

**ELK RIDGE
CITY COUNCIL MEETING
April 24, 2007**

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3
4
5 TIME & PLACE
6 OF MEETING

This Regular Meeting of the Elk Ridge City Council, was scheduled for **Tuesday, April 24, 2007, at 7:00 PM.** It was preceded by three scheduled **Public Hearings: the first Public Hearing, at 6:00 PM,** was to consider the Water & Sewer Impact Fee Analysis; **the second Public Hearing, scheduled for 6:30 PM,** was on a proposed City Code Amendment regarding the Collection of Park Impact Fees; the **third Public Hearing, at 6:35 PM,** was on a proposed City Code Amendment regarding an Appeals Authority. The **City Council Work Session was scheduled for 6:45 PM.**

All interested persons were invited to be heard.

The meetings were held at the Elk Ridge City Hall, 80 East Park Drive, Elk Ridge, Utah.

15 Notice of the time, place and Agenda of the Scheduled Council Meetings & Public Hearing, was
16 provided to the Payson Chronicle, 145 E Utah Ave, Payson, UT, and to the members of the
17 Governing Body, on April 19, 2007.

18
19 **6:00 PM**

PUBLIC HEARING/WATER & SEWER IMPACT FEE ANALYSIS

Public Hearing/Proposed Water & Sewer Impact Fee Analysis

20
21
22 ROLL

Mayor: Dennis A. Dunn; City Council: Nelson Abbott, Mary Rugg, Mark Johnson, Alvin Harward (Absent: Raymond Brown); Planning Commission: Russ Adamson, Sean Roylance & Dayna Hughes; Aqua Engineering: Craig Neeley; Sheriff: Deputy Rob Riding; Public: Stewart P. (?), Connor Hazen, Jorgan Anderson, Bryce Kimber, Brian & Anna Bean, Ken Harris, Pete Weber, Scouts: Kaden Peterson, Kelly Devey, Ryan Wilcox, Mark Christensen, John Money, Jed Shuler, Karl Shuler, Kendall & Loy Jolley, Lee Pope, Barry Prettyman, Matt Rutter, Brad Shuler, Joann Bigler; and City Recorder: Janice H. Davis

30 Mayor Dunn opened the Public Hearing at 6:00 PM.

31 *Water:*

32 Craig Neeley: The key for this study is to be "understandable". (This Analysis has been covered
33 in detail at a previous Meeting. The corrections spoken of were made:

- Eliminating wells that are non-producing or abandoned

34 The Water Impact Fee = \$5,140

35 Nelson Abbott: Does the storage amount refer to a monthly or daily amount? (That needs to be
36 corrected in the Analysis.)

37 There was a discussion about storage requirements for Indoor/outdoor requirements.

38 Mr. Neeley also explained which wells supply which tanks: The Cloward Well supplies the Hillside
39 Tank; and the Loafer Well feeds into the Upper Tank.

40 Craig Neeley: Sources are supposed to supply the peak day use; which is generally twice the
41 normal day use. The City is only required to store an average day; but sources are required to
42 supply two times that; because normally, peak use is also twice that. If sources can supply peak
43 day use; that is all that is required. If the tank refreshes itself twice a day; that is good...as long
44 as the sources are strong enough to supply twice that. Generally, the City needs water rights for
45 annual use, average daily use & source capacity for peak day use (twice your average).

46 The Systems are intermingled (upper & lower).

47 Alvin Harward: he spoke to Mr. Neeley regarding the need to "prove up" on some water rights by
48 running the Loafer Well 24 hours a day for a year. These water rights only have the Loafer Well
49 as the point of diversion.

50 Mayor Dunn: Added that SUVMWA's attorney has this proposal and is reviewing it and will give
51 an opinion.

52 Craig Neeley: Discussed the proposed Fairview Tank. We are looking for redundancy throughout
53 the entire system.

54 *Sewer:*

55 Question: Total Collection Sewer Impact Fee = \$910; however, this is added to the \$1,700 that
56 will be paid to Payson? (Yes.)

57 *(This should be referred to in the Analysis.)*

58 Payson City determined the fee to them.

59 Nelson Abbott: Until we actually connect with Payson, how much do we charge the residents?

60 Mr. Neeley: The fees, as presented in the Analysis should be collected now; they are applicable.

61 *(This Analysis should be reviewed and updated no longer than every 5 years.)*
62

2
3 Mayor Dunn closed the Public Hearing at 6: 30 PM.

4
5 **6:30 PM PUBLIC HEARING/PARK IMPACT FEES**

6 Public Hearing/A Proposed Amendment to the Elk Ridge City Code regarding the Collection of
7 Park Impact Fees

8
9 ROLL

10 *Mayor:* Dennis A. Dunn; *City Council:* Nelson Abbott, Mary Rugg, Mark Johnson, Alvin Harward
11 (Absent: Raymond Brown); *Planning Commission:* Russ Adamson, Sean Roylance & Dayna
12 Hughes; *Aqua Engineering:* Craig Neeley; *Sheriff:* Deputy Rob Riding; *Public:* Stewart P. (?),
13 Connor Hazen, Jorgan Anderson, Bryce Kimber, Brian & Anna Bean, Ken Harris, Pete Weber,
14 Scouts: Kaden Peterson, Kelly Devey, Ryan Wilcox, Mark Christensen, John Money, Jed Shuler,
15 Karl Shuler, Kendall & Loy Jolley, Lee Pope, Barry Prettyman, Matt Rutter, Brad Shuler, Joann
16 Bigler; and *City Recorder:* Janice H. Davis

17 Mayor Dunn opened the Public Hearing at 6:30 PM.
18 The Council has discussed this issue in the past; the proposal is to have all impact fees collected
19 at the time of building permit, and to eliminate the option of developers qualifying for credits for
20 part of the Park Impact Fee in their development process.
21 Currently, the Park Impact Fee is set at \$1,385. There is an update on the Park Impact Fee
22 being conducted by MAG; so the Impact Fee will likely change in the future.
23 There were no further comments.
24 Mayor Dunn closed the Public Hearing at 6:32 PM.

