

Stone Creek (Eagles Landing) Development History

August 2002 - March 2012

By Bryan Amundson

In August 2002 when we bought lot 5 in Stone Creek (Eagles Landing), the only risk we were told about was that they may not be able to get funding for the water tank. We were told by John Wilding that if the time came close to completion of the project (which was estimated as May 2003) that they would dig us a well if necessary. The price of the land was 57,000. However as an incentive as an early buyer, they took 10,000 off the price of the land, contingent on the land purchase being completed by December 1, 2003. We paid 23,500 as a down payment, making the balance 23,500 if it was paid off by Dec. 1st 2003.

We started building in September 2003, and sold our current home that same month.

In December 2003 I met with Dave Gardner (whom I had never met with or talked with before), who told me that a building permit never should have been issued because the letter of credit associated with the bond had been revoked. Dave seemed to be confident that they were just days away from securing the funding but it wasn't 100% certain. He was hinting at the fact that we should stop building until the funding was secured. I said we intend to continue building and finish the home -- confident that John Wilding and Dave could find the funding. After all, they felt confident.

The next few months were like a roller coaster ride. At one moment the funding would be close, only later to find out that it fell through. This happened a few times with a few different lending institutions. Our contractor, John Wilding, slowed down on the construction of the home since the infrastructure was not even started.

In April 2003 we were informed by John Wilding that the County Commission was going to discuss foreclosing on the bond since the bond would expire on June 7, 2003. At that meeting, Dave Gardner, his lawyer, and the lawyer for Textron (the company holding the bond) were there and pleaded the case for the county to wait to foreclose -- that funding (the letter of credit) was almost secured. They also presented the intent to buy-out John Wilding from the partnership since Textron (the holder of the bond) refused to do business with the project if John was involved. The commissioners agreed to postpone foreclosure and the item was going to be discussed again in a week or two. Two other meetings followed, each time they said they were close and asked for an extension. After one of these meetings we met with Dave Gardner in the foyer when he said that once the letter of credit was secured, it would be about three months until all work could be completed. The last meeting, which was the third week in May, Dave presented a faxed letter saying that the funding was approved and that the bond would be extended another year by Textron. I also presented a letter as the homeowner asking that the county watch this close and if no progress was being made that they should step in and do something. They said they would be working with the developer closely to assure progress. They also agreed not to foreclose at that time -- and would not address the issue again unless the bond was close to expiration in June of 2004. I thought to myself -- "that'll never happen -- Dave said three months!"

In the middle of May, I drafted a document to Gardner and Associates outlining a compensation plan to protect me as the homeowner because the project was extending beyond the original anticipated completion date of June 15th. The document indicated that as of June 15th until the time of closing, specific incurred expenses would be taken off the remaining balance of the land. These expenses included construction loan interest paid, storage unit costs, our current rent, and buying down points on our mortgage to make the rate equivalent to the rate on June 15th. Following the final county commission meeting, my wife and I went to Dave Gardner's office where we all signed the document. At that time, Dave told us that the letter of credit was not sufficient to cover the utilities -- only the roads and the water tank, and that they would have to try

to get additional funding. We had never heard this very important fact before. However we still felt confident that they would be able to get the funding and things would move along as planned.

By the end of June, no work was being done on the infrastructure and I hadn't heard anything from Dave Gardner. I left a message for him asking why nothing had been done. He later returned my call and indicated that even though they got a letter of credit, they needed something more to get started. I didn't understand what this was but I took his word for it. By the first of July the tank was being excavated. Over the next few weeks progress was made on the tank and the water lines. I think it was August when they started working on the roads.

The road work was moving along very slowly, even though they were there nearly every day – including Saturdays. The guys working on it looked like teenagers – it was hard to know if they knew what they were doing or not. The goal was to get it paved by the end of October. Unfortunately by the end of October it turned very cold, and it started to snow. Because of the weather they were unable to lay asphalt.

By this time the tank was complete and the pump house was installed. We assumed that everything was complete so we didn't bother Dave Gardner or George Bills about the water situation any further.

In October I began calling Utah Power and Questar to find out if they had been scheduled to install their utilities. Utah Power said they had all the parts but that they were waiting for trenches to be completed by the developer. I called Dave to find out why nothing was being done and why no trenches have been started. He said they were trying to get money transferred from the bond to another account that they could use to cover the utility expenses. This was a process that needed to be approved by the county and the banks involved. They kept saying it was close, but it had to go through a lot of red tape.

