

**ST. GEORGE CITY COUNCIL MINUTES
REGULAR MEETING
FEBRUARY 5, 2015, 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 Scout Ben Owen and the invocation was offered by Pastor Jonathan Hendren with the New Beginning Christian Fellowship. He invited the Scouts in the audience to come forward and recite the Scout law. He mentioned that the Transportation Expo will be held at the Dixie Center on Tuesday, February 10, 2015. Additionally, he mentioned that the February 12, 2015 City Council meeting will be held at the Dixie Center beginning at 8:00 a.m. and the Sweetheart Swing that will be held on February 14, 2015. He invited Santa Clara Mayor Rick Rosenberg to speak.

Santa Clara Mayor Rick Rosenberg mentioned that he and Mayor Pike visited Britton Shipp, who was in an ATV accident in November. To see his progress is inspiring. Mayor Pike presented Britton with a key to the City.

COMMENTS FROM THE PUBLIC:

Lauren Cummings, resident, stated that she supports the RAP tax. She proposed a dog park be built near 2450 East Park or Millcreek Park. There are not enough parks for responsible dog owners to play with and exercise their dogs.

Councilmember Hughes commented that the City is trying to do something for everyone. It may be something to look at.

Mayor Pike stated that the staff is still working on a list of RAP tax projects. Her request will be considered.

David Doddredge, resident, stated that he is a retired LAPD Detective. He explained that a couple of months ago his wife was pulled over for a headlight violation. At that time, the officer asked her for her cell phone number. He called the police department and asked why they are asking for cell phone numbers and was told it was for reverse 911 calls. He is interested to know if the Police Department operates a Stingray device that acts as a portable cell tower and records cell phone calls.

Police Chief Marlon Stratton stated that the Police Department does not have a Stingray device or anything similar.

Mr. Doddredge commented that a bill will be passed in New Hampshire that states Police Departments cannot have military grade hardware that is not available for purchase by the

public. He asked what kind of equipment the Police Department has that may not be available for the public.

Police Chief Marlon Stratton stated that the Police Department has an armored personnel carrier that is on loan from the Department of Homeland Security. The vehicle has no weapons. All weapons and body armor used by the officers can be purchased by anyone. With regards to the officer asking his wife for her cell phone number, he is not sure why the officer would ask specifically for the cell phone number. If there is ever a question or concern, he encouraged Mr. Doddredge to call him directly so that he can check into it.

City Manager Gary Esplin advised that items 1B and 1C will not be heard tonight.

PUBLIC HEARING/GENERAL PLAN AMENDMENT/ORDINANCE:

Public hearing to consider an amendment to the General Plan Land Use Map for approximately 105.9 acres generally located between 3000 East Street and the Virgin River and fronts on Mall Drive by changing the land use designation from Low Density Residential, Medium Density Residential, Open Space, and Commercial to Medium Density Residential, Professional Office, Open Space, and Commercial. Suburban Land Reserve, LLC applicant.

John Willis presented a General Plan Land Use Map amendment for property generally located between 3000 East Street and the Virgin River. He showed an aerial and zoning map of the area. On January 8, 2015 the City Council approved the Commercial land use designation. The remaining portion of the proposal was tabled by the Planning Commission with the direction to modify the proposal. The applicant proposes a commercial center on the northwest intersection. Policy states that it should be located in specific areas to reduce cross town travel. Additionally, the applicant is proposing medium density residential on the south side. Currently, a portion of the property south of Mall Drive is in the floodplain and will be zoned Open Space. Any development that will occur within the erosion hazard boundary will have to be mitigated in the future. He then showed pictures of the area. Planning Commission recommends approval.

City Manager Gary Esplin provided an update on the drainage issue in that area. He explained that there is a tentative agreement with the property owner to provide the necessary property and combine the easements to construct a major drain from 3000 East to the River. It is anticipated that construction will be completed by July 1, 2015.

Councilmember Bowcutt asked what would need to be done to mitigate the erosion hazard boundary.

Mr. Willis explained that the developer will have to do an erosion hazardous boundary study which will tell them what will need to be done.

Mayor Pike opened the public hearing.

Kelly Prince, resident, asked what the plans are for the sides of the roads for bikes and those that walk. The new intersection is precarious. Additionally, she asked when a stop light will be installed.

