

# CITY REPORT

Prepared by the Woodland Hills Transparency Committee

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## The final decision on the Summit Creek Drive gates

### What did the City Council decide?

In their regular council meeting on August 3, the City Council voted 4-1 to keep the gates on Summit Creek Drive permanently open. They have remained open since that date.

### How did individual council members vote?

David Pratt, Paul MacArthur, Kari Malkovich and Bob Ottley voted to keep the gates open. Dorel Kynaston cast a dissenting vote, which would have allowed for functioning gates that opened and closed. Mayor Pray did not vote. (The mayor acts in an executive role, and does not have a vote on the council.)

### What was the rationale for a vote in favor of functioning gates?

This is what Councilman Kynaston said about his vote:

Dorel has been on the City Council from the time the gates were first brought up. He remembers signing the Summit Creek plats with the stipulation that the gates would always remain open. Although zoning documents support this, then-mayor Steve Lauritsen (who has since passed away) recalled the decision differently. He believed that the gates had been approved, and told the developers as much in discussions with them. However, though the mayor and the council may have recalled the decision differently, the vote of the council is what determines city decisions. So Dorel had never been in favor of the gates.

Yet in spite of these factors, in the end Dorel voted for closeable gates. When he attended the hearing at the Summit Creek clubhouse he was moved by the pleas of residents at the meeting. They had purchased their property and built their homes with the expectation of living in a gated community. Most had paid more for their property because of that expectation. After listening to these residents Dorel changed his opinion with the hope that the city could find a way to accommodate the gates.

### What was the rationale to keep the gates permanently open?

Councilman Pratt was among the four who voted to keep the gates open. This is what he said about his vote:

Dave was serving on the city planning commission when it approved the Summit Creek development. At the request of then-developer Don Meacham, the commission approved special zoning for the development. It's called the Mountain Villa Overlay Zone, and it contains the following stipulation:

*Item M - Entrance monuments and gates. (Gates cannot be closed across a public street but can be permanently secured open as an entrance feature.) Functional gates are allowed on private streets.*

At the time, Don assured the commission the gates were only ornamental, and never intended to close. Today, the only city-signed document that current developers have in support of closeable gates is a preliminary plat which uses the phrase "monuments/gates." But that is the very same phrase used in the original zoning document to define ornamental gates.

The developers have also cited examples of other cities with gates across public streets, including Park City and Red Ledges. City officials explored every example and found that gates were actually only on private streets in these cases. So the request to gate a public street in Woodland Hills was definitely outside the norm. Additionally, many residents expressed strong feelings against the gates. Given these and other factors, keeping the gates open seemed like the right thing to do.

## **Did potential liability influence the vote to keep the gates open?**

It did. Councilwoman Kari Malkovich reports this response from our attorney and our insurance carrier:

*For the record, I had contacted both legal counsel and the Utah Government Trust claims manager who oversees our insurance. Both unequivocally said "no" to gates on public roads, not because of a state statute, but rather because the very nature of public means open. If the gate prohibits entry or exit, it could mean life or death to a resident. It is a risk that we cannot take to uphold our oath to protect the health, safety, and welfare of the citizens of Woodland Hills.*

## **Why did the city take so long to make a decision?**

City officials deliberately took a lot of time to make this decision so they could get input from all residents and consider the needs of the developers. Unfortunately, this allowed the closeable gates to stay in place for quite a while. In turn this created an expectation among many Summit Creek residents that those gates would remain in place indefinitely.

## **How has the decision been received?**

City officials have praised residents of Summit Creek and developers alike for being good to work with throughout this process, and for their acceptance of the City Council vote.

## **Will the gates now be welded open?**

No. The developers have pledged to keep the gates open, and the city has accepted that pledge in good faith.

**For more background on the decision regarding the Summit Creek Drive gates, listen to this 10- minute phone interview**

...with Dorel Kynaston and Dave Pratt. Just click on this link: <https://youtu.be/j1-Bwei7ZXQ>

If you would like to listen only to selected parts of the interview, here are the topic starting points:

00:00 *History of the Summit Creek Drive gates from Dave Pratt's perspective.*

02:43 *History of the Summit Creek Drive gates from Dorel Kynaston's perspective.*

05:53 *Rationale for Dorel Kynaston's vote in favor of the gates.*

07:18 *Is there a state law against having a gate on a public road?*

08:16 *Are there towns in Utah with gates on public roads?*

09:05 *Why did the city take so long to come to a decision on this issue?*

## To review the recording of the August 3 work session and council meeting, and materials from those meetings

...click on these links:

Work Session/Council Vote: <https://www.youtube.com/watch?v=jccj1fyNTWE>

2014 Renderings and Email of Gate Proposal: <https://www.woodlandhills-ut.gov/uploads/gates-1-.pdf>

*This report was authored by Glenn Anderson for the Woodland Hills Transparency Committee. Content for this report came from Councilmen Dorel Kynaston and David Pratt, and Councilwoman Kari Malkovich.*