25
26 **6:32 PM PUBLIC HEARING/APEAL AUTHORITY**

27 Public Hearing/City Code Amendment – To establish the Office of Appeal Authority

28
29 ROLL

30 *Mayor:* Dennis A. Dunn; *City Council:* Nelson Abbott, Mary Rugg, Mark Johnson, Alvin Harward
31 (Absent: Raymond Brown); *Planning Commission:* Russ Adamson, Sean Roylance & Dayna
32 Hughes; *Aqua Engineering:* Craig Neeley; *Sheriff:* Deputy Rob Riding; *Public:* Stewart P. (?),
33 Connor Hazen, Jorgan Anderson, Bryce Kimber, Brian & Anna Bean, Ken Harris, Pete Weber,
34 Scouts: Kaden Peterson, Kelly Devey, Ryan Wilcox, Mark Christensen, John Money, Jed Shuler,
35 Karl Shuler, Kendall & Loy Jolley, Lee Pope, Barry Prettyman, Matt Rutter, Brad Shuler, Joann
36 Bigler; and *City Recorder:* Janice H. Davis

37 Mayor Dunn opened the Public Hearing at 6:32 PM.
38 This proposed ordinance would take our current Code regarding a Board of Adjustment and
39 replaces it with the position of an Appeal Authority. This has been done successfully in other
40 communities; the body of the proposed ordinance was written for Highland City by David Church.
41 This position would be filled by a person who is a professional in the field of Planning and/or Land
42 Use. There are a couple of possibilities: the person filling the same position for Highland City,
43 who is a Land Use Attorney; and Jodi Hoffman, from Park City, who is also an Attorney with a
44 specialty in HOA's and Land Use issues...or some referrals from her.
45 After going to this option, Highland City reviewed its land use decisions, made by their former
46 Board of Adjustments, for the last 10 years; and said that the City Manager was not sure if they
47 found even one decision that was correct. The Appeal Authority has worked out very well. Their
48 Attorney (David Church) felt that there were no problems with the process, as it is.
49 Nelson Abbott: Ken Young brought up the possibility of having two different people; a Hearing
50 Examiner and a Variance Examiner. As he understands it, this would give people a second
51 chance to submit an appeal.
52 Mayor Dunn: Even with a Board of Adjustments, the Council cannot over-rule a decision by that
53 Board; it can only be appealed through the Circuit Court. The only time a Board of Adjustments
54 or an Appeal Authority would hear an appeal, would be a result of the Council or the Planning
55 Commission making a decision that the person does not agree with. Then they have to submit
56 their application to the City and it goes to the City Attorney to be determined if there is merit in the
57 case going before a Board or an Appeal Authority.
58 This decision is final, unless appealed through the court system within 30 days.
59 The individual would be selected by the Mayor and approved by the Council.

60
61 The Council was in agreement that this will be of benefit to the City.
62 The Mayor closed the Public Hearing at 6:39 PM.

2
3 6:45 PM

CITY COUNCIL WORK SESSION

4
5 ROLL

Mayor: Dennis A. Dunn; City Council: Nelson Abbott, Mary Rugg, Mark Johnson, Alvin Harward (Absent: Raymond Brown); Planning Commission: Russ Adamson, Sean Roylance & Dayna Hughes; Aqua Engineering: Craig Neeley; Sheriff: Deputy Rob Riding; Public: Stewart P. (?), Connor Hazen, Jorgan Anderson, Bryce Kimber, Brian & Anna Bean, Ken Harris, Pete Weber, Scouts: Kaden Peterson, Kelly Devey, Ryan Wilcox, Mark Christensen, John Money, Jed Shuler, Karl Shuler, Kendall & Loy Jolley, Lee Pope, Barry Prettyman, Matt Rutter, Brad Shuler, Joann Bigler; and City Recorder: Janice H. Davis

12
13 ROAD IMPACT
14 FEE STUDY

Mayor Dunn: The Planning Commission and the Council met two weeks ago to discuss the matter of the portion of the Impact Fee Analysis regarding Road Impact Fees.

Alvin Harward: He has a problem with some of the suggested roads to be developed; to use impact fees in any undeveloped area would be missing the opportunity to have developers install the necessary improvements. He does not feel the City should be involved in “off -site” reimbursements. He feels that the City should designate roads that will not be done by developers;

Examples...1) the “dugway” (Portion of E. Park Drive leading down into Loafer Canyon). Something needs to be done with this road

2) North side of East Goosenest (By Cloward’s fence), that will not be addressed by developers ; it was not required at the time.

City Recorder: The Planning Commission also mentioned the south side of Goosenest where the City Center is intended to be located.

Another issue that was brought up was to possibly consider Loafer Canyon Rd. as a collector road; that road has a special road width standard, created specifically for Loafer Canyon Road.

It is still a 56’ right-of-way; but only 28’ of pavement, rather than 34’.

Curb & gutter on the east side of Loafer Canyon Rd. has been mentioned in the Impact Fee Study.

Goosenest Drive, west of 1600 West will not be developed by developers; could that qualify for Impact Fees? (Much of that is County property.)

Craig Neeley: Discussion of the width of Goosenest Drive and whether it should be widened to be a collector road, since it is one of the main accesses to Elk Ridge from Payson.

Nelson Abbott: With the increased growth resulting in increased traffic, will the life span of the roads be affected? Example: W. Salem Hills, in the area of the new construction; the pavement is gone.

Mary Rugg: Who is responsible to repair that portion of the road?
Mayor Dunn: That is a good question...we will have to look into that.

*(Will Councilmember Brown research this?)
It seems that road base was sub-standard.

Craig Neeley: The only thing that can be done is to have contractors bond for that with the building permits; then the City can document the damage. Bonding could be for \$5,000 and state that any damage to the road in the immediate area or even sweeping the area, if not kept cleaned-up.

Mark Johnson: to add to the damage caused by the heavy equipment on the roads, the snow gets into the cracks and freezes and the ice pushes the road up.

