

SOUTH JORDAN CITY
CITY COUNCIL MEETING

August 19, 2014

Present: Mayor David Alvord, Councilman Chris Rogers, Councilman Chuck Newton, Councilman Mark Seethaler, Councilman Don Shelton, Councilman Steve Barnes, CM Gary Whatcott, General Counsel Rob Wall, Police Chief Lindsay Shepherd, Administrative Services Director Dustin Lewis, Fire Battalion Chief Butler, COS Paul Cunningham, Economic Development Director Brian Preece, IS Director Jon Day, City Council Secretary MaryAnn Dean

Others: See attached (Attachment A).

REGULAR MEETING – 6:00 PM

A. Welcome and Roll Call – *Mayor David Alvord*

Mayor Alvord welcomed everyone present. All members of the City Council were present, as listed above.

B. Invocation – *Councilman Don Shelton*

Councilman Shelton offered the invocation.

C. Pledge of Allegiance

Scout Troop 1440 led the audience in the Pledge of Allegiance.

Councilman Barnes made a motion to change item L to a discussion only item.

Councilman Rogers made a substitute motion to table item L to a work session. The motion died for lack of a second.

Councilman Seethaler seconded the original motion. The vote was 4-1 in favor, with Councilman Rogers opposed.

Mayor Alvord said discussion would be limited to 20 minutes.

D. Minute Approval

1. July 30, 2014 Special Study Session
2. July 30, 2014 Special Council Meeting
3. August 5, 2014 Study Session
4. August 5, 2014 Regular Meeting

A couple of changes were made to the minutes.

Councilman Shelton made a motion to approve the July 30, 2014 Special Study Session minutes, the July 30, 2014 Special Council Meeting minutes, the August 5, 2014 Study Session minutes, and the August 5, 2014 Regular Meeting minutes, as amended. Councilman Rogers seconded the motion. The vote was unanimous in favor.

E. Public Comment

James Ruelle, noted a path and sidewalk on Midas Creek, from the park to 2700 West. He said the “sidewalk” goes down to 20 inches. He showed several pictures of the sidewalk. He said they are concerned about maintenance and irrigation of the path. He said as a neighborhood, he would like to meet with staff to determine how to deal with it. Who will oversee the path? They are concerned about safety of the kids that go from the park to 3200 West and beyond.

Janalee Tobias, said she is against LaVarr Webb’s presentation to have outside counsel for focus groups and research groups. The cost of the study is \$90,000. She said they should not spend more money on studies. If the concern is that Mulligans is in the red, they should put money into it to make it more profitable. She said she fought for green space 20 years ago. The citizen research was done then. She referred to plans, surveys, and studies that were done. In 1997, 90 percent wanted to preserve green space and would pay more to do so. People don’t want to see Mulligans developed. They should trust the citizens that live and play there. She also noted that Mulligans is listed as a tourist attraction, Riverpark is not. Tourist attractions bring tax dollars.

F. Presentations: Thank You to Miss Utah, Heather Anderson, for her participation in the South Jordan Dare Program. *(By Police Chief, Lindsay Shepherd)*

Lt. Knight reviewed the South Jordan Dare Program. He reviewed Heather Anderson’s involvement in the Dare program since 2007. She spreads her message with passion and energy. She touches everyone in the room with her family story. Miss Anderson has been to 100 Dare graduations and has influenced more than 8800 students.

The Police Department recognized and presented Miss Anderson with an award for her service.

Police Chief Shepherd also expressed gratitude to Miss Anderson for their partnership.

Heather Anderson indicated that she speaks to cities all over the nation for the Dare program. South Jordan is one of her favorite cities in the nation. They have a great staff. She thanked the City Council for supporting the Dare program. For kids that come from a troubled home, the police are the bad guys. For kids that come from a good home, the police are the ones that give their parents a ticket. This gives the kids a chance to see law enforcement as a friend that they know and can trust.

G. Discussion: Municipal Court Services. *(By COS, Paul Cunningham)*

COS Cunningham gave a presentation on the municipal court services. He recognized Judge Balmforth, who will be retiring when his term is up.

