

MINUTES OF HARRISVILLE CITY
CITY COUNCIL MEETING
Tuesday, January 8, 2013 – 7:00 p.m.
Council Chambers
363 West Independence Blvd
Harrisville, Utah 84404

Present: Mayor Richard Hendrix, Council Member Chad Allen, Council Member Bruce Richins, Council Member Paula Knighton, Council Member Michelle Tait, Council Member Grover Wilhelmsen.

Staff: Bill Morris, City Administrator, Jennie Knight, City Recorder.

Visitors: Ruth Pearce, Jeff Pearce, Sandy Moyes, Larry Moyes, Scout Troup 226 (Ogden), Bill Hart, Jerry Preston, Sean Hart, Robby Hales, Robert Hales, Amber Weston.

7:00 P.M. CITY COUNCIL MEETING

1. Call to Order.

Mayor Hendrix called the meeting to order and welcomed all visitors.

2. Opening Ceremony.

Mayor Hendrix led the Pledge of Allegiance and opening ceremony.

3. Consent Items.

- a. Approve the minutes of December 11, 2012 as presented.
- b. Review the November 2012 Check Register.

MOTION: Council member Allen motioned to approve the minutes of December 11, 2012 as presented. Council Member Tait seconded the motion. All Council Members voted aye. Motion passed.

4. Business Items.

a. Discussion and/or possible action to approve proposed changes to the developer's agreement on The Georgian subdivision.

Jerry Preston with Liberty Real Estate and Development are developers of The Georgian which began construction in 2007. Mr. Preston reported that originally they had 28 units under contract, but by the time the units were available, only four of the contracts ended up in a sale due to a downturn in the economy including the failure of Barnes Bank, and the fact that FHA requires more than 50% of the units sold before buyers qualify for FHA funding. He said the developers are proposing an amendment to the original SAP development agreement which would allow the units to be rented and managed by a rental agency. He said their hope is to plat each of the seven buildings individually which would allow each to be considered separately for funding. He asked for Council's input and advisement on how to move forward with this development. They realize the completion of the development of The Georgian has been stagnant for some time now due to above stated reasons.

Mayor Hendrix asked why this was not sent through Planning Commission. Bill Morris explained that the developers met with the project management committee, and were sent to City Council to see if Council would allow an amendment to the original development agreement. It is the City Council who enters into contracts and agreements on behalf of the city. If Council approves the amendment, this project would be required to go through Planning Commission for a recommendation concerning the amendment to the

site plan to re-phase The Georgian into seven phases rather than one. By re-phasing the project, they could sell the buildings individually. Bill Morris suggested that if the amendment to the development agreement is approved, Council may require the Good Landlord program be included. Council Member Knighton inquired as to the status of the Good Landlord Program. Bill Morris said he has a draft written, but the program requires a study be conducted to determine the disproportionate fee that would be included in the business license.

Council Member Wilhelmsen agreed re-phasing may be a good option to move the development forward. Mr. Preston said there is no guarantee that will happen but that is their intent. Mayor Hendrix expressed a desire to see the development move forward to completion. Mr. Preston said it is the nature of the investors to see the project through to the end. If they re-phase the project, he said they will build one building at a time and sell each individually. The amendment to the development agreement would allow them the flexibility to rent the units out with the possibility to sell them at a later date. The long term goal would be to have all units sold and owner occupied in two years. Having the buildings remain as apartment complexes is only the second option. He said they will know within a few months time whether this plan will take hold. Council Member Wilhelmsen asked for clarification that developers are just asking for permission to rent these units through the amended developer's agreement. Bill Morris said the amendment would provide a way for them to move forward without unrealistic expectations in a bad economy.

Mayor Hendrix asked Council for their thoughts and expressed his desire to clean up this area, noting that he is not necessarily looking forward to creating the complexes as rentals. Council Member Richins pointed out developers have limited control over people purchasing these units and renting them out themselves. Mr. Preston agreed that this is exactly what is currently happening. Council Member Richins asked if the resale value is maintained if the units are rented first and then sold. Mr. Preston responded that the units are highly maintained through the rental service and repainted and repaired after each tenant. Council Member Wilhelmsen asked if there is a conflict with one unit being owned and the next unit a rental. Mr. Preston said it is very owner specific, but in other areas where this is being done, the unit owners are usually members of the HOA and have influence through their participation. Bill Morris pointed out that after the amendment to the development agreement is made, it will allow for a mixture of owned and rented units and Council will not necessarily have control over what the percentage of rentals will be. Council Member Knighton pointed out the developer is already in violation of the current agreement with people owning units and renting them out. Mr. Preston agreed they are in violation. Bill Morris pointed out the reality is, there is no control over that. He said with the proper SAP development agreement in place, Council can authorize rental of the units.

