

MAPLETON CITY COUNCIL MEETING

December 16, 2009

**PRESIDING AND CONDUCTING:** Mayor Brady

**Council Members:** Ben Christensen (arrived at 9:40 pm)  
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  
David Allen, Finance Controller  
Camille Brown- City Recorder  
Eric Johnson – City Attorney

**Minutes Recorded by:** Camille Brown- City Recorder

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**Motion:** Cl. Nelson moved to open a closed meeting pursuant to U.C.A. §52-4-205 for the purpose of discussing reasonable imminent litigation.

**Second:** Clw. Tolley seconded the motion

**Pass:** Unanimously

Cl. Nelson moved to close the closed meeting and reconvene the regular session

Cl. Wall seconded the motion

**CALL TO ORDER:** The Mayor called the meeting to order at 7:10 p.m. Mike Nelson gave the invocation and Laney Robinson led the meeting in Pledge of Allegiance. Mayor Brady expressed her appreciation to the city, staff, volunteers, the citizens and the members of the various committees that make Mapleton a great success. She also expressed to the citizens that they are in good hands with the city employees and it has been a pleasure in working with the members of council.

**PUBLIC FORUM:** No comments were made.

**CEREMONIAL ITEM:** A presentation was made to the Ambulance and Police Personnel that assisted with delivering a baby in our city and each were presented with a stork pin for their valiant efforts.

Mayor Brady presented Chief Michaels with a plaque of appreciation for hard work and dedication as fire chief for the last two years.

A plaque was also presented to Ann Tolley for her great service over the past four years as council member, after which Mayor Pro tem Cobia presented Mayor Brady with a plaque for her efforts over the past two years as Mayor.

**CONSENT AGENDA:**

**1. Approval of City Council meeting minutes- November 18, 2009**

**Motion:** Cl. Nelson moved the approval of the minutes of the November 18, 2009 City Council meeting.

**Second:** Clw. Tolley seconded the motion.

**Vote:** Passed 4:0

**2. Approval of City Council meeting minutes- December 2, 2009**

**Motion:** Clw. Tolley moved to approve of the minutes of the December 2, 2009 City Council meeting. Mayor Brady made a clarification on the land which was to be donated for the cemetery. The city has a lien on each parcel of land within the development that the responsible developer lost. This clarifications I s to be included the minutes.

**Second:** Cl. Nelson seconded the motion.

**Vote:** Passed 4:0

**ACTION ITEMS:**

**3. To receive nominations for Fire Chief for 2010-2012.**

The City Administrator stated the fire department personnel made a recommendation for who should be chief at their previous fire training meeting. The unanimous support was for Ronald Whiting.

**Motion:** Cl. Wall moved to receive the nomination for Ronald Whiting to serve as Fire Chief for 2010-2012.

**Second:** Clw. Tolley seconded the motion.

Cl. Nelson Aye

Cl. Wall Aye

Clw. Tolley Aye

Cl. Cobia Aye

**Vote:** Passed 4:0

Resolution No. 2009-24

**4. To receive nominations for Planning Commission members**

Mayor Brady stated that the terms of office were up for commissioners Thomsen and Pratt. She stated that the alternates would move up as regular commissioners and she has interviewed Richard Lewis as an alternate member of the Planning Commission and would recommend these nominations.

**Motion:** Cl. Wall moved to accept nominations for Mike Tippets and Jeff Hawkins as regular members of Planning Commission Richard Lewis as an alternate member

**Second:** Cl. Cobia seconded the motion.

Cl. Nelson                   Aye  
Cl. Wall                     Aye  
Clw. Tolley                Aye  
Cl. Cobia                  Aye  
Vote:                        Passed 4:0  
Resolution No. 2009-22

**5. Mapleton City Street Cross Section Standard Drawings - Amendment to add new standard cross section drawings for hillside areas. Applicant: Wendell Gibby**

Cory Branch stated on the 18<sup>th</sup> of November the applicant requested that the City Council amend the Mapleton City Street Cross Sections in order to add two new standard cross section drawings for the hillside areas. At that meeting the City Council approved the proposed 56' right-of-way standards and continued the proposed 29' right-of-way standard to this meeting tonight. On November 12, 2009 meeting the planning Commission recommended denial of the proposed standard cross section drawings citing that the proposal is substandard and creates safety issues, and they thought there were better ways to deal with the entrance to the subdivision.

