

PLAIN CITY COUNCIL
MINUTES OF REGULAR MEETING
AUGUST 17, 2006

The City Council of Plain City convened in a regular meeting on Thursday, August 17, 2006 in the Plain City Hall at 7:00 p.m.

Present: Mayor Jay Jenkins, Councilmembers Chad Costley, Darwin Smith, Bruce Higley, Brent White, Don Weston
Staff: Diane Hirschi
Also Present: Lt Terry Thompson, Byron Krenek, Keith Olsen, Margene Calder, Kirsten Schull, Kurt Schull, Rock Bushman, Rick Winn, Erick Zimbelman, Steve Holley, Shelley Holley, Bill Fox, Fran Judkins, Kathy Jacobson, Jessie Jacobson, Jerry Judkins, Tom Miller, Warren Burbank, Sue Martinez, Mike Martinez, Craig Widmen, Douglas Hansen, Shirley Nelson, Kimberly Adams, Nealy Adams, Bob Spencer, Natalie Thompson, Lisa Cox, John Armstrong, Ed Harbertson, Chad Stokes, Troy Lund, Carl Miller, Ronald Wardleigh, Korey & Steve Wardleigh, Lorraine Skeen, Marilyn Lott, Leann Brinkerhoff, Glenn Wayment, Penny Barnes, Mike Flood, Robyn Bitton, Kyle & SueAnn Munk, Colette Doxey

Mayor Jenkins called the meeting to order. Councilmember Weston gave the invocation and Councilmember White led in the pledge.

Approval of Minutes: August 3, 2006

Councilmember Smith moved to approve the minutes from August 3, 2006 as presented. Councilmember Higley seconded the motion. Councilmembers Costley, Smith, Higley, White and Weston voted aye. The motion carried.

Comments: Public

Mayor Jenkins noted that this is the time for open comments from the public for questions and concerns of things that are not on the agenda. He noted that there will be public comments again at the end of the meeting. There were no comments at this time.

Report: Planning Commission

Bob Spencer reported that they had a public hearing for two rezones. They had quite a bit of input from the public. Someone from the audience asked if they could speak now about the rezone petition. Mayor Jenkins noted that that was what the public comments were on the agenda for. This is just a report from the Planning Commission. The Mayor noted that there will be another time at the end of the meeting. There was a question from the audience if that discussion would be after the vote. The Mayor noted that it would be. Bob Spencer reported that the Planning Commission recommended the zoning change of RE-20 to RE-15 for the Favero property. He also reported that they recommended the zoning change of RE-20 to RE-15 for the Wells property located on North Plain City Road. He reported that England Meadows was on the agenda for final approval of Phase 1. Bob mentioned that they gave final approval for Fox Subdivision. He noted that there were some concerns about the road issue between Fox and Weston's. The Planning Commission felt that this matter should be worked out between the two parties. Mayor Jenkins asked if they had any cost figures for that. Bob reported that he didn't. Bill Fox noted that he has got some figures. Bob noted that they approved the minutes. He also noted the Planning Commission is having an open house for the General Plan on the 24th.

A member of the audience reported that there was some misunderstandings about the procedural part of the meeting. Mayor Jenkins noted that the council is being asked to vote on rezoning a piece of property on North Plain City Road. Then there is another rezone petition of a piece that is part of the Favero property. This is the part that is in the city now. He explained that then there will be a final approval vote for a subdivision out on North Plain City Road. He noted that he is under the assumption that some think that tonight is a public hearing. He noted that the council will be setting two public hearings later in the meeting, one for Zion Development (Favero property) and one on the pioneer boundary annexation. He explained that the pioneer boundary public hearing may be set for 3-4 weeks away. He explained the procedure for annexation. He reported that if a public hearing is set, then notices will be sent out. He reported that affected entities are notified, not individual property owners. He mentioned that the notice is placed on the internet, the newspaper and the city office. At the time of the public hearing, the public is invited to give input to the council. He reported what an affected entity is. He noted that rezone applications are treated differently and every property owner within 500 feet is notified of the

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public hearing. Carl Miller noted that he thinks most of the people in the audience want to talk about the Zion Development rezone. Nealy Adams reported that he would like to see the pioneer boundary annexation project die. The Mayor thanked the audience for the input.

