

**CITY OF NORTH LAS VEGAS
SPECIAL CITY COUNCIL MEETING MINUTES**

July 10, 2003

CALL TO ORDER: 3:05 P.M.
2200 Civic Center Drive, North Las Vegas, Nevada

ROLL CALL COUNCIL PRESENT:

Mayor Michael L. Montandon
Mayor Pro Tempore William E. Robinson
Councilwoman Stephanie S. Smith
Councilman Shari Buck
Councilman Robert L. Eliason

STAFF PRESENT:

City Manager Kurt Fritsch
Assistant City Manager Gregory Rose
City Clerk Eileen M. Sevigny
Fire Chief Jim Stubler
Police Chief Mark Paresi
Parks & Recreation Director Michael Henley
Community Services Director Jacque Risner
Development Services Director Donna Kristaponis
Assistant to the City Manager Brenda Johnson
Planning Manager Steve Baxter
Recreation Manager Jim Stritchko
Deputy City Attorney Jim Lewis
Assistant City Clerk Karen L. Storms

VERIFICATION: Eileen M. Sevigny, CMC, City Clerk

BUSINESS:

1. DISCUSSION OF THE SMALL LOT ORDINANCES. (Exhibit A, B, C, and D)

Development Services Director Donna Kristaponis stated during the summer and fall of 2002 many small lot developments had been proposed to Council. The current ordinance

prevented lots smaller than 4,500 square feet. However, a Planned Unit Development (PUD) application could request approval for a product below the 4,500 square foot standard. Council had directed Staff to investigate the option of creating a small lot ordinance that would benefit the City and a small lot moratorium had been approved during the fall of 2002. Staff hired the firm of Danielian Associates, Architecture and Planning to provide assistance with the development of the small lot ordinance. The firm created the first draft for Staff to analyze. Development Services Staff contacted local developers to provide input for the draft ordinance. Staff from Community Development, Public Works Department, and the Fire Department participated in the drafting of the ordinances and Staff members agreed by consensus to present the draft to Council.

Director Kristaponis stated an important element of the PUD requirements regarding the small lots would be mixed usages could not be requested without a minimum area of 80 acres set aside for residential usage. The City's Master Plan density requirements would not be changed.

A cluster of small lot homes could not exceed 150 units. Three different types of units had been requested. The lot size for the first type would be 2,700 to 3,799 square feet. A small lot project could only have 30% of the lots designated for the small size. The second type would be 3,800 to 4,750 square feet and limited to 150 homes in a neighborhood if the area of land was large enough. No limit would exist for the Type Two lots. The third type of lot would be based on a successful housing development in Summerlin called Desert Bloom.

The architectural elements of the buildings made them interesting. Four sided architecture would be mandated by the ordinance. The developer would be required to provide a home buyer with the option of selecting a balcony, a courtyard, or a porch. A complete landscaping proposal must be provided. The sidewalks would be four feet wide and the parkways would be six feet wide. The location of the parkways would be required to be between the curb and the sidewalk. One 24-inch box tree would be provided by the developer for every 25 feet of open space. The landscape maintenance would be the responsibility of the Homeowners Association (HOA) or a Landscape Maintenance Association (LMA). The open space would be based upon approximately 3.3 residents per unit. Six acres of open space would be provided per 1,000 residents with 83% of the six acres required for park land and 50% designated for a centrally located park. Trails, buffer areas, and entryways could be used with the remaining 33% of space. An amenities package based on the size of the project would include one or more of the following; a tot lot, picnic shelters, clubhouse, swimming pool or tennis court. The Parks and Recreation Department would not require specific amenities be provided by developers.

Director Kristaponis stated because the density requirements were enforced by the Master Plan and additional open space would be provided, a possible increase in the density requirements had become an issue. A refunding program for open space had not been provided to future home builders however, a refunding program could be created if Council desired.

Director Kristaponis stated she understood the Mayor and Council would be concerned with the required 80 acres of residential area and the small size of the units. The 80 acre size had been a number that all parties involved had agreed upon. Mayor Montandon questioned if developers would be required to apply for a PUD if they only had 60 acres and would they be required to follow the current requirements of designing a product for a 4,500 square feet or larger in addition to following the open space specifications. Director Kristaponis responded yes, but developers could request waivers. Mayor Montandon stated he would like developers who owned areas smaller than the 80 acres to know they could still build in North Las Vegas under the current ordinances. Director Kristaponis stated an in-fill ordinance could be drafted in the future.

