

SOUTH JORDAN CITY
CITY COUNCIL MEETING

October 5, 2021

Present: Mayor Dawn R. Ramsey, Council Member Brad Marlor, Council Member Don Shelton, Council Member Jason McGuire, CM Gary Whatcott, ACM Dustin Lewis, City Attorney Ryan Loose, Strategic Services Director Don Tingey, CEO Sunil Naidu, City Commerce Director Brian Preece, Associate Director of Parks Colby Hill, Associate Director of Public Works Joey Collins, Police Chief Jeff Carr, Engineering Director Brad Klavano, Planning Director Steven Schaefermeyer, Fire Chief Chris Dawson, Communications Manager Rachael VanCleave, GIS Coordinator Matt Jarman, City Recorder Anna Crookston, Meeting Transcriptionist Diana Baun, Director of Government Affairs Melinda Seager, Interim Mulligan's Business Manager Abigail Patonai

Others: Carson Wright, Stephen Smith, Jacob Brace with Google Fiber, Sam Bishop, Katelyn, Kirby Kirkman, Shannon Ellsworth, Casey Greenland, Craig Kermer

6:33 P.M.
REGULAR MEETING

A. Welcome, Roll Call, and Introduction to Electronic Meeting - *By Mayor Dawn R. Ramsey*

Mayor Ramsey welcomed everyone present.

B. Invocation – *By Council Member Jason McGuire*

Council Member Jason McGuire offered the invocation.

C. Pledge of Allegiance – *By Associate Director of Parks Colby Hill*

Associate Director of Parks Colby Hill led the audience in the Pledge of Allegiance.

D. Minute Approval

D.1. September 21, 2021 City Council Study Meeting

D.2. September 21, 2021 City Council Meeting

Council Member Shelton motioned to approve the September 21, 2021 City Council meeting minutes as printed. Council Member Zander seconded the motion, the vote was unanimous in favor.

E. Mayor and Council Reports

Council Member Jason McGuire attended the Utah League of Cities and Towns Conference, there were some great speakers. Once Upon a Mattress, the production by the South Jordan Arts Council, starts this Thursday, October 7; Council night is October 14 and there are tickets for all the council members.

Council Member Tamara Zander attended the Utah League of Cities and Towns Conference for some of Friday, she was very pleased to join with some of our council members to support Mayor Ramsey as the new president of the League. She was impressed with all the great people there who dedicate so much time to our state. She appreciates that Mayor Ramsey represents our city so well in that position. She attended the South Valley Mosquito Abatement Board meeting, everything is fine there. She may be leaving early tonight to spend time with her family.

Council Member Brad Marlor had no Architectural Review Committee meetings in the last few weeks. He attended the Utah League Conference on Friday and was pleased to see Mayor Ramsey as the new president of the League, this gives us great exposure as a city and a great voice.

Council Member Patrick Harris was able to be in a small group with a leading economist, Natalie Gochmour. She spoke about Utah and Covid, our economy did not get hit as hard as the rest of the nation did, and at the same time we are recovering faster. In regards to job growth Utah, Idaho and Arizona are leading in numbers; the unemployment rate is significantly lower here than the rest of the nation. From the census, we are in the top two states for growth with our population up 18%, with Idaho up 17%. She discussed the housing shortage, we are 40,000-50,000 units short; the three states moving into Utah at the fastest rate are California, Texas and Idaho. In general, she was very upbeat about Utah; anything more delicate is on the federal level and what decisions they will make in relation to inflation, policy decisions and how that will affect us.

Council Member Don Shelton congratulated Mayor Ramsey on her appointment, he wishes he could have been there as he was out of town. He missed a Senior Advisory Committee meeting while he was out of town as well. He visited with the executive officers of the Western Growth Coalition and they are trying to put together a resolution that helps the legislators understand what the cities are doing for housing, the steps they have already taken. He had the opportunity to attend an emergency preparedness meeting at his church where Emergency Manager Aaron Sainsbury came and made a presentation that was very helpful with great information.

Mayor Dawn Ramsey said not all communities have an Emergency Manager and she is very grateful to have Aaron Sainsbury working with us. She welcomed Shannon Ellsworth in the audience, who is now working with Rio Tinto but is also an elected official with the Provo City Council. The mayor was asked to be an advisor to the Major Brent Taylor Foundation. Mr. Taylor was the Mayor of North Ogden and a Major in the US Army when he was killed in Afghanistan. His wife started a charitable foundation in his name and has asked Mayor Ramsey to be an advisor for that. They met and are putting together their first fundraiser gala for the foundation that will provide scholarships and some great opportunities, she will share that information when she has it. She attended the Economic Development Corporation of Utah (EDC) Annual Meeting and appreciated City Commerce Director Brian Preece was there as well from our city. It was done outside at Smith's

