

**ST. GEORGE CITY COUNCIL MINUTES
REGULAR MEETING
JUNE 5, 2014, 5:00 P.M.
CITY COUNCIL CHAMBERS**

PRESENT:

**Mayor Jon Pike
Councilmember Gil Almquist
Councilmember Jimmie Hughes
Councilmember Joe Bowcutt
Councilmember Bette Arial
City Manager Gary Esplin
City Attorney Shawn Guzman
City Recorder Christina Fernandez**

EXCUSED:

Councilmember Michele Randall

OPENING:

Mayor Pike called the meeting to order and welcomed all in attendance. The Pledge of Allegiance to the Flag was led by Councilmember Almquist and the invocation was offered by Reverend Alex Wilkie.

Mayor Pike introduced Lynnette Hiskey who presented the City with the Governor's Leadership in the Arts Award. A video was shown outlining what the City has done in support of the arts community.

Mayor Pike introduced Bobbi WanKier and Paul Jensen to speak.

Ms. WanKier and the Southern Utah Art Guild thanked the Mayor and Council for supporting the arts by hosting the Red Cliff Gallery at the City Commons building.

Paul Jensen stated that there are over 170 pieces of art being shown at the gallery.

Leisure Services Director Kent Perkins mentioned that there are many service clubs that support the community tremendously.

Ken Sizemore, representing all Rotary Clubs in St. George, presented the City with a check for \$5,400 to install netting around the Futsal Courts at Snow Park.

Russell Mitchell with the Kiwanis Club stated that they intend to support the All Abilities Park financially as well as in other ways.

Tim Murray with the Dixie Elks Lodge stated that they are partnering with the City for the Smart Start program.

Jimi Kestin and Shonie Christensen with the Exchange Club presented the City with a check for \$70,000 for the All Abilities Park.

Mayor Pike thanked the service clubs for their donations and for all that they do for the community.

COMMENTS FROM THE PUBLIC:

Mayor Pike explained the rules for the public comment portion of the agenda.

Donald Rawlings, resident, stated that he is acquainted with Barney Seegmiller. He likes the idea of what is happening with the Hela Seegmiller Historic Farm.

Jenny Larsen stated that she and her husband own and operate Urban Renewal. She mentioned that many friends, downtown business owners and residents share in her concern with the direction that downtown St. George is heading. She believes that poor choices can destroy the historic district. She and others have formed a new organization

named Downtown St. George Redevelopment Council. Their first meeting will be held tonight at Urban Renewal. They propose to submit plans outlining what they would like to see happen in the historic district the first week of September. Additionally, they would like the City to halt all projects in the historic district until that time. A petition with 1,200 signatures was submitted to the Mayor and City Council as well as a letter signed by the majority of the business owners in the historic district.

Christine Oravec, resident, stated that she is concerned with the buildings downtown, historic preservation and the fate of the old JCPenney building. She believes that architecture is a form of art. Having a building with a second story parking garage or a second story for any other use will reduce the artistic value of the building and diminish the charm of downtown.

Brooks Pace, owner of the building that Urban Renewal leases, stated that 40 years ago, the downtown area was decrepit. Since that time, the City has fought to save every historic building.

Mayor Pike showed the rendering of Mr. Pace's proposed project.

Mr. Pace explained what his vision is with regard to this project. He does not understand why the battle is taking place. He explained that Urban Renewal has a 5-year lease in which they cannot be disturbed, therefore, nothing can happen for three and a half years. He offered the Larsen's free rent while they are inconvenienced and half rent while the parking structure is being built. Public opinion has been 5/1 in support of this project.

Nicki Richards, with the Downtown Merchant group, stated that she owns and operates two businesses in the downtown area. Both sides of this issue have genuine, sincere concerns for the future of downtown. All involved want to see what is best for the downtown area. She met with many of the business owners in the downtown area who stated that they believed the building was going to be torn down for a parking garage which is not the intent of Brooks Pace.

Nathan Watkins stated that he owns 3 businesses downtown and has for the past ten years. He hopes that everyone can come together and find a compromise. He has nothing but great things to say about the City, they have done a great job in planning the downtown area. There is limited retail space downtown. He would like to see Urban Renewal stay, however, he would also like to see additional retail space. As a business owner, it is a privilege to be in the downtown area.

Tiffany Taylor represented Judd's Store and the Green Gate Village. She supports a pause so they have a better understanding of what is going on downtown. In 1981, Judd's Store and the historic home surrounding the store were marked for demolition but it was saved and restored. There is a way to beautify downtown and continue it. There is something very special, specific and historical in the downtown area. As a landowner and business owner, she can see all of the sides. There is a fine balance and the downtown merchants can come together to preserve that for the future.

