

**Pleasant Grove City Council Minutes  
January 6, 2009  
7:00 p.m.**

**PRESENT:**

**Mayor:**

Michael W. Daniels

**Council Members:**

Cindy Boyd

Bruce Call

Jeffrey D. Wilson

Lee Jensen

Mark K. Atwood

**City Recorder:**

Kathy Kresser

**Others:**

Frank Mills, City Administrator

Gary Clay, Finance Director

Tina Petersen, City Attorney

Ken Young, Community Development Director

Lynn Walker, Public Works Director

Richard Bradford, Economic Director

Deon Giles, Leisure Services Director

Degen Lewis, City Engineer

Marc Sanderson, Fire Chief

Libby Flegal, NAB Chair

Karen Bezzant, City Treasurer

Mary Burgin, Planning Technician

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

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**1. CALL TO ORDER**

Mayor Daniels noted that himself as well as Council Members Boyd, Atwood, Jensen, Wilson and Call were in attendance.

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was lead by Boy Scout Micah Clegg.

**3. OPENING REMARKS**

Opening Remarks were given by Council Member Call.

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

Mayor Daniels asked if there were any changes to the agenda. Director Young said that Item “f” would be postponed indefinitely. Additionally, Mr. Jim Malone would be presented to the Council for their approval as a new member of the Board of Adjustment. The Mayor then asked for a motion.

**ACTION:** Council Member Boyd moved to approve the agenda, with Item “f” being postponed indefinitely: and to also add Mr. Jim Malone’s name to the consent agenda as a proposed member of the Board of Adjustment. Council Member Jensen seconded and the motion passed unanimously with Council Members Jensen, Atwood, Wilson, Boyd, and Call 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 Minutes for November 18, 2008
- b. Work Session Minutes for November 25, 2008
- c. City Council Minutes for December 2, 2008
- d. Special City Council Minutes for December 4, 2008
- e. To consider appointment of Glenn Christensen to serve as new Co-Chair for the Mudhole Neighborhood.
- f. To consider appointment of Roscoe Allen to serve as secretary for the Big Springs Neighborhood.
- g. To consider approval of Payment No. Eighteen and Change Order No. Nine to HDX, LC, a Dunn Company, for the Pressure Irrigation System – Schedule 6 Project.
- h. To consider approval of Payment No. Nineteen and Change Order No. Ten to HDX, LC, a Dunn Company, for the Pressure Irrigation System – Schedule 6 Project.
- i. To consider approval of paid vouchers (December 10, 2008 and December 25, 2008).
- j. To consider appointment of Jim Malone as a member of the Board of Adjustment.

The Mayor asked for a motion on the consent agenda

**ACTION:** Council Member Call moved to approve the consent items. Council Member Wilson seconded and the motion passed unanimously with Council Members Atwood, Jensen, Wilson, Boyd and Call voting “Aye.”

**6. OPEN SESSION**

Mayor Daniels explained to those present that if an item was not a public hearing or not on the agenda, they were welcomed to come forward and address the Council for three minutes.

- Mayor Daniels said he would like to recognize Boy Scout Jasper Boren, who was present at the meeting. He explained that Jasper had bought a brand new bicycle, which was then

stolen from him. The T.V. news had done a story on Jasper's plight, and someone donated a bike to Jasper upon seeing the story.

## **7. NEIGHBORHOOD ADVISORY BOARD REPORT**

Mrs. Libby Flegal said that she was happy to now have a full NAB board. She also said that not only was there a representative from each Neighborhood, there were also several of the neighborhoods that also had secretaries.

## **8. BUSINESS:**

### **A. APPROVAL OF APPOINTED POSITIONS: CITY ADMINISTRATOR, FRANK MILLS; CITY RECORDER, KATHY T. KRESSER; CITY TREASURER, KAREN BEZZANT; CITY ATTORNEY, CHRISTINE PETERSEN; FIRE CHIEF, MARC SANDERSON; POLICE CHIEF, TOM PAUL; BUDGET/FINANCE OFFICER, GARY CLAY; CITY ENGINEER, DEGEN LEWIS; BUILDING OFFICIAL, DAVE HOUSTON; LEISURE SERVICES DIRECTOR, DEON GILES; PUBLIC WORKS DIRECTOR, LYNN WALKER; COMMUNITY DEVELOPMENT DIRECTOR, KEN YOUNG AND ECONOMIC DEVELOPMENT DIRECTOR, RICHARD BRADFORD.**

Mayor Daniels indicated that these appointed positions were brought before the Council annually for their approval. He then read the names, and had each employee stand when their name was read. He asked if there was any discussion. There was none. He then asked for a motion.