COS Cunningham reviewed the levels of service and programs in the court. They handle Class B and Class C Misdemeanors, infractions, and small claims up to \$10,000. The Justice Court is part of the General Fund. They reviewed the budget and staff. They reviewed the caseload. The purpose of the court is not to raise revenue, it is to serve the community.

General Counsel Wall reviewed legislative activities relative to the Justice Court. He reviewed the history of justice courts in the state indicating that there have been significant changes to the court 3 times. He said last year, it was proposed to review the state court system again, but the bill was voted down. He noted that there is a group studying the state and justice courts in Utah, based upon a complaint by the ACLU. South Jordan was interviewed as part of that process. He noted that South Jordan is known as a model court.

Mr. Wall reviewed the process to eliminate the justice court, if there is any interest in doing that with the retirement of the judge. He said the caseload would move to West Jordan. They will still have to pay for prosecution. It would also have an impact on the police staffing that has to testify in hearings. They can also consider an alternative to contract services with another municipality or the county. If they want to eliminate the justice court, they need to give notice by January. Mr. Wall said a city attorney from a neighboring city has approached them about providing court services for that city.

COS Cunningham said staff is not advocating doing away with the court. They support the court.

COS Cunningham reviewed the judicial selection process.

Judge Balmforth, said they are able to deal with local issues quickly. He noted that 2 days a week, they have walk-ins. Their system is valid. He feels the city is a fool if they don't want to have a court. He urged them to keep the court. He said he would not be able to complete a full 6 year term when his term is up in 2017; that is why he is retiring. He recognized his staff.

CM Whatcott said he rarely receives a complaint about the court because of the way the judge approaches his service.

Councilman Seethaler asked what areas of law and code that the City Council get involved with are problematic for enforcement and adjudication? Judge Balmforth said planning and zoning enforcement cases.

Councilman Seethaler made a motion to support and encourage the direction that they have been going for many years, with the intent to replace Judge Balmforth with a proper replacement at the appropriate time. Councilman Rogers seconded the motion. The vote was unanimous in favor.

Councilman Newton made a motion to ask staff to open up conversations and pursue a discussion with the sister city about providing court services. Councilman Rogers seconded the motion. The vote was unanimous in favor.

It was noted that they would need to replace the judge after he retires. The City Council would appoint a new judge, they would stand for retention for 4 years, and then it is a 6 year retention.

Councilman Newton asked what if the judge cannot fulfill his responsibilities, for whatever reason? COS Cunningham said they have alternate judges, and there are legal mechanisms for judges to stand in an emergency or a conflict of interest situation.

They reviewed various options that could happen if they need to remove the next judge.

General Counsel Wall said the judge is covered by the administrative office of the court and the supreme court. The court staff falls under the City Manager.

Councilman Rogers asked if there is any prohibition that the county court nomination commission be made up by the City Council members? COS Cunningham said they could nominate the City Councilmembers. The Mayor will ultimately make the selection and submit the name for ratification.

- H. **Action Item:** Appointment of Brian Butters to the Public Art and Cultural Development Board (PACDB) for a two year term beginning September 1, 2014. *(By Councilman Don Shelton)*

Councilman Shelton said Brian Butters has been serving, and has been a de facto member of the board. He is dedicated to arts in South Jordan and making the city a better place. He feels Mr. Butters is a valuable resource on that committee.

Councilman Newton made a motion to appoint Brian Butters to serve on the PACDB Board. Councilman Rogers seconded the motion.

Councilman Barnes said his service, without obligation, speaks to the character of Brian Butters. He supports the nomination.

Roll call vote. The vote was unanimous in favor.