Mayor Pike explained that there is a well-defined process for this type of project that has been in effect since 1988. He hopes that all parties can come together to find a compromise.

FEE WAIVER:

Consider a request for a fee waiver for the use of the Dixie Sunbowl and street closure for the 1st Annual Flag Retirement Ceremony and Military Tribute. Sgt. Joe Bowcutt, applicant.

Councilmember Bowcutt recused himself from the discussion.

Sgt. Joe Bowcutt, with the Army National Guard stated that they have teamed up with local groups to have a flag retirement ceremony and military tribute at the Dixie Sunbowl on June 14, 2014. He asked the Council to waive the fee for the use of the Dixie Sunbowl for this event.

MOTION: A motion was made by Councilmember Arial to waive the fee for the use of the Dixie Sunbowl and street closure.

SECOND: The motion was seconded by Councilmember Hughes.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

FINANCIAL REPORT:

Consider approval of the financial report for April 2014.

City Manager Gary Esplin advised that departments continue to be within budget and revenues are greater than budgeted.

MOTION: A motion was made by Councilmember Almquist to approve the financial report for April 2014.

SECOND: The motion was seconded by Councilmember Bowcutt.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

AWARD OF BID:

Consider award of bid for the Tonaquint Nature Center expansion grading.

Purchasing Manager Connie Hood advised that the low bidder was Progressive Contracting, a local vendor, in the amount of \$56,399.20 which is under the engineer's estimate.

City Manager Gary Esplin explained that the project includes moving dirt behind the Tonaquint Nature Center to the other side of the River where there was erosion damage.

MOTION: A motion was made by Councilmember Hughes to approve the bid for \$56,399.20 to Progressive Contracting.

SECOND: The motion was seconded by Councilmember Almquist.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

AWARD OF BID:

Consider award of bid for the HVAC system at the Recreation Center.

Purchasing Manager Connie Hood advised the HVAC system at the Recreation Center needs to be replaced. It is recommended to purchase the unit from Trane for \$66,850.

MOTION: A motion was made by Councilmember Almquist to approve the purchase from the Turnkey unit from Trane in the amount of \$66,850.

SECOND: The motion was seconded by Councilmember Hughes.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

Councilmember Almquist asked Ms. Hood to explain that subcontractors are not seen by the City.

Ms. Hood explained that the City does not deal with the subcontractors directly rather, they are hired by the primary contractor.

PUBLIC HEARING/AMENDED FINAL PLAT/ORDINANCE:

Public hearing to consider approval of an amended final plat for the Blackberry Court Subdivision to merge lots 2 and 3 into one lot and vacate the public utility easement between said lots. Brandon Anderson, applicant.

Todd Jacobsen presented the final plat amendment for the Blackberry Court subdivision. The purpose of amending the final plat is to merge lots 2 and 3 into 1 lot and vacate the public utility easement located between said lots. Both lots are owned by the same individual

Mayor Pike opened the public hearing. There being no public comment, he closed the public hearing.

MOTION: A motion was made by Councilmember Almquist to approve the final plat amendment for the Blackberry Courts subdivision for Brandon Anderson for the purpose of vacating the public utility easement between lots 2 and 3.

SECOND: The motion was seconded by Councilmember Arial.

VOTE: Mayor Pike called for a roll call vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

PUBLIC HEARING/AMEND CITY ZONING REGULATIONS/ORDINANCE:

Public hearing to consider an amendment to the City Zoning Regulations, Title 10, Section 10-19-4.2, to provide a 25% parking reduction in the required number of parking spaces for Dixie State University off-campus housing. City of St. George, applicant.

City Manager Gary Esplin advised this was discussed at a previous meeting. This ordinance would allow a 25% reduction in the amount of the current parking required under the ordinance if certain conditions are met.

Bob Nicholson stated that the current parking is one space per student or occupant. A request came in from student housing developers that asked for a reduction. If the housing development is in the boundaries, the reduction would state that no more than 75% of the residents can possess a vehicle. Mr. Nicholson read portions of the proposed ordinance.

Mayor Pike opened the public hearing.

CK Stratford stated that he lives in the Georgetown condos which does not house any students. He inquired how the proposed ordinance will affect that neighborhood.

Mayor Pike explained that this proposal is only for new building in the specified area.

Mayor Pike closed the public hearing.

