SOUTH JORDAN CITY
CITY COUNCIL SPECIAL STUDY MEETING
OAK CONFERENCE ROOM

April 4, 2016

Present: Mayor David Alvord, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Chris Rogers, Council Member Don Shelton, Council Member Tamara Zander, Fire Chief Andy Butler, Administrative Services Director Dustin Lewis, Police Chief Jeff Carr, City Attorney Ryan Loose, City Commerce Director Brian Preece, Strategic Services Director Don Tingey, Development Services Director Brad Klavano, COS Paul Cunningham, Finance Director Sunil Naidu, Public Works Director Jason Rasmussen, CT Director Jon Day, Communications Coordinator Tina Brown, City Planner Greg Schindler, City Planner Jake Warner, City Recorder Anna West

Absent: CM Gary Whatcott

Others: Julie Holbrook

STUDY SESSION – 6:30 AM

Council Member Brad Marlor made a motion to appoint Council Member Patrick Harris as Mayor Pro-Tempore. Council Member Rogers seconded the motion. Vote was unanimous in favor. Council Members Shelton and Zander were absent.

Mayor Pro-tem Harris welcomed everyone.

A. Invocation: *By Council Member Patrick Harris*

Council Member Patrick Harris offered the invocation.

Mayor Pro-tem Harris asked to have additional review on Council Agenda Item F.1. Office and Open Space.

Mayor Alvord arrived at this time and Mayor Pro-tem Harris turned the meeting over to the Mayor.

Council Member Shelton also arrived.

B. Council Packet Review (*Calendaring, Topics, Future Agenda Items*)

Planner Jake Warner said we have three sub-districts now. The Open Space Zone is Exhibit B in the packet which is Chapter 17.50. There are a couple of elements in the chapter that work together. There is the density section, page 2 of that chapter, and then the architecture section which is section H on page 3. In the natural open space it allows one structure per five acres and the structures are limited to 500 sq. ft. The idea was for a shed or small utility building. In the Park Open space and the new recreational open space, it allows one structure per acre and excludes the smaller buildings of 500 sq. ft. or less. In the Park Open Space sub-district it allows a 1000 sq. feet per acre with a cap of 3000 sq. ft. total per building.

Council Member Zander arrived at 6:40 am.

Planner Warner said in the new recreational open space is where we put in some of the more intense uses such as emergency service and recreation center uses. A fire station or a Senior Center would be compliant with the way I wrote this.

Council Member Rogers said if you had a 10 acre parcel zoned OS-R are you saying they could build 10 structures of 5000 sq. ft. each because that would violate the 15,000 sq. ft. max? Planner Warner said correct; one building per acre.

Council Member Rogers asked what Mulligans is zoned. Planner Warner said it is C-C and Agriculture.

Council Member Harris said it seems like that is a lot of potential buildings.

Council Member Marlor asked why type of buildings would be in an open space zone. Planner Warner said what I had in mind were something like we have in Heritage Park.

Council Member Rogers said he would like to simplify and restrict it more. Couldn't we just require Council approval for structures larger than 500 sq. ft. like a pavilion or something like that? This seems very permissive in allowing a lot of structures and that is what we were trying to avoid in the open space.

City Attorney Ryan Loose said there are County Owned Open Space Parcels.

Council Member Marlor asked how many parcels fit into this category outside of the County owned.

Planner Warner said there are a few miscellaneous down along the river owned by River Park.

Council Member Harris said I would just like to be able to explain to my constituents how this does not or every will apply to Mulligan's.

Planner Warner said it could apply to Mulligan's and that was part of the original intent. The reason Mulligan's was zoned the way it was is because we didn't have something like this in place before. It is currently zoned A-5 and the buildings are C-C commercial.

Council Member Rogers said I am inclined to put a really restrictive limit that allows for restrooms and small structures and anything in excess of that has to come to the Council for approval.

City Attorney Loose said the development agreement can't be used to expand the zone. The problem we have run into in terms of performance development is how much discretion you have to say yes or no because it is not coming with a rezone where you have ultimate discretion.

Council Member Shelton said we created this open space recreation zone sub-district based on these very concerns in our last discussion on this and now we are going to essentially wipe it out based on these same concerns. I feel like we have Jake running around in circles trying to figure out where we are.

Council Member Rogers said I think we can have OS-R be more intensive than OS-P. I would contemplate having more structures in the OS-R than the OS-P. Whether we create Mulligan's its own zone is up for discussion and is a separate conversation.

Planner Warner said if it is not the city developing it then there is a development agreement that is required that can restrict from there. If we want to go beyond what is in the zone then we have to go to another tool like the performance development floating zone. This was written with the city parks in mind so I didn't want to restrict ourselves because that is who is going to use it the most. I can see making the change that would contain the total square footage over all.

