
Minutes
Regular Meeting
January 13, 2010

Present: Mayor Kenneth F. Neilson, Councilmen Roger Bundy, Bill Hudson, Thad Seegmiller, Jeff Turek, City Manager Roger Carter, City Attorney Jeff Starkey, Community Development Director Drew Ellerman, Public Works Director Mike Shaw, Public Safety Director Jim Keith, City Recorder Danice Bulloch, Audience: Darrell Hafen, Lauri Shepherd, Dennis Gibson, Brent Chandler, Bob Sandberg, Bill Adams, Ruthann Adams, Aaron Langston, James Sullivan, Craig Sullivan, Sherrie Reeder, Jackie Carlson, Drew Carlson, Mike McCardel, Ron Truman, Tiffany DeMasters, Whitney Bird, Rich Schofield, Melinda Hill, Jesse Doyle, Ginny Andrus, Sherraine Woolsey, Cassandra Woolsey, Josephine Woolsey, Gilma Kelly, Jim Kelly, Phil Andrus, Dan E. Payne, Joan Payne, LaVar Hipwell, Fred Keubler, Kathy Andrus, Dwight Andrus, Pau Luke

Meeting called to order at 6:00 P.M.

Invocation: Councilman Seegmiller

Pledge of Allegiance: Councilman Hudson

1. APPROVAL OF THE AGENDA

Mayor Neilson removed Albertson's and The Services Station from Consent Agenda.

Councilman Bundy made a motion to approve the agenda for January 13, 2010 with the removal of Albertson's and The Service Station from the Consent Agenda. Councilman Seegmiller seconded the motion; which passed unanimously.

2. ANNOUNCEMENTS

Mayor Neilson excused Councilman Heaton from the meeting.

3. DECLARATION OF ABSTENTIONS & CONFLICTS

None

4. CONSENT AGENDA

APPROVAL OF MINUTES: Consideration to approve the minutes from the City Council Meetings of 12/08/09 and 12/09/09.

PAYMENT APPROVAL REPORT: **Consideration to approve the Payment Approval Report for the dates of 12/07/09 thru 12/18/09 and 12/28/09 thru 1/08/10.**

2010 Alcohol Licenses:

- A. ***Consideration to approve the following Off Premise Beer Licenses for: First Stop, Freeway Chevron, Harts Gas & Food, Maverick, and WalMart***
- B. ***Consideration to approve the following On Premise Alcohol License for: Red Robin Gourmet Burgers and Don Pedro's Mexican Restaurant***

Councilman Hudson made a motion to approve the Consent Agenda. Councilman Turek seconded the motion; which passed unanimously.

5. NEW BUSINESS

- A. **Consideration for appointment of two members to the Planning Commission. Kenneth F. Neilson, Mayor**

Mayor Neilson recommended Lorie Shepherd as a Planning Commission Member and Kress Staheli as the alternate Planning Commission Member. Mayor Neilson thanked Alan Gren for his service on the Planning Commission. He would like to recommend appointing Rick Schofield as the new Chairman.

Councilman Bundy made a motion to appoint Lorie Shepherd as a Planning Commission Member, Kress Staheli as the alternate Planning Commissioner Member, and Rick Schofield as the new Planning Commission Chairman. Councilman Turek seconded the motion; which passed unanimously.

- B. **Consideration for appointment as the Washington City Representative to the Southern Utah Shooting Sports Park Committee. Kenneth F. Neilson, Mayor**

Mayor Neilson recommended Brent Chandler be appointed as the representative from Washington City to the South Utah Shooting Sports Park Committee.

Councilman Seegmiller made a motion to appoint Brent Chandler as the Washington City Representative to the Southern Utah Shooting Sports Park Committee. Councilman Bundy seconded the motion; which passed unanimously.

Mayor Neilson thanked Bob Sandberg for his many years of services.

6. PUBLIC HEARINGS

- A. **Public Hearing for consideration of Zone Change request Z-09-06, to amend the present Sienna Hills PCD Zone, by changing the Development Project Plan language as outlined in Sections 3.5 and 4.4 of Design Guidelines.**

Applicant: Aaron Langston, SITLA

Mr. Ellerman reviewed:

The applicant is requesting approval to amend portions of the Sienna Hills development Project Plan, which is part of the approved Sienna Hills PCD. More specifically, the applicant is wishing to change certain requirements of that Project Plan as found in Section 3, Design Guidelines, including subsection 3.5 (Wall Design) and subsection 4.4 (Roof-Mounted Equipment).