MOTION: A motion was made by Councilmember Bowcutt to amend the City Zoning Regulations, Title 10, Section 10-19-4.2 to provide a 25% parking reduction in the required number of parking spaces within the pedestrian emphasis area.

SECOND: The motion was seconded by Councilmember Arial.

VOTE: Mayor Pike called for a roll call vote, as follows:

Councilmember Almquist - aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

PUBLIC HEARING/AMEND PLANNED DEVELOPMENT ZONE/ORDINANCE:

Public hearing to consider an amendment to the Planned Development zone for The Ledges to designate two areas on the east side of highway U-18 to allow for short term residential rentals. Gilbert Jennings, applicant.

Bob Nicholson stated there are other short term rentals in the City. He explained the criteria for being able to offer short term rentals. The Ledges development has met all requirements. Three letters were received regarding the request. The Planning Commission took the letters into consideration and has recommended approval.

Mayor Pike opened the public hearing.

Ed Baca, citizen, stated that this request takes away the vagueness and ambiguities that exist in code enforcement. This will help with citizens understand which areas allow this type of rental.

Stacy Young who represents the applicant stated that the intent is to create a resort component at The Ledges. Short term rentals have been the plan all along.

Mayor Pike closed the public hearing.

City Manager Gary Esplin explained that staff was concerned with open space component. The applicants have adequately shown that the open space is greater than originally planned.

MOTION: A motion was made by Councilmember Arial to approve the amendment to the Planned Development zone for The Ledges to allow for short term residential rentals.

SECOND: The motion was seconded by Councilmember Bowcutt.

VOTE: Mayor Pike called for a roll call vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

**PUBLIC HEARING/AMEND PLANNED DEVELOPMENT COMMERCIAL ZONE/ORDINANCE:
Public hearing to consider an amendment to the Planned Development
Commercial zone for Stephen Wade Chevrolet at 150 West Hilton Drive to make
various changes to the front of the building to accommodate Toyota Corporation's
design proposal. Stephen Wade, applicant.**

Ray Snyder presented a request to amend the Planned Development Commercial zone for Stephen Wade Chevrolet. He stated that the request is to modify the building's front facade to accommodate the Toyota Corporation's design proposal. Toyota is requesting a change to the existing exterior materials to conform to a new standardized corporate design, materials and colors scheme. This includes a backlit entry portal.

Bill Western, architect, asked the Council to look at the request in two parts. First is the facade that Toyota would like all dealerships to have. Second is the entry portal which will be a back lit portal and is on all new Toyota dealerships.

Councilmember Almquist stated that although the proposed facade looks nice, he does not know if it meets the criteria set in the area.

Stephen Wade stated that Toyota is a wonderful company who has said that they will conform with what the City Council wants done. He would like to see the portal approved since it differentiates the dealership from others.

Councilmember Bowcutt commented that when this item was heard at the Planning Commission it was presented as one decision.

City Manager Gary Esplin advised that the Planning Commission is only a recommending body. The City Council can do what they feel is best for the City. Their action may have been different if the request was split in two.

Mayor Pike opened the public hearing. There being no public comment, he closed the public hearing.

Mayor Pike reopened the public hearing.

Mr. Stratford stated that he is in the film industry so he notices lights. He asked what direction the lights will be facing.

Mayor Pike stated the lights would be facing the freeway. He then closed the public hearing.

City Manager Gary Esplin clarified that the City has an ordinance for candle power that is allowed. This light is significantly less than what the ordinance allows.

MOTION: A motion was made by Councilmember Almquist to deny the request to change the facade on the current building and approve the backlit Toyota insignia sign.

SECOND: The motion was seconded by Councilmember Arial.

VOTE: Mayor Pike called for a roll call vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

PUBLIC HEARING/AMEND FINAL PLAT/ORDINANCE:

Public hearing to consider approval of an amended final plat for the Bloomington Knolls Townhomes Phase 2 Amended #3 to remove two proposed townhome units and revert back to common area. Ried Pope, applicant.

Todd Jacobson presented a request to amend the final plat for the Bloomington Knolls Townhomes Phase 2 Amended #3 located at 1050 E Brigham Road, zoning is PD-R. He explained that in 2008 lots 74 & 75 were added to the final plat. The applicant is proposing to revert those lots back to common area for tennis courts and a swimming pool.

Mayor Pike opened the public hearing. There being no public comment, he closed the public hearing.

