

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF PLEASANT VIEW CITY, UTAH**

October 8, 2019

The public meeting was held in the city office at 520 West Elberta Dr. in Pleasant View, Utah, commencing at 6:00 P.M.

MAYOR: Leonard Call

COUNCILMEMBERS: Jerry Burns
Ken Francis
Steve Gibson
Boyd Hansen (*absent*)
Sara Urry

STAFF: Laurie Hellstrom Bill Cobabe
Tyson Jackson Ryon Hadley

VISITORS: Ann Arrington Dave Wade
Spencer Bradley Brandon Martin
Alicia Lund Brent Bailey
Dana Shuler Lorin Gardner

Pledge of Allegiance: Leonard Call

Opening Prayer, Reading or Expression of Thought: Leonard Call

Declaration of Conflicts of Interest:

None were given.

Comments/Questions for the Mayor & Council for items not on the agenda:

None were given.

Youth City Council Report:

None.

Consent:

Motion was made by CM Gibson to approve the consent items (minutes of September 24, 2019 and September 25, 2019. 2nd by CM Francis. Voting aye: CM Burns, CM Francis, CM Gibson, & CM Urry. 4-0.

Business:

1. Discussion and possible action to consider adopting a Development Agreement between Pleasant View City and Wadman Investments, LLC, allowing for water and sewer connections to property outside the City limits and providing for water use restrictions. (Presenter: Bill Cobabe)

Bill Cobabe: just to point out a typo. This is October not August on the staff report. Just so you are aware this is an item with a lot of history. It would appear that at some point the City needed water up on the hill for growth and expansion of our system and an agreement was entered into with Wadman Corp and the City was made and there

was 200 water connections promised by the City to the Wadman Group in recognition with other interests given to the City. This agreement surrounds the idea of protecting our culinary water system up on the hill. As you know we have several properties up on the hill that use culinary water for irrigation purposes and it is excessive. They use a lot of water to water their property. And as was pointed out this water is treated, piped, pressurized and stored by the City and is quite valuable both monetarily and that this water is precious and we live in a desert. Water is a limiting factor on growth. Staff is aware of this and we are very concerned how the water is used in and by the City and by the residents and we wanted to make sure that this agreement is amending three previous agreements and would have enough teeth in it that it would enable us to go in an stop egregious and a disincentive to not misuse our valuable resources. Staff wrangled with this for months with attorney and property owners who are willing because of our concerns, their attorney drafted this agreement. As it pointed out in the memo this is not perfect. It is not something given hindsight maybe we would have not done this but had just purchased the land out right from the Wadman Group and not entered into this agreement at all. That is not where we are. We are in a place where we have made an agreement to give them water and what staff and attorneys wrangled with and how to make this useful and enforceable and good going forward, not perfect because we can't make perfect the enemy of the good. But something both parties could agree to and go forward. This agreement says the property owners will not use culinary water for outside purposes. And what we struggled with how do we enforce that and make sure they are not using water for outside purposes and what we came up with was the idea that these properties will have water meters on the properties and we gave them a generous monthly amount of water for domestic indoor use and if they were to exceed that given amount in a month which is 15,000 gallons then there is a \$5,000 penalty that could be imposed. I say could be because there is a clause in there that an inspector will go up there and make sure that the water is being used for indoor purposes. After the inspection is made and it is obvious that they are watering a half acre of grass then the \$5,000 would come into play and the penalty would be enacted. We left that as a relief valve in the event that they did go over in a particular month because one of the kids left the water running while they went on vacation when they didn't use water outside. This is the item that is in front of you tonight. The developers are anxious to use their property. CM Urry: I have some language changes. The word 'shall' is definitive and binding. So in the contract under item #3 under culinary water service - change to 'the city 'shall' charge'. Bottom of same paragraph change to 'owners shall install the booster..' . Paragraph #4 change to 'shall not use'. Third line from the bottom 'may' to 'shall' use culinary water outside. Subsection a. owner 'shall' give the city written notice. Second line from the bottom the City 'shall' waive the monthly penalty Change the 'will' to 'shall'. CM Burns: I'm not seeing the difference. Mayor Call: you are on the staff comments go to the last pages. CM Urry: I am now on page 32 of 38. On item #8 there 'shall' only be three lots on the property. On the last page 33, 'shall' be held responsible for and inspector shall inspect the property. Bill Cobabe: the words preponderous or substantial was debated one which word to use. Preponderous you have the bulk of significate evidence rather we feel that it is. Substantial is around 50% and the preponderous of evidence is going to be the meter is over. CM Urry and change to 'and 'shall' enforce its rules'. CM Burns: I appreciate these two gentlemen in being patient and working with the concerns of the city. In the