Craig Neeley: The eligible projects are those that the City cannot wait for. There are roads that can be installed with development; but there will be roads that you feel you can’t wait for; those could be declared eligible. There can be a recovery program worked out for the City.

If the road is not essential to the City now, then it should not be considered for impact fees. If it is essential to health and safety, and it is defensible...then it would be eligible. There are situations where the developer may be responsible for ½ the road then the City could apply the impact fees, if eligible. If there are roads that no one is ever going to improve, then impact fees would be applicable. Boulevard projects are always really good candidates.

56
57 UPDATES

Mayor Dunn: Fairway Water Tank:
Asked Mr. Neeley: Has the State contacted him lately regarding pursuing the Fairway Tank?

Mr. Neeley: Marissa (State Water) The State is going to the Board in June to ask to assist the City with Bonding Insurance; but private financing would be advisable.

(She contacted the Mayor and said private financing would be at a better rate than the State.)
The affordability guidelines were high and the City is “penalized” for that; private financing is encouraged.
*Mr. Neeley is going to get some suggestions on some private lenders.
Alvin Harward: This needs to be addressed rather quickly; the storage capacity is going to be needed. (Mr. Neeley agreed.)
Mr. Neeley: Aqua Engineering needs to go ahead with the design work for the tank while the financing is being decided upon.
City Recorder: Zion’s Bank has a good Public Finance Dept.; the City financed the big fire truck through them. We may want to consider them.
(The Mayor agreed.)

WATER RIGHTS

Alvin Harward: Regarding SUVMWA (The Mayor has addressed that earlier, before Councilmember Harward arrived.)
Additional comments: There are about 60 shares of water right (irrigation) available through SUVMWA that could be transferred to Elk Ridge’s wells.

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7:10 PM

REGULAR CITY COUNCIL AGENDA ITEMS

ROLL

Mayor: Dennis A. Dunn; *City Council*: Nelson Abbott, Mary Rugg, Mark Johnson, Alvin Harward (Absent: Raymond Brown); *Planning Commission*: Russ Adamson, Sean Roylance & Dayna Hughes; *Aqua Engineering*: Craig Neeley; *Sheriff*: Deputy Rob Riding; *Public*: Stewart P. (?), Connor Hazen, Jorgan Anderson, Bryce Kimber, Brian & Anna Bean, Ken Harris, Pete Weber, Scouts: Kaden Peterson, Kelly Devey, Ryan Wilcox, Mark Christensen, John Money, Jed Shuler, Karl Shuler, Kendall & Loy Jolley, Lee Pope, Barry Prettyman, Matt Rutter, Brad Shuler, Joan n Bigler; and *City Recorder*: Janice H. Davis

OPENING REMARKS
& PLEDGE OF
ALLEGIANCE

An Invocation was offered by the Alvin; and Scout Kaden Peterson led those present in the Pledge of Allegiance, for those willing to participate.

AGENDA TIME
FRAME

MOTION WAS MADE BY MARK JOHNSON AND SECONDED BY ALVIN HARWARD TO APPROVE THE AGENDA TIME FRAME, ADJUSTING THE START TIME TO 7:10 PM; AND TO STRIKE ITEM #11
VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

PUBLIC FORUM

Public Comments: Scout: Is there anything that the Scouts can do to assist the Community.
Mayor Dunn: Service is important in any organization. Much of the work in the City is done by volunteers. Some projects could be to clean up the City property, neighborhoods & roadways. Cleaning around the fire hydrants would also be useful. The City could not function without volunteers like the Planning Commission, Fire Dept & Sport’s Program.

2
3 Question: Will the Strawberry water line be used in Elk Ridge for irrigation water?

4 Mayor Dunn: No. Culinary water would not be available from this. Elk Ridge’s culinary water
5 comes from our own wells. CUP water is coming out of Spanish Fork Canyon for pressurized
6 secondary water systems; however, the pressure will not take the water further south than the
7 City Hall. The only way to take it further south would be to pump it to a holding area and then
8 distribute it to the southern portions of the City. This is years away.

9 Alvin Harward: Elk Ridge has applied for our portion of the water that will come through that CUP
10 Project. For the 10 southern cities in the County, there are 30,000 acre feet of water that will be
11 allocated by population. We have applied for this. We can also trade this to another city for
12 culinary water; but this is 10 – 12 years away.

13
14 HARRIS ANNEXATION *(Councilmember Harward & Mayor Dunn declared a possible “Conflict of Interest”, in that they are*
15 PETITION *friends & neighbors with the Harris’, though they have no personal interest in the project.)*

16 *Memo from Planner to Council, dated 4-24-07)*

17 *“Background:*

18 The applicant has submitted a request to annex two separate parcels into the City , one having 9.99 (10
19 acres; and the other having 16.70 acres, totaling 26.69 acres. Although the parcels are separated, they
20 both adjoin an existing parcel currently within the city, to come forward as one development proposal,
21 following the annexation.

22 Both of the annexation parcels are within the City’s identified annexation policy plan area, and have
23 been designated in the General Plan to become zoned CE -1. Service provision and infrastructure for these
24 properties will most likely occur through properties to the west, since there is a steep slope adjacent to
25 Loafer Canyon Road.

26 One concern may arise through the County’s review of this proposed annexation plat.
27 State code prohibits the creation of a peninsula or island in annexing land. The County engineer
28 will need to determine whether the land, once annexed, would meet the criteria of a peninsula. If
29 such is the case, the proposed annexation areas will need to be modified.

30 *Recommendation:*

31 This request is to accept the petition, NOT to approve the annexation. By accepting the petition, the City
32 merely states that we are willing to consider the annexation, and will begin a process of notifications and
33 allowing protests to be submitted prior to the City taking official action on the annexation. Any concerns
34 from the County, protestors or otherwise can be taken into consideration prior to approval of the annexation.

