

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

PRESENT:

Mayor:

Michael W. Daniels

Council Members:

Mark K. Atwood

Cindy Boyd

Bruce Call

Lee Jensen

Jeffrey D. Wilson

Excused:

Tom Paul, Police Chief

City Recorder:

Kathy T. Kresser

Colleen A. Mulvey, Deputy City Recorder

Others:

Frank Mills, City Administrator

Gary Clay, Finance Director

Tina Petersen, City Attorney

Ken Young, Comm. Dev. Director

Richard Bradford, Economic Dev. Director

Deon Giles, Leis. Services Director

Lynn Walker, Public Works Director

Marc Sanderson, Fire Chief

Degen Lewis, City Engineer

Sean Allen, City Planner

Libby Flegal, NAB Chair

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

1. CALL TO ORDER

Mayor Daniels called roll for the Council and noted that Council Members Atwood, Boyd, Call, Jensen and Wilson were present.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was lead by Jake Smith.

3. OPENING REMARKS

Opening Remarks were given by Council Member Wilson.

4. APPROVAL OF MEETING'S AGENDA

Mayor Daniels asked if there were any changes or additions to the meeting's agenda there were none. The Mayor then asked for a motion to approve.

ACTION: Council Member Atwood moved to approve the agenda. Council Member Wilson seconded and the motion passed unanimously with Council Members Atwood, Boyd, Call, Jensen and Wilson 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. Work Session Meeting minutes for July 28, 2009
- b. Work Session Meeting minutes for August 25, 2009
- c. City Council Meeting minutes for September 1, 2009
- d. Work Session Meeting minutes for September 8, 2009
- e. City Council Meeting minutes for September 22, 2009
- f. To consider Payment No. Two and Three and Change Order No. One to Vancon, Inc. for the Pressure Irrigation System – Schedule 7A
- g. To consider awarding the bid for the Pressurized Irrigation Booster Pump Station - Schedule 7B to Vancon, Inc.
- h. To consider approval of paid vouchers (September 24, 2009)

Mayor Daniels asked Director Walker if item "g" was the bid that they had open last Thursday. Director Walker stated that it was, it is the one for the Booster Station Secondary Tank, there were seven bidders and it was very tightly bid. Director Walker said that after reviewing the bids it was awarded to Vancon, Inc., their bid amount was five hundred twenty six thousand dollars. Mayor Daniels asked what the engineering estimate was. Director Walker stated that it was five hundred ninety two thousand dollars.

The Mayor asked if there were any other questions on the consent agenda items, there were none. The Mayor then asked for a motion to approve.

ACTION: Council Member Wilson moved to approve the consent agenda items. Council Member Jensen seconded and the motion passed unanimously with Council Members Atwood, Boyd, Call, Jensen and Wilson 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 welcome to come forward and address the Council.

No one came forward to address the Council at this time. The Mayor then closed the meeting to the public.

7. NEIGHBORHOOD ADVISORY BOARD REPORT

Chairperson Libby Flegal mentioned that the NAB will be involved with the Neighborhood Improvement Workshop being held tomorrow night.

Chairperson Flegal reported that a representative from the US Census spoke at their meeting earlier tonight and they will be working to help them with the 2010 Census.

8. BUSINESS:

A. CONTINUED PUBLIC HEARING TO CONSIDER AN ORDINANCE (2009-16) AMENDING TEXT IN TITLE 10-9B-7 "YARD REQUIREMENTS" ADDING LANGUAGE THAT PROVIDES REDUCED SETBACKS FOR LOTS WITHIN THE R1-7 (SINGLE FAMILY RESIDENTIAL) ZONE, INCLUDING NEW LANGUAGE DEFINING PERMANENT AND TEMPORARY BUILDINGS; ALONG WITH DESIGN REGULATIONS FOR THESE BUILDINGS AND AMENDING SECTION 10, BY ADDING TEXT TO INCLUDE A DISTANCE REQUIREMENT BETWEEN MULTIPLE ACCESSORY BUILDINGS; PLEASANT GROVE CITY APPLICANT (CITY WIDE IMPACT) (CONTINUED FROM THE SEPTEMBER 16, 2009 CITY COUNCIL MEETING)

City Planner Allen said that City Council had recommended to have some changes to the wording in this ordinance in section F, 4, d, the concern was that the waiver request was too wide open. City Planner Allen explained that there are a lot of these larger accessory buildings that are attractive and durable but they are composed of steel and it is difficult and costly to apply masonry to them, we wanted an option that provided some flexibility in these cases, the new language in this ordinance can provide this. Mayor Daniels asked if this makes it done by exception. City Planner Allen stated that they will have to go to the Planning Commission and formally request a waiver.

Mayor Daniels asked if there were any questions. The Mayor then stated that this is a continued public hearing and he opened the meeting to the public for comment. In that no one came forward, the Mayor closed the meeting to the public and asked the Council if there was any further discussion on this item.

Council Member Boyd commented that this has been put together with what we recommended.

Mayor Daniels then asked for a motion to approve Ordinance 2009-16.

ACTION: Council Member Call moved to approve Ordinance 2009-16, amending text in Title 10-9B-7 "Yard Requirements" adding language that provides reduced setbacks for lots within the R1-7 (Single Family Residential) zone, including new language defining permanent and temporary buildings; along with design regulations for these buildings and amending Section 10, by adding text to include a distance requirement between multiple accessory buildings. A public hearing was held. Council Member Boyd seconded and the motion passed unanimously with Council Members Atwood, Boyd, Call, Jensen and Wilson voting "Aye."