Mayor Montandon stated he was impressed with Staff and the community involvement to create the draft of the small lot ordinances. He stated the number of 3.3 residents per 1000 for 6 acres of open space could be adjusted in the future if necessary and developers had choices of the amenities they would be required to provide. Mayor Montandon stated he and Councilwoman Smith had recently attended a meeting where a 166 acre project had been proposed and an Amendment to the Master Plan (AMP) had been applied for in two sections. They asked the developer why the AMP had been applied for in that manner and the developer answered they were following Staff directions. Mayor Montandon questioned if it would not be easier to recommend developers with large amounts of land present the proposed project as a master planned community. Director Kristaponis agreed and stated a policy requirement did not exist to prevent this type of request.

Mayor Pro Tempore Robinson questioned which homebuilders had participated in the small lot ordinance discussions and had they agreed with the drafts. Director Kristaponis stated George Garcia, Terry Collins representing William Lyons Homes, Brad Burns representing Centex Homes, Gary Jones representing Southwest Engineering Incorporated, Cliff Andrews representing Pardee Construction Company of Nevada, and Randy Tarr representing KB Homes had participated with the drafting of the ordinances. The developers had been pleased with the majority of the draft but unanimous approval had not been reached.

Councilwoman Smith believed the developer's concession was not unanimous and the chosen number for density, open space, and residential area could be changed in the future. The City had undertaken controversial issues in the past such as the garage size requirement and the design standards but the benefits of those past decisions were currently being recognized. She felt the small lot ordinances would be a similar type of

issue but also expressed hope the ordinances would allow for a wider variety of housing product in the City.

Mayor Montandon stated Council had requested the opportunity for developers to build lots smaller than 4,500 square feet with aesthetic value and not necessarily to save money. The small lot ordinances would offer a variety of choices for developers and home buyers.

Councilman Eliason expressed concern regarding use easements. He referred to page 2 of Ordinance No. 1818, section B, 1-a (Exhibit C) and questioned if use easements could be changed to suggestions instead of requirements. Director Kristaponis responded a combined distance of ten feet would separate each home. Homes were created with limited useable space for outdoor activities and this was the reason for the use easement requirement. Planning Manager Steve Baxter stated a second reason for the use easements were the small back yards.

Mayor Montandon asked for clarification concerning Ordinance No. 1818, section B, 1-a (Exhibit C) which stated, "Use easements are required in order to optimize useable yard space on a smaller lot," and asked if the reference of small lot included all of the lot types. Director Kristaponis responded Type One and Type Two. Mayor Montandon stated the effect would produce a zero lot line which would require a regulation regarding access to the home. He questioned if the ordinance contained that type of regulation. Director Kristaponis responded the issue had been discussed and rejected. Mayor Montandon stated if an arcadia door was installed on one house with access to the shared ten feet of space, a problem would be created. Director Kristaponis stated the participants in the small lot discussion decided they did not want to increase or decrease the five foot setback for either home. She believed the requirement of a use easement would solve the problem and the width and depth of the lot would not be a factor. Councilman Eliason felt the requirement was ridged.

Mayor Montandon stated if use easements were forced it would create a specific housing product. He referred to Ladera Ranch and stated the effects were a zero lot line. A use easement that affected a zero lot line should be an option and not a requirement. Regulations should be in place stating pedestrian access would not be granted on the side of a home with a shared use easement. Director Kristaponis responded the market had already built these types of homes. Councilwoman Smith pointed out developers stated to Council Members they built what the City told them to build.

Mayor Montandon stated if use easements were an option instead of a requirement developers should be required to follow rules regarding home access or windows. He asked for input regarding the issue from Council Members. Mayor Pro Tempore Robinson agreed with Mayor Montandon. Mayor Montandon felt the builders should be offered a choice.

Terry Connely, William Lyon Homes, stated the Covenants, Conditions, and Restrictions (CC&R) of the HOA would prevent doorways from being constructed in the sides of the home and code requirements would require a fire wall.

Mayor Montandon stated a sentence should be added which restricted doorways or windows on one or both of the homes with a shared use easement.

