

1 **FILLMORE CITY COUNCIL MEETING**

2 July 7, 2015

3  
4 *Minutes of the regular meeting of the Fillmore City Council held July 7, 2015 in the Council Chambers*  
5 *of the Fillmore City Building. Notice of the time and place of the meeting was posted on the Utah State*  
6 *Public Notice website, the Fillmore City website, the Council Chambers, the City Office bulletin board,*  
7 *and the President Millard Fillmore Library. Notice was also provided to the Chronicle-Progress, radio*  
8 *station KMTI and each member of the governing body on July 3, 2015.*  
9

10 Those present were:

- |    |           |                   |          |                      |
|----|-----------|-------------------|----------|----------------------|
| 11 | Mayor:    | Eugene R. Larsen  | Council: | Michael D. Holt      |
| 12 | Attorney: | Greg Greathouse   |          | N. Wayne Jackson     |
| 13 | Recorder: | Kevin Orton       |          | Eric R. Jenson       |
| 14 |           |                   |          | Deborah S. Oeppinger |
| 15 |           |                   |          | Michael K. Rhinehart |
| 16 |           |                   |          |                      |
| 17 | Others:   | Star Murray       |          | George Murray Jr.    |
| 18 |           | Ian Adams         |          | Ashley Eldredge      |
| 19 |           | Heather Rasmussen |          | Toni Iverson         |
| 20 |           | Misty Penney      |          | Klint Penney         |
| 21 |           | Mandy Hare        |          | Julie Mitchell       |
| 22 |           | Andrea Madsen     |          | Vicki Allen          |
| 23 |           | Laurie Holt       |          | Jeff Mitchell        |
| 24 |           | Lindsay Mitchell  |          | Joselyn Stevens      |
| 25 |           | Molly Stevens     |          | Laurie Johnson       |
| 26 |           | Bill Goddard      |          | Stephanie Barton     |
| 27 |           | Sheri Deardon     |          | Vance Beckstead      |
| 28 |           | Abe Johnson       |          | Opal Cluff           |
| 29 |           | Judy Huntsman     |          | Maddison Penney      |
| 30 |           | Alan Roper        |          | Vicki Mitchell       |
| 31 |           | Darren Brunson    |          | Kris Ewert           |
| 32 |           | Patti Sorenson    |          | Tracy Whatcott       |
| 33 |           | Ken Martin        |          | Lonne Rasmussen      |

34  
35  
36 **6:30 p.m. Call to Order, Welcome, and Pledge of Allegiance- Mayor Larsen**

37 **ADMINISTRATIVE BUSINESS**

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39  
40 Minutes

41 **MOTION: To approve the minutes of the meetings held June 16, 2015 and June**  
42 **30, 2015 with the recommended changes.**

43 **By: Councilmember Jackson**

44 **Second: Councilmember Jenson**

45 **Vote: Unanimous. Motion carried.**

51 Bills – Payroll

52 **MOTION:** To approve the June 30, 2015 payroll and payment of bills listed on  
53 the invoice register dated June 16 – July 7, 2015

54 **By:** Councilmember Oeppinger

55 **Second:** Councilmember Rhinehart

56 **Vote:** Unanimous. Motion carried.

57

58 Business Licenses

59 First Capital Toxicology – Kathy Johnson, home occupation at 70 West 100 South for  
60 Drug Testing/ Toxicology

61

62 Orullian Investments LLC – John Orullian, car wash at 705 West 900 South  
63 Car Wash

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65

65 **COMMUNICATIONS AND REQUESTS**

66

67 Law Enforcement Report – Lieutenant Morris Burton

68 Lieutenant Morris Burton summarized law enforcement activity in Fillmore for the month of  
69 May. There were 0 traffic accidents, 5 citations issued for 5 violations, 132 CAD calls were  
70 received and there were 102 incidents that resulted in 7 arrests for 9 offenses. On July 3, there  
71 was a purse stolen out of a car in Fillmore, for which there was an arrest made. There will  
72 likely be more arrests made for this incident. Lieutenant Burton encouraged citizens to keep  
73 their cars locked.

