

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS, EPHRAIM CITY HALL
5 SOUTH MAIN, EPHRAIM, UTAH
APRIL 6, 2022
6:00 PM

CALL TO ORDER

The Ephraim City Council convened in a Regular City Council Meeting on Wednesday, April 6, 2022, in the City Council Room. Mayor Scott called the meeting to order at 6:00 p.m.

OPENING CEREMONY

At the invitation of the Mayor, Jeff Hermansen offered an invocation. Jon Knudsen led the audience in the Pledge of Allegiance.

ROLL CALL

MEMBERS PRESENT

John Scott, Mayor
Tyler Alder,
Mayor Pro Tem
Margie Anderson
Alma Lund
Richard Wheeler
Lloyd Stevens

STAFF PRESENT

Shaun Kjar, City Manager
Daniel Van Beuge, City
Attorney
Leigh Ann Warnock,
City Recorder
Bryan Kimball,
Community Development

Devan Fowles, Planner
Jon Knudsen, Finance Dir.
Jeff Jensen, Public Works
Aaron Broomhead, Police
Jeff Hermansen, Fire Chief

PUBLIC COMMENT

Russell Welch, resident of Ephraim. At the last meeting he commented briefly on the Muddy Boys proposal because the proposed traffic increase on 400 W is of concern. 400 W is not a platted street as of now. It is an easement because the utilities go down there, but all the existing road is on the property of residents. 400 W from fence line to fence line is about 34'.

APPROVAL OF WARRANT REGISTER

The Council reviewed the Warrant Register of April 5, 2022.

Councilmember Alder moved to approve the April 5, 2022, Warrant Register as presented. The motion was seconded by Councilmember Lund. The vote was unanimous. The motion carried.

APPROVAL OF MINUTES

The Council reviewed the minutes of the March 16, 2022 Work Meeting and Regular City Council Meetings.

Councilmember Anderson moved to approve the March 16, 2022, Council Work Meeting and Regular City Council Meeting Minutes as presented. The motion was seconded by Councilmember Wheeler. The vote was unanimous. The motion carried.

LIONS CLUB

The Lions Club is planning the Easter Egg Hunt and the cost of candy has gone up exponentially. Lions Club fundraises but requests a \$500 donation from the City to help with that expense.

Councilmember Anderson moved to approve a \$500 donation to the Lions Club for candy for the Easter activity. The motion was seconded by Councilmember Wheeler. The vote was unanimous. The motion carried.

CONSTRUCTION OVER UTILITY EASEMENT: PRESTON PRITCHARD

This item calls for discussion and possible approval of a petition by Preston Pritchard to build storage units over the sewer easement located at approximately 20 E 200 N. At the previous meeting, an ordinance was approved allowing for building over utilities if approved by Council. Mr. Pritchard is proposing storage units behind the pawn shop. Many staff discussions have occurred. The existing sewer pipes on this property are 70 years old, other pipes in the City have been relined to prolong the life of those pipes. If that process is approved for this property, they would like to delay construction until those pipes have been lined. The Planner's office has made sure the neighbors are aware and approve if they have affected laterals. Knowing the potential future of the area, it is suggested the applicant accept liability if issues arise during and after construction in an agreement.

Pritchard's must obtain a standard zoning and building permit as well as sign a development agreement spelling out the terms. That agreement will be recorded against the property.

There is no fire hydrant within the required distance for the property. Recommendation from staff would be for the property owner to install a fire hydrant within 200' of the property as approved by the Fire Chief.

Councilmember Alder moved to approve a petition by Preston Pritchard to build storage units over the sewer easement on his property located at approximately 20 E 200 N according to staff recommendations. The motion was seconded by Councilmember Anderson. Councilmembers Wheeler and Stevens voted no. The motion carried 3-2.

MUDDY BOYS SUBDIVISION LAYOUT

Clayton Holbrook, representing Muddy Boys, presented their plans for a subdivision. Options discussed included a cul-de-sac which would be allowed under the current zoning.

They understand the City would eventually like a road to come through that development, so they have tried to make that happen. Another option discussed could include a gravel turn-around which would allow 300 W to be developed. Neither of the options discussed would affect the existing park in any way.

Tonight they are asking for a rezone and a decision on the layout of the road so they can get some engineering done. Staff preference would be to plan for a future road on 300 W.

The Council said they were not interested in purchasing property for \$60,000 plus improvements for the road.