- I. **Presentation by LaVarr Webb**, to provide Public Information on the Community Outreach Services for the future use of Mulligans.
 - a. **Action Item: Resolution R2014-68**, authorizing the Mayor to execute the Professional Services Agreement with LaVarr Webb to provide Public Information and Community Outreach Services. *(By City Commerce Director, Brian Preece)*

Mayor Alvord said there has been discussion on this issue about improving the property, leaving it alone, or looking for another anchor. There was a majority view on the Council that it was worth considering with the Hale Center Theatre proposal. With the announcement of Hale Center Theatre going to Sandy, he recommended that they do a survey first and see where the people stand right now regarding the development of Mulligans. That was Mr. Webb's recommendation. Y2 Analytics would conduct a scientific poll. He reviewed a list of questions that he would like included:

1. Are people aware that the City owns a golf course?
2. Do people approve of subsidizing a golf course?
3. Do people consider Mulligans a business, a park, or a hybrid of the two?
4. Do people want Mulligans improved?
5. Do people want Mulligans left alone?
6. Do people want a partial development, if it is an economic benefit to the city?
7. Would people support a bond to radically improve Mulligans?

He said those questions could be debated and amended. He said a poll will give them direction, and he will respect the will of the people on this issue. After the poll, then they see if they want to continue to engage the consultants further in the future.

Councilman Newton said they discussed this in the August 5th work meeting. The poll was in the initial phase, and then they were going to come up with options for the property, and then they were going to let the residents decide what to do. He said he is not in favor of doing a poll and then just stopping.

Mayor Alvord said there is some reluctance to committing large amounts of money to Mulligans if they don't understand where the people stand and where the City Council stands.

Councilman Rogers said he is in favor of the proposal. Should they wait until Mr. Webb is present? Mayor Alvord said he believes Mr. Webb is willing to take the direction of the City Council.

Councilman Rogers made a motion to approve Resolution R2014-68, with the caveat that only a survey and poll is conducted concerning at least the 7 areas that the Mayor outlined, along with any other questions that the City Council determines are prudent relative to Mulligans.

Councilman Shelton made a substitute motion to approve Resolution 2014-68, to do the initial poll but also to have 2 focus groups prior to the poll so the correct questions are in the poll. From that survey, then they determine if they need to engage the consultants further. Councilman Newton seconded the motion.

Councilman Shelton said they need to involve the public in the process of Mulligans. He feels that the focus groups and a poll is the first step. Because of the passion on the property, they need to do this right. They need to take it to the public and create a plan in open public meetings.

He said people that oppose this are fearful of how this will affect their re-election campaigns. From the public, they may be fearful that the survey will show something that they don't want to hear. He said he would love to see this property as a beautiful resource that they are all proud of.

Councilman Newton said he supported the Hale Center Theatre concept. He said this property is not a park. It is a recreational facility that is losing money. He said this was decided at the August 5th meeting. He said they need to give the residents all of the information and let them decide.

Councilman Rogers concurred with Councilman Shelton's comments.

Councilman Seethaler noted that they just received a draft of the agreement with the consultants. He said they have paid little investment regarding what Mulligans is and what it has the potential to become. If the plan is to get a plan, they should get a plan to preserve and enhance Mulligans. One idea is to put food trucks down there. He said there is so much water under the bridge on this issue, and so much contention, to present a plan now would be the next edition of political adrenaline. He asked what their goal is and what is their purpose?

Councilman Barnes said regarding Councilman Shelton's comments regarding fears, he has not made an announcement if he is running next year. If that were driving his decision, he wouldn't have voted in favor of the Jordan Station apartments. Councilman Seethaler made some good points, but they don't know what the services will cost. He said they also don't have a quote from the consultant to just move forward with a survey. Councilman Seethaler said they were presented with an outline of services.

General Counsel Wall said the agreement tonight is not a contract, but rather a scope of services.

Councilman Barnes said he would rather have a discussion about what they want. He definitely wants to move forward with focus groups before a survey and have an untainted view of what the residents are feeling. He said they could host open houses and get information on their own before they spend thousands of dollars. If they feel the information is insufficient, they can seek professional services. A lot of residents are upset about how much money they have spent without getting their opinions. They can do a survey, but they don't need a contract to do that. They can put it in the water bill. He does not think they should act rashly and spend money. They need to give consideration to low cost options. He said that he and Councilman Seethaler have already been meeting with the residents.