74

75 County Commission Report – Commissioner Alan Roper

- 76 • A fire on Scipio Summit over the weekend burned about one hundred acres. There is a  
77 new fire warden, Landon Rowley, who has replaced Howard Allred. Mr. Rowley did a  
78 good job of taking charge of the fire and the county is pleased with his work. The other  
79 fire happened near Milford and burned about one hundred sixty acres.
- 80 • The water pipe going to the soccer field is in the ground and ready to be tested. Upon  
81 completion of that, the sprinklers will be installed and hydro seed grass planting will  
82 begin.
- 83 • The ATV Jamboree was a success this year. There were fifty to sixty more attendees  
84 than originally planned. The Chamber did a great job with the mile long yard sale.

85

86 Fire Department Report – Chief Darren Brunson

- 87 • This year's fire work display was dangerous for the fire fighters due to several low  
88 bursting fireworks, however, there were no incidents and the show was a huge success.  
89 The council expressed appreciation to the fire crew for their efforts. Fire calls are  
90 increasing. This last month at Steve's Tire a van blew up and the response time was  
91 under four minutes on a Sunday evening. They also responded to a semi-truck accident  
92 on Interstate 70.
- 93 • Chief Brunson talked to Cole Green from the Bureau of Land Management who works  
94 with the National Operations Center as a water quality specialist. She will be doing a  
95 study west of Fillmore simulating rain to see what the soils do. To complete the study,  
96 they will be looking for permission from the city to use one thousand gallons of hydrant  
97 water per day. The study will take place from July 14<sup>th</sup> to July 24<sup>th</sup>.

- 98           • The Fire Department is concerned about pesticide trucks being parked on the city right  
99           of way. Parking the trucks in residential areas creates a safety issue with the restricted  
100          pesticides.

101

102   Fourth of July Celebration Report – Opal Cluff

103   The parade was a good start to the celebration. The Chronicle Progress was present to cover  
104   the event. The event was well attended. There were twelve tables placed in the pavilion area  
105   and they were full for about two hours. Seven games were free to the children and each child  
106   received something for participation. Vendor participation included seventeen food vendors  
107   and eight craft vendors. Problems with parking were minimal this year, thanks to the parking  
108   ordinance passed last year. McKay Shields sang the National Anthem. Ms. Cluff expressed  
109   appreciation to the city office staff for being helpful in preparations. She also asked that any  
110   feedback from the public be conveyed to her to help in preparations for future celebration  
111   events. The celebration committee did a great job with this event and the council thanked them  
112   for their hard work.

113

114   Fillmore Water Users – Vance Beckstead to Inquire About City Water Right in Chalk Creek

115   Fillmore Water Users filed with the State to adjust their service area. During this process, it  
116   was discovered that the Fillmore Water Users share of water had decreased. The city kept  
117   seven percent. They now do not have enough water to water eight hundred- forty acres. The  
118   Water Users are asking the city to enter an agreement to use that water, or if the city has no  
119   need for it to transfer the use of that water over to them. City Attorney Greg Greathouse stated  
120   that legally the city cannot transfer water to someone else; however, the city can enter an  
121   agreement where they can lease the water associated with the right. Councilmember Rhinehart  
122   suggested entering a memorandum of understanding with the Water Users to lease the water  
123   associated with the right, with the option for the city to pull it back if needed. Mayor Larsen  
124   instructed Attorney Greathouse to draft a memorandum of understanding.

125

126

**PUBLIC HEARING**

127

128   **MOTION:    To move into a public hearing to receive public comment regarding a**  
129                   **change to the child care zoning ordinance.**

130

**By:            Councilmember Jenson**

131

**Second:       Councilmember Jackson**

132

**Vote:          Unanimous. Motion carried.**

133

134   Stephanie Barton – She asked what the biggest concern is from the city in regards to changing  
135   the ordinance. The biggest concerns are increased traffic levels, having an additional employee  
136   in the home, and a desire to keep residential zones feeling residential.

137

138   Lanie Adams – She does not notice any traffic increases with a day care near her home.

139

140   Joselyn Stevens - She rarely pulls up to the day care at the same time as another client.

141

Statistics provided information on the need for more day care in Fillmore when compared to

142

143   other cities around the state. An article was shared explaining the danger of exploiting children  
144   while they are being cared for by non-licensed providers.

145

146 Bill Goddard – The issue is not about needing more day care services. Zoning ordinances were  
147 set up to keep control in the city and to keep businesses out of residential areas. Homes are  
148 intended to be homes and businesses need to conduct business in commercial zones. It would  
149 be a mistake to change the ordinance just to accommodate one business.

