

MINUTES OF THE
TOWN COUNCIL MEETING OF
GARDEN CITY, UTAH

The Garden City Town Council held their regularly scheduled meeting on Thursday, January 9, 2014 at the Garden City Lakeview Building located at 69 N. Paradise Parkway, Building C. Mayor Spuhler opened the meeting at 5:33 p.m.

Town Council Members present:

John Spuhler, Mayor
Bruce Warner
Darin Pugmire
Chuck Stocking
Bess Huefner, via phone

Others Present:

Sharlene Millard	Tony Martineau
Riley Argyle	Ken Hansen
George Peart	Ned Calder
Joey Stocking	Jim DeGroot
Mike Leonhardt	Tom Weston
Bryce Nielsen	Jim Hanzelka, via phone
Anita Weston	Zan Murray, via phone
Kathie Andersen	Fred Philpot, via phone
Skip Duffin	Tony & Alisha Crowson
Mike Schiess	Glen Stuart
Randall Knight	Tiffany Wahlberg
Connor Ward	Lance Bourne
Adam Johnson	Jim Wise
Danny White, via phone	

ROLL CALL

Mayor Spuhler asked for a roll call of Council Members present: Mayor Spuhler, Council Member Warner, Council Member Pugmire, Council Member Stocking, Council Member Huefner, via phone.

APPROVAL OF UTAH RETIREMENT SYSTEM RATES

Council Member Warner made the motion to approve the rate set by the Utah Retirement System at 17.29%. Mayor Spuhler said he has found out, after going to a class that the city ordinance says the Mayor shall vote. He doesn't know why it hasn't been done in the past, but is a law. He will also be voting on various items from this point forward. Council Member Pugmire seconded the motion. All in favor and the motion carried.

GENERAL PLAN, Danny White

Danny White said there hasn't been any changes on this since November of last year. Most of what is included is from the old general plan, but he's done some analysis to get other information. Based on the Governor's office of Planning Budget, Garden City is growing at about 13% by 2016.

He doesn't foresee that changing too much. The biggest growth is with second homeowners. He projects about 10%-12% per year over the next 50 years. The Governor's Office of Planning & Budget customizes their information for each city.

Mayor Spuhler said we've had this in front of us for a couple of months, but the new members haven't been able to look at it too much. Council Member Huefner wants to make sure they've read it.

Council Member Warner suggested the General Plan show more specifically what we are planning on doing and how it will be funded. He thought it would be good to show Council Member Huefner's schedule of the capital expenditure project. He doesn't think planning documents should be just a bunch of definitions or platitudinal statements or a list of things we might work on, instead it should show the citizens what we intend to work on and then have their involvement.

Mr. White said the goals and objectives in the plan were based off the Bear Lake Valley Blueprint and he did multiple surveys last year as well. We have given the public several opportunities to help us understand where their priorities lie. As far as prioritizing, he has prioritized each step as to what should be accomplished in the next 3 months, the next 6 months or next year. But putting a price on each item, it will get into more money to do cost estimates. It wasn't part of the initial proposal.

Mayor Spuhler said we would like this plan to be an active, living document in seeking established goals and input. Council Member Warner suggested more specifics of what underlies it. It was hard for him to discern what the city wants to accomplish.

Mayor Spuhler asked the Town Council to please take time to review this.

PARKS AND TRAILS PLAN, Danny White

Danny White said this plan wasn't looked at by the Planning Commission, so it's not ready yet. He doesn't want it to be his project. He wants input from everyone.

MINUTES

December 12, 2013, Staff Report

Council Member Pugmire made the motion to accept the minutes as outlined for the staff reports on December 12, 2013. Council Member Warner seconded the motion. All in favor and the motion carried.

December 12, 2013, Regular Meeting

Council Member Pugmire made the motion to accept the minutes as written for the meeting of the Town Council of December 12, 2013. Council Member Stocking seconded the motion. All in favor and the motion carried.

Mayor Spuhler said if someone doesn't speak, it's an affirmative for a vote.