Subsection 3.5 (Wall Design) of the Design Guidelines is not very clear in explaining what types of walls require city permits and city inspections. The proposed amendment as found under the Wall Design standards makes clear that developers are required to follow proper permitting procedures in constructing walls throughout the Sienna Hills PCD development.

Subsection 4.4 (Roof-Mounted Equipment) of the Design Guidelines currently prohibits roof-top or pole-mounted antennas within the Sienna Hills PCD development. This prohibition violates the Federal Communications Commission's Over-the-Air Reception Devices rule, promulgated pursuant to Section 207 of the Telecommunications Act of 1996. Additionally, Broadweave no longer supplies video service to the residents of the Sienna Hills development, so satellites and antennas are necessary for any video feed for those living in the Sienna Hills development.

The applicant is thus wishing to make these amendment changes within the Design Guidelines of the Project Plan. Staff has reviewed these requests and finds no reason they should not be approved and implemented into the Design Guidelines.

The Planning Commission reviewed this request at their December 16, 2009 meeting. The minutes of that meeting and the associated public hearing are attached hereto.

The Planning Commission unanimously recommended approval of Z-09-06, for the amendment to the approved Sienna Hills PCD, amending subsections 3.5 and 4.4 of the Design Guidelines found in the Project Plan for Sienna Hills, to the City Council, based on the findings and subject to the conditions as follows:

Findings

1. That the requested zoning amendment conforms to the approved PCD and land use as designated in the General Plan.
2. That the amendment will provide clarity in wall designs and also adherence to the Federal Communications requirements and laws throughout the Sienna Hills PCD development as it relates to antennas and satellite dishes.

Conditions

1. Section 3.5, Wall Design, of the Design Guidelines for the Project Plan of Sienna Hills PCD will be amended by adding verbiage to read as follows:

3.5 WALL DESIGN

The design of all proposed walls within Sienna Hills will be approved by the

DRC in writing prior to the construction of the walls. All walls and other improvements within Sienna Hills shall be constructed in compliance with the laws, order, rules and requirements of applicable governmental entities and appropriate permits shall be obtained.

All walls shall be constructed with block decorative masonry (except for top sections of view walls described below). Each wall shall be a visual extension of the architecture of the main structure(s) and the community as a whole. The wall shall be designed so as to create a focal point of the interest with approved landscaping and other approved features. The texture and color of walls should conform to the criteria specified in the figures that follow. Sections A-E below pertain to non-custom lots; custom lot Builder/Owner requirements for walls are designated in Section F below. Except as provided in part of Section F, all walls are to be built at the expense of the Builder.

A. Perimeter Walls

For the purposes of definition, all walls.....

2. Section 4.4, Roof-Mounted Equipment, of the Design Guidelines of the Project Plan of Sienna Hills PCD will be amended in its entirety to read as follows:

4.4 ROOF-MOUNTED ANTENNAS AND SATELLITE DISHES

Subject to those requirements described herein, those antennas specifically covered by 47 CFR Part 1, Subpart 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time, (the "Permitted Antennas") shall be permitted on roofs in residential areas. To the extent such placement would not unreasonably delay installation, would not unreasonably add to the cost of installation, maintenance or use, and would not impair the reception of an acceptable quality signal, the Permitted Antennas will be installed in side or rear yard locations.

Councilman Bundy asked if the Council would be reviewing the walls.

Mr. Ellerman stated most of the walls have already been constructed as per approved by City Council.

Councilman Seegmiller asked who would be determining when a home could have roof-mounted equipment. The document is very confusing, and acknowledges federal law allows roof-mounted equipment.

Mr. Ellerman stated the language in the design guideline document has been drafted by SITLA. They are recommending antenna and satellites be mounted on the side or rear of the home, but may be allowed to mount the equipment on the roof.

City Attorney Starkey stated we would defer owners to SITLA.

Mr. Ellerman explained these design guidelines are not a City Ordinance it only applies to the Sienna Hills PCD Development.

Aaron Langston explained he would like to answer Councilman Seegmiller's question on the roof-mounted equipment. It was the hope of SITLA, the owners would be willing to mount equipment on the side or rear of their yard. However, legally we cannot prohibit them from mounting the equipment on the roof.

No public comments made.

Councilman Bundy made a motion to leave the public hearing. Councilman Hudson seconded the motion; which passed unanimously.