fact that we have three legal documents requiring the city to provide water I think we have no choice if we want to be responsible. We have two good families here that want to build homes and we have a legal requirement to provide water. I think they have proven that they will follow the guidelines as well as the legality of water use in that area. I am in support of this agreement. CM Francis: I echo what you are saying and I am in favor of doing what we need to do to make this right. My question is we are giving 15,000 gallons of water and we have a penalty if they go over that but what if you see that person out there watering their land and they stay within the 15,000 gallons? If I am in Pleasant View and I am done that I could be fined. There is nothing in there that addresses that if they stay within their 15,000. Do we want to have something in there like that or is that opening up a whole other issue? Mayor Call: it states no use of culinary water for secondary water. I do have a concern that was just brought to me by staff and I think we could add that into item #3 under culinary water services and that is the culinary water service will adhere to the city's standards for installation. We don't want it to be substandard. Bill Cobabe: we are going to put that into the will serve letters that we provide. A will serve letter is a soft agreement that we have the capacity and if they build out to our standards we will give them water. We provide the letter first and then they use that to get approvals through the county and then we follow up through construction documents and a preconstruction meeting. Laurie Hellstrom: I would like to see a clear development agreement that we know what we are doing, the developers know what they are doing and there are no questions on what to do and what to pay. What if a new owner comes in, how do they know what is expected if it is not clear? These developers have been in meetings they know about the agreement. If I read it as someone new, it is vague. In this agreement we are also adding sewer and that we will be giving them three sewer connections. It doesn't say they have to follow our sewer regulations and if they don't pay their bill it doesn't say we can shut them off. And the same with the water. It was listed in the prior agreement but not this one. How are we going to bill them? If they don't pay in three months can we go shut them off? If a resident has a water leak we have a policy that says we will help you write off the bill. So if they really an emergency up there and they had a leak, that provision is not in there so they don't get to have anything written off. Those things need to be in here. Because they are developing in Weber County what rules are they going to be following in Pleasant View? Are we going to be able to inspect in Weber County? The lots should be restricted lots so that if anyone buys those lots they know to refer back to this agreement on how they are to use the water why this agreement has been put into place. There is a lot that is missing in this agreement. The prior agreement states that this is not a guarantee that they can subdivide. Should that be put back in? Mayor Call: a couple of things that we should look at. We need to call out in the recitals that this agreement is not superseding the other agreements. Those agreements are well beyond this. Maybe we need to change the development agreement to be a will service agreement and water use restrictions and keep it applicable to the water as it relates to those prior agreements. CM Francis: it says that it does replace those ones. Bill Cobabe: item #12 says this agreement shall supersede all prior agreements with respect to the subject matter hereof. Laurie Hellstrom: so what are you getting rid of and what are you keeping? Bill Cobabe: and all prior agreements and understandings are merged and superseded by this agreement. Laurie Hellstrom: yes. It is confusing. CM Francis: yes. That has to be changed. Bill Cobabe: but on regards to the subject

matter. CM Francis: that would be easy to fix. CM Urry: are we whitening out #12? Mayor Call: no. Laurie Hellstrom: see, we are debating right now what it is. Mayor Call: this agreement is not be inclusive of all things that they are doing up there. This letter is basically to provide them a will serve letter and restrict the use of our culinary water to culinary water. That is what this agreement is for. Bill Cobabe: it doesn't have anything to do with the tanks or the conveyance of property those where covered by the previous agreement. It does say that the remnant parcel is addressed and the city can hold onto that. Laurie Hellstrom: if I was Randy Marriot and I had this agreement with 200 lots and I saw that the City only gave three lots that would mean I have 197 lots. Is there an agreement between you two saying that you get 30 lots and Randy Marriott gets 170 lots? Spencer Bradley: yes. Laurie Hellstrom: I would like to see that agreement. CM Urry: it is just a safety measure for the city. Laurie Hellstrom: the water rates are actually giving them more of an advantage than it is to our own residents. We have a rate schedule and if you go over those rates you have a penalty by paying that amount. With these guys, knowing that they don't have the rights to use our culinary water for watering outside, maybe we should create a rate for them. The average water user in Pleasant View City uses about 4,000 to 6,000 gallons of water a month so you are giving them the benefit of up to 15,000 gallons. Create a schedule so maybe at 15,000 gallons or whatever amount you decide on the rate is maybe \$5,000 per gallon so they pay it now and we don't have to prove. In this agreement we are the ones that have to go up and prove that they are using water and by the time they have used that water we can't prove it. CM Francis: it is on the meter. Bill Cobabe: you only have to use the meter. CM Francis: you look at the meter but also do reasonable inspection and if they have green grass then it is pretty much preponderous evidence that sets in. Laurie Hellstrom: it is written so that the burden is on us to prove. They are going to keep using the water up to the 15,000 gallons. CM Francis: it is not proof beyond reason. I'm comfortable with that with preponderance of evidence. Preponderance is a pretty low standard. CM Burns: we are treating them like any other resident. There is more teeth in this than any other resident would be required to commit to on water use.