MOTION: A motion was made by Councilmember Hughes to amend the final plat for the Bloomington Knolls Townhomes Phase 2 Amended #3 to remove lots 74 & 75 and revert them back to common area.

SECOND: The motion was seconded by Councilmember Bowcutt.

VOTE: Mayor Pike called for a roll call vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

PUBLIC HEARING/VACATE PUBLIC UTILITY EASEMENT AND ADJUST LOT LINE/ORDINANCE:

Public hearing to consider approval to sell City property, vacate a public utility easement and adjust the lot line for a parcel of land lying westerly of lot 39 of the Bloomington Hills No. 3 subdivision. Warren Black, applicant.

Todd Jacobsen presented the request to sell City property and also to vacate a public utility easement and adjust the lot line for lot 39 of the Bloomington Hills No. 3 subdivision. The parcel is 83 feet in length and varies from 8 feet to 9.48 feet in width. This area will be retained by the City as a public utility easement except for the area located easterly of the existing wall where the applicant would like to build a garage.

City Manager Gary Esplin stated that the City has no use for the property and believes that \$1 per square foot is what has been charged for other parcels in the area.

Mayor Pike opened the public hearing.

Mr. Baca inquired how the price for purchasing City property is established. Additionally, he inquired what is the acceptable form of compensation for such property.

City Manager Gary Esplin advised that the value is set by determining if anyone else can use the property. If so, the City has the land appraised. If the property cannot be used by anyone else, the City has always valued the land at \$1 per square foot. As for the

compensation, the City will accept either goods, services or currency as long as what is received equates to the same value that is being asked for the property.

Councilmember Hughes stated that a similar situation happened with him and a neighbor who wanted to build a wall. The City is not trying to make money therefore he believes the \$1 per square foot makes sense.

Richard Hutchins, resident, commented that the value to the City is \$0. The law requires consideration in exchange of the property. If other property owners were aware of this benefit, it may facilitate productive use of otherwise abandoned land.

Mayor Pike closed the public hearing.

MOTION: A motion was made by Councilmember Arial to approve the sale of City property, vacate a public utility easement and adjust the lot line for lot 39 of the Bloomington Hills No. 3 subdivision for \$1.00 per square foot.

SECOND: The motion was seconded by Councilmember Bowcutt.

VOTE: Mayor Pike called for a roll call vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

**PUBLIC HEARING/2014-2015 FISCAL YEAR BUDGET:
Public hearing to receive public input on the 2014-2015 fiscal year budget.**

City Manager Gary Esplin advised that although state law requires municipalities to hold one public hearing for the proposed budget, the City has two.

Mayor Pike thanked all staff who spent numerous hours on the budget process. He opened the public hearing.

Mr. Hutchins mentioned that City entry monuments cannot be read while driving down the road. He was amazed at how much money was spent on the monuments as he was informed that each monument cost \$20,000. He believes someone on the Council is friends with the monument maker and that the monuments do not benefit the citizens. The budget needs to reflect the best interest of the City. He read in today's paper that the budget includes salary increases. He believes that is ridiculous to have salaries to be compared other Cities.

Mayor Pike explained that the City competes for employees like any other business. With regard to rate increases, IHC performs a market survey just as the City does. Over the last 5 years, the City has not been able to give raises and has lost good employees who have gone to other municipalities. Additionally, he does not want to pay employees unfairly. It costs more to retrain new employees than it does retain them.

Mr. Hutchins stated that employees may go elsewhere, but they can be replaced.

Councilmember Hughes commented that giving raises boost employee moral. The City does not want to lose good employees.

Councilmembers Almquist stated that employees are part of the community. He has seen many employees volunteering at different areas throughout the City. He commented that the City Manager watches the budget closely. This is the best solution to pay the employees fairly.

Councilmember Bowcutt stated that every business has many assets. The City's greatest asset is it's employees.

Mr. Baca stated he feels that this budget is one of the best presented. He appreciates the time that all involved have taken to prepare and process the budget, especially the City Manager.

Mayor Pike closed the public hearing.

2014 JUSTICE ASSISTANCE GRANT:

Consider approval of the 2014 Justice Assistance Grant for the Police Department.

City Manager Gary Esplin stated that part of the grant requirement is to give the public a chance to give comment. The grant funds will be used to purchase new computers.

Mayor Pike opened the floor for public comment. There was no public comment.

City Attorney Shawn Guzman advised that this item is an interlocal agreement as well since the grant is given to the County which in then given to the City.

MOTION: A motion was made by Councilmember Hughes to approve the 2014 Justice Assistance Grant for the Police Department.