Motion was made to open the public hearing and passed unanimously.

**Dr. Gibby** stated that this limited access is due to an area in a different subdivision that was not complete at the time of the recorded plat. He said that in his mind this road should have been dealt with by the city at that time.

**Steve Aldana** stated that he feels this 29 foot road is the city's responsibility. He further stated that at last weeks planning commission Mr. Gibby stated that the city should condemn property of the Thatcher's and the Graham's.

Brian Wall stated that Mr. Gibby has never recommended that the city condemn any parcel property.

**Dee Thatcher** stated that if the City Council is willing to consider the right of way for this road of 29' tonight, he believes that this should not be resolved before the final plat is approved. Mr. Thatcher read an excerpt of the landscaping code and, asked why the Whisper Rock sub division has a only one access point and the council is requiring two accesses in this subdivision which is at issue.

**Brent Sumsion:** 24' feet of asphalt – they are not bounded by a j curb, on other rural roads there are gravel shoulders, and trucks would be able to swing wide.

**Randy Graham:** It was stated by Mr. Gibby that there has been good faith negotiations, and he has started those negotiations by stating that he is going to get what he wants anyway. After the snow storm it showed what was going to be a continuing problem with snowy weather. It was stated by Mr. Gibby that there had been a traffic study which is forcing the city to have a narrower road, why would the city vote for hillside standards and the city is creating a new 29' decision. Mr. Graham know that the Gibby's knew that the property constraints when they bought the property.

**Dianna Aldana** stated that Laurel Brady stated that Barbara Pratt and Leo Thomsen were great map readers. They voted to deny this and now the city council is going to possibly go against what they believe.

**Kevin Gurr** stated that he is machine operator on this project. When Mr. Graham reported seeing him try to get a large cat and bulldozer up this road, Mr. Gurr stated that he created the worse case scenario of trying to get a vehicle up this road. This road is not finished the, the

loader does not do well on ice, but when he got in a larger piece of equipment that went right up the road, even at a 16% grade. He believes that a 2 wheel drive vehicle could have maneuvered up the road. Even though Mr. Gurr got up the road at 16% grade, the City Engineer, Gary Calder reported that the road will be at 12% grade.

**Denny Murray** stated that he wrote a letter to the council and he would hope that the council would take these items into consideration.

**David Tippetts** inquired if the City Council had more information to base their decision on that what the Planning Commission had when they recommended a denial. The planning Commission minutes were read about the reason for their denial and that there were better ways to deal with the entrance of the subdivision. He would ask that each member of the City Council give the reasons that they feel are superior to the data that the Planning Commission had in making their decision.

**Harvey Croft** stated that he served on the Planning Commission over 9 years ago. There was a big controversy at that time about land that was purchased for homes where a lift station for the sewer needed was needed. He feels that if this lift station would have been put in there would not have been the problems that have arose from needing that lift station. He further stated that you cannot have liability on something you do not own.

**Wendell Gibby** stated that at no time has the City Council ever told him that he would get what he wanted with his property. Both parties in the area have been told that they can landscape the way they both would like to.

**Shauna Leetham** stated that when Dr. Gibby bought the land at issue, he stated in a City Council meeting that he would preserve the mountainside and would keep the mountain "Pretty" for what is known for.

**Joyce Clifton** stated that a dairy was approved and put in their neighborhood. By having this dairy by the homes has cost a neighborhood over \$50,000 to defend their beliefs. She and other neighbors believe that Dr. Gibby's money is mixed up in that dairy and getting it resolved.

**Jim Lundberg** communicated that if a "deal" were to be done with the Graham's and the Thatcher's, he believes that by doing this it would make their lots non-conforming, because it would bring their lots down below 2 acres.

Mayor Brady stated that she has serious concerns about the road being put in where it is being proposed and would rather not see anything in this location. She believes that the City Council should look at an alternate access this road is too dangerous.