Mr. Connely stated several projects he had been associated with had side-yards and rear-yards which would require R-1 setbacks. Use easements would not be needed. He felt use easements should be used only if needed. Mayor Montandon agreed.

Councilman Eliason stated he would like the words "may be" required included. Councilwoman Smith stated the wording should read "use easements are permitted." Director Kristaponis suggested the wording could state, "pedestrian access would be limited but offset windows could be allowed."

Deputy City Attorney Jim Lewis stated if use easements were to be an option, the HOA would require access into backyards to perform maintenance tasks. Mayor Montandon stated the point of a use easement would be to allow maintenance access.

Councilman Eliason referred to the lot size on Type One. He stated he had a family member who resided in a home on a 2,700 square foot lot and he had gone to visit her during weekends and evenings to investigate the type of activity in the neighborhood. The area had quite a few families, children, and basketball hoops. Councilman Eliason felt Type One should be a minimum of 3,500 to 4,000 square feet instead of 2,700 to 3,799 square feet, Type Two should be a minimum of 4,000 to 4,500 square feet instead of 3,800 to 4,750 square feet. City Manager Kurt Fritsch stated the larger size was required due to the larger corner lots. Councilman Eliason felt single story homes should be built on the corner lots. Director Kristaponis stated the issue had been discussed at the Planning Commission meeting and a few of the Commissioners agreed. A Commissioner stated they had bought a corner home because the lot was larger and the house two stories therefore, the Planning Commission changed the requirement. Councilman Eliason felt the small lots were separated from other areas. The larger lot homes were in the back of the complex. He felt the home owners on the larger lots did not want to be associated with the home owners on the smaller lots. Councilman Eliason stated he expected the different type of lots to be mixed together similar to Desert Bloom. He stated the homes at Desert Bloom were a cluster type of housing and was not gated.

Mayor Montandon stated he had visited a community at the Lakes and the estate size homes were built by the water and the 2,800 square foot lots were across the street. Councilman Eliason stated the small lots located in Alinate were located on the golf course or in the senior area. The separation was part of the master plan. The cluster homes at Desert Bloom had adjoining backyards with the 4,500 square foot house and

it looked very nice. Mayor Montandon stated the Type One lots would be restricted to 30% and neighborhood size of 150 homes. He said it would encourage developers to be creative. Councilwoman Smith stated if one story homes were required on the corners and the remaining homes were two story it would look unattractive.

Councilman Eliason stated he did not care for curvilinear streets. He stated the ordinance required the street to curve after a specific number of houses. The City's current ordinance did not mandate a developer to install a curvilinear street. Planning Manager Baxter stated the subdivision ordinance did require a curvilinear street every 500 feet or a traffic circle. Deputy City Attorney Lewis stated the curvilinear street was required if possible. Director Kristaponis believed the curvilinear street was required because the Planning Commission would delay approval of a project until the developer inserted curvilinear streets. She stated the language of the ordinance could be changed.

Mr. Connely believed the development community understood curvilinear streets to be required.

Planning Manager Baxter stated Danielian Associates, Architecture and Planning had specified eight lots in a row and then a 25 foot curvilinear street.

Councilwoman Smith questioned if the lot sizes were changed how would the density be affected. Mayor Montandon responded if large small lots were required, the large lots would be smaller. The density would not change. He stated it would seem large PUDs should be created with a variety of sizes because 2,700 square feet was small.

Councilman Eliason referred to Ordinance No. 1818, page 7, 2-a (Exhibit C) which stated the four sides of the homes should provide architectural features, detail, relief and embellishments. He also referred to page 8, 10-a, regarding the wall materials. Councilman Eliason stated the soils test should dictate what kind of walls would be used. He strongly felt that building a block wall in bad soil would be pointless and felt the developer should be given additional options. Mayor Montandon stated if the item was not changed, Council could modify the wall ordinance at a future date. Director Kristaponis stated the Planning Commission had approved vinyl fences in a PUD but they were not approved as perimeter fences or return walls but certainly between buildings. The concerns of the Commission and Staff was a concrete block wall had a life span of approximately 30 years. The vinyl fencing looked attractive but it was not known how long a vinyl fence would last. The Commission was concerned if the product would endure five to ten years. There were no current projects with vinyl fencing to indicate the life span of the product. Mayor Montandon felt the issue should be included in a rewritten wall ordinance and not included in the small lot discussion. Deputy City Attorney Lewis suggested the second sentence be stricken or the word vinyl removed. This would prevent the ordinance from being changed if the wall ordinance was rewritten. Mayor Montandon

stated the second sentence should be stricken.