B. TO CONSIDER PECK ORMSBY CONSTRUCTION'S REQUEST FOR FINAL PLAT APPROVAL OF A TWO (2) LOT SUBDIVISION KNOWN AS QUAIL RUN SUBDIVISION PLAT A, LOCATED AT APPROXIMATELY 3400 NORTH 700 WEST, IN THE A-1 (AGRICULTURAL) AND R-R (RURAL RESIDENTIAL) ZONES (MANILA NEIGHBORHOOD)

City Planner Allen stated that the plat itself is pretty simple, there are two lots being created and the purpose for this subdivision is so a school can be developed on this property. City Planner Allen explained that because this whole area is affected, there are some issues with access that have to be addressed. The subdivision does reach to 900 West and there is no dedication, we need to seek this dedication and this will act as a temporary secondary public and emergency services access drive. If there is any future construction or subdividing within this parcel, then at that time we can get the improvements constructed. The main access will be from the pan-handle portion that connects to 3300 North.

City Planner Allen went on to explain that there is difficulty in getting the entire road to be installed and staff is concerned and wants to make the Council aware of this, we want to protect the City's interest in getting the necessary public right of way as it has been planned and foreseen. Secondly, we need to be reasonable to the applicant, our suggestion is that we form a Development Agreement with the Charter School and seek some assurances that would give the City confidence. City Planner Allen said that he does not think that it is reasonable to install the whole road, there are solutions here with the temporary access and the applicant is willing to dedicate and to enter into a Development Agreement with the conditions that we are recommending.

Mayor Daniels stated that normally we do not get into a site plan at this point because we are talking about a subdivision, in this case the applicant is specifically coming forward with a purpose for this lot and part of the discussion is regarding the accesses and road dedications. The applicant needs to understand that whatever the City Council decides, that this will be binding before they can move forward on the rest of their plans.

Council Member Boyd asked that when you are talking about the temporary access road, what are we requiring for paving. City Planner Allen stated that the roads will be paved.

Mayor Daniels asked if it was going to be proposed that the main access becomes the permanent access. City Planner Allen replied that it would be temporary until the public roadway to the east is completed.

Council Member Wilson asked if the current owner, Mr. Schow has any problems with the traffic going through towards his house. City Planner Allen stated that he has reached an agreement with the applicant.

Council Member Atwood asked that if the applicant is unable to stay under the two hundred and fifty trips per day as it stipulates here, then what happens. City Planner Allen stated that initially it was just planned for emergency access through Mr. Schow's property, but now he has agreed

for that to be a public access as well. Council Member Atwood then said that if this is to be locked or gated, it doesn't sound public; it needs to remain open if this is going to be a public access. City Planner Allen stated that we can make that a condition in the site plan development.

Mayor Daniels then asked that under the provisions of allowing lot one to be subdivided, the property owner; Mr. Schow is going to grant what? What is the language around what he is granting for access? City Planner Allen said that what was communicated to him was that this emergency access easement now becomes also an emergency and public access easement. It is proposed to be recorded as an easement and the terminology will be there that it is temporary until the main road does go in.

Attorney Petersen suggested that we do not confuse the issue, if the Council would like to see put into this what we think we are ultimately going to need here, then we need to simply call it a public access easement, don't say emergency if we want it to be public. Council Member Call stated that in that case, the road area is actually dedicated to the City. Attorney Petersen stated that they are proposing it to just be an easement, so it would not be dedicated to the City. Council Member Call then added that that means that Pubic Works does not have to worry about plowing it.

Mayor Daniels stated that if we move forward without having these questions fully answered then we are putting the burden for permanent access on a future plan that is not currently funded under development. We are going to subject the new land owners to be at the mercy of the land owner of Parcel "A". The Mayor questioned if this was good public policy. The Mayor then asked if there were any other questions.

Attorney Petersen asked what is going to assure us that the North access which is to become the primary, permanent access, is going to be able to be funded, what security measures have been discussed to ensure that the money is there to fund their portion of that.

City Planner Allen stated that there is a Development Agreement that we are seeking and we want assurances included in that.

Mayor Daniels stated that he wants to make sure that we know where we are at as staff and the City, do we understand what the Development Agreement is to cover.

Engineer Lewis said that what we have told the applicant is essentially, if the canal were not there, their responsibility would be to connect a road from Valley View Drive across the canal to the southern end of the frontage. Crossing the canal right now is a very expensive proposal. Engineer Lewis explained that there is a reasonable expectation that Provo River Water Users Association will be covering the canal in the near future. The proposal would be that the Development Agreement would state that that roadway would go in and that its only a roadway with no utilities planned by the City on that portion of that street and it would go in within a certain timeframe after Provo River Water Users is done with their work; within twelve months the road should be completed.

Mayor Daniels then clarified that the Development Agreement would cover their portion of completion of a road that goes across the covered canal. Engineer Lewis stated that that was correct. The Mayor asked what tangible proof is there for those public improvements that guarantees something is going to tie this development back into a public road system. The Mayor said that this cannot be a one access deal.

City Planner Allen replied that he has outlined these scenarios in the staff report and we as staff do not know what those assurances are yet.

Council Member Call pointed out that in the staff report it states that the applicant is to dedicate the area along 900 West, the applicant doesn't own that land, Mr. Schow does, so that should state that the owner is to dedicate the area on 900 West.