**Motion:** Clw. Tolley moved that the 29' right-of-way be approved as requested and add it to the city cross section standards for this intersection and including recommendations from the Horrocks Engineering:

*The traffic generated by the project is not estimated to negatively impact the capacity of the existing roadway. Proper entrance signing and striping is recommended.*

*Trucks should enter from 1900 East at the northern access in order to maneuver through the entrance based on the current design.*

*A stop sign may be needed at the southbound approach at 1900 East, along with a warning sign to large vehicles traveling to Freedom Vista, to yield to oncoming vehicles as they maneuver through the northern access.*

*Maintaining at least two project accesses is highly recommended for resident access, emergency response, and evacuation reasons.*

*Local code requires that curves need to have a radius of at least 128'. All but one area of the subdivision meets this criterion. To help mitigate the truck overlap on the 100' radius curve is to add approximately 4' of pavement through this curve and to possibly red speed limit to 20 mph surrounding and through this curve.*

*The 12% grade is not optimal, however, there is some leeway given to the City Engineer when other feasible options are presented and pursued. The national standard allows for up to 15% grade but does not mention the affects of weather conditions or emergency response.*

**Second:** Cl. Cobia seconded the motion.

Cl. Nelson	Aye
Cl. Wall	Nay
Clw. Tolley	Aye
Cl. Cobia	Aye
Vote:	Passed 3:1

Ordinance No. 2009-14

**6. Final Plat approval of Freedom Vista Subdivision, Plats “A”, “B”, “C”, and “D” (47 lots proposed), on property located generally at 2000 East Maple Street. The subject property is located in the PD-2 (Planned Development - 2) zone- Applicant- Wendell Gibby**

Cory Branch, the Planning Director stated that the Planning commission recommend denial of this item. Further drawings that were not considered by the Planning Commission were received on December 10<sup>th</sup> just prior to the Planning Commission meeting. drawings were received the night of the meeting on December 10<sup>th</sup> of the planning commission, but are not being considered with the final plat approval.

The public hearing was opened at 8:33 pm

**Wendell Gibby** stated that this has been a continuous item ever since the property has been purchased. If this could be resolved it would conclude a long chapter of Mapleton City. He further stated that he has retained a very good landscaper that will design something beautiful for the city.

Eric Johnson, the City Attorney asked of the applicant if he had applied and requested for final and if he is desiring final plat approval tonight. Mr. Gibby stated that yes he did apply for final plat approval and a letter was signed and given to the Planning Department to that affect.

**Dayle Jeffs:** The applicant’s attorney spoke and gave a brief history about the property and the litigation that has occurred to this point.

**Steve Aldana:** I was content to stay home until this road cut came across the front of that mountain. We have value to preserve this mountain, our mountain. We have no problems with the subdivision, but to tear across the front of the mountain is just spite. Great put your homes up there, but there was no reason for the mountain distruction. This is why we are here.

**Harvey Croft** stated that he was glad when Dr. Gibby made the comment that this subdivision was no different than any other city, but when he was still in business he was asked to dig out

homes in Sherwood hills. , erosion is shown on the map already, in your plan is there any plan to control the erosion to protect the subdivision. Gary Calder stated that Mr. Gibby has debris basins at the base of the erosion.

**Evan Roundy:** He asked that the city develop a stub to their property and abide by their ordinances.

**Randy Graham:** Cory did you state that there are drawings out there that the council has not seen. Cory stated that they would be 21 conditions with final plat, is that standard or is it a case by case basis.

The roadway needs to be mitigated and everyone needs to abide by the same rules. Mayor stated that issue of noise has come up and it needs to be addressed.

**Charlotte Thatcher** stated that she lives next door and does not think that this needs to be hurried through. Mr. Gibby wants the property owners to mitigate what has been done and it should be the developer's responsibility. The Roundy's have the right to have a stub at their property, please do not hurry this through, get everything taken care of first.

### **Ben Christensen joined the meeting at 9:40 pm**

**Dave Taylor:** By not resolving this property issue, could be a burden on the citizen's tax bill in the future. Consider an equitable resolution and not get so personal.

**Christy Young** stated that she has only been to one city council meeting and would like to know why these meetings are called "public hearings" It seems like the laws and ordinances have been changed to be in compliance with the MOU and this project should not be considered with 21 conditions.

**Jim Lundberg** stated that his main concern is there are still so many outstanding conditions. He would ask that the council decide which conditions are going to be long term and have a lasting affect on the city. Mr. Gibby has a the right to develop his property. There has not been any compliance with engineering road standards, Gary Calder the City Engineer stated that reports should not be given to the city because there has not been an approved subdivision. Mr. Lundberg said the long term liability to the city and financial impact on city should be seriously considered. The conditions are strictly enforced before the final plat is approved. Jim asked The City Attorney if he, Mr. Gibby, was doing a lot more than he should without a grading permit and if this were to be brought back to the CE-1 zone by the referendum and affect that the city by the improvements that are going to go in this subdivision. If the plat drawings are approved, is it possible that these improvements would have to be torn out and brought up to sub standard. Mr. Lundberg thinks the city should hold Mr. Gibby to the conditions as strictly as you can.