35 It is recommended that the City accept the petition to annex 26.69 acres, as shown on the Harris
36 Annexation Plat.”

37 *Comments:*

38 Mary Rugg: Needed clarification on the location of the land in question. She asked about access
39 to the property.

40 Joel Harris: There is a dirt road for emergency access that comes from Canyon View Drive. He
41 has contacted the property owners, Jason Gunderson, (Harris’ are purchasing a portion of
42 Gunderson’s Property). Part of the property is sloped down to Loafer Canyon Road. Currently
43 this property is in the County.

44 Mary Rugg: Will the City be able to service this area? (Yes.)

45 Mayor Dunn: Explained access off of Hillside Drive, with an emergency access through
46 Gunderson’s property until access through Loafer Canyon is possible.

47 One of the concerns expressed by the Planner was the possibility of creating a peninsula with the
48 property to the north. The County will have to determine this.

49 Mary Rugg: With the annexation, this could leave Gunderson’s property as a peninsula.

50 City Recorder: Brief explanation of the annexation process. There is time to determine any future
51 problems created by the proposed annexation.

52 Nelson Abbott: What benefit would there be to the City with this proposed annexation, besides
53 more houses?

54 Alvin Harward: That is all any annexation brings to a city.

55 City Recorder: To not annex property that is contiguous with another community opens that
56 property up to development under the regulations of that other community; wouldn’t it be better to
57 have the controlling ordinances?

58 Mayor Dunn: Putting it bluntly; we are a bedroom community...what does anyone have to offer
59 the City? We just become what has been defined in the General Plan.

60 Nelson Abbott: He would like to have the Gunderson access included as an access and that
61 there be additional access routes. *(It is a private driveway.)*

62 Joel Harris: Mr. Gunderson has agreed to provide that emergency access; he does not want to
63 see an open road.

2
3 **MOTION WAS MADE BY MARK JOHNSON AMD SECONDED BY ALVIN HARWARD TO**
4 **ACCEPT THE PETITION FOR ANNEXATION, SUBMITTEDBY JOEL HARRIS**
5 **VOTE (POLL): MARK JOHNSON-AYE, ALVIN HARWARD-AYE, MARY RUGG-AYE**
6 **NELSON ABBOTT-NAY ABSENT (1) RAYMOND BROWN**
7 *Passes 3-1*

8
9 **WATER RIGHT**
10 **ALLOCATIONS**

11 *(Memo from Mayor Dunn to the Council, dated 4-18-07)*
12 "The City has purchased 19 acre feet of water right that are currently in the transfer process with the State.
13 Meanwhile there are three small subdivisions (two 2 -lot subdivisions and one 3-lot subdivision) that will
14 require water rights for one or the two lots and two of the three lots. The existing lots already have water
15 rights attached to them; it would only be the newly created lots that would need the allocations.

16 The City currently has no water rights that are not attached to subdivision lots; however, the 19
17 acre feet that have been purchased and are being transferred to the City's points of diversion have had no
18 protests registered against the transfer and there is no reason that these shares would not transfer.

19 I recommend that the Council consider allowing these 19 acre feet of water right to be drawn
20 against for these smaller subdivisions."

21 Alvin Harward: "I already have 12 acre feet of water that we own, that we are in the process of
22 changing with Spanish Fork, giving them the irrigation water and us taking the underground
23 water...but we already own those." These, plus the 7, we actually do own.

24 Mayor Dunn:
25 *(Brian Bean also submitted a written request to the Council to be considered for the e water right*
26 *allocations; it was read to the Council. In the letter, he mentions that he is under contract with the property*
27 *owner to purchase the property under the following conditions: 1. Final Plat is granted & 2. Finding &*
28 *purchasing the necessary water rights for the other two lots.)*

29 The 3rd page listed the 3 subdivisions and the amount of water right they would require.
30 Mary Rugg: Questioned the time frame until the City would know for sure about the transfer.

31 *(Not known exactly... 6 to 9 months)*
32 Alvin Harward: We actually own 6.43 acre feet from SUVMWA. We don't really need to draw
33 against these other rights.

34 *Typically, water rights are allocated after between Preliminary and Final; however these*
35 *subdivisions will be coming form the Planning Commission with recommendation for Preliminary*
36 *and Final together; and the developers cannot be granted Final without the water rights.*

37 Mary Rugg: Advised allocating from the rights the City already has available rather than the ones
38 in the transfer process.

39 **MOTION WAS MADE BY ALVIN HARWARD AND SECONDED BY MARY RUGG TO**
40 **ALLOCATE THE REQUESTED WATER RIGHTS:**

- 41 • **BURTONS: 1.21 ACRE FEET**
- 42 • **JOLLEYS: 1.40 ACRE FEET**
- 43 • **BEANS: 2.23 ACRE FEET**

44 **FROM THE 6.43 ACRE FEET OF WATER RIGHTS ALREADY OWNED BY THE CITY**
45 **VOTE: YES (3) NO (1) NELSON ABBOTT ABSENT (1) RAYMOND BROWN**
46 *Passes 3-1*

47 **ELK HAVEN,**
48 **PLATS A & B –**
49 **PRELIMINARY**

50 Mayor Dunn: A letter from four of the Planning Commission Members (Dayna Hughes, Russell
51 Adamson, Sean Roylance & Shawn Eliot), dated 4-20-07; requesting denial of the two plats and
52 to have them sent back to the Planning Commission for further work, based on misinformation by
53 "staff" during the Planning Commission Meeting. There were three issues listed:

- 54 1. The Plats need approved grading plans prior to preliminary plat approval: (details listed)
- 55 2. The road grades do not reflect new code that was approved by the Planning Commission and
56 City Council. (details listed)
- 57 3. The road right-of-way does not reflect the current of past master road plan map. (details
58 listed)

59 The letter also requested that the Council's motion (if the Plats are to be sent back) explain what
60 points to be addressed.

61 When the Mayor reviewed the information in the packet for Preliminary approval, he had some
62 real concerns; as did Councilmembers Abbott and Johnson. The Mayor reviewed the
63 ordinances in place and he felt that the Plats were not ready for the Council to consider for
64 Preliminary Approval; there are several things not being complied with.

