

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

August 27, 2019

The public meeting was held in the city office at 520 West Elberta Dr. in Pleasant View, Utah, commencing at 5:05 P.M.

MAYOR: Leonard Call

COUNCILMEMBERS: Jerry Burns
Ken Francis
Steve Gibson
Boyd Hansen
Sara Urry

STAFF: Laurie Hellstrom Bill Cobabe(*absent*)
Tyson Jackson Ryon Hadley
Ryon Hadley Allison Christensen
Marcie Stromberg

VISITORS: *see the last page of minutes*

Declaration of Conflicts of Interest:

None were given.

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

Mayor Call: Jay Palmer's last day is Thursday. The new PWD is Tyson Jackson.

Business:

1. Discussion and possible action to appropriate unclaimed property to the General Fund. (Presenter: Marcie Stromberg)

Marcie Stromberg: this is unclaimed property from the police department back in 2007 and older. I have followed the Utah Code and Evidence Best Code Practices. I am asking to move this unclaimed property to the General Fund.

Motion was made by CM Gibson to appropriate unclaimed property to the General Fund as presented by Marcie Stromberg. 2nd by CM Francis. Voting aye: CM Burns, CM Francis, CM Gibson, CM Hansen & CM Urry. 5-0.

2. Presentation on the Recreation Activities. (Presenter: Allison Christensen)

Allison Christensen introduced Ambree Burgraaff as the Youth City Council representative for the council. Allison Christensen updated the council on the recreation department and the youth city council activities.

3. Discussion and possible action to purchase an Air Conditioning System at the old city office building/recreation buildings. (Presenter: Allison Christensen)

Motion was made by CM Francis to approve the purchase of an air conditioning system from Anderson HVAC in the amount of \$3,037. 2nd by CM Hansen.

Discussion regarding the heating unit.

Motion was made by CM Francis to amend his motion and approve the purchase of an air conditioning system from Anderson HVAC in the amount of \$3,737 to include both the air condition and heating units. 2nd by CM Hansen. Voting aye: CM Burns, CM Francis, CM Gibson, CM Hansen & CM Urry. 5-0.

4. Presentation from UTA regarding current services, community engagement and future service planning. (Presenter: Beth Holbrook, UTA Trustee)

Beth Holbrook, UTA Trustee gave a presentation to the city council regarding UTA's services and future services.

5. Canvas the 2019 Municipal Primary Election. (Presenter: Laurie Hellstrom)

Laurie Hellstrom presented the canvas documents. The city council needs to declare nominated the six candidates that had the highest number of votes for the 4-year term being: Ann Arrington, Sara B. Urry, David Marriott, Boyd N Hansen, Toby Mileski and Dave K Wade. And declare nominated the two candidates that had the highest number of votes for the 2-year term being: Kevin Bailey and Gary Lindley.

Motion was made by CM Gibson to declare nominated as stated above. 2nd by CM Francis. Voting aye: CM Burns, CM Francis, CM Gibson, CM Hansen & CM Urry. 5-0.

6. Presentation from WCEC Engineers on Skyline Drive with regards to right-of-way acquisitions, design, public involvement, grading package.

Gary Horton with WCEC gave a presentation on Skyline Drive.

7. Discussion and possible action to consider a conditional use permit application for temporary extended operations for Towers Sand and Gravel, LLC – Butters. (tabled from August 13, 2019).

Mayor Call: in working with our attorneys and other considerations we are struggling with the C.U.P. I am not sure of and I hate the name of it. I am going to give some background for this permit. Approximately four to five weeks ago hauling started. Butters provide the product and companies haul it. I believe it was stated last time that there were 144 trucks hauling at night and that is 288 trips of trucks on the road. That means there is a truck on the road all the time. Many of you called and complained and we were caught off guard. One of the police officers stop a truck to see what was going on and that triggered a call from Joe Chambers and Kevin Butters and they believed they had the right to carry on that night time hauling. I cannot find anything in writing or supporting that. In our meeting two weeks ago I mentioned some concerns and expressed that the city has the laws and the courts tells us what we can and can't do and we have crafted a law according to what they say we can or can't do. The flipside of this is we, the city, are really not the problem. Many of you called UDOT. We asked UDOT for a copy of the contract. They suspended some operation and that was their prerogative. I stress to you, you are the people that need to be please with this. We will never eliminate the truck travel until we get the haul road. The problem is the 288 trucks in the middle of the night. And that was not the city that causes Towers the problem. You have every right to do that and I applaud you for taking the time to express your concerns with us and with them. That is the way this county should work. I have not received any complaint with people not being civil. That is my compliment to