Mayor Pike answered that a signal was approved for 3000 East and Mall Drive. It is currently in the design phase.

Jay Sandberg commented that the drainage project and road widening will have to be done first.

City Manager Gary Esplin explained that it is important to know that the City has built the road. The City's policy is to have the developer cover the cost to widen the road. As this development occurs, that section will be built; however, in construction of the new drainage a trail will be put in that will go from 3000 East to the bridge on the south side of the road. The trail will be done by July, 2015.

Mayor Pike closed the public hearing.

MOTION: A motion was made by Councilmember Almquist to approve the amendment to the General Plan Land Use Map for approximately 105.9 acres currently zoned Low Density Residential, Medium Density Residential, Open Space, and Commercial to Medium Density Residential, Professional Office, Open Space and Commercial as has been outlined in the presentation.

SECOND: The motion was seconded by Councilmember Bowcutt.

Mayor Pike mentioned that 3000 East and Mall Drive are 90 foot roadways.

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/GENERAL PLAN AMENDMENT/ORDINANCE:

Public hearing to consider an amendment to the General Plan Land Use Map for approximately 3.996 acres generally located at 3100 South on Bloomington Drive near the Driving Range by changing the land use designation from Golf Course and Open Space to Low Density Residential. Bloomington Country Club, applicant.

Ray Snyder presented a request for a General Plan Land Use Map amendment for property located at 3100 South on Bloomington Drive. He showed zoning and aerial maps as well as photos of the area. The amendment would create three parcels to be zone low density residential. He read the comments from the Planning Commission report. If approved, the applicant will return with a zone change request.

Councilmember Bowcutt explained that access was discussed at the Planning Commission. That will be determined when the developer comes in with a plan; it is not being addressed at this time.

Mayor Pike opened the public hearing.

Wendy Johnston, resident, stated that she is concerned with how many homes will be built there. She understands that access will be this will be addressed further in the process. The property is on an s-bend on Bloomington Drive. The visibility is in question with regard to driveways that enter onto Bloomington Drive. There are residents who are concerned with what is happening in the neighborhood.

Larry Thaymer, previous president of the Bloomington Country Club, explained that when this project goes further, they will mitigate the issues with regard to parking and access. On the east side, some of the lots on the driving range will have to be walk out basements.

Mayor Pike closed the public hearing.

MOTION: A motion was made by Councilmember Arial to approve the amendment to the General Plan Land Use Map on approximately 3.996 acres generally located at 3100 South on Bloomington Drive near the driving range by changing the designation from Golf Course and Open Space to Low Density Residential.

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.

PUBLIC HEARING/ZONE CHANGE/ORDINANCE:

Public hearing to consider a zone change from Open Space and A-1 to RE-20 on property located at approximately 3900 South and Bentley Road. Development Solutions Group, Inc., applicant.

Ray Snyder presented the request for a zone change for property located at approximately 3900 South and Bentley Road. He showed maps and photos of the area. Notice letters were sent to property owners within a 500 feet radius.

Mayor Pike opened the public hearing.

James Oliphant, resident, stated that he has interest in the property to the south of this lot. He commented that he is not sure what FEMA is doing in the area and mentioned that there was a flood in 1996. The Ft. Pierce drains 6,000 square miles, when it rains it floods heavily. He has lived on his property for 35 years. The channel of the wash has changed over the last few years. He was told by the City Council approximately five years ago that they would never change the OS because it is a potential flood zone. He wanted it changed to utilize his property and was told no. When Quality Excavation was there, their pit was flooded in 2001 and 2005. The existing flood plain he has shows the 100 year flood zone running in a different direction. He wants to know if the City Council will allow him a zone change. His concern is that the soil there is top soil brought in the by the Ft. Pierce Wash. He is not trying to stop development, but he wants the developer to go forward with all of the information.

Ila Oliphant, resident, explained that she was told that the 100 year flood has not happened yet. When it does, the flood will destroy all of the homes. The Ft. Pierce Wash has a lot of power behind it.

Mayor Pike stated he has a photo taken in 1915, hanging in his office that shows the washes at flood stage. He then closed the public hearing.

Councilmember Almquist asked what the red line represents on the map he displayed.