150

151 Jeff Mitchell – The city does not support its own businesses or growth. It is difficult to make a  
152 living in this city. The city needs to be asking how it can help grow businesses in Fillmore and  
153 make them better. The city council’s job is to change the rules; that is what they are here for.

154

155 Abe Johnson – Mr. Johnson encouraged the council to make changes according to the law and  
156 not arbitrarily based on people’s emotions. If the council decides to change this ordinance they  
157 may have to allow other businesses to operate in residential zones that produce negative  
158 impacts such as traffic and noise.

159

160 Josephine Huntsman – There has not been much training provided recently to planning  
161 commission members. The city is not anti-business, they are trying to provide opportunities  
162 but the council’s job is to protect everyone. Changing our neighborhoods to allow another  
163 employee was discussed many times in regard to child care. It is unfortunate that this has  
164 come this far. Ms. Huntsman encouraged the council to think about what they want their  
165 neighborhoods and the city to look like in the future.

166

167 Dawn Olsen – Why can’t Fillmore progress a little more? Home businesses have been a way  
168 of life in the past. Ms. Olsen lives across the street from Ms. Penney and does not notice any  
169 traffic problems from running the day care. Let’s expand our home businesses as well as our  
170 other businesses.

171

172 Ashley Eldredge – Parents want their kids to attend a home, not a business for their care. Child  
173 care needs to fall under a different category of business than other businesses.

174

175 Ian Adams – This is about changing day care and not anything else. The city is trying to save  
176 money in building a splash pad, and people in the community are trying to save money by  
177 running a day care from their home. This past year, the state legislature changed 528 laws.  
178 There are people who came up and spoke tonight who have experience serving on the planning  
179 and zoning commission, but times change and things change. It appears that it is a little  
180 personal with them because they have developed these ordinances and these plans and so they  
181 have some pride in the work they have done and don’t want to see them change, but the city  
182 council needs to make that decision.

183

184 Ken Martin – Opinions are good to have. There are many good reasons to change things, but  
185 the council needs to realize that when they change things they need to make sure that they are  
186 not setting a precedent for anybody else to come in (with a lot of good reasons) and change  
187 anything they want. If the council sets this precedent, they will need to deal with these issues  
188 going forward.

189

190 **MOTION: To go out of the public hearing.**  
191 **By: Councilmember Jackson**  
192 **Second: Councilmember Oeppinger**  
193 **Vote: Unanimous. Motion carried.**

194 **BUSINESS**

195  
196 Discussion on Carbon Free Power Project Study

197 UAMPS is working on developing twelve 50 watt mega units. They are self-contained and if  
198 something goes wrong they shut down. Right now it is in the study phase. When the council  
199 adopts this, UAMPS would only conduct a study with the Department of Energy on that  
200 project. When approving to participate in the study, it commits the city to pay its share (and  
201 nobody else's) of the study. Right now Fillmore is a little over one percent of the study.  
202 UAMPS is trying to secure reimbursement on some of the money from the Federal  
203 Government and Department of Energy but there is no guarantee. Mayor Larsen tabled this  
204 item until the next meeting.  
205

206 Update on Splash Pad Construction – Don Edwards

207 Mr. Edwards distributed materials showing color options for components on the splash pad.  
208 He will need to know what color schemes the council would like by late next week. Sunrise  
209 Engineering will have the plans completed by July 13<sup>th</sup>. The crew will be back on Wednesday,  
210 July 15<sup>th</sup> to resume construction with an anticipated completion date of July 24, 2015.  
211

212 Discuss Moratorium Suspending Solar Hookups for Both Residential and Commercial for Six  
213 Months Pending Information on Changes to Tariff Metering Recommended by UAMPS

214 UAMPS is looking in depth at the way the city meters solar and have found that most ways  
215 that are being used do not work well. UAMPS will be conducting a moratorium to provide the  
216 city recommendations on how the city should be doing it.  
217

218 **MOTION: To go into the moratorium suspending solar hookups for six months.**

219 **By: Councilmember Jackson**

220 **Second: Councilmember Oeppinger**

221 **Vote: Unanimous. Motion carried.**  
222

223 Discussion and Possible Ordinance 15-02 Adoption Making Changes to the Zoning Ordinance  
224 that were Proposed in the Public Hearing held this Evening (to Change the Number of Children  
225 Allowed in Dwellings of Owners of Child Care Centers Under Conditional Use Permits Within  
226 Fillmore City)  
227