you. The point I want to stress is they are our neighbor and they are in our city and they have threaten us to leave but they will still use our roads whether it is new access road or the current access road. The problem is not going to go away by disconnecting from the city. Their problem is going to be our problem because you guys are not going to leave this meeting and shrug this off because if they decide to start hauling again in the middle of the night we will continue to find what we can legally do and can't under the court orders that have been put out and the stipulations that have been made and try to get clarity. As I have looked at this and talked with Bill Cobabe and our attorney this is something that should be in a different area of the code. They have rights and they know what their rights are and we are not going to grant them any more rights than what they are legally entitled to already. So we are not going to entertain a C.U.P as far as that goes because we don't even know what to do with it. We either need to strike it from the code or move it to another area or come up with a different way so that they can notify us, the city, to work with you, the citizens, of special projects or whatever they are going to do that is extraordinary and outside of normal business but still within the law and their rights. We would like to notify you or have them notify you or whatever that solution is. But for us to sit here and say you can do this in which we are not inclined to do. Having said that, I would really, really stress and beg Butters, Towers Sand and Gravel or whoever or who is doing the hauling to reevaluate their business model because apparently it is not working because they are in jeopardy of losing this business because of the way they are conducting their business. I recommended that they haul the product during normal business hours or stage it somewhere. I know that it is an economic hit but they can negotiate that during their contracting but it is more of an economic hit to the haulers than it is to Butters. They are going to provide the product and haulers are going to pay x amount per ton. It is not probably their best solution but I guarantee that having a contract and making 95% profit vs 100% profit is better than 0% and you don't get a contract because you are going to haul in the middle of the night and everyone is going to call and get the contract bounced. That is not going to do a business any good. I would invite Joe Chambers, Kevin Butters and other Butters to continue the dialogue with the city. We will work with you but this C.U.P is not the route we want to take. We want to help you solve your problem and come up with solutions. We are working a multi-million dollar solution and it is time sensitive and yours is time sensitive and I don't want to put this off. Bill Cobabe is not going to be in this week so we will have to do the engagements next week and get with our attorney, Joe Chambers and Kevin Butters and other Butters or whoever represents Butters. It is Kevin Butters or someone else we should talk to?

Joe Chambers: Ernie Butters is the CEO but he turned it over to Craig Butters and Kent Butters and delegate to Kevin Butters and Tyson (grandson) in the pit.

Mayor Call: we need to work with them like right away to discuss some of these different options. The city's position is that we are not going to grant a permit to you for two years and allow 24 hours a day hauling. Have I misspoken?

The council: no.

Mayor Call: Joe, do you have anything you would like to add?

Joe Chambers: good attorneys win cases and great attorneys find win win solutions for both sides. For the last 30 years I have taken the approach how can we have a win win situation and not just for Butters. The alternative haul route is the chose. I don't want to add anything negative but when Bill Cobabe said that they are working on it I

have heard that before. We are not in the loop on that. The last two weeks I have had no contact from anyone about potential solutions. I know that you guys are in a really hard place. There is a provision in the ordinance that talks about temporary and I know that two years is not..., but we applied for a C.U.P. and addressed the four issues and Bill Cobabe indicated that the city council is the determination authority for this. Under the land use code it is a land use decision maker but because it is not under the zoning codes I don't know what the proper terminology is for this. You have your zoning powers and your safety powers and somewhere in the middle where they cross you have a hybrid. Without waiving the Butters' position on this, we would like to work with you on this. We addressed the four issues from a safety concern because that is where the ordinance is but not from a land use because that is not where it is at. I am willing to sit down with the city attorney. I know things don't happen overnight. I am hoping for an open dialogue. This is the second trip I had to make to Ogden today. I would be happy to meet and we should be able to come up with some solution. One citizen suggested hauling one night on 500 W and one night on 900 W, etc. and that way the city council would have everyone in the city mad at them and then you would come up with a solution. The point is, let's get everyone involved in this and if anyone has a solution I would like to hear it. I would hate to see the council turn it down. I don't mind tabling it for a few weeks.

Mayor Call: we are not going to take any action. I don't think this is the appropriate way to do this. We will all get together. This may be the way to do this. I don't know.

Joe Chambers: your ordinance doesn't define what is temporary.

Mayor Call: I will tell you what we will be looking for. We still need to know the terms and what they operating under and when they are hauling. Different haul routes will only make more residents mad and won't change anything. But what that means is there will be three times more people calling Whitaker, UDOT or whoever, complaining about nighttime hauling. They know there is a gravel pit up there and they know you have to haul gravel off the mountain and you have that right. The matter is when. If you are on this road at night when they are hauling the people are not getting any sleep. I am looking for a solution.

Joe Chambers: I was hoping because I talked to Kevin Butters and he indicated that if we could secure a temporary right of access along the Skyline Drive Corridor they could cut a road in for the trucks and that could probably be done this year.

Mayor Call: WCEC is the firm that is doing the right-of-way acquisition and it might help to have him at the meetings. Let's get together and invite him because he would know about a possible road cut for hauling. They have been dealing with the property owners and Mr. Marriott.

Joe Chambers: the more we talk about the road the higher the price becomes. I don't mind to using our eminent domain power for a temporary use to solve this. I see this as safety as well as public welfare problem.

Mayor Call: Butters has an interest. They want to sell the product and if they can't sell the product because of a disruption to the neighborhood that is a business problem. That is not necessarily our job to solve a business problem but it is our problem to work with you to solve their problem. These are the people we need to solve the problem. Their problem is your problem now because of the calls and the concerns that they reached out on.