Councilman Eliason referred to Ordinance No. 1818, page 10, B-4 (Exhibit C) and stated he felt two inches would not be deep enough. He suggested four inches instead of two inches. Mayor Montandon stated he had a friend in the Horticulture Department at the University of Las Vegas who would like mulch used in place of rock. Councilman Eliason stated mulch would be blown away. Planning Manager Baxter stated the item was a standard landscaping condition. Director Kristaponis stated Staff had been coordinating with contractors in the concrete business to replace the rock, which dissolves into sulfites into the ground. The item would be ready for Council review in approximately six months. Councilman Eliason stated rock suppliers were using sandstone in place of rock and that was causing the dissolving problems.

Councilman Eliason referred to Ordinance No. 1818, page 11 (Exhibit C) and asked for clarification concerning G-2, 3, and 4. Director Kristaponis stated the item addressed street parking if on site parking could not be provided due to the fact a few of the driveways would be five feet. Mayor Montandon stated if five foot driveways were going to be utilized then parking would be required elsewhere.

Councilman Eliason referencing Exhibit 3 from Ordinance No. 1818 (Exhibit C), asked if the guidelines could be explained. Director Kristaponis stated the guidelines outlined the City's intent and were conceptual. Individual builders and design teams would not be required to adhere to the guidelines but to the basic concept of the guidelines.

Councilman Eliason questioned if Associate Public Works Director Laurnal Gubler felt concern regarding the use easements. Associate Director Gubler expressed concern regarding the side lot drainage. He stated easements should be required otherwise the drainage between the homes would be affected. Director Kristaponis stated a drainage easement would be required and would be separate from a use easement.

Councilman Eliason questioned Police Chief Mark Paresi if small lots created safety problems. Chief Paresi responded increased density created an increased demand for public safety. He stated he was pleased with the amounts of green space. Councilman Eliason questioned Fire Chief Jim Stubler how he felt regarding the small lots. Fire Chief Stubler responded proper planning and street width would be the Fire Department's main concern.

Councilman Buck stated she was disappointed with the small lot products, excluding Amstar, that developers had built prior to the date the small lot moratorium had been enacted. The developers presented attractive pictures and stated architectural relief would be incorporated on all four sides of the homes and then did not provide what they said. She referred to the approved project at Centennial Parkway and Commerce Street and felt it appeared similar to Renaissance II but smaller. Councilman Buck questioned if the small

lot ordinances would give the City the small lot products they want. Planning Manager Baxter stated the ordinances would provide the City housing products similar to Ladera Ranch due to the safe guards which had been included in the ordinances. The homes in Ladera Ranch looked architecturally different enough to appear like a street of custom homes. The ordinances required variations in setbacks, roof lines, and models and required six feet of parkway between the curb and the sidewalk. Planning Manager Baxter felt the ordinances would produce neighborhoods which would be more attractive than what had been built in the past. Councilman Buck questioned what colors the paint schemes would offer. Planning Manager Baxter stated the ordinance included earth tone colors which would offer a variety of blue, yellow, beige and brown. Councilman Buck questioned if alley requirements had been addressed. Planning Manager Baxter responded yes, requirements existed for the alleys, in addition, alleys must be landscaped. Councilman Buck agreed with Councilman Eliason regarding the small lot size and would like the numbers raised.

Planning Manager Baxter stated if use easements were to become optional, a 2,700 square foot home would not be required to provide an additional side yard for the residents. Councilman Eliason stated the builders in the valley were not building the same product in North Las Vegas that they were building in other areas of the Las Vegas valley.

Mayor Pro Tempore Robinson questioned if data had been gathered on the resale value of future homes built using the guidelines of the small lot ordinances. Director Kristaponis responded she did not feel the homes would be considered entry level housing and would not be inexpensive to build. Density increases did not exist. The parks and trails were required. She stated the assumption 'poor and rundown' would be equated with small would be unfair. The ordinances raised the minimum requirements thus creating a more attractive product. Councilman Eliason stated if Council adopted the small lot ordinance, developers could use the R-1 ordinances which had low minimums. Director Kristaponis stated the R-1 product could be changed by amending the ordinance and agreed with Councilman Eliason. Mayor Montandon stated the R-1 ordinance and the wall ordinance should be brought before Council in that order.