He feels the concerns expressed by the four above named Planning Commission Members are
valid concerns. These are some of the same concerns the Mayor had.

The Mayor also had concerns about road grades, as well as the building envelopes on certain
lots in Plat A.

Karl Shuler: The proposed road has been through Concept Approval and they have been working on it for 1 ½ years; it was approved by the City Council before it was changed. He is not sure he understands the concerns.

Alvin Harward: It is true; "We did approve it".

Mayor Dunn: (Continued) Review of road grade requirements as he read from the letter dated 4-20-07; he also read, "In review of these plats in Planning Commission, our Planner informed us that any road issues could not be changed since a concept road plan had already been approved. This goes against the Council's requirement that a project is not vested until preliminary plat as well as the fact that we were working on this code prior to the concept approval."

RE: #3... There seems to be a discrepancy with the rights-of-ways of the roads in the area. The Mayor then read from the memo from the Planner:

"Background

The applicants, comprising a group of property owners / developers of over 100 acres of land in the south hills area, have been working with the City for over a year to develop acceptable street alignments and the subdivision of property. Five Plats have been presented to the Planning Commission, two of which have been forwarded with a positive recommendation to the City Council. The other three will return to the Planning Commission with corrections for further review.

The proposed development on plats A & B appears to meet the intent and specific requirements of the CE-1 Zone, as best as possible. These plats have been reviewed in several technical review staff meetings, and it has been determined that they met all the planning and engineering corrections and concerns (other than those listed by the Planning Commission below).

The CE-1 Code requires specific approval on any lots which have an average slope of over 20%, as well as on any incidental (very small) areas of 30% slope within the buildable area of the lot. The lots for which slope approvals are required are listed below, along with the recommended conditions of the Planning Commission.

PLAT A – Total Acres: 23.03

Total lots: 24 (1/2 acre min.)

- Slopes: - Request approval of over 20% average slope on lots 1, 2, 3, 4, 5, 6 & 24
- Request approval of incidental 30% slope on lots 1, 2, 3, 23, & 24

- PC Conditions: 1. Lots 6 & 7 access allowed only from High Sierra Drive (since Hillside ends without a turn around).
- 2. Lots 2 & 3 be combined into one lot with building envelope covering the yellow area which is less than 20% slope.
- 3. Lots 1 & 24 be deeded to the City as open space.
- 4. A 10-foot trail shall be along one side of all roads, in lieu of sidewalks.

PLAT B - Total Acres: 9.08

Total lots: 10 (1/2 acre min.)

- Slopes: - Request approval of over 20% average slope on lot 4
- Request approval of incidental 30% slope on lots 9, 12, 22, 24, 26, 27, 28, 34, 38 & 41

- PC Conditions: 1. Lot 4 building envelope smaller to stay within the area of 20% or less slopes.
- 2. A 10-foot trail shall be along one side of all roads, in lieu of sidewalks.

Recommendation:

It is recommended that the City Council approve the Preliminary Plats for the Elk Haven Subdivisions, Plats A & B, including the specific approvals for lot slopes as mentioned above, and subject to the conditions listed by the Planning Commission."

Nelson Abbott: The lots listed for Plat B (incidental 30% slopes) are not "B" ; they are on Plat "E". There are only 10 lots in Plat B, so the numbers are from Plat "E".

Mayor Dunn: The Mayor reviewed the building envelopes, particularly on Plat A, and went into the CE-1 Code...looking for the average slope of lots. He compared what the Code says to the way some of the lots are put together. He referred to Ordinance 06 -12 [10-9A-45 (A)(4)(a)] in the CE-1 Zone, saying, "In all cases, the building envelope location on a lot should conform to the natural terrain and remain within the areas of least slope while allowing for a minimum buildable area in accordance with the provisions of section 10-8A-8. The area of the design envelope could be considerably smaller than the lot to accomplish this requirement. The front, side and rear setback requirements still must be met. No design envelope can be located within areas over 30% slopes in accordance with the provisions in section 10-24-34. All 30% slope will be on the plat map as unbuildable."

shown

Mr. Shuler feels they meet all of those requirements. The Mayor commented that they seem to be in compliance with the 30% slope requirements.

He also read from the Code, Section 10-9A-1 (C) that:

- “One acre lots are allowed on lots with an average slope of over 15%
- Half acre lots are allowed on lots with an average slope of 20% or less
- Additionally, third acre lots can be approved on lots with an average slope of 20% or less in return for larger areas of open space.

(10-9A-10 (G)(2))

“...all areas with a slope of 30% or greater shall be preserved as open space . For small, incidental areas of 30% or greater slopes, the planning commission, with the recommendation of the city engineer, can approve these areas as part of the building envelope of a lot. Areas of contiguous open space over 2 acres can be deeded to the city as open space with city council approval. Areas not contiguous, contiguous but under 2 acres in size, or not accepted by the city council shall have attached to the title a preservation agreement with the city.”

(In other words it could never be altered or touched.)

So, some of the properties, like lot #24 that is mostly 30% would fall into this.

Karl Shuler: The building envelope is 23%. There is an area of 30%, and you can have areas of 30% as long as they are not in the building envelope.

(Over 20% can be built upon, if it is approved.)

The Code mentions this in the CE-1 Zone regulations.

Sean Roylance: The 30% is supposed to have an agreement attached to it; does that include driveways?

Mark Johnson: Is the driveway considered part of the building envelope?

Mayor Dunn: No, you can't approve these areas as part of the building envelope.

Karl Shuler: You have to drive over the setback to get to the envelope.

Sean Roylance: The plan he is referring to is that you are not supposed to disturb the 30% area; so the question would be about the driveway.

Karl Shuler: This was reviewed many times with the “concept” of the main road with the Planning Commission and with the Council...that the road can go through a 30% slope as long as it meets the slope criteria. There is not building envelope that is on a 30% slope.