Councilman Barnes made a substitute motion to not make a final decision on this item until they have a presentation from Mr. Webb. Councilman Seethaler seconded the motion.

Councilman Newton made a substitute motion to vote on the motion by Councilman Shelton and then address the questions, review the prices and options for services in a future work session. The motion died for lack of a second.

Roll call vote on Councilman Barnes motion. The vote was 2-3, with Councilman Rogers, Councilman Newton, and Councilman Shelton opposed.

Mayor Alvord said the 2 focus groups would be \$11,600. The poll would be \$8,800, for a grand total of \$20,400.

Councilman Newton asked if the contract can be terminated at any point? General Counsel Wall said yes, they can choose to halt after the focus groups and poll. He is not sure if the price quoted will remain the same.

Councilman Shelton said the intent is to do 2 focus groups, 1 poll, and then re-evaluate at that time.

Councilman Barnes asked at what point do they plan on sharing the information garnered from the result of the focus groups? Councilman Shelton said the point of the focus groups is to help them craft the questions for the poll. He wants to do this right. He wants the questions to be the right questions. He is not sure what the consultant's process is and can't speak to when the information will be shared.

Councilman Barnes asked how do they arrive at who serves on the focus groups? Mayor Alvord said the professionals will do that. Councilman Barnes said that is a decision that the City Council could make. Councilman Newton said they can discuss that and potential questions in a work meeting.

General Counsel Wall said on the contract itself, there is an insurance provision that may or may not apply. He said he does not think workers comp would be required. On the errors and omission insurance, he doesn't know which insurance they have. Regarding personal injury insurance, he is not sure that would apply here. There is also a modification to consider under termination that either party could terminate with written notice.

Councilman Shelton made a motion to approve Resolution R2014-68, and to direct the City Attorney to amend the contract as is required given the professional relationship with Mr. Webb and Y2, and that the scope of service that they are hiring them for initially would be 2 focus groups and 1 scientific survey. Councilman Newton seconded the motion.

Councilman Rogers made a substitute motion to approve Resolution R2014-68, and the scope that they are hiring them for initially would be for 2 focus groups and 1 scientific survey, and that the city attorney have authority to amend the contract relative to sections 13 and 16 only. Councilman Newton seconded the motion. Roll call vote. The vote was 3-2 in favor, with Councilman Seethaler and Councilman Barnes opposed.

The City Council took a 10 minutes recess.

- J. **Action Item: Resolution R2014-67**, appropriating \$60,000.00 from the Storm Water Fund Balance for the replacement of a City Storm Line across Lot #28 at the Village at Riverwalk Development. *(By Assistant City Engineer, Scott Cooley)*

Assistant City Engineer Scott Cooley reviewed the background information on this item. He noted that they are bringing this forward because of the urgency of this lot. Normally the project would be put on the CIP list. Because of this lot, they are able to minimize future costs, and that is why this one is proposed this way. Staff does not feel there is benefit extending the project at this time.

Councilman Newton asked if it is their intent to expand the entire line to 18 inches? Will they incur additional costs to retrofit the line because it will be different sizes? Mr. Cooley said the costs are the same if they do it now or later.

Councilman Newton made a motion to approve Resolution R2014-67. Councilman Shelton seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

- K. **Action Item: Resolution R2014-69**, approving and Authorizing the Mayor to sign the Interlocal Cooperation Agreement with Salt Lake County in order to receive funding for Bike Lane installations on City Roads. *(By Assistant City Engineer, Scott Cooley)*

Mr. Cooley reviewed the background information on this item.

Councilman Newton asked if there is a bike lane to 1000 West already? Mr. Cooley said it is done on portions of that road. Some areas will need to be re-stripped. Some won't need any additional work.

Councilman Newton said they are not able to do a bike lane on 2700 West, south of 114th, because the road narrows. Mr. Cooley said it has only been widened on one side in that location. They will be planning for bike lanes for all road projects, including overlays, chip seals, etc. They will be doing striping with all future projects so they only have to add signs.