Motion for Ordinance: Rezone Petition – Jay & Dena Wells Property at approximately 2219 North Plain City Road – RE-20 to RE-15

Mayor Jenkins noted that this property has been petitioned for a zoning change from RE-20 to RE-15. He reported that across the street to the west is Grouse Meadows and across the street to the east is Still Creek Village (Orel England property). Tom Miller noted that these three pieces of property have already been annexed into the city. Councilmember White asked if all the property around this area is RE-20. The Mayor noted that the property along the sides are RE-20, but in the back it is still county and is zoned A-1. Bob Spencer noted that the Planning Commission voted unanimously in favor of the rezone. Bob Spencer also mentioned that two members from the Planning Commission were missing at this meeting. Councilmember Smith asked if the reasoning behind the vote was because of the PRUD. Bob Spencer noted that it was. Councilmember Smith asked about any comments at the public hearing. It was noted that there were no comments on this issue. **Councilmember Smith moved to adopt ordinance 2006-16 rezoning the Jay & Dena Wells property from RE-20 to RE-15. Councilmember Costley seconded the motion.** Councilmember Higley asked how this goes with the general plan. Bob Spencer noted that there are no conflicts. **Councilmembers Costley, Smith, White and Weston voted aye. Councilmember Higley voted nay. The motion carried.**

Motion for Ordinance: Rezone Petition for Zion Development – Favero Property (approximately 4900 W 1500 N) RE-20 to RE-15

The Mayor reported that there is a rezone petition for the front piece of Zion Development (Favero property). It is currently RE-20 and they are asking to go down to RE-15. This is the Eden property. It was noted that it is where the dairy sits. Councilmember Smith asked what kind of public input was at the public hearing with the Planning Commission. Bob Spencer noted that the developers were there and the public outcry was that it was not favorably received. The developers were very well organized and the Planning Commission had some concerns about accessibility roads and other issues. The developers want to work with the city and were very professional. Bob reported that there were a lot of people upset about the development. The Mayor noted that the only thing being discussed right now is an individual parcel being rezoned.

A member of the audience is not happy with the proposal and thought there was something passed by the council that lots can't go below 1/3 and 1/2 acre lots. He noted that they fought against a previous subdivision going smaller than 1/2 lots. He is against this 150%.

The Mayor noted that he and the council are voted in, just like anyone else could be. He noted that the city is constantly balancing the property rights of owners with people feeling exactly like many of you. He reported that what we worry about is people saying don't put that subdivision in and it goes in and now the people there are saying don't put that next subdivision in. We have developers who have done some of those subdivisions and they are beautiful and the people love living there. We feel they are a credit to the community. A member of the audience is concerned about the 1/4 acre lots. Mayor Jenkins noted that now there are PRUD's. The Mayor noted that we are really stepping out of bounds now, this is not a public portion of the meeting, but we understand there are concerns and we want to address it because we live here too. The Mayor noted that the city sees the PRUD's being very positive. They combine 1/4, 1/3, and 1/2 acres lots but the average of the property is less than two lots per acres. They provide amenities such as walking trails, parks, pocket roads, quieter roads, etc.

A member of the audience is concerned about the high school students that have to walk. She is concerned about the intersection of 4700 West and 1500 North. She feels that 267 homes will add a lot of cars that need to go through that intersection. She would like the city to address the cars and pedestrians in that area.

Another member of the audience noted that there was a map given out of the proposed subdivision. Mayor Jenkins noted that it was probably a conceptual drawing; we don't know right now how the development will end up. There will be a lot of give and take if the PRUD goes through. This is the first step. Tonight we are looking at rezoning a piece already in the city. Then later in the meeting we will look at setting a public hearing to annex the rest of that property into the city and they will be asking for zoning at that point. Someone asked what the