- B. Consideration to approve an Ordinance adopting Zone Change Z-09-06, to amend the language in the Development Project Plan and the Design Guideline, Sections 3.5 and 4.4 of the Sienna Hills PCD.**

Councilman Bundy made a motion to approve an Ordinance adopting Zone Change Z-09-06, to amend the language in the Development Project Plan and the Design Guideline, Sections 3.5 and 4.4 of the Sienna Hills PCD. Councilman Hudson seconded the motion; which passed with the following roll call vote.

Councilman Bundy	Aye
Councilman Hudson	Aye
Councilman Seegmiller	Aye
Councilman Turek	Aye

- C. Public Hearing for consideration of Zone Change request Z-09-07 to change present zone from RA-1/2 to PUD Zone, located at 3650 S KD Jo Lane.
Applicant: Clayton Moser / Johnny & Sherraine Woolsey / Dwight Andrus**

Mr. Ellerman reviewed:

The applicant is requesting approval to rezone approximately 3.629 acres located at 3611 KD Jo Lane and 3585 KD Jo Lane from RA-1/2 (Residential Agriculture ½ acre) to PUD. Mr. Andrus is wishing to purchase the property owned by the Moser's and Woolsey's and establish the Cougar Mountain Youth Academy, a specialized school for struggling youth from the ages of 8 to 12 years old. The applicants are requesting a PUD due to the students living on site and also being an academy that is a 24 hour, 7 days a week facility.

The zoning surrounding the property is RA-1 to the north, Agriculture to the west, and Open Space to the east and south. The General Plan designation is Residential-Low Density, with Community Commercial bordering the west, Low Density to the north and south, Very Low Density to the east. The density designated for this property is 3 to 4.5 d.u./acre. This location will have a 1.38 d.u./acre density ratio.

Presently, this academy would be fairly secluded in the fields area. And with the General Plan designation of commercial to the western border of these parcels, the future growth possibilities

would still be acceptable in this location. The applicants are wishing to utilize the existing buildings (two homes), but also add three new structures to complete the project. Another building for housing will be built and a building with classrooms will be added in the east portion of the development, while an office building will be added between the existing homes. The applicant wishes to accommodate up to sixty (60) students at a maximum. The project will include its own recreation areas including soccer fields, basketball courts, garden area and a swimming pool. This will account for the required open areas as part of the PUD zoning. The academy will be required to obtain and maintain the necessary licensing as mandated by the state of Utah. Current copies of those licenses on file at the city offices.

This request might look very familiar, it was a few months ago that a different version of this request was placed before the Planning Commission and City Council back in October of last year (2009). The Planning Commission recommended approval to the City Council, followed by the Council voting 3-2 to deny the zone change. Since that denial, a new plan with several changes has been worked out between staff and the applicant.

The proposal has brought the office to the front of the project in between the existing homes and has also opened up the surrounding perimeter fencing/wall by only having a solid block wall along the north and east boundary. The south and west boundaries which run parallel with the streets, will have block pillars covered in stone work with six foot (6') iron railing fence sections in between the pillars, thus giving the academy a more open feel. Also, a wider (thirty foot) landscaped section between the south property line and 3650 South Street has been added. Elevations matching the existing home in the southwest corner of the project will be carried over into the design of the three new additional buildings being proposed, bringing a uniform appearance to the project as well.

Staff has reviewed this new request for a zone change, and feels the new improvements have made a significant change for the better. Staff has also informed the applicant of the necessary improvements that will be associated with the project. The applicant is willing to meet the standards as outlined in the city codes, thus staff is recommending approval of the zone change request from RA-1/2 to PUD for the Cougar Mountain Youth Academy.

The Planning Commission reviewed this request at their December 16, 2009 meeting. The minutes of that meeting and the associated public hearing are attached hereto.

The Planning Commission, by a vote of (4-0), unanimously recommended approval of Z-09-07, for the zone change from RA-1/2 to PUD, to the City Council, based on the following findings and subject to the following conditions:

Findings

1. That the requested zoning conforms to the land use and density designation of the General Plan.
2. That the project will provide open space and recreational amenities to the specific area contained within the development as required in the PUD standards.

