

**MINUTES OF THE CITY OF HARRISVILLE  
CITY COUNCIL MEETING**

Tuesday, February 23, 2010  
7:00 p.m.  
Council Chambers  
363 West Independence Blvd.  
Harrisville, Utah 84404

---

**COUNCIL:** Mayor Richard Hendrix, Council Member Chad Allen, Council Member Wayne Crowther, Council Member Darla Fowers, Council Member Bruce Richins, Council Member Grover Wilhelmsen.

**STAFF:** Bill Morris, City Administrator; Jennifer Morrell, City Recorder

**VISITORS:** Frederick Oates, Ruth Pearce, Jeff Pearce, Nevele Varble, Jershon Varble, Brent Thompson, Craig Richey, Tyler Richey, Robby Hales, Adam Platt, Mike Norseth, Lane Nielson.

Mayor Hendrix called the meeting to order at 7:00 p.m. and welcomed all visitors.

Council Member Bruce Richins led the Pledge of Allegiance and offered the opening ceremony.

**1. CONSENT ITEMS**

Action to approve the minutes of February 9, 2010.

**MOTION: Council Member Bruce Richins moved to approve the Consent Items as presented. Council Member Grover Wilhelmsen seconded the motion. All Council Members voted aye. Motion passed.**

**2. BUSINESS ITEMS**

**Discussion and possible action on Resolution 2010-01, Settlement Agreement for the Cottages at Colonial Springs.**

Bill Morris explained that a tentative settlement has been reached with the Cottages HOA. In lieu of reimbursement for sewer or storm drain they will be reimbursed for street sweeping services. He said the City has started performing street sweeping services however, the Cottages have existed for five years and the settlement agreement is to reimburse them for that five year period. The agreed reimbursement is \$4,240.80 with the Cottages releasing the City from any liability resulting from not performing those services in the past and waiving their claim to any additional services. This agreement will be effective for all subsequent residents that purchase homes as part of the HOA. The agreement was approved unanimously earlier this month by the Cottages HOA. Mr. Morris opened it up to questions from the Council.

Council Member Richins asked Mr. Morris to explain the equation he used to get the \$4240.80 reimbursement figure. Mr. Morris explained the formula:  $114 \text{ homes} \times \$0.62 \text{ (the cost of street sweeping per unit per month)} = \$70.68 \times \$12 \text{ (number of months)} = \$848.16 \times 5 \text{ (number of years they were without street sweeping)} = \$4240.80$ . Council Member Richins asked if the \$0.62 was a number we arrived at internally. Mr. Morris confirmed that it was.

Council Member Crowther asked why we weren't reimbursing the Cottages for the actual cost spent by them for street sweeping. Mr. Morris said they all agreed this was the best way to handle it without getting into too many details of who had done what and when. Council Member Fowers asked what the implications would be for other HOA's. Mr. Morris explained that the Cottages were given final acceptance five years ago whereas the other SAP's with

HOA's are still under construction. He said they are all being provided with street sweeping now. He reiterated that the Cottages have accepted this settlement which the City came up with to reimburse them for the five years they did not receive street sweeping services and he is asking the Council to formalize it tonight.

Council Member Wilhelmsen asked if the City had committed to sweep their streets and then failed to do it. Mr. Morris said no commitment was made before last November when this issue was brought before the Council. Council Member Wilhelmsen asked if they had purchased street sweeping services from the City. Mr. Morris said the Cottages paid the \$3 a month for street sweeping for the past five years but never received the service until this year. He also talked about the benefit of this service in keeping the storm drains clear. He said in addition to the reimbursement they have asked for an annual inspection of the main storm water outfall and a report of any problems. This is the area where it goes from the private line to the public line. In addition, the City has informally offered to help them coordinate bids for their chip and seal so they can get the same prices. This is more of an internal agreement and not part of the settlement agreement.

Council Member Allen asked if we are opening ourselves up to others who don't have curb and gutter and will want a rebate. Mr. Morris said other residents could come in and ask for a rebate but the Council could turn them down just as they have turned down the Cottages on doing a perpetual rebate into the future. Mr. Morris said this settlement agreement is only for street sweeping. Council Member Allen expressed concern for the amount of the reimbursement. He feels if the Cottages did perform street sweeping they should only be paid for the amount they spent. If they did not perform any street sweeping then it will cause a problem for the City later on. Mayor Hendrix clarified that everyone in the City pays the same storm water utility fee regardless of whether they have curb and gutter and they all receive street sweeping services. He said the Cottages paid the fee but did not receive those services but rather went out on their own to contract for those service. Mr. Morris said our intent was to bring them whole for what they would have had if the City had provided them this service.