Ballpark as Steve Starks is the new chair of EDC Utah and worked that out for them. She had the privilege of presenting Natalie Gochnour with the highest public service award for economic development in the state, on behalf of EDC Utah as the Public Sector Vice Chair; she presented her with the Thayne Robson Leadership in Economic Development Award at that meeting. Things with the Unified Economic Opportunities Commission are still moving quickly, they met today as a subcommittee and tomorrow morning in Cedar City they present to the commission. They will be presenting things talked about in LPC and things discussed as a League Board as they tried to craft and mitigate policy ideas. A lot was discussed today and there is more refining to be done before it is presented tomorrow morning. One thing they discussed today that was proposed into the language was to prohibit any incentivizing, and make that effective July 1, 2022; it would not be retroactive, but would allow some time for communities in the state working on something like that extra time. She had the opportunity to go to Washington, DC for a few days over the last two weeks to represent our city and meet with Senator Lee. She couldn't stay due to the League Conference, but they had dinner at the Taiwan Embassy and it was an impressive delegation. She was sitting next to the senator at the head table with the delegation and she had a good opportunity to visit with Senator Lee and she talked about infrastructure. The House was debating the infrastructure bill while she was there, Senator Lee did not vote for it. She spoke to him about Utah being the fastest growing state in the nation and South Jordan being one of the ten fastest growing cities in the nation. She expressed that she can appreciate the reasons he voted no for it, as he said there were some good things in there but they just don't have the money as a country to do it. She did mention that if the federal government does decide to shell that money out, or if it passes the house and gets approved, there is a lot that could be done here and we really need our share of that money. Today they had the Jordan Education Foundation Economic Summit, City Manager Gary Whatcott and City Commerce Director Brian Preece attended as well. She did a presentation to represent the city and the events we've had, our economic development through the pandemic and resiliency of our businesses. Representative Snow came and spoke, gave an update on The Point, and Natalie Gochnour came and spoke. The League Conference was quite an event, also an opportunity to have a unique role over the next year. Holding the seats that we hold is a great way to tell our story, working with all the 248 cities and towns across the state of Utah and trying to be a voice to represent. They will continue to be collaborative and do the best they can to gather information and data. She appreciates the opportunity to work with and represent all the cities, we have a unique opportunity here. They discussed the Public Officials Day in January, where they invite the youth council and legislators, city councils, and they all come together at the Salt Palace for lunch. The youth councils have the chance to go to the Capitol earlier that day and that's something they are still planning on doing, and something she would really like our youth council to attend. She would like to be part of it and have us well represented, she would really love to see some South Jordan representation in how they do the program for the conferences; that could include students doing the National Anthem or helping with the flag ceremony. She thinks this is an opportunity to take advantage of, along with wanting a good seat at the lunch with the youth council since they are always in the back.

F. Public Comment:

Mayor Ramsey opened up the public comment portion of the meeting.

Casey Greenland (Resident) was here a month ago talking about the stoplight going in at the intersection near his neighborhood on 1300 West. He was impressed by Mayor Ramsey's willingness

to open the public comment period back up to hear more viewpoints after viewpoints from some city staff were shared. As they've gone through this process, and then a follow-up meeting, he is disappointed that the City of South Jordan is proceeding with the stoplight; however, he is even more disappointed in the way it was handled subsequently and in the response from members of the council seated here that were looking at things solely from one viewpoint and did not express any willingness to hear another viewpoint. It makes him nervous, not just for the stoplight by his neighborhood, but for anything else happening in the city. He reminds everyone there was no public comment period for this. The way they found out about the stoplight was because of the South Jordan Elementary Newsletter that said they were going to be putting a stoplight in. They live right near there and were not notified that a stoplight would be going in, he questioned why they wouldn't notify residents of what's going on. They would have loved to see less of a defensive posture and a greater willingness to say "you know what, I can see where you're coming from." To Council Member McGuire's point in his prayer, he hopes that they can work together. He is trying not to be contentious with this, that's his prayer. He hopes that the members of the city council and other staff can take this to improve. He realizes it may not be required at times to get public comment, but to get it from those who are affected by it, day in and day out, more so than other people, would have been helpful and they would have appreciated that. If there is something that can be done in that vein that would be helpful, he would be willing to be a part of it; if there is some type of independent committee or group that can evaluate things from an unbiased viewpoint, or maybe some training for members of the city that could help them with how they manage different viewpoints and input from the public. He really hopes that they can work together on things in the future, and he hopes that whatever happens with the stoplight, the impact for the local citizens is minimized. The stoplight will be going in right in the windows of one of his neighbors; is there a way to have shorter stoplights that still do the job and actually would keep the driver's eye level more alert to children, or does it need to be one of the big arms hanging over 1300 West since it's not a major intersection. He would like to get more dialogue going about how they can work through things, a little more back and forth, and a little more openness. If he's able to be involved, or citizens in his area, he would love to be a part of that and share that. Again, he understands there are other needs and other viewpoints, but he wants to be included.

Craig Kermer (Resident) said he addressed us eight weeks ago. Chief Carr came out six weeks ago and spent an hour in his driveway, unfortunately there were only six cars, no traffic. Nothing has improved on people running the stop signs on Jordan River Drive. They are frustrated and disgusted. The definition of madness is expecting different results but doing things the same way. He has given up talking to the city council, he hasn't been here for eight weeks. Last Friday morning, their best resident died, Scott Fullmer. He was a 30 year resident of South Jordan, 35 year Salt Lake City firefighter who lived across the street from him. He backed out his driveway into Mr. Fullmer's, and Mr. Fullmer backed out of his driveway and into Mr. Kermer's. He was done with this issue, fed up. Mr. Fullmer's daughter came to him Sunday night, Scott went to bed last Thursday night and didn't wake up Friday morning; he was 60 years old. She said her last conversations with Scott Thursday night, not knowing he was going to pass because he was fine, were about two things that she shared with him. The first thing being the pecan pie he had brought him Thursday afternoon because it was his favorite pie, and he had answered the door and was fine. The other was as he was jumping on the trampoline with his granddaughter, when he told his daughter how fearful he still was about the stop sign in front of his house, with the way people are blatantly running it. We need to divert funds, grant overtime, whatever we need to do, please. We need to get people to stop at these stop signs, they are