**ACTION:** Council Member Boyd moved to approve City Administrator, Frank Mills; City Recorder, Kathy T. Kresser; City Treasurer, Karen Bezzant; City Attorney, Christine Petersen; Fire Chief, Marc Sanderson; Police Chief, Tom Paul; Budget/Finance Officer, Gary Clay; City Engineer, Degen Lewis; Building Official, Dave Houston; Leisure Services Director, Deon Giles; Public Works Director, Lynn Walker; Community Development Director, Ken Young and Economic Development Director, Richard Bradford. Council Member Call seconded and the motion passed with Council Members Atwood, Wilson, Jensen, Boyd and Call voting "Aye."

### **B. OATH OF OFFICE ADMINISTERED TO NEWLY APPOINTED CITY RECORDER.**

Attorney Petersen administered the Oath of Office to Mrs. Kathy Kresser, the newly appointed City Recorder. Recorder Kresser's husband, Robert, stood by her side while she was sworn into her new position.

### **C. TO APPOINT MAYOR PRO TEMPORE.**

The Mayor explained that each year, the Council appoints a new Mayor Pro Tempore. If the Mayor is gone, the Mayor Pro Tem will function in his behalf, he noted. He then asked for a motion.

**ACTION:** Council Member Jensen moved to approve Council Member Boyd as the new Mayor Pro Tempore. Council Member Wilson seconded, but the motion died due to a lack of a majority vote.

**ACTION:** Council Member Atwood moved to approve Council Member Call as the new Mayor Pro Tempore. Council Member Wilson seconded, and the motion passed with Council Members Jensen, Wilson, Boyd and Atwood voting, "Aye," and Council Member Call abstaining from the vote.

**D. TO CONSIDER APPROVAL OF A RESOLUTION AUTHORIZING AN EMPLOYER PICK-UP OF EMPLOYEE RETIREMENT CONTRIBUTIONS.**

Director Clay explained that this was a housekeeping item in regard to the retirement for the full-time fire fighters. He said it should have been taken care of in June of 2008. He then explained that the rate, which is set by the State, was around 13% for the firefighter's retirement. Council Member Atwood asked how that rate differed from the police retirement rate. Director Clay said the police rate was 22.6%.

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

**ACTION:** Council Member Call moved to approve Resolution No. 2008-01, authorizing an employer pick-up of Employee Retirement Contributions. Council Member Wilson seconded and the motion passed unanimously with Council Members Atwood, Boyd, Wilson, Jensen and Call voting, "Aye."

**E. TO CONSIDER CHERYL CHRISTENSEN'S REQUEST FOR THE APPROVAL OF A FINAL PLAT KNOWN AS CHRISTENSEN FARM, PLAT "A," LOCATED AT APPROXIMATELY 750 WEST 2310 NORTH, IN THE RR/RURAL RESIDENTIAL (21,780 SQ. FT. LOT AREA) ZONE. (NORTH FIELDS NEIGHBORHOOD)**

Mayor Daniels read this item. Director Young then came forward and explained that the applicant, Mrs. Cheryl Christensen, was requesting final approval of a two-lot subdivision to be called Christensen Farms, Plat "A." The project location is at approximately 750 West 2310 North in the RR/Rural Residential Zone. It is comprised of 4.65 acres.

The applicant owns a large parcel of land, which currently has an existing home fronting 600 West. The applicant would like to create another separate lot for the purpose of constructing a new home, which has frontage on 2310 North. The existing home would remain on the other new lot.

The subject property is within the Very Low Density Residential District. This translates into a density of no more than two lots per acre. The proposal complies with this designated land use. Engineering has given a positive recommendation to approve the Final Plat.

The subdivision is designed to accommodate an additional building lot on the applicant's property, while maintaining the existing home on its own separate lot (which is lot #1). The applicant is also providing the necessary street dedication along 600 West and 2410 North. The dedication of 2410 North is not a standard half-width dedication, for the entire length of the property, due to an oversight with the development of Warnick Holman Estates Subdivision to the west. Access to lot #1 will remain from 600 West. Access to lot #2 will be from 2310 North.

The oversight, mentioned in the subdivision design sub-section, was in the alignment of 2410 North. When the subdivision was approved, the City inadvertently allowed the alignment of 2410 North to be altered, which unfortunately violated the development agreement between the City, the Sterling family, and the Christensen family. The road is now aligned more to the north, so instead of evenly splitting both properties (Sterling and Christensen), more of the road is on the Sterling property. The solution, for now, is to match what has already been constructed on the west of the Christensen property, and then jog the road down until it connects with the future 700 West roadway; at which point the road straightens out going east until it connects with 600 West. This will prevent the Sterling family from having to take the brunt of the future roadway dedication, as was foreseen in the original development agreement. The City will bear the responsibility of re-negotiating a new development agreement to complete 2410 North.

Council Member Atwood asked how much the roadway had to be moved. Engineer Lewis said it was about 18 to 20 feet, so it could be on the property line.

