

SOUTH JORDAN CITY
CITY COUNCIL SPECIAL STUDY MEETING
OAK CONFERENCE ROOM

October 17, 2016

Present: Mayor David Alvord, Council Member Chris Rogers, Council Member Don Shelton, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Tamara Zander, CM Gary Whatcott, COS Paul Cunningham, Police Chief Jeff Carr, Fire Chief Andy Butler, Administrative Services Director Dustin Lewis, City Attorney Ryan Loose, City Commerce Director Brian Preece, Finance Director Sunil Naidu, Strategic Services Director Don Tingey, Development Services Director Brad Klavano, Public Works Director Jason Rasmussen, IT Director Jon Day, City Recorder Anna West

Others: Staff Members: Tina Brown, Steven Schaefermeyer, and Brad Sanderson

STUDY SESSION – 12Noon

A. Invocation: *By Mayor Alvord*

Invocation was given by Mayor Alvord.

B. Council Packet Review (*Calendaring, Topics, Future Agenda Items*)

Mayor Alvord said we will have a presentation to Cindy Hulet for the Distinguished Service Citation. He asked if she will be there. Chief Carr said yes; she will be there.

Mayor Alvord asked the Council how they felt about setting a specific length of time of 30 minutes each for those speaking for the rezone and 30 minutes for those against it. He said I will be careful to explain that the applicant may be given more time because they are the applicant. I can manage this by asking at the beginning of the meeting by raise of hands how many are for the rezone and how many are against. We should just keep the time the same for both sides.

Council Member Harris said too many times they get up there and repeat the same things over and over. You might want to ask them if their thoughts have already been stated by someone but still want to be on the record, feel free to state your name and just say whether they are for or opposed to the rezone.

CM Whatcott asked if we should amend the agenda so that the agenda would read specific times structuring how much time is allotted each. This will set the expectations for those attending the meeting that want to talk but knowing the time is limited to 30 minutes for each side.

Council Member Marlor said I like to see staffs presentation first for all public hearings and then the developer's presentation. I like to ask a couple of questions to clarify and most of the time those are important questions because you have a lot of people that are listening to those items and that hopefully will clarify for the public as well, some of those issues, before we start taking public comment.

Mayor Alvord said when I was first elected someone gave me the advice to not entertain questions of staff until after public comment. To be honest, I haven't tried it the other way where we get all of the questions answered before the public comment begins.

CM Whatcott said we want to be careful that we are not forecasting that a decision has already been made.

Council Member Zander said I like the idea of us clarifying for ourselves before the public stands because we may ask a clarified question that makes some of the speakers feel at ease about something.

Mayor Alvord said I heard Mr. Lampropolus has made quite a few changes in reaction to public input so it would be wise to have that presented before the public speaks.

City Attorney Loose said you should give the applicant some time to speak after public comment also because questions come up that the public asks and that allows the applicant to address those questions.

CM Whatcott said I will have the agenda amended with specific times and get it posted.

Council Member Shelton said I will be joining electronically but the agenda has me down for saying the prayer so you might want to amend that also. CM Whatcott said we'll get that changed.

Council Member Marlor asked if staff knows if the developer is presenting with the bridge or with the tunnel.

Planner Brad Sanderson said concept shows a tunnel but it is not real clear; I don't know if he has a preference one way or another.

Director Brad Klavano said a tunnel can be very difficult to build. It is feasible but it will cost a lot more.

City Attorney Loose said there is no development agreement right now. How it will connect is getting into the site plan that will come through at the next stage so without an agreement there is no forcing him one way or another. I would see how it goes in the discussion and we can do a development agreement after the fact. I just don't want to get the two issues muddled up. The rezone will stand on its own without that.

Council Member Marlor said I think the tunnel is a bit less controversial to the residents than the bridge. Fred mentioned in a conversation with me that he is willing to have public access on the bridge but not on the tunnel.

Council Member Shelton asked if that property is in an EDA. Brian Preece said yes. They requested that if this goes through they want to add this property to expand the boundaries of the EDA. It wouldn't need to go to the Taxing Entity body unless this body approved it and asked to have it go to the Taxing Entity Committee.

Council Member Zander asked if this body has a preference between a tunnel or sky bridge.

Mayor Alvord said I could ask the audience if they have a preference. It doesn't feel right to tell a developer how to spend their money.

Council Member Marlor said I think the whole thing will be driven by whatever their presentation is. If they present with the tunnel then I am staying out of the sky bridge thing.

Mayor Alvord asked CM Whatcott if he would mind asking if they would prefer a tunnel versus a sky bridge.