Councilman Newton made a motion to approve Resolution R2014-69. Councilman Shelton seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

- L. **Action Item: Resolution R2014-71**, allocating \$275,000 from the sale of the City of South Jordan owned property (6.43 acres) located at 11650 S. 4000 W., toward future improvements at Country Crossing Park. *(By Councilman Mark Seethaler)*

CM Whatcott reviewed the history of this property. The city purchased it, and it was conveyed to the residents that it might be used for a park. It was later determined that the property was not suited for a park, but there was a commitment made. It was suggested that when the land was sold, a portion of the proceeds would be diverted to the Country Crossing park which is in this area and serves the residents in this area. The \$275,000 is for the purchase of interactive playground equipment. That addition would enhance the current playground quite a bit.

Councilman Rogers said he is concerned about the policy of donating proceeds from the sale of a property that hasn't happened yet, to a park. If this is a priority, they should just add it into the parks capital projects list. He asked why attach a dollar figure to it? Why not put it into the parks fund? He is concerned about the priority of the other parks. He is concerned that they are treating this park differently. He said he would be interested to know the difference between the proposed amount and the amount for the original improvements to this park. They don't even know if \$275,000 will be the profit for this property. He is not opposed to the result, improving the park. He objects to the procedures on this item. He said he is okay making this park a priority in next year's budget.

Councilman Barnes said he would like to hear people's objections so they can bring this to a work session. The idea was to memorialize things that were suggested to the residents during the Kornwasser transaction. This is a compromise to memorialize with the residents their expectations, as set by the city. He said he does not want to throw the park department priorities off. He said they have the existing funds in the parks budget for the parks projects. Whatever surplus comes from the sale of this land would be funds that were not anticipated when the parks plan and priorities were developed. He would be more comfortable saying if and when they get the \$275,000, that is when they spend that money. If they don't get that amount in surplus, they would not spend it on that park. He feels they need to live up to the expectations of the residents.

Councilman Rogers said by saying they are going to accept and spend the \$275,000, it alters the park priorities. Councilman Barnes said those priorities were set, not anticipating this revenue. Councilman Rogers said without this Resolution, the money would have gone to other parks projects.

Councilman Barnes said he wishes the city would not have entered into the arrangement that they did. At that time, it was not necessary to make those representations to the residents. They should have let Kornwasser develop that land. His intention is to live up to the expectations of the residents. They might create some ill will if they don't follow through with this.

Councilman Newton said he supports the park. He does not support the way they are going about this. He does not feel it is disruptive to the process to assign the park a priority. The Resolution does not read that they don't have to spend that amount, if they don't receive that amount in surplus funds. Rather than saying \$275,000, they should make the park a priority in the CIP, then they are bypassing the need to wait for the sale of the property. He asked what is the priority? Do they want to get the park done, or do they need to use the surplus funds from the sale of the property?

Councilman Barnes said they would not be talking about this if it were not for this real estate transaction. He does not want to prioritize the park ahead of that transaction and spend the \$275,000 before they get it. The Resolution indicates that the city anticipates making a profit. It says they will allocate additional proceeds in the amount of \$275,000. He said they should pay back the fund balance that was used to purchase this property. He does not want to prioritize this ahead of anything else.

Councilman Newton said if they put a dollar amount on it, that will need to be fulfilled first. They can take this issue to a work session, put in a Resolution that they are making this a priority, put it in the budget, and move on.

Councilman Barnes said he does not want to sacrifice plans for anything that is already prioritized. It is more important to do this in the proper course of time.

Councilman Shelton said he is supportive of the idea to keep promises that were made to the residents. They need to keep those promises, but he does not want to create bad policy. He said he is not sure where he falls on this issue.

Mayor Alvord said the primary concern of the residents was the apartments. To take away the offer to build a park would create disappointment. He said they need to do a Resolution that does not tie the money to the sale of land; even if it is an enhanced park, more than was originally planned. If they can find a way to fund it, without tying it to the sale of the land, the Council would look upon that favorably. That would keep the promise and not set a negative precedent.