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

**ACTION:** Council Member Call moved to approve Cheryl Christensen's request for the approval of a final plat known as Christensen Farm, Plat "A," located at approximately 750 West 2310 North, in the RR/Rural Residential (21,780 sq. ft. lot area) zone including the following conditions: (1.) The applicant is to submit a Final Plat application and fee for this request, as soon as possible: (2.) All accessory structures, located within a front yard area, are to be removed. Also, based on the following findings: (1.) the proposal complies with all current zoning and supplementary regulations for the R-R Zone: (2.) On December 11, 2008 the Planning Commission approved the Preliminary Plat. All final Planning, Building, Fire, and Engineering Department requirements are to be met prior to recording the Final Plat. Council Member Jensen seconded and the motion passed unanimously with Council Members Atwood, Boyd, Wilson, Jensen and Call voting, "Aye."

**F. TO CONSIDER MATT EVANS' REQUEST FOR A CONDITIONAL USE PERMIT FOR A 68 UNIT CONDOMINIUM PROJECT AND COMMERCIAL SITE PLAN APPROVAL FOR THE VARLIANO DEVELOPMENT, LOCATED APPROXIMATELY AT 1000 WEST 700 SOUTH IN THE GROVE MIXED-USE ZONE. (SAM WHITE'S LANE NEIGHBORHOOD)**

This item was discontinued indefinitely.

**G. TO CONSIDER BRYANT CHRISTENSEN'S REQUEST FOR THE APPROVAL OF A FINAL PLAT KNOWN AS TURLEY COVE SUBDIVISION, PLAT A, LOCATED AT APPROXIMATELY 400 SOUTH TURLEY AVENUE, COMPRISING OF 1.44-ACRES; INCLUDING THE DEDICATION OF THE REMAINDER OF TURLEY AVENUE, IN THE RM-7/MEDIUM MULTIPLE RESIDENTIAL ZONE. (STRING TOWN NEIGHBORHOOD)**

Director Young explained that this item is regarding Bryan Christensen's request for the approval of a final plat known as Turley Cove Subdivision, Plat "A," located at approximately 400 South Turley Avenue. The property is comprised of 1.44 acres, and is in the RM-7 Medium

Multiple Residential Zone. The lot of the proposed subdivision complies with the requirements of the RM-7 zone with lot size, frontage, lot width, etc.

The applicant owns the parcel of property already, but in order to clear up the boundary lines and dedicate the remainder of Turley Avenue to the City (and have the P.U.E. recorded), it is necessary that a subdivision plat be approved and recorded. The engineering department has reviewed the proposed final plat and recommended approval subject to meeting all of the final plat engineering requirements.

The proposed subdivision will have access off of the cul-de-sac, which will be constructed for the development. This access will be dedicated to the City.

The property to the east of the proposed subdivision is owned by AMG Enterprises. The properties to the south have houses on them. To the north is State Street, and the applicant has worked with UDOT in order to create the subdivision in such a way so as to not interfere with UDOT's widening of State Street. The western property is owned by Pacific Railroad.

Mayor Daniels asked if there was access to the development to the rear where the Power Sports business abuts to the property. Director Young said no, there was no official access in that area to the property. Mayor Daniels then said that it looked like there would not be any access from State Street to the property. Director Young said that was correct.

With no further discussion, Mayor Daniels then asked for a motion.

**ACTION:** Council Member Call moved to approve Bryant Christensen's request for the approval of a final plat known as Turley Cove Subdivision, Plat A, located at approximately 400 South Turley Avenue, comprised of 1.44-acres; including the dedication of the remainder of Turley Avenue, in the RM-7/Medium Multiple Residential zone, including the following conditions: (1.) That all final Planning, Fire and Engineering Department requirements are met prior to recording the Final Plat. Also, is based on the following findings: (1.) The proposed subdivision complies with the zoning requirements of the RM-7 Zone: (2.) The final plat has been given a recommendation of approval from City Engineering: (3.) On December 11, 2008 the Planning Commission approved the Preliminary Plat. Also, Council Member Wilson seconded and the motion passed unanimously with Council Members Boyd, Atwood, Wilson, Jensen and Call voting, "Aye."

**H. PUBLIC HEARING TO CONSIDER AN ORDINANCE ADDING SECTION 10-15-47, "ACCESSORY APARTMENTS," PROVIDING REGULATIONS FOR THE LEGAL AND PERMITTED USES OF AN ACCESSORY APARTMENT IN PLEASANT GROVE AND ADDING A DEFINITION OF AN ACCESSORY APARTMENT TO SECTION 10-6-2 OF THE PLEASANT GROVE MUNICIPAL CODE. (CITY-WIDE IMPACT)**

Following Mayor Daniels' reading of the item, Director Young noted that this was a public hearing to consider an Ordinance adding Section 10-15-47, "Accessory Apartments." If approved, he said it would provide regulations for the legal and permitted uses of an accessory apartment in Pleasant Grove. It would also add a definition of an Accessory Apartment to

Section 10-6-2 of the Pleasant Grove Municipal Code. The applicant is the Planning Commission.