SECOND: The motion was seconded by Councilmember Almquist.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

INTERLOCAL AGREEMENT/RESOLUTION:

Consider approval of a resolution to enter into an Interlocal Agreement for distribution of RAP tax funds.

City Manager Gary Esplin advised that the ballot for County election this November may include asking residents whether or not they should institute a RAP tax. If the RAP tax passes, this agreement will dictate how the funds are distributed.

Mayor Pike stated that this item has been carefully discussed for the past several months. If the agreement is approved and voters approve the RAP tax, funds can be used to improve recreation facilities and assist arts organizations.

Councilmember Almquist explained that this is preliminary to the election. The RAP tax will give the City the opportunity to expand projects.

MOTION: A motion was made by Councilmember Almquist to approve the resolution to enter into the interlocal agreement and to approve the interlocal agreement which determines the distribution of the funds.

SECOND: The motion was seconded by Councilmember Arial.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

APPEAL OF BUSINESS LICENSE REVOCATION:

Hear an appeal of the revocation of the business license from Mike's Smoke, Cigar & Gifts located at 1973 West Sunset Boulevard.

City Attorney Shawn Guzman stated that this item is a hearing of an appeal of the revocation of the business license from Mike's Smoke, Cigar & Gifts. The license was revoked for violating St. George City Code 3-9-5. He then read excerpts from the code.

Deputy City Attorney Paula Houston presented the Councilmembers with Exhibits A-F. Exhibit A contains the letter sent to the owner's of Mike's Smoke, Cigar & Gifts stating that the City issued an order of revocation and termination of business license. The license was revoked because of the plea of Kyle Best for possession of a controlled substance with the intent to distribute. Exhibit B contains a copy of St. George City Code 3-9-5 outlining the requirements for the revocation. Exhibit C contains the amended information that charged Mr. Best with the crime of possession or use of a controlled substance with intent to distribute (spice). Exhibit D contains Mr. Best's statement which he signed and entered into the plea agreement. Exhibit E contains the certified court docket showing a plea has been entered into. Mr. Best plead no contest on March 4, 2014. St. George City Code 3-9-5 states "A. The city may suspend, revoke, or terminate the business license of a business which is operating as a tobacco sales business if: 1. The licensee, owner, or operator: b. Violates any alcohol or drug related offenses, regulations restricting the sale of distribution of tobacco products or tobacco paraphernalia, or an felony offenses under any provision of federal, state, or local law." In this case, as manager of the store, Mr. Best was the operator. The code also states: "2. While on the business premises, an employee violates: a. Any laws or regulations related to alcohol or controlled substances." This case falls under both provisions. The Council must decide if the Business License Officer made the correct decision in revoking the business license. The amended information states that the charges are against Mr. Best and are considered a Class A Misdemeanor. The offense occurred on or about January 11, 2013. Exhibit F contains an affidavit from the County Prosecutor which states that this offense occurred at the Mike's Smoke Shop in St. George. Mr. Best signed a statement listing the crimes he was charged with. She read excerpts from the statement. The statement includes a certificate by Mr. Best's counsel as well as the prosecutor certifying that the facts establish the commission of a crime. The court docket is a certified docket and contains the entire history of the case. Ms. Houston read excerpts from the certified docket. Looking at the facts and statements, including the admission that a violation occurred, the revocation letter was sent out based on Mr. Best's no contest plea. State law states that a no contest plea indicates the accused does not challenge the charges and the information or indictment and, if accepted by the court, shall have the same effect as a guilty plea. Ms. Houston asked the Councilmembers to uphold the order.

Councilmember Almquist inquired if Mr. Best is currently employed.

Ms. Houston stated that she did not know. In this case, it would not matter as far as the revocation.

Councilmember Arial inquired if the charge was against the manager or the store.

Ms. Houston replied that the charge was against Mr. Best, the store's manager, however, City code states that if a manager commits a violation, the store loses its license. The owner is responsible for the behavior of their employees on their premises.