running all three stop signs now. They are coming off the river bottom, coming through the new subdivision and running that stop sign, running the one at the top of the hill, and then running the one out in front of his house at 30 mph and they are not touching the brakes. There is no more additional police presence. They catch city vehicles running through the stop sign, not at full speed, but not even a California stop. They have had police cars roll through the stop sign. They need enforcement on their street. He knows Chief Carr has a tight budget, they need to allocate funds or something; we are putting in stoplights and we can't even enforce our stop signs. Someone is going to die here, these drivers do not care; they are coming through these stop signs at 30 mph. This city council approved these stop signs, we need to enforce them. They are not a traffic calming device, they are a stop sign. If he runs a stop sign anywhere in the city, he expects Chief Carr to write him a ticket because it is a stop sign, it's not a "slow down to 20 mph" sign. In January the City Police Department commissioned a study through the Streets Departments, over 35% of cars were blatantly running the stop sign, and that's the city's data; it has not improved. Please come help on Jordan River Drive. If it wasn't for Scott he wouldn't be here, but he vowed to fight the fight at his daughter's request because she is worried about her kid and Scott's four grandkids that want to play in the yard.

Mayor Ramsey closed the public comment portion of the meeting.

G. Consent Action Items:

G.1. Resolution R2021-29, Authorizing the Mayor to sign a non-exclusive license agreement between South Jordan City and Google Fiber Utah, LLC for the installation of network facilities in the City public right-of-way. (*By Director of Strategic Services, Don Tingey*)

Strategic Services Director Don Tingey reviewed background information from the Staff Report.

Jacob Brace with Google Fiber thanked South Jordan and the stewards of the city, they have met some fantastic people through staff, who have pushed them to do their job and the best effort with the interest of South Jordan and its residents first and foremost on their mind. They are excited for today, to be before the council in consideration of bringing Google Fiber further into the Valley, specifically into the Southwest side of the valley. It's an amazing area and the city is unique and special, and they are going to treat it as such. Mr. Tingey outlined the proposed timeline, but obviously that depends on weather, as well as the working relationship with the city they are excited to kick off. This is Fiber to the home, which is important for all the residents, including all of the small and medium businesses that may operate out of their homes. This is a value increase on property, as well as opportunities through education, employment, and even entertainment; people get more choices, and when you have choices you are in control, you feel good, and you probably save money as a result. Their speeds and offerings are 1 GB and 2 GB service, and they are world class. They are able to offer a customer service that has been recognized in the industry as first of its class, and that's critical when we think about telecommunications and what consumers expect and want. They try to deliver both, what a consumer expects and what they want, and they are on the hook for that because they are earning resident business. They value getting people online so they do what is right to get everyone online. There are no data caps, residents are in the driver's seat. The residents will get to choose when and how often they want to use their internet, they can choose to spend 12-18 hours

gaming all day, or pursue education and professional certifications and improve their lives to become a public employee. The internet offered by Google Fiber will be a revelation and experience for the residents and they are excited to be here to provide it.

Council Member Shelton asked, with our city being long and narrow, if Google Fiber will be made available to every resident in the city.

Mr. Brace said this is a question they get often, they cannot promise it will go everywhere as there are hurdles, whether private property or otherwise, but they will design and engineer out the entire city; through that they will have the capacity to reach everybody as they can. They will work with the city to their best ability to provide Fiber to the homes of all the residents.

Council Member Shelton said the agreement allows them to put their hardware in our streets, however many of the east/west streets are state owned. He asked if Mr. Brace already has an agreement with the state.

Mr. Brace said they work hand in hand with the Department of Transportation at the state level, as well as UTA. They have those infrastructure related agreements and they are working through them in other cities; as you can imagine, South Jordan is not the only city with state roads running through it. They are able to leverage those existing relationships to make sure they are successful. They will try to minimize the impact on residents and anyone passing through South Jordan, working collaboratively and at one time rather than having construction fatigue on those state connectors.

Council Member Shelton asked for clarification on the payments from Google Fiber to the city.

Director Tingey said that other franchise fees are usually paid monthly or quarterly, Google's would be paid on a quarterly basis.

Council Member Shelton said he was confused because it doesn't mention an annual percent, it looks like it's a percent for one quarter.

Attorney Loose said they can double check that, the intent is that it's paid quarterly.

Mr. Brace said their fees will look at the gross revenue in the specific quarter and paying the remittance of the gross revenue of that quarter back to the city, every quarter.

Attorney Loose said they would look at the wording, but the intent is clear from this conversation. The fees and payment will be based largely on what they're already doing in other cities and they have that established practice.

Council Member Shelton is very excited about Google Fiber.

Council Member Harris asked when they will decide whether they are boring under versus cutting into the roads so the residents will know what to expect.