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zoning designation means. Mayor Jenkins noted that right now the zone is RE-20 (1/2 acre) and they are asking for an RE-15 zone (1/3 acre). She asked if the public would get to vote on that. The Mayor noted that the council will vote on that tonight. She asked how people in the area will know what is going on. The Mayor noted that notice has been given in the paper and on the internet. Someone asked if the Planning Commission felt they got positive feedback from the audience. The Mayor noted that there were some concerns. Councilmember Higley noted that there will be a public hearing set for the back part of the property. This is just for the 4.8 acres. Marilyn Lott asked if there was somewhere they could see the plot map to know exactly what is being talked about. Mayor Jenkins noted that you can get it off the internet. It was also noted that the notices are published in the Standard Examiner. One lady in the audience noted that she is concerned because according to the map presented at the Planning Commission meeting, her lot will back up to five homes. She is concerned with so many homes in a small area. Someone else noted that money is the only reason for rezoning a piece to 1/3 acre. A member of the audience noted that she objects to the Favero rezone and if you asked the audience at the public hearing, all were against it. Mayor Jenkins noted that we have to follow procedure. Someone in the audience noted that the council is supposed to represent the people, not just rubberstamp the subdivision. Councilmember Smith noted that the audience hasn't been involved in a PRUD. The Planning Commission and Council have a lot of say on what will be required of that development. A PRUD gives more leeway to the Planning Commission concerning the design and covenants to protect the people. Mayor Jenkins noted that things have changed from 20 years ago. He invited people to run for office if they don't like how things are. Councilmember Smith noted that through a PRUD, you get things like walking trails, parks, open space which you wouldn't get otherwise. Councilmember Weston noted that with this piece of property, you are talking about four homes difference. **Councilmember Costley moved to adopt ordinance 2006-17 rezoning the Favero property from RE-20 to RE-15. Councilmember White seconded the motion. Councilmembers Costley, Smith, White and Weston voted aye. Councilmember Higley voted nay. The motion carried.**

Motion for Final Approval: Fox Subdivision – 3900 W 1975 N

Councilmember Weston has to reclude himself because this piece of property affects him because he is an adjacent neighbor to it. Mayor Jenkins asked Bill Fox about a pioneering agreement for roads and sewer and improvements as opposed to an agreement on a cost basis. Bill Fox said he is working on a cost basis and the engineer is estimating \$200 per foot and will split the cost. He noted that the cul-de-sac would have to be on their property. The Mayor asked if he would be willing to have a pioneering agreement that would reimburse him the costs. Bill Fox said it would be fine. Concerning the Weston property, Bill Fox would be willing to work it out with Brent Weston. Councilmember Smith noted that Brent hasn't been contacted by Bill Fox. Mayor Jenkins noted that he is hesitant about giving final approval if there is an outstanding issue that could cause it to stop or alter significantly. Councilmember Costley is concerned about the front of lot 15. Bill Fox noted that it will be low profile curb and gutter and asphalt. It will not be road base. Bill noted that he will own lot 15. Don Weston asked what their share of the cost of the road would be. Bill Fox noted the total would be \$80,000. There was a discussion about the fluctuation cost of materials. Lisa Cox is concerned that after this is approved, there will be no control. Bill Fox said he would make it right. Councilmember White noted that we need to make sure the protection strip is taken care of which was addressed in the preliminary approval memo of the engineer.

Councilmember Costley moved to give final approval with the stipulation that the city engineer and Fox's engineer work out the radius of the turnaround to satisfy the property owners, include all 15 items from the city engineer's memo. Councilmember White suggested including item #9 from the city engineer's memo dated 05-05-06. **Councilmember Costley amended the motion to work out #9 from the city engineer's memo dated 05-05-06.** Mayor Jenkins asked Bill Fox if he could work that out. Bill Fox said he would. **Councilmember White seconded the motion. Councilmembers Costley, Smith, Higley and White voted aye. The motion carried.** Councilmember Weston came back to the council bench.

Motion for Final & Development Agreement – Hawkins Development – Stillcreek Village Phases 1A and 1B at approximately 3300 W North Plain City Road

Mike Flood noted that he has made the changes to the development agreement. Mayor Jenkins noted that phase 1A is only two lots. Phase 1B has 26 lots. Mike Flood reported that this is a 150 acre project that will take 6-7 years to build. He noted that they are purchasing the England property in increments. The reason for the sub-phases is for marketing. There will be patio homes, townhouses and single family dwellings within this development. He noted that he will put in two model homes in phase 1A. He will run the sewer and water off North Plain City Road. He understands that he would be able to obtain a building permit, but not receive

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occupancy on the model homes. He reported that the purpose of the model homes is so they won't have to bring in a sales trailer. Mike Flood mentioned that he will be bringing in phase 1C in another month. There will be 26 lots in that phase. He mentioned that phase 1C will attach to the lift station. He noted that phase 2 will come in the spring and then phase 3 which will have the club house. Councilmember Weston inquired about the fire flow test. Mike Flood noted that phase 1 will stand alone. The rest of the phases may have to hook into Remuda to get enough flow. It was questioned why the roads are named instead of numbered. Mike Flood noted that because the roads curve, a name was better. He noted that there will be street coordinates as well. It was noted that street numbers work better for emergency personnel. It was noted that there is property set aside for a backup generator building. It was noted that there will be gravel in front of the two lots in Phase 1A. **Councilmember White moved to give final approval to the development agreement with the changes Ken Bradshaw made and final approval of phases 1A and 1B of Stillcreek Village. Councilmember Costley seconded the motion. Councilmembers Costley, Smith, Higley, White and Weston voted aye. The motion carried.**

