

SOUTH JORDAN CITY  
CITY COUNCIL SPECIAL MEETING  
AND EMERGENCY MEETING  
COUNCIL CHAMBERS  
DECEMBER 22, 2015

**Present:** Mayor Dave Alvord, Councilman Mark Seethaler, Councilman Chuck Newton, Councilman Steve Barnes, Councilman Chris Rogers, Councilman Don Shelton, CM Gary Whatcott, City Attorney Ryan Loose, COS Paul Cunningham, CTO Director Jon Day, CFO Sunil Naidu, Development Services Director Brad Klavano, City Commerce Director Brian Preece, Strategic Services Director Don Tingey, Council Elect Tamara Zander, Council Elect Brad Marlor, Council Elect Patrick Harris, City Recorder Anna West

**Others:** Laura Lewis, Ty McCutcheon, Rulon Dutson

**Special Meeting 4:00 p.m.**

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

Mayor Alvord welcomed everyone present. He noted they have a quorum present, all but Councilman Mark Seethaler who must be en route.

Councilman Newton mentioned Mr. Seethaler was just outside in the hallway.

B. Invocation – *By City Manager Gary Whatcott*

City Manager Gary Whatcott offered the invocation.

Mayor Alvord said before we move to item C., I would like to hear a motion from Councilman Rogers.

**Councilman Rogers said I move that we table the items of Resolution R2015-50, Ordinance 2015-17, and Resolution R2015-83 and lay them on the table pursuant to Roberts Rules of Order. Councilman Shelton seconded the motion. Vote was 2-2. Councilman Newton opposed, Councilman Barnes said I am opposed. Mr. Barnes said I would like to move that we wait for Mr. Seethaler to make this vote.**

Mayor Alvord said the vote is 2-2. He asked City Attorney Loose who makes the tie vote, the Mayor?

City Attorney Loose said yes. In the case of a tie vote the Mayor votes.

**Mayor Alvord said then I will also vote yes to this motion.**

**Councilman Rogers said as a priority motion, I motion that we adjourn the meeting. This is a non-debatable motion. Councilman Shelton seconded the motion. Councilman Newton was opposed and Councilman Barnes said he was strongly opposed; I think we should wait for Mr. Seethaler to vote who is now here.**

**Mayor Alvord said I vote to break the tie, and say aye, meeting adjourned.**

Mayor Alvord called the meeting adjourned at 4:06 p.m. He stood up and walked out of the room.

Councilman Seethaler entered the Council Chambers at this time.

Councilman Newton said “Mr. Seethaler, you just missed; we just adjourned without a vote.”

**Discussion held after the meeting was abruptly adjourned:**

*Councilman Barnes asked City Attorney Loose how to call an emergency meeting.*

*City Attorney Loose said let me look at the ordinance. He said consistent with the law you can disregard notice because of unforeseen circumstances that is necessary to hold an emergency meeting to consider matters that are of an emergency or urgent in nature. City Council can give the best notice practical before holding the meeting. Notice includes time, place of the emergency meeting and the topics to be considered. An emergency meeting may not be held unless an attempt has been made to notify all members of City Council and the majority of the Council Members approve the meeting. So, the first item of business in an emergency meeting has to be why the emergency meeting is being held and why the notice required for a regular meeting was not practical and what notice was given.*

*Councilman Newton said since notice was given, Mr. Seethaler was here; Mr. Seethaler stepped out to use the facilities; does taking a vote while Mr. Seethaler is using the facilities constitute an emergency and allow us to re-open the meeting?*

*City Attorney Loose said emergency is generally things of a physical or urgent nature such as a natural disaster. If you as Council deem this as an urgent nature, you could call an emergency meeting and go through that analysis.*

*Councilman Barnes said I do deem this as urgent in nature and would like to move that we hold an emergency meeting of the South Jordan City Council according to section 2.040.20(C) of the City Code under City Council meetings.*

*Councilman Seethaler said that is one of two criteria. Would you help us define that?*