By mid November the transfer was approved and Questar started digging. After a little bit of bad weather and the Thanksgiving holiday, they completed installation. The gas was connected to the house by the last week of November. Taking into account the missed days for bad weather and the Thanksgiving holiday, they completed their work in less than 5 days.

According to George Bills, they were set to start digging the power trenches the second week in December. Based on this knowledge, we scheduled the carpet to be installed during the first week in December. We figured that we could run a generator for a couple of weeks to keep the home warm until the power could be connected.

The trenches were started on December 8th, and George assured me that he would be done by the end of that week because Utah Power was scheduled for the following week. On December 10th, not much progress had been made and I warned George that he won't be done by the end of the week at that pace. They were using a backhoe – not the equipment to use for a long trench – so I suggested using a trackhoe like Questar used. He said he would look into it, and that Utah Power wasn't coming until the 16th of December so they should be done by then. By the 16th, the trenches were nowhere near complete, so Utah Power was rescheduled for the 22nd. On the 22nd I was onsite. The trenches were still a few days from completion when Utah Power pulled up with their wire truck.

After viewing the situation they decided that the trenches were not ready so they said they couldn't come back until after the first of the year. At that time I asked the Utah Power foreman about the incredibly long time that it has taken to dig the trenches. They said that they had originally offered to provide a sub to dig the trench but the offer was turned down by Gardner and Associates – he didn't know why. I informed John McMullin of Utah County engineering about the delay – he didn't seem very happy with the situation.

Also in December, I asked George when the water would be hooked up. He said they needed more money to pay off the water subs before they could perform the tank sanitization. He said it would take a couple of weeks to get the money, then a couple of weeks to do the work. I figured by the time the power was hooked up, we'd be ready to close.

We had record snowfall from Christmas day thru the first week in January. Then it turned bitter cold (around 0 at night and never over freezing during the day) for almost the entire month of January. The first

week in January, Utah Power said that all the snow in the trenches needed to be packed down – so George had the trencher do it. In addition, the trencher was still digging the trenches in our cul-de-sac. Around the second week in January I heard from George that Utah Power said it was too cold and frozen to install the lines. We were devastated - the completion date was no longer in sight.

On January 19th as I was going up to the house to change the oil in the generator and to refill it with gas (a process that had been repeated way too many times since the middle of December), I saw that Utah Power had begun to lay down the lines. They completed laying down the lines the next day. The rest of the week, was beautiful weather even though it was still quite cold – but nothing more was done to connect the lines. I called George on the 22nd to check on the funding for the water. He said they were still working on it, and that earlier that day he had met with the county to discuss it. He said it was still a few weeks out to get the funding to complete it. I then talked with John McMullin who seemed to be a bit more optimistic about the funding. However a follow-up call with George revealed that they would get funding to pay the subs for work already performed within a couple of weeks, but then they have to push for more funding to finish installing the equipment in the pump house and pay the phone company to install the phone lines into the neighborhood.

After Utah Power laid the lines in the trenches, they told George that now he is responsible for putting down more sand over the lines and then filling up the trenches. So the trencher began that task. It took him until February 10th to fill the trenches. A very big snowstorm the first week in February, that added about 10 more inches of snow slowed down the process, but it is still a mystery to me why he was so slow. One Friday as I was up doing some misc. work at the house and I noticed that he left at 1:00. I'm guessing that George has never set this job as a priority in his mind, otherwise he'd be pushing it until dark to get it done.

By February 20th, we still hadn't heard anything from Utah Power about when they would come and finish connecting the lines. The trenches have been filled for over a week and a half. A call to both George and John McMullin during that week revealed that the previous week the subcontractors had finally been paid for work rendered over the last few months. Now more money was being sought to complete the water and telephone. John said that the attorney was going before the county commission to get approval to release some money from the bond. I asked John about the date of the commission meeting, and he said he'd get back to me – which he never did.

During the first week of March, Sturgeon Electric, the subcontractor hired by Utah Power, arrived on-site to connect the backbone for the neighborhood. At the end of the week, they said they would connect the power to the backbone on Monday March 8th. I figured that they would also connect the house to the backbone as well, so I took Monday off and went up to celebrate the occasion. When I arrived on-site and talked with them, they said they were not hired to connect the power to the home, but that Utah Power would do that. The foreman said that he knew Brian at Utah Power and that he would call him after the backbone was energized so they could schedule a crew. I also called Utah Power to be sure they knew the backbone was complete. I didn't hear anything from Utah Power the rest of the week.