Council Member Allen expressed his concern with this amendment unless Council adopts a Good Landlord Policy. Council Member Knighton expressed her concern with allowing all units to be rentable. Bill Morris said Council can make specifications in the agreement, but enforcement will be an issue. He said under current regulations of the SAP development agreement, the existing units are individually owned and should not be rented.

Council Member Knighton asked about police response statistics. Bill Morris said a neighboring city that has 76 units received 70 calls for service to their area. He pointed out a Good Landlord Policy would help control that. Mr. Preston reported they currently have 45 units, but not near that percentage of calls for service. Council Member Knighton reminded Council they have already been in violation for four years and Mr. Preston confirmed this. Mayor Hendrix urged Council to consider what is best for the city. Mr. Preston reported they have a successful management program for rentals in other areas.

Council Member Knighton asked how soon a Good Landlord Policy could be implemented. Bill Morris indicated much of the work has been done with exception to the study which would need to be conducted. He explained that once the policy is approved, it would be effective for all rentals within the city. He called attention to the fact that the current budget does not include this line item, and the funds for the study would likely have to come from the Capital Projects Fund.

Council Member Knighton asked if an audit could be conducted comparing property title names with utility billing names to be indicative of the rental units within the city. Bill Morris stated that staff has been conducting that audit.

Mr. Preston clarified that the owners of these units essentially only own the air space and interior walls of their unit. He said the HOA maintains the structures and outside of the buildings. Bill Morris urged Council to agree to a plan that can be managed in the future. Mr. Preston said he is at the mercy of the Council because he recognizes they are violating the current agreement. Council Member Knighton stated her desire to include a 50% owner, 50% renter policy. Council Member Allen said he would consider approving rental units if and when a Good Landlord Policy is in place. Council Member Knighton

suggested Council reach some kind of agreement to bring the developer into compliance now, and require compliance to the Good Landlord Policy once it is created.

Mr. Preston said they will have to re-phase the project to come into compliance as the project currently stands. Council Member Wilhelmsen inquired about the cost effectiveness if they re-phase the entire complex. Both Mr. Preston and Bill Morris indicated re-phasing would be happening in both scenarios. Mr. Preston acknowledged Council's desire to see as many units owner occupied as possible. He said they are willing to try to re-phase and control it as much as possible. He pointed out they will have HOA restrictions as well as the Good Landlord Policy once it is in place.

Council Member Knighton expressed her desire for some action due to the fact that they are not in compliance. Bill Morris said the city has been aware of the non-compliance but there is no remedy. He explained that the developer has endured substantial changes in circumstances that would be argued in their favor.

Mayor Hendrix suggested Bill Morris write up an amended developer's agreement allowing rental of the units and consideration of re-phasing from one phase to seven phases. He said the Good Landlord Policy can be treated as a separate issue. Mayor Hendrix confirmed he has been aware of the non-compliance for years, but admitted that the units are at least occupied through rentals. Council Member Knighton agreed that Bill Morris should write up an amended agreement and suggested it include a percentage of allowable rentals. Council Member Richins reminded Council that the requirements would only be on paper. Council Member Wilhelmsen agreed, but stated this would be a guideline, and would bring the developers into compliance. Bill Morris said as the current occupancy stands, it is 7% owner occupied.

Council Member Tait pointed out that Harrisville does not currently have a lot of rentals. Bill Morris confirmed there are not apartment complexes, but stated there are many individual residences being rented out. Council Member Richins said there are likely many more rentals within other SAP's that the city is unaware of.

Council Member Wilhelmsen expressed his support for Bill Morris to write up the amended agreement. Bill Morris said he can put something together to present for Council's approval. He said it sounds like the developer will move forward with re-phasing the development with appropriate approval from Council to rent units if needed.

MOTION: Council Member Richins motioned to authorize staff to amend the current development agreement to allow for the re-phasing and rental of units, with the caveat that a Good Landlord Policy will be passed. Council Member Allen seconded the motion. All Council Members voted aye. Motion passed.

b. Discussion and/or possible action to approve Weber County Sheriff's Animal Control Proposal for Raccoon and Skunk Disposal.

Bill Morris referred to an email sent from Weber County Sheriff's Animal Control Lieutenant offering their services to dispose of DOA (Dead on Arrival) nuisance animals throughout the city. He pointed out they have already been providing this service, but are now requesting compensation. He said they respond on average to three or more calls per quarter at a cost of \$10 per deceased animal. He said it would be an increase of \$30 per quarter to approve this. He specified this does not include deer.