Councilman Barnes said there wasn't the opposition to apartments that many assumed that there was. There was opposition by others in South Jordan. He said he did not make the promise for a park. It was represented by the developer and the former City Manager.

Councilman Seethaler said the Resolution was done by staff based on discussions relative to this property. He noted that some of this property has been dedicated to a storm drain basin that the city needed to establish by the LDS Church. There was significant benefit to acquire land for that purpose. Some of the land was purchased for the use of an LDS meetinghouse. He said this is a lesson in being circumspect with communications because they are all representatives of the city.

Mayor Alvord said if someone says "the city said", they need to see it in writing which is a Resolution voted on by the City Council, signed by the Mayor. Otherwise, it might be a false promise.

M. Action Item: Resolution R2014-72, Affirming Support of and the best means of success with the Jordan School District. (By Councilman, Mark Seethaler)

Councilman Seethaler introduced and reviewed Resolution R2014-72. He said this has been done in the spirit of cooperation and states the city's official statement and position.

Councilman Rogers made a motion to approve Resolution R2014-72. Councilman Seethaler seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

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

Mayor Alvord said he met with COG regarding VECC. There have been offers made by the state and the Salt Lake County Mayor for cities to change their software. They don't want one

communication system to conflict with another. There is an RFP underway to study which system will be most beneficial for the valley. When the study is complete, that is the system everyone will accept.

CM Whatcott said there is a 90 day return for the RFP. The process itself will take longer. Mayor Alvord said he feels this is a positive step for the valley.

Councilman Rogers said he met with the Historical Committee. They appreciate the Resolution regarding the cemetery. They will be bringing forward some recommendations in October. They are also excited to have Mr. Lewis as the staff liaison.

Councilman Rogers indicated that he met with the CM. He encouraged the City Council members to meet routinely with the CM. He indicated that he likes the new procedures and time limits being followed at this meeting.

Councilman Seethaler noted the welcoming dinner that the city hosted for the International Days celebration.

Councilman Seethaler said he met with staff getting information on Mulligans, working toward a plan to preserve, invest in, and improve Mulligans.

Councilman Seethaler said next Saturday, he will be attending the Fire Department training with his son.

Councilman Barnes said he and Mayor Alvord met with the Fire Chief regarding AED funding and future plans for that program. He said he attended the farmers market on August 9th. He appreciates the city's efforts and feels it is a good thing for the city. He said they need to discuss the city's Ordinance outlawing food trucks in the city. That may be a way to rejuvenate interest in Mulligans.

Councilman Barnes noted that the Director of the Mosquito Abatement District is stepping down. A new director will be chosen by the end of the year.

Councilman Newton said he attended the meeting with Salt Lake County Council regarding the issue of CDA's. He said a vote was made in their work session. The door has been shut.

Councilman Shelton noted that he also attended International Days. He said he will be golfing with the South Jordan Chamber of Commerce tomorrow.

CM Whatcott noted the class sponsored by the Fire Department this Saturday. Battalion Chief Butler reviewed the full schedule of events.

Economic Development Director Preece discussed the meeting today with the Salt Lake County Council regarding the CDA's. He said it is much better than it was, but it is still problematic the way it was passed. If they were held to the current policy, EBay and Scheels would not have

happened. He said he would put a copy of the policy in the share file for the City Council. He said there is still a chance that the Governor's office could get involved, if the project is important.

CM Whatcott said the Utah Farm Bureau partners with the city on the Farmer's market. They have put the city on notice that they will be discontinuing the farmer's market next year. He feels it has been a very successful program and they need to see what they can do to continue the program. The residents are supportive of it.

General Counsel Wall noted an upcoming Legislative breakfast.

EXECUTIVE SESSION

Councilman Seethaler made a motion to go into an executive session to discuss threatened or pending litigation. Councilman Newton seconded the motion. Roll call vote. The vote was unanimous in favor.

ADJOURNMENT

The August 19, 2014 City Council meeting adjourned at 9:37 p.m.

This is a true and correct copy of the August 19, 2014 City Council minutes, which were approved on September 2, 2014.


South Jordan City Recorder