PARKS AND TRAILS PLAN, Danny White

Mayor Spuhler said we've been working on getting accesses for quite a while now. There is money for planning, design and implementation of beach access. He's met with Governor Herbert who will put in \$100,000, which we really appreciate. The fire/forestry department have committed to \$150,000.

There will be a discussion of how much goes to us and how much to the county. He hopes it's an annual amount because Garden City has a lot of needs when it comes to parking. He asked Mr. White to explain his extensive parking plan.

Mr. White said he's been working on 5 parking areas. He's been doing some research on how to best utilize the money. He's wondering how to accumulate revenue lost by those going to Idaho to recreate instead of staying here. If he can prioritize 5 parking areas, the money will be easier to get. He's utilized about \$30,000 of the money to perform the study. Mayor Spuhler explained that the Governor wanted part of the money to be used as a study so they can understand why it is needed. He had explained to the Governor that Garden City is losing money because so many go to North Beach. So, they need to do a quality job on the study.

Mayor Spuhler said there's a massive problem with parking. Council Member Pugmire said anyone that's been here should realize that.

Council Member Warner asked about a state law that was passed that is impeding people going to the lake. Mayor Spuhler explained the House bill #333 – which states that no one can launch their watercraft unless they have adjacent property. He's has written to House Representative Menlove and Senator Hilliard and suggested that everyone could launch but just using the same course. That didn't go over very well, so how do you allow fishing, etc. if the law doesn't allow it? He thinks having a boat ramp that everyone can use, so there is some security on the lake in case a storm comes up. It's a complicated issue, but feels it should be easy, just take the quagga mussel test. He feels they should be able to launch just as much as everyone else.

There is a huge parking problem in Garden City. He talked about a trolley that could be donated. He thinks getting people down to the beach with close parking is a good thing.

BUDGET, Tiffany Wahlberg

Tiffany Wahlberg said the audit is done and it went well. The federal government has previously changed some requirements in the documents, so it did take longer this year. Next year should be faster. The total net position is up from last year by about \$260,000. This year the water fund is in the negative. In the past, the water revenues have covered the expenses. This year it's fallen below. The reason for that is because the Treatment Plant is now being depreciated. Now there is maintenance there too. It should now stay similar to this, unless we have major repairs.

She went over some of the projects Garden City has done. She said we've done a lot of things and kept the town growing and at the same time keeping our net position increasing each year. The city's done a good job of managing their assets.

She said the General account did pay the water account about \$47,000, which is pretty typical of cities. There are no problems doing that, but you can't use the water revenues to help the general fund.

The city has been very good to make the changes she's suggested. She doesn't have to recommend the same changes year after year. The state really watches for that. She said Kathy Hislop has done a good job with the accounts payable. Around the fiscal year end, if we have a job done and the invoice says June, it should be paid in June. If it straddles the date go ahead and pay it in July. She said those items under about \$5,000 are small enough that they don't make that much of a difference. Every July, the Retirement rate does need to be approved by motion.

Ms. Wahlberg said if you make a transfer from the general fund to the water fund, you have to notify every customer on the water system, and give them time for input before it's approved.

She said there's a new state auditor. His focus is on laws and regulations. He's put together a new audit manual. She thinks it's a good thing. It will help the city get better and help keep us out of legal trouble.

She said the city has been using water for all of their buildings and parks and to fill the pool, etc. but the water fund has not been billing the city for it. It is required by law to do so. By not doing so, it's like the water fund transferring money to the city. Kathy Hislop has already fixed this problem, but it may need to be watched from now on. The amount does need to be broken down by who is using the water; pool, city, parks, etc. The city is in compliance and everything looks good.

The state auditor is focused on making sure we follow the budget and that no expenses are incurred before the budget is opened. Before work is even asked to be done, the budget needs to be opened. There is no emergency waiver. If an emergency happens, you need to vote to increase the budget. So it's very important to leave some leeway in your budget.

She said everything looks good. The city is doing a good job of managing. Kathy Hislop does a good job and asks a lot of questions.

There was discussion about Pelorus preparing our financial statements.