Conditions

1. The project shall conform at all times to the open space standards for PUD Zones.

2. All required licensing as mandated by the State of Utah, will be obtained and maintained at all times during operation of the academy. A current copy of that license(s) will be on file in the office of the Community Development Department.
3. Any site improvements will be done in accordance to the city adopted building, fire and other codes.
4. A six foot (6') high block wall will be built along the north and east property lines. A six foot (6') high fence, built with stone pillars and rail fencing, as depicted in the exhibits, will be built along the south and west property lines, the wall plans shall be submitted for review, the wall shall be built prior to the opening of the academy.
5. The youth academy will only house and have on site that which is allowed by state regulations and also in accordance with the building and fire codes which have been adopted by the city, but in no case, will the number of residents/students be greater than sixty (60). This PUD approval will allow for the type of multi-residential uses that will be necessary for the housing of the students on site.
6. The youth academy will be for youth between the ages of eight (8) to twelve (12) years old.
7. There will be a required ten foot (10') landscaped strip along the street frontage of KD Jo Lane and a required thirty foot (30') landscaped strip along 3650 South Street, between the fencing with stone pillars and the side walks. Landscape and design will be submitted for staff review before any work is started.
8. All landscape plans shall be submitted for review and approval prior to the start of any work.
9. Any changes to the project that differ from the approved site plan will require approval by the city and application for an amended PUD.

Council Member Bundy asked if the owners still plan to take the children across 3650 South to the Andrus property.

Mr. Ellerman stated he believes they plan to take the children over to learn about horses.

Councilman Seegmiller asked about the access locations.

Mr. Ellerman clarified the owners would be installing an emergency access, which will be approved by the Fire Department.

Dwight and Kathy Andrus stated they are requesting an Academy for 8 to 12 year olds, which is the age group they are licensed for. There is a real need for children those ages. The schooling will be based on a computerized system, so the children can continue their education after they leave the academy. The superintendent for Washington County School District has stated there is a need for children this age in Washington County as well. Mrs. Andrus explained the Academy program. There facility will create jobs for residents in our community. They will be taking the children in vans across the street for equine therapy. Staffing will be a 1 to 6 ratio. The children this age need more parenting than teenagers, so they plan to have a couple on staff as a mother and father figure. They will have a full time staff at night to do rounds, and to bed checks.

Mayor Neilson asked if this is going to be a full school year.

Mr. Andrus stated they will attend anywhere from 3 to 9 months depending on individual needs.

Councilman Turek asked if they anticipate local children to be a part of the program.

Mr. Andrus stated if local children plan to attend they most likely would not spend the night.

Councilman Seegmiller asked if all of the families would be coming at the same time.

Ms. Andrus stated the children can enter the program at all different times, which mean the parents would be coming for their 3, 6 and 9 month evaluations at different times as well.

Paul Luke explained this is a leadership academy tailored to children who need an individualized learning program. It is not for stated appointed children. Parents will be going through the program with their children are in to build a foundation of communication. They plan to be an active part of the community. The children will be watched over and mentored.

Councilman Hudson asked if the children would be dealing with drug problems.

Mr. Luke state they would not. They are going to be working with learning disabilities, and/or with children who have fallen behind in school.

Fred Kuebler explained he is the real estate agent representing these properties. They have had several opportunities to sell the property for different types of rehab facilities. Now is a great opportunity for Council to have input on the application, as this will be a benefit to those children who need help. He reviewed the General Plan and wording for the Washington Fields area. The academy has an open feel, like the General Plan asks for. The plan states there can be a commercial area at the intersection of 3650 South and Washington Fields Road. There will be heavy traffic due to the Southern Corridor and the new Airport. He feels the application would be in compliance because; the area is largely undeveloped, the future traffic is going to be very high, and the property will be in the airport influence area. He feels the PUD request is in compliance with everything he has read in the General Plan. It would also be a good buffer between the residences and commercial zones.

Councilman Seegmiller asked how long the property has been on the market.

Mr. Kuebler stated the property has been listed for 2 years. Initially when the homes were listed, the property owners intended to sell them as single-family residences. However, in the recent months, they were bombarded with offers for rehab facilities. They have two offers for substance facilities, which the City has no control over.

James Sullivan stated he owns 2 lots to the east of this property and is part of the same subdivision. He would like to know what is going to happen to his land, which is part of the Woolsey Blake Subdivision.

Mr. Ellerman stated both of his lots are zoned open space, so if he intends to develop he would have to do a zone change.

Mr. Sullivan asked how can his property not be zone the same as the rest of the subdivision?

Councilman Bundy stated they could not give any guarantee of what type of zoning he would be able to get on his property.

