

SOUTH JORDAN CITY
CITY COUNCIL MEETING

July 19, 2016

Present: Council Member Marlor, Council Member Patrick Harris, Council Member Brad Marlor Council Member Tamara Zander, CM Gary Whatcott, Fire Chief Andrew Burton, Administrative Services Director Dustin Lewis, Police Chief Jeff Carr, Strategic Services Director Don Tingey, Development Services Director Brad Klavano, City Attorney Ryan Loose, COS Paul Cunningham, City Commerce Director Brian Preece, Finance Director Sunil Naidu, IT Director Jon Day, Public Works Director Jason Rasmussen, Deputy Recorder Cindy Valdez

Absent: Mayor Alvord, Council Member Don Shelton, and Council Member Chris Rogers

Others: Attachment A

REGULAR MEETING – 6:00 PM

A. Welcome and Roll Call – *Mayor Pro tempore Brad Marlor*

Council Member Marlor said Mayor Alvord will not be in attendance at tonight's meeting so we will need to nominate a Mayor Pro Tempore.

Council Member Zander made a motion to nominate Council Member Marlor to be the Mayor Pro Tempore for this meeting. Council Member Harris seconded the motion. The vote was 3-0 unanimous in favor; Council Member Shelton, and Council Member Roger absent.

Mayor Pro tempore Marlor welcomed everyone present. He excused Mayor Alvord, Council Member Shelton, and Council Member Rogers from tonight's meeting.

B. Invocation – *By Council Member Brad Marlor*

Mayor Pro tempore Brad Marlor offered the invocation.

C. Pledge of Allegiance

Fire Chief Andrew Butler led the audience in the Pledge of Allegiance.

D. Minute Approval

1. June 20, 2016 City Council and Planning Commission Meeting
2. June 21, 2016 Combined CC-RDA-MBA Meeting

Council Member Harris made a motion to approve the June 20, 2016 City Council and Planning Commission meeting minutes, as printed, and the June 21, 2016 City Council-RDA-MBA meeting minutes, as printed. Council Member Zander seconded the motion. The vote was 3-0 in favor;; Council Member Shelton and Council Member Rogers absent.

E. Public Comment:

None

F. Presentations:

1. Honoring Cindy Hulett for her service as Victim Advocate. *(By Police Chief Carr)*

Police Chief Jeff Carr said Cindy Hulett had a family emergency and needed to leave town, so we will need to postpone this and reschedule it for another time.

2. Citizens Police Academy Graduation. *(By Police Chief Carr)*

Police Chief Jeff said I appreciate the opportunity to address you tonight. There are a couple of things I would like to say regarding our Academy Graduates. We try to run an Academy yearly and address what is going on in today's environment some of the problems that we are seeing across the Country, I would like to commend these Citizens for their willingness to learn about what we do, and why we sometimes take the actions that we do. I would like to give you a quick list of what they covered in the many weeks that they participated:

- Records Keeping
- Constitution and Criminal Law
- Officer Involved Critical Incidents
- Detectives Case Study
- School Resource Officers
- Narcotic Investigations
- Crime Scene Investigations
- Patrol Scenarios
- Traffic Stops (tickets)
- Active Shooter Training

Police Chief Carr said they had a variety of experiences during the time that they participated with us. We would like to acknowledge them for the great work that they have done. I would like to ask Officer Dave Adams to come up because he is the one that coordinated this for us. We will call them up one by one and present them with their certificate and take a picture with the City Council.

The name of the participants are:

- Pricilla Nelson
- Angela Slade
- Ed Signs
- Julie Signs
- Vicky Dangerfield
- Katie Lindquist
- Todd Gottley
- Joyce Brown
- Charlene GeeGee
- Lanae Jolley
- Kirk Harris
- Ron Ross

Officer Dave Adams said in this 9 week course I had the opportunity to get to know these spectacular people, they were amazing and I am very grateful for the time they took to get to know us. I know they had a big impact on me, so I just want to say “thank you.” (Group Picture was taken with the City Council).

3. Storm Water Rate Study. *(By Public Works Director, Jason Rasmussen)*

Director Jason Rasmussen said I apologize this should have been pulled from tonight’s Agenda. This item is not ready, so it will be rescheduled for a future date.

G. Consent Items:

Council Member Zander motioned to have each Consent Item presented and voted on individually. Council Member Harris seconded the motion. Vote was 3-0 unanimous in favor; Mayor Alvord, Council Member Shelton, and Council Member Rogers were absent.