On Wednesday March 9th, I still hadn't heard anything about why Utah Power had not connected the power to the home. I was at the home that evening doing some work, when Justin Wilding (who is building a home just east of us), came by and said that Utah Power had been by the previous day, and said that we needed to dig a trench from our home to the distribution box before they could connect the power. We already had a trench from the home to the road, but now they were expecting us dig a trench to the distribution box which was over 120 feet away – more than half way across the neighboring lot to the south. I started thinking about other neighborhoods, and how the distribution boxes were near the property line. I got a horrible feeling that someone had messed up on the backbone. On the 10th I received a call from Utah Power telling me what was expected so they could connect the power (two days after they had been on-site). I asked to speak with someone about the design of the backbone since it was now obvious to me that something was wrong. I spoke with Brian from Utah Power who said that they didn't design or install it, so he would have to look into the situation. I also called George and asked him to look into the situation. I was more than willing to pay the few hundred dollars to trench to the distribution box if that was really where it was supposed to be, however, it was odd to me that it would be placed right near the middle of a lot. George called me back later that night and told me that the design and installation were

have this conversation on my computer because John and Eltie captured it on my digital recorder -- stealthily of course. So we see that time and time again, Dave has tried to force John Wilding out of the partnership with little or no compensation, and when John refused, Dave tells some half truths and makes John look bad. This is why Textron and the county don't like John -- because Dave tells lies or half-truths so he can look like the victim and get his way. I saw this in Mark Robinson, who outright said that John Wilding is a lying cheat, yet he said he had never met him or talked with him. All the facts he has is what Dave Gardner has told him.

Now that the improvements will be going in, our concern now turns to our compensation. I indicated earlier that the balance of the land is paid off and that we are going \$2,400 in the hole each month. This was based on the fact that around \$7,500 would be needed at closing time to buy down points to 5%. Well, this week the interest rates rose sharply to around 6.38%, eliminating all possibility of buying down points to 5%. This would increase our payment by about \$200 / month -- which would be devastating on our finances. So now, we have to come up with a plan to reduce the balance of the loan by around \$35,000 so the payment will be around what we planned -- 1,300 / mo before insurance and taxes. It would be impossible to get that kind of money out of Dave Gardner. So we will try to have them give us a lot (lot #6), then upon the sale of that lot, we keep \$35,000 from the proceeds and give the remainder back to the current developer. This means at closing, we will have to come up with the \$35,000 ourselves, which would nearly deplete our savings -- but it would be better than having a much larger payment than expected for potentially many years.

I called Jared Anderson who represents Textron on 27 May 2004 to ask him about the status of the funding. He told me that the title company was unable to get title insurance for the loan for unknown reasons, which meant that Textron would not be willing to provide the loan for improvements. He also said that Textron would not be willing to buy out the first position loan. The light at the end of the tunnel went out. The only thing that could be of comfort was that he said the Willis's were "aggressively pursuing" the prospect of buying the first position loan. If that were to occur, the Willis's would most likely foreclose on Eagles Landing and take over the project. This however could take quite some time.

On Saturday May 29th I received a letter from Dave Gardner with the response to our compensation proposal. He said that they knew compensation is owed to us but that he could not deed over a lot to us since there were too many loans on the lots. He suggested getting a real estate attorney to review our options.

19 July 2004 -- For the last few weeks we've been waiting for Textron and the Willis's to come to an agreement. I am told they met last week but both are having differences over an agreement. At this point, I don't have hope that anything will happen quickly, so we are pursuing a course of action that was suggested by various homeowners in Birdseye -- just finish what is necessary to pass an inspection and move in. At this point, we believe that would just entail trenching over to the power distribution box and connecting the power, sanitizing the tank and flushing the lines, and running the phone lines. I'm guessing this may cost up to \$2,000, some of which can be shared with Justin and Mandy Wilding. I've called John Wilding to get started on the power situation and to put the finishing touches on the house that we've been waiting for since last September.

In addition, I'm trying to contact County Commissioner Steve White to let him know that Textron has not come through with their part of the agreement and that in the last two months no progress has been made toward the completion of the project. I had a conversation about a month ago with Dave Shawcroft indicating that no progress was being made and to get an understanding of what the county could do to expedite the process, such as calling the bond. He told me that the agreement that was signed in May, would not allow the bond to be called until at least October. This fact was not brought out in the county commission meeting when the agreement was signed, or I would have made an issue over it -- not that it would have done any good.