Mr. Sullivan stated we are in a 3 lot subdivision zoned Residential Agriculture, and they would like to know where this would leave them as they are part of the subdivision.

Mr. Ellerman stated there is 4 lots in the subdivision.

Councilman Bundy asked if there could be a subdivision with multiple zones within it.

Mr. Ellerman stated it is allowed. He did clarify the entire subdivision is currently zoned RA-1/2.

Mr. Sullivan stated if the request is going to be more of a commercial area, then he does not want to be stuck with a RA-1/2 zone next to the facility.

Mr. Ellerman stated the straight zoning they could apply for would be any residential zone or they could apply for a PUD.

Mr. Sullivan stated he would not oppose the application, but would have to come back to Council for a different type of zoning request.

Ron Truman commented he does believe these types of facilities are necessary. The PUD's, which have been approved in the past, were subdivision type request. This is spot zone, which is being called a PUD so it can be put where it should not be. He does not believe the intent of the fields was to be for these types of facilities. The intent was to leave the fields as open as possible and preserve the area. The children are going to have no problem getting out of the facility. We need to make certain we do not allow something to get approved without stringent guidelines. There are many times when something is approved, and when it is built the finish product does not match what was approved. He believes if this application were approved, there will be many more applications for similar facilities in the Washington Fields.

Jason Draper stated he is the engineer for the project. He would like to address the PUD issue. The reason the PUD zoning was chosen was not to get beyond the density requirements, but because of the unique nature of the development. Staff felt a PUD would be the best way to come before Council. An academy, which is open 24 hours a day 7 days a week, is different than a regular school, and is not designated in the General Plan, so this was the best way to present the proposal.

Mr. Keubler stated the lady condemning their application in the last meeting was not even involved with their application nor in the surrounding property. There are other interested parties for the property who are substance abuse and other problems. He feels the request Andres application would be a much better use.

Sherrie Reeder stated she is as pro-agriculture as it gets. Previously, she would not have wanted this in her back yard. But, after having a personal experience with rehab, she has learned these

types of facilities are needed. When she visited a drug rehab, they shared a fence line with an elementary school. The neighbors were extremely opposed when the rehab was going in. Now, after the rehab has been in place, none of them have had any issues. These children need a place to learn and grow. We all need to open our hearts and let them have the academy.

Councilman Turek asked if all of the buildings are going to be built before opening.

Mr. Andrus stated they would be opening with the existing buildings, converting them to what they need. The soccer fields would be placed before opening.

Councilman Hudson asked how would issues such as children getting away be addressed.

Mr. Luke stated the home has a security system already. When the students are outside playing, there will be staff with them at all times. They will be trained to be aware of problems, which could occur. Every precaution will be taken to make sure they do not have any leave. There is a protocol in place with local law enforcement in the event a student does get away. It has been his experience with this age group there are very few problems with them trying to run.

Gena Merrill stated from what she understands, this is all dependent on their licensing. If they are not licensed then what type of facility do they know they can run. Also, if the children are only learning disabilities, then why are they being kept overnight? She feels these questions should be answered before they proceed.

Mr. Keubler stated some of these children could be from another state. This would be the reason for them staying overnight. You have to go in with a plan prior to getting a license. If they were not allowed to do the academy in the zoning, then the state license would not matter.

Councilman Bundy made a motion to leave the public hearing. Councilman Turek seconded the motion; which passed unanimously.

D. Consideration to approve an Ordinance adopting Zone Change Z-09-07 to change the current zone from RA1/2 to PUD.

Councilman Hudson made a motion to approve an Ordinance adopting Zone Change Z-09-07 to change the current zone from RA1/2 to PUD with the terms and conditions as outlined in the PUD with the additional condition there is no responsibility of Washington City or vested right access to the equestrian area by crossing 3650 South. It is the responsibility of the academy to provide access for their students, and as recommended by the Planning Commission. Councilman Bundy seconded the motion, which passed with the following roll call vote:

<i>Councilman Bundy</i>	<i>Aye</i>
<i>Councilman Hudson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

7. CONDEMNATIONS

A. Consideration to approve a Resolution authorizing the condemnation of Property for a Right-Of-Way Easement for a Public Road, located approximately at the southwest corner of 300 East and 200 South. Mike Shaw, Public Works Director

Mr. Shaw stated the property owner had been previously notified. However, we wanted to make certain all property owners had been property noticed prior to a decision being made.