Council Member Wilhelmsen asked if the reimbursement is essentially for services that were not rendered. He also asked if there were any other HOA's that we were rendering this same service to and if they had been given final acceptance. Mr. Morris explained that we don't know of any other functioning HOA's that have received final acceptance. Mr. Morris clarified that final acceptance is when the City agrees to take over and maintain things from here on out. Council Member Allen discussed his concern about those who pay the same utility fees but don't have curb and gutter and will want to be reimbursed because they don't get the same service.

Council Member Crowther said the storm water fees help keep the water flowing into our system clean and benefits the whole community. He would like to see the reimbursement amount of \$4,240 changed to show what was actually spent on street sweeping. He is questioning whether they actually swept their streets and feels we should only pay them what they spent. He said if the amount they spent is more than the \$4,240 then we should pay them more.

Council Member Wilhelmsen asked what happens when something goes wrong in developments that haven't been given final acceptance, i.e. the storm water backs up. Mr. Morris explained the developer pays the costs outright or the City pays the cost using money from the developer's contingency fund. He said when they are given final acceptance we are saying that everything is in good working order. Council Member Wilhelmsen asked how we came up with the \$0.62 in the reimbursement formula. Mayor Hendrix explained that they looked at the amount of road in the Cottages and the cost to the city for street sweeping.

Council Member Crowther made a motion to accept Resolution 2010-01, a resolution of Harrisville City, Weber County, Utah, adopting the attached settlement agreement between the City and the Home Owners' Association for the Cottages at Colonial Springs with amendment of the date from 2009 to 2010, correction of City Council name Tait to Allen, adding Exhibit A to title of agreement, and an amendment on the agreement portion, Item D, changing the amount to pay the HOA what they have spent in the last five years. Mayor Hendrix confirmed that Council Member Crowther is suggesting rewording the settlement agreement. Council Member Crowther said yes. Council Member Wilhelmsen asked how the City would get the information

on what the Cottages spent. The Council asked Fred Oates who was in attendance in the audience. Mr. Oates said they have swept the streets twice a year for the past five years. Council Member Crowther said he thinks this motion is fair to the Cottages and fair to the City. Council Member Allen seconded the motion. Council Member Crowther asked to reword the last part of the motion to say, pay to the HOA the cost incurred for street sweeping for the last five years by submitting receipts of quotes of what it cost them for street sweeping. Council Member Allen confirmed that he still wanted to second it. Roll call vote. Council Members Crowther and Allen voted yes. Council Members Wilhelmsen, Richins, and Fowers all voted no. The motion did not pass.

Council Member Richins stated the Cottages paid the tax regardless of whether their streets were swept. He feels if the City received the money and we owe them there should be no question. Council Member Wilhelmsen said hypothetically the Cottages could have paid more for their street sweeping than the amount the City is agreeing to in the settlement which could increase the cost. He also stated that if the Cottages paid the money and these services were not provided, this is a simple way to reimburse them even if their costs are unknown. Council Member Fowers said she is concerned they don't know the exact figure for what the Cottages spent on street sweeping. Mr. Morris replied that he never asked them for that figure when they appeared before the Council in November. He said we came up with this amount and they agreed to it. Council Member Fowers is concerned that it was not brought back to the Council before it got to this point so they could have all been in agreement prior to this. Council Member Wilhelmsen asked how often City streets are swept. Mr. Morris said they get swept twice a year or more often as needed. There was some general discussion about where the \$0.62 in the formula came from and the Council was reminded that it came from City Engineer Kent Jones.

Council Member Crowther motioned to table this issue and review the minutes from the meeting in December. Council Member Allen asked if the motion could include a request for the HOA to provide receipts. Council Member Wilhelmsen disagreed stating this has nothing to do with what they paid because the Cottages paid the City and the City did not provide the service. Council Member Allen thinks this will cause citizens without curb and gutter to want repayment. Council Member Crowther said everybody benefits from street sweeping and pays the same regardless of how much frontage they have. He would like to see what was said at the City Council meeting in December and what we potentially promised them. He said if there were no promises made then the City should have them provide receipts for what was spent and reimburse them based on their costs.