Mayor Daniels then pointed out the mention of the easement for utilities, and does this mean that the easements are going to come from 3300 North and run through a temporary easement and go out to the development? The Mayor said that usually when we put pipes in the ground, they go in an easement that is permanent because we don't move them later. City Planner Allen stated that he has seen temporary open storm drain easements that are later terminated. City Planner Allen added that this is similar to that, but the tricky part here is getting the owner to agree to it and apparently he has. City Planner Allen stated that we need to make sure that the terminology is correct so that it is going to stay until the relief does come. Mayor Daniels stated that then the utilities are going to have to be relocated outside of private property to a publicly dedicated right of way in a City owned property that we can service. City Planner Allen stated that he cannot answer that.

Engineer Lewis explained that there is a City well located on this property and they are proposing running a line to complete a fire line loop from the well back into the applicants property which will remain until such time as the road completes. We have also proposed that they run the sewer line down the future roadway.

Mayor Daniels asked if there were any other questions, there were none. The Mayor then turned the time over to the applicant, Peck Ormsby Construction.

Ron Peck, the developer, builder and construction financier for the school board stated that in the last four years they have worked on seven or eight different charter schools and these are public schools, they are under public jurisdiction, they receive public funds and are under public charters. Mr. Peck said that because of that they have been to the State Fire Marshall who regulates public schools and have been working with the City for about eight weeks to make sure that we are on the same page. Mr. Peck stated that the utilities on site will be privately owned at this time and we will have easements to cover those until such time that those areas become dedicated, the pressurized water and sewer will be put in and that he does not think that there will be any engineering problems. Mr. Peck said that he does want the City to feel comfortable about the access; they are only required to have two public accesses if they exceed the two hundred and fifty Average Daily Trips (ADT). Mr. Peck said that because of the risk management for public schools, they need to have these areas locked up, so the Fire Marshall is requiring a crash gate and the agreement with Mr. Schow is as long as we stay under the two

hundred and fifty ADT's, that that gate will not be open for public use, if we exceed the two hundred and fifty we have a written agreement that we will open it up so that gives the City some "teeth" to make sure that the school board does what they are saying they will do. Mr. Peck mentioned that they have an agreement with Mr. Schow that he will not sell the neighboring lot or build on it or ask for a building permit, he does not abandon the plat and if we need to we can give you the letter stating that he will not ask for a building permit while the temporary easement is there. Mr. Peck stated that they are spending a lot of extra money here to pave the long access road to 3300 North and paving the temporary access road and we are asking that you be fair and as equitable as you can with us in the Development Agreement. The school is on a limited budget, they operate a public school without taking any property taxes, a lot of them donate their time and they are spending a lot of money and effort to make sure that we meet the two hundred and fifty ADT's.

Mr. Peck then introduced the members of the School Board who were present, Barbara Alldredge, Board Chair, Gary Fullmer, Treasurer, Ken Knapton, Finance and Erin Preston, School Building Officer.

Mr. Fullmer stated that he would like to share their vision for the school. Quail Run is a community built public charter school and is a beautifully designed school that Pleasant Grove will be proud to call their own. Mr. Fullmer explained that their charter is environmental responsibility and that their facility fits with the natural elements of the site such as the large old grove of trees, the stream and we plan to keep them and work with the existing landscape to make things look as integrated as we can. We are seeking LEED Certification, the US Green Building Council certifies certain buildings for their impact on the local landscape and requires builders to incorporate into their plans the latest in resource saving technology, so we are seeking this certification to demonstrate and set an example for the community. Mr. Fullmer said that they want to maintain this facility and the landscaping and be a steward of this land; we want to make sure that we are a flagship that people can look at us and know that this is a great place for our community.

Ms. Alldredge stated that they are really excited, this is a unique school, and it will be a very hands-on, multi-sensory experience for the students. There will be outdoor classrooms with natural playscapes and the students will really be able to learn and appreciate nature. We are excited to bring this school to Pleasant Grove, the City of Trees, we saw that title and thought that was fabulous and speaks to what we are doing. Ms. Alldredge said that she as well as other Board Members grew up in Pleasant Grove and that their Board is tied very closely to the community and we want to make sure that whatever we do benefits that community and the students.

Mr. Knapton came forward and said that he lives in Pleasant Grove, just a few blocks away from the proposed school site and he is committed to ensuring that the neighborhood is included and involved in this process and that we also make sure that we watch out for their needs as well. Part of our plan is to try to have local children as students so that they can walk to school or ride their bicycles to help cut down on some of the traffic.

Mr. Fullmer explained that as part of the charter they intend to limit the traffic to the site because minimizing the amount of traffic is core to what they are doing as being responsible members of the community and the ecological surroundings. Mr. Fullmer added that they expect to demonstrate for the student body that we will be accountable for the things that we say we will.

Ms. Preston stated that she has successfully worked with several different charter schools on their student pick up and drop off plans and Quail Run is looking to raise the bar on their program to an entirely new level. It is a very elaborate plan and is carefully orchestrated, primarily for the safety of the students but also for minimal impact outside of the school grounds. Ms. Preston said that the two hundred and fifty ADT's is entirely reasonable for this location, there will be a staggered pick up and drop off time for parents and assigned carpools and buses and there should be no more than twenty five cars at once. The secondary access at this location is important because there are going to be times when we will need to access it. As a risk management requirement and for insurance purposes, it requires us to have the gates closed for safety reasons to not put students in harm's way. Ms. Preston stated that based on her experience and the plan that the Board has put together, she is very confident that two hundred and fifty ADT's will not be a problem, they will likely come in under that number and there will be a safe and effective place to drop students off at school.