Mr. Brace doesn't want to seem like he's dodging the question, but they will actually go through the process of educating residents as they move their construction machines through their

neighborhoods. For the two specific scenarios mentioned, boring is a very limited tactic they will use in the roads here and it will only be in parts of neighborhoods that are critical infrastructure and crossing areas. Boring is not used in the regular residential areas. Their typical machine will come through and notify residents in advance 48-72 hours of them being present, followed by orange cones with placards of dates of when they'll be coming in and working the right of way in front of the home; this is inclusive of anything in the right of way that may appear to be in front yards. All of this will be communicated by placards on cones and door hangers, as well as by workers on the street answering questions directly from residents. The process itself of road cutting, laying in conduit, backfilling and returning for sealing can be about a 4-6 week process; that length can be shorter depending on the crews and weather. In front of his yard, from notice to where they are today which is almost finished, it has been three and a half weeks. You can drive over the work, there is no impediment to driving and parking except for when they are working and it's an open trench situation that's coned off for safety purposes; however, they can move those cones back, garbage cans can go out and people can park there as long as they're moved by 7:00 a.m. and they're back in working.

Council Member Harris said there have been other organizations that have reached out to the city, why was Google Fiber chosen over those.

Director Tingey said it's because it's a privately owned company who is taking full risk with coming here and putting their business plan together, whereas some of the others have required the city to take some risk and that has been a concern of the council in the past. Google Fiber provides fiber with no risk to the taxpayers in South Jordan.

Council Member Marlor asked how soon after the four week construction period the residents would be online with the service.

Mr. Brace said it's approximately a 60 day period. They don't have to have the entire city built out for that first customer to be served by the network. They have what's called a Local Cabinet Plan (LCP) that serves 500-800 homes, and as that part of the network is lit up and has been validated and verified, that area then becomes eligible for service and they move on to the next neighborhood. They will be incrementally moving through South Jordan, lighting customers up on the network over the course of 16-18 months, by which time they would expect to have the infrastructure laid out.

Council Member Zander has been receiving texts during this discussion and people are asking if Google Fiber will be going to Daybreak, they already have fiber through CenturyLink and they are wondering if they will offer an option in Daybreak.

Mr. Brace said he can't commit to that yet, as their design and engineering team has to do all the homework of getting everything laid out. That is a private area and they'd have to be in conversation with the HOA.

Council Member Zander asked if it is their intention to provide Google Fiber to the entire city.

Mr. Brace said they look forward to serving as many customers as are able to be served.

Council Member Zander asked if they have an identified starting point, like starting on the east and moving west.

Mr. Brace said they currently do not have an exact location, a contiguous build will be an easier starting point for them and we have a neighboring city that has been announced as a Google Fiber city that is underway and working with them through Sandy, but they also have the ability to work on other dependencies to spread out where they come in.

Council Member Zander said they mentioned previously having “huts”.

Mr. Brace said that huts are a facility that helps serve a much broader area, upwards of 60,000 houses, and those are strategically placed throughout the valley.

Council Member Zander asked if they actually need to then cut into every road? Can they have a hut that services an area, or do they actually have to cut into every road to get into every home.

Mr. Brace said they do have to cut into every road to get into every home. That being said, there are unique circumstances where an aerial treatment may be the right way to go, but those are very few and it’s their preference to stay off of aerial plant application; they are staying with the majority, if not all their plants, underground.

Council Member Zander asked if they had started conversations with “privately owned property that takes up a majority of the west side of our city that has public right of way.”

Mr. Brace said he doesn’t have anything to share at the current time regarding that, but if the council would like to make those introductions he would be happy to start those conversations.

Council Member Zander offered, with Council Member McGuire, to make those introductions and help them start those discussions.

Council Member McGuire asked about expansions and build outs. With the timeline being 18-24 months there will be new subdivisions built during that time, five years down the road our city will look completely different; how do we get Google Fiber to those areas.

Mr. Brace said they will work with the city as those new developments come through. They will all have to go through some sort of public process, and with the city knowing right off the bat when a new subdivision is planned they can work with Google Fiber on coordinating utilities so they are there at the beginning and don’t have to go in afterwards to rip up new streets.

Council Member Harris asked what impact this has on the durability of the roads, on future maintenance, and if he has any concerns.

City Engineer Brad Klavano said as a resident he has no concerns, however as a city engineer he does have some concerns. He will discuss some of this in a future item on the agenda tonight that discusses repairs and how these trenches will be filled in. He has met with other cities and they have looked at other cities to ultimately come up with the plan being presented, something that works for Google Fiber and for the city for making the streets as whole as possible. Any time you cut a street

you shorten its life a little bit. He has discussed with Google Fiber that we have a number of overlay projects next summer that they would like to work together on and hit them first so we aren't repaving the road and then having a trench cut in it a few weeks later.

Council Member Harris motioned to table Item G.1., Resolution 2021-29, until after discussion of Item H.2. Motion was seconded by Council Member Zander. Vote was unanimous.

G.2. Resolution R2021-31, Adopting City-wide Policy 500-01 relating to Public Infrastructure District (PID). (By *Director of Strategic Services, Don Tingey and City Attorney, Ryan Loose*)

Strategic Services Director Don Tingey reviewed background information from the Staff Report.

Council Member Shelton asked for more clarification on PID boards.