Bill Morris read the minutes from the December 8, 2009 City Council meeting, agenda item 1.

Council Member Crowther retracted his motion based on the Council minutes read by Mr. Morris which stated the Council and the Cottages agreed to a five year settlement and future street sweeping. Council Member Fowers said she would still like to know what the \$0.62 represents. Mayor Hendrix and Mr. Morris referred everyone to the letter from City Engineer Kent Jones dated October 21, 2009 showing their formula for the \$0.62. Council Member Crowther asked to put his motion to table this issue back out there. Council Member Allen seconded the motion. Council Member Wilhelmsen asked what the purpose of this motion was. Council Member Fowers said it would give the Council two weeks to think about it.

Council Member Wilhelmsen and Richins felt that waiting two weeks would cost the City more money and would not change anything. Mayor Hendrix said we could make a request to ask for the receipts from the last five years. Council Member Fowers asked about the \$0.62 and how that figure was reached. Mr. Morris reiterated that the \$0.62 came from the Kent Jones letter and he proposed it to the Cottages asking them to present the proposal to their board.

Council Member Allen asked if the motion could be rephrased to accept the settlement agreement up to a maximum amount. He said if the receipts are less then we should pay them less. Mr. Morris asked the Council to consider that the Cottages could submit receipts which include administrative and planning costs. Council Member Allen stated he had no problem with reimbursing them for what they did but has a problem with the \$4,240. Council Member Richins restated his feeling that the amount doesn't matter because we have their money and we owe them. Mayor Hendrix reiterated that the settlement was based on the cost for the City to perform street sweeping twice a year and said his concern was not what it cost them to perform

the service. Mr. Morris affirmed his trust for the figures calculated by the City Engineer. Mayor Hendrix reminded the Council there was motion and a second to table the discussion. He asked for a roll call vote. Council Members Crowther, Fowers, Wilhelmsen, Richins, and Allen all voted no. The motion did not pass.

**MOTION: Council Member Wilhelmsen moved to approve acceptance of Resolution 2010-01, a resolution of Harrisville City, Weber County, Utah, adopting the attached settlement agreement between the City and the Home Owners' Association for the Cottages at Colonial Springs as it is written with the correction of the minor typographical errors. Council Member Fowers seconded the motion. Role call vote. Council Members Crowther and Allen voted no. Council Members Wilhelmsen, Richins, and Fowers voted yes. Motion passed.**

### **3. PUBLIC COMMENTS**

Ruth Pearce, 295 E 1150 N, Harrisville. Mrs. Pearce asked that the City be more aggressive in going after people for the Parks Committee. She feels that anything being presented by the Parks Committee to the Council is a conflict of interest because four members of the committee are city officials. Mayor Hendrix replied that it didn't start out that way and explained they have been trying to recruit more members.

Brent Thompson, 240 W Dorchester Avenue, Harrisville. Mr. Thompson said he lives inside of 2550 North which belongs to Pleasant View City. He said Harrisville City roads look good but 2550 is a terrible mess. He said Pleasant view sweeps once in a while but puts the dirt into the curb and gutter which carries it into the drain. He wanted to make the City aware so that the Cottages would not be held responsible for it.

### **4. MAYOR/COUNCIL FOLLOW-UP**

Council Member Crowther said the Parks Committee will hold an open house tonight and on Saturday and part of that will be to look for new committee members. He invited those in attendance to stay and look at the maps and some of the ideas that have been put forward. Council Member Fowers gave an update from the last Planning Commission meeting. They met to take action on the SPS issue. There were no representatives from SPS and the Commission felt this was a delaying tactic. She said they asked City Attorney Mike Junk to send a letter requesting an engineered site plan to the Planning Commission by April 1<sup>st</sup> and they will make a final recommendation on April 14<sup>th</sup>. Mayor Hendrix reminded everyone the Council retreat will be March 12<sup>th</sup> at 5:30 p.m.

### **5. ADJOURN**

**Being no further business, Mayor Hendrix moved to adjourn the City Council meeting at 7:50 p.m.**

*The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.*

---

**RICHARD HENDRIX**  
Mayor

**ATTEST:**

---

**JENNIFER MORRELL**  
City Recorder

Approved this 9<sup>th</sup> day of March 2010