Councilmember Lund moved to approve potential subdivision and approval of hammerhead road layout for property located at approximately 200 S 300 W. The motion was seconded by Councilmember Wheeler. The vote was unanimous. The motion carried.

ECO 22-10L LAND USE MAP AMENDMENT: MUDDY BOYS

This item calls Adoption of ECO 22-10, an ordinance amending the Ephraim City Land Use Map on property located at approximately 235 S 400 W from Residential Agricultural (RA) to Medium Density Residential (R3). Staff recommended approval of the change to the R3 zone as had Planning Commission.

Councilmember Anderson moved to approve ECO 22-10 an ordinance amending the Ephraim City Land Use Map on property located at approximately 235 S 400 W from Residential Agricultural (RA) to Medium Density Residential (R3). The motion was seconded by Councilmember Stevens. The vote was unanimous. The motion carried.

PUBLIC HEARING: SWAG PROPERTIES, LLC

A public hearing was opened for the purpose of receiving public comment regarding a request by Swag Properties, LLC to amend the Wakara Point Subdivision Plat to vacate a public access easement across the west property line of lot 11. Wakara Point Subdivision is located on the north end of town by the carwash and Layton Autobody at approximately 65 E 700 N. A public access easement exists on the property, and the applicant has requested the public access easement be vacated.

Robby Layton, owner of Layton Autobody asserted that he regularly used the easement for access of large trucks to his adjoining property, until Swag Properties developed and blocked it. He commented he would still use it if it was not blocked off and requested it remain a public access. He stated he has experienced a loss of business by not being able to use the easement because larger vehicles cannot access a certain portion of his building without using that easement. No documentation was presented to prove loss.

Kenny Hardy, owner and developer of the property in question, stated the nature of the easement recorded is a public access easement for the public's use. He said the original intent of the easement was to provide access to a land parcel that was landlocked before it was subdivided. Since the property is no longer landlocked, he felt the easement should therefore be vacated as they stand to lose millions of dollars if they cannot obtain occupancy of their completed development.

Craig Rasmussen, a member of the Planning Commission, stated it was represented to the Planning Commission that the two parties were instructed by City planners to settle the issue before building. An assumption was made by the Commission that since plans were resubmitted, that they had worked it out. That was not so.

Mayor Scott asked Bryan to comment on the original easement. Bryan commented that the original easement was set up to serve a landlocked piece on the NE corner of the subdivision. Since that time, amendments have been made to the property by Robby Layton, combining the two lots into one, which now fronts on a public street, thus removing its landlocked status. When the two lots were combined, the original public utility easement and public access easement, which extended across the now combined lots, were granted approval by the City to be vacated at that time. Mr. Hardy is now asking the City to approve the same thing on his property that was previously approved for Mr. Layton on the adjacent lot. State code requires good cause for an easement to be vacated and that neither public interest nor person be materially injured.

The City attorney, Chad Woolley, reiterated what Bryan said and added that material injury by Layton Autobody would need to be substantial and documentarily proven. Under the current circumstances, Mr. Hardy is probably suffering more materially. Mr. Woolley counseled them to consider whether vacating the easement would materially injure anybody.

Mayor Scott outlined the three things he felt were important to consider:

1. Would the easement cause material injury to either party?
2. If so, who and is it, and is it the public or an individual?
3. If individual, then who, and how are they materially damaged?

It was again pointed out that Mr. Hardy would be materially damaged because he cannot, under the current circumstances, open his facility, and that the issue is that it is a public easement, not a private easement. The affected properties are no longer landlocked; therefore, the easement is no longer needed.

Robby Layton said he built his \$4M autobody shop three years ago because there was an easement. and repeated that he would be materially damaged if this easement goes away.

City Planner Devan Fowles commented that State Code says if a property owner places improvements over an easement, they shall bear the loss or damage. Based on State and City code, and a zoning permit issued, the City is covered. “We didn’t miss it; the warnings to the developer were there at the beginning, and it ended up happening anyway.” Mr. Hardy is trying to vacate the easement after building over it rather than before. Either we approve vacation or Mr. Hardy clears out the easement, or he goes to the next level of the court system to challenge the decision of the City Council.

No further comments were received. The public hearing was closed.

SUBDIVISION PLAT AMENDMENT: SWAG PROPERTIES, LLC

This item calls for Discussion and possible approval of petition by Swag Properties, LLC proposing to vacate the public access easement across the west property line of lot 11.