Set Public Hearing for Annexation: Zion Development (1295 N 4700 W) and Cicadis Property (850 N 5075 W) – Sept 7

It was reported that the council accepted the petition at the last meeting, but didn't set the public hearing. Councilmember White asked if there was time to get the notices out for a public hearing on September 7. It was noted that it was alright. Someone from the audience asked if this could be moved back two more weeks. **Councilmember White moved to set the public hearing for the annex petitions on September 7, 2006. Councilmember Costley seconded the motion. Councilmembers Costley, Smith, Higley, White and Weston voted aye. The motion carried.**

Set Public Hearing for Annexation: Pioneer Boundary Annexation – Sept 7

Mayor Jenkins reported that the public hearing for the pioneer boundary annexation could be held anytime after September 11. Mayor Jenkins is looking at either the 12th or the 21st. Councilmember White feels that it could be on our regular night of September 21. Councilmember Weston noted that he can't make either of those meetings. There was a question from the audience to see the map. Mayor Jenkins noted that he would show the map in the back after the meeting. Councilmember Costley said the 21st was good. **Councilmember Smith moved to set the public hearing for the pioneer boundary annexation for September 21, 2006. Councilmember White seconded the motion.** Councilmember Higley made sure the public understood that the public hearing for the pioneer boundary annexation would be on September 21. **Councilmembers Costley, Smith, Higley, White and Weston voted aye. The motion carried.** Mayor Jenkins noted that the public hearing has been set for September 21. That is over a month away. He invited the audience to contact anyone of them if they had any questions about this annexation. Mr. Moulding noted that setting the public hearing has gone against the rules in the Utah State Code. He feels that the public hearing shouldn't be held until October 2. He also cited a section of the Utah Code. Dave Barnes asked if this public hearing would be for the total boundary. It was noted that it is. Penny Barnes asked about the Mayor and Council actively going out to get signatures. Mayor Jenkins said he did. Mayor Jenkins noted that the city has over 50% of the property owners on the petition and can now proceed. After the protest period, the boundary commission will handle any protests. Councilmember Smith noted that the Mayor has been very patient tonight and didn't have to entertain public comments throughout the meeting. There was some discussion about some confusion on information that is out there. Mayor Jenkins noted that it is hard to fight miscommunications. He noted that everyone will be heard at the public hearing in one month. Leann Brinkerhoff asked if property owners will be notified. Mayor Jenkins noted that they will not be. Affected entities will be. Mr. Moulding asked about what he read from the Utah Code. Mayor Jenkins noted that the city will check it out. He noted that if Mr. Moulding is right, the city will have to change it. The Mayor again invited anyone interested to stay after the meeting.

Motion/Resolution: Septic Tank Demolition Rebate

Mayor Jenkins noted that when the sewer line went down 2200 North there were some concerns about the burden of the cost of demolishing the septic tank and the cost of hooking to the sewer. Councilmember Smith worked on an idea to give back to those residents a credit or rebate of \$1000. Verification would be obtained through the public works department in order to get the credit or rebate. **Councilmember Smith moved to adopt Resolution 2006-12 adopting a septic tank demolition rebate/credit program. Councilmember Costley seconded the motion. Councilmembers Costley, Smith, Higley, White and Weston voted aye. The motion carried.**

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Discussion: Detention/Retention Basin Maintenance

Mayor Jenkins reported that now there is a requirement for all subdivisions to have a detention/retention basin to hold their own water. In the past, the city has been deeded these properties and aren't maintaining them as well as the neighbors would like. One suggestion would be to have the property deeded to one of the neighbors and they would mow and maintain the area. They would not be able to alter the property, but they could put a swing set in there. The council liked the idea of that. It was noted that it would have to become a restricted lot.