Director Young next indicated to the Council that this proposal represents the results of research and discussion of members of a special committee involving planning commission members and planning staff; established for the purposes of permitting and regulating accessory apartments in Pleasant Grove. Research included efforts undertaken by the City on this subject a few years ago. The Planning Commission reviewed this proposal on December 11, 2008. The proposed amendments are consistent with the intent and objectives for providing various housing options in the community, as listed in Chapter 6 of the General Plan.

Resident Jerry Washburn wrote a letter to Community Development staff with some good points relating to accessory apartments, Director Young said. Director Young then explained that Mr. Washburn is the son of the Mayor of Orem, and a real estate salesman. He said Mr. Washburn's father, Jerry Washburn, reviewed this proposed ordinance, and said he would be interested to see how the ordinance would impact those residents with accessory apartments. Director Young next explained that Mayor Washburn said that Orem did allow accessory apartments for a time, then repealed the ordinance and made the apartments illegal in their city.

Director Young then explained that he and his staff had reviewed several national formats regarding accessory apartment legislation. He said he is aware that other communities in the area are watching what will happen with this legislation in Pleasant Grove.

Administrator Mills next observed that he wondered if there was concern about young people living in a home and renting out rooms to underage people. He said he wondered how other cities have addressed that issue. Director Young said the threshold for Pleasant Grove was only up to three unrelated people that can live in a single family dwelling. Administrator Mills said his concern that there not be people staying in the living room, etc. He said that the City would not be able to police the situation whereby they can make sure that each person is in a separate bedroom.

Director Young said that the proposed ordinance can be a guide. However, he commented that not all things are enforceable. He said that it is difficult for City staff to get in the middle of people's lives. However, he said if a business license was required, at least City staff could deal with it. He said the license would allow the City to do inspections of the premises every year, checking for violations.

Council Member Call then noted that he feels it is good to discuss how the City Council feels about any kind of ordinance related to this issue. Director Young said that he agrees. He said he doesn't want to feel as though he and staff were spinning their wheels with this subject. Council Member Atwood then indicated that if the laws are not on the books, the City cannot enforce them.

Council Member Call went on to say that that part of the results of this proposed ordinance would be to raise property values. He said homeowners would be able to sell the house, if there was an opportunity for a paying renter in the basement. He asked if the other members of the Council even wanted to make a regulation on these apartments that might be very difficult to enforce.

Attorney Petersen said this has been the question that has been discussed by both the Planning Commission and the City Council for years as to if they want to approach this subject. She said that numerous debates have ensued over the years.

Council Member Call then said that he is concerned about passing legislation that cannot be enforced. Attorney Petersen said that if the homeowner met the requirements, was granted a license, and continued to rent, this proposed ordinance would then help the homeowner to come into compliance as a legal apartment. If this ordinance was adjusted and property owners continued to rent illegally, the City could enforce the ordinance for not having the appropriate permits in place.

Council Member Call then asked if the Council actually wanted to have accessory apartments in the City. Director Young observed that the City already has accessory apartments. Council Member Call said that Orem once allowed accessory apartments, but then decided that they would no longer allow them. Director Young said the ordinance passed to again ban them does not have the same provisions that this proposed ordinance has for Pleasant Grove.

Council Member Boyd asked Fire Chief Sanderson and Director Walker if there were questions the Council should be asking related to fire safety, medical safety or other public works situations that might arise with accessory apartment. She asked them if they had specific concerns.

Fire Chief Sanderson said it is actually crucial that his department know if there are multiple families, etc, living in the home. He said that a fire inspection would need to take place when the homeowner got a business license, which would make the situation much safer.

Attorney Petersen then said that along with what Council Member Call has said, a new regulator would need to be brought in for the City. She said this increase in manpower would increase costs to the City. Council Member Jensen said that there would be an increase of income to the City from the business license fees. Director Clay said there would also be additional income to the city from an increase of property values.

Council Member Jensen then said that it kind of bothered him that it seemed like an intrusion for the City to impose inspections, etc, on the property owners. He also noted that the less intrusion by the city, state and federal governments, and the better off everyone would be. He said that he wondered if by openly recognizing in meeting that the residents who had the accessory apartments were doing something illegal, and the City wasn't enforcing the law, why have the law in the first place against the accessory apartments?

Council Member Atwood remarked that he couldn't understand why people would want to rent an accessory apartment in Pleasant Grove now that there were apartments available in The Grove.

Mayor Daniels said that it is a concern that the apartments come into compliance for the health, safety and welfare of residents. He said that he feels that most of those that have accessory apartments know it is illegal, but they try to keep the situation as quiet as possible. The Mayor then noted that it would be better all around if the facilities were inspected for the safety and

welfare of the occupants. He asked what kind of problems could be prevented from those individuals if the situation was regulated.

Council Member Call then observed that as he looked at the proposed restrictions in the ordinance, it includes six off-road parking spaces, double building fees, etc. He said the restrictions were fairly stringent in their requirements.

