

PRESIDING AND CONDUCTING: Mayor Pro- Tem Mike Cobia
Mayor Brady- Excused

Council Members: Ben Christensen
Mike Cobia
Michael Nelson
Ann H. Tolley
Brian Wall

Also Present: Robert Bradshaw- City Administrator
Gary Calder –City Engineer
Cory Branch- Planning Director
Chief D. Pettersson- Police Chief
Camille Brown- City Recorder
David Allen, Finance Controller

Minutes Recorded by: Camille Brown- City Recorder

WORK SESSION:

The City Administrator presented the background to this issue. He said the issues have been summarized by a resident of Harvest Park, Mike Hendron with a chronological events associated with the under payments of utility charges. There are several amounts that have fallen behind and have gone into arrears – there was discussion at the last city council meeting that will formally ratify that proposal from 10% to 2% for late payments on utility payments. Harvest Park Home Owners Association have made a proposals with regards to their utility payments. 1) to pay for all utility services received and, 2) in cases of late payments, pay a reasonable and legal penalty for such. On October 15th members of the HOA met with representatives of Mapleton City to try and rectify the matter of the past due amounts of utility payments. The representatives indicated that they did not have authority to negotiate the late interest penalties, and requested payment of the past due balance in full (less the adjustments the mayor had already offered). The developer paid \$17,172.18 that day for the HOA. This payment was made despite their objections over the excessive nature of the fees. This matter will be further reviewed by members of staff and a council member and a new interest rate will be brought to a future council meeting.

Motion: Clw. Tolley moved to close the regular meeting and open a closed meeting pursuant to U.C.A. §52-4-205 for the purpose of discussing reasonable imminent litigation.

Second: Cl. Nelson seconded the motion

Cl. Cobia Aye
Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Aye

Clw. Tolley Aye
Vote: Passed 5:0

CALL TO ORDER: Mayor pro-tem Cobia called the meeting to order at 7:20 p.m. David Allen gave the invocation and Clw. Ann Tolley led the meeting in Pledge of Allegiance. Mayor Pro tem Cobia thanked the staff and poll workers for the diligence in handling the elections.

PUBLIC FORUM:

Patrick Hagen stated that would like to express his feelings on the elections and we that we the people have the opportunity to vote and by voting we make the laws. He further stated that the people are the voice and need to be heard when there are issues at hand. Please consider the things that the people have to say with the decisions you have to make tonight.

ACTION ITEMS:

1. Accepting the audit for fiscal year 2008-09

Greg Ogden reviewed the audit with the council. He stated that as a whole, the city looked good financially. He explained that two key write ups that the city received were that there was an excess amount of money in the general fund at the end of the year. These funds should have been moved to a restricted reserve fund. The second was issues related to the former controller's fraud case. The city should re-examine internal controls to prevent this from reoccurring. He said the city will most likely receive a letter from the state about both of these and ask to explain how they will be rectified in the future.

Motion: Cl. Wall moved to adopt the resolution of accepting the final audit of fiscal year 2008-09.

Second: Cl. Nelson seconded the motion.

Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Aye
Clw. Tolley Aye
Cl. Cobia Aye
Vote: Passed 5:0
Resolution No. 2009-20

PUBLIC HEARINGS:

- 2. Amendment to Title 18, Development Code, Part III, Zoning, Chapter 18.78, PD-2 Planned Development, in order to allow for a private air strip or air park and associated hangar structures as a permitted use in Section 18.78.030, Permitted Uses, increase the overall density from forty-seven (47) single family homes to fifty-four (54) single family homes in Section 18.78.080(A), Maximum Overall Density, and modify the hillside preservation regarding slopes of thirty percent (30%) or greater in Section 18.78.090, Hillside Preservation, Paragraph (A), General Purpose.
Applicant- Wendell Gibby**

Cory Branch the Planning Director reviewed the staff report with the Council. Dr. Gibby has contacted staff and requested that the 47 lots to 54 lots be delayed. The two items to be discussed on the agenda will be the airstrip and the 30% slope provisions.

Gary Calder the City Engineer stated that he would like to see the 30% slope hillside preservation stay in affect for Mapleton City. Mr. Calder has done a review of cities from Pleasant Grove to Payson and the 30% is standard. It is a standard, most cities are less and one is just slightly higher.

