

**Pleasant Grove City
City Council Emergency Meeting Minutes
Wednesday, June 18, 2014
2:00 p.m.**

PRESENT:

Mayor: Mike Daniels

Council Members:

Dianna Andersen – via telephone
Cindy Boyd
Cyd LeMone
Ben Stanley
Jay Meacham

Staff Present:

Scott Darrington, City Administrator
Tina Petersen, City Attorney
Kathy Kresser, City Recorder

The City Council met in the City Council Chambers at 86 East 100 South, Pleasant Grove, Utah.

1) **CALL TO ORDER.**

Mayor Daniels called the meeting to order and noted that Council Members Boyd, LeMone, Meacham and Stanley were present and Council Member Andersen would attend later.

BUSINESS

- A. THE PURPOSE OF THE MEETING IS TO DISCUSS AND TAKE ACTION ON THE ISSUE OF WHETHER TO DIRECT STAFF TO INSTRUCT ALPINE SCHOOL DISTRICT TO TEMPORARILY CEASE CONSTRUCTION WORK ON THE PROJECT LOCATED AT BATTLE CREEK PARK (200 SOUTH 850 EAST), PLEASANT GROVE CITY, UTAH UNTIL SUCH TIME AS THE NECESSARY FORMAL AGREEMENTS HAVE BEEN APPROVED.**

Administrator Darrington commented that over time that he feels he has created the situation that the City is now in. He then gave a history of what has happened with the Battle Creek Park. He stated that back in December of 2013 Alpine School District came before the Council and made a proposal to the City to buy a portion of Battle Creek Park to put in tennis courts and a field house. In the discussion it was decided that ASD purchase the full park and the City would continue to schedule the pavilion for rental. After the elections ASD came in and met with Mayor Daniels and himself to continue on with the discussion of the park purchase. In February Rob Smith with ASD came into executive session to bring their proposal to Council. The Council agreed that the City should move forward with the agreement to sell the park to ASD.

Between February and April we were working on the parameters of the memorandum of understanding, it was a draft copy and the Council didn't take official action on the MOU. He took the draft copy to Mr. Smith and ASD was okay with the MOU and the only thing left was to agree on the price of the park. Between April and June discussion of the purchase just kind of fell off the plate and he and Mr. Smith didn't sit down and get a price negotiated.

Administrator Darrington reported that last week when he was sitting at his daughter's softball game at the High School and there were fences up to start construction on the tennis courts and he realized that the purchase price has never been agreed on. He said that through all of this he and Mr. Smith have talked and he feels that the City and ASD have been moving forward in good faith, in essence he and Mr. Smith have been operating under a handshake deal that they can proceed with what they need to do for their project because of time issues, knowing on the back end we will work out all of the paper work and tie everything up.

Continuing on he said that he and Mr. Smith have been emailing each other to settle on a price and then yesterday he was talking with Attorney Petersen and she informed him that there needs to be a public hearing to divest ourselves of the property. In his mind the process would be that we get a price agreed upon, get all of the documents signed then we make an announcement to the public and we are on our way. Adding in the public hearing tends to make things a little different because now we have construction started at the High School then we have a public hearing on a project that has already been started. He called Mr. Smith and told him that the Council is concerned that we are going to hold a public hearing after the construction has already started.

Administrator Darrington commented that speaking with Attorney Petersen we will have to declare the property surplus through resolution, then we will have to notice the public hearing 14 days after that then we will hold the public hearing meeting and take comments from the public. After that we can divest ourselves of the property, sign the sales agreement and sign the use agreement and we can do all of that the same night. The earliest that we can have our public hearing meeting is on July 8th, 14 days before that we will declare the property as surplus and because our Tuesday meeting has been changed to Wednesday because of the Primary Election we will need to have a meeting either tomorrow or Monday to declare the property surplus so that we will meet the 14 day window.

As he has talked with Mr. Smith they feel that they have moved forward in good faith, both knowing that we did not have signed agreements and they have started construction. He told him that the Council is going to have a meeting to decide whether or not ASD can continue working until the public hearing. Mr. Smith replied that he would prefer not shutting down because it is going to cost them money and extend the schedule but he understands why the Council would want to shut the construction down.

Administrator Darrington explained that ASD has a site plan showing what the park is going to look like when it is all done and he feels that when the public sees what the end result is they are going to be happy with it. ASD is going to do all the maintenance which is a pretty good deal for us, all we have to do is schedule the pavilion. The tennis courts will be open to the public, they are moving parking over by the courts, there will be a walking trail around everything, the only thing that he feels the public will not be happy is the process in that fact that ASD started construction before the public hearing. The one thing that we need to do very quickly is do a joint press release with ASD showing this is what the end product is going to be. We will take their drawings and put them on

our website and get it out through the media. Mr. Smith said that he will come to the July 8th meeting and do a presentation to the public and explain why the City is selling property to the School District.