Attorney Petersen said yes, they are. Attorney Petersen explained that if someone came in and asked for a permit for an accessory apartment under the proposed ordinance, they would be charged inspection fees as well as a business license fee.

Mayor Daniels then cited a neighbor that had a recent home fire. He said the people had not gotten a building permit for a fireplace they had installed. He said the fire department said the fire could have been prevented if the fireplace has been inspected, and safety issues had been addressed. The Mayor said that the whole subject of accessory apartments is considered antagonistic in some neighborhoods. He said some neighbors have reported others, and it has been a problem between those neighbors. Mayor Daniels then asked the Council if they feel there is a need for an ordinance that would regulate accessory apartment in Pleasant Grove. He said that he feels that the City has an, "epidemic," of these apartments. He asked if the Council felt that this, "epidemic," needed to be addressed.

Council Member Atwood said that in his experience, he doesn't know of one of these kinds of apartments that would pass an inspection or come into compliance. He asked, "Who's going to kick the kids out," of these apartments.

Director Young said that under a Conditional Use Permit (CUP), if the apartment is non conforming, conditions will be placed upon the homeowners.

Council Member Call then said that in looking at the ordinance, and he said he wasn't arguing against the restrictions, he wondered if anyone would even attempt to come forward and get a business license for their accessory apartment. He said he wondered if they would just keep quiet. He then said he would like to see why Orem City had opted to reinstate the ordinance outlawing accessory apartments in their city.

Attorney Petersen explained that Provo City is a college town, and they have implemented a rental dwelling license process to regulate accessory apartments because they have so many. Pleasant Grove doesn't have nearly as many as Provo does. She said that fire codes, etc, are checked.

Mayor Daniels then indicated that this was a beginning. Even though approaching this issue seemed ominous, he said that with time and work, it will come together. He said that any proposed ordinance needed to have balance for all property owners, not just a few. He also noted that the laws should move both the City and the homeowner down the road. The Mayor then suggested that rather than immediately getting too bogged down, that staff and the Council take the issue one bite at a time of the, "elephant." He said this is not unlike alcohol and prohibition. In this, he said he met that most residents know that there are several people in their neighborhoods that violate the current accessory apartment ordinance. He also said that the

Planning Commission and the City Council have both been discussing the problem for many years.

Administrator Mills next observed that the City would have to have the manpower to start inspecting and dealing with accessory apartments. However, he said he wondered if it might be a step forward if the City at least started to meet with those that have existing accessory apartments. He said they can start talking to these people, gleaning ideas from them. This would help them to craft something that work for the residents and the City. For example, he said that if an older couple comes in and helps the City with some ideas, they will know that the City is there to work with them.

Attorney Petersen said that the enforcement of the accessory apartments has been on a complaint basis as the result of too many cars, excessive noise, etc. If a neighbor calls in, the code enforcement department in the City will come in and inspect the premises. The homeowner, if they do have an illegal apartment, will get a citation. Council Member Call asked what the fine can run. She said they can be charged \$180 a day. The renters can also be forced to vacate the premises.

Council Member Jensen indicated that it is his belief that people will respond to education. He said that if the word goes out, people will say they don't want to be cited, so they will participate voluntarily in finding out what they would need to do to comply.

Mayor Daniels then cited the example of smoking. He said that for many years, smoking was tolerated in public places such as restaurants, etc. In the last several years, however, the area of public compliance with smoking has changed. He said that the government hasn't necessarily been heavy handed, but has shown the health and safety concerns associated with smoking. He said his point is that at some juncture, entities, such as the City, has to step up and deal with the health, safety and welfare of the residents. He said that in his opinion, approaching the issue of these accessory apartments is properly starting down the path.

Please Note: Mayor Daniels called a short recess from 8:09 p.m. to 8:15 p.m.

Mayor Daniels noted that in the question that Council Member Call had raised as to whether or not to even allow accessory apartments to become legal. Council Member Call said that during the break, as he thought about the issue, it was going to be difficult to persuade him that legalizing accessory apartments was a good course at this time.

Council Member Atwood next asked if the City did have an accessory apartment ordinance that allowed them in the City, if the City would have any liability if there were any problems with any of the apartments. Attorney Petersen said that any liability would fall to the home owner. She added that the City is in the best position at the moment, in that if there is any problem, all accessory apartments are illegal. Council Member Atwood added that even if the apartments were allowed, it would probably still fall to a complaint basis before City officials knew about them.

After further discussion, Council Member Wilson observed that if there is an ordinance that is passed regarding accessory apartments, then the City needs to enforce that ordinance. Mayor Daniels agreed.

At this point, Mayor Daniels opened the discussion to a public hearing. He asked that he make a statement for a person that was unable to attend the current meeting, but had an opinion regarding the accessory apartment issue. He said Mr. Bennett from the Utah County Association of Realtors had commented that he was in favor of having some kind of regulation in regard to the health and safety of homeowners. He said that upon reading the proposed ordinance, Mr. Bennett felt it would be a good way to go for the City.