Councilwoman Smith stated the City wanted attractive projects and success for the local developers but also required projects built with quality.

Mayor Montandon invited the public to speak.

Sherry O'Donnel, Signature Homes, expressed concern with properties becoming rental units. Ms. O'Donnel stated Signature Homes built entry level and custom homes. The low interest rates had encouraged investors to purchase homes specifically to offer as rental properties. She felt a problem with small lots could be the concern that smaller lot homes attracted buyers who might not maintain the property.

Ms. O'Donnel stated a project called La Ventana located in Peccole Ranch had attracted builders from across the country for tours. The community did not have street landscaping. The garage doors faced the streets and the front yards were tiny courtyards. The courtyards faced one another separated by a meandering sidewalk and a small amount of landscaping and the walls were low. She stated the phenomena which the project created was a sense of community by the homeowners.

Mayor Montandon stated every member of the Council had toured La Ventana with developers who stated their project would be similar and when the project was completed, it did not look like La Ventana. Mayor Montandon stated the reason for the discussion concerning the small lot ordinances was the City's desire to have builders develop and construct projects similar to La Ventana. He stated the City was not receiving the products the developers promised.

Ms. O'Donnel stated two cluster projects existed called Cambria Hills and Sonoma which were essentially clustered around concrete and driveways with small or no backyards. She stated the homes would be easy to maintain by the homeowners. The communities were neat and clean.

Councilman Buck stated the builder on the southeast corner of Centennial Parkway and Commerce Street limited the amount of homes available for purchase as an investment. She questioned if a similar condition could legally be added to the small lot ordinances. Deputy City Attorney Lewis responded no, it would be a CC&R issue for the developer. He stated he had lived in the Sonoma development Ms. O'Donnel had mentioned and the CC&R's stated a two home ownership clause per person existed but could be bypassed by corporations. Mayor Montandon stated the last time the City had attempted to restrict rental ownership a \$37 million lawsuit ensued which resulted in an out of court settlement. He added rental ownership restrictions would be difficult to enforce and interfered with a persons right to own property.

Terry Connely, William Lyon Homes, stated he was pleased to learn the architectural controls would become stricter. He stated architectural controls encouraged homeowners to take pride in their properties. He felt the City had not received what developers promised due to the conflict with the cost of the projects and the density issue. An ongoing issue would be the trade off between open space and density. He stated a problem would arise from the entryway landscaping not being included as open space. The builders viewed the parkways as an important requirement to providing the "community feel" of a project. The City's open space requirement would detract from the curb appeal and interfere with the desired product the City expected.

The requirement for only single story homes on corners would limit all two story product communities. The City of Henderson allowed two story homes built if the square footage of the second story was less than half of the square footage of the first story. He stated the

City of North Las Vegas' own limitations and requirements prevented the desired products from being built.

Jennifer Lazovich, 3800 Howard Hughes Parkway, Las Vegas, stated the small lot ordinances would benefit the City and would create the desired product. The surrounding jurisdictions did not have similar ordinances and the architectural control would be beneficial.

Ms. Lazovich stated the developers she represented had requested she raise the issue regarding the 80 acre requirement and asked the number be lowered. She stated her clients would appreciate the entryway landscaping and parkways be considered a portion of the open space. She questioned what the status of projects approved prior to the moratorium versus projects approved after the small lot ordinances take affect. Mayor Montandon responded the regulations would not be changed for projects approved prior to the drafting of the small lot ordinances.

Mayor Montandon stated Ladera Ranch was well planned and attractive, the entire parcel was approximately 4,500 acres. A large open space existed and the density per acre was low. Swimming pools and parks separated the units in addition to the open space. He stated the only possible way the City could require developers to build communities similar to Ladera Ranch was to require the 80 acre minimum. Mayor Montandon stated the 80 acre minimum would not be decreased.

Councilwoman Smith questioned if portions of the small lot ordinances could be incorporated into the R-1 ordinances. Director Kristaponis responded the architectural guidelines could be used but because the homes would be smaller, the remaining specific amenities would require alteration.