Dr. Wendell Gibby reviewed the runway matter, the FAA has done an inspection of the area, and they have concluded that this area is safe for a runway. He has flown over this area with two experienced pilots over the past few months and both have deemed it safe. He said neither the city nor the county have any laws about private airstrips. This would be a temporary runway. Mr. Gibby responded to a question if there was a regulation on sound for small aircrafts and also how close an aircraft can be to a home. He stated that there was not a regulation on sound and that a small aircraft was no louder than a large lawn mower and he thought the height regulation was 1,000 ft.

Eric Johnson addressed the legal issues on this matter. Both the proposed airstrip and the removal of the slope protection have the potential of affecting pending litigation. These types of actions are referable and retroactive at the time of Friends of Maple Mountain legal action was filed if adopted at this time. Because an airstrip is not allowed at this time, it could be referable due to this. Slope protections were lifted verbatim from the CE1 text and the PD 2 text is not a referable item.

Because of purposes of pending litigation, the city attorney would urge the council to deny this matter.

The public hearing was opened for comment at 8:20 pm.

Lance Cooper Aspen Dr. –He stated that a lawn mower is not as loud as an airplane at full throttle. The neighbors of this area do not want an airstrip and it will be in the back yards. Mr. Gibby will have no option but to fly over their homes.

Diane Aldana 935 East 900 North- She stated that the the airstrip makes no sense. If the FAA says its ok, the attorney said it is not in the code, maybe it is time for the city to table this item and get it in the law. As for the 30 % grade, he is trashing the mountain.

Rod Hulse- 355 East 1100 South- Mr. Hulse stated that he is not a frequent visitor to these chambers, and he thinks that he is very informed. In 1989 he stood on a 2 acre lot that he knew he would like to live here. Mapleton is great place to live and it has maintained these standards and should not try to be like other cities. He and his partner believe that if Gibby wants to build a purple and yellow building then he should be able to build it, I have rights to own the property that I own. As for compromise, we wouldn't have a nation without compromise, it is a valid way of living with each other, people gain and, people give up things, in this case we are not dealing with compromise, there has been threats and litigation. This is a case of ego, plus wealth, equal rights, whatever resources he has and he will combat others.

Jim Lundberg stated that with respect to the referendum, the building code, although he disagrees that the hillside were lifted in the PD 2 zone verbatim, it was not a substantial departure, and this would become a departure.

Evan Roundy- 2010 East- He stated that he is concerned about the safety of this issue. With small aircraft there is a bigger risk for plane crashes, which in turn will start a fire, this could be

very dangerous. His mother's house is right in the flight path, all that noise, potential danger, crashes, he would urge the city to deny this matter.

Lily Graham 40 North 1900 east. Mrs. Graham stated that over the last ten months she has seen 100 trees chopped down, felt low grade earthquakes in her home, has spoken with city officials time and time again, has watched a utility road that UP&L would need to be built. And now over an 8 plus week, she has watched Wendell Gibby gravel pit form, end of Dogwood Dr. forming piles of dirt and nothing is being done to mitigate the neighbors. During all this there have been no permits or bonding put in place, started going to the city in June and TRO was denied. The Judge said well it took so long to get here, it cannot be that important. She said it is high time that draw the line and say no more.

Randy Graham stated that the city has the information needed to make the right decisions.

In regards to the utility easement, a whole subdivision has been put in the pretense that a utility easement was put in is not right. A compromise should be made.

Sandy Jorgensen: Ms. Jorgensen stated that she disagrees with the airstrip. She grew up in West Virginia and grew up around nature. You hear the statement that the "Indian is crying on the Mountain," Please listen to the citizens.

LaVar Cardon: He stated that he is a fairly new resident to the city and use to build homes. He stated that when a building code was given, it was enforced. If the city is building a building or a trail illegally then make sure it is enforced.

Randy Clayton- Mr. Clayton inquired about what is happening with the utility road. He further stated that he is an experienced pilot and would love to have an airstrip that close by, but there is no requirement as to a maximum or minimum height requirement when you are landing or taking off.

Cressa Gibby- Ms. Gibby stated that she grew up here in Mapleton and has just recently come back to Mapleton after being gone for nearly 8 years. Since being home from Washington DC many changes have been made, and she has no expectations that things will ever be the same. She was raised by the mountains and loves maple mountain. She was raised that as an American and you have a right to do what we want with your property.

Patick Hagen: People came to America for a desire to have rights, all have come for different reasons, he came to Mapleton because he likes the open space, we all have rights.