City Attorney Starkey stated we are convinced there will be an amicable decision on this property prior to condemnation. However, due to timing, the condemnation process had to begin.

Councilman Seegmiller asked what the steps are as part of the condemnation process.

City Attorney Starkey reviewed the steps of condemnation with Council.

Property owner was not present.

Councilman Bundy made a motion to approve a Resolution authorizing the condemnation of Property for a Right-Of-Way Easement for a Public Road, located approximately at the southwest corner of 300 East and 200 South. Councilman Hudson seconded the motion; which passed with the following role call vote:

<i>Councilman Bundy</i>	<i>Aye</i>
<i>Councilman Hudson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Aye</i>
<i>Councilman Turek</i>	<i>Aye</i>

B. Consideration to approve a Resolution authorizing the condemnation of Property for a Right-Of-Way Easement for a Public Road, located approximately 1000 South 300 East. Mike Shaw, Public Works Director

Mr. Shaw stated the property owner had been previously notified. However, we wanted to make certain all property owners had been property noticed prior to a decision being made.

City Attorney Starkey stated we are convinced there will be an amicable decision on this property prior to condemnation. However, due to timing, the condemnation process had to begin.

Property owner was not present.

Councilman Hudson made a to approve a Resolution authorizing the condemnation of Property for a Right-Of-Way Easement for a Public Road, located approximately 1000 South 300 East. Councilman Bundy seconded the motion; which passed with the following role call vote:

<i>Councilman Bundy</i>	<i>Aye</i>
<i>Councilman Hudson</i>	<i>Aye</i>

Councilman Seegmiller Aye
Councilman Turek Aye

C. Consideration to approve a Resolution authorizing the condemnation of Property for a Right-Of-Way Easement for a Public Road, located approximately 850 E Indian Springs Drive. Mike Shaw, Public Works Director

Mr. Shaw reviewed the

Scott Sandberg stated he is representing his family, the White Hills Limited property. There has been much discussion on this property. He would like to discuss possible options to the access, rather than going through his property. Mr. Sandberg would like the Council extending Seminole Way through to Indian Knolls Subdivision.

City Attorney Starkey stated he would not be participating in the discussion, due to a conflict of interest.

Councilman Turek stated the property Mr. Sandberg is referring to is not part of the environmental document, and therefore would not be an option.

Councilman Bundy agreed with Councilman Turek as it was his understanding as well.

Mr. Shaw stated the extension of Seminole Way was not addressed and not part of the project. The determination to construct the road was based on the traffic flow as well as how much traffic, and the cost of construction.

Mr. Sandberg stated if Council proceeds with the condemnation, would it lock in his property, and there would be no other discussion on an alternative option. He believes it will be less costly to go with the other option.

City Manager Carter stated to look at the extension of Seminole Way rather than going through the Sandberg property would fall outside of our funding mechanism.

Mr. Shaw confirmed Mr. Carter was correct. We would have to go back to UDOT to get an approval to look at an alternative, as well as reopen the environmental document.

Councilman Bundy asked if it is a factor of the environmental document how far the residents have to travel.

Mr. Shaw confirmed it does. The traffic flow was considered as well as the shortest distance. The majority of the traffic travels north out of the subdivision.

Councilman Seegmiller asked for clarification on what type of time frame Mr. Shaw is referring to, when he stated the project would be set back, and documents would have to be opened.

Mr. Shaw stated the project is currently out to bid. He would assume it could be a month to six

months, possibly longer delay.

Councilman Bundy asked if the extension of Indian Springs Road would affect the bridge project.

Mr. Shaw stated it would. Part of the agreement with the funding on the bridge is to have a second access for Indian Oaks residents.

Councilman Bundy clarified the condemnation will affect the entire Virgin River Bridge/300 East project.

Mr. Shaw stated it would.

Mr. Sandberg stated it seems like the City makes their plans before ever approaching the property owners. If the property owners were to be approached before the City makes their plans it would be much easier to deal with. How is something bid, when the City does not even know what the cost is going to be to go through the Sandberg property? There are going to be damages caused and he is willing to fight for the money for those damages. He has contacted UDOT and they have stated the project on the bridge will not begin until November, so there is no urgency. He feels there is another alternative, and the City is using the government money to go through his property. He is in total opposition of the road going through his property, and feels there is an ulterior motive. He will fight it, and the City needs to look at another alternative. Going through White Hills property is going to be costly.