Councilmember Stevens moved to approve the petition by Swag Properties, LLC proposing to vacate the public access easement across the west property line of lot 11. The motion was seconded by Councilmember Wheeler. Councilmembers Lund and Alder voted no. The motion carried 3-2.

Bryan asked for rationale for the decision. Councilmember Stevens did not think at this point that Mr. Layton had been materially injured. Notice of requirements have been met.

CONVERSION OF FEDERAL GRANT FUNDS TO STATE FUNDS

This item calls for consideration of conversion of Federal grant funds to State funds for the Ephraim Canyon Sidewalk Project. Funds become available July 1st. The project goes from 300 E up the canyon road. It is a Federal Highway grant. Requirements for right of way acquisition, etc. are significantly higher than state requirements. Jones & DeMille Engineering recommended that the City convert the \$1.5M from federal to a state conversion. You will take a haircut with that, but it will be sixes because you are eliminating a lot of the red tape required by the Federal government. The turnaround time would also be faster. With Council's approval, Bryan will write a letter asking for approval from UDOT to get that done. In order to give them enough time, we need to get that letter out. We have applied for \$1.5 million. That was pre-COVID and everything has changed. We would tailor to the scope of what funding is available. 6.7% would be the responsibility of the City. Last time, federal red tape almost killed the project because we didn't have a secured right of way. We lose money, but the benefit of the ease of project completion would make up for that.

Councilmember Lund moved to approve the conversion of Federal grant funds to State funds for the Ephraim Canyon Sidewalk Project. The motion was seconded by Councilmember Stevens. The vote was unanimous. The motion carried.

ECO 22-13: NOISE ORDINANCE

This item calls for adoption of an ordinance amending the public health and safety code of Ephraim city to include noise control.

Councilmember Lund moved to approve ECO 22-13, an ordinance amending City Code to include noise control. The motion was seconded by Councilmember Wheeler. The vote was unanimous. The motion carried.

ECR 22-03: ARBOR DAY

Councilmember Anderson moved to approve ECR 22-03, a resolution setting aside a day to celebrate an Arbor Day Celebration. The motion was seconded by Councilmember Lund. The vote was unanimous. The motion carried.

APPOINTMENTS AND COUNCIL REPORTS

Tyler Alder

Recreation Board – The new Assistant Rec Director started today. His name is Brandon LeFevre.

Margie Anderson

Youth City Council – Youth will help with the Easter Egg hunt and with Scandinavian Days.

State Legislative Liaison – Talked to Senator Owens about the rural housing bill. When that is decided, we can determine whether to continue the Ephraim City Housing Authority.

Alma Lund

Utilities Board – Dale Nichols wrote a letter regarding wells drying up and he wanted it discussed.

Fire Board – Got trucks ready for brush fires that hopefully don't come.

Mayor Scott

Mayors and Commissioners Meeting – Meeting as mayors ahead of the meeting has been very beneficial.

Senate Bills – A productive meeting was held with Senator Owens regarding a disagreement with some of the senate bills he proposed. He provided opportunity to clear the air and re-establish a close commitment with one another.

CITY MANAGER REPORT

Budget - We have a new budget process this year. We will be taking the inflation issue into consideration.

Councilmember Alder moved to cancel the regularly scheduled April 20, 2022 Council Meeting in order for the Council to attend the Utah League of Cities and Towns Conference. Councilmember Anderson seconded the motion. The vote was unanimous. The motion carried.

CLOSED SESSION

Councilmember Alder moved to go into a closed session pursuant to the provisions of the Utah State Code, Section(s) 52-4-205 (c) pending or reasonably imminent litigation (e) sale of real property. The motion was seconded by Councilmember Wheeler. A roll call vote was called. Voting yes: Councilmembers Lund, Stevens, Wheeler, Anderson, and Alder. The vote was unanimous. The motion carried.

The Closed Meeting began at 8:46 p.m.

At 9:27 p.m. Councilmember Lund moved the Council adjourn the closed session and reopen the public meeting. The motion was seconded by Councilmember Anderson. The vote was unanimous. The motion carried.

ADJOURNMENT

There being no further business to come before the Council for consideration, Councilmember Alder moved the Regular Council Meeting adjourn at 9:27 p.m. The motion was seconded by Councilmember Wheeler. The vote was unanimous. The motion carried.

The next regular City Council meeting is scheduled to be held on Wednesday, April 27, 2022, starting at 6:00 p.m. in the Ephraim City Council room.

MINUTES APPROVED:

John Scott, Mayor

Date

ATTEST:

Leigh Ann Warnock, City Recorder

Date