APPROVAL OF SHORT TERM RENTALS

429 Raspberry Rd.—Eddie and Tracy Garcia under Bear Lake Project Management. Council Member Warner said he reviewed both short term rentals in detail against the ordinance and it appears they both comply. Council Member Huefner made the motion to approve 429 Raspberry Patch Road. Council Member Warner seconded the motion. All in favor and the motion carried.

509 Raspberry Patch Rd. Council Member Huefner made the motion to approve the Short Term Rental for 509 Raspberry Patch Road. Council Member Warner seconded the motion. All in favor and the motion carried.

WATER'S EDGE, Norman Mecham

Mayor Spuhler said under the direction of our city attorney and the chief legal counsel for the Utah League of Cities and Towns, David Church, he wants to make sure we follow the ordinance. He said he is not against a beautiful hotel, but he is against not following the ordinances. It is clear that our current ordinance does not allow a building height greater than 35' in the commercial zone and 25' in the beach development zone. We are not going to get into a debate scenario, but he would like us to move forward.

He said we also have a serious procedural issue regarding the Appeals authority moving the decision back to the Planning Commission. It has put us in a position that strips us of any ordinance regarding height and puts us in a potential lawsuit position. His responsibility is to look at liability first. Mr. Mecham has threatened a lawsuit and some on his other side could also threaten a lawsuit.

Tony Martineau said there's been a misunderstanding about how a general provision in the PUD ordinance that says the city may do certain things for some reason has taken precedence over the overall comprehensive zoning plan. The city has specific requirements for each zone regarding height. Mayor Spuhler asked him how this could affect our insurance and ability to protect the city if we don't follow the ordinance. Mr. Martineau said it potentially leaves the town without insurance coverage and defense. His recommendation is that if the city doesn't want to follow their ordinances, they need to state what it is

they want to accomplish and not have it by discretion that you may grant variances or waivers that don't have any restrictions on them. You can't approve it as a PUD and then approve whatever you want. If it's a hotel, you treat it as commercial. Calling it a PUD doesn't change what it is. He also said we should create an ordinance to allow height in certain areas if that's what we want to allow.

Council Member Huefner said that wasn't the intent. The intent was to use a PUD as a future place for a hotel. She said her conflict of interest is being an adjacent homeowner for 40 years, but every council member has a conflict. He is not buying her home, as of now, but she still has an opinion on this. She said Mr. Martineau feels she should remove herself from this, but she can still have a discussion with the council. She doesn't feel she has a conflict of interest with this project.

Mr. Mecham asked if others had a conflict of interest with this project. Council Member Warner said he represented the seller of his condo, but doesn't feel that's a conflict of interest. Council Member Pugmire said he has adjacent property, but doesn't feel that's a conflict of interest. Mr. Mecham said Council Member Pugmire worked for him 20 years ago. Council Member Stocking disclosed that he leases space in Mr. Mecham's building and manages his hotel, but doesn't have a vested interest in Mr. Mecham's business. Actually, this project could hurt his business. Mayor Spuhler said he doesn't have a conflict of interest. He likes the project and the design, but we are putting ourselves in a liability with the way this is going through. We have time. We need to be very careful. If our insurance doesn't cover us, the money could go to a lawsuit. He suggests we follow the ordinance the way it's written. If we don't like the ordinance, we need to change it. We need to protect ourselves. The Planning Commission has started talking about hotel zones. He suggested we don't approve it at this point.

Mr. Martineau explained that David Church reviewed the decision of the Board of Appeals. He recommended that we file a petition at the district court to vacate that decision so we would have clear and definitive ruling from the court as to what extent Garden City can vary from the mandatory provisions of zones, by way of height, vs. how much discretion you have in varying from what those are.