Councilman Bundy stated he does not have any idea what the ulterior motives would be. The only thing he can see is this is the shortest route to get people to the main road. He is surprised to hear construction is not going to begin until November, however Mr. Shaw will be able to answer. The cost of the roads, and the bid is different from the purchase of the property.

Councilman Turek stated the contractor would be bidding to build the road. The cost of the property is a cost to the City, and would not be part of the bid package.

Mr. Sandberg stated he understands, but he still feels the City should look at extending Seminole Way because it will be easier and cost less. He is in opposition to the condemnation of his property.

Councilman Seegmiller thanked Mr. Sandberg for coming to the meeting. He then asked if the City has attempted to negotiate with him.

Mr. Sandberg stated there have been two attempts, and the first he feels was a pathetic joke. He was insulted by the offer, which came from UDOT, not staff. The discussions with Staff have become more reasonable, but he is still firm with the access not going through his property.

Councilman Seegmiller clarified even with the more reasonable offers from Staff, the Sandberg's are still unwilling to negotiate the road.

Mr. Sandberg confirmed Councilman Seegmiller was correct. He wants the alternative

considered before his property is condemned.

Councilman Seegmiller stated it is important to note there are good alternatives. The only reason it is necessary to go through the Sandberg arena is because of the vacation of Riveredge Road. He had heard there is a possibility the vacation may be coming back to Council for reconsideration.

Mayor Neilson explained there is a request to come to Council to reopen the abandonment of the road, which he has not allowed to happen at this point.

Councilman Hudson asked does the vacation of Riveredge Road require us to go through the Sandberg property, and if Council chooses not to approve the condemnation, how would it affect the Riveredge Road abandonment.

Mr. Shaw stated as part of the environmental document for the bridge, Staff had to look at secondary access for the Indian Oaks Subdivision. The reason for the vacation of Riveredge Road was because it was a safety issues. The federal highways required Riveredge Road to be closed because of the safety issue. The bridge project is to begin in March. The bridge project on Telegraph is to being in November.

City Attorney Starkey stated Riveredge Road has to be vacated. It is not an option. Therefore, we are at the point with having to build an alternative second access.

Mr. Shaw stated if we change the routing to what the Sandberg's would prefer, we could be required to open the environmental document.

Councilman Bundy clarified it may be difficult, but some discussion could be on a different option for a road.

City Attorney Starkey stated the conditions is a secondary access prior to the bridge closure, but he is not certain what ramifications would occur if we change which access the City is going to build.

Mr. Sandberg reviewed the map with the Council, explaining which access he felt most residents are going to use. The main access for Indian Oaks is Red River Road, and it is the one they are going to use. He is frustrated there has not been any discussion before the decisions were made. In the future, he would recommend property owners were approached before making decision.

Councilman Turek stated it would only be prudent to go forward with the condemnation, and then if we find the alternative access to be more beneficial and cost affective, we can move in another direction.

City Attorney Starkey stated just because the proposed resolution should be approved does not necessarily mean the condemnation has to happen. The City can still discuss alternatives, and if we find another road would work better or be more cost effect, of course the condemnation does not have to go through, but he cannot guarantee the property will not be condemned either.

Councilman Seegmiller commented he does believe the City has had this property in their cross hairs, and he feels other options should be taken into consideration before the road is constructed. He knows the Sandberg's has other property the City is going to have to cross in the future as well, and he would like to take that into consideration.

Councilman Bundy stated he is not opposed to looking at other options.

Councilman Bundy made a motion to approve a Resolution authorizing the condemnation of Property for a Right-Of-Way Easement for a Public Road, located 850 E. Indian Springs Drive. Councilman Turek seconded the motion; which passed with the following roll call vote:

<i>Councilman Bundy</i>	<i>Aye</i>
<i>Councilman Hudson</i>	<i>Aye</i>
<i>Councilman Seegmiller</i>	<i>Nay</i>
<i>Councilman Turek</i>	<i>Aye</i>

8. AWARD OF BID & RFP

A. Consideration to award the proposal for the Construction Materials Testing. Mike Shaw, Public Works Director

Mr. Shaw reviewed:

This is a request to enter into contract with Landmark Testing and Engineering to provide geotechnical testing services for all city projects for the calendar year 2010 with an option to extend the contract for calendar year 2011.

In July 2009 advertisement went out that Washington City would be accepting SOQ's individual notice was also sent to the 2 local firms in the area. Public Works received only two SOQ's.