Mr. Snyder explained that the red line is the erosion hazard boundary, the blue line is the 100 year flood plain and the blue dashed line is flood way limits. He further explained that the entire green area is the 14 acres and the developer will have to show they meet FEMA requirements.

City Manager Gary Esplin stated that the developer will have to take the erosion protection south into the Ft. Pierce Wash and to protect the bank and the property. The maps from FEMA show this property to be outside the 100 year flood plain.

Jay Sandberg explained that the original erosion hazard boundary adopted by the City did not show this area. It followed the boundary of the 100 year flood plain. The original maps ended at River Road. A few years ago, the City cooperated with some of the property owners and mined some gravel out of the River. In doing so, the erosion hazard boundary was updated. The consultant stated that some of the areas that were mined needed to be looked at. When Development Solutions looked at this, they determined that not much was mined in this area. Their study determined that the line moves back closer to the River. There is some potential erosion near Commerce Drive; therefore they are planning on doing bank protection. The City is working with property owners to have a better crossing on Commerce Drive. A consultant was hired and will be looking at the flood plain and erosion in this area.

City Manager Gary Esplin stated that this is a zone change not a development plan. In the past, the policy has been that if a property is outside the 100 year flood plain, they have the right to develop their property. Before the subdivision plats come in, staff will require the studies and the flood plain analysis. He hopes to complete Commerce Drive prior to the development. The City is spending money to keep the channel as clear as possible.

Mr. Oliphant commented that FEMA's study was done with 1 inch of water and a 25 mile range.

Mr. Sandberg explained that the study looked at approximately 1500-1600 square miles. FEMA have methods that they use to look the areas.

City Manager Gary Esplin explained that the City is doing improvements on River Road and the bridge. Staff recognizes that the area is a bottle neck.

Mr. Oliphant commented that the City Council should get all of the facts before they approve a zone change.

Mayor Pike stated that nothing will happen until the next step.

City Manager Gary Esplin explained that the property is outside of the existing 100 year flood plain. Denying their application to do further studies is not fair to the developer.

There are concerns and a need for further studies; however their application meets the current requirements. Staff cannot argue with the engineers.

Councilmember Hughes stated that what the zone is being changed to is more acceptable than R-1-10 or less. FEMA says this is not in the flood zone. He agrees with the City Manager with regard to not denying the request at this point.

City Manager Gary Esplin commented that he has seen a lot happen. In his opinion, the City is light years ahead of any other community in Southern Utah with dealing with erosion protection. In the 2005 flood, homes went into the River not because of the volume of water in the River; rather the long term erosion was not mitigated. The City has spent millions of dollars providing the erosion protection from the River. The erosion protection hazard line is dealt with every time a development comes into the City. Doing this will protect their property as well as other properties that do not have protection.

Councilmember Almquist stated that he has not heard from the applicant.

Ryan Thomas, representing the developer, stated that there are concerns with the development being adjacent to the floodway, but they are outside of the current 100 year flood plain, therefore, he believes their request is okay to develop the area. They work closely with City staff and will make sure that the development is built to industry standard.

MOTION: A motion was made by Councilmember Hughes to approve the zone change from Open Space and A-1 to RE-20 on approximately 14.01 acres.

SECOND: The motion was seconded by Councilmember Arial.

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

Councilmember Almquist – nay
Councilmember Hughes – aye
Councilmember Bowcutt – aye
Councilmember Arial – aye

The motion carried.

Councilmember Almquist explained that he voted nay because he believes the City is close to seeing a real study that has a bit more data.

Councilmember Bowcutt stepped out.

AWARD OF BID:

Consider award of bid for a 6,000 pound overhead wire puller for the Energy Services Department.

City Manager Gary Esplin advised that this item is included in the current budget.

Connie Hood explained that there are only two suppliers for this particular wire puller. The bid came in under budget at \$121,826; the low bidder was NESCO.

MOTION: A motion was made by Councilmember Hughes to approve the amount for the overhead wire puller of \$121,826.

SECOND: The motion was seconded by Councilmember Arial.

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.

Councilmember Bowcutt returned.

AWARD OF BID:

Consider approval of a change order for the Sand Hollow Wash Bridge & Trail Extension Professional Services Agreement with Rosenberg Associates.