1. Resolution R2016-52, Establishing the composition and responsibilities of the City’s Standing Audit Committee. (By CM Gary Whatcott)

CM Whatcott said this is a resolution to reconstruct or reform the Audit Committee and how we use it. The Audit Committee is comprised of the two Council Member’s, and the Mayor who helps advise the auditors on how to work through the audit and review the audit report before it is finalized. This sets in motion these things outline the parameters of how the Audit Committee will work.

Council Member Harris motioned to approve Resolution R2016-52, Establishing the composition and responsibilities of the City’s Standing Audit Committee. Council Member Zander seconded the motion. Vote was 3-0 unanimous in favor; Council Member Shelton and Council Member Rogers were absent.

2. Resolution R2016-42, Appointment of John N. Ellis to the Planning Commission to replace Craig Hall. *(By Council Member Tamara Zander)*

Council Member Zander said I would like to ask Mr. Ellis to come to the podium and give a few words to the Council.

John Ellis, (Planning Commissioner) - said Mayor Pro Tempore, Council Members, and friends, thank you for allowing me to be here tonight. I live on Millerton Drive in Daybreak on the northeast corner. I have lived in South Jordan for about 3 ½ years and have loved every minute of it. This is my first major involvement in City Government and I am very appreciative of the opportunity. I would also like to tell Chief Carr that my heart and the hearts of my family are with you and your brothers.

Council Member Zander said I have thoroughly vetted Mr. Ellis, he is exceptional. He could take my job and his and do them both, I whole heartedly endorse him.

Council Member Zander motioned to approve Resolution R2016-42, Appointment of John N. Ellis to the Planning Commission to replace Craig Hall. Council Member Harris seconded the motion. Vote was 3-0 unanimous in favor; Mayor Alvord, Council Member Shelton and Council Member Rogers were absent.

3. Resolution R2016-56, authorizing the expenditure of funds for various Capital Improvement Projects. *(By Public Works Director, Jason Rasmussen)*

Director Jason Rasmussen said these are to approve various Capital water projects that were planned on our CIP Project list, as well as facility improvements to the Public Works building, our annual fleet replacement for both the General Funds, Public Safety, Water, and Storm Water funds. I am here to answer any questions you may have.

Council Member Marlor motioned to approve Resolution R2016-56, authorizing the expenditure of funds for various Capital Improvement Projects. Council Member Zander seconded the motion. The vote was 3-0 unanimous in favor; Mayor Alvord, Council Member Shelton and Council Member Rogers were absent.

- H. Public Hearing: Ordinance 2016-20, Zone Text Amendment amending subsection 17.18.030.50.B.4.c of the Municipal Code to increase the maximum acreage that can be developed or used for Self-Storage uses in the Professional Office (P-O) Zone from two (2) to three (3) acres. Warren Kirk (Applicant). *(By City Planner Greg Schindler)*

City Planner Greg Schindler reviewed background information on this item.

Council Member Zander said do you know who owns the property to the south?

City Planner Schindler said I believe it is still in the Jones Family Trust.

Council Member Harris said has anyone reached out to the neighbors on that side of the street?

City Planner Schindler said they were noticed on the zoning change. One thing that we do know is that when they originally rezoned the property to commercial they were not planning on building storage facilities in this portion. The residents were opposed because if it wasn't going to be storage they didn't want any other commercial going in there, so that is why it was not rezoned at that time.

Mayor Pro tempore Marlor opened the Public Hearing to comments.

Paul Stringham, 2535 Bellevue Ave South Jordan, Utah 84095 – said I am the owner of this project and I am here to answer any questions that you may have. I would like to say that we do not have any intentions to build any storage units in this location. We have talked to various neighbors in the past 5 years and we have not had any problems, the neighbors that we have talked to feel like this is a very clean property, and we feel like it is too.

Mayor Pro tempore Marlor closed the Public Hearing.

Council Member Zander motioned to approve Ordinance 2016-20, amending Subsection 17.18.030.50B.4.c of the South Jordan City Municipal Code to increase the maximum acreage that can be developed and used for self-storage uses in the Professional Office Zone from two to three acres. Council Member Harris seconded the motion. Roll Call Vote was 3-0 unanimous in favor; Council Member Shelton, and Council Member Rogers were absent from vote.

- I. Public Hearing:** Think Storage, LLC Phase 4 Property Rezone 2016-10-Z, rezoning one acre of property at 10622 S. River Heights Drive from the Agricultural (A-5) Zone to the Professional Office (P-O) Zone. Warren Kirk (Applicant). *(By City Planner Schindler)*

City Planner Greg Schindler reviewed background information on this item.

Mayor Pro tempore Marlor opened the Public Hearing to comments. There were none. He closed the Public Hearing.