Attorney Loose said he was able to get clarification on the subject. The city council cannot be a part of any PID board; however the city council would appoint the first board until it gets started and they set up the parameters. The city council creates the parameters for the board and what they're allowed to do, then they appoint the first board until there are enough people to hold an election. That appointed board must be the owners of the property or their agents. If the city council is a part of that board at any time, it would then count against the city's bonding capacity and credit rating. The council would work with staff to ensure everything gets set up in a way that is satisfactory. If the council doesn't like the parameters the applicant is pushing they can say no. This is a financing tool used to build some infrastructure, from water to parks, within a certain and limited area of the city. That would be made its own district and they would fund those infrastructure items through their property taxes for an established period of time. If the elected board hires the city to manage the area and taxation, the developer or builder would pay the city (or other third party) for those services.

Director Tingey said in the policy, there is an annual accountability report required from the PID to review.

Council Member Shelton asked if their bond rating was dependent on the city's bond rating, and what happens if there is a default; does a default come back on the city and reflect badly on us.

CFO Sunil Naidu said the debt is stuck with, and guaranteed by, the properties. The city does not and will not absorb the debt as it stays with the properties through the term of the bond. Part of the parameters that are set and approved by the council for a PID would be the term of the debt.

City Manager Whatcott said one of the reasons these types of things have a low default rate is because it's a property tax and it's very reliable. The property owners could lose their property if they don't pay the tax.

Mayor Ramsey said this was discussed at length during the earlier work meeting.

Council Member McGuire motioned to approve Resolution R2021-31, Adopting a citywide policy relating to Public Infrastructure Districts. Council Member Harris seconded the vote, vote was unanimous.

H. Public Hearing Items:

H.1. Resolution R2021-30, Authorizing an amendment to the South Jordan City fee schedule as adopted in the fiscal year 2021-2022 annual budget to add an encroachment permit fee for narrow trench excavation within the City right-of-way. **RCV (By City Engineer, Brad Klavano)**

City Engineer Brad Klavano reviewed background information from the Staff Report.

Council Member Harris asked if the costs for these fees will be absorbed by Google.

Director Klavano said yes, this will cover at least two full time inspectors to watch the installations and make sure it's being done to our standards.

Council Member Marlor asked where previous utility installations had been done if they weren't in the street.

Director Klavano said they were done behind the curb, either in the park strip, sidewalk or public utility easement behind the sidewalk; they have never allowed these in the street before.

Council Member Marlor asked if anyone doing work in the street, going forward, will be subject to the same fees.

Director Klavano said yes, this is specifically a fee for micro trenching and any future applications for similar work would be subject to the same fees.

Mayor Ramsey opened the public hearing. There were no comments, the public hearing was closed.

Council Member Harris asked about the economic impact this will have on future road maintenance and other related costs.

Director Klavano said that hasn't really been looked at, they have focused on creating a standard and fee plan that would cause the least amount of long term damage to the roads. We have newer roads and have had an aggressive pavement program over the past few years, so we have really good roads and they will continue to monitor that the best they can and make sure they are repaired the best ways possible. It's a balancing act, if we want Google Fiber this is what has to happen, and they are trying to do it the best way possible.

Council Member Harris said he is just trying to discern if there is any major concern.

Director Klavano said he is a little concerned, but he thinks our standard and what we're doing

with inspections will really help. He can't say they aren't concerned at all, but he thinks that the measures they are taking tonight will give us the best possible scenario to keep the roads in the best shape possible.

Council Member Marlor asked about when the line crosses the road, are they shooting below the surface of the road, or are they going to trench everywhere.

Director Klavano said in most places they will use the trench method. There will be some places they bore because of things like a concrete waterway or something else in the way. Most UDOT roads are concrete so he believes that they will be made to bore across those by UDOT.

Council Member Zander asked if there was any push back when this fee schedule was introduced to Google. Is our fee schedule more aggressive than other cities, meaning we are protecting our city better than others?

Director Klavano said his first proposal was higher and based on Sandy City's fee, and it was felt to be too high. He then went back and re-engineered his fee proposal with something he felt was fairer, when presented to Mr. Brace and his team everyone agreed.

Council Member Zander asked if Sandy's fees were higher than ours, and what their fee was.

Director Klavano answered yes, theirs was higher at around 60 cents a linear foot.

Council Member Zander asked how large the trenches will be.

Director Klavano said they are about an inch to two inches wide. About every other property line there will be a slightly larger hole where they pull the fiber out, dig a hole in somewhere like the park strip and loop it. They repair those holes after that step, then if any of those residents want fiber they just pull that up and connect to the fiber right there.

Council Member McGuire asked if they needed to trench both sides of the street.

Director Klavano said based on what he has seen, not every location will be down both sides; about one-quarter to one-half of streets will be down both sides.

Council Member Zander thanked Mr. Brace for coming. However, while she is planning to vote affirmatively, she is hesitant because he has not committed to a large part of our city. She has asked him to please give every effort, and allow the council to help him get this in the entire city, specifically in the Daybreak community.

Council Member McGuire also mentioned the Sunstone Community that is surrounded by Daybreak and that they need to make sure they aren't excluded if possible.

Council Member Marlor motioned to approve Resolution R2021-30, Authorizing an amendment to the South Jordan City Fee Schedule. Council Member Shelton seconded the motion; Roll Call vote was 5-0, unanimous in favor.

H.2. Ordinance 2021-18, Amending the City's Construction Standards and Specifications. *RCV (By City Engineer, Brad Klavano)*

City Engineer Brad Klavano reviewed background information from the Staff Report. He also said that Daybreak does have public streets and he believes this is more of an issue with HOA contracts with CenturyLink.