Sean Roylance: That is the building envelope; but you are not supposed to touch anything else; you are to attach an agreement saying that all 30% area will be preserved. The question is, does a driveway violate that part of the Code?

Nelson Abbott: This has come up before; what he recalls was that if the slope could not be disturbed for a swing set, how could it be for a driveway?

Mayor Dunn: The Code will have to be deferred to; and he does not have the entire Code in front of him. So, what we are addressing is if a private driveway can be cut across a 30% slope to get to that envelope?

(Councilmember Abbott asked if there is a maximum length for a driveway in the Code?)

Mark Johnson: It has to be within 250' to meet the requirement for fire code; unless there would be a fire hydrant installed along the driveway. There is not way to get a pump truck down that driveway. (Referring to lots #23 & #24, Plat A)

Karl Shuler: The driveways are 20' in width; that is wider than some areas of the current street pavement in Elk Ridge. Mr. Shuler added that they are trying to acquire a bit more property up on the east (on the flat) to get a better building envelope on lot #24. He is not sure that will happen.

Addressing concerns:

1. He is not sure of the concern...the roads are a continuation of Hillside Drive that connects onto the smaller lots; it is on the same slope/grade as the rest of the adjacent houses...to High Sierra Drive.

(Sean Roylance felt that High Sierra is not that steep of a grade; he would like to see terrain maps of High Sierra Drive.)

One can see that there is no abrupt change from High Sierra Drive. The building envelope on lot #1 is under 20% (19.9); and that continues right up from High Sierra Drive. It is just north of the last house on High Sierra Drive (Chappell's).

On #2 & #3; the Planning Commission recommended combining those lots and he said they could do that, but he is not sure why. Both lots have buildable envelopes at slopes that fall at the lower end of those requiring the Council's approval (20% to 30%). Lot #3 is at 23.8%, but still at the lower end of the approval range.

(Councilmember Abbott commented that the access is through a steeper slope and that is probably why the recommendation.)

It is not an ideal situation; and it might be the best solution...to combine the two. He has reviewed this with their engineer and he felt there would be a way to access the buildable area

through the arrangement of the house levels. He realizes this is not idea, but it may be buildable. If this is not acceptable, they are willing to work with the City.

All of the other lots, with the building envelope size reduced, produced no real problems.

Nelson Abbott: He feels the roads are the main problem; and that is based on the vesting issue. The Planning Commission was working on the Code. It is his understanding that as long as the City is working on the Code throughout the process, that “grandfathering” is not an issue. That is the part that he is most concerned with.

Karl Shuler: There is a lot of debate on this. It is not “cut & dry”; at one point they were told that “vesting” is when you pay your “Concept fee”, another time it was with “Preliminary”...then after Preliminary is approved. To go back now would be very frustrating to have to start over. The Concept on the road was approved with the knowledge that the Code was being reconsidered.

Nelson Abbott: In his opinion, he voted not to approve the road concept because he was not sure where the Code was going. He would err on the side of caution.

Karl Shuler: He feels that even the new Code is pretty much met (on the road)...it states that slopes can exceed 10% for short stretches. It was well within the old Code. At one point, there were 12% grades and they started over with 10%. Are they going to have to start over again?

Sean Roylance: They (developers) knew that the Planning Commission was considering the new Code and this should not be a surprise to them.

Karl Shuler: They also knew that they had been approved at Concept and paid fees associated with that.

Sean Roylance: Concept was not approved until after discussion to change the Code had started. *(Mr. Shuler interjected that it was also discussed that this would probably not affect their development; according to the City Planner... they were vested by the payment of their fees.)*

Nelson Abbott: If the Council were to approve A & B, one of the issues initially was that the road would be connected...east to west. If A & B were approved, could the City potentially end up with a further extension of a dead-end road?

John Money: No. Plats A, B, C, D & E are all coming through; the other plats were not quite far enough along to come forward. Revisions are being made to allow these to move forward. All five land owners have been going through this process for a year and a half. They are not trying to “fight the City”; they have taken the information given to them and had their engineer work from that information.

Mayor Dunn: Feels the Council needs clarification on some of the issues. He realizes the process they have gone through has been somewhat complicated; there are still concerns that need to be clarified. One of the Mayor’s greatest concerns is with the steepness of some of the property. Shawn Eliot did meet with the Mayor and showed him sections of the road that may or may not be considered “short stretches”. The Planner is not present to defend some of his recommendations.

Is the Council clear on everything?

Mary Rugg & Mark Johnson: No.

Nelson Abbott: He would like additional clarification as to the vesting issue. That does affect the road. He would also like to have an explanation on the Planning Commission’s recommendation some of the lots.

City Recorder: Vesting is at the point of Preliminary, currently; but their point is that the Concept was approved before that Code amendment was passed. Concept is “concept”...there is another road in the City that has received Preliminary approval at ½ + 9’ that is now looking at changing that to full-width road at Final. It may need some clarification; they have been told differing information as to when they were vested.

Karl Shuler: He would like some direction so they know how to proceed:

- You may need clarification on vesting
- On the lots, # 23 has not been addressed...the driveway is about 250’; they do not consider this a “flag lot”; utilities would be accessed from High Sierra. The fire hydrant would have to be repositioned. *(Mark Johnson asked about a turn-around for emergency vehicles.)* They had discussed the possibility of a “hammer-head” turn-around...there would have to be some thing at the end. They propose a 24’ access, with 20’ of asphalt, to City Standards for a regular road, not just a driveway. They feel this access is preferable. Does the Council feel this is feasible?

Nelson Abbott: The only difference between lot #23 & lot #3 is the access; one off of Hillside and the other (#3) to just go up the 30% grade.

Karl Shuler: That is because there is an option for lot #23...not with #3.
(Discussion of addressing.)

MOTION WAS MADE BY ALVIN HARWARD TO SEND BOTH PLATS BACK TO PLANNING COMMISSION AND TO TABLE THE ISSUES FOR ADDED CLARIFICATION...