Council Member Harris motioned to approve Rezone 2016-10Z, rezoning one acre of property at approximately 10622 South River Heights Drive from the Agricultural (A-5) Zone to the Professional Office (P-O) Zone. Council Member Zander seconded the motion. Roll Call Vote was 3-0 unanimous in favor; Council Member Shelton, and Council Member Rogers were absent from vote.

- J. Public Hearing:** Ordinance 2016-21, Vacation of a 20-foot wide secondary water and public utility easement between lots 512 and 513 of the Midas Creek Estates Phase 5 Subdivision Plat. Perry & Associates, Inc. *(By City Planner Greg Schindler)*

City Planner Greg Schindler reviewed background info on this item.

Mayor Pro tempore opened the Public Hearing to comments.

Jeremy Olofson, 11758 Muddy Creek Ct. South Jordan, Utah 84095 – said with that easement being relocated is the secondary water being relocated for the neighborhood to use in the future?

Marley Bigger, (Perry Homes) – said on the secondary system that is in Midas Creek Phase 5, we are going to re-locate that dry service line. That system isn't wet and hasn't been wet for about 6 years. It will be South Jordan City that decides when to make that system wet, the supply lines are in, and the services are there, so what we are doing is re-locating the line.

Council Member Zander said so Lots 512 and 513 are being combined, and Lots 511 and 512 are unbuildable, so will Lot 511 be a single family home?

Mr. Bigger said the owner has put a new garage on it so I assume that he got the approval to get it done, and I do have vacating letters from all of the utility companies.

Mayor Pro tempore Marlor closed the Public Hearing.

Council Member Zander motioned to approve Ordinance 2016-21, vacating the 20 foot wide utility and secondary water easement located along the property line separating lots 512 and 513 of the Midas Creek Estates Phase 5 Subdivision. Council Member Harris seconded the motion. Roll Call was 3-0 unanimous in favor; Council Member Shelton, and Council Member Rogers were absent from vote.

**K. Public Hearing: Ordinance 2016-23, Vacation of a public utility easement between lots 3 and 4 of the Harvest Village at South Jordan Subdivision Phase II Subdivision Plat.
(By City Planner Greg Schindler)**

City Planner Greg Schindler reviewed background information on this item.

Council Member Zander said is this sufficient in size to facilitate future development?

City Planner Schindler said this will be an acre or more, so that should be sufficient.

Mayor Pro Tempore Marlor opened the Public Hearing to comments

Brandon Peterson, Peterson Development (applicant) – said as Planner Schindler mentioned we are in contract to put in an Assisted Living/Alzheimer's facility. In working with the City Planning Department we will vacate the easement as opposed to doing an amended plat. The piece to the north we are hoping do some kind of medical office use, we think this will be a nice use all around. I am here to answer any question that you may have for me.

Mayor Pro tempore Marlor closed the Public Hearing.

Council Member Harris motioned to approve Ordinance 2016-23 vacating the PUE on the lot line between lots 3, 4 and 5 of the Harvest Village at South Jordan Subdivision Phase II. Council Member Zander seconded the motion. Roll Call Vote was 3-0 unanimous in favor; Council Member Shelton and Council Member Rogers was absent from the vote.

L. Public Hearing: Ordinance 2016-24, Text Amendment amending City Code 17.04.300 (Required Language within all Declarations of Covenants, Conditions and Restrictions documents (CC&R's) to add language preempting homeowner associations from prohibiting solar and other renewable energy devices. *(By City Attorney, Ryan Loose)*

City Attorney Ryan Loose reviewed background information on this item.

Council Member Harris said we discussed this in the City Council Work Session and in your provided wording you said, any existing Home Owners Association will not be able to amend their CC&R's to restrict solar panels, is that correct?

City Attorney Loose said I am struggling with the "contract clause" part of the Constitution creates a small problem in a contract that is already signed and after researching this, the only time the City or Government can go back and change something is when it has been deemed unconstitutional from the beginning. We are doing a little more research, but it is going to be difficult.

Mayor Pro tempore Marlor opened the Public Hearing to comments.

John Ellis, 10383 S. Millerton Drive South Jordan, Utah 84095 – said I think we need to be very careful when we amend the language prohibiting solar, or allowing solar. I would like to know if we talking about the Home Owner Associations not being able to restrict windows, wind turbines, and etc. things like this, or do we really want to say: "if it still looks like a house you can have it." The concern I have is what my neighbor does on his property affects my property. Solar panels are broadly accepted, but to have an installation like we have off of I-15 south of Las Vegas where they have mirrors with concentrating light, and melting salt, that might not happen here, but it is feasible to have today. I would like to request that we sharpen the language here, and see what our intent really is.