Mr. Mecham asked Mayor Spuhler what his conflict of interest with the project is. Mayor Spuhler said the only thing he can think of is his businessman in China had looked at this project initially. He has a completely separate business, which is an educational business. They've never bought or sold real estate here. Mr. Mecham said he has a business partner who Mayor Spuhler accepted a large amount of money from. Mayor Spuhler said that is not true. Mr. Mecham said he paid to take Mayor Spuhler to China. Mayor Spuhler said he didn't want to go from the beginning. Mr. Mecham's partner, Chris, wanted him to go to say how great Garden City is. He still didn't want to go. The partner said he'll even pay for the Mayor's wife to go. When they got to China, the partner would try to tell the Mayor what to say and do. Mayor Spuhler said that was on the old project which approval had expired, not this project. He said Mr. Mecham and his partner basically begged him to go and said the only way they can be credible is to have a city official go to represent Garden City. He took absolutely no money from them.

Mayor Spuhler said as a Council, we can either accept advice from the lead attorney, David Church and our city attorney, who we pay for counsel, or we can do what a developer wants us to do so he can make a lot of money.

Mr. Mecham said as citizens of the town, we didn't elect the city attorney; we elected the Council to make the decisions. Mayor Spuhler asked if Mr. Mecham even cares about the liability of the town. He asked for a motion that protects our city from massive liability issues. The Council wanted to ask a few questions.

Council Member Stocking questioned the comment in Mr. Schiess' letter stating that a building can go higher than the ordinance by about 18". He asked where that came from. Mr. Martineau said that was a judgment call from David Church, a variation from height standards. Council Member Stocking said he feels the city can grant the height allowance. He feels this project is set up perfectly to preserve view corridors. The buildings are compact with space around them.

Mr. Martineau asked him to go to 11A-106 and 11A-107 in the ordinances. He talked about the regulations and said the more restrictive ordinance shall apply. 11C-1953 says what can be negotiable in a PUD or PRUD. Height is not listed.

Mr. Mecham said the ordinance says height can be negotiated in the subdivision ordinance in 11F-100-5.

Mayor Spuhler said Garden City will be following the counsel of the city attorney and David Church and we will follow our ordinances. He said we just need to go to district court and let them make the decision, but he's pretty sure they'll side with David Church. We'll have our liability insurance in place.

Mr. Mecham wants it very clear that the Mayor will file a lawsuit, with taxpayer's money. Who is he suing? Mayor Spuhler said he's following the advice of the chief legal counsel for the League of Cities and Towns. Mr. Martineau explained that procedurally they will name the Board of Appeals who will move to substitute Mr. Mecham. He will come in and defend his position in front of District Court because he is the party in interest. Mr. Martineau said the recommendation to file a lawsuit did not come from him. It came from David Church to appeal the decision of the Board of Appeals or there may not be insurance coverage.

Mr. Martineau explained 11E-102-C about topographical areas to Council Member Stocking. Council Member Stocking said he's talked with Mayor Ken Hansen about when the PUD ordinance was created; it was to allow height for hotels. Mr. Martineau said his interpretation is they weren't thinking of 55' buildings in a 25' zone. If so, his recommendation would have been to have the ordinance say that.

Council Member Huefner said she is concerned with the lawsuit. Mr. Martineau said their concern is not that the town will be sued by Mr. Mecham or his competition. Our concern is – are we going to have insurance coverage so that if we are sued 1) Will they pay for the cost of the defense. 2) If for whatever reason you lose, will they will pay the damages. We're not worried who sues, we just want to make sure we have coverage if we need it. He said under state statute, you have 30 days to appeal the Board of Appeals decision. If Mr. Mecham would stipulate a stay or vacate the Board of Appeals decision, then something could be done and we could negotiate. They have asked Mr. Mecham's attorney three times if they would be willing to do that and they were told they would see us in court.

Mr. Mecham said he doesn't think it's in the city's best interest to sue themselves. They're still in the same situation. He suggested them looking at the property. It's a PUD. We know the topography. He could build a 20' building and no one would even see it. What if he slid that 20' building under the building on the above part of the ground? If he needs to go back and re-do the plans, he will do it, but he needs to know what the city will accept. Mayor Spuhler said it's 25' and 35'. Mr. Mecham asked where the line is between zones. He's now in the PUD zone. What height can he build? How far back? He's just asking for some direction. If one little "t" isn't crossed and "I" that's not dotted, the decision gets tabled. He can re-draw this to hit those parameters.