Discussion:

Karl Shuler: *There is one other issue he would like direction on; that is sidewalks vs. trails.*

They had submitted a request to use a trail system rather than sidewalks through the entire Elk Haven development (all 5 plats). They had proposed a 6' trail; but the Planning Commission prefers 10' trails. The trail system would tie in with the future plans Elk Ridge has for trails. The trails were only shown on Hillside and tied into the lower trail system. What are the Council's thoughts on this issue?

Mary Rugg: Feels the trail system would be a much better idea than sidewalks; it goes with the natural terrain in that area.

Nelson Abbott: Feels they should match the trail standard in other parts of town...at 10' width.

(Mr. Shuler added that the steep grades would require much bigger cuts and more fill with a 10' wide trail.) Councilmember Abbott continued that the trails could possibly go through open space rather than follow the roads.

(Mr. Shuler responded that they did have them going through open space; but the Planning Commission recommended they follow the road. They had the trail coming up on Hillside, up the back side of the lots, before it tied into the road system. They could go either way. When it goes along the road, the cuts and fills would be greater in those critical areas.)

Mayor Dunn: Agrees with that. He prefers the idea of more of nature along the trail, where the slopes would not be disturbed. He prefers taking the path of least resistance through those areas.

Craig Neeley (Aqua Engineering): For a multi-use trail, it needs to be 10' wide. Mountain bikes would be mixed with walkers, etc.

Mayor Dunn: The grant applications are for 10' trails.

Russ Adamson (Planning Commission Chair): The Planning Commission is struggling a bit with knowing what the Council's recommendations would be with trails; there may be problems accessing bus routes/stops for school children. How accessible should the trails be vs. going behind the lots? The Planning Commission would like some guidance on this.

Mayor Dunn: Feels that Mr. Adamson has some legitimate concerns; how do you collect children from the homes if the trail is not accessible from some of the lots.

The over-all elements of the trail:

- It should be a trail
- Safe
- 10' wide
- Less invasive rather than destructive...the least amount of impact

Russ Adamson: Do we want any open space corridors for the trails to go through?

Mayor Dunn: Usually the open corridors are associated with a PUD; and this is not. Open space a tougher issue...smaller lots come with more open space.

Mary Rugg: She understands the frustrations expressed; but she feels that the Council cannot vote on these issues without some clarification.

City Recorder: There are conflicting recommendations from the majority of the Planning Commission and the City Planner; that places the Council in an awkward position.

There is a motion on the table...it should be re-stated:

MOTION WAS MADE BY ALVIN HARWARD AND SECONDED BY MARK JOHNSON TO SEND BOTH PLATS A & B BACK TO THE PLANNING COMMISSION TO RESOLVE THE FOLLOWING CONCERNS:

1. HAVE THE ROAD GRADES BEEN VERIFIED AT CONCEPT (BOTH PLATS A & B)?
2. AN OPINION IS NEEDED ON PLAT A, LOTS 1, 2, 3, 23 & 24
 - A. The Planning Commission has not seen the adjusted lot configuration
 - B. Why were these lots sent forward for approval with slopes in the building envelopes over 20%? The Council needs clarification on the 30% slopes and the driveways cutting through. Was Code met at the time of submittal?
3. THE CONCERNS EXPRESSED BY THE PLANNING COMMISSION MEMBERS ON THE MEMO DATED APRIL 20, 2007, MUST BE ADDRESSED

VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

Passes 4-0 (1 absent)

(Further Discussion)

Question: Who will the authority on “vesting” be?

Mayor Dunn: The City Attorney, David Church. The rights of the applicants need to be weighed against the efforts of the Planning Commission and the City Council to re-write the CE-1 Code. This needs a legal opinion.

Question: Then our attorney needs to contact the City attorney?

Mayor Dunn: He will contact the City Attorney regarding the vesting question. He wants to make sure “we get this right...for you and for us”.

Question: How long will this take?

Alvin Harward: Feels this clarification should be before the next City Council Meeting.

Russ Adamson: The Planning Commission will meet on May 3rd to further discuss these questions as well as the other Plats.

*Mayor Dunn will contact David Church the next day and get the information to those involved as soon as possible. (There may be a problem with Mr. Church being at a Treasurers Conference.) (Phone numbers were collected of the various developers.)

Mayor Dunn: Expressed his appreciation of the demeanor of everyone involved with subject matter that is not easy to discuss.

OAK HILL
ESTATES, PLATS
A & C –
RELEASE OF
DURABILITY
RETAINER

As per Engineering letter from Brent Arns, “Prior to the final bond release, it will be necessary for the developer to remove both of the steel plates in the two storm drain catch basins located on Hillside Dr., and thoroughly clean each catch basin from dirt and debris”; the Council was advised to release the bond as of May 1, 2007.

MOTION WAS MADE BY ALVIN HARWARD AND SECONDED BY MARY RUGG TO RELEASE THE DURABILITY RETAINER FOR OAK HILL ESTATES, PLATS A & C; CONDITIONAL UPON A FURTHER INSPECTION BY AQUA ENGINEERING TO ENSURE THE CONDITIONS LISTED ON ENGINEERING LETTER, DATED APRIL 20, 2007, HAVE BEEN COMPLETED

VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

CLOWARD ESTATES,
PLAT B – WAIVERS
OF ENTITLEMENT TO
BUILD

(Memo from Planner to Council, dated 4-24-07)

“Background

The Preliminary Plat was reviewed and approved earlier by the City Council, and the applicant now desires approval of the Final Plat for this 39-lot subdivision.

The Planning Commission reviewed this request on 3-15-07 and 4-5-07. All areas of concern have been addressed as shown on the attached plat. One additional recommendation was added by the Planning Commission: that the approval of the plat be contingent on water shares being dedicated to the City, and that no building permits be granted until such dedication occurs. (Note: This is standard procedure.)

Recommendation:

It is recommended that the City Council approve this plat, based upon the completion of all engineering requirements and the dedication of water rights to the City.”