Council Member Marlor said whether we do a sky bridge or a tunnel, if the road has to be widened at some time in the future I want to make sure that whatever they build it will accommodate some future expansion of 9800 South.

Director Brad Klavano said our Master Plan shows a four lane section; two lanes westbound with a turn lane and one lane eastbound with a turn lane.

CM Whatcott said in the long term regional plan for WFRC they showed that as a five lane section. The problem is it is a City road so without funding from other sources we would not be able to do it.

Council Member Zander asked if we could get copies of his renderings. CM Whatcott said when I call him I will ask him what he is going to present and see if he can send it to me and I will get it to you.

CM Whatcott said there will be a lot of people here from Merit and they may all want to speak. I am pretty much sure that after about 10 minutes you will hear what everybody has to say from each side.

Discussion of how much time to give each side concluded that 30 minutes per side should work. They can get a count of hands for each side including those in the foyer and any of those in the foyer can also speak.

C. Discussion Item: Potential Amendment to 16.04.180 E. related to development design providing future access. *(By City Attorney Ryan Loose)*

Mayor Alvord said I will turn over the time to Ryan for this item.

City Attorney Ryan Loose said this is all about road connections. What it says essentially is that subdivisions should be designed to provide connections to present or future existing streets. This has been the language since about 2000 and in 2013 it was changed to the exact language we have now. Based on the discussion you had at the last Council meeting on 10755 South and where that was, we put it on the agenda to discuss. We have some thoughts on this if you want to hear them. Based on a conversation I had with Council Member Zander after the meeting, one of the concepts that I got from it was that there is an expectation people have when they move in. Changing that expectation is what we don't want to do. On a lot of these stub streets, if you go back and look at the minutes, the plats have shown that it is going to connect someday. In this particular case someone buying it would see on the plat a recorded cul-de-sac. No one expects to see a recorded cul-de-sac to someday go away. Our exception would be that the only exceptions for connection would be where there is an existing recorded cul-de-sac.

Council Member Marlor said the cul-de-sac we are talking about was put in many years before 2000 but if that happened today it would be non-conforming and we wouldn't allow it. We would have some other connection and a sign that says that this road will or may connect in the future; is that correct?

City Attorney Loose said yes. Bison Ridge Road is a good example of that. The minutes reflect that it was always supposed to connect. There was a sign at one point but it fell off; we have re-put the sign up. That was temporary and the one at 10755 looks permanent. There is an expectation level.

Council Member Harris asked what the wording would be.

City Attorney Loose said it would basically be very similar to our current wording. We just put in the exception where it says “it will be connected to existing streets/accesses between there as well as future streets, except for recorded plats of cul-de-sacs.”

CM Whatcott said I wouldn’t make it an ultimatum; I would use “may.” There may be a reason why surrounding land would want to join that street.

City Planner Greg Schindler said this is the only one left. We don’t have any more cul-de-sacs.

Council Member Harris said so we’re making an exception here and we’re not opening it up for any more. City Attorney Loose said there may be someone creative that finds one that they could do but it would be very much an exception, not the rule.

Council Member Zander said I don’t want to be hypocritical but this one felt unique to me because the age of the road. I felt like this is the one that may be an exception. I appreciate staffs work on that.

City Attorney Loose said they key word you used is unique. The unique thing about this one in my opinion was that this had a legally recorded cul-de-sac where Bison Ridge wasn’t.

Mayor Alvord asked if staff has heard from the developer on this regarding what they are doing.

City Planner Schindler said we have not heard anything. I think they are waiting.

Council Member Marlor said I am fine with the updates Ryan mentioned. The reason you find that in 2000 is at that point you could not get east to west in the city. That was only 16 years ago. I made the motion to do a fully engineered transportation plan and I think you will find if you dig into it, it was to make sure that we were connecting and that all these new subdivisions going in needed to be connected to all of the collectors to provide connectivity back then. We didn’t connect at 9800, we didn’t connect at 10600th and 114th had not been built. All of these things changed a lot.

Council Member Rogers said I am supportive of putting it back on an agenda to pass the amendment to the text. City Attorney Loose said we will do the draft and it has to be noticed to go through Planning Commission and then here to Council. The developers will need to wait if they don’t want to be forced to connect; they need to wait until it gets passed; the next day they can submit their application.

Council Member Rogers said because it is in my District I was going to write them a letter on our discussion on whether it is going to connect or not connect. They deserve to know the results on whatever we decide.

Mayor Alvord asked to have a draft copy of the letter sent to all Council before sending it. Council Member Rogers said yes I can do that.