*City Attorney Loose said it doesn't define it. If you deem it urgent, if the majority of the Council deems it urgent by vote, it is urgent.*

*Councilman Seethaler said lets be objective about this. Urgent has a definition that is generally accepted. Nobody is in charge here.*

*City Attorney Loose said you are not in a meeting currently.*

*Councilman Newton asked how do we start a meeting then?*

*City Attorney Loose said you would need to call it by a majority vote. He said once three of you vote that you are in the meeting, if three people vote that you are in a meeting then you state why notice wasn't given, the time and place and go through analysis and we can go one by one through there.*

*Councilman Rogers said and that would be a special meeting?*

*City Attorney Loose said it would be an emergency meeting, not a special meeting. This was a special meeting. Special meetings require the regular notice. In the present circumstance where everybody is here because it was a meeting and it was noticed, a lot of the questions are answered.*

*Councilman Seethaler said let me just quote from two or three sources. According to the Oxford Dictionary, "urgent" is something that requires immediate action or attention. According to your dictionary the definition of "urgent" is something pressing or important; something that requires immediate attention. Based on the fact that this is something that requires immediate attention or if that can be established, then I think that is a fair definition of urgent.*

*City Attorney Loose said if you look at emergency also, I can't find a quick definition in our code, the general definition is "serious, unexpected, often dangerous situation, requiring immediate action." So, if you want to use emergency and you as the majority of the Council, find an emergency as "a serious, unexpected situation, requiring immediate action," you could do such also.*

*Councilman Seethaler said this is serious, as is much of the business that comes before this Council.*

*Councilman Rogers asked Mr. Loose where he found the emergency section in our code.*

*City Attorney Loose said that emergency meeting is in section 2.040.20(C) of the City Code under City Council meetings.*

*Councilman Seethaler asked if the Mayor is the only one that left.*

*Councilman Newton said I think that the Mayor decided that he had adjourned.*

*Councilman Seethaler said yes, but everyone else is here; right?*

*Mayor Alvord, who had left the Council Chambers previously, returned to the doorway of the Council Chambers at this time and stated "the meeting was adjourned; you are having an illegal meeting" to which City Attorney Loose stated: "actually, they are discussing calling an Emergency Meeting and, by law, are required to come together for that purpose – so this is a legal discussion.*

*Councilman Barnes said we are deciding on an emergency meeting.*

*City Attorney Loose said they are calling it an emergency meeting. You would have to have a quorum vote to call an emergency meeting. He said it states here that you have to have a quorum vote to make it an emergency meeting. So they would have to meet up at some point to call the emergency meeting.*

***Councilman Seethaler said if we wanted to limit our business to that I second Mr. Barnes motion for an Emergency Meeting. Councilman Newton said I would third that.***

*Councilman Newton said with that in place we now have an Emergency Meeting.*

*City Attorney Loose said there has to be a vote and I believe Ms. West can take the roll call.*

*Roll Call Vote was 4-1 in favor. Councilman Rogers was opposed.*

*Councilman Seethaler said now is there a notice requirement.*

*City Attorney Loose said the notice, you had to give the best most practicable notice before the meeting given the sequence of events, there was no notice given other than your discussion. Then the first item of business is why the emergency meeting is being held and generally that would be done by the person who made the motion.*

*Councilman Barnes said I feel it is necessary to have this emergency meeting due to the quick and unexpected closing of the last Special Meeting without one of our present members in the room to make a vote as to whether or not we would continue the meeting. We have been deliberating this and discussing this for months and have planned for weeks on having this special meeting this night that has been noticed and it is certainly of a time sensitive importance that we as a Council make a decision and that Kennecott Land receive a decision as well. The notice required for this emergency meeting was not reasonably practical because we just barely had the unexpected adjournment of the prior Special Meeting necessitating moving into an emergency meeting. Noticing of this Emergency Meeting is this decision given right now.*

*City Attorney Loose noted for the record that the majority, but not all of the audience remained during the discussion and it appears that the majority of the audience has returned back. You are in an Emergency Meeting now.*

13:37 of the recording  
City Council Emergency Meeting  
December 22, 2015  
South Jordan City Council Chambers:

Councilman Newton asked if the elected Mayor is going to participate or do we need to appoint a Mayor Pro Tem?