Motion was made by CM Burns to approve the document as written with the language that was suggested with the changes to 'shall' and the language in the culinary water services that they will abide by the standards in the of the City. 2nd by CM Francis.

Discussion. CM Gibson: where are the rates? CM Urry: on item #3. The city shall charge the standard water service fees for three lots. What does the county require you do to for secondary water? Brad Spencer: They don't require it.

Voting aye: CM Burns, CM Francis, CM Gibson, & CM Urry. 4-0.

2. Discussion and possible action to enter into contract negotiations (scope and fee) with Bonneville Acquisitions for the Property Acquisition Services for the Zone 1 Reservoir and Transmission Line Project, with the possibility of expanding the scope of services. (Presenter: Dana Shuler)

Dana Shuler: there were five proposals. I recommend entering into negotiations with Bonneville Acquisitions. The scope has changed to expand to an as needed basis for a period of time. CM Burns: how do we pay? Dana Shuler: need to negotiate. CM Gibson: we need a future source. We have not used WBWCD. Tyson Jackson: only with emergencies. CM Gibson: it has been off for a few years. Tyson Jackson: we

have worked with WBWCD to set it out five to six years. CM Gibson: but we need the land. Bill Cobabe: the ERU usage was revised. CM Gibson: I feel like I have been lied to. CM Urry: this is just to acquire the property. Dana Shuler: we want the property before Skyline Drive is in. CM Burns: the staff will work on the fees. Dana Shuler: the contract with come to you guys.

Motion was made by CM Gibson to accept Bonneville Acquisitions for the property acquisition Services. 2nd by CM Burns. Voting aye: CM Burns, CM Francis, CM Gibson, & CM Urry. 4-0.

3. Discussion and possible action to grant final subdivision approval to Highland Meadows a 10 lot subdivision at approximately 4260 N 1100 W.

Requester: Brent Bailey. (Presenter: Bill Cobabe)

Bill Cobabe: they are requesting final plat. The outstanding conditions are the basin, connect to Pineview Water and they need to annex in, and the protection strip in packet now and dedicated it to the city. CM Urry: the staff report states 20 lots but there are 10 lots. Bill Cobabe: that is a typo.

Motion was made by CM Gibson to grant final subdivision approval to Highland Meadows for 10 lots subject to the noted changes. 2nd by CM Burns. Voting aye: CM Burns, CM Francis, CM Gibson, & CM Urry. 4-0.

4. Discussion and possible action on approval of Change Order 2 for the 2019 Street Maintenance Project (a joint project with North Ogden City.) (Presenter: Dana Shuler)

Dana Shuler: patches needed to be done that were not in the original bid order. The change order is for \$6,245.00 for Pleasant View City's portion.

Motion was made by CM Francis to approve the Change Order #2 for the 2019 Street Maintenance Project. 2nd by CM Gibson. Voting aye: CM Burns, CM Francis, CM Gibson, & CM Urry. 4-0.

5. Discussion and possible action to grant a Local Consent for a Special Use Permit Pursuant to Department of Alcohol Beverage Control, State Code 32B-10 for CSM Bakery at 1400 W 2700 N for the use of alcohol as a functional ingredient in icing. (Presenter: Laurie Hellstrom)

Motion was made by CM Gibson to grant a Local Consent for a Special Use Permit Pursuant to Department of Alcohol Beverage Control, State Code 32B-10 for CSM Bakery at 1400 W 2700 N for the use of alcohol as a functional ingredient in icing with Ryan Barker's approval (Fire Marshal). 2nd by CM Burns. Voting aye: CM Burns, CM Francis, CM Gibson, & CM Urry. 4-0.

6. Discussion and possible action on approval of the Adequate Public Facilities Determination for Rocky Meadows Subdivision, Phase 1. (Presenters: Bill Cobabe and Dana Shuler)

Bill Cobabe: this was Maycock Moore Subdivision. The met all the requirements except this one with conditions. Dana Shuler: Pineview Water didn't cover all the acreage in the subdivision.

Motion was made by CM Gibson to approve with conditions-final plan approval by city engineer and a full will-serve from secondary water provider. 2nd by CM Urry.
Voting aye: CM Burns, CM Francis, CM Gibson, & CM Urry. 4-0.

7. Closed Meeting.

No closed meeting.

8. Discussion and possible action from the closed meeting.

No closed meeting.

Other Business:

See the RDA minutes of October 8, 2019

Adjournment: 6:57 P.M.