Levor Oldham is also going to contact Gary Herbert, who is running for Lt. Governor in November, to let him know that in his opinion, the county has not done their job to protect our interests. He will also let Gary know that he is aware of some questionable projects that the county has done under his jurisdiction

that he is sure Gary would not want the public to be aware of. The main issue Levor will bring up to Gary is regarding an RV/Camping area in Spanish Fork canyon by the Thistle landslide that did not go before the public, nor did it ever go before the planning commission. Lot's of public money was spent by county engineer Clyde Griffin to build this camping area with no public approval and no building permit, as verified by Jeff Mendenhall of the county planning commission. The reason why this is such a big deal is because before the county started construction of this facility, Gary Hubbs – a Birdseye resident - approached the county to get approval of a similar type resort just a few miles up the road on his property. The county refused the request, however just a few months later, the county started construction of their own.

9 Aug 2004 – Still no news from Textron and the Willis's, however we are moving along on our own. On Wed Aug 4th, we finally got power to our home. Since the distribution box was about 120 feet from our property line, John Wilding dug a trench and we laid conduit to the box.

I called Dave Gardner a few weeks ago to make sure the lean on our lot from Eagles Landing was cleared. He said he would clear their lean. However the title company said a subcontractor (Wade Stanton – road and water lines) has placed a lean on all lots, including ours. I've been working with his attorney, Bill Hansen, to clear that lean. I believe the lean is for \$20,000.

Regarding the water situation...

I cannot get anyone to sanitize the tank. Dale Cox, the tank contractor, will not do it because he has not been fully paid for the work he has done. He also will no longer return my calls. Anyway, I've been told that you wouldn't want to leave the water sitting in the tank for too long which would be the case since there are only two homes using it. So after consulting with Bob Perry, (the person who installed the original pump), Koby Hubbs, and Bruce Hall, we came up with a good plan that will enable us to get in and have water for the short term. The existing pump is 5HP, which requires a 10kw generator to run it. Since a 10kw generator is expensive to buy/rent, we decided to downsize the pump to a 1 1/2 HP so we can use a 5kw generator. Then, instead of pumping water into the tank, we just fill up the lines and use that for storage. We figure that we would have to fire up the generator about every 10 days or so and fill up the lines. This will work until the project is resumed, and power is run to the pump and more homes begin drawing on the tank. I will pay these costs which may run around \$2,000.

In order to run the telephone lines up from the road, CUT is requiring a \$2,000 payment - \$1,000 for each home. This will cover running all lines for the first 20 lots up the main road, then after the project is resumed, they would run the lines to all the other homes at an additional cost. I will incur the cost to do this initial installation and attempt to get reimbursed when the project resumes.

August 23, 2004, the inspector (Gil) came out and found 12 things wrong. 11 were minor and were fixed by me within a couple of days. The other is the grading of the dirt around the house which will be done by Bruce Hall.

August 24, 2004 – we moved in. Things are working well at the house. When the lines are full we have 100 lbs of pressure at the meter, which I am reducing to about 60 lbs at the pressure reducing valve in the house.

August 31, 2004. We have been in one week now and have not re-filled the lines and so far I haven't seen any noticeable reduction in pressure. I will refill it this weekend regardless. I'm trying to figure out how to keep the valves from freezing this winter. In order to shutdown the generator when the lines are full, I created a home-made float valve that floats up and completes the circuit for the power switch in the generator to turn it off. It works well, but will be vulnerable to cold weather. If the lines fill and the float chamber (3/4" pvc pipe) fills with water and stays full if we don't use the water, the pipe will freeze. We're toying with the idea of heat tape and insulation. While the generator is running it will heat the pipes. When the lines fill, the heater will shut down but will keep the pipes warm for a while until water is used in the lines to lower the water level. This will also make sure that the float chamber is thawed when the lines are filling.

Reimbursable costs so far:

Power to home (conduit): \$120

Telephone: \$2,000

Water: 10kw gen rental \$150, 5HP Control box \$395, 1 1/2 HP pump and inst; \$1,550

October 14, 2004 – I have been told that since the county can now call the bond and Textron doesn't want it to happen, they are going to fund the project so it can move forward. This would include paving the roads, running power to the pump, and backfilling and sanitizing the tank. The road crew is already working on re-grading the roads.

November 8, 2004 – Evans paving laid asphalt on the main road and in three cul-de-sacs. It took longer than anticipated because we've had three weeks of rain since they started in mid-October. Crews have also backfilled the tank and have completed the trench up to the pump. In addition, they have placed large concrete housings with manhole covers over the valves to keep them from freezing during the winter.