Mr. Jeremy Washburn at 1286 East 900 South then came forward. He said that he is also a member of the Utah County Association of Realtors. He said that as a realtor, he can see an advantage to having the proposed ordinance in place that makes accessory apartments legal in Pleasant Grove. Mr. Washburn said that in talking to people during the recent brief break in the meeting, he asked why it shouldn't be legal for people to have compliant apartments in order to bring in additional income.

Mr. Washburn said that his father, Mayor Washburn of Orem, is in favor of such an ordinance. He said he agrees. In going over the proposed ordinance, he said he feels that a lot of necessary elements have been put in the ordinance.

Mr. Ryan Allred next came forward. He said he owns a home with an accessory apartment at 1093 East 30 South. He said he feels it is very important that the City carefully look at the proposed ordinance, as he would like to see the apartments be made legal. He said as people start to make the apartments comply with City ordinance the safety of residents would be increased.

Mr. Allred said he was guessing, based on prior conversations, that there are at least 300 of the illegal apartments throughout the City. He said he wondered if someone was cited for an illegal apartment due to complaints, and someone else was not cited, if it could be considered discrimination. He then explained that he wants to do what is right and safe.

At this point, Council Member Call said he wondered if most people, unlike Mr. Allred, even know that the accessory apartments are illegal. Mr. Allred said that he wasn't sure if most people even know it is illegal.

Mr. Degen Lewis from 640 S. Luck Drive next came forward. He said he would like to follow up on a comment that Council Member Jensen had made. He noted that there is a need for following up on enforcing private property concerns with accessory apartments. Mr. Lewis indicated that the problem can be very evident with homes that have cars all over the lawn, noise, etc. He then said that there is a duplex in his neighborhood that causes no problems at all. He recommended that if people were willing to have a rental, they should be able to have it inspected so it can be legal.

Mr. Allred agreed. He said with the way the City handle it now by way of complaint, it really doesn't help people to be compliant with the law. He further observed that if there was a law in place that made such apartments legal, it would give people guidelines to comply.

Mr. Washburn asked the Council if there had been very many complaints. The Mayor answered that there are complaints, but interestingly, many of the complaints are anonymous. Council

Member Call added that neighbors will complain, unofficially, but do not want to ruffle feathers in the neighborhood. Council Member Jensen also said that it doesn't always seem to be a big secret that families have rentals in their basements. He said that the new family that has moved into that rental is often welcomed into the LDS ward in church, and be identified as living in "so and so's" "illegal basement apartment."

Administrator Mills then explained that several years before, the City was struggling with the complaints of businesses downtown that went through the process of getting a business license, then saw the home businesses not have to go through that same process. He said that in discussions at that time regarding how to regulate home occupations, it was said that it would be an impossible task. However, the City went to tax rolls, and found out where these home businesses were. They then sent out letters telling them to come in and sit down and talk with City officials. Discussions took place, and the officials learned the concerns of the business owners. At that time, the City was aware of only around 100 home occupations in the City. The number then rapidly tripled. Now, he said there are over 500 home occupation businesses that register in the City.

Administrator Mills next told the Council that with the 2010 Census coming up, as well as voter registration, it would be important for the City to have a more accurate count of those living in the City. He said that he feels that if those that currently have accessory apartments in their homes were invited in to talk to City officials, there would be a better understanding of the concerns and ideas those property owners have. He then said that there needs to be a starting point with the accessory apartments, as there was with the business licensing.

At this point, Mayor Daniels said that after listening to comments, he wasn't as yet clear if the Council did or did not want an ordinance regulating accessory apartments. He said as he saw it, there were various choices. He said that the Council could make a motion to accept or defeat the proposed ordinance. Additionally, the Council could continue the discussion, then allow staff to further research the issue.

Council Member Boyd said she would like to see this item continued. She said it would be good to take in more public information for the Council to consider. She also noted that she wasn't necessarily suggesting that there be a committee formed, however. Council Member Call agreed that there wouldn't be a resolution of the issue at the current meeting this evening. He also said it would be good to get more public input during an upcoming work session.

Mayor Daniels closed the public hearing and brought the discussion up to the Council. There were no further comments, so he then asked for a motion.

**ACTION:** Council Member Call moved to continue this item regarding an Ordinance adding Section 10-15-47, "Accessory Apartments," providing regulations for the legal and permitted uses of an accessory apartment in Pleasant Grove and adding a definition of an accessory apartment to Section 10-6-2 of the Pleasant Grove Municipal Code until an upcoming work session where the public will be invited to come in and make comments to whether to allow accessory apartments in the City legal.

This motion died due to a lack of a second.