Mayor Ramsey opened the hearing to public comment. There were no comments, the public hearing was closed.

Council Member Zander motioned to approve Ordinance 2021-18, Amending the city's constructions standards and specifications. Council Member McGuire seconded the motion; Roll Call Vote was 5-0, unanimous in favor.

RESUMED G.1. Resolution R2021-29, Authorizing the Mayor to sign a non-exclusive license agreement between South Jordan City and Google Fiber Utah, LLC for the installation of network facilities in the City public right-of-way. *(By Director of Strategic Services, Don Tingey)*

Council Member Harris expressed his concerns about Daybreak. It is a huge part of our city and the future growth, it bothers him that we have not fully engaged their leaders to incorporate this citywide. He worries that if, down the road, this doesn't go into certain areas or if Daybreak decides to go a different route that those leaders will say we should have brought them to the table and they should have been involved in this discussion. He will not be voting in favor of this today, not because he is opposed to fiber in the city, but he thinks these conversations need to take place and he doesn't want to be taking those calls saying this was rushed.

Council Member Zander asked if this could be tabled until more discussion is had between Google Fiber and the Daybreak ownership.

Mayor Ramsey mentioned that Daybreak has public streets and the HOA doesn't have to give permission for Google Fiber to go through Daybreak.

Manager Whatcott said the HOA make contracts for a number of things, it has no bearing on whether Google Fiber can be in Daybreak or not. They can be on any public street, and that's the purpose of this agreement, to give them a franchise agreement which the city does for all telecommunication companies to use while working in the right-of-way.

Mayor Ramsey said Daybreak can't stop Google Fiber from coming in, the city owns the streets. The residents can decide whether or not they want to purchase service from Google Fiber.

Attorney Loose said this is no different from the Comcast Franchise, this is a license so there are some technical differences, but they still have to make individual contracts with the individual land owners to get to the end user if there is a land owner in-between. There is evidence that Comcast is in Daybreak using our public right-of-way and getting to some land owners. They may

have to pass HOA property to get to some, and if they say no they can't get to those. To get into private streets with private HOA they would need to get permission, as with any utility, unless there is a public utility easement or other right of access that we have through the city's ability on the platting. Regarding the question of "can people in Daybreak get it," some probably can, just like they can get Comcast, and some may not if they are behind an area that has to be accessed through the HOA.

Council Member Harris is concerned because the conversations haven't even been had with Daybreak, due to private and public agreements for property based on owners.

Mr. Brace discussed getting into the city, he said they will go in through Daybreak; they cannot guarantee who, how many, or where they can provide the service because of the private and public agreements for the community. That will be up to those private coalitions or groups that own the property and space. Their intent is to build out South Jordan. If there was no limiting factor to that statement they could provide a guarantee, but the reality is that there are provisions that limit their ability to provide that guarantee; whether they are geographic, geological, or private communities that can choose whether or not to let them in. Construction is disruptive, their intent is not to degrade the roads and create a liability for the city in the long run. They want to be a long term partner, as soon as their assets are in our public right-of-way they are committed to that neighborhood, to this city, for the duration. If a pothole opens up where they've cut in, they are on the hook for that because they probably caused it or because their assets underneath could be at liability which means customers' services are a liability. They are obligated at a service level agreement to minimize disruption to customers. They will work with the city as well as the customers. Google Fiber has been rated number one in ISP service, that's with the internet service they provide; they also strive at the construction and engagement, and through the process of providing internet service, to be number one in the partnership. They will treat every community equally in that fashion. They will seek to design and engineer out the entire city, working with Mr. Klavano and his staff they will see if there are hurdles or potential private associations that they need to work with up front. They will do that so their forward construction machine doesn't miss the opportunity to build in those right-of-ways appropriately. Tangentially, they will also be working right after they have a license agreement approved, with any known communities that are brought to their attention in terms of looking for access agreements and any other necessary agreements to bring service to those private areas prior to construction.

Mayor Ramsey mentioned potential hurdles not just being Daybreak, it could also be anywhere in the city if an HOA won't let them cut up the streets.

Manager Whatcott said this is a franchise agreement, all residents and owners have the option to choose the service. If a private land owner or HOA that owns a private street says no, there is nothing anyone can do. Today we are offering a right-of-way license, the same thing we do with all telecommunication companies. We have not negotiated with any other telecom provider on who they will or will not go to, we let the free market drive their business model. This is a standard agreement that the city uses with everyone. He is not sure why we would say no to Google Fiber when we have said yes to all other telecom companies.

Council Member Harris is not opposed to this, but we are talking about a different process where

we are cutting into our roads which is a factor. He also feels like we owe it to the Miller Group to allow them to be a part of this discussion, then to go to the HOA, that way they have the ability to ask their questions and address any concerns they might have; this would also give them a chance to show their support. He just thinks we should make major stakeholders in our city aware before we make such a major decision.

Council Member Zander said she isn't opposed to this either, she applauds that it's coming. However, as a resident and a representative of part of Daybreak, she would hate for them to come back to us and say "why didn't you ask the provider to talk to the stakeholder first." She doesn't know why it would hurt us to table this and ask Mr. Brace to approach Larry H. Miller, approach the HOA, and then come back and say "here's how the dialogue went" and then they know we asked them to be at the table with us. Also, we have a different relationship with the Larry H. Miller Group than we had with the previous owners of Daybreak, and she'd like to continue that strong relationship with the Miller Group.