Councilmember Costley mentioned that it would have to be looked at on a case-by-case basis. Councilmember Weston noted that the city would still have to have access to the property. Councilmember White thinks it's a great idea. He asked about North Ogden. Councilmember Higley reported that they are doing away with the small detention basins and going to big, regional basins. It was noted that Plain City is too flat to do that. Mayor Jenkins asked the council to think about this and he would put in on the agenda in a month. Someone in the audience had a question about what to do in the meantime. He is getting debris in his yard from Autumn Leaves Subdivision. Mayor Jenkins said he would work on it.

Discussion/Motion: De-annexation

Mayor Jenkins noted that the pioneer boundary annexation goes to 5200 W. If Warren were to incorporate, Plain City would allow people to de-annex back out of Plain City to go back to Warren. He noted that he is in favor of Warren incorporating and is willing to help them. He is willing to allow them to access our fire department. He also noted that the annexation won't affect the church, water or cemetery districts. Someone from the audience noted that the Warren residents want to establish a community. Someone else was concerned that the Mayor is aggressively getting people to sign the petition. Another resident wants Warren to maintain their own destiny. Mayor Jenkins noted that he is encouraging that. He also noted that the city has had an annexation declaration in place for many years. He noted that it goes to 6300 West. Mayor Jenkins again noted that if Warren incorporates and some of the residents want to go with Warren, the city will help. There was a question about the petition. Mayor Jenkins noted that the petition has to include over 50% of the property owners and over 33% of the assessed value of the property. Someone asked if the other 49% doesn't have a choice. Mayor Jenkins noted that the majority wants to annex in. If they want to go back out later, the city will let them. Someone noted that it would only be allowed if the property is contiguous. Again the Mayor invited anyone who was interested in seeing the map to stay after for a few minutes. Mr. Moulding asked if the city had a petition from the landowners. Mayor Jenkins noted that they do. It was noted that the city currently has a lot of peninsulas and islands. This annexation would clean that up. Mayor Jenkins noted that this proposed annexation will do this in one whole swoop. Mr. Moulding noted that it won't if there are 10% that protest. Mayor Jenkins noted that these people are driving on our city streets. Mr. Moulding noted that he drives on Salt Lake streets and he doesn't have to annex there. Councilmember White noted that the process would have to be followed to de-annex. Mayor Jenkins will have something drawn up about de-annexing if Warren incorporates.

Other Business

Approval of Business Licenses

Two licenses were presented for approval:

New

BSM Enterprises LLC	Rick & Sandy Poll	3112 W NPC Rd	internet sales
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Renewal

Butterfield Tree Service	Luke Butterfield	1677 N 2850 W	tree service & landscaping
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Councilmember Costley moved to approve the business licenses as presented. Councilmember Smith seconded the motion. Councilmembers Costley, Smith, Higley, White and Weston voted aye. The motion carried.

Approval of Unpaid Invoices

See warrant register dated 08-01-06 to 08-16-06. Councilmember Smith noted that the Roto-Rooter bill was for a blockage in the fire station sewer line. It appears to have been broken for at least eight years when the new city hall was built. He also noted that we will probably get a bill from Brad Barto who fixed the line.

Councilmember White moved to approve and pay the bills as presented. Councilmember Weston seconded the motion. Councilmember Costley, Smith, Higley, White and Weston voted aye. The motion carried.

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Comments: City Council

Councilmember Costley reported that there was a flood caused by irrigation along 2200 North. He noted that they are working on a solution to the problem. He noted that he would like to thank Terry Thompson and Sheriff Slater for the favorable response to the cities at the fair.

Councilmember Smith noted that there will be a meeting for establishing an emergency plan on August 31.

Councilmember White noted that he and Clark Jenkins were put on the cemetery board as of today. He also noted that he is coordinating some interest with the church concerning the Laurence Cove subdivision.

Councilmember Weston noted that there is increased traffic at the corner of Pioneer Village and Pioneer Road due to Fremont Estates. He is suggesting a stop sign on Pioneer Road. Deputy Rex Cragun will get a study done on that issue.

Comment: Public

Douglas Hansen asked if the council would be willing to postpone the public hearing on the pioneer boundary annexation until Warren incorporates. Mayor Jenkins said no. Mayor Jenkins noted that the city is willing to help Warren and will draft a resolution to that effect. Someone from the audience feels that Plain City has these people at a disadvantage. Mayor Jenkins noted that no other city is going to offer to help like Plain City has.

Troy Lund thanked Councilmember Smith for his work on the sewer rebate.

At 9:35 p.m. Councilmember White moved to adjourn and was seconded by Councilmember Weston. All voted aye. The motion carried.

City Recorder

Mayor

Date Approved