Mayor Daniels asked if the school was for kindergarten through the twelfth grade and what is the initial enrollment. Ms. Alldredge stated that they are kindergarten through the eighth grade and maximum enrollment is six hundred and forty eight. Mayor Daniels asked if they will be providing a middle school. Ms. Alldredge said that that was correct, a seventh and eighth grade middle school.

Mayor Daniels mentioned that he was a founding Board Member for building John Hancock Charter School; they were the eleventh in the state and has experienced all of the hassles of financing from the ground up and that he is an advocate for charter schools. The Mayor stated that his concern here with this plan is that for the foreseeable future they are completely relying upon a private individual and some agreements for all of their access. Mayor Daniels said that he has no question that they can manage the carpooling and no question about the curriculum and the purpose of the facility and the great things that you will accomplish but that his concern as a public servant is how, given the history that the City has dealing with these types of situations, we guarantee that by allowing this subdivision to go through and with the proposal of the temporary paved easements, that this is going to provide what you need now and that you get the regular, normal frontage street access that you need going forward. Mayor Daniels stated that these are his concerns; how are they going to deal with the private property owner and make sure that those commitments are adhered to legally, ethically, morally, financially and in every other way.

Ms. Preston asked to address that, stating that she is also an attorney and that she has looked at the agreements and has been in constant communication with Peck Ormsby as the negotiations progress. She represents the School Board and does not represent any other entity. Ms. Preston stated that to this point that she is very satisfied with the assurances that they are receiving from Mr. Schow and that they will legally be able to encapsulate those within their contract. Ms. Preston stated that they do appreciate the City watching out for their needs, they are trying to

eliminate all guess work and eliminate risks and that she is satisfied with what has been negotiated up to this point and that the agreement they have reached will be sufficient when encapsulated in the contract.

Mr. Fullmer stated that we do have a common interest here which is to have the road going through to Cedar Hills and that the community, the City and the school all want to see that happen. Mr. Fullmer said that one of the things their charter states is accountability so they do not have the luxury to say that we are going to do something and then not do it, we are demonstrating for our student body how the civics process works. Mr. Fullmer stated that they are managing around two very tight constraints, the first is budget, the first year for a charter school is very tight on budget, the second aspect is time, delaying our timeframe to go in can have negative repercussions to our ability to manage things such as traffic during construction, our ground breaking on time, etc. Mr. Fullmer said that they are managing towards the same objective and that they certainly want to do what they can to assure the City that they can and will do that.

Council Member Jensen asked if they had taken the opportunity to talk with the residents that will be impacted by the traffic to this area.

Tim Aguilar, President of the Home Owners Association for the Creekside at Aspen Grove Subdivision which is located in the neighborhood of the proposed site, stated that they do not have any objections of the school going in; their concern is the traffic on 3300 North and the potential density. Mr. Aguilar said that they don't see this access road as a light thing, it is serious for them, there have been issues in the past where 3300 North has just been too congested, so rather than a second emergency access they would be more in favor of it being a regular access. Mr. Fullmer interjected and clarified that it is an overflow access, to the extent that if the two hundred and fifty trips per day was not met then that access would be open. Mr. Aguilar asked would that access be used regularly even as a normal access. Mr. Fullmer stated that the way to think about it is that traffic is not going through that access unless we are exceeding the two hundred and fifty cars per day. Ms. Preston added that the buses that they will be using are going to be used from remote pickups and drop offs. Mr. Aguilar stated that with the potential residential across 3300 North, and the fact that it is becoming more and more congested, it is of great concern to us. Mr. Aguilar also pointed out that there are a lot of unknown variables which they are concerned about as far as the adjacent land to the west, which we do not understand the intent or the use of that land. Mayor Daniels asked if he was speaking of Parcel "A", the other forty acres. Mr. Aguilar said yes. Ms. Preston stated that nothing is in the contract yet, but they have verbal and written agreements and the language that we need to get there. Mr. Aguilar stated that they are in favor of the school, but the access to the school is an issue if it's not a regular access, regular meaning unconditioned, unrestricted and by all means available to more than just buses.

Mayor Daniels stated that we were advised by staff earlier that it was important for you; the applicants to understand the significant hurdles, not from the City Council, but that will take place through your process of developing in this particular area. The law is on your side in a lot of different ways as far charter schools, public schools and their rights, but you are dealing with property that is not yours and this is where the concern comes in. The Mayor said that they are

going to need to satisfy staff and legal counsel that whatever they have come up with as far as your agreements, that they are absolutely one hundred percent defensible in court. Mayor Daniels said that our situation is such that we have to make sure that if you are to break this subdivision off, separate it off from everything else that is public, then we've got to make sure that we are doing the right thing by approving this because there has to be access to it. Staff is going to outline those requirements so that you can come up with Development Agreements, agreements with the current land owner for whatever it is, satisfy the requirements and make sure that the documents are one hundred percent defensible in court and that will all come back when we talk about site plans. The Mayor said that engineering looks great as long as they have the legal authority to defend in court what is outlined here, and then we are fine, if you do not, then we are not fine. Mr. Peck stated that the plot will not be purchased until they have site plan approval.

Mayor Daniels stated that all we can do for tonight is approve or disapprove the subdivision with whatever parameters are appropriate for this subdivision and then from there you are going to want to work with your neighbors, the land owner, the staff and the City's legal counsel. The Mayor explained that this is because they are trying to develop in an area where we have had significant issues in the past and we do not want to go there again.