Ryan Holdaway, attorney for Mike's Smoke, Cigar and Gifts, stated that on January 28, 2013, a revocation letter was sent to his client which was appealed. The basis of that revocation letter was the sale of reborn by Mr. Best. In July 2013 the City Council revoked the license. An appeal was taken to the district court for judicial review. A stipulation

between the City and Mike's Smoke Shop was reached in August 2013. He provided a handout of the stipulation. One condition was that the smoke shop would no longer sell these types of products and would conform the products sold in the store more closely to what the license application originally stated. The license stated that this shop was going to be a smoke shop in addition to selling sports memorabilia. Further, the store could not carry items that were questionable as to what the application has provided for. In September 2013, a letter was exchanged by counsel on both sides, which listed items that may be questionable to determine if the items would be in violation of the business license. Products considered to be in violation of the license were removed from the store. At the appeals hearing in the District Court, Judge Wilcox stated that there should have been an evidentiary hearing. Judge Wilcox's decision was to remand it back to the City Council. The second revocation was issued on April 10, 2014, prior to the final order from the District Court. The City has appealed Judge Wilcox's decision to the Utah Court of Appeals. He thinks it is important to note that there is a property right to be associated and symbolized by the license. The 2014 revocation is based upon the same acts as the 2013 revocation was, specifically the sale of Reborn, containing the chemical XLR11 by Mr. Best. That license revocation was never reversed, it was stayed. There is no license to revoke since it was revoked in 2013. The 2014 revocation does not identify any new criminal act. The revocation from 2013 is still in the appellate review process. His opinion is that this new revocation sidesteps the appellate process. The City is bound by the terms of the stipulation which has been adopted by the court. He advised Mr. Best to enter the no contest plea because Mr. Best is a prior felon and subsequent to the charges for the reborn, he was charged with a felon in possession of a firearm. As Mr. Best's attorney, he advised him to plead no contest even though he felt he had a great case on the spice case. Mike's Smoke Shop pays the price because Mr. Best received a good deal. Mr. Best does not work at the store, in fact Mr. Connors has replaced all employees at this location. He is asking the City Council to overturn the April 2014 revocation and to hold the evidentiary hearing that Judge Wilcox has ordered. Referring to Exhibit B provided by Deputy City Attorney Paula Houston, he stated that the Council has options, they may suspend, revoke, or terminate the license. Since January 2013, there has been complete compliance from Mike's Smoke Shop. All parties have spent quite a bit of time and money with this matter. He suggests the Council get rid of the April 2014 revocation, let the appellate process run on the January 2013 revocation or work on a mediation resolution. He mentioned that Mr. Connors asked him to note this is a business that employs 14 people. He provided the Council with a petition containing signatures of citizens in support of the business.

Ms. Houston advised the Council that they have discretion, the license does not have to be terminated, it can be revoked, suspended or there can be an agreement. She also stated that they could legally revoke a license that is already revoked, just as you can with a driver's license. There can be multiple suspensions or revocations. The second revocation was issued due to the change in the guilty plea of Mr. Best. The stipulation mentioned by Mr. Holdaway, was for the first revocation, not for the second. It is possible for the City to enter into an agreement for the second revocation just as was done with the first revocation.

Councilmember Hughes asked Ms. Houston if the City is required to hold the evidentiary hearing if they uphold this revocation.

Ms. Houston explained that the first revocation is separate as is in appeal process and that the appeal will continue. There is a possibility that a hearing will be required on the first revocation. The two revocations are standalone issues. Additionally, there could be two appeals going forward through the court. If Mike's Smoke, Cigar & Gifts prevails on the first revocation, the license could still be revoked because of the second revocation.

Mr. Holdaway stated that the key to the two revocations is that you cannot be suspended twice for the same act or conduct in a criminal court. A guilty plea is a new fact, not a new crime. That penalty has already taken place with the first revocation. He does not believe there can be a second revocation on top of the prior revocation.

City Attorney Shawn Guzman advised Mayor Pike that at this time he can ask each side if there is additional evidence.

Councilmember Hughes asked Mr. Holdaway to explain what he meant when he stated that Mr. Best had a good case on the spice charge.

Mr. Holdaway stated that this is a 2-step process. In 2012, Utah code was amended, more specifically, the analog law language was changed. The argument was made that the Council had to interpret the language in line with how the federal government interprets its analog law which is very similar. Had they convinced the Council of this point, the second issue would have been that the City would have had to produce evidence above and beyond what it was capable of producing at that time, the City would have had to prove the pharmaceutical effects of the substance. He stated that because the City would not have been able to prove the effects his client would have won the case. Referring to page 2 of the plea agreement Mr. Best acknowledged that he sold reborn to an elderly man who was going to ingest it. Mr. Holdaway said this statement was clarified on the court record that although he sold it to the elderly man, Mr. Best ingested it himself on one occasion.

City Attorney Shawn Guzman advised that if the Council chooses to hold the evidentiary hearing expert witnesses, on both sides, would be put on the stand to testify.