City Attorney Loose said we have done development agreements in the past at the rezone state just prior a rezone so unless you agree with us we don't zone the property as such. In this case where we own all of the property the only way it leaves us is if we sell the property. A lot of this discussion is imagining worst case scenario but the only way it leaves your control is by the Council making a decision to do so. If the City Council says we are going to sell it then sell it with the conditions on it.

Council Member Rogers said there is no emergency in getting this passed tomorrow night we could continue to tweak it to get it right. I think that Mulligan's is going to have to have its own zone and I don't know if we want to address that now and tweak this to have the Mulligan's Commission to look at addressing its own zone. It sounds like the consensus from the Council is to continue tweaking this to address the not to exceed limitations.

Council Member Harris said he would like it to be very clear and restrictive here what the City's intentions are with regards to Mulligan's to put everyone's minds at ease.

Council Member Shelton said since we are talking Mulligan's there are three options that are developing for the plan at Mulligan's that are in the works and being studied. All of those options are going to be better for this Council and will be vetted to the public at public meetings. Somewhere along the way we are going to pick an option and I think we should get down to there, where we know where we are going before we start trying to create zones around it. Then we can decide what the zone should be at that time.

Council Member Marlor said my personal position was that after we finished the bonding, we bought the property, and we have bonds on them so you can't rezone it, it has to be something that the bond holders could come back and take, but after that that it would be put into more of a permanent green space open space.

Mayor Alvord asked if it would be problematic to just table this at the meeting or just bring a portion of it back.

Planner Warner said my thought is that if we do table this that I would bring back the office portion separately. The uses chapter contains some changes to both zones as a package to I would probably need to bring them back separately.

Everyone was in agreement to remove it from tomorrow's agenda and bring it back after further discussion.

Council Member Shelton asked Mayor Alvord about the appointment of Brady Quinn to the Planning Commission. He said as I read through his information, he is not a land owner in South Jordan. He noted his concerns that Mr. Quinn might not be around long enough to serve his full term. I have worked with young single adults through my church for years and the think I have found is they are brilliant, enthusiastic and unreliable because their lives are in flux.

Council Member Harris said he knows Mr. Quinn and he is very politically active. He probably pays more attention to what is going on than some of the other applicants.

Mayor Alvord said I know Council has recommended to me that he not be the automatic Chair. He said we need to get more young people involved in public service younger and then by the time they are our age they have years of experience and can make a bigger contribution to the community. He said I personally spoke with all candidates and could easily call on one of the other candidates to serve if Mr. Quinn does not fulfill his full term.

Council Member Zander said you as the Mayor have two years left, would this person serve until your term ends.

City Attorney Loose said that is why in the resolution we listed all of the Planning Commissioners term expiration dates; he referenced page 86 of the Council Packet. We wanted to make sure everyone was very clear on how long their terms run.

Council Member Rogers asked to discuss Item H. Specialty Retailer Development Agreement and property Rezone. Is it their sole intent to get the Redwood Road Mixed Use to just build office? He said the Redwood Road Mixed Use does allow as a conditional use second story residential as well as density. City Planner Schindler said there is only retail no residential.

Council Member Marlor said we reviewed this at the Architectural Review Committee and it is going to be a very attractive structure.

Council Member Rogers asked if they would have an issue with as a point of approval of the Development Agreement that we took out the two residential conditional uses from the agreement. City Planner Schindler said he didn't think that would be a problem at all.

Mayor Alvord asked if Council has any questions regarding the Mobile Food Vendor ordinance. There were none.

Mayor Alvord said we have thoroughly vetted the Tentative Budget. He said if anyone has additional questions between now and Tuesday to contact staff.

Council Member Marlor suggested that they remove the closed session from the Agenda until CM Whatcott returns so that he can be present for the discussion.

Mayor Alvord said Item N. doesn't indicate what the topic is. I had a question about some personnel that I didn't want to bring out in a public meeting. Can we leave it on the agenda so I can ask that question?

Mayor Alvord moved on to Item C. New City-Wide GRAMA Policy.

COS Cunningham said I we would like to have City Attorney Loose do his GRAMA Training Item D. prior to reviewing the City-Wide GRAMA items.