David Nemelka: He stated that he has as much history with this development as anyone in this room, and Mr. Gibby is my wife's Dr. He would like to be of record that it is his opinion that Mapleton City violated his rights, under trespass. He said he was invited to be his business partner before Randy Graham was. In the request Gibby explained that the city had violated his rights, it was time to get back at them. Gibby would allow him to own 50% ownership of the project. Dr. Gibby wanted him to buy the property and then sell it now to make a profit, but Mr. Nemelka declined. A compromise was met and that was a MOU, he had a right to develop the property, maybe with wrongs on both sides. Only one side has kept its side of the MOU and that is Mapleton City. Gibby has gotten a lot of additional items, it had to be settled and the city gave it to him. As a citizen he would ask for the city to follow your attorney and planner and deny this matter.

Kay Sumsion, 316 South 1500 East- She stated that she and her husband attended planning commission, Dr. Gibby stated in his application there would be on average a monthly amount of 1250 landings, that is a big discrepancy as just an occasional as Gibby has stated tonight. As

citizens of this city we need to look for the best,, we do not want that airstrip on that mountain, do not allow it.

Brent Sumsion- In regards to the airstrip, that is extremely dangerous, those canyons are 90 degrees to the landing and take off and could be very hazardous, fully loaded with fuel crashes, anywhere near, the whole mountain would go up. Small plane crashes are very common. The density issue, there is real access problems, the adding even more density would just add more problems gaining access into those lots you are increasing problems for erosions. Erosion is more likely. The construction of this subdivision is probably a 10 to 15 year time span from now. With a 5 year storm and there was a lot of sand and gravel into the Thatcher's yard.

Julie Hall- Progress is not the same for all cities, we don't need to keep up with the city north of us. The progress for Mapleton could be different, preserving the space and building is progress for her and her family.

Stuart Dean- He stated that he appreciates all the time and service that the council puts in. The victories last night were a mandate, now is the time to put this to bed, the community here has to be forthright.

Wendell Gibby stated that all this boils down to the rights to individuals and the rights of the people, there are standards in place, there are not any houses over the flight paths, he has heard the statement the Indian is crying, that citizens here have never come to him and been willing to pay him for the property. People's property does not come with a view, why should he have to keep his property the same. He stated that he is willing to re-seed in the next few weeks and has the most vested as anyone, you cannot build on property over 30%, this bench is for the most part flat, He said there is nothing unbuildable about this bench, there is nothing special, has more reports on it that any property in the State of Utah. He has not ask for a lot here, the same regulation to this property, as other properties across the town.

Public hearing closed at 9:25 pm

Ann Tolley stated that she is concerned about the public's perception of the council thinking that in some way they like spending money on issues they don't need to be. Currently she lives near the mountain and does not like the new sub-divisions that have gone in by her home that will be developed someday. There has always been development rights to the land owned by Wendell Gibby. The city is trying to come to a compromise, there are dangers attached to the airstrip, the airstrip outrage reminds me of the outcry of the public sewer. Currently the city fire department is in a shack because the city does not have hundreds of thousands of dollars, because we have spent hundreds of thousands of dollars on lawsuits and other issues in Mapleton. Right now as a councilmember she does not want to spend any more dollars on lawsuits. She said as much as she hates it, the city can not keep Wendell Gibby from developing his land.

Mike Cobia-stated that he thinks there needs to conformity, if the city approves the airstrip there would never be a single plane land there. Our own city attorney has a lot of weight with him and he is going to have to give that a lot of consideration.

Motion: Cl. Wall moved to deny the Amendment to Title 18, Development Code, Part III, Zoning, Chapter 18.78, PD-2 Planned Development, in order to allow for a private air strip or air park and associated hangar structures as a permitted use in

Section 18.78.030, Permitted Uses, and deny modify the hillside preservation regarding slopes of thirty percent (30%) or greater in Section 18.78.090, Hillside Preservation, Paragraph (A), General Purpose for the reason stated in the staff report.

Second: Cl. Nelson seconded the motion.
Cl. Cobia Aye
Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Aye
Clw. Tolley Aye
Vote: Denied 5:0

3. Wendell A. Gibby requests to amend the Mapleton City Street Cross Section Standard Drawings in order to add new standard cross section drawings for hillside areas.

Motion: Cl. Wall moved to continued the item to the November 18th City Council meeting.
Second: Cl. Nelson seconded the motion.
Cl. Cobia Aye
Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Aye
Clw. Tolley Aye
Vote: Passed 5:0

4. Wendell A. Gibby requests Final Plat approval of Freedom Vista Subdivision, Plats “A”, “B”, “C”, and “D” (54 lots proposed), on property located generally at 2000 East Maple Street. The subject property is located in the PD-2 (Planned Development - 2) zone.

