARDIAL INFARCTION (STEMI) PRE-HOSPITAL 12-LEAD ECG GRANT FOR THE FIRE/EMS DEPARTMENT

Fire Chief Sanderson stated that this comes from the donations that were put together by large hospital organizations over the past year; this is a program that brings this technology to Utah County. We were awarded twenty four thousand dollars that we could use to upgrade our old equipment or we could use it to purchase new equipment. Chief Sanderson said that they will be adding additional funds to this from an EMS grant for a total of twenty nine thousand dollars and will purchase two new machines.

Council Member Robinson asked where they will keep this equipment. Chief Sanderson said that they will put one in each ambulance.

Mayor Pro Tem Boyd asked Chief Sanderson to read resolution 2010-055, he did. The Mayor Pro Tem asked if there were any questions, there were none, she then asked for a motion.

ACTION: Council Member Robinson moved to approve Resolution 2010-055 authorizing the Mayor to sign a Donation Agreement with the Utah Hospitals and Health Systems Association (UHA); Healthcare Education and Research Foundation (HERF); and Pleasant Grove City for a ST Elevation Myocardial Infarction (STEMI); Pre-Hospital 12-Lead ECG Grant for the Fire/EMS Department. Council Member Danklef seconded and the motion passed unanimously with Council Members Boyd, Danklef and Robinson voting “Aye.”

A. PRESENTATION BY DENNIS BAKER ET AL. REGARDING LAND USES IN THE GROVE INTERCHANGE SUB DISTRICT ZONE

Administrator Darrington explained that the city has been working for a long time with Mr. Baker on the property development down in the Interchange area. About eight months ago in our Economic Development Committee meeting when we were discussing uses in the Interchange zone, there was confusion amongst the committee members as to what were and were not permitted uses. Administrator Darrington said that at that point we took a look at what was permitted in that zone and discussed what was within the nature of what the Council’s vision is for this zone. We gave a list of these permitted uses to the Council and over a couple of work session meetings we discussed what the Council’s vision of permitted uses within this zone were and we created a temporary zoning ordinance that would reflect that. In the meantime we discussed bringing in an independent third party to come in and evaluate what we have out there and to tell us if we are on the right track with our ideas or vision. Administrator Darrington said that there is a group called MXD that we are in the process of working with to do this study for us and to help us determine some of the uses, what the needs are and what is realistic for us in that area. Administrator Darrington stated that we have not signed a deal with MXD yet, that is something that is still being considered by the Council. A few months ago Mr. Baker and his associates met with the staff and we shared what we had come up with at our work sessions and at that point Mr. Baker requested meeting with the Council. Administrator Darrington noted that as a city we have the ability to choose the zoning for our city but that we also respect the fact that Mr. Baker is a large property owner in the Interchange zone, and we need to respect the fact that we need to have something workable for him as well and hopefully we can get to where we are both shared in our vision as to what we want to happen in that zone.

Council Member Robinson said that she wanted to start by asking Mr. Baker about his real estate investing and what brought him to or attracted him to buy land in Pleasant Grove. Mr. Baker replied that about seventeen years ago he began purchasing property in Pleasant Grove, that was prefaced by him looking into the Draper area and at that time as Draper began to build out he missed out on many different land transactions. He said that he was approached around 1992 by Dale Johnson who told him about the Pleasant Grove property and that there may be an interchange going in and would I be willing to gamble on that fact. Mr. Baker said that he has been a land developer for the past forty two years in both residential and commercial development and that he currently owns about one hundred and thirty three acres of land in Pleasant Grove and fourteen acres in Lindon. He added that they have done four land plans, layouts and marketing analysis studies with a couple of different firms which have not ever been proposed to the city on a formal basis for a conceptual approval.