Councilman Eliason questioned if the Southern Nevada Home Builders Association (SNHBA) assisted the Staff with obtaining developer's comments regarding the small lot ordinances. Director Kristaponis stated John Pena, a former representative from the SNHBA, and many developers helped the City with drafting the small lot ordinances. Surveys for comments had not been provided.

Mayor Montandon questioned when the ordinances would be presented to Council. Director Kristaponis responded during the July 16, 2003 Council Meeting.

Deputy City Attorney Lewis stated the ordinance would be presented to Council if no changes were required for the Residential Construction Tax (RCT) ordinance which would be connected to the small lot design guidelines.

Director Kristaponis stated editorial errors existed with the ordinances and would be corrected. The word "perimeter" had been left out of a sentence which should read, "all

perimeter walls and walls facing open space shall be maintained by the HOA or LMA.” (Exhibit C) This error changed the intent of the sentence and Deputy City Attorney Lewis requested the error be read for the record and corrected. Director Kristaponis stated three exhibits existed which the minimum quarter set backs showed ten and should show seven.

Councilwoman Smith questioned Mayor Montandon and Director Kristaponis regarding their opinions concerning the entryway landscaping being considered open space. Director Kristaponis stating landscaped entryways added style to the neighborhoods. She felt entryways would be more appropriate for open space versus a six foot parkway. Mayor Montandon stated the entryways should be included as open space.

Terry Connely, William Lyon Homes, referring to Ordinance No. 1817, Section B, 13-d, (Exhibit B) questioned if the item should read 50% of the required park land and not 50% of the required open space. Director Kristaponis stated park land and open space would be considered the same. Mayor Montandon stated it referred to 50% of the 83% which Director Kristaponis had referenced in her opening statement.

Mr. Connely referring to page 3 of Ordinance No. 1817, section 5-e (Exhibit B) stated the landscaped entry features would not be considered as open space but the small lot ordinance implied it would be fine. He stated he was confused by section 5-g and asked for clarification. Mayor Montandon stated a few plans where the central park or open space extended to the street and perimeter landscaping would be considered a portion of the park therefore the landscaping would be included as open space but if only the perimeter landscaping existed, it would not be considered as open space area. Mr. Connely stated in the past whether the landscaping had been included depended on the width of the area including the utility easement. Parks and Recreation Director Michael Henley stated if the landscaping extended beyond the 20 foot minimum it would be considered open per the PUD requirements. Director Henley stated it had been intentionally left out of the small lot ordinances due to the proposed size of the lots. Mr. Connely questioned if he planned to install 25 feet of landscaping would it count toward open space. Director Henley responded no, the extra landscaped area would not count toward open space requirements. Councilman Eliason stated the landscaping would not be considered open space for the small lot ordinance but would be considered in an average PUD request. Director Henley stated additional perimeter landscaping would have a lower visual impact than landscaping in a park.

Mr. Connely referring to Ordinance No. 1818, page 8, section 8-a (Exhibit C) stated it would be difficult to comply with the requirement of providing every two story home with a balcony and following the architectural requirement which required two different rooflines for each floor plan. He stated his company had floor plans which a balcony would not fit and they sometimes installed french doors with a wrought iron railing across the doorway

to produce a faux or "Romeo and Juliet" type of balcony. He felt the balcony should be a secondary consideration. Mayor Montandon questioned if a section of the ordinance existed which stated a balcony, patio or courtyard would be an option. She responded yes, the option existed.

Councilman Buck questioned if the amenities should be lighted. Director Kristaponis responded lights would be a good idea if they were operated by timers. Councilman Buck felt lighted amenities operated by timers should be a requirement to prevent homeowners from asking the City to provide lighting in the future.

Councilwoman Smith questioned if the monument signage would count toward open space. Director Henely responded yes, it would be included.

Director Kristaponis wanted to verify if the size of the lots should be changed. Mayor Montandon stated that issue could be discussed and decided at the July 16, 2003 Council Meeting. Councilwoman Smith questioned if the tax issue would be discussed or amended. City Manager Fritsch stated the surrounding jurisdictions allowed credit. Mr. Connelly stated park fees were not paid in Summerlin and refunds were allowed in Henderson and Las Vegas. Mayor Pro Tempore Robinson questioned if the refunds were automatic or if the builder was required to request them. Mr. Connelly stated the refund must be requested. Director Kristaponis responded the refund process involved negotiations.