D. Staff Item: GRAMA Records Requests Training (*By Legal – Ryan Loose*)

City Attorney Loose said you have dealt with GRAMA on different levels and it is always in context of a request. New Council has not had to deal with any of these requests yet but don't be surprised if they come. What GRAMA essentially is, is the opportunity for the public to see what we are doing. One thing I want to point out to you is there is GRAMA training at the League Conference this week that you may want to attend. On page 84, 85 & 86 of the Powers and Duties Book is a pretty good summary. Last Friday there was GRAMA training done by the State and it is always interesting to hear them talk. In the end they always say if you have specific questions ask your attorney. Everything comes down to interpretations very subtle and minute points when it comes to GRAMA. In general you have to ask yourselves a few questions when you do something. In the past you probably would call if you had a question about something; now you generally sent me an email or text message. We have been replacing conversations with records (email). The question then becomes did we intend to create a record and is what we are doing a record. He asked everyone to think about the record they are creating and why they are creating the record before they do it. He noted that if someone requested a copy of their calendar that is not a record. Not every document is a record. Personal notes you make are not records but if those personal notes become an email then it is a record. He talked about when a draft becomes a record because it says drafts are not records; however, certain drafts are records. If it is a record, the next step is you have to decide is there some reason that this record is not a public record. All records are public unless there is a reason that it is not. The main categories in the statute are Public, Private, Controlled, and Protected. There is also another rule that says if another state statute says a record is not public then it is not public. Certain personnel records, such as in the Sheriff's Department, are not public there because some other state statute says they are not public. Think through what you are trying to do when you create records and ask yourself if this is the best way; a lot of times it is. We can't let the efficiency of email get in the way of the public's ability to see what is going on so you have to weight those as you go along. Even if a record is protected or private, if the public's interest outweighs the protected or private interests then we have to give it up.

C. Staff Item: New City-Wide GRAMA Policy. (*By COS Paul Cunningham*)

1. City-Wide Policy 300-01 GRAMA Compliance

COS Cunningham described GRAMA and its intent; he said unlike the social media policy where you could opt out this is one that you can't opt out of. We have a GRAMA Committee and all of the members are present here now. He said the Committee will deal with internal GRAMA issues. He noted there are Records Officers in every department now and once this policy passes we will be training all of them. We need a group of people within the City that understands GRAMA. He noted that when someone makes a GRAMA Request, all of those requests then become a public record. He said in your official capacity with the City it is not necessary for you do complete a GRAMA record request unless the record you request is political or for personal or private use.

City Attorney Loose said the Recorder's Office gets the email requests and they then send the request out to whoever is the record keeper to get the records on file and they in turn make those records available to the record requester.

COS Cunningham said we are setting the retention for text messages on phones for 30 days. Jon Day can assist you if you need to set that on your cell phone.

COS Cunningham said City Archives is part of the GRAMA process and Anna is in charge of the City Archives; it is not a public area. We are gradually making the move to electronic records and then will move what hard copy records we can to the State Archives for permanent storage to reduce the amount of space we have to commit to permanent records. When you receive a notice asking for records, at that

point you can't be deleting any records. Legal will review the records to make sure it really is public so we are not giving up anything that has protection or is a non-record. One of the parts of this policy is defining who has the record copy. If I am the first city employee receiving a record, then I own the record copy of that request so I am responsible for having the original. I might send a copy of that to six other people to help me solve a problem or whatever but they are not the record copy. There may be attachments to a record and the content of the attachment might have a different status or retention or even classification than the original email.

2. City-Wide Policy 300-02 GRAMA Records Retention

COS Cunningham said there are a lot of things that are identified as non-records so we have included that in our definition. Spam mail, personal notes, commercial publications, personal daily calendars etc. are not defined as a record.

COS Cunningham said in terms of Retention we want to talk about archiving electronic records. According to this policy we are going to set all city devices for 30 days. All City phones will be set at 30 days for text messaging. Some of us use them enough that they won't be there anyway due to the turnover of the messages and the internal memory limits that. If we get a request for emails on a specific topic you will have to supply us with what you have at that point.

Council Member Harris asked about confidentiality of texts on his phone. City Attorney Loose said specific to texts, everything is subject to discovery if there is a lawsuit. What I would encourage you to do if you have concerns about that you might want to think about two devices. One used specifically for City business and your own personal device that you would not use for City business. The City can provide that phone to you for City use. That may be cumbersome but effective. I would set your phone to an automatic delete of anything past 30 days.

Council Member Zander asked if Legal would be the ones to look at items for a request or are we responsible to do that. City Attorney Loose said we rely on you to provide any records being requested to us. If all of the email is on our City server then we already have those records and just let us know that you have nothing other than what is on the City server. If you have some records to provide to us from your personal device you would just do a screen shot of the record; we can assist you with getting the records from your device.

COS Cunningham said we will be retaining email now for 7 years. This all will be coming back to a regular meeting to be adopted. If you have other GRAMA questions or concerns let us know.

Council Member Rogers made a motion to go into a closed meeting to discuss pending or reasonably imminent litigation. Council Member Marlor seconded the motion. Roll Call Vote was 5-0 in favor.

E. Executive Session: Closed meeting to discuss pending or reasonably imminent litigation.

Closed meeting minutes are a separate set of minutes.

Council Member Rogers made a motion to come out of the closed meeting and return to the regular Council Study meeting. Council Member Harris seconded the motion. Vote was unanimous in favor.

ADJOURNMENT

Council Member Rogers made a motion to adjourn. Council Member Shelton seconded the motion. The vote was unanimous in favor.

ADJOURNMENT

The April 4, 2016 City Council Special Study meeting adjourned at 8:10 a.m.

This is a true and correct copy of the April 4, 2016 Council Meeting minutes, which were approved on April 19, 2016.

Anna M. West

South Jordan City Recorder