Mayor Ramsey asked if they are allowed to have those conversations without us officially saying we are bringing this in, without this agreement.

Manager Whatcott asked what the Miller Group would give permission for.

Council Member Zander said they could open the doors wide and say they want this, or they could say "good luck."

Manager Whatcott said they are working in our right-of-way, the Millers have nothing to do with our right-of-way.

Council Member Zander said they could influence the HOA and say they'd like to see this happen.

Council Member McGuire said the HOA technically isn't involved because it's a public right-of-way.

Director Tingey said they have their exclusive agreement with CenturyLink right now, and the HOA hasn't shared any of those details with us. They got their new executive director, so we have someone that is going to be permanently there; they are aware we are having this conversation but they have an exclusive contract with CenturyLink that they haven't been willing to share with city staff regarding what that means. Just like with Comcast, they understand that there are other providers and they are aware that we are having these discussions with Google Fiber. Until we have this contract in place, because we are discussing getting in the right-of-way, their feeling has been that it's our public right-of-way and we can get in and do it just like CenturyLink and Comcast and others do. They haven't been in the discussion as far as providing the service because we are just talking about access into the right-of-way. Whether or not they negotiate with Google Fiber in the future when CenturyLink's contract comes up, that is their place and not our discussion.

Council Member Zander asked if the HOA can stop this installation.

Director Tingey said no, they are public roads. That was one of the first questions when they met with Google Fiber and Mr. Brace in the very beginning. One of his very first questions was “explain to me what Daybreak is, are they public or private roads.” When the city responded that they are public roads that opened up the discussion and made it a lot easier. The intent has always been to design for the entire city, and that’s what the staff has done. When Director Klavano did his calculations, those were assuming that every road has access to Google Fiber in it. Discussions haven’t been about Google Fiber’s business, they have all been about being in the right-of-way.

Council Member Harris asked if HOAs have the authority to say they can’t access properties to give access to the end user, the homeowner.

Mr. Brace said for any private property they would need an access agreement, whether it’s through the HOA or even just an individual resident, through a contractual sign-up. They always need a contract to move from the right-of-way to the structure or the home. He said it sounds like there is work to be done on the business side, this license agreement is the first step in the long relationship with bringing Google Fiber to all of South Jordan. However, first and foremost they need to have access to the city’s right-of-way to build out a network.

Council Member Harris restated that we are not 100% sure if the residents that live in Daybreak can say “yes,” whether or not they need the HOA’s permission.

Manager Whatcott said if you have a private property owner, for example like Council Member McGuire, and there is Google Fiber in the street, he can give permission to Google to run the fiber to his house. The only problem you would run into is if there is an HOA owned property, like the lake or a clubhouse, and they wanted to put internet there; the HOA would have to give permission for their own property.

Council Member Harris understands this for the single family homes, but what about the townhomes and apartments. Each individual resident in a townhome or apartment doesn’t have individual lot lines around them to give permission to.

Council Member McGuire said his only concern is in the areas where the homes go around a green court, because their curb doesn’t touch the front of their house.

Council Member Zander said there are paseos and green courts where homes surround a common piece of land, and they don’t have personal access to the road.

Council Member McGuire said they might still have access through public lanes like driveways and alleys.

Mr. Brace said they have done that before and compared it to Salt Lake City with a ton of “back roads” or dividing roads in-between house lots. He said this is all part of the overall process, design and engineering would come after right-of-way licenses are granted. They are more than willing to work with the city, as well as any private entity on what it would take to access every resident of South Jordan.

Council Member Harris said he understands it's the public right-of-way, and we don't need permission, but he feels that's the old way of us working with Daybreak and who has the rights to do what. He thinks when we work together and communicate, there is a lot more progress; he feels like that is lacking on this item right now.

Mayor Ramsey reminded everyone that Mr. Tingey shared that Daybreak is aware of this conversation with Google Fiber, and just like Comcast they are aware they would be cutting in the roads; they understand those roads are public. As far as servicing the community, that discussion comes next.

Council Member McGuire asked to clarify if it was Daybreak HOA or the Miller Group that was aware of this discussion going on right now.

Director Tingey said the Miller Group is aware, he is not sure if the HOA is aware. He has not had a discussion with the HOA directly. The Miller Group, as the developer, is aware of this and is not opposed to it. He doesn't know that they are jumping up and down, they are not against it and are in favor of having more access, but they have their exclusive contract with CenturyLink and they haven't been willing to share what that means for the future.

Council Member Zander appreciates this discussion and feels it has been very valuable. She does feel more comfortable and she understands what staff is saying, that this is the first step in getting to the end goal. That has helped her form her opinion and she is ready to support this because she is trusting that we will go the lengths of getting this access as far as we can.

Council Member Marlor said he has had many, many people ask when we are getting fiber in the city. He had an issue with getting internet at his place of business here in South Jordan, despite a two month warning to the provider and scheduling for it. He was without access to the internet for three weeks, even though he had gone through all the motions. He thinks a big reason we have so many problems is because there is no reliable competition, and until you have competition you will not have the service you really need. He is fully in support of this moving forward.

Council Member Harris said that if the council members that represent Daybreak want to move forward on this, he will support them in this decision. He does feel there were some misses in the communication on this. He would appreciate in the future, when something this significant comes up, if city staff would reach out and have very direct communications with those in Daybreak. They are doing that with us and he expects that we do that with them as well on these issues, get a pulse for where they stand on these issues. He hopes that they are supportive of this, that they don't look at this and say "why didn't you bring us to the table."