City Attorney Loose said you might want to wait just because we don’t control when the applicant applies. If our process is too long for them and they apply tomorrow and start going through the process; even though we change they will still connect.

Council Member Marlor said I am still in favor of connectivity. I am letting that be known for the record. I think it is in the best interest of the public in general that we move traffic and for safety concerns.

Council Member Zander asked how does staff feel on this?

Director Klavano said I think it should connect to 3200 myself. I don't know how the chief's feel but it's a long 2600 feet, almost a half mile from 27th. We would have the connection now into McKee Farms but still from that connection up to the end is 2100 feet. If the canal crossing was to fail those residents would have no way to get in and out of there for 22,000 feet. I think it's a bad situation and I understand the expectation and that is why based on the discussion we came up with some language that could support that. I think from a safety circulation and connectivity it should still connect to 3200.

Police Chief Carr said the impact for us is pretty small with this onetime thing. If we did that everywhere, it would be very difficult for us to get to where we need to go. Clearly it works in our favor to have connectivity.

Fire Chief Butler said I agree with connectivity and I agree with Brad that it should connect but I also agree with what Jeff is saying that this single instance is not that big of a deal. Connectivity for the Fire Departments perspective is the ideal situation. We don't look at just getting down there and turning around; we are looking at a response point of view in positing our apparatus and like Brad said, the failure of something. Multiple access points are always better.

CM Whatcott said to Tamara's point, staff is not necessarily supporting it; we brought you language we felt comfortable with and something we thought would meet your intentions if you want to change or modify, but that is not an endorsement from staff. We are all in favor of connectivity as our first position and even in this circumstance but if you all wanted to change it we felt like this was something we could support doing.

Mayor Alvord said one thing that makes me feel assured in this particular situation is that all the many residents at the meeting were told of the safety issues and they still didn't want it to connect.

City Attorney Loose said that is what I was going to bring up about liability is our defense against is always better if we connect. Using the defense that this was a platted cul-de-sac approved in another time and we didn't change the plat is a good defense. Connecting is a better defense.

Council Member Marlor said the problem I have is that if we use that logic, and it seems like great logic, but in a lawsuit they can claim responsibility and we have to accept the liability. That is a real problem for me. Even if they are saying go ahead just make sure we're cut off, if there is a problem in the future they are going to throw all of that out and say you should have done it anyway. The courts will come after us and that is one of the main reasons, whether it is a safety issue or a canal or whatever, I still have a problem with it and I am still going to go on record that I am in favor of connectivity; not just generally, but also specifically on this issue. I thought Council Member Shelton did a great job of delineating a lot of factors as it relates to connectivity. The one issue is one thing we didn't talk about in your email was staff's position and their recommendation and the reasoning behind it. We have got to make sure that as we are deliberating on these issues that we listen to staff because they are taking into consideration all of those issues including safety; it is our responsibility to the future of the City.

Council Member Rogers said we should probably hear from Tamara and Don as to whether we should put this on the agenda.

Council Member Shelton said I favor connectivity, but I think I can live with an exception in this case because of the expectations of people that have lived there for half a century. I think they are allowing fear to trump reality which frankly I think it would be so much better for traffic on that road if it was

connected both ways. I don't see an increase of traffic I think it would actually decrease traffic. I would support the text amendment for this exception.

City Attorney Loose said it might apply to somewhere else we just can't envision that now.

Council Member Zander said I am with Brad on the fact that I default to always connect. It makes sense long term to connect. In this situation, the reason I voted the way I did is I thought maybe I don't know all of the answers so to take it back and have us look at it again I thought was valuable. I voted the way I did because I wanted to have an opportunity to learn more from staff and to educate myself on is there a time when we should pause and not connect. Nine times out of ten I would connect. This one may be the time that we shouldn't. Where it is platted as a cul-de-sac, I feel a little bit hesitant to go against the property rights of these people that have been there 40-50 years. If it weren't platted I would feel different. I would say let's put it on the agenda and look into it.

Council Member Rogers said I am in favor of putting it on the agenda.

City Attorney Loose said this would first have to go to the Planning Commission as a text amendment. The soonest we could bring it to you would be December.

ADJOURNMENT

Council Member Shelton made a motion to adjourn. Council Member Zander seconded the motion. The vote was unanimous in favor.

The October 17, 2016 City Council Special Study meeting adjourned at 1:00 p.m.+

This is a true and correct copy of the October 17, 2016 Council Meeting minutes, which were approved on November 1, 2016.

Anna M. West
South Jordan City Recorder