228 Councilmember Rhinehart – He expressed appreciation to those in attendance for being at the  
229 meeting and expressing their opinions on this issue. People on one side of the issue will say  
230 that a change in the ordinance will not cause any harm to the community, and on the other side  
231 they say that it will cause a whole lot of harm. The impact will not be known until the change  
232 is made. Councilmember Rhinehart is in favor of the change in the ordinance. The city should  
233 not be more restrictive than the state requirements and should be progressive in changing  
234 ordinances when needed.  
235

236 Councilmember Holt – He has done his homework and has talked to many people and as long  
237 as the ordinance is specifically written to address only day care, the city will be safe making  
238 the change.  
239

240 Attorney Greathouse – Earlier it was implied that the city is targeting a specific business. This  
241 ordinance has been in place for a number of years. The ordinance was not written to target any

242 one business, it was written as a general ordinance for the city of Fillmore. State and city law  
243 require that to change the ordinance, the city must start with the Planning Commission and  
244 then go to the City Council. The city has followed the proper legal procedures. Going through  
245 this lengthy process does not mean that the city is targeting one business. The city was  
246 following state law. The business in question went from eight to sixteen children without any  
247 ordinance change. During this time the city could have ordered a cease and desist and chose  
248 rather to accommodate the business while this issue was being discussed.

249  
250 Councilmember Jenson – Property owners have the right to run their property the way they  
251 would like to. There is a need for day care in Fillmore, but the city needs to weigh those needs  
252 with property owners’ rights.

253  
254 Councilmember Jackson – The city is not anti-growth and it is offensive to suggest such. He is  
255 torn on this issue because he has seen first-hand a case where a home business has negatively  
256 impacted his right to live as he would like in a residential neighborhood. The ordinance needs  
257 to be specifically written to protect everyone.

258  
259 **MOTION: To proceed to change the ordinance to allow for sixteen**  
260 **children in a home day care business, and make the**  
261 **modifications discussed as far as employees allowed, what**  
262 **code sections will be allowed, appropriate additions on the**  
263 **conditional use permit, and including the words “dwelling**  
264 **unit of the child care provider .”**

265 **By: Councilmember Rhinehart**  
266 **Second: Councilmember Holt**  
267 **Role-call Vote: Councilmember Holt – Yes**  
268 **Councilmember Oeppinger – No**  
269 **Councilmember Rhinehart – Yes**  
270 **Councilmember Jackson – Yes**  
271 **Councilmember Jenson – Yes**

272 **Motion carried by majority vote (4-1).**

## 273 274 275 **COUNCIL REPORTS**

276  
277 Councilmember Holt –

- 278 • Streets and Sidewalks - A church ward from northern Utah is coming to Fillmore next  
279 week to do a service project. They will be picking up trash on Fillmore’s busier streets.
- 280 • Fire Department – Delta City received a grant for one million eight hundred thousand  
281 dollars to build a new fire station.

282  
283 Councilmember Oeppinger

- 284 • Dogs – There are two dogs in the shelter. There was another dog bite and the dog will  
285 be taken to another community.
- 286 • Relay for Life will be held July 31<sup>st</sup>.

287  
288

289 Councilmember Rhinehart  
290 • Celebrations – The celebrations committee was commended for the great job they did  
291 in organizing the Fourth of July event and for the care they took in recording their  
292 activities. The city office staff was thanked for helping out.

293  
294 Councilmember Jackson  
295 • Cemetery – Kevin will get with Sunrise to get them moving forward with the cemetery  
296 project.

297  
298 Councilmember Jenson  
299 • The application for the drinking water project has been signed by Mayor Larsen.

300  
301 Mayor Larsen  
302 • The scheduled Rocky Mountain Power outage will take place on July 21<sup>st</sup>. It will  
303 commence at 4:00AM and last up to ten hours. The city staff will be making phone  
304 calls to as many businesses as they can to let them know of the situation. They will  
305 also advertise the outage on the city website.

306  
307 **ADJOURNMENT**

308  
309 **MOTION: To adjourn the meeting.**  
310 **By: Councilmember Jenson**  
311 **Second: Councilmember Rhinehart**  
312 **Vote: Unanimous. Motion carried.**

313  
314 The meeting adjourned at 9:05 p.m. The next meeting will be held July 21, 2015 at 6:30 p.m.

315  
316  
317 APPROVED July 21, 2015 \_\_\_\_\_  
318 Eugene R. Larsen, Mayor