Dan Torfin said that he, Dennis Baker, Brandon Fugal and Jory Walker have been working for quite awhile to put plans together and have been pioneering this piece of property in the Interchange area. Some of this planning has been in partnership with the city such as the campus that houses Horrocks Engineering, the Embassy Suites Hotel and Convention Center and Central Bank. He said that they have been actively planning conceptual ideas and putting in roadway planning. Mr. Torfin then stated that they have been very concerned with the land use restrictions through the temporary zoning ordinance because it takes away things that were available to us from when we started investing heavily in the infrastructure and putting deals together to incentivize BMW and the John Q. Hammons organization. Mr. Torfin said that they always envisioned that they were going to have convenience food and fuel and other uses in this area. Mr. Torfin then handed out picture examples to the Council and staff of an appropriate commercial project that they have done which includes a gas station, class A office space, high end restaurants and retail shops to show how all of these uses can be integrated. He said that these plans show the way that they do their site planning to make it compatible through road designs and specialized landscaping. Mr. Torfin said that they are reacting to the temporary ordinance and are trying to let the city know that you can bring all of these things together and not be afraid of convenience food or fuel because you can integrate them from the site planning standards and that they believe that those things fit together in the Grove Interchange area.

Council Member Robinson asked what location they were considering putting the McDonald's restaurant at. Mr. Torfin said that they have a contract for a McDonald's to go on the corner across from Central Bank. Mr. Torfin added that a lot of development is market driven and we feel that McDonald's being attracted to this interchange as our project is really a good, positive thing because it is development that drives activity. Mr. Torfin said that they have had a vision for these things from day one and think that it fits well within the development and is compatible and they would like to see if these restrictions could be reversed because we could potentially be still sitting out here with no new activity if we continue to react to things that maybe someone doesn't like.

Council Member Robinson commented that she has done some research on McDonald's and that she is very impressed with their updates, they are redesigning their equipment for their new nutritional menu. She said that the menu is important to her and McDonald's has gone to a lot of effort to revise and to go in more of a nutritional direction and in her field of healthcare with the reform coming, any franchise with more than twenty licensed facilities will be required to list nutritional information on their menus.

Mayor Pro Tem Boyd said that she thinks that when we go into this discussion it is McDonald's that is the fast food that we are talking about, but the bigger picture for the city is fast food in general. She said that we are not looking at this to approve a McDonald's or not, our goal has always been to be a level above everyone else out in our interchange area. In our discussion we need to remove the McDonald's idea and discuss what we want there as the first impression as you come into our city and what our zoning goals are for that area.

Brandon Fugal stated that when we brought in the corporate users we really have had a eye toward a mix of various uses in order to accommodate that corporate campus and to develop some synergies that will draw additional tenants of an upscale nature to the interchange. He said

that it is without question that we all have an eye toward creating something special with the interchange and what Mr. Baker and his team over that last several years have been able to produce is a good campus environment in spite of the market economy taking a nose dive. We are fortunate to have the BMW dealership and a dozen other prominent tenants along that interchange that have helped us kick off an office campus environment and one thing that we are in desperate need of right now are amenities and services. Many companies and employees that are looking to locate to this area complain about the lack of services and amenities off of the interchange. He said that fast food restaurants are an essential part of a successful mixed use area something for the employees to be able to go to and then get right back to the office. Mr. Fugal mentioned that one thing that we are also plagued with right now is the lack of activity that has killed some of the momentum off of the interchange and that they believe that McDonald's is compatible and is going to act as a catalyst to bring in other development. He added that McDonald's does their due diligence and research in where they locate their restaurants and in a market where there is nothing going on it is a blessing to have a contract with a large reputable company.

Mr. Baker stated that they haven't had the chance of working with Pleasant Grove on a formalized basis to discuss the changes in the market both here and around the country and when they look at new levels of high end development, all of the lifestyle centers that we have talked about in the past are dead, that market has changed. Mr. Baker said that in working with cities that they generally work with their ordinances on lighting, design standards and signage and have guidelines and controls of design review and standards that we adhere to and would like to work with your city on to create a new high end development. He added that holding on to vacant land is not an easy thing to do and we want to make things happen in the interchange area and we want to do it with quality and in cooperation with the city.