Mayor Alvord then returned to the dais and said I'm back. He chaired the meeting at this time.

City Attorney Loose said there now needs to be a motion to adopt or set an Agenda.

**Councilman Newton made a motion to adopt the Agenda from the December 22, 2015 Special Meeting that was to start at 4:00 p.m. and suddenly adjourned at 4:06. Councilman Barnes seconded the motion. Vote was 4-1; Councilman Rogers voting no.**

Councilman Rogers asked if there would be any legal issue by potentially not satisfying the noticing criteria.

City Attorney Loose said no, you can adopt a resolution and other orders during an Emergency Meeting if you followed the outlined steps. Whereas this was noticed as a Special Meeting, and everyone interested who wanted to come was here. It happened so close in sequence and time I think we could

argue and defend going into the Emergency Meeting that anybody who was interested in it would have fair chance to be here and hear and speak on the issues.

Mayor Alvord said “except for the fact that it is not an emergency.” That is the harder one to defend.

Councilman Barnes said 4 out of 5 of us voted it was.

City Attorney Loose said emergency or urgent in nature and the majority of the Council voted that it was one and or the other.

Mayor Alvord said let’s move on to Item C. He said the reason this was tabled, I will just state this for the record; it’s December 22<sup>nd</sup> and we have a new Council coming in on January 4<sup>th</sup> and the City is about to Bond for 37 million dollars and it is not an evening of a regular meeting. We have our regular meetings twice a month on the first and third Tuesday of the month and we have created a Special Meeting, which I believe was a political calculation because there were the votes. I have counted the votes of the incoming Council and it is 5-0 or 4-1 at the very best. This would not have passed in two weeks at the next regular meeting. I just want to make that clear for the record.

Councilman Barnes asked if the incoming Council had a deliberation off the records without being presented all of the information. I am not saying this is illegal but it is definitely not a good practice.

Mayor Alvord said the coming Council has been attending the meetings and if you have confidence that the coming Council will vote for this then you will happily table this item.

Councilman Newton said why? We are here now and we have known about this for six months; we have been working on this and talking about this for a year and a half. Why should we push to them something that we perfectly have the ability to do? The only reason it wasn’t on a regular scheduled City Council meeting for the last two Council meetings was to allow them to take care of some of the details with the appraisal and the bond details and the bond documents. It was a matter of practicality to wait until everything was completed. We have had two City Council Work Sessions on this where you were present Mayor because you conducted the meeting. Questions were asked and everybody supported this all the way along the line up until now.

Mayor Alvord said at that meeting we gave Gary the instructions to negotiate a better deal for us and he came back empty handed and there is no discussion item; these are now action items. We have not even had an opportunity to send them back to the negotiating table.

Councilman Barnes said I don’t think that is true and Councilman Newton said that is wildly inaccurate.

Mayor Alvord said that was the final instruction of the Work Meeting. He said I also think that before we vote on these items that we need to go into a closed meeting because there is a component to this deal that is a subject of a closed meeting that cannot be discussed in an open meeting, which actually makes this meeting very unfortunate.

Councilman Newton said I don’t think that makes a bit of difference.

Mayor Alvord said it makes a huge difference. In a few minutes I am going to hear that our relationship is so valuable and it is with a party whose relationship is in question at this point. That is all I am going to say.

Councilman Newton said I disagree because you, in an email earlier today, you indicated and asked the City Manager about impact fees; did you not? Do you recall that email that you sent? The fact of the matter is, Mr. City Manager correct me if I am wrong, but Daybreak doesn't pay any impact fees. Is that correct?

City Manager Whatcott said no; they do not.