A discussion then ensued concerning the information going out to the residents about the upcoming discussion on the accessory apartment issue. Council Member Boyd suggested that an article in the City's newsletter for February might be the best way to let the residents know. Council Member Call agreed. He said that as much as he appreciated the two residents that came and commented at the current meeting, he would like to see more residents weigh-in on the issue. He also said it would be good if the Council Members went out and networked with their neighbors to get their feeling on the subject.

Council Member Jensen then reminded the Council that as they did broach the issue with their neighbors, that it was important that they do it from a neutral standpoint. Otherwise, he said their response could be influenced.

Council Member Call again said it would be good if the Council could take time to talk to their neighbors. However, he said that he felt that if he voted for the proposed ordinance this evening, he would get a lot of flack for it. Mr. Washburn said he felt that was correct.

Mayor Daniels then said that he would like to see the NAB enlisted to canvas the neighborhoods and gather grassroots information. He said the purpose would be to gather information; but not information as to who has accessory apartments. He said he and the Council are interested in suggestions and ideas from the residents. He also noted that by proactively getting input, it can defuse possible problems. He indicated that he feels there are a lot of residents that aren't even aware that the accessory apartments are illegal. He also said that there are people that don't know how many family members that can stay with a homeowner, either. He then asked for another motion.

**ACTION:** Council Member Boyd moved to continue this item until the February 24, 2009 work session meeting with the intent of involving the NAB, and regarding an Ordinance adding Section 10-15-47, "Accessory Apartments," providing regulations for the legal and permitted uses of an accessory apartment in Pleasant Grove and adding a definition of an accessory apartment to Section 10-6-2 of the Pleasant Grove Municipal Code until an upcoming work session where the public will be invited to come in and make comments to whether to allow accessory apartments in the City legal.

At this point, Attorney Petersen suggested to the Council that when the motion regarding the proposed ordinance is formed, that perhaps they would like to break the motion down into two motions. The first would be to deny this particular ordinance. The second motion would be to give staff and the NAB direction. Then, staff could re-notice the meeting.

Council Member Boyd then retracted her motion.

**ACTION:** Council Member Call moved to deny an Ordinance adding Section 10-15-47, "Accessory Apartments," providing regulations for the legal and permitted uses of an accessory apartment in Pleasant Grove and adding a definition of an accessory apartment to Section 10-6-2 of the Pleasant Grove Municipal Code. Council Member Boyd seconded and the motion passed unanimously by voice with Council Members Atwood, Boyd, Wilson, Jensen and Call voting, "Aye."

The Mayor then suggested that staff come together and discuss the accessory apartments with the NAB. He asked that the NAB assist staff in going out and gathering information, then bringing that information back.

Director Young suggested that perhaps even a questionnaire could go out with the newsletter. He said that he and his staff worked on the ordinance, they found there were many questions as to how to regulate such an ordinance, etc.

Mayor Daniels then suggested that staff bring back the information garnered by staff and the NAB. He then thanked the public for their input, and asked that they continue to be patient with the process.

## **9. STAFF BUSINESS**

- Engineer Lewis announced that State Street was now closed from Main St. to 220 West for work on the railroad bridge. He next reported that the 2000 West project is progressing. He asked if any of the public had any questions, to please call him in Community Development. Mayor Daniels commented that the City was very lucky to have hired Engineer Lewis. He explained that he had been with UDOT for a number of years, and was very helpful in explaining those projects to staff.
- Director Bradford reminded everyone that the next PGBA meeting would be held on the upcoming Friday, January 9, 2009 at noon in the Showtime Utah (Grove) Theater on Main St. Engineer Lewis would be explaining various UDOT projects. He asked if anyone planned to attend, that they contact him to order their lunch ahead of time. He said the cost of the lunch was \$5 each.
- Director Giles said that there was a project that would be going on with the pool that was required by a national mandate. He said that in order for the pool to be able to open in the summer, there was a change that had to be made with the drain system so that there was not a danger of possible entrapment. The cost of the project would run about \$60,000. He said compliance was mandatory.
- Director Walker said that the interviews had been completed for the superintendent position with the streets department. He said Mr. John Goodman had been picked for the job. Mayor Daniels told Director Walker that he had received several comments on how well the crews had handled the scraping of the streets during the recent heavy snowstorms. Council Member Jensen added that in visiting other surrounding communities, it was amazing how much better the streets in Pleasant Grove had been cleared.
- Recorder Kresser said she appreciated everyone's encouragement and help with her new position with the City.
- Attorney Petersen said she was still playing, "catch-up" with her workload upon returning from her recent vacation.

- Administrator Mills next said that he needed some direction from the Mayor and Council as to which direction the City was moving in relation to recycling. Mayor Daniels said that he felt that in recent discussions in City Council, he felt that both the Council and the public seemed to lean towards the “opt-out” program. Council Member Jensen then said that if he understood it correctly, that the contract with the City’s current carrier would be coming up for renewal soon. However, if the City didn’t negotiate the contract, it would automatically renew for two years. The Council again reaffirmed that they preferred the opt-out program. Mayor Daniels then asked staff, including Administrator Mills, to please look at the opt-out program; as well as whether the City should re-negotiate their contract with Allied Waste. He assigned Council Members Jensen and Atwood to bring these issues to back to the Council with some kind of conclusive formulation. He said that he would like to see the issues come before the Council no later than spring of this year. Administrator Mills said that timing would be good as the contract will be coming up at about that time.