Council Member Danklef asked what their team felt about the city having a firm like MXD doing an analysis of this property. Mr. Baker said that they generally bring their own plans to the city and not have the city dictate to them what the land plan will be, so they are not used to seeing that happen and that they would like to work with the city on what our land plan is based on being market driven. Mr. Walker commented that good design and good landscaping and good master planning takes into account whatever elements you are working with and how you lay them all together. He said that that you need to look at what Mr. Baker creates to make these developments look good and not be an eye sore and not detract from the interchange zone where they have another two hundred acres they will be selling. The idea here is to look at how we do things and put some trust in us to work with the city as a team and don't handcuff us because it destroys development and destroys progress.

Mayor Pro Tem Boyd asked that as a developer if you have that prime corner and you could either put fast food or something else such as a higher end restaurant or retail development, which would you choose. Mr. Baker replied that he does have a development in Idaho on a prime corner where he has a fast food and a high end restaurant sitting next to it and a Chevron station there as well and it works really well the way it is laid out. He stated that McDonald's is the number one owner of real estate in the United States, they do a lot of research into choosing their locations and we see that as a really good sign and a validation that we are doing the right thing and we can create a beautiful example that will attract more development. Council Member Danklef said that he has had some history with McDonald's and he knows how they operate and

if they select a spot to put a building then they have done enough research to guarantee that that is the best spot in the locale and then questioned the concept of putting a gas station in with the McDonald's and was that something that was automatically going to happen.

Mr. Baker stated that they do not have any contract with a convenience store at this point, but that both convenience stores and fast foods are going to want to be on the high impact, high traffic areas. Mr. Baker said that they are asking that the Council reconsider this zoning ordinance because we don't want our hands tied where we have been busy incentivizing John Q. Hammons and working with the city and the infrastructure we've put in and the taxes we've paid here to be handcuffed to the point that we can't work with market leaders like McDonald's. Mr. Baker commented that in regards to doing a land plan study, whomever you hire is going to be under the influence of what the Council is asking them to look at, they are not unbiased. Mr. Walker added that he thinks that it is key here that before you say we can't put something there, to let us plan it, let us do renderings and show the street scapework and landscaping so that you have the information to make a good decision.

Mayor Pro Tem Boyd said that we need to open up our scope of what we are looking at which is the full interchange district as far as what will be allowed and not just this McDonald's on this corner. She said that we will go about this in future discussions as the full Council and determine after this presentation where we feel we would like to go, be it making changes or going with the MXD study or whatever. Mr. Walker commented that we do need to think of the whole development but that right now we've got an offer that has been made and thinks it is important that we don't handicap the developer and cause undue harm.

Council Member Robinson asked if there had been any other offers about development for this corner property and what the response was. Mr. Fugal said that there have been very few and there have been two responses, one is that they are afraid to be the first one and want to see more population and density and the other is about TSSD and what are we doing about it. Council Member Robinson then asked what McDonalds' response was to TSSD. Lance Pendleton said that they have done their due diligence, they have been on the site several times, done the traffic counts and they feel that sometime in the future the odor issue will be corrected.

Mayor Pro Tem Boyd said that since there are only three Council members here tonight we will not be making any decisions and we will get the Mayor and Council up to speed on your concerns and thoughts on how you would like this to go forward. Mr. Baker said that what they are asking is to have that temporary zoning ordinance removed because it does not allow them to do what we have been talking about. Mr. Fugal commented that time is of the essence if we want to save this deal with McDonald's.

Council Member Danklef asked about the hold up with the McDonald's deal. Mr. Pendleton said that the real estate contract is contingent upon getting city approval for the use, so it is being held up until we can assure them and they can get approval that that use is permitted in the zone. Administrator Darrington added that Mr. Baker's team has been working on this and did come to discuss this with the staff a while ago and that we have been trying to schedule this meeting for about a month. Mr. Baker said that staff has been working with them and relaying information to the Council and then relaying the concerns back to us and this formal presentation is just now taking place.

Council Member Robinson stated that she did not remember that it was shared in any of our previous meetings that we had a nationally recognized vendor who wanted to come in and develop. Administrator Darrington stated that he doesn't think that we talked specifically about McDonald's, we wanted to keep the discussion on a use level and not a particular restaurant level so our discussions were all on fast food, convenience stores and gas stations in general. Council Member Danklef said that his impression was that we were talking about a gas station like Walker's that happens to have a counter for fast food within the same building. Mr. Baker stated that he wants to take the onus off of staff and said to let this be our problem that we didn't directly bring this in to the Council and let it be our fault and our responsibility that we didn't get before you to try to express our concerns and where we are at and where we would like to be with the cooperation of the city in moving forward and planning.