Mike Stout, 1467 Iron Port Drive South Jordan, Utah 84095 – said I would like to express appreciation for the City Council and for all of those that serve our community, we have a great community. I submitted an application for a Sober and Life House and my house faces north and I have snow problems, but because of my southern exposure I have great exposure for solar. The solar panels that I investigated were state of the art, and you would not notice them unless you were looking for them. My house backs on to 10000 S which is a connector that runs along Merit Medical. My HOA has declined approval for solar, but they do allow satellite dishes as an exception. The statement was "unless they are required by law to approve solar we are not going to approve it." To me it is about doing the right thing. The payback may not be in my life expectancy, buy over the life of the solar panels it would eliminate a million pounds of C02, and that is a lot of

C02. With a day like today it is easy to forget about the inversions we have during the winter, and during the winter we have days that we can't even see our mountains and it is a significant problem with the certain type of chemicals that we have in the air, so to me solar is a no brainer. I accept the need for the HOA to have rules that govern the appearance, aesthetics, and position of the solar panels, but to outright decline having them is counter intuitive. I would encourage the adoption of this ordinance, it will not help me but I would like to work with Mr. Loose to find a way to have retro approval of solar panels. I don't know what else to do. I have spoken with the Mayor, Governor, City Council Members, and State Legislatures, and everyone is pro-solar, except my HOA, so if there is anything you can do to help me out it would be greatly appreciated.

Mayor Pro tempore Marlor closed the Public Hearing.

City Attorney Ryan Loose said we don't have anything that says "solar panels" this language would say: "you can't express or prohibit them in your CC&R's if you want the City to sign your plat."

Council Member Zander said so each HOA could say we are only going to allow 8 per roof, or only allow a certain size, but they can't prohibit it, is that correct?

City Attorney Loose said the HOA could say they will take them case by case, or allow so many on the roof, but we did not get into the specifics we pulled the State Statute and went by that language. This will just allow for them and they will need to work out the details with their HOA.

Council Member Harris said part of the problem with HOA's is that it doesn't say in the CC&R's that they can't put up solar, so they think they are good, but when they approach their HOA they are getting turned down because it is silent in the CC&R's.

City Attorney Loose said the HOA is able to put some restrictions in the CC&R's, but they cannot completely prohibit them entirely. The intent of this was not to regulate one way or the other solar.

Mayor Pro tempore Marlor said I think the State Statute has put the reasonability in their so the HOA has some flexibility to determine if they feel that a solar panel, or a wind turbine is reasonable.

Council Member Harris said I would like to address the issue that Mr. Stout brought up earlier. What we are doing tonight is for any new subdivisions that come in, so I would be more than happy to work with you to get in touch with Senator Lincoln Fillmore to see if there is any new legislation that could possibly be looked at in the future. I know him well so I can let him know what we talked about here tonight, and see what we can do from there.

Council Member Harris motioned to approve Ordinance 2016-24 to require language in new CC&Rs that preempts HOAs from prohibiting reasonably sited solar and other renewable energy devices. Council Member Zander seconded the motion. Roll Call Vote was 3-0 unanimous in favor; Council Member Shelton, and Council Member Rogers were absent from vote.

M. Public Hearing: Ordinance 2016-25, vacation of 12 foot wide public walkway and public utility easement located between lots 344 and 345 as well as lots 401 and 402 of the Wood Ranch Subdivision Phase 3 & 4. *(By Assistant City Engineer, Shane Greenwood)*

City Planner Schindler reviewed background information on this item.

Mayor Pro tempore Marlor opened the Public Hearing to comments.

Rebecca Nielsen, 5014 Rosewood Drive South Jordan, Utah 84095 – said my parent’s purchase this home in 2010 following a foreclosure. Since the vacation was done to the prior owner and the property was given to them outright it was not part of their mortgage, and so when the house was foreclosed upon the ownership of the land that was given to that owner didn’t change because the property was in the original owner’s name, but she did not pay the taxes on the home for 6 years. This was probably brought up when I was inquiring on how to get the tax sale to get this incorporated in my property. I would like to know if there is possibly a different way to do this so this doesn’t happen to someone else. I would also like to bring up that I have a verbal agreement with my neighbor on Lot 401 and they would like to have my portion of the 6ft. easement. The fence that was original on the side of my property was never completely torn down, so the original fence on the property line is still mostly there, I would like to know if it is possible for them to have the entire 12 feet.

Mayor Pro tempore Marlor closed the Public Hearing.