November 15, 2004 – I received a check from CUT for \$2,000. Aside from recovering the \$395 for the 5HP pump control box, I am not realistically expecting any further reimbursement.

Things have been working well with the generator and pump. We fill up the lines once per week (about two hours of pumping). The water still smells a little chlorinated at the house from the chlorination of the lines, but filtering removes any odd taste.

Spring 2005 – Electricity was run up to the pump house late winter/early spring but I just barely got around to figuring out how to connect it to the pump so it will turn off when the lines are full. Just two days after I connected the power, someone stole my 4500 watt generator from the pump house. I am now keeping the pump house locked.

To avoid the pump having to turn on every few seconds to keep the lines full, I figured I would put it on a timer. So twice per week for a specified interval the pump would turn on and fill the lines and should shut off via the float valve when the lines were full. The problem with this however, is that the float switch rapidly disconnecting and reconnecting would lock the relay (pump switch), so the pump would stay on. So I removed the float valve from the system. I then set the timer to run the pump 45 mins twice per week and opened the valve to the tank and opened the tank drain valve so the lines can overflow into the tank. This seems to be working fine, with the exception that now we're using the lines between the pump and the tank so now we have more chlorine taste to our water. It will resolve itself over time so we're not worried.

July 5, 2006 – The bank foreclosed on the subdivision around fall 2005. It went up for auction in November 2005 but it wasn't sold. However as of July 5, 2006, the subdivision was sold to Hearthstone Development, owned by Dave Olsen. We met with Dave and he outlined his plans. They are required by the county to sanitize the tank before they can sell any lots, so that will be high on their priority list. So far they have mowed the weeds near the entrance and are preparing to plant trees up the drive from the highway to the first lots. They say they will also put in a 3-rail vinyl fence along the frontage and up the drive to the first lots. They also plan on building a couple of water features at the entrance.

August 30, 2006 – To prepare for a larger pump so they can fill the tank, they pulled the 1 1/2 hp pump from the well and welded a larger pipe for the riser to connect to. The new 20 hp pump was supposed to be put in on Friday September 1st, but the pump people never came to do it. We ran out of water on Friday morning and began filling up containers to drink, wash and flush toilets with. Since Monday was Labor Day, we knew that we would be a while without water. On Tuesday, the 20 hp pump was installed but the electrician was not available. On Wednesday the electrician came and hooked up the pump and we finally had water Wednesday night September 6th.

The entrance to the neighborhood is now lined with a vinyl fence and over 100 Aspen trees. They have put gravel down between the road and the fence, so it looks very nice.

October 6, 2006 – Ever since they put in the 20 hp pump, we have had to turn on the pump nearly every day to fill up the lines. Either the trees are taking a lot of water or there is a leak in the line somewhere. I

figure we are going through about 10,000 gallons per day, whereas before the subdivision was sold, we would use about 3,700 gallons per week. That's a lot of water going somewhere that we cannot identify.

The water tank was sanitized about a week ago and was filled with 5 feet of water. The county finally tested the water and approved it today, so they turned the valve and we are now using tank water. At this point, I'm guessing that there may be some homes started soon.

January 16, 2007 -- Four homes are in progress. They started digging the week of November 20, 2006. They were pouring foundations and basements by the week before Christmas.

February 27, 2012 - Dave Olsen built a total of six homes. Two sat empty for 2 years waiting to be sold during a very difficult time in the economy. Two were rented for a short time. At this time the current owners of those homes are: Gene and Betty Allen (2010), Gary and Pam Monson (2011), John and Sherry Reano (2011), Ron and Diane Workman (2011), and Dustin and Brenda Bates (2012). Only one of those six homes is currently available as of last week when Rick and Sue Olsen moved away.

The home built by Justin Wilding in 2004 is now owned by Brent and Realeen Duncan (2012). Ryan and Tiffany Gasser built and occupied their home in 2007. The home built by Chuck and Sandy Smartt in 2009 is now empty, after being occupied by them for nearly two years. The Amundson home has been sold and will be occupied by John and Mary Gavrila in March 2012.

Because of the downturn in the economy, Dave Olsen is likely to lose the subdivision. The exact state of affairs is unknown to me, but it is my opinion that until the subdivision is purchased by another developer, that the maintenance, excluding the water system which is now considered a public utility, will be the responsibility of the home owners association which met for the first time on this date, 27 Feb 2012, at the Amundson (soon to be the Gavrila) home.