Mr. Peck stated that he does appreciate the City helping them with this; they want to develop something that works, that is safe and meets the code. As a public school they are trying to do this up front and they are trying to find the best way to make this work.

Council Member Atwood asked if Mr. Schow was going to be obligated for any improvements on any of this since he will be becoming part of this subdivision. City Planner Allen stated that we are not seeking it with this plat, Mr. Schow has got to subdivide Parcel "A" again, or if he builds on it, at that time we can seek out those improvements from him.

Mayor Daniels asked if there was any other discussion, there was none at this time. The Mayor asked for a motion.

ACTION: Council Member Boyd moved to approve the final plat proposal called Quail Run Subdivision Plat "A", requested by Peck Ormsby Construction, for property located at approximately 900 West to 550 West and 3300 North to the Murdock Canal, with the following conditions: 1.) A minimum twenty four foot wide paved emergency and secondary access easement is to be illustrated and noted on the plat, from 900 West to the west of Lot 1; located where the existing dirt drive and twenty foot wide water easement are shown. 2.) The owner is to dedicate the area along 900 West for the future installation of public improvements. Said public improvements are to be installed or bonded for upon further subdividing or development of Parcel "A". 3.) A minimum twenty four foot wide access easement is to be illustrated and noted on the plat beginning at 3300 North and extending through the pan-handle. If the applicant chooses to maintain the current location of the water and access easement, outside of Lot 1 and through Parkside Subdivision Plat "A", then said Plat "A" must go through the subdivision plat amendment process to record the new easement traversing through the recorded lot. 4.) That the applicant enters into a Development Agreement with the City, specifically regarding access drives and details regarding financial assurances for the completion of the east public roadway

across the Murdock Canal and connecting to Valley View Drive, as described in the staff report. 5.) That all Planning, Engineering and Fire Department requirements are met prior to recording the final plat.

Mayor Daniels asked if there were any further questions or discussion on the motion. Council Member Boyd requested adding that the City Attorney is to review all agreements pertaining to this subdivision. City Planner Allen wanted to clarify that the request is to submit whatever agreements they enter into so that the City Attorney can review them. Council Member Boyd stated that that was correct. Mayor Daniels asked the applicant if they had any legal concerns about sharing with the City, their agreements with Mr. Schow, are there any confidentiality or privacy issues that would breach. Ms. Preston stated that she doesn't see a problem with sharing the agreements, however not with making them entirely dependent upon approval of the City. City Attorney Petersen stated that she would not suggest that the City have approval on their sales contracts, we simply want to be comfortable with the actual agreement. Mayor Daniels clarified that what he is asking is that the applicant share sufficient information about their agreements with Mr. Schow so that the City is confident that they have the ability to execute on what they are obligated to execute on. Ms. Preston stated that they would be happy to share those contracts.

A member of the audience asked if he could comment. Mayor Daniels asked the Council if they were alright with taking public comment, the Council indicated that they were. Dustin Phillips, 1728 N 350 W came forward and stated that he was an active member of the community and that he serves on the Public Library Board of Trustees, and his wife is working on the curriculum for this school, they have three children, one with special needs that will be greatly met. Mr. Phillips said that they highly support this Quail Run Charter School.

Mayor Daniels asked if Council was clear on the motion, they indicated that they were. The Mayor stated that the motion was made and by Council Member Boyd and also added to the conditions is that the City Attorney is to review all agreements pertaining to this Quail Run Subdivision Plat "A", prior to recording the final plat.

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

C. TO CONSIDER APPOINTMENT OF POLL WORKERS FOR THE NOVEMBER 3, 2009 GENERAL ELECTION (CITY WIDE IMPACT)

City Recorder Kresser handed out a list, (Exhibit A) of the individuals who have signed up to become poll workers for the General Election on November 3rd, and stated that State code requires that the legislative body approve three poll workers and alternative poll workers for each precinct for the General Election.

Mayor Daniels asked if there were any questions on this item. There were none, the Mayor asked for a motion to approve.

ACTION: Council Member Jensen moved to approve appointment of poll workers for the November 3, 2009 General Election. Council Member Call seconded and the motion passed unanimously with Council Members Atwood, Boyd, Call, Jensen and Wilson voting “Aye.”

D. MAYOR DANIELS TO DISCUSS THE PROCESS FOR SELECTING THE NEW CITY ADMINISTRATOR

Mayor Daniels stated that he is not recusing himself from this item because he has removed himself for consideration of the City Administrator’s position. The Mayor said that he has met with Council Members Call and Jensen and Attorney Petersen to review the process and the criteria so that he has a good understanding of how the process was set up. Mayor Daniels said that he has talked with each Council Member about how his re-entering the picture into this process would affect the process and should we proceed forward the way it is defined and what changes should we make if any. The Mayor then stated that he would outline what he thinks was expressed in all of these discussions and the Council can chime in as to whether they agree or disagree with his synopsis and take it forward from there.