Connie Hood advised that this request is for change orders in the amount of \$50,324 for the Sand Hollow Wash Bridge & Trail Extension project.

City Manager Gary Esplin explained that the Council changed the project in the middle of design phase.

MOTION: A motion was made by Councilmember Almquist to approve the Sand Hollow Wash Bridge & Trail Extension Professional Services Agreement with Rosenberg Associates.

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.

AWARD OF BID:

Consider award of bid for the annual crack seal project.

City Manager Gary Esplin advised that under the pavement management program, this is one of the major items that the City does each year to preserve the streets.

Connie Hood explained that the low bid came in at \$361,840 from Superior Asphalt. The cost is less than last year.

MOTION: A motion was made by Councilmember Arial to award the bid for the annual crack seal project to Superior Asphalt for \$361,840.

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.

FINAL PLAT:

John Willis presented the final plat for Fieldstone Phase 2, a 6-lot residential subdivision located on the Southside of Crimson Ridge Drive at approximately 2240 East, zoning is R-1-10. The applicants are proposing to use lot size averaging and the Planning Commission recommends approval.

MOTION: A motion was made by Councilmember Almquist to approve the final plat for Fieldstone Phase 2.

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.

FINAL PLAT:

John Willis presented the final plat for Red Storm Town Homes, a 12-lot multi-family residential subdivision located at 487 South 1100 East, zoning is R3. Planning Commission recommends approval.

MOTION: A motion was made by Councilmember Hughes to approve the final plat for the Red Storm Town Homes.

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.

PRELIMINARY PLAT:

John Willis presented the preliminary plat for The Reserve at River Hollow, a 16-lot residential subdivision generally located at 1200 South 2670 East, zoning is RE-20. The Planning Commission spent quite a bit of time reviewing this plat. He showed aerial maps of the location. A zone change was approved by the City Council on September 4, 2014. The applicant is proposing flag lots that will be accessed through the cul-de-sac, which the Planning Commission approved. Additionally, they are proposing double fronting lots along 2780 East and will require a 10 foot landscape strip with a 6-foot privacy wall. The subdivision will become part of the River Hollow HOA. There was a lengthy discussion regarding the park strip. If the home owner does not maintain the park strip, the HOA would be responsible to maintain it. The Planning Commission felt that the cul-de-sac was

acceptable in that area. An agreement to maintain access for the flag lots will be required and will be subject to approval by the Legal Department. The Planning Commission recommended approval subject to the following conditions: 1) Approval by the Legal Department; 2) The HOA CCRs stating that the lots are required to maintain the landscape strip, the HOA reserves the right to maintain them in the event that the low owner does not maintain them and charge back to the owner; and 3) The ownership and maintenance of the flag lot is subject to approval by the Legal Department.

Councilmember Bowcutt inquired if there was an existing road where the cul-de-sac comes in.

Mr. Willis explained that there is an old dirt road. The size of the flag lots are 1.24 acres. The developer and applicant are trying to have an estate feel with this development.

Ray Alton, engineer, stated that the developer has agreed to the stipulations of the Planning Commission. There is some existing landscaping in front of the property that will remain.

MOTION: A motion was made by Councilmember Hughes to approve the preliminary plat for Reserve at River Hollow with the conditions and comments from the Planning Commission.

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.

MEMORANDUM OF UNDERSTANDING:

Consider approval of a memorandum of understanding between the City of St. George Police Department and the Department of Veterans Affairs Police.

City Manager Gary Esplin advised this is a memorandum of understanding between the City of St. George Police Department and the Department of Veterans Affairs Police to help them in their efforts.

City Attorney Shawn Guzman explained that there an outreach clinic on Tabernacle; however, their police are located in Salt Lake City.

MOTION: A motion was made by Councilmember Arial to approve the memorandum of understanding between the City of St. George Police Department and the Department of Veterans Affairs Police and authorize the Police Chief to sign.

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.

REPORTS FROM MAYOR, COUNCILMEMBERS, AND CITY MANAGER:

Councilmember Arial mentioned that Art Around the Corner asked to use the marquee to advertise their events. Additionally, she had a couple of people inquire about internships with the City.

Mayor Pike told Councilmember Arial to coordinate that with Marc Mortensen. He stated that she can speak to him and City Manager Gary Esplin regarding internships.