Councilman Newton said in the course of impact fees that are paid by the developers and are to help develop the infrastructure, if you look at it this is just one giant impact fee that is going temporarily in the reverse direction until people turn around and purchase the property and then it comes back to us and allows us to accelerate it. I don't care which of the developers that Daybreak may bring into the community to develop individual sections as they have already been doing for the last 15 years, the net effect is that instead of 1600 acres taking 15 years to develop, this will allow 2200 acres to develop mostly out over the next 10 years. Just look at it as impact fees; that is really the bottom line here.

Councilman Rogers asked if we were going to proceed with the Agenda as outlined or if we are going to do some other items on the agenda?

Mayor Alvord said what I was alluding to is before we get to item C., because we did send Mr. Whatcott with some instructions and we have not yet met publicly with the results of those negotiations. It would seem to me that we would have a discussion item ahead of item C.

Councilman Newton said did you not read Mr. Whatcott's email this afternoon.

Mayor Alvord said that wasn't in a public meeting. Did the public hear anything about this? There is also a closed session item that I think is very germane to this conversation which we cannot have in a public meeting.

Councilman Seethaler said Mayor, pending Mr. Loose's approval; I move that we move into a closed session for the discussion of potential purchase, exchange, or lease of real property including confidentiality or confidential issues pertaining to that which are germane to the discussion this evening.

City Attorney Loose said you should make a motion to amend the agenda to add the closed meeting.

**Councilman Seethaler said I motion to amend the agenda to add a closed meeting for the discussion of potential purchase, exchange, or lease of real property including confidentiality or confidential issues pertaining to that which are germane to the discussion this evening.**

**Councilman Rogers seconded the motion.**

City Attorney Loose said asked the recorder if she understood the motion being made. He said Mr. Seethaler made a motion to amend the agenda to add a closed session for the purchase or sale of real

property that was seconded by Mr. Rogers and then Mr. Seethaler made the motion to go into the closed session which was also seconded by Mr. Rogers.

City Attorney Loose said I missed one formality. I think we should vote on the two motions separately. First take a vote on the motion to amend the agenda and the vote to go into a closed meeting.

**Councilman Seethaler said I motion to amend the agenda to include a closed session for the discussion of potential purchase, exchange, or lease of real property with confidentiality matters associated with that. Councilman Rogers seconded the motion.**

**Councilman Newton said I would like to make a substitute motion that taking into everything that Mr. Seethaler just said, but before we do that that we also add to the Agenda Item B.1. Include a report from the City Manager Whatcott on the assignment given, and B.2. Adding a closed meeting for the discussion of potential purchase, exchange, or lease of real property with confidentiality matters associated with that. Councilman Rogers seconded the motion.**

**Councilman Rogers said are you saying that your motion is Mark's motion plus adding a report from Mr. Whatcott. Councilman Newton agreed. Councilman Rogers seconded that motion.**

Councilman Barnes said I am curious as so what real estate it is that we are talking about.

City Attorney Loose said we have been in closed meeting on this for the same real estate before and we are all on the same page.

City Attorney Loose said we have a substitute motion to amend the agenda adding basically item B.1. a discussion or report from City Manager Whatcott on the assignment given and B.2. a closed meeting for the discussion of purchase or disposition of real property.

Mayor Alvord asked for a point of clarification. He said in the past we have had the Council Elect in the previous closed meeting on this topic, is that going to be the case tonight. Is that included in your motion Mr. Seethaler?

Councilman Seethaler said I would be pleased to have them here if that needs to be part of the motion.

City Attorney Loose said you can invite in that meeting who the Council desires to invite. They have all signed the confidentiality.

Councilman Newton said there is also the Bond Attorney representation here that needs to be present.

City Attorney Loose said generally that is not part of the Agenda process for motion. I would say take the vote on the motion and as we disperse to go into closed session that you invite those you want to attend.