Mayor Daniels stated that his understanding is that we have contracted with a group from BYU’s Graduate School of Management and they have received around sixty applications from individuals around the United States for the City Administrator position. They have gone through in some kind of blind process where they have removed names and they have graded all of these different applications based upon the criteria and grading system that the Council worked on with them and came up with some kind of point value that they assigned to each of the applicants. From this process they have identified a number of applicants that they are going to bring in for interviews starting tomorrow through Friday of this week. Next week on Tuesday at the City Council meeting this group is going to present the top ten applicants that they have screened. The Mayor said that the original plan then called for the City Council to begin their interview process and to screen that down further to three or four top applicants for interviewing after the General Election. Mayor Daniels then said that he has a suggestion that perhaps rather than screening the ten applicants to three or four prior to the General Election, all parties involved in the General Election might have a clearer head and mind about where they stand and where they are involved with this process, after the General Election. The Mayor explained that the changes that will be made as a result of this election are significant enough to where the new Mayor and Council Members opinions as to how the interviews go and their opinion on the ten rather than the three may be of value. Mayor Daniels said that the other things that were expressed were who makes the decision about who gets submitted for selection and who does the approving. Mayor Daniels stated that he thinks that State law is pretty clear in that the Mayor makes the recommendation to City Council as to who the Administrator is going to be and the Council advises and consents or denies, therefore if we are going to stay legal with this, and we are going to make sure whatever action is taken before the first of the year, it will be the existing Mayor and Council that do the voting. Mayor Daniels said that we will solicit input and advice from the one or two new Council Members who will have been identified after the General Election and that he understands that the Council has extended an invitation to Senior Staff to sit in on these interviews. The Mayor then said that he read that these interviews were to take place in public and that he would like to have the City Attorney research into this for clarification.

Attorney Petersen said that the State law now requires the appointing of any elected office to be done in public meetings. Several years ago we had a vacancy on our Council and at that time it was allowed to interview candidates in private as long as you made appointment in public. So the law addresses Elected Officials not necessarily City Administrators. Attorney Petersen stated that our local Ordinance is still in effect, which states that the Mayor appoints with the advice and consent of Council. Mayor Daniels then said to clarify that it is the five members of the Council that would vote and not the Mayor. Attorney Petersen said that that was correct.

Mayor Daniels said that for what we are trying to accomplish here, the existing Council and Mayor would do the approvals or the non-approvals and we would take input from whoever the one or two new Council Members would be, plus input from staff. Council Member Call added that according to what Attorney Petersen pointed out, we could conduct those interviews in a non-public meeting. Attorney Petersen said that that was correct.

Mayor Daniels then recommended moving the screening of the applicants until after the General Election so that there is a clearer picture of the makeup of the governing body and then narrow down the choice to the individual that we would like to recommend.

Council Member Boyd commented on the timing, stating that we could select someone quicker if we had it narrowed down to three or four applicants by the election and then it wouldn't take as long after the election when we include the new Council Members in on the process. Administrator Mills stated that he does not think that it would make that much of a difference by waiting until after the election to do the interviewing. Council Member Call said that if that's the case then he was in favor of waiting until after the election and have the input of the new Council Members.

Mayor Daniels then brought up the point and asked if it had been discussed if their number one or two top choices decline, that can also affect your timing.

Council Member Jensen stated that he was concerned with the timing and how much time it would take with the number of applicants involved we would have to run a fairly tight interview process. Mayor Daniels said that normally the way it works is that the Mayor interviews and makes the recommendation and Council votes, we are changing the process here to accommodate the involvement of all the people, so if the people want to be involved in the process they are going to have to modify their schedules. The Mayor said that we are then going to have to agree that on November 4th, the day after the election we start interviewing and by that following week we have a decision.

Mayor Daniels said that the way the Council has outlined this process, this team was going to do the interviewing, and stated that if he was going to reenter the picture, is it going to be done the way the law states and just do the interviewing himself and recommend to the Council or invite the Council to interview and finish off this process. Attorney Petersen commented that we are in a unique situation, the ordinance is drafted to have the Mayor appointing and the Council advising, normally the Mayor would be the one primarily working with the City Administrator but our current Mayor is not going to be the Mayor when this new individual starts, so that is part of the reason why we have developed this team approach to narrow down the applicants.

Attorney Petersen stated that the legalities do not say anything about who interviews, it states that the Mayor appoints. Mayor Daniels added that he does not think that there is anything illegal about involving everybody and that he does like the process that was proposed, there was a lot of logical sense that went into making it happen, we are now down to a logistical question of how to make that happen effectively within the timeframe that we have set for ourselves.

Council Member Jensen stated that his recommendation is that we do not bring in ten people after the election; he feels that would be too cumbersome. We are better served and the applicants are better served if we do the interviews and narrow down to the top three or four and then have more in-depth interviews after the election involving the new leadership.

Council Member Boyd asked how we are anticipating setting up the interviews. Mayor Daniels stated the indicator that will help with that is the Application Review Committee (ARC) who will come back to us with a list of the top ten applicants with the rankings. Council Member Jensen said that it was his understanding that they were not ranked, that the ARC was just going to present the top ten. Council Member Boyd agreed. Council Member Call said that we did not talk about ranking the top ten but we did talk about having access to all of their scores and criteria.

Mayor Daniels said that by next week with the presentation from the ARC you will have a data point and based upon that data point you will have a clearer picture than what you have tonight of what the next step is. The Mayor added that this was an elaborate process, you've taken the time to quantify, qualify, define which questions have more value than others, assigning point values, etc. Mayor Daniels stated that this was an elaborate, scientific adventure on reducing an individual down to numbers so that you can end up with a ranking, so the throw the ranking out at this point is a poor reflection on why we went through this process and that we should follow through with the process that was created.

Mayor Daniels then asked the Council what they wanted to do, stating that there is the timing issue that is important; doing some interviews prior to the election versus after gives us more time. There will be at least one new City Council Member and there will be a new Chief Elected Official and they are going to be the ones who have to work with this individual, so their opinion in this hiring process is worth something. The Mayor then said that he thinks everyone's decision making will be much clearer after the election. The Mayor stressed that we are making a very long term decision with this position.

