

**EUREKA CITY
COUNCIL MEETING
SEPTEMBER 13, 2016 7:00 P.M.**

Pledge of Allegiance:

Mayor Nick Castleton led everyone in the Pledge of Allegiance

Roll Call:

Brian Underwood, Nick Castleton, Kimberlee Clem, Hortt Carter

Public in Attendance:

Tim Merrill, City Attorney, Leslie Rice, June McNulty, Coleen McNulty, Kathleen Fulton, Ferrel Thomas, Peggy J Dimick, Darrin Carlson, Janice Boswell, Gary Boswell, Caleb Williams, Paulette Carpenter, Dena Green, Cindy Child, Bill Riley, Shena Draper, Peggy Woodward

Approval of Minutes:

Hortt made a motion to approve the minutes. Kim seconded. All in favor motion carried

Treasurer's Report:

Nick let the Council know he asked Rachel to do a different Treasurer's Report. He had her give the beginning checking account balance, the total withdrawals, total deposits, and the ending checking account balance. The savings accounts will only be listed when there is activity in the account other than interest earned. Nick asked the Council if they were fine with this new way of doing the report. The Council was fine with the new report. Hortt made a motion to accept the Treasurer's Report. Brian seconded. All in favor motion carried.

Claims Against the City:

Brian asked if we were still paying for the Spring Clean Up. Patricia said we have already taken care of all those bills. The ones listed are for the roll offs we currently have. Hortt made a motion to approve the Claims for \$21,180.86. Kim seconded. All in favor motion carried

Report of Officers:

Nick didn't have anything to report

Darrin Carlson stood up and discussed with the Council what the Planning and Zoning has done concerning updating the transportation maps. He has done some homework and checked with the County and State DOT. The State DOT uses a satellite map program GIS mapping. He heard that the City was looking into getting our own program and would like to try and get the transportation map on that program. He said he is waiting to see what the City is going to do so he put the update on hold. Darrin said he was told that there are 2 different programs a read only and an edit program and the City would need the edit program. Brian said that the program the City is looking at will be the edit program. Darrin said that when he joined the Planning and Zoning there was a project to get a road ordinance. He said they were looking at American Fork and the State of Utah ordinance and some of the language needs to be changed and suggested

maybe the Attorney could look at it. The Planning and Zoning are also working on making lots available for a subdivision.

Brian said that during the meeting with Sunrise they discussed every ones concerns that were on the list.

Kim said that she will be going with Nick, Fred, and Lynn to look at and purchase a new snow plow and some other things tomorrow.

Hortt said he tried to get a hold of the contractor that is working on the Old City Hall. He has not be able to get a hold of him.

Planning Commission:

Had already been discussed.

Introduction and Adoption of Resolutions and Ordinances:

Resolution No. R-09-13-16-1, A Resolution for Eligibility in the Federal Surplus Property Program.

Nick let the Council know that this resolution is required before any federal surplus property can be purchased. Brian made a motion to pass Resolution 09-13-16-1. Hortt seconded. All in favor motion carried

Resolution No. R-09-13-16-2, A Resolution Approving and Entering into an amended and restated agreement creating the Utah Local Governments Trust.

Nick discussed the reasons for the resolution. The Trust handles employees insurance, covers the liability on the buildings. Hortt made a motion to have Nick sign the resolution. Kim seconded. All in favor motion carried Tim made the Council aware that the Local Utah Governments Trust was audited. This was just a house cleaning detail. Tim said we can get out of the Trust at any time and Trust is managed by the board and the members.

Resolution No. R-09-13-16-3, A Resolution to officially change the name of a City Street from Campbell Street to Wilde Street.

Nick said that several years ago Mr. Wilde came in to change the street in front of his home to Wilde Street. This had all been done but the County Recorder didn't have the minutes of the Council Meeting. Instead of trying to find the original minutes a new resolution was made. Brian made motion to approve Resolution 09-13-16-3. Kim seconded. All in favor motion carried

New Business:

Caleb Williams, Proposal for Grazing Lease on City Property for horses

Caleb submitted a proposal to lease City Property down by the cemetery for \$250 a year. He stated in the proposal he would repair and maintain the fence, build a temporary shelter for the horses that would be removed when he leaves. The horses would be well kept with hay on the property, fed twice a day, and he would haul his own water. He cannot store any working or nonworking vehicles on the property. Caleb asked if he could get his water from the Fill Station. Nick said yes and Patricia let him know he will need to come in and fill out an application and it is \$10.00 per 1000 for stock water. Brian asked if we needed a description of the property. Patricia said we have the description from the last time someone leased the property. Caleb

would like a copy of the description of the property. Tim Merrill had a few questions he asked if Caleb plans on having more horses. Caleb said no it would only be the 3 horses but he may get a couple cows to keep and feed then take to slaughter. Tim said then it is only for 3 horses and surplus cow from time to time. Tim asked if these are exclusive grazing rights or can other people use the pasture at the same time. The Council said no it would only be leased to Caleb. Tim asked if the \$250 was for the entire year. Caleb said yes. Tim figured the monthly amount was roughly \$20.00 a month and wanted to know if this was a negotiable amount or is it a take it or leave it amount. Caleb said it was a take it or leave it amount. Tim didn't have any more questions. Nick asked the Council if anyone had any questions and Brian wanted to see the description of the property. While Patricia went to find the property description the Council moved on to the next item on the agenda.

Gary Boswell, Discuss procedures for abandoning City Street

Gary asked that his wife Janice do the speaking. Janice asked to keep the road directly in front of their home to the way it has always been. She feels that the change made to the road leaves a blind corner by their garage and home that could potentially pose a serious hazard to traffic and to them when backing out of their garage. She said that the traffic appears to be going a lot faster on then they use to. Brian and Nick were looking at the map as to what the road used to look like. Nick let Janice know the City is planning on putting in a 4 way stop. Dena Green mentioned that the way the road used to run there was also a blind spot near the house and property that she owns. Brian told Janice the reason for the change is the City is trying to eliminate the Y intersections and make them as normal an intersection as possible. Gary said he had been talking to Tim and that the City can close roads but there are procedures they have to follow. Tim said that when he had first talked to the Boswell's he thought the City was vacating a right away. As he walked the road tonight he realized the City is doing a street alignment. He said that a public hearing is not needed for an alignment but a road closure would require the public hearing. Janice and Gary are also concerned about snow removal in the winter. Nick said that the engineer came up with this solution to help with snow removal and drainage and it may not be a perfect solution but it was the only one that the engineer could come up with. Nick addressed the audience and said to let the City know if you see gravel in the roads or in your yard from the spring thaw so that we can try and get the situation fixed. He said these are the things we need to get documented so we can deal with it. Gary wanted it documented that they had voiced their concerns. Nick let them know it would be in the minutes.

Brian and Caleb got together and looked at the map of the property. Brian asked if the City still needed access to the old road that went to the sewer. Nick said that the City needs to keep the access open just in case it is needed. Nick told Caleb he would need to keep the gate closed so the horses couldn't get over to the sewer ponds and drink from them. Brian made a motion to lease the property to Caleb Williams for \$250 a year to be renewed each year. Hortt seconded Caleb asked who and where he needed to pay he was told to pay Patricia.

Bill Riley, Questions on Contractor work around his shop

Bill had a few items he wanted to address. Item 1: He had heard that there was a proposal for a low income housing subdivision to go north to the City Park. He would like it to go on record that he is against it. The Council told him they had not heard about this rumor and that it was not true. Item 2: He said when they put in the 10 inch line under Highway 6 near his building he has been getting sewer gas in the building. The line that went in was a water line and no sewer had

been done up that way. Item 3: Where they dug by his building it is now a potential mud hazard and would like to have a load of gravel put in the hole. Brian and Hortt both said they will talk to the contractor. Hortt wanted everyone to know that the Council sat down with the contractors and engineers and expressed the concerns all around town. Brian said that the residents need to let the City know of any problems so that they can be addressed. Item 4: For his grazing lease he did have the property surveyed by Greg Evans and he has not received the paperwork yet. When he gets the paperwork he will bring it down to the City. Bill said the water meter box the contractors put in is full of gravel. Brian said the contractor is aware of this issue.

Unfinished Business

The Historical Society was up next and then Peggy Dimick said she had not spoken yet. Nick let her know they would talk to her in the Executive Session. Peggy wanted it discussed in the open meeting. Tim said that would be okay.

The Historical Society – Kathleen Fulton said that Colleen McNulty had an agreement with the City from 2012 to use of the Old City Hall upstairs and downstairs. They would like to use the first room for research and use the walk in safe in the backroom. There is a provision in the agreement for \$50.00 a month. Hortt said that Tim needs to look at the agreement and make sure it is legal. Tim looked at the agreement and said it looks like it should be re-done. Colleen said that they would like to change what they have in some of the rooms. Nick and Hortt said that is not something the Council would be involved in.