**Mayor Alvord called for a Roll Call Vote. Roll Call Vote was 5-0 in favor.**

B.1. Report from City Manager Whatcott on Assignment given by Council

City Manager Whatcott said beyond my explanation of my email today, I was in charge of putting the agenda forward today and in response to your comment that you thought this was politically motivated I wanted to be clear on my part that I had no political motivation for this meeting. This was clearly a timing issue about documents being prepared as far as my estimation. The reason I put the meeting forward for this time and day, which I explained to you all previously was we did not have the right documents prepared for the meeting last week. I wanted to be clear on the record for that. I had no political motivation to move it. I would have preferred to have it on the meeting of December 15<sup>th</sup> but we just didn't make the deadline. The quick answer that I gave the Mayor in his response to me did I negotiate with Kennecott, the answer was yes. I met with Ty McCutcheon and we talked about the various aspects of this. Within that we talked about whether or not we would open negotiations beyond physical things such as parks or other amenities that the City might want. I know there has been some indication as to whether or not the Master Development Agreement could be opened and re-established in a different manner. Mr. McCutcheon explicitly told me that that was not something that he wanted to engage in and did not want to negotiate that further. We were able to negotiate a park. The original park was somewhere between 12 and 15 acres and we negotiated about a 20 acre park in this assessment area. This would not have happen now or in the foreseeable near future. Somewhere down the road it may have happened, I agree. This accelerated the need for the park to be done as I stated in my email and accelerated it by multiple years. I felt this was a good thing for us because I felt it was a real tangible item that we needed. Sports fields and turf fields were needed and this was going to help this progress faster. We also talked about commitments to the Welby project, which you all know is a park. We did talk about their financial commitment to the Welby. That was restated to me again by Ty that they are willing to do and are providing cash to us for the development of the Welby Park. That was the best I could do. I am not sure I was given parameters, expectations. The last words I recall was "Gary, go work your magic." I did the best I could with this particular assessment bond. In my opinion there isn't a lot of leverage here. You may have a different interpretation of that but this wasn't something to leverage in my opinion. This had benefit from both of us and probably why in the later part of my email I go into more issues that go beyond the negotiations that I am not going to share here. That's my report back to you. My failure is probably not responding to your assignment more timely, which may have changed your opinions one way or the other about this meeting or meetings in the future; I apologize for that. The last parting words that Ty and I had were that Ty wanted to visit with each one of the Council and the Mayor. I don't know whether that has taken place. Ty represented to me that he had talked to most of you. I felt that was a good thing to hear from Ty and understand where he was coming from and why negotiations were limited to where we are with a park and some commitments to another park. I can't speak for Ty other than what he has relayed to me and that was that he tried to reach most of you and had some conversations about his feelings.

Mayor Alvord thanked City Manager Whatcott for his report. He said by the way I heard you say your mistake or failure, I can't remember which word you used. I just want to make sure you know that you were not given clear parameters for negotiation and so I don't hold you at any fault for any lack of negotiations that didn't occur. It was very vague and nebulous. It sounds like you fulfilled perfectly my expectation to you. I think where it felt a bit rushed was that we hadn't yet met in a quorum to discuss the results of those negotiations and to see if we wanted to accept or turn it up a little. As far as when I say it was politically motivated to have the meeting on the 22<sup>nd</sup> the only reason that thought would go into my mind was typically when we had a meeting that was regularly scheduled and something comes up that it's not ready to be discussed, it would be moved to the following Council agenda, which in this

case would have been in January and it would have been a new Council. That's where I think the calculation came in to say hey we've got Mark and Chuck and Steve and we've got some people that are favorable to this project, let's have a Special Meeting on the 22<sup>nd</sup>. I feel like you are loyal to the majority of the Council no matter who is the majority. I don't think you play favorites. I am not trying to lay any kind of claim like that, I am more speaking to the members of my Council as to why this meeting is a bit irregular when we gave instruction for negotiation and comes back to us in an email and we have not even met as a quorum to actually deliberate on it like we are supposed to in a legal fashion. Most deliberations should occur with the public view.