Mayor Spuhler said they would have to get something in writing, because they have such a short period of time in order to file, which is tomorrow.

Mayor Spuhler said there are some trust issues. He talked about some easements the city has needed for Shundahai. We were told we'd have them by the end of the year, but we found out that he doesn't even own those easements. Mr. Mecham said he's working on it and it will get done. Mayor Spuhler asked Mr. Martineau if signing an agreement would keep us out of a liability issue. Mr. Martineau said if Mr. Mecham would agree to stay or vacate the Board of Appeals decision, you're both free to do whatever you need to - to make this work for everybody. But after tomorrow, Friday, the City is essentially without insurance or legal defense. Mr. Mecham said he will write something up and sign it tonight.

Mayor Spuhler explained to Council Member Huefner that we can't approve a conceptual that hasn't even been presented yet. Mr. Mecham said he hasn't got a conceptual yet to approve. He's not asking for that approval right now. He did want to make sure the parking and the open space have already been approved. Mayor Spuhler said yes. Mr. Mecham said the buildings by the highway can be designed to 35'. Mayor Spuhler said yes.

Council Member Warner said Mr. Mecham can go through the process with the city to change the ordinance if they're willing to, or he needs to follow the ordinance as it is now. He would like to see a commitment from him to go through the items the town is concerned about and that they're dealt with and resolved. Mr. Mecham asked to establish the line of where the zones are. Planning Commission Chair Bourne said the line is 300' from the west property line. There was discussion about not having as much open space with the buildings being more spread out instead of compacted on top. The ordinance says he has to have 30% open space; he's currently at 18%, so he's got a lot of room to work with.

Council Member Warner made the motion that the Water's Edge project will follow a 35' and 25' height for its project and that the boundary on the 35' section will be moved approximately 90' east to conform to the topography. Council Member Stocking seconded the motion. All in favor and the motion carried.

Mr. Mecham said he will be signing the stay tonight.

Mr. Martineau said we should fine-tune our ordinance. Don't let it go. Mayor Spuhler said we should still create an ordinance that reflects hotel zones.

PARKING ORDINANCE, Darin Pugmire

Council Member Pugmire said he wanted to bring this up for the newly elected officials. Council Member Warner said he doesn't understand why this change is needed. Council Member Pugmire wondered if he thinks 10 parking spaces should be needed for any building, even if it's a shack. Council Member Huefner said let's be sensible. The city created more parking to help businesses. Council Member Pugmire suggested instead of making businesses buy more land for parking, we could just charge them a fee and they could use the city parking for their required parking.

Planning Commission Chair Lance Bourne said there are some businesses that don't have adequate parking, but some have a hardship and should go through a variance. Council Member Pugmire said in the past we haven't had enough parking, now he thinks we're overdoing the parking and have too much. Commission Chair Bourne said in the summer we don't have enough parking.

Mayor Spuhler said it is critical to have parking at 150 S. He's hoping to get up to 500 spaces there. It's in the RDA area. Council Member Warner suggested having the council work on bigger parking lots and let the Planning Commission work on reconfiguration of what we've got.

Council Member Pugmire asked them to look at it and give him their ideas. It will go to the Planning Commission again. Mayor Spuhler said the Planning Commission has worked hard on their ordinance.

There was discussion about people coming in doing projects and making promises, we should get it in writing.

COUNCIL MEMBER REPORTS

Mayor Spuhler said that the Council Members should have a general knowledge of all the issues, but should have a better knowledge about their specific roles and be responsible about it. They should be experts in their own area. Also, be careful how we distribute e-mails. He said if you have a question, call the person and talk to them. It's hard to get the full information about something through e-mails.

Also, don't go over your spending limits on your credit cards. He talked about how they used to take the lowest bid for a project. We don't have to do that. We can choose the one we want. Everything over \$5,000 needs to go out for bid for a project.

Mayor Spuhler said he did let the City Administrator go. He did a great job with design work. But we need someone on the operational side of things. We agreed at the beginning that his background was in planning and wetland delineation. He will be submitting bids on designs and we can still use him as a contractor. We need a City Administrator who is close by. We need someone who will take care of things such as the Water's Edge and know what the procedures are.