There was a note attached to the memo from the Planner from the City Recorder:

“This plat is not on this Meeting’s agenda for Final Plat Approval. It is on the Agenda to have the Council discuss and determine if Mr. Cloward may proceed to Public Hearing on 5/3 at the Planning Commission for Final Plat, based on the Plat being recorded with “Waivers of Entitlement to Build” recorded with the Plat, on each of the lots. These “Waivers” would stay with the land until water rights become available for his subdivision. Mr. Cloward has water rights that are in the transfer process with the State.

This process has been done in the past with one of Lee Haskell’s subdivisions, with part of Oak Bluff Estates, Plat A & with the Dennis Shuler Subdivision in Loafer Canyon (based on sewer connections). The Waivers can be released in bulk or one at a time; they would have to come before the Council for the releases.

This Plat will come back to the Council after Public Hearing with the Planning Commission.”

MOTION WAS MADE BY MARY RUGG AND SECONDED BY ALVIN HARWARD TO APPROVE CLOWARD ESTATES, PLAT B ; TO MOVE FORWARD TO PLANNING COMMISSION PUBLIC HEARING FOR FINAL PLAT APPROVAL, WITH WAIVERS OF ENTITLEMENT TO BUILD TO BE RECORDED WITH THE FINAL PLAT

VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

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3 ELK RIDGE
4 MEADOWS PUD,
5 PHASE 1 –
6 REQUEST FOR
7 TIERED RATE –
8 INSPECTION BOND
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Mayor Dunn: The developers of Elk Ridge Meadows PUD, Phase 1, have requested to be approved to bond using the tiered structure for the Inspection Bond, rather than using the flat 6% rate. The Code is changing to the tiered rat. The Mayor contacted David Church to ask if the new, expected Code could be applied. Mr. Church’s response: If, in fact, the City really are gong to change the ordinance, we can do this before the formal change. T he only problem is, if the Council changes its mind; and then the developer has paid less and has to make up the difference. The City would need an agreement from him that he will bring in the difference if the Code does not change.

In the Mayor’s absence, Mayor Pro-tempore Harward polled the Council and received 4 “yes’s”, and one absent (Raymond Brown). A ratified vote is needed.

MOTION WAS MADE BY ALVIN HARWARD AND SECONDED BY MARK JOHNSON TO RATIFY THE POLLED VOTE TO ALLOW THE DEVELOPERS OF THE ELK RIDGE MEADOWS PUD, PHASE 1, TO BOND FOR THE INSPECTION BOND; USING THE TIERED RATES, AS OPPOSED TO THE FLAT 6% RATE; BASED ON THE UNDERSTANDING THAT THE CITY CODE IS IN THE PROCESS OF CHANGE TO THE TIERED RATE
VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

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20 ACTION ON THE
21 PUBLIC HEARINGS

1. Water & Sewer Impact Fees Analysis:

MOTION WAS MADE BY MARY RUGG AND SECONDED BY ALVIN HARWARD TO ACCEPT THE WATER AND SEWER IMPACT FEES ANALYSIS, AS PRESENTED; WITH CORRECTIONS, NOTING THE “DEMAND ERC’S”
VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN

2. Park Impact Fee – Collection:

MOTION WAS MADE BY ALVIN HARWARD AND SECONDED BY MARK JOHNSON TO ADOPT AN ORDINANCE AMENDING THE ELK RIDGE CITY CODE RE LATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN THE INCORPORATED AREAS OF ELK RIDGE; REGARDING THE COLLECTION OF IMPACT FEES AT THE TIME OF THE ISSUANCE OF BUILDING PERMITS
VOTE (POLL): MARK JOHNSON-AYE, ALVIN HARWARD-AYE, MARY RUGG-AYE, NELSON ABBOTT- AYE NAY-NONE ABSENT (1) RAYMOND BROWN
Passes 4-0

3. Appeal Authority:

MOTION WAS MADE BY MARY RUGG AND SECONDED BY NELSON ABBOTT TO APPROVE AN ORDINACE AMENDING THEELK RIDGE CITY CODE, CHAPTER 2; PROVIDING FOR AN APPEAL AUTHORITY IN PLACE OF A BOARD OF ADJUSTMENT
VOTE (POLL): NELSON ABBOTT -AYE, MARY RUGG-AYE, ALVIN HARWARD-AYE, MARK JOHNSON-AYE NAY-NONE ABSENT (1) RAYMOND BROWN

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43 EXPENDITURES

General:

44 *1. Roto-Tiller:*

Public Works requested a mini roto-tiller for \$350.00.

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47 *2. Increase Landscape Budget:*

Mary Rugg: \$10,000 has been budgeted for landscaping the rock wall; an additional \$7,000 is needed to finish the entire Park area and not miss anything; and to replace the sprinkler system . The contractor works for Spanish Fork City.

*Councilmember Rugg is to check and make sure this system is the water -saving system the Mayor spoke to her about.

MOTION WAS MADE BY MARY RUGG AND SECONDED BY NELSON ABBOTT TO APPROVE AN INCREASE OF \$7,000 TO THE 2006/2007 FISCAL YEAR BUDGET, FOR USE IN LANDSCAPING THE ELK RIDGE CITY PARK; PARK IMPACT FEES WILL BE USED FOR THIS PROJECT
VOTE (POLL): NELSON ABBOTT -AYE, MARY RUGG-AYE, ALVIN HARWARD-AYE, MARK JOHNSON-AYE NAY-NONE ABSENT (1) RAYMOND BROWN

**Mayor Dunn is to determine if cement steps can be installed between the upper parking lot and the Ballpark in the area of the message board.*

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Elk Ridge City Council Meeting – 4-24-07

MINUTES

1. City Council Minutes of 3-27-07:

**MOTION WAS MADE BY NELSON ABBOTT AND WAS SECONDED BY MARY RUGG TO APPROVE THE CITY COUNCIL MINUTES OF 3-27-07, WITH CORRECTION TO PG 3
VOTE: YES (4) NO (0) ABSENT (1) RAYMOND BROWN**

ADJOURNMENT

Mayor Dunn adjourned the Meeting at 9:20 PM.

City Recorder