

NORTH SALT LAKE CITY
CITY COUNCIL MEETING-SPECIAL SESSION
JUNE 5, 2015

FINAL

Mayor Arave called the meeting to order at 5:37 p.m.

PRESENT: Mayor Len Arave
Council Member Brian Horrocks
Council Member Conrad Jacobson
Council Member Stan Porter
Council Member Matt Jensen
Council Member Ryan Mumford

STAFF PRESENT: Barry Edwards, City Manager; Ken Leetham, Assistant City Manager; Paul Ottoson, Public Works Director and City Engineer; David Church, City Attorney, Linda Horrocks, Deputy Recorder; Andrea Bradford, Minutes Secretary.

OTHERS PRESENT: John Everitt, Jondon Investments LLC; Ismael Utrilla, James Hood, Jen Hood, Robert Drinkall, Brandon Bicots, James Burt, Daniel Thor, Paul Evans, Annette Israelsen, Jason Burgess, Kristi Burgess, Ty Weston, Jenny Weston, Jeff Lofgren, Aaron Tibbitts, Wendy Tibbitts, Chris Evans, Bruce Richards, residents; W. Scott Kjar, Steve Israelsen, Sky Properties; Marty Peterson, Emergency Preparedness Manager.

1. CONSIDERATION OF AGREEMENTS: SKY PROPERTIES; KERN RIVER GAS COMPANY; QUESTAR GAS COMPANY; AND EAGLEPOINTE TENNIS AND SWIM CLUB, RELATING TO THE EAGLEPOINTE LANDSLIDE

Mayor Arave commented that the City Council had not reviewed the final documents at this time and asked the City attorney to summarize the agreements.

David Church reported that there were three basic agreements to be finalized including: a funding agreement between the City, Kern River Gas and Questar Gas, a funding agreement with the City and Sky Properties/Eaglepointe Development LLC and an agreement with the City and Eagleridge Tennis and Swim Club in which they would allow the City easement rights to perform remediation work on their property.

Per the Kern River and Questar Gas agreement, these entities have agreed to contribute toward the landslide remediation conditioned on the City bidding out the contract for total remediation

of the plans which are available for public viewing on the City's website. Kern River has agreed to contribute \$312,500.00 toward the actual cost and Questar Gas will contribute \$375,000.00. The gas companies are allowing the City to be the contractor of the project, responsible for the design, inspection and construction.

Sky Properties (Eaglepointe Development LLC) has also negotiated a funding agreement to contribute \$625,000.00 toward the landslide remediation. This agreement allows the City to complete the remediation plan on their property, with temporary easements in place for the necessary work to be completed. There is also language which protects their future rights as property owners for possible future development of the slope.

The third agreement, between the City and the Eaglepointe Tennis and Swim Club, is more complex than the other two remediation agreements. The tennis club will not be funding any of the remediation plan but as part of the plan, a large buttress will need to be built on their property to stabilize the bottom of the slope. The tennis club has agreed to grant the City an easement to build that buttress on their property and to maintain the buttress in the future. The tennis club has sued the City and will preserve their rights to do so; however, the City was concerned that by signing this agreement the City would be exacerbating any claim. The terms of the agreement include allowing the City to do the work and agree that this work will not add to the claim or allow them to claim further damage. They acknowledge that this work is remediating and stabilizing the hillside and mitigating any potential damage that may occur.

Mr. Church clarified that these three agreements are only remediation agreements and still allow the City, Kern River Gas and Questar Gas to pursue future litigation.

Council Member Mumford asked if these agreements were different from the funding agreements that were reviewed and approved on June 2nd. David Church replied that the only change from the agreements approved by the City Council on Tuesday is obtaining the rights to remediate property. Sky Properties (Eaglepointe Development LLC) will now allow the City to do the remediation work on their property and help the City obtain the rights from other properties in need of remediation.

David Church commented that the agreement with the Eaglepointe Tennis and Swim Club will need to be reviewed again by the attorney of the tennis club and may need to have minor changes. The basic terms of the agreement, which have been agreed on, is to allow the City to do the remediation work and the tennis club will not make a claim for damages from the work being done.

Mayor Arave commented that the City Council would have liked to review the current agreements before this meeting but that a motion could be made now and then the Council could review and finalize the agreements. He thanked the residents for their persistence for a resolution and the parties involved for coming together to work on the landslide remediation.