City Attorney Ryan Loose said I think this is technically the problem that the County had because we did other vacations the same way, but the County did record and transfer the property. There is a very technical application of the statute says: “when the City has the public right-of-way” and in this case that was given to the City by plat, the process is that the City Council has to dispose of the property through this action, and then it is reversed back equally to the property owners on either side. As far as the taxes are concerned if the County is saying that there was never a real vacation of the property and it was always in the Cities hands then there shouldn’t be any taxes because City property is never taxed, so if the County is saying this is the Cities property and it was never transferred to anyone else, when this property is transferred then it will become taxable property. The question was asked “can you give all 12 feet of the property to one side.” We cannot do that through the Vacation Statute. The owner can sell or quick deed the property herself as long as it meets the zoning requirements.

Mayor Pro Tempore said so assuming this resolution is approved tonight, what would we do at that point?

City Attorney Ryan Loose said we would report the plat which would vacate it back to those properties and at that point it would be recorded, and the property would be then be in private ownership and no longer the Cities, then she would be able to sell off that piece of property.

Mayor Pro tempore Marlor motioned to approve Ordinance 2016-25, Vacating the 12 foot wide public walkway and public utility easement located between lots 344 and 345 as well as between lots 401 and 402 of the Wood Ranch Subdivision Phases 3 and 4. Council Member Zander seconded the motion. Roll Call Vote was 3-0 unanimous in favor; Council Member Shelton and Council Member Rogers were absent from vote.

N. Reports and Comments: *(Mayor, City Council, City Manager, and City Attorney)*

CM Whatcott said I would like to ask Director Jason Rasmussen to give us an update on algae issue.

Director Jason Rasmussen said there are 4 treatment canals that come through South Jordan that serve our secondary system, we have shut off the supply so that it does allow the water to come to the City from Utah Lake. There still is the option for irrigation users to draw from the canal, or choose to keep the water in. We have daily meetings between effective agencies, State, County and Municipalities. We get a report from those daily meetings on the status change, and there hasn't been a whole lot that has changed since yesterday when we spoke. We are expecting some test results to see if the situation in Utah Lake is getting worse or better, and when those results are in we will share them with the Public. We have also tested some of our own supplies of water and those results will be coming back tomorrow morning. We don't believe that any of the waters in the City have been affected they are a completely different water sources.

CM Whatcott said I would like to let people know that the one canal has Provo River water in it and you might want to elaborate on it a little bit.

Director Jason Rasmussen said the Utah Distribution Canal which is the one that we do have our weirs open and our residents can use that water. It is from the Provo River and directly passes Utah Lake so that is clean water that still can be used, and we do have a number of residents that draw from that canal.

CM Whatcott said we have been directing our residents to the DEQ website because they are updating every day. Our Information call-center is also getting fresh updates from the DEQ website and is giving updates to our residents. We have received hundreds of phone calls in the last couple days from concerned residents.

Director Jason Rasmussen said we are putting daily updates on our City website, as well as daily updated on Facebook and Twitter.

CM Whatcott said there is a daily meeting where all of the major entities that are involved in the Algae Bloom in Utah Lake are meeting. They have the Department of Agriculture, Department of Environmental Quality, Utah Lake Waters Association, CUP Water District, Jordan Valley Water Dist. and the Canals meet daily at 3:00 p.m. to discuss new information, test results, etc. and that is updated to the DEQ website.

Director Jason Rasmussen said it is important for the public to know that this does not affect the drinking water in South Jordan it comes from a totally different source.

Mayor Pro tempore Marlor said I don't think that we thank our staff often enough for the great job that they do, so I would like to take a moment and pause to say "thank you" for everything that you are doing which contributes to the great City that we live in here in South Jordan.

Council Member Harris said I know there is a lot of concern as to when the secondary water is going to be turned back on because the residents don't want their lawn to die out, and the culinary water is very expensive. Do we have the ability to spread out the payments for the residents on an equal pay so it doesn't become a hardship on them.

CM Whatcott said we have equal pay already set up with our Utility Billing Department, so all they need to do is call tomorrow and ask to be set up on the equal pay.

Council Member Harris said could we have the option of equal pay tied to the updates on the water issue?

Director Rasmussen said I will direct staff to do that as soon as possible.

ADJOURNMENT

Council Member Harris made a motion to adjourn. Council Member Zander seconded the motion. The vote was 3-0 in favor; Council Member Shelton and Council Member Rogers were absent.

The July 19, 2016 City Council meeting adjourned at 7:45 p.m.

This is a true and correct copy of the July 19, 2016 Council Meeting minutes, which were approved on August 2, 2016.

Anna M. West
South Jordan City Recorder