Councilmember Hughes commented that the Flood Control Authority meeting was pretty uneventful. They received a grant from the NRCS.

Mayor Pike commented that the Flood Control Board is still pursuing access agreements for the River.

City Manager Gary Esplin commented that the Army Corps have been good to work with because the City has a plan.

Councilmember Hughes mentioned that the Flood Control Authority is taking all of the communities and working together.

Mayor Pike mentioned that the City may have a new City Treasurer soon. Additionally, he mentioned the Mayors meeting that he attended Tuesday night. The Solid Waste Board meeting is meeting Monday night at 5:00; they will consider curbside recycling. Currently, they have two proposals.

Councilmember Almquist commented that it was nice to see Channel 4 do the report on SwitchPoint. He mentioned that the Mosquito Abatement District is concerned with the warm temperature.

Councilmember Bowcutt stated that he missed the Planning Commission meeting.

Councilmember Arial mentioned that the Art Museum is hosting a paper wedding dress fashion show on Saturday. Admission into the Art Museum will be free that day.

Mayor Pike commented that it is fascinating to see the progress being made on the Electric Theater.

ADJOURN TO CLOSED SESSION:

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

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.

The meeting reconvened after the Closed Session.

City Manager Gary Esplin advised that the SASO agreements were taken off agenda because Mark and Scott Gubler, who own the hangar, used to have a commercial license and let it lapse. They were going to petition to have it reinstated and then lease it to Duane Adams for his business. Staff has been working with him for at least four years. They are operating without a license; do not have a lease and are operating commercially. The Adams' have other hangars that are not licensed that they are operating a business out of. They are storing their airplanes, performing maintenance and running a flight school out of them. Staff would have been okay with Mr. Adams using the Gubler's hangar, but they found out that they have six tie downs and are paying for three. The State Tax Commission said that Kolob Air has a hangar and they are storing seven airplanes that may have something to do with unpaid taxes. The chief mechanic for Kolob Air is listed as Duane Adams. He is not insured correctly. Staff does not want tie downs to be used as storage for inoperable airplanes. He proposes telling the Gubler's and the Adams' if they want to consolidate all of their belongings into one hangar, they should obtain a building permit, get plans approved, obtain an appropriate lease and start construction, otherwise they cannot continue to operate. Ms. Adams' daughter has been meeting with staff and told them that if they are shut down, they will go out of business.

City Attorney Shawn Guzman explained that Mr. Adams did sign a lease once he was at the new airport for approximately one year. The lease had drop dead dates for reconstructing the former hangar, which they missed so the lease was breached and gone. This current version of the lease states that they had to have the building done this month.

Mayor Pike stated that was in one of the meetings, Mr. Adams was ready to sign the lease.

City Attorney Shawn Guzman explained that he has not seen a completed site plan, which is needed to determine rent. This issue came to a head because the hangar that they were in had a lower rate for those who are using, or subleasing to someone, for their airplanes for recreational use, as opposed to commercial.

City Manager Gary Esplin stated that the FAA requires the City to get a fair market return on the lease of the property.

City Attorney Shawn Guzman explained that they are inside the gate. Although they follow the safety requirements, they should not be inside the gate because they do not have a lease. He can tell them that they do not have a lease and cannot operate until they have fulfilled the requirements needed to approve the lease. Additionally, they would have to sign the lease and build the building.

City Manager Gary Esplin explained that when this situation occurred at the old airport, there was sympathy from private plane owners. If they want to do business, they have to abide by the insurance requirements and have the proper permits.

Councilmember Hughes commented that the Airport Board may help.

City Manager commented that he would like to give them a chance; however, they need to get their operations in order. If Mr. Gubler allows Mr. Adams to sublease his hangar for a year, that is okay.

City Attorney Shawn Guzman advised that he would not allow Mr. Gubler to sublease the hangar to Mr. Adams until everything is in order. They can obtain subleases from other hangars; however staff would have to look at their location.

Councilmember Almquist commented that at some point the City Council said the hangars were not to be treated like storage units.

Mayor Pike replied yes.

City Manager Gary Esplin explained that fair rates need to be determined and that everyone needs to pay them. Additionally, insurance needs to be adequate.

The consensus of the Councilmembers is to go with the City Manager's recommendation.

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.