Mayor Pike asked if there was any additional evidence from either side.

City Attorney Shawn Guzman clarified that the evidentiary hearing would be a separate hearing. Additionally, the appeal is not based upon whether XLR11 was a controlled substance at the time, but merely did the judge make the proper decision on remanding it back to the City.

Mayor Pike suggested the item be taken under advisement and render a decision at an upcoming meeting.

City Attorney Shawn Guzman asked Mr. Holdaway if he is requesting to be notified of the meeting in which the Council will adopt their decision.

Mr. Holloway stated that he would like to be notified prior to the meeting. He does not anticipate that he would be present at the meeting, but he would like his client to be present.

City Attorney Shawn Guzman stated that prior to the Council formally adopting a decision in this matter he will notify Mr. Holdaway of that meeting.

MOTION: A motion was made by Councilmember Arial to take the matter under advisement.

SECOND: The motion was seconded by Councilmember Hughes.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist - aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

Councilmember Arial stepped out.

SET PUBLIC HEARINGS:

Ray Snyder advised that the Planning Commission, at its meeting held May 27, 2014, recommended public hearings be set for June 19, 2014 to consider a zone change from R-

2 to C-4 on 0.237 acres and from PD-R to C-4 on .0776 acres on properties located at 321 West Tabernacle and 16 South 300 West. The 321 West Tabernacle site is proposed to be developed as a future office for Precision Hearing while the 16 South 300 West site will remain as a Washington County School District operation.

MOTION: A motion was made by Councilmember Almquist to set the public hearings.
SECOND: The motion was seconded by Councilmember Hughes.
VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye

The vote was unanimous and the motion carried.

FINAL PLATS:

Todd Jacobsen presented the final plats for Confluence Commercial Center Phase 1, a 4 lot commercial subdivision located east of the Dixie Center, zoning is C-3 and Tupelo Estates Phase 1, a 25 lot residential subdivision located near the northeast corner of 3000 East and Crimson Ridge Drive intersection. With regard to the Confluence Commercial Center, a portion of the property was deeded to UDOT during the Dixie Drive Interchange project. Since UDOT no longer has a need for the property, they have verbally agreed to deed it back to the City.

Councilmember Arial returned.

MOTION: A motion was made by Councilmember approve the final plat for Confluence Commercial Center and to include any property UDOT will be reverting back to the City in their verbal agreement and accept that property as part of the final plat.

SECOND: The motion was seconded by Councilmember Bowcutt.
VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

MOTION: A motion was made by Councilmember Hughes to approve the final plat for Tupelo Estates Phase 1.

SECOND: The motion was seconded by Councilmember Arial.
VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

PRELIMINARY PLAT:

Wes Jenkins presented the preliminary plat for Stone Cliff Phase 13, a 7 lot residential subdivision located at 2600 Cobalt Drive, zoning is PD-R. This plat is part of the approved master plan for the Stone Cliff development. The developer is proposing to not install sidewalks since they are using a wider cross section than a normal private street. Additionally, there is a road that will located within the 100 foot setback requirement. He

read portions of the ordinance which related to the 100 foot setback requirement. Staff feels that since the road will not remove significant vegetation, they feel comfortable with the road being built on the setback line.

MOTION: A motion was made by Councilmember Bowcutt to approve the preliminary plat for Stone Cliff Phase 13.

SECOND: The motion was seconded by Councilmember Arial.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

PRELIMINARY PLAT:

Wes Jenkins presented the preliminary plat for Gentry Lane, a 24 lot residential subdivision located northwest of the intersection of Little Valley Road and Horseman Park Drive, zoning is RE-12.5. Originally, the southern most road in the subdivision was going to be a cul-de-sac. However, to convey drainage from the subdivision, the developer was proposing to extend a storm drain line through this cul-de-sac and along the lot line between two lots to Little Valley Road. The City would require a 25 foot easement for the storm drain line to extend between the two lots to allow for room to repair or replace the storm drain line if needed. Staff asked the developer to revise their layout and make the southern most road in the subdivision the access road from the subdivision to Little Valley Road and the other two roads as cul-de-sacs. This would locate the proposed storm drain line within a roadway and not between two lots where an easement would be required.

Staff indicated that making the southern most road the access road to Little Valley Road does locate this intersection too close to the intersection of Little Valley Road and Horseman Park Drive per the approved Traffic Access Management Policy. However, the hope is that eventually, the intersection of Horseman Park Drive and Little Valley Road will be relocated to the south to allow Horseman Park Road to connect to Little Valley Road at a better angle. The developer is proposing to drain sewer for the proposed subdivision to the north to Meadow Valley Estates Phase 4. Additionally, the developer is proposing to keep an access from their subdivision subject to the existing park subject to approval from the Parks Department. The developer is proposing a 25-foot access with a 6 foot block wall on both sides of the access.