Council Member Jensen stated that if there were ten applicants prior to the election, the second round with the three or four interviews will be more in-depth, more critical.

Council Member Wilson stated that he is fine with waiting, when we get the information from the ARC then we will have a better understanding of where things stand.

Mayor Daniels said that at the Work Session meeting on the 13th, the ARC will present their findings, at that point we can decide if we will screen and interview before or after the General Election. Council Member Call added that when the ARC does their presentation they will also be prepared to answer any questions on what they did and how they did this process in case we

wanted to use some of those same techniques. Council Member Wilson suggested that we move the time for the meeting on the 13th to 6:00 p.m.

Mayor Daniels stated that here are some things that he thinks need to be considered in order to make the plan successful with the desire to have an appointment made and accepted before the end of the year. The election as well as the upcoming holidays in November and December will be distracting, so you've got to take into consideration that after you've interviewed these people they may not want to come to work here for a whole host of reasons. The Mayor said that you've got to define ahead of time and think through how much you are going to offer these people, what kind of contract are you going to give them, are you going to provide for some kind of Administrative Assistant, are you going to offer relocation, you need to consider these types of job related benefits for the individual that is going to come here and manage a dynamic supervisory environment. The Mayor asked if all of this has been discussed and if not, when are we going to discuss them. Mayor Daniels said that we have the information; we already know from surveys what the Administrator of Pleasant Grove City should run us.

Council Member Call stated that the salary can be a quick discussion because we have that information; the strategy on how to go about the negotiations, that kind of discussion among us will take a lot longer. Mayor Daniels said that there is a practical discussion that we can make fairly quickly on salary, benefits, relocation, etc., and then there is the question of who does the offering and how much leeway are we going to give the individual who does the offering in the negotiation process. Council Member Call stated that he thinks that that is going to be as simple as the way we handle land purchases, we have an upper limit and we have a target of where we want to be.

Mayor Daniels then asked how the Council feels about this and who will do the negotiating? The Council was in agreement that Mayor Daniels will do the negotiating. The Mayor added that he feels that the new Mayor is going to play a very large role in the decision of who gets recommended to the Council because that Mayor is going to have to rely upon that person for at least the next four years. Mayor Daniels then asked what else needed to be considered.

Council Member Wilson stated that we need to consider when the person can start. Mayor Daniels said the right now considering everything that we are looking at; it would possibly be the middle of November. Council Member Call added that Director Clay had indicated that we have six weeks of budgeted salary this year for this individual.

Council Member Call then stated that we need to be prepared as interviewers with the criteria in mind, but not necessarily to have scripted questions. Council Member Boyd stated that she feels the interviewing should be somewhat structured and that we should come up with some idea of the questions based on the criteria. Attorney Petersen said that it was her impression that part of the ARC's presentation is that they were going to help us with some suggestions of questions and scenarios to pose to the applicants that would elicit responses that would tell you a lot about their qualifications, education, experiences, etc.

Mayor Daniels explained that what he is trying to do is fit back into this process that is already going and it may not have been the process that he would have selected, but that he is trying to

go through this because he thinks that good minds went through this already. The Mayor said that it is time now to make these decisions and then asked what the Council wanted to see happen. The decision was made by Council that the applicants are to present a scenario and how they would handle it, and that the suggestions will come from the ARC and the staff.

Mayor Daniels then asked that as far as the actual discussion of taking the ten or the five or the three and narrowing down to the one and making the offer, has this been discussed, how is this going to happen. Council Member Call stated that that could be something that we discuss at the end of next week's presentation.

Mayor Daniels asked if there was anything else to be discussed on this, there was nothing. The Mayor said that he will type up what was discussed tonight and meet with City Recorder Kresser to talk about what the ARC needs to know about their presentation for next week. There will be just two items on the agenda that night and the meeting time will be moved to an earlier time at 6:00 p.m.

9. STAFF BUSINESS

- Engineer Lewis reported that he has now heard that the State Street Bridge will be opening on November 2nd.
- Director Bradford wanted to remind everyone that the two speakers at the Pleasant Grove Business Alliance luncheon meeting this Friday will be the two candidates for Mayor, Bruce Call and Jeffrey Wilson.
- Fire Chief Sanderson stated that he would be forwarding a synoptic report on the fire this past Saturday at the Williams property on Center Street.
- Director Young distributed a flyer containing the information on the Neighborhood Improvement Workshop tomorrow evening at 7:00 p.m. here in the Council Chambers. Director Young invited everyone to attend and help participate and that he anticipates some good results from this meeting.
- City Recorder Kresser pointed out that the General Election is coming up on November 3rd, and early voting begins on October 20th and goes through the 30th. Also there is a Meet the Candidates Night scheduled at the Library at 7:00 p.m. on the 22nd.
- Attorney Petersen stated that regarding last Saturday's fire, the building department has expressed concern with the remainder of the structure. Fire Chief Sanderson stated that the owner has said that the building is to be demolished within the next two weeks.

10. MAYOR AND COUNCIL BUSINESS

- Council Member Atwood brought up the fact that he has noticed that there are a lot of condominiums with "for rent" signs on them in the locations that were approved to only be owner occupied and wanted to know what Council suggests that we do on this. Mayor

Daniels stated that we need to turn that over to the City's Code Enforcement Officer. Attorney Petersen stated that this is a very difficult thing to enforce and this was discussed when these locations were approved and that we can contact the Home Owners Associations and remind them that these units were approved on the basis that they would be owner occupied. Attorney Petersen added that we would need to go back and look at the approvals and make sure that they were approved as all of the units and not just a percentage of the units that were to be owner occupied to make sure we are on firm ground before we notify them of violating the conditions of approval.