Councilman Eliason questioned if the ordinances would require reposting if significant changes were initiated. Deputy City Attorney Lewis responded the open meeting law must be followed. Significant changes to the RCT could delay the approval of all the ordinances due to the fact the four ordinances were related.

Sherry O'Donnel, Signature Homes, stated she understood a State law regulated the RCT and each local government created an ordinance to enforce it. Due to increasing water rates, the plants for the open space landscaping would most likely be the desert variety with rocks instead of grass.

Deputy City Attorney Lewis stated the important issue involved if developers would be required to provide open space in a PUD and pay the RCT and not receive a refund of that tax as they presently did in North Las Vegas. He understood the Planning Staff had investigated the procedures for the surrounding jurisdictions and developers had the opportunity to request refunds of the RCT. It was customary for the developers not to request the refund. Regarding the PUD projects, cities were receiving the developed open space and the approximately \$6,000 to \$8,000 per unit from the RCT.

Deputy City Attorney Lewis stated a parks subcommittee had been formed. A representative from Lyon Homes, Amstar and Centex attended the subcommittee meetings. The developers proposed to develop the open space and pay the RCT. The sections in the RCT ordinance that permitted refunds or waivers had been removed. He stated each Council member had received a letter from the SNHBA which stated they believed a violation of State law had occurred. The argument provided by the SNHBA stated RCT fees and requirements for dedication were mutually exclusive which indicated the refund of the fees could be collected or the requirement for dedication could be provided but they could not be provided together. The City's argument was the PUD requirement was not a dedication to the City, it was a requirement to provide open space to the community. Deputy City Attorney Lewis stated due to the fact that a definition for the word "dedication" did not exist in the State law, the City would interrupt the law as the RCT fees and requirements for dedication of park space to the City would be mutually exclusive therefore allowing the City to receive both. The ordinance had been forwarded with those items stricken. He felt if the City was threatened with legal action the position would be defensible. Assistant City Manager Gregory Rose and City Manager Fritsch examined the Clark County ordinance which had a third option which required the Park Director to investigate each proposed PUD to decide if credit should be given back to the builder or not. The Park Director would verify if the persons who utilized the park might also be causing impact to regional or neighborhood parks and if so partial credit could be granted.

Mayor Montandon questioned if the City could adopt the County's third option as part of the ordinance. Deputy City Attorney Lewis responded not currently, the ordinance would require an amendment. Councilwoman Smith questioned if the issue was dependent on the other ordinances. Deputy City Attorney Lewis advised the City move forward as planned or delay the discussion and approval for all of the ordinances. Councilwoman Smith questioned if the item could be amended during the meeting. He responded no, the ordinance would require reposting. Councilwoman Smith questioned if the RCT ordinance (Exhibit D) could be held for a later date and the remaining three brought forward. Deputy City Attorney Lewis responded the Council could render a decision concerning the design guidelines but the remaining PUD ordinances were interrelated with the design guidelines. He stated the ordinance would require postponement or approval together. Councilwoman Smith questioned if the ordinances were passed and adopted could Council direct Staff to amend the ordinance at a later meeting. Deputy City Attorney Lewis stated yes.

Mr. Connely, stated during the RCT/open space workshop, the proposal had included the structure and amount of open space discussed from that specific group and the premise of the proposal changed in the ordinance draft. He questioned if the dedication issue would require the City to maintain the park versus the HOA. Mayor Montandon responded the City would require the park dedicated to the HOA which would require the association to accept responsibility for the parks maintenance.

PUBLIC FORUM

There were no participants.

ADJOURNMENT

ACTION: THE MEETING ADJOURNED AT 5:45 P.M.

MOTION: Mayor Montandon

SECOND: Mayor Pro Tempore Robinson

AYES: Mayor Montandon, Mayor Pro Tempore Robinson, Councilman Smith, Buck
and Eliason

NAYS: None

ABSTAIN: None

APPROVED: August 6, 2003

/s/ Michael L. Montandon
Mayor Michael L. Montandon

Attest:

/s/ Eileen M. Sevigny
Eileen M. Sevigny, CMC
City Clerk