Motion: Cl. Wall moved to continued the item to the November 18th City Council meeting.
Second: Cl. Nelson seconded the motion.
Cl. Cobia Aye
Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Aye
Clw. Tolley Aye
Vote: Passed 5:0

5. Utility past due penalty

Mr. Bradshaw explained that at a recent council meeting it was discussed to restructure the penalty rate from 10% to 2%. The 10% has been in effect for many years, but since residents have brought this issue to the council’s attention this item is being brought before the council. After a discussion with the council a resolution was established and it was decided to lower the rate to 5%.

Motion: Clw. Tolley moved to adopt a resolution setting Mapleton City's penalty for past due balances on utility bills at 5.0% per month.

Second: Cl. Nelson seconded the motion.

Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Nay
Clw. Tolley Aye
Cl. Cobia Aye
Vote: Passed 4:1
Resolution No. 2009-21

Motion: Cl. Christensen moved that the late penalty amount to Harvest Park should be refunded in the amount of \$3,318.56, have staff come back to the council amend how the penalty is calculated and whether it is compound, that Gary Calder and Dave Allen will present these issues and the 11 building permit be refunded in the amount of \$600.00.

Second: Cl. Nelson seconded the motion.

Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Nay
Clw. Tolley Aye
Cl. Cobia Aye
Vote: Passed 4:1

6. Amendments to the Personnel Policies and Procedures manual relating to sick leave and travel reimbursement entitlement.

The City Administrator, Bob Bradshaw outlined the proposed changes for the Personnel Policies Manual. The way the manual reads is confusing and could be misconstrued. This policy needs to be resolved as outlined in the staff report. With regards to the sick leave policy in the manual, a person leaving the employment of Mapleton City is very vague and could leave an employee to believe that they are entitled to unused sick leave pay when parting from Mapleton City. This revision will clarify that this practice is not allowed upon termination or leaving the employment with the city.

Motion: Cl. Christensen moved to amend the Personnel Policies and Procedure Manual paragraph 9 sub paragraph d2 will now read:

1. To destination within 75 miles no overnight lodging will be reimbursed;
2. No. 2 will be stricken
3. No. 3 will be renumbered to no. 2; and
4. No. 4 will be renumbered to no. 3.

Second: Cl. Nelson seconded the motion.

Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Aye
Clw. Tolley Aye

Cl. Cobia Aye
Vote: Passed 5:0

The second part of the item deals with accrued sick leave. When staff leave for new employment some have believed they may be entitled to untaken sick leave. The City Administrator is recommending that paragraphs 8-4f and 15 2 a2 be stricken. Discussions were held about what other cities do with their sick leave and some cities allow their employees to buy back the sick time that they do not use.

Motion: Cl. Christensen moved to amend the Personnel Policies and Procedure Manual and remove paragraph 2 and 3 of 15-2a and 8-4F to read “Termination- An employee who leaves employment with the city shall not be compensated for unused sick leave.”

Second: Cl. Wall seconded the motion.

Cl. Christensen Aye
Cl. Nelson Aye
Cl. Wall Aye
Clw. Tolley Aye
Cl. Cobia Aye
Vote: Passed 5:0

CONSENT AGENDA:

7. Approval of City Council meeting minutes- October 7, 2009

Motion: Cl. Nelson moved to approve the minutes of the October 7, 2009 City Council meeting.

Second: Cl. Wall seconded the motion.

Vote: Passed 5:0

MAYOR, COUNCIL AND ADMINISTRATIVE REPORTS:

Clw. Tolley requested that the council assignments for the new council be made immediately so that the old council can turn over their responsibilities in a timely manner.

Cl. Christensen inquired if the City Council meeting for December 16th could be postponed or started late. The City Administrator stated that this meeting would be difficult to move due to it being the public hearing for the boundary line adjustment of the Ensign Bickford property.

The City Recorder reported that there was a need to hold a canvassing of the votes November 10th through the 17th. The Council decided on November 12th at 6:00 pm to hold this meeting.

Motion: Cl. Nelson moved to adjourn the meeting

Second: Cl. Cobia seconded the motion

Vote: Passed unanimously

Meeting adjourned at 10:40 pm

Camille Brown, City Recorder

APPROVED: November 18, 2009