Councilman Barnes said isn't that the point of this meeting?

Councilman Seethaler said thank you.

Mayor Alvord said certainly; but the meeting could have very well happened on January 4<sup>th</sup>.

Councilman Newton said with all due respect we have been holding three and sometimes four meetings a month in the last year and we are all a bit ragged.

Mayor Alvord said this is a regular meeting agenda item and we are discussing a 37 million dollar bond.

City Manager Whatcott said Mayor if I could respond to your comment just briefly. I think the urgency that I felt was maybe to our partners, Kennecott and to Laura Lewis' time, bond council and all these people have been working at a fevers pitch for the 15<sup>th</sup> and that was really the target date. We didn't make the deadline and I think everybody was a little disappointed that I pulled it off the 15<sup>th</sup> Agenda trying to balance all the balls in the air and trying to please everybody as much as I could. In behalf of our partners, Kennecott, I really put it on to get the thing done, not by whose Council was here, but we really were trying to meet some deadlines. If this were to pass there are other agenda related things that would have to happen that would take up a lot of time. We have to get bond ratings and numerous things that go down the road that starts to push out the ability to actually get the project, if we were to do it, done and get the right biddings of the projects and so on. That was more of the determination on my part than it was from the politics side of it or the meeting date. I felt like I pushed them and then I said not we're not going to put it on the meeting if you're not ready so I gave a deference by having another meeting and that is all there was to that.

Mayor Alvord said everything would have been pushed back by two weeks. Two weeks isn't a whole lot of time on a deal like this.

Councilman Barnes said we all agreed to have this meeting tonight at this time several weeks in advance. This was all discussed amongst all of us. We have been very public about the fact that this meeting would happen this night. No one is trying to push anything under the rug.

Councilman Shelton said he would like to ask City Manager Whatcott a question. He said it is not clear in my mind if the 20 acre park that we are talking about represents an increase in the amount of open space that Kennecott Land has agreed to provide us or is that just an acceleration?

CM Whatcott said it is acceleration. It would still count towards their total open space as would any other park that is built there. It is not in addition to the twelve hundred acres.

Mayor Alvord said we didn't get more green space we just got a little bit of a commitment to start building soon. Maybe an argument could be made that they are late on that. The Welby project was already committed. He said it was a re-statement. It is almost like they just reminded us of what they are bringing to the table rather than asking for something new they just said don't you realize you are getting x, y and z. That was a negotiated contract years ago with John Geilmann and Kent Money. Now they are coming to us for an additional ask; acceleration isn't necessarily a big win for Joe South Jordan; it is just an acceleration.

Councilman Newton said say we got another hundred acres of open space? That is not necessarily a win. It is a double edge sword. That would require more staff, bigger City administration, bigger budget and more taxes. Do you really want to go there?

Mayor Alvord said that is not the preferred negotiated item I would ask for.

Councilman Newton said as you recall, Mr. Marlor made a point to us about accelerating this and the fact that they are willing to do so I think will be good for the City and is a real win because doing so was going to incur some significant costs. Realistically, in my opinion, going forward with this overall will be a real win for the City because it is a matter of competing sales tax dollars and property tax base commercially, though doing that allows putting us in a great position.

**Councilman Rogers made a motion to go into closed session to discuss the purchase, exchange, or lease of real property pursuant to the confidentiality provisions concerning this parcel. Councilman Shelton seconded the motion. Roll Call Vote was unanimous 5-0 in favor.**

Mayor Alvord said we would like to have the current Council, Council Elect, Bond Council attorney, Laura Lewis, City Manager and the City Attorney present in the closed meeting.

Closed meeting has separate set of minutes.

**Councilman Steve Barnes motioned to adjourn the closed meeting and return to the open meeting. Councilman Rogers seconded the motion. All were unanimous in favor.**

Councilman Seethaler said we are into this deal about ½ million with no source of repayment if we don't go forward with this. Timing is critical. Question for Mr. Naidu – what is the level of risk for the City. What is the worst case scenario and what position would the city be in if we were not to do this.