Mayor Spuhler said he was very frustrated with the Ordinance Office last year. Things weren't getting done. He would like to find someone that could be a liaison instead of wanting to be a cop. They should inform people, not just give tickets. He hopes he can find someone who will be interested in being an Administrator and the Ordinance Officer at the same time.

Council Member Warner said that will be a complex job, realistically it will take someone a year or so to even get up to speed and be good at it.

Mayor Spuhler said he would like someone to be available and go to the meetings. He talked about there being a lot of smart people here with the second homes.

Council Member Warner said he would like to look at annexing the adjacent subdivisions that are geographically close to the town and also get natural gas into the town. He realizes it may take a couple of years. Some of the history of why it hasn't come in was stated. Council Member Warner said he has two clients and worked for one of them, so he's hoping he has a connection that will help.

Council Member Warner said part of his role is to look at business licenses. He wants to make sure that those businesses that are within a home have a business license. He understands that the office girls go through and check the websites for Short-Term Rentals. He would like to get more details on water revenues and where it comes from. Kathy Hislop is working on that for him.

Council Member Warner said the Attorney told him there is a potential water system contamination due to a leak at the Elk's Ridge system. Riley Argyle explained that the leak has been fixed. The water level has been the same for many weeks.

Council Member Warner asked about the annexation process. Mayor Spuhler explained that the town has been down this road hard many times. The city doesn't want Sweetwater's roads or water, but we do like

their community. There just isn't a lot of value there. They would like our ordinance protection, but their water system is a huge undertaking; \$12-13,000,000. Other than that, he thinks it would be good to have them part of the community. Riley Argyle said in some areas, they won't even allow you to plow snow. The roads aren't wide enough. The water lines aren't deep enough. They don't meet our current ordinances. They're now trying to pass a bond. Council Member Warner said he thinks it would be good political advantage to have them in the city. The other issues could be dealt with by zones as far as streets and water. It's more than buying a library card. It's making more of a sense of community. Mayor Spuhler said if he's willing to put forth the effort, go for it. He said if you do, we should also go north to the border.

Council Member Stocking went to the library board meeting and passed out a paper of summary of events, etc. They discussed a safety issue of a light. Riley Argyle will look into it.

Riley Argyle talked about what the attorney has said about bonding. We've been doing it wrong. Mr. Martineau said you can bond for the entire project, buildings, roads, etc. or you can make them bond individually for a phase. It's a political decision they will need to make. When a bond is pulled, the bonding company will finish the project and it's up to them what they do with the project. He strongly suggested not doing a letter of credit. Council Member Pugmire suggested doing it by phases. Whatever they bring for final, that's what's to be bonded.

There was discussion about taking care of the pool. Council Member Stocking will talk with Rich Monk to see how he does things. If he needs pool training, he should get that done. It would be good to talk with Corey Doolin for ideas on turning the heat down in the pool. Mayor Spuhler said he thinks Mr. Monk is good at the pool. He's on time; he's consistent and enthusiastic about it.

Council Member Pugmire said he'll be over roads and will talk with Riley Argyle to get a better understanding of what he should be doing. Mayor Spuhler hopes he can get Garden City higher on the list to get the grant money we need for 300 W.

There was discussion about the Mayor letting Greg Bills put a sign up. Council Member Pugmire said he considers it an off premise sign which requires a different type of sign and should require a variance. He thinks they need a sign and know they're struggling, but need to follow the guidelines of the ordinance. Mayor Spuhler said the sign really helped their business. There was discussion about the business owners complaining about the sign ordinance when they didn't come to the meetings to create it.

VOUCHERS

Council Member Pugmire made the motion to approve the vouchers. Council Member Warner seconded the motion. All in favor and the motion carried.

ADJOURNMENT

Council Member Pugmire made the motion to close the Town Council meeting on January 9th at almost 10:00. Council Member Stocking seconded the motion and the meeting closed at 9:44 p.m.

APPROVED:

ATTEST:

John Spuhler, Mayor

Sharlene Millard, Assistant Clerk