Council Member Atwood asked about the process and making a law for when we bond and have people do waivers for their sidewalks, what is happening is that they put a cash bond and then years later they build it and the City is left with paying for the rest at today's cost. What can we do to make it a law that they bond with interest, so that whenever the sidewalk does go in that they pay for the whole job. Attorney Petersen stated that currently if we do it in the aspect of having them sign a waiver of protest, the waiver of protest language requires them to pay for whatever it is whenever we say it needs to go in. Attorney Petersen added that if we go the route of having them post a cash bond, then it is very difficult to anticipate what the construction costs are going to be and that she remembers that there is some sort of small inflation statement associated with them. Council Member Atwood stated that many, many times the City gets stuck with covering the cost and that he feels that we need to somehow put something in the law or an ordinance that says they are responsible to pay for the whole thing. Attorney Petersen asked Council Member Atwood to meet with her later so that they could work on crafting the language and the process for this. Council Member Atwood indicated that he would be happy to do that.

- Council Member Wilson brought up a concern from a citizen about the recycling program and what was the reason that we are not allowing any new citizens who move in to be able to opt out of the program. Council Member Jensen said that what he remembers from all of the discussions on this is that we are moving to try and make Pleasant Grove a recycling city and that the current residents were given the opt out option, but for those that were moving in after January 1st, it was not an option. Council Member Wilson stated that the concern was with elderly people who are on a fixed income and this would be putting a burden on them. Council Member Boyd added that some of the discussion was that it would be a nightmare to keep track of all the people who have moved in. Council Member Atwood asked that when the contract comes up for renewal, at that point will we allow people to make another choice. Mayor Daniels stated that we have had the first wave of people to come in to opt out, now that the utility bill has gone out and there have been a few hundred so far. Mayor Daniels stated that the reality of this situation will hit in January when the new bins are delivered and for all of those people who have not read the newsletter and really are not aware of the decisions being made, this is when the new Council is going to be presented with the opportunity to refine the process again. Attorney Petersen stated that in her discussions with other cities she has learned that one of the ways that they had used to limit the financial exposure to the City was to make the people who wanted to opt out after the opt out deadline date, pay for the tote and there was also another option where they enacted a recycling on

every residence whether they wanted it or not. Administrator Mills added that one way or the other someone will end up paying for the totes whether it be the citizens or the City, this is not an easy thing to face and that he agrees with the Mayor in that the reality of this is not going to hit us until the second week of January when people start getting the totes delivered to their homes. Mayor Daniels stated that January would be a good time for the Council to address these issues because then there will be more of a sense for accessing what the public opinion is on this program and where to go from there and what the practical thing to do is. The Mayor then pointed out that there have been a number of shut-ins call, home owners who physically are not able to come to City Hall to fill out the form, so an administrative decision was made that we will send someone from the staff to them so that they can sign their opt out form in front of a City employee.

- Mayor Daniels stated that he has a sensitive issue to discuss regarding some calls that he has been receiving at home and other staff members have been receiving calls about people, good-natured representatives of the candidates, who are putting up campaign signs in yards where they do not have permission. The Mayor explained that the people calling are saying that they don't know what to do, that the signs are put up, they take them down and then they just get put back up and these citizens are asking if they have a right to do that, are they allowed to come on to my private property and just do that and what about the signs that are posted clearly in the public right of way. Mayor Daniels then stated what he thinks ought to be done and would like to see if the Council would be okay with the Mayor sending out an email to the two thousand email addresses that the City has now, and empowering the residents with the information that if they have not been specifically asked and given their permission to put up a sign, then they have the right to take it down and bring it here to Community Development. The Mayor then said the second thing would be that it is not legal to do this. Attorney Petersen stated that that is considered trespassing. Mayor Daniels stated that as far as enforcing this as a Council, that would be an extremely unpopular thing to do and that he suggests that they just go out and tell their people to go around and take down the signs that they have put up where they did not ask for permission. The Mayor stressed that because he and his wife continue to get these phone calls that he is prepared to do something about it and just wants to make sure that the Council is going to be supportive of that. Council Member Call said that he has brought up a good point because we do have some soft hearted citizens who don't think that they are within their own rights to take down somebody's sign. Mayor Daniels added that there have been some individuals who have said that they are being pressured to place these signs up and that is just not right. Council Member Boyd asked if the Mayor's email could also be mailed to all of the candidates.

11. SIGNING OF PLATS

The 700 South Street Annexation Plat was signed.

12. REVIEW CALENDAR

Monday, October 12 the City offices will be closed in observance of Columbus Day.

13. APPROVE PURCHASE ORDERS

Mayor Daniels asked if the Council had reviewed the purchase orders and in that there was no further discussion, the Mayor asked for a motion.

ACTION: Council Member Call moved to approve the purchase orders for October 6, 2009. Council Member Jensen seconded and the motion passed unanimously with Council Members Atwood, Boyd, Call, Jensen and Wilson voting "Aye."

15. ADJOURN

ACTION: At 9:38 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, Jensen and Wilson voting "Aye."

This certifies that the City Council
Minutes of October 6, 2009 are a true,
Full and correct copy as approved by
The City Council on November 17, 2009

Colleen A. Mulvey, Deputy City Recorder