Council Member Shelton motioned to approve Resolution R2021-29, Authorizing the mayor to sign a nonexclusive license agreement between the city and Google Fiber Utah, LLC. Council Member Marlor seconded the motion; Roll Call vote was 5-0, unanimous in favor.

H.3. Ordinance 2021-19, Amending Section 17.54.170.A.3 (Redwood Road Mixed Use Zones – Architectural Standards) of the South Jordan City Municipal Code, to amend the Architectural Standards for Commercial Buildings that are under 5,000 sq.

ft. in size. **Applicant, Kirby Kirkman. RCV (By Director of Planning, Steven Schaefermeyer)**

Director of Planning Steven Schaefermeyer reviewed background information from the Staff Report.

Kirby Kirkman (Applicant) said he is the architect on this project. It is a small audio-visual studio and they really couldn't afford to make a 5,000 foot building. Rather than making it stick out like a sore thumb, they wanted to make it match the materials of the rest of buildings in the development; they think they have done a pretty good job in doing that.

Mayor Ramsey opened the public hearing for comment. There were no comments, the public hearing was closed.

Council Member Shelton mentioned that Council Member Marlor and the Architectural Review Committee reviewed this, he asked if they felt this smaller building would fit in well with the rest of the development.

Council Member Harris appreciates that Director Schaefermeyer and his staff are looking out for the city and making things flow well. These are the types of things we love to see before the city council, it is certainly something that warrants an exception to make the city look better and help with the needs of the applicant as well.

Council Member Zander motioned to approve Ordinance 2021-19, Amending a portion of the City Municipal Code related to Redwood Road Mixed Use Zones. Council Member McGuire seconded the motion; Roll Call vote was 5-0, unanimous in favor.

Council Member Zander left the meeting.

H.4. Ordinance 2021-20, Amending Sections 17.08.010, 17.18.030.030, 17.30.020, and 17.40.020 of the South Jordan Municipal Code regulating Residential Uses and Development Design Standards. **RCV (By Planning Director, Steven Schaefermeyer)**

Director of Planning Steven Schaefermeyer reviewed the background information from the Staff Report.

Attorney Loose explained where the kitchen discussion came from.

Council Member Marlor asked if a house burned down, in a nice subdivision in our city, could a homeowner now build a tilt-up, concrete building with a flat roof, one bedroom and four kitchens.

Attorney Loose said absent of other CC&Rs or other private agreements, this would be allowed. There were news interviews with the person sponsoring the bill at the time and he was pretty clear that this was his intent, and a majority of the legislature agreed to it. In the end, the League took a neutral stance, otherwise they were going to push harder. We can still have a say in things like front yard fencing.

Director Schaefermeyer said this is something we have been dealing with for years, this balance between private property rights and the rights of a whole community; something cities are generally good at if given the opportunity.

Mayor Ramsey opened the public hearing for comment. There were no comments, the public hearing was closed.

Council Member Harris wanted to make it clear that the council is not voting that they are excited about, or in favor of, any of these changes. The legislature made these changes and as a result we are just making sure we are in compliance with the new law. He thinks it's safe to say they aren't happy with the changes that have been made.

Council Member Marlor said he is opposed to the overreach, to this kind of legislation that doesn't allow cities to have some kind of destiny in their subdivisions and the look of a normal subdivision, particularly one that has already been established. To have houses that are generally 2,000 square feet and above with a 1,000 square foot concrete, tilt-up, flat roof home does not make any sense at all. It is absurd, however he will vote in favor of it because it's his obligation to make sure we're in compliance with the law.

Council Member McGuire motioned to approve Ordinance 2021-20, Amending the above sections of the City Municipal Code regulating residential uses and development design standards. Council Member Marlor seconded the motion; Roll Call Vote was 4-0, unanimous in favor; Council Member Zander was absent from the vote.

I. Staff Reports and Calendaring Items:

Manager Whatcott reminded the council of their strategic planning meeting next Tuesday, October 12, it will be downstairs in the break room and casual dress. He also wanted to remind everyone that the annex at Station 64 is open for city business with staff available daily to take water bills, deal with dog licensing, etc.

Council Member McGuire motioned to adjourn the meeting. Council Member Shelton seconded the motion, the vote was unanimous in favor; Council Member Harris was absent from the vote.

ADJOURNMENT

The October 5, 2021 City Council meeting adjourned at 8:49 p.m.

This is a true and correct copy of the October 5, 2021 City Council Meeting Minutes, which were approved on October 19, 2021.

Anna Crookston

South Jordan City Recorder

H.B. 1003 TEXT AMENDMENT

Ordinance 2021-20

HOUSE BILL 1003 “GOVERNMENT BUILDING REGULATION AMENDMENTS”

- Passed by the legislature May 28, 2021
- Prohibits a municipality from regulating certain building design elements of one and two family dwellings
- South Jordan Municipal Code must comply with Utah State Code

CODE CHANGES

- Municipal architectural standards requiring brick or stone in construction of residential main buildings would be eliminated
- Standards regulating roof pitch of residential main buildings would be eliminated
- Regulation of second kitchens would be eliminated
- Minimum total floor area of a residential main building would be reduced from 2,400 square feet to 1,000 square feet