Peggy Dimick was present to discuss the IGA building. She was concerned with the notifications she was getting that the City is going to tear down the building at a cost of \$25,000 or more and send her a bill. Nick let her know that this was an offer if she would like to use it. Peggy had some questions she wanted to know who instructed Mr. Merrill to start these proceedings and it was her attorney, Anthony Scofield. Peggy said that he is on a mission. Tim said that before he left he filed a motion to withdraw as counsel and the court contacted the City who brought in Tim. The case was still an open case because Peggy had never fulfilled her probation which was either to structurally make it safe or demolishing the building. Peggy said that the old Council decided they wanted the walls to stand to protect the park and they wanted the back building to stand so there wouldn't be a 20 foot drop. She said she complied with their demands and at the next Council Meeting they approved what she had done and she had fulfilled her obligation. Tim said the letter that Peggy wrote in August 14, 2012 said that this was all going to be subject to the City Inspector and because of the conditions the current Council just felt it was still unsafe standing as is and would be better to demolish it. Peggy said they are going to spend her money and she doesn't have the money, however; the building is hers and she is responsible. The Council cannot say if the building is or isn't safe they need to have a structural engineer come in and deem it safe or unsafe. Tim asked Peggy if she could get a structural engineer to come up and take a look. Peggy said that nothing has moved in all this time and it is only common sense to see it is safe. Tim said that is not a professional opinion. Shena Draper asked what if someone wanted to come in and re-build the building. They would still need to have the structural engineer come out. Tim said that in paragraph 2 of Peggy's agreement in the court case the Judge says the defendant Peggy Dimick will obtain a letter from a structural engineer stating what needs to be done to her property to make it safe. Tim asked if she ever did this and she said many times. He asked if she had any letters and she said no because the

engineer had died. Peggy wanted to know why she is being singled out since there are buildings across the street that are in bad shape. Tim said that is not an argument in court and will not be effective because every case is treated individually. Tim said all he is looking to do is close this case. It is at least 7 years old and we mean to close it. The Judge said you need to become complaint. There are 2 options either you get a structural engineer to come and say what needs to be done and you do it before October 5th or the Judge may order restitution. If you do not have the money what likely would happen is the restitution would be reduced to a civil judgement and then filed as a lien against the property. Peggy said against the property not against her house as they tried to do before. Tim said the way liens work is if you have a judgement against you personally then any secured assets can be liened that means any property. They could take her home if the lien was foreclosed. The Council tried to explain multiple times that this was an open court case and they are trying to get it closed and it is now in the hands of the court. Ferrel Thomas said he was on the Council at the time, and would like to see the minutes of the meeting to see what they say. Tim said that a Council cannot collaterally attack a Judge's ruling. Tim said regardless of what the minutes say it is up to the Judge. Again the Council said that it is now out of their hands and into the courts. Peggy and Ferrel still argued that she had not been notified and should have been. Hortt said that they need to understand it has left the Council table and is now in the hands of the Judge. The Judge is now telling the Council what to do; she wants to close the court case. Peggy just kept going on as to what is deemed safe. The discussion just kept going back and forth and finally Tim said she needs to be prepared with all her documents and attend the hearing on October 5th. Peggy wanted to know if she had to use the bid the City got because she doesn't like the open contract. Nick told her to talk to Steve Johansen about the bid or she can get one of her own. Tim said it would help her if she would bring written documents from the engineer, a second bid if she wants it to the hearing. She wanted to know if the rubble could be used for fill behind the building and Nick said that would be up to the Judge. Again the Council had to say it will be up to the Judge to decide what needs to be done. Peggy said she didn't want any more discussion about this building or her court case in a private meeting behind closed doors. She wants to be there and she wants it in public. Tim thinks this case will be resolved next month. Peggy said you hope that the Judge will offer the City \$25,000 plus restitution. Tim said no, that the \$25,000 would be the restitution amount since that was the bid amount. Hortt said that the \$25,000 would not be going to the City it would be used to pay someone to haul away the rubble. Hortt told Peggy if you do not like the amount that Nick got from a local contractor here in town then go get your own. Peggy warned Hortt to be careful.

Adjournment:

Nick asked if there was a motion to adjourn. Brian made a motion to adjourn. Kim seconded. All in favor motion carried. Adjourned at 8.26 pm

Executive Session:

Peggy Dimick, Discussion on IGA Building

Peggy asked that this matter be discussed in the open meeting.

Discussion on Utility Easement through Mary Broadbent's/Sharon Seamons property