**Laura Lewis**, Lewis Young Burningham; Dooms day – you get the bond issued and you do improvements. Bond amount allows for 2 years of interest payments. After three years you send assessment notices out and nobody pays. You do demand notices and foreclosure procedures. You go through non-judicial procedure. With Judicial foreclosure the proceedings go before a judge; takes one year to foreclose. Four month bond service paid from the debt reserve fund. Property values could go down 60% and you would be all right.

Councilman Seethaler said to CFO Naidu, with what Ms. Lewis represented would you make any variation you would advise us against.

Mr. Naidu said he agreed with Ms. Lewis. He said we have looked at the document thoroughly to make sure the City is covered. I am not concerned and we should recoup our money.

Mr. Naidu gave a recap of Resolution R2015-50, Ordinance 2015-17, and Resolution R2015-83.

Mayor Alvord talked about an email and asked how this deal differs from the deal with McKee Farms.

CM Whatcott said that was McKee Ridge. He said Kennecott will be carrying their own burden on this. They pay no impact fees. Normally we collect fees over several areas. Here we don't have to do that. The assessment pays it back.

Mr. McCutcheon said in reference to the assessment bond we are on the hook for timing risk and I think it is in the best interest for both.

CM Whatcott said they do pay Public Safety Impact Fees.

Director Brad Klavano said they also pay a small impact fee for roads.

Councilman Shelton said I am satisfied with their answers. I am curious about the map Ty has. He said if bonding goes through what areas would you do first?

Mr. McCutcheon showed a map on the overhead. He reviewed the various areas in order that they would be completed. He said not too many parcels are left on the frontage. He said Herriman doesn't have very good East West connectivity.

Councilman Shelton asked what the densities are around Sunstone area.

Mr. McCutcheon talked about Smiths Market Place and densities in Village 7 area and discussed Village 8 product types in Creekside. He said we are running out of core neighborhood.

Councilman Shelton asked about the 20 acre park accelerating. Mr. Rulon Dutson assisted Ty with showing another map on the overhead.

Mayor Alvord said in negotiation we may want in writing all the dates for completion.

Mr. Dutson of Kennecott Land said the City is putting the park in and we are providing the funds.

Mr. McCutcheon said we're happy to deeding the property. We have commitment to have the condition to be in place.

Laura Lewis said you could make that a condition to closing.

Councilman Seethaler said the argument is that we hold out for a better deal. He asked for an explanation of what the risk to the City would be if this wasn't approved tonight.

Mr. McCutcheon there is a 60 day time frame gap between when we need to be in position to put into action all the contractors to be available to do before summer commitments. If we go into February/March, most capital groups are committed and then it becomes very expensive. Interest rates are a risk. It is better to secure funds now instead of later.

Councilman Seethaler said waiting a couple of weeks and approving in January, reality is the time frame would be pushed to May. Could a better deal be negotiated? What would you say that the City might better itself?

Mr. McCutcheon said it is not just Kennecott making decisions. I am not certain they would approve a different deal. The development certification is "as is."

Councilman Seethaler talked about the eventual ownership of the lake. He said I am fishing for a solution. What is your opinion?

Mr. McCutcheon said that is a separate matter. We are not supportive of trading the lake.

Mayor Alvord said he would rather have the bond and no lake. He said it is difficult to ask what we would negotiate for.

Councilman Seethaler asked for a break at this time before discussing further.

Mayor Alvord called a 10 minute recess.

Mayor Alvord called the meeting to motion again at 6:50 p.m.

Mayor Alvord asked if anyone had a vote in mind.

- C. **Action Item:** Resolution R2015-50, consideration for adoption of a resolution of the City Council of the City of South Jordan, Utah, designating an assessment area for the purpose of (i) levying assessments against properties within the Assessment Area to finance the acquisition, construction and installation of road, storm water, culinary water, and related improvements, (ii) estimating the amount of the assessments to be levied and the method or methods of assessments and (iii) generally describing the period over which the assessments are to be paid and the manner in which the city intends to finance said improvements; and related matters.  
(By CFO, Sunil Naidu)

CFO Sunil Naidu briefly reviewed the background information on this item.