James Sullivan, who represents the applicant, stated that he would like to have the access to the park. He does not understand why the Parks Department would not want it.

City Manager Gary Esplin commented that the only issue is who is going to pay the cost to improve and maintain the access area. He also indicated that the trail from the subdivision should connect to the existing trail in the park.

Mr. Sullivan explained that they would put the path and landscape the area similar to the existing path and connect this proposed path to the existing park trail. They would also like to have the path reduced to 15 feet.

There was some discussion between the developer and the council regarding whether the path would be concrete or asphalt. James Sullivan indicated that the path would be concrete and would be 10 feet in width with 2.5 feet on either side of the trail for landscaping, possibly some type of rock mulch.

Councilmember Almquist inquired if there are plans for streetlights. If the path is approved at 15 feet, he would like there to be a streetlight in line with that for safety concerns.

Mr. Sullivan stated that he will look into that.

Councilmember Bowcutt expressed his concern with Horseman's Park Road being turned into a T-intersection in this area. The area may become a dump station.

City Manager Gary Esplin stated that at some point, the road needs to be changed.

MOTION: A motion was made by Councilmember Hughes to approve the amended preliminary plat for Gentry Lane and to narrow the walkway to 15 feet and to be dedicated to the City once it has been paved by the developer and is subject to Legal Department review.

SECOND: The motion was seconded by Councilmember Almquist.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

AIRPORT GRANT:

CONSIDER APPROVAL OF AN AIRPORT GRANT FROM THE FEDERAL AVIATION ADMINISTRATION FOR THE REPLACEMENT AIRPORT:

City Manager Gary Esplin advised that the City will receive a grant from the FAA for \$11,000,000. The grant agreement shows that the City's match is 5%, however, it may be actually be 10%.

MOTION: A motion was made by Councilmember Bowcutt to approve the airport grant from the Federal Aviation Administration with either a 90 - 95 percent match.

SECOND: The motion was seconded by Councilmember Arial.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

MINUTES:

Consider approval of the minutes from the City Council meeting held on April 24, 2014.

MOTION: A motion was made by Councilmember Almquist.

SECOND: The motion was seconded by Councilmember Arial.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

MINUTES:

Consider approval of the minutes from the City Council meeting held on May 1, 2014.

MOTION: A motion was made by Councilmember Arial.
SECOND: The motion was seconded by Councilmember Hughes.
VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

MINUTES:

Consider approval of the minutes from the City Council meeting held on May 8, 2014.

MOTION: A motion was made by Councilmember Hughes.
SECOND: The motion was seconded by Councilmember Arial.
VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

MINUTES:

Consider approval of the minutes from the City Council meeting held on May 15, 2014.

MOTION: A motion was made by Councilmember Bowcutt.
SECOND: The motion was seconded by Councilmember Almquist.
VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

ADJOURN TO A CLOSED SESSION:

MOTION: A motion was made by Councilmember Hughes to adjourn to a closed session to discuss property issues.

SECOND: The motion was seconded by Councilmember Almquist.

VOTE: Mayor Pike called for a roll call vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.

City Manager Gary Esplin explained that per the truth in transparency standards, the City has to disclose, to its customers, any unbilled services that are provided from one entity to another. There are 33,000 customers who will receive this letter.

Finance Director Philip Peterson provided a copy of the public notice that will be mailed to customers.

City Manager Gary Esplin advised that Steve Larsen was selectively promoted to the Superintendent at Sunbrook Golf Course. An internal job opening will be posted for the Superintendent position at the St. George Golf Course. He mentioned that he had a short discussion with the Golf Pros regarding employment with the City.

Mayor Pike and City Manager Gary Esplin provided the Council with an update on the St. George Resource Center.

Mayor Pike stated that Brand Iconic has created a advertising, branding and marketing coalition to brand the St. George Resource Center at no charge. He suggested using Brand Iconic to assist with advertising and branding fort the City at a cost of \$6,000.

The consensus of the Council is to move forward with Mayor Pike's suggestion.

ADJOURN:

MOTION: A motion was made by Councilmember Almquist to adjourn.

SECOND: The motion was seconded by Councilmember Arial.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist- aye
Councilmember Hughes - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.