Next Administrator Darrington asked the Council if they wanted ASD to stop the work until after the July 8th meeting. He then said that because this is his doing he hoped that the Council will let them continue to work. He didn't know if there will be a huge public outcry at the public hearing because the Council has let them continue to work through to the public hearing, if there is at that time the Council has a right to stop work. He reminded that Council that the upper part of the park is already torn out, the tot lot has been removed, the restrooms aren't going to be moved but ASD is going to upgrade them.

Attorney Petersen commented that she does not have any legal descriptions to do the proper noticing and to attach to the agreement so it might be better to have the meeting on Monday instead of Friday. She had contacted the engineering company to see if they can get her the legal description but that may not be until Monday. Mayor Daniels asked from a noticing standpoint is the legal description critical? Attorney Petersen answered that at the next meeting you will be declaring the property as surplus so a legal description will need to be attached to the resolution to show what you are declaring as surplus but we can attach the map of the park of Battle Creek Park if necessary.

At this time Council Member Andersen joined the meeting via telephone. Mayor Daniels explained to her what has been discussed so far in the meeting. The Council agreed to have the meeting on Monday June 23rd to declare the property as surplus.

Administrator Darrington commented that through this process he kept forgetting that everything that has been talked about has been in executive session dealing with a property issue. To him there shouldn't be a surprise because we have been talking about this for 6 months, but to the public it is a surprise because it hasn't been talked about in public.

Council Member Meacham questioned if ASD is proceeding with construction after they have told you or did they just start construction? Administrator Darrington answered that he didn't remember the exact exchange but through the whole process there hasn't been a point where he hasn't said that they couldn't continue to work. Council Member Meacham then asked if Mr. Smith understands that he is at risk working without a signed agreement. Administrator Darrington replied that they know that if the Council decides not to sell the park then that is going to be a problem for them.

Council Member Stanley asked what the nature of work will be over the next couple of weeks. Administrator Darrington answered that right now they are just tearing out the grass and they are digging the foundations for the tennis courts.

Council Member Meacham asked is ASD has any intentions of renaming the park. Administrator Darrington responded that it will still be called Battle Creek Park and the City will still have to schedule reservations for the pavilion. There is not going to be fence between the pavilion and the tennis courts it will still look like a park.

Council Member LeMone commented that now that the City knows that we need to have a public hearing she doesn't feel right in allowing the construction to continue. There may be one person

show up or there may be one hundred. We need to be transparent with the public. Council Member Boyd agreed. She also commented that she would like Attorney Petersen more involved in these kinds of conversations as a safety net for the City.

Council Member Stanley asked as a matter of law and we have the public hearing and the Council changes its mind do they have to restore the park to exactly how it was? Attorney Petersen replied, No, as a matter of law that is part of the concern about having them proceed forward without an agreement in place. Having finalized things a little more and if we do an agreement that said we are giving you permission to proceed but it would be at your own risk and if the deal falls through then they would be required to restore the property. Common sense says that would be the case but we don't have an agreement to require it at this point.

A discussion was held as to whether or not to let ASD proceed with construction. It was determined that the Council would like ASD to stop construction on the Battle Creek Park.

Mayor Daniels then asked what the next steps in the process are. Administrator Darrington replied that the next step will be to have a meeting on Monday June 23rd to declare the property as surplus. The Council determined that the best time for the meeting will be at 4:00 p.m. and then have the public hearing on Tuesday July 8th at 6:00 p.m.

Mayor Daniels directed Administrator Darrington to communicate with Rob Smith the Council's decision to stop work on the Battle Creek Park and inform him that the public hearing will be held on July 8th at 6:00 p.m. and request that he comes prepared to show the public how the property will be developed.

Administrator Darrington reported that at the July 8th meeting he will have a formal use agreement and a sales contract ready. In the meantime he will work with Mr. Smith to prepare a press release which will have information as to what the park will look like so the public can understand that when all is said and done this is what it will look like.

Council Member Stanley asked if there has been any concern brought up by the public about the construction. Administrator Darrington answered that Director Giles has spoken with 2 people but when he explained what is going on they were fine with it. Council Member LeMone said that she has received a couple of comments, they have been positive; the only concern was that they had not heard about it.

Mayor Daniels asked if there was any further discussion, being none he called for a motion to adjourn.

2) **ADJOURN.**

ACTION: At 2:45 p.m. Council Member LeMone moved to adjourn. Council Member Boyd seconded and the motion passed with the unanimous consent of the Council.

The City Council Meeting adjourned at approximately 2:45 p.m.

Approved by the City Council on August 5, 2014

Kathy T. Kresser, CMC, City Recorder

(Exhibits are in the City Council Minutes binders in the Recorder's office.)