**Roger Brinkerhoff** stated that he lives right at the bottom of the hill that is being proposed as a road. Being a developer himself, he has wondered if Mr. Gibby has a storm water permit, it's a state permit, he is not in compliance with the state by not having this permit.

Gary Calder stated that this is not enforced until the plat is approved.

Mr. Brinkerhoff state that he has lived behind the subdivision, and this part of the mountain never has snow, this needs to be addressed by the city engineering, if you are taking on this project the city should look into more than they are. It's a problem you are inheriting when you approve it.

**Wilma Hoffiensi** stated that when she bought their home in 1990 because Mapleton had the foresight not to build on the mountain like other surrounding cities. No amount of beautiful

buildings or landscaping can replace this prestige mountain. She stated she would ask the council to heed the Mayor's word and not approve this road.

**Rick Maingot:** Read a note from Tracy Padgett Bonneville shoreline trail is very historical and is on the trails map. He said the city council is bound by the MOU you and some problems are due to not holding people's feet to the fire and not backing down because we are afraid. Maintain as much as you can.

**Mark Nelson** stated that he has not gotten involved in this issue much until now he thought he ought to make a statement since this is the decision for the final plat tonight. He further stated that he is a land developer and when things get approved, the final mylar that is signed is what the land owner has to abide by and there are not generally conditions attached to that mylar. He asked from the Planning Director if the mylar would be complete even with the 21 conditions. Cory stated that a final plat with conditions is not uncommon.

Mr. Nelson thinks that this is being hurried through and this isn't the time to approve this.

**Lily Graham** stated to the council when they moved into their home they never thought they would be facing the problems that they are today. Their home and neighbors homes face values have been seriously affected. The road the council approved has nothing to do with the MOU. Mrs. Graham asked the Planning Director how many conditions exist and he stated that there are 21 conditions at this point. He further stated that Mr. Gibby has come along way from where all the conditions were or is, and it is his delay not the city's.

Mrs. Graham said she is so distressed that this is going to be passed. Her rights are not going to be protected tonight. The conditions are going to be ignored. How is she suppose to have any faith that these conditions will be met. At the conclusion of her statement she quoted from the Mayor's December newsletter article.

**Dan Sutherland** stated that he is a believer in individual property rights and said if Mr. Gibby owns that land, and if the plat is before the council and meets city standards then it seems prudent to approve this project. This city and developer have spent too much money on litigation that could have been spent on other amenities to benefit the city.

**David Tippetts** stated that since 1975 there has been a major fire every 8 years. He asked the City Attorney if he was comfortable with the protection the city has.

He questioned the council and the city attorney if having homes on that mountain would bear the city any liability, if there is loss of property or life.

**Joseph Park** stated that when he had 2 individuals from a foreign country live in his home, he was told by the city that they could not live there and then an inspector had to come and check to see if they still lived there. He has had someone else let his dogs out and he was issued a citation. Land owners can request what they want, but it doesn't seem right for them to add provisions and also take them away.

Public hearing was closed at 10:00 pm

**Dr. Gibby** stated that they did not put the road on the mountain for no reason, It was done by a requirement of Rocky Mountain Power. There has been extensive research done the mountain is solid granite, not calcsite. Erosion control is in place, they have offered to revegetation plan including trees, ones that we will put in. There are two sizeable pieces of property that he willing to deed these pieces of property to the Thatcher's and the Graham's. There are 21 conditions, but the City Council had placed these a long time ago and a lot of these have been met. He said even if the city council approves this with conditions, there still is not a subdivision until the

conditions are met. He would ask that the development be phased for 15 years. It was stated in the MOU that the trail would be set by the property owner.

The City Attorney, Eric Johnson asked if Dr. Gibby is requesting two accesses for his subdivision. Dr. Gibby confirmed this was his request. He would like the project phased as well and not have to put all the infrastructure in at one time.

The mayor stated that she is very concerned about the safety of the road. She is also very cognizant that the Council needs to approve this plan, but would rather see the council see a different access situation, but the city has committed to approving this plat.