In his next business, Administrator Mills said that Mary Burgin’s former position as Deputy Recorder had been advertised in house, and would close the next day. Also, he said they were advertising for a part-time position in court. As Director Walker had indicated, the Street Superintendent position had been filled. He said a meeting would be held the next day, whereby City staff would meet with various engineering firms to go over the request of a new proposal that includes the Master Capital Facilities plan.

He next told the Council that there had been a meeting on December 18, 2008 at the Timpanogos Special Service District (TSSD). He said that the upcoming budget was discussed, along with the odor problems at the plant. He then indicated that he voted against the proposed budget, as it didn’t address the costs that were involved in eliminating the odor. Also, he said that there were currently piles of mulch at the plant, and if they weren’t taken care of, the odor would again start up in the spring. Council Member Atwood asked what could be done about the odor. Administrator Mills explained that there is a good chance that legal action will start from the businesses that are being impacted by the odor. Mayor Daniels then commented that he was very disappointed that the TSSD board wasn’t living up to their agreement to mitigate the odor problem. Council Member Call said the Mayor had presented the City’s case regarding the odor to the board at the meeting. However, he said he was astounded at the communities that said they didn’t care about the odor problem being mitigated, as it, “wasn’t their problem.” Mayor Daniels said that he and others will continue to work on getting TSSD to take care of the problem.

## **10. MAYOR AND COUNCIL BUSINESS**

- Council Member Jensen said that he had recently attended the Fox Hollow Golf Course board meeting. It was reported at the meeting that the pressurized water was having problems in American Fork, so the course wouldn’t be getting that water for the time being. Also, he said the course would have to continue to use their old pumps. The slow economy has been impacting the course with the cancellation of tournaments that had been scheduled. 600 trees had been donated to the course. He said that the lighting of the driving range has been looked into by staff recently, and the cost would be \$30,000 to \$40,000 for the project. Council Member Atwood said he thought Lehi was going to take

care of the lights for the course. Council Member Jensen said no, they were not. He also noted that a motion was passed by the board to reimburse Rick Roberts and John Hansgen for business mileage. He said the next meeting of the board would be on January 22, 2009.

- Council Member Boyd said she would be unable to attend the housing consortium meeting she usually attends in January and February of 2009. Council Member Atwood said he would try to attend the meetings.
- Council Member Call announced he would be out of town (in Hawaii) for the next several days.
- Mayor Daniels related to the Council that he, Director Clay and Administrator Mills had flown back to the Hammons' Corporation headquarters to meet with his staff in discussing the current progress of the hotel and convention center in The Grove. He said that his staff confirmed that both the Pleasant Grove and Colorado Springs hotels would be proceeding forward once the loan process was locked up. He told the Council to expect heavy equipment coming in May of 2009 to get the project going full speed. This new schedule will delay the opening to Spring of 2010.

Council Member Jensen asked if there was any kind of discussion regarding other businesses coming in, including restaurants, etc. Mayor Daniels said that the Hammons' group is very bullish, and has key partners wherever they go. He said when the big company (Hammons) moves, the smaller companies always follow.

The Mayor next told the Council that perhaps they would like to change some of their assignments for 2009. He asked that they email him over the next couple of weeks with their current assignments.

He then explained that the current expenses and revenues for the City were right where they were supposed to be. He said that the Council and Senior Staff were working to make sure that the least impact be made to the City employees; as well as to services for the residents. He also said that the City was only down 3.47% in sales tax, which was the second lowest (to Payson) in the County. There will be mid-year adjustments to all departments to increase cuts and savings. Administrator Mills added that he had met with the directors, and worked with them to make adjustments to their budgets to increase savings in each department. He also indicated that if a state of the City was currently given, it would forecast a stable economic condition within the City government.

## **11. SIGNING OF PLATS**

No plat were signed.

## **12. REVIEW CALENDAR**

Mayor Daniels reminded everyone that the State Legislature would be opening their hearing the week after the Martin Luther King holiday on January 19, 2009.

### **13. APPROVE PURCHASE ORDERS**

Purchase orders for December 25, 2008 were brought forward for approval.

**ACTION:** Council Member Wilson moved to approve the purchase orders for December 25, 2008. Council Member Call seconded and the motion passed unanimously by voice with Council Members Atwood, Boyd, Wilson, Jensen and Call voting, "Aye."

### **14. ADJOURN**

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

This certifies that the City Council minutes of January 6, 2009 are a true, full and correct copy as approved by the City Council on January 20, 2008.

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Mary Burgin, Planning Tech