Joe Chambers. The other solution is to work with Jerry Larson to secure his property and put a staging area down there.

Randy Bates: I worked on this. This has been a problem for 25 years. I work with UDOT Region I and got them to stop the trucks a few weeks ago. It is up to us to get on this. And if it drives us insane they will stop them. We need to put the pressure on them. Does Randy Marriott own property?

Mayor Call: he sold to Staker Parsons.

CM Urry: he owns some property.

Julie Farr: I appreciate you not supporting a C.U.P. As citizens we can do more. Make the calls to UDOT Region I, Dick Saunders, and call Wadsworth in SLC and Whitaker in Brigham City. Whitakers want to be good neighbors. Mike Skeen is the project manager. I have his number and he has been helpful. I sent thank you cards to Whitaker for not using this pit. They are aware of the situation and they are using another pit even if it costs more money. If you take the night trucks and condense them during the day there is also a problem. What about a circular route for the trucks for special projects and use 1100 W, 500 W and 600 W? Some complain about a blind curb on 1100 W but not if you are going up. Sidewalks are an issue. 4300 N doesn't have sides and is completely narrow. Imagine two trucks passing on a narrow road with no curb and gutter and no place to get off the road. Have you considered a circular route? To say you will have more citizens angry is a politician speaking. School kids on the streets is minimal when look at 500 W with kids driving.

John Hendrickson: I suggest that you stand by your ordinance. You have a strong hold. Get a road cut and it doesn't have to be a legal road and get state funding. I encourage you to do everything to get them off the road. I appreciate what you have done. Thanks.

8. Discuss the gravel trucks and related codes. (Presenter: Bill Cobabe)

Item was removed from the agenda.

9. Discussion and possible action on approving the disposal of surplus property, Parcel No. 19-087-0011 (non-abandoned Evergreen Detention Pond property, 0.60 acres). (Presenter: Bill Cobabe)

CM Gibson: if the church interested in it? Mayor Call: we need to surplus it.

Motion was made by CM Gibson to approve to surplus the surplus property (Parcel No. 19-087-0011). 2nd by CM Hansen. Voting aye: CM Burns, CM Francis, CM Gibson, CM Hansen & CM Urry. 5-0.

10. Discussion and possible action to approve a 3-year lease purchase agreement for Police Fleet Vehicles with Zions Bank Public Finance. (Presenter: Ryon Hadley)

Motion was made by CM Gibson to approve a 3-year lease purchase agreement for Police Fleet Vehicles with Zions Bank Public Finance and the Resolution 2019-H. 2nd by CM Francis. Voting aye: CM Burns, CM Francis, CM Gibson, CM Hansen & CM Urry. 5-0.

11. Discussion and possible action to approve the purchase of a Plow and Bobtail Dump Truck. (Presenter: Jay Palmer)

Motion was made by CM Francis to approve the purchase of a Plow and Bobtail Dump Truck as recommended from Rush in the amount of \$117,200 (cab & chassis) and Williamsen-Godwin in the amount of \$81,150 (body and equipment) for a total of \$198,350 both the low bids. 2nd by CM Gibson. Voting aye: CM Burns, CM Francis, CM Gibson, CM Hansen & CM Urry. 5-0.

12. Discussion an possible action to purchase crack seal in the amount of \$18,885.00. (Presenter: Jay Palmer)

Jay Palmer: see new memo.

Motion was made by CM Gibson to purchase crack seal in the amount of \$18,369. 2nd by CM Burns. Voting aye: CM Burns, CM Francis, CM Gibson, CM Hansen & CM Urry. 5-0.

13. Discussion an possible action to adopt a Position Exemption Policy in the Utah State Retirement Systems. (Presenter: Laurie Hellstrom)

Motion was made by CM Hansen to adopt a Position Exemption Policy in the Utah State Retirement Systems, Policy 2019-3. 2nd by CM Urry. Roll call vote. Voting aye: CM Burns, CM Francis, CM Gibson, CM Hansen & CM Urry. 5-0.

14. Closed Meeting.

No closed meeting.

15. Discussion and possible action from the closed meeting.

No closed meeting.

Other Business:

Ryon Hadley: we have a new hire. Bill Aeschlimann and 21 year veteran. Officer Benson earned his Master III. The new hospital is keeping us busy. We had 5800 cases this year which is down from last year.

Jay Palmer: the road project is almost done. Tyson will come back with a striping bid.

CM Hansen: should there be a three-way stop on 3200 N? Ryon Hadley: the would be backup to the east. CM Hansen: there is already a lot of activity at the new school. Mayor Call: what about the school crossing sign? Jay Palmer: it takes a month to get and the got our order wrong. CM Hansen: the school should open late October.

CM Burns: four of five Eagle Scout projects are completed. The Malmborg site on 1100 W needs to be addressed. Mayor Call: that is a costly fix. Bring your ideas to the special meeting. CM Burns: we could at least cut the trees as phase 1.

Adjournment: 8:34