Council Member Allen declared his conflict, as an employee of Weber County Sheriff's Office. He then stated that in his opinion this is a Department of Wildlife Resources issue. He said the DWR considers this a nuisance and will not respond to calls. He further stated that residents who may have a nuisance animal in their chimney must hire a private contractor to address the issue.

Bill Morris informed Council that Weber County Sheriff's Animal Control's statistics show an average of nine cats and dogs and three nuisance animals are removed DOA during each quarter. Mayor and Council agreed to accept this proposal for additional services.

MOTION: Council Member Tait motioned to approve Weber County Sheriff's Animal Control proposal for removal of DOA nuisance animals. Council Member Wilhelmsen seconded the motion. All Council Members voted aye. Motion passed.

c. Discussion and/or possible action to approve Harrisville City Ordinance #459, an Ordinance enacting Chapter 12.05 of the Subdivision ordinance providing for Condominiums for applicable commercial or manufacturing uses; severability; and providing an effective date.

Bill Morris explained this ordinance allows individual ownership of space in the commercial and manufacturing zones under a condominium concept rather than only the option to lease space. The ordinance includes a HOA in accordance with Utah Code. Sean Harts' property, including existing buildings, will be the first in the city to consider under this concept. This concept will not apply to residential zones. Council Member Knighton asked about regulations. Mr. Morris explained the state has very specific regulations regarding Commercial and Manufacturing Condominiums and our ordinance references these regulations.

Bill Morris explained the requirements included in the ordinance. He said Mr. Hart will be required to provide a condominium declaration that follows the state regulations. He pointed out Mr. Harts' property is already established, but if a new development is proposed it would have to follow some construction regulations. Ken Martin will inspect any new developments by applying the building code regulations, as this concept would not be required to follow the public works standards.

Mayor Hendrix pointed out a clerical error to correct the date of the meeting and also the definitions section of the proposed ordinance.

MOTION: Council Member Wilhelmsen motioned to approve Harrisville City Ordinance #459, an ordinance enacting Chapter 12.05 of the Subdivision ordinance providing for Condominiums for applicable commercial or manufacturing uses; severability; and providing an effective date including the clerical changes. Council Member Tait seconded the motion. Council Member Knighton asked if there is a required agreement with the city, like with the residential HOA's. Bill Morris said the condo declaration will include the HOA organization. All Council Members voted aye.

A Roll call vote was taken.

Council Member Allen	Yes
Council Member Richins	Yes
Council Member Knighton	Yes
Council Member Tait	Yes
Council Member Wilhelmsen	Yes

Motion passed 5-0.

d. Discussion and/or possible action to approve Mayor's Appointment to Planning Commission.

Mayor Hendrix recommended approval for Commissioner Edward Saunders to be appointed for a five year term and Commissioner Tyler Malmrose for a four year term.

MOTION: Council Member Allen motioned to approve the appointments of Commissioners Saunders and Malmrose. Council Member Tait seconded the motion. All Council Members vote aye. Motion passed.

5. Public Comments.

No public comments were offered.

6. Mayor/Council Follow-up.

a. Council assignments for 2013

Mayor Hendrix said he is planning a retreat the end of February to provide necessary training for Council Members, and will present his flow chart of Council responsibilities at that time. He appointed Council Member Knighton to be chairperson for Heritage Days 2013 with assistance from Council Members Allen and Tait. He said Council will likely use this training in place of the regularly scheduled Council meeting the end of February.

Council Member Richins reported the Youth City Council is planning to attend the legislature day at the state capital. Mayor Hendrix thanked Council Members Richins and Allen for their efforts with the youth city council.

7. Closed Executive Session.

MOTION: Council Member Allen motioned to close the public meeting and convene into a closed executive session. Council Member Wilhelmsen seconded the motion. A Roll Call vote was taken.

Council Member Allen	Yes
Council Member Richins	Yes
Council Member Knighton	Yes
Council Member Tait	Yes
Council Member Wilhelmsen	Yes

The motion passed 5-0.

Council Members convened into the executive session.

MOTION: Council Member Richins motioned to close the closed executive session and reopen the public meeting. Council Member Wilhelmsen seconded the motion. All Council Members voted aye. Motion passed.

8. Adjourn.

Mayor Hendrix motioned to adjourn at 8:17 p.m.

RICHARD HENDRIX
Mayor

ATTEST:

JENNIE KNIGHT
City Recorder
Approved this 22nd day of January, 2013