Council Member Wilson joined the meeting at 4:56 p.m.

Administrator Darrington said that as we adopt the master plan for this area it would be more helpful in our discussions as the city to ask you if you would entertain a deed restriction of some sort that deems that in this area we are only going to allow two or three fast food restaurants. Mr. Baker stated that he would be in favor of that not only would they be agreeable to it, but they would be encouraging it and are very willing to sit down to work with staff and bring back to the Council some restrictions restricting some of the uses that you feel strongly about but not totally restricting fast food in an area where fast foods need to be, relative to quality, top end, highly recognized brand names like a McDonald's. Administrator Darrington then asked Mr. Baker if the city was involved when their initial master plan was done. Mr. Baker said that over the past seventeen years that they have attempted to keep the city informed and share their plans but they have never formally submitted a formal plan to the city or the Council to adopt their concept.

Attorney Petersen pointed out to Mr. Baker that the city has never questioned the quality of what they build or the landscaping or the desire to have a top notch development in whatever they do, that is evident in everything that you have represented to us. She said that they need to understand that part of the city's concern is what an appropriate use is, not necessarily how it looks, it really is the use and what it generates. Another thing the city has to look at is the sales tax revenue generated, and do we want to use a prime commercial corner for a fast food restaurant that at the maximum will bring in two thousand dollars a month in tax revenue or do we try to encourage a higher, better use like a sit down restaurant that would bring in five to ten thousand dollars of tax revenue a month. Attorney Petersen said that part of what the city's concern is, is that it is not just creating a fast food row and how it looks, it's using the very limited amount of raw land that we have and the compatible uses to generate the maximum amount of tax revenue for the city. Mr. Fugal stated that she has a good point on the sales tax concern but that he would like to point out that property values in general have plummeted, they are a fraction of what they were two or three years ago for commercial and there are really no encouraging signs in the near future, so having tenancy and having activity even if it is of a smaller nature helps us with the property values and building momentum.

Mayor Pro Tem Boyd stated that what we will do now is move forward from this point and look towards getting this back on the agenda to discuss this with the full Council. Administrator Darrington said that we can put this discussion on the agenda for the work session on November

23rd and then hopefully by the December 7th meeting we will be able to give a final “yes” or “no” answer on the temporary zoning ordinance because that is something that the Council can repeal at anytime.

Mr. Baker stated that they do greatly appreciate the time of the Council and staff and listening to their concerns about the interchange and about who we are and what we represent. He reiterated that we are in a vastly different economy and we do want to look at what is a mix that works out there and to work with some of the icons of the industry that will strike others to want to come in and develop and be a part of this.

8. NEIGHBORHOOD ADVISORY BOARD AND STAFF BUSINESS

- Engineer Lewis reported that the Mayfield project will be finishing the paving work this week.

9. MAYOR AND COUNCIL BUSINESS

Nothing was reported at this time.

10. SIGNING OF PLATS

No plats were signed at this time.

11. REVIEW CALENDAR

Nothing was reviewed on the calendar at this time.

12. APPROVE PURCHASE ORDERS

Mayor Pro Tem Boyd asked if there were any questions on the purchase orders, in that there were none, the Mayor Pro Tem asked for a motion.

ACTION: Council Member Wilson moved to approve the purchase orders for November 3, 2010. Council Member Danklef seconded and the motion passed unanimously with Council Members Danklef, Robinson and Wilson voting “Aye.”

13. ADJOURN

ACTION: At 5:20 p.m. Council Member Wilson moved to adjourn the meeting. Council Member Danklef seconded and the motion passed unanimously with Council Members Danklef, Robinson and Wilson voting “Aye.”

This certifies that the City Council
Minutes of November 3, 2010 are a true,
full and correct copy as approved by
the City Council on December 14, 2010

Colleen A. Mulvey, Deputy City Recorder