Public Works then scored these on the 7 criteria as outline in RFP. Landmark Testing came in with the overall highest score and only scored lower in one of the seven criteria.

Staff recommends approval of the award of bid based on the following finding.

1. Landmark Testing is the most qualified to perform geotechnical services for Washington City.

Councilman Seegmiller made a motion to award the contract to Landmark for a period of one year with an option for one-year renewal for the Construction Materials Testing. Councilman Bundy seconded the motion; which passed unanimously.

B. Consideration to approved the proposal for the Bioxide –AQ Feed Equipment for Coral Canyon Lift Station. Mike Shaw, Public Works Director

Mr. Shaw reviewed the proposal for the Bioxide Equipment. We are proposing a lease option to Council, to see if the product is going to work. The company has agreed to allow us to lease the

equipment monthly, so if we find the product is not going to work after a month, we do not have to continue the lease.

Councilman Seegmiller asked how long it would take before we would be able to see if it is going to work.

Mr. Shaw feels we will be able to see immediate results if it is going to work. If the product works, we would most likely want to purchase the equipment, and the cost can be incorporated in the upcoming years budget. He thinks it is going to be very beneficial the company is going to allow us to use the equipment for a month, and if it doesn't work we can send it back.

Councilman Turek asked if the equipment would be outside of the building.

Mr. Shaw stated it would be, but he would like to fence the equipment with type of fencing which is not see-through or place the equipment inside the building.

Councilman Seegmiller made a motion to approve the proposal for the Bioxide – AQ Feed Equipment for Coral Canyon Lift Station. Councilman Bundy seconded the motion; which passed unanimously.

9. ANNUAL COUNCIL BUSINESS

A. Consideration to approve the 2010 Meeting Schedule for the City Council.

Councilman Bundy made a motion to approve the 2010 Meeting Schedule for the City Council. Councilman Seegmiller seconded the motion; which passed unanimously.

B. Consideration to approve the 2010 Council Members assignments.

Councilman Seegmiller made a motion to approve the 2010 Council Members assignments. Councilman Bundy seconded the motion; which passed unanimously.

C. Consideration to elect a 2010 Mayor Pro Tem.

Mayor Neilson recommended appointing Councilman Bundy to serve as Mayor Pro-Tem.

Councilman Turek made a motion to appoint Councilman Bundy as Mayor Pro-Tem. Councilman Hudson seconded the motion; which passed unanimously.

Mayor Neilson recommended appointing Councilman Turek to serve as Mayor Pro-Tem in the event both Mayor Neilson and Councilman Bundy were unable to attend the meeting.

Councilman Bundy made a motion to appoint Councilman Turek as the alternate Mayor Pro-Tem. Councilman Seegmiller seconded the motion; which passed unanimously.

10. REPORT OF OFFICERS FROM ASSIGNED COMMITTEE

Councilman Turek stated he had a Community Center meeting, and they continue making progress increasing revenue, and decreasing costs.

City Manager Carter stated the Washington City Chamber meet there recently, and it was a huge success. We have extended an offer to the Lion's Club as well. We are trying to get local clubs and organizations, to use the facility at non-peak times as a benefit to our community. We have hosted the swim meets at our facility at no charge to parents or the schools. We are currently working on an agreement with SUSA to at least recoup our costs.

Councilman Turek stated the parents want to be at our Community Center because of the quality of the facility.

11. CITY MANAGER REPORT

City Manager Carter stated the tamarisk removal and cottonwood replanting is completed for the year. The storm water project in the fields is nearly ready. The betterments application for Telegraph Street was submitted today. Portions of the Southern Parkway will be going to bid soon, and possibly start construction in July. The Millcreek Trail is scheduled to go to bid on the 11th of February. UAMPS will be holding their board meeting at the Community Center next month. He would like all of the Council Members to attend if possible.

12. CLOSED SESSION

- A. The character or professional competence of an individual;**
- B. To discuss pending or potential litigation; and/or**
- C. Discuss purchase, exchange or lease of property.**

None

Councilman Seegmiller made a motion to adjourn the meeting. Councilman Turek seconded the motion; which passed unanimously.

Meeting adjourned at 8:53 P.M.

Passed and approved this 10th day of February 2010.



Attested by:

Danice B. Bulloch

Danice B. Bulloch, City Recorder

Washington City

Kenneth F. Neilson

Kenneth F. Neilson, Mayor

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