Council Member Mumford commented that the Mayor and staff had worked very hard on the agreements but expressed concern for the changes to the agreements from those presented on Tuesday including the increase in the City's contribution and an increase at the top of the slope. He explained that he was uncomfortable with the City paying additional money and the fact that the developer would benefit by getting more lots on the top of the slope. Mayor Arave replied that he was unsure if the developer would be the only beneficiary of the plan but said that the City as a whole would be better off by completing the entire remediation.

Council Member Jensen said that this agreement has been a long time in the making and he had almost given up hope. He gave credit to the Mayor, City staff and the entities involved for getting to this point. He said he is comfortable with the agreement and the plan to remediate the entire landslide but does not like the size of the City's contribution.

Council Member Jacobson commented that the agreement which was reviewed Tuesday is a necessary action and that it is more important that the whole project be completed at this time.

Council Member Porter stated that the City owns a piece of land involved and is responsible to help resolve the issue. He expressed hope that the City would be able to recover some of their funds either from State or Federal funding or through future litigation.

Council Member Jensen moved to approve the agreements with Kern River and Questar Gas Companies for the remediation of the Eaglepointe Landslide conditioned upon the approval of the City attorney and the City Council. Council Member Jacobson seconded the motion. The motion was approved by Council Members Jacobson, Horrocks, Porter and Jensen. Council Member Mumford voted in opposition to the motion.

Council Member Jensen moved to approve the agreement between the City and Sky Properties (Eaglepointe Development LLC) for the remediation of the Eaglepointe Landslide conditioned upon the council's approval of the language and the approval of the City attorney. Council Member Horrocks seconded the motion. The motion was approved by Council Members Jacobson, Horrocks, Porter and Jensen. Council Member Mumford voted in opposition to the motion.

Council Member Jensen moved to approve the agreement between the City and Eaglepointe Tennis and Swim Club relative to the remediation of the Eaglepointe Landslide conditioned upon the council's approval of the language and the approval of the City attorney. Council Member Porter seconded the motion. The motion was approved by Council Members Jacobson, Horrocks, Porter and Jensen. Council Member Mumford voted in opposition to the motion.

2. AWARD BID TO CRACAR CONSTRUCTION FOR ALL OR PART OF THE
EAGLEPOINTE LANDSLIDE REMEDIATION PLAN

Barry Edwards reported that this plan was divided into four phases (A, B, C, D). City staff recommends approval of the contract in the amount not to exceed \$1,600,000.00. There will also be engineering, inspections, testing and site cleanup which will most likely take the cost up to \$2,000,000.00.

Council Member Porter moved to approve the bid to Cracar Construction for the entire Eaglepointe Landslide remediation plan contingent upon the approval of the earlier agreements. Council Member Jacobson seconded the motion.

Mayor Arave clarified that there would be additional change orders and that a contingency for approval of the contract would not exceed \$1,600,000.00.

Council Member Porter moved to amend the motion to include the contingency for approval of the contract not to exceed \$1,600,000.00. Council Member Jacobson seconded the amended motion. The motion was approved by Council Members Jacobson, Horrocks, Porter, Jensen and Mumford.

Council Member Mumford commented that he disagrees with the increased cost that the City was spending on the remediation but that the contract with Cracar Construction is a good contract to award.

Council Member Jensen asked if the issues and change orders would come before the City Council. Barry Edwards replied that certain issues could be discussed in closed session.

Mayor Arave clarified that according to the purchasing contract, any change orders over \$25,000 would need to be approved by the City Council first.

David Church commented that any reference in the contracts made to Sky Properties should be addressed as Eaglepointe Development LLC. He also said that that by signing the remediation

agreements there will be additional work not included in the contract with Cracar Construction that the City will be responsible to have completed.

Barry Edwards said that now that the obligations in the agreements are clearer the City can take these changes to Cracar and arrive at a better price estimate.

3. CLOSED SESSION TO DISCUSS PENDING OR IMMINENT LITIGATION AND THE PURCHASE OR SALE OF REAL PROPERTY

At 6:00 p.m. Council Member Porter moved to go into closed session to discuss pending litigation and acquisition of real property. Council Member Horrocks seconded the motion. The motion was approved by Council Members Jacobson, Horrocks, Porter, Jensen and Mumford.

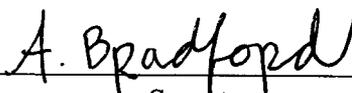
At 6:59 p.m. Council Member Mumford moved to go out of closed session. Council Member Jacobson seconded the motion. The motion was approved by Council Members Jacobson, Horrocks, Porter, Jensen and Mumford.

4. ADJOURN

Mayor Arave adjourned the meeting at 7:00 p.m.



Mayor



Secretary