**Motion:** Clw. Tolley moved to approve the Freedom Vista subdivision Final Plat with conditions presented by the DRC on December 3, 2009 in addition to the recommendations of the Horrocks Engineering be made and that the city consider a Development Agreement addressing phasing of the subdivision.

**Second:** Cl. Christensen seconded the motion.

Cl. Christensen Aye

Cl. Nelson Aye

Cl. Wall Aye

Clw. Tolley Aye

Cl. Cobia Aye

**Vote:** Passed 5:0

Resolution No. 2009-23

Mayor Brady excused herself from the meeting at 10:45 pm

Mike Cobia Mayor Pro Tem made a motion to appoint Cl. Wall as the chair for the remainder of the meeting.

Nelson seconded the motion.

Vote was unanimous

#### **7. Recently approved utility shut off policy.**

Dave Allen the Finance Controller stated that on November 18, 2009, the City Council approved a formal utility shut off policy. As part of the policy, certain fees are to be assessed. He would recommend to the Council that that the following fees be adopted that are associated with the approved shut off policy.

**Formal Notice of Pending Shut Off- \$5.00**

**Disconnect and Reconnect Service Fee- \$40.00**

**Motion:** Cl. Christensen moved to approve a resolution adopting the associated fees for the approved shut off policy.

**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. 2009-26

**PUBLIC HEARING:**

**8. Chapter 13.16.040 Amendment to the Mapleton City Code pertaining to procedures for utility billing.**

Dave Allen the Finance Director stated that due the shut off policy that was put into place at the November 18<sup>th</sup> City Council meeting, it is necessary to amend the City Code pertaining to procedures for Utility Billing.

**Motion:** Cl. Christensen moved to approve an ordinance amending chapter 13.16.040 of the Mapleton City Code pertaining to utility billing.

**Second:** Cl. Cobia seconded the motion.

Cl. Christensen Aye

Cl. Nelson Aye

Cl. Wall Aye

Clw. Tolley Aye

Cl. Cobia Aye

Vote: Passed 5:0

Ordinance No. 2009-15

**9. Feasibility study- Ensign Bickford land- Highway 6/ Highway 89- Appointment of a consultant.**

The City Administrator reported that the Economic Development Commission has recommended that the Council appoint Bob Springmeyer who works for Bonneville Research. It was stated that Mr. Springmeyer does this type of work for other cities.

**Motion:** Cl. Cobia moved to appoint Bob Springmeyer of Bonneville Research to prepare a feasibility study for the Ensign Bickford land located on Highway 6/Highway 89.

**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

**PUBLIC HEARING**

**10. (This item will be continued to February 2, 2010 at the developer/landowners request)  
Common Boundary Adjustment with Spanish Fork City (Ensign Bickford Property)**

Bob Bradshaw the City Administrator stated that the continuance of this item was made at the request of the developer/landowner.

**Motion:** Cl. Cobia moved to continue the Common Boundary Adjustment with Spanish Fork City- Ensign Bickford Property until the February 2, 2010 City Council meeting.

**Second:** Clw. Tolley seconded the motion.

Cl. Christensen Aye

Cl. Nelson Aye

Cl. Wall Aye

Clw. Tolley Aye

Cl. Cobia Aye

Vote: Passed 5:0

**MAYOR, COUNCIL AND ADMINISTRATIVE REPORTS:**

Gary Calder stated that the Dogwood Dr. bids were opened and this matter will be brought to the January 5, 2010 meeting.

Chief Pettersson stated that the auction was postponed until a later date.

Mike Cobia reported that he has been made chair of SUVMWA. It was further stated that the vote for the Utah Lake Commission pertaining to the bridge will most likely come before the committee for a vote in 2010.

Ben Christensen stated that it will be necessary to appoint a chair for the Museum Committee.

Brian Wall reported that the County Commissioner is having a dinner for SMART in January and inquired if a council member would like to attend on his behalf.

Ann Tolley relayed to the council and citizens that it has been a pleasure serving on the City Council for the last 4 years.

**Motion:** Cl. Christensen moved to adjourn the meeting

**Second:** Clw. Tolley seconded the motion

**Vote:** Passed unanimously

Meeting adjourned at 11:45 pm

Camille Brown, City Recorder

**APPROVED: January 5, 2010**