**Councilman Seethaler made a motion to approve Resolution R2015-50, designating an assessment area for the purpose of (i) levying assessments against properties within the Assessment Area to finance the acquisition, construction and installation of road, storm water, culinary water, and**

**related improvements, (ii) estimating the amount of the assessments to be levied and the method or methods of assessments and (iii) generally describing the period over which the assessments are to be paid and the manner in which the city intends to finance said improvements. Councilman Newton seconded the motion.**

Councilman Rogers made a substitute motion to negotiate further and discuss the negotiation terms. Motion died for lack of a second.

**Roll Call Vote on the original motion was 4-1 in favor; Councilman Rogers voting No.**

Councilman Rogers left the meeting at this time stating he had a holiday family commitment.

- D. **Public Hearing:** Ordinance 2015-17, consideration for adoption of an ordinance confirming the assessment list and levying an assessment against certain properties in the Daybreak Assessment Area No. 1; and related matters. *(By CFO, Sunil Naidu)*

Mayor Alvord opened the Public Hearing. No speakers. He closed the Public Hearing.

**Councilman Newton made a motion to approve Ordinance 2015-17 confirming the assessment list and levying an assessment against certain properties in the Daybreak Assessment Area No. 1. Councilman Barnes seconded the motion. Roll Call Vote was 4-0 in favor. Councilman Rogers was absent.**

- E. **Action Item:** Resolution R2015-83, consideration for adoption of a resolution of the City Council of the City of South Jordan, Utah, establishing the terms and conditions of the issuance of the issuer's special assessment bonds (Daybreak Assessment Area No. 1), Series 2015 in the total principal amount of approximately \$38,000,000; and related matters. *(By CFO, Sunil Naidu)*

CFO Sunil Naidu reviewed the background information on this item.

Councilman Newton said he would be interested to hear Councilman Seethaler's ideas on this.

Councilman Seethaler said I think a lot of work has been done. He said he didn't think we should pass on this opportunity.

Councilman Newton made a comment about funding by January 5<sup>th</sup>.

City Attorney Loose said the paperwork should be done by the 5<sup>th</sup>. He said notice was given of \$37,000,000 and should make the motion to read \$38,000,000.

Laura Lewis said she needs clarity. She reminded Council that the only out of pocket expenses so far is the appraisal for \$66,000. Out of pocket would be the accrued Council costs up to the date of this meeting.

City Manager Whatcott said everything was covered in a well written staff report discussing all of the necessary information for this item.

Councilman Shelton said when dealing with complex issues over a period of time information gets forgotten or lost.

**Councilman Barnes made a motion to approve Resolution R2015-83, establishing the terms and conditions of the issuance of the issuer's special assessment bonds (Daybreak Assessment Area No. 1), Series 2015 with the Principal Amount not to exceed \$38,000,000. Councilman Seethaler seconded the motion. Roll Call Vote was 4-0 in favor. Councilman Rogers was absent from vote.**

**Councilman Seethaler made a motion to directing that the terms negotiated by the City Manager regarding the approximately 20 acres of active park and the Welby regional park be prepared as an agreement and signed before the closing on the bond. Councilman Newton seconded the motion. Roll Call Vote was 4-0 in favor. Councilman Rogers was absent.**

**Councilman Newton motioned to close the Emergency meeting. Councilman Seethaler seconded the motion. Vote was 4-0. Councilman Rogers was absent.**

The December 22, 2015 Special Council Meeting adjourned at 7:15 pm

Meeting minutes were prepared by City Recorder Anna West.

**This is a true and correct copy of the December 22, 2015 Council Special and Emergency Meeting minutes, which were approved on January 19, 2016.**

  
**South Jordan City Recorder**