

**MINUTES OF THE
HOLLADAY CITY COUNCIL MEETING**

Thursday, November 1, 2018

Mt. Olympus Room

4580 South 2300 East

Holladay, UT 84117

BRIEFING SESSION - 5:30 p.m.

ATTENDANCE:

Mayor Rob Dahle
W. Brett Graham
Steven Gunn
Mark Stewart
Sabrina Petersen
Paul Fotheringham

City Staff:

Gina Chamness, City Manager
Todd Godfrey, City Attorney
Stephanie Carlson, City Recorder

Mayor Dahle called the Briefing Session to order at 5:35 p.m. The Council reviewed the agenda.

Mayor Dahle went over the Community Council assignments for this year. He asked the Council to reach out to the chairs to find out when their meetings are and to introduce themselves.

Council Member Stewart – Oakwood and Cottonwood Elementary

Council Member Gunn – Morningside Elem., Churchill Jr. High and Skyline High

Council Member Graham – Crestview Elem., and Olympus High

Council Member Petersen – Drigg Elem., and Olympus Jr. High

Council Member Fotheringham – Spring Lane Elem, and Bonneville Jr. High

Mayor Dahle– Cottonwood High

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Council Meeting 6:00 p.m.

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I. *Welcome* – Mayor Dahle.

Mayor Dahle called the meeting to order at 6:05 p.m. He acknowledged the presence of Scout Troops 326, 653, and 551.

II. *Pledge of Allegiance.*

The pledge was led by Dylan Bywater from Troop 653.

III. *Public Comments.*

Wally Earl - 4640 South Cresthill Cir. He reported that on October 22 he received a parking violation in front of his home. He explained that as the City ordinances currently stand, only parallel parking is allowed. He noted that there are no exceptions in his area. He would like to request an exception since he lives at the end of a cul-de-sac that his not heavily traveled and where there is plenty of turnaround room. He submitted a picture of the cul-de-sac with his car parked at an angle. He referred to Code Section 11.20.090, which specifies that an exception is provided in a cul-de-sac where angled parking does not impede the normal flow of traffic.

Council Member Petersen acknowledged that she lives nearby and stated that it would be awkward for someone to pull their car around and parallel park there.

IV. *Continued Public Hearing on Proposed Tree Canopy Sustainability Ordinance.*

Mayor Dahle reported that the intent was to have voted on the matter at the last meeting, however, Council Member Gunn, who has been working with the Tree Committee, was out of town.

Chris Kamlowksy, - 4137 S Clover Lane. She is opposed to the Tree Ordinance as written. Her main concern was that the ordinance is vague with regard to diseased and dying and dead trees. In its current form she considered it to be unnecessarily burdensome to Holladay residents who are faced with removing these types of trees from their yard. She reported that she and her husband are long-time Holladay landowners who are caught in the newly proposed ordinance.

Their backyard has a cottonwood tree on the bank of the canal that is dying. They have spent a considerable amount of money trying to save it but it is obvious that it is not going to survive. The ordinance would not only require them to obtain a permit and move the tree but will require them to replace the 80-year-old canopy, which will be considerable personal expense. Mrs. Kamlowksy was concerned that elderly residents on fixed incomes will be unnecessarily burdened by the canopy replacement requirement. She asked that the Council protect Holladay residents who are on fixed incomes from financial hardship. She urged the Council to not approve the ordinance as currently written.

Council Member Gunn offered to reach out to Mrs. Kamlowksy individually to discuss the issues.

Steve Glaser - 2052 East Arbor Lane. He expressed support for the Tree Ordinance. He described it as something that will benefit the community. He reported that he chose to live in Holladay because of the trees and suggested ways of strengthening the ordinance. The first was to Part D(2)-Compliance, which specifies that trees may be removed for specific reasons does not address the plan being required to meet the requirements of the ordinance. He was distressed by the fact that if someone wants to build a house on a lot, they are allowed a specific amount of impervious coverage; however, they can obtain bonus coverage by planting additional trees. He pointed out that the bonus can be obtained regardless of the number of trees that have been cut down previously. Mr. Glaser next referenced C(2), which he felt may address that concern. Section E(2) addressing the Tree Removal Permit was next referred to. It specifies that prior to development of a lot or parcel, a portion of a tree can be removed, not to exceed the same square footage of the canopy allowed by the maximum impervious surface coverage restrictions. Mr. Glaser liked the idea of awarding a bonus but thought it ought to be more, rather than less, tree covered.

Tom Kamlowksy-4137 S Clover Lane. He reported that he has a lot of trees on his property and he likes them very much. He was opposed to the Tree Ordinance as it contains deficiencies and flaws that become onerous on those who are affected by it. He was most concerned about cost and the burden of replacing trees. Mr. Kamlowksy stated that the cost of a 1½-inch caliper tree starts at \$200. In his case, he would need to purchase multiple trees to replace the large one that is dying. He expected the cost to be in excess \$1,000 after he has already spent a great deal of money trying to save the dying tree. He asked that the Council not impose an ordinance that leaves property owners powerless to replace dying trees or to pay the fine imposed. He asked that a Tree Ordinance be adopted that will not be a financial liability on residents.

There were no further public comments and Mayor Dahle closed the public hearing at 6:28 pm.

V. *Consideration of Ordinance 2018-17 Amending Provisions of the City Code Relating to Accessory Buildings.*

Council Member Petersen moved to adopt Ordinance 2018-17 with the following amendment: include a reference at the end of item (e) on line 40 to include the following at the end to state, "...pursuant to the provisions of section 13.08.040 of this title." Council Member Stewart seconded the motion. The Council roll call vote was as follows: Council Members Graham, Fotheringham, Petersen, Gunn, Stewart, and Mayor Rob Dahle in favor. Ordinance 2018-17 was adopted by a unanimous vote.

VI. Consent Agenda

a. Approval of Minutes – August 9, September 6, 13, 20 and October 4.

Council Member Petersen moved to approve the consent agenda with changes noted in the pre-meeting. Council Member Graham seconded the motion. The Council voted in the affirmative and the consent agenda was unanimously approved.

VII. City Manager Report – Manager Chamness.

Manager Chamness had nothing to report.

VIII. Council Reports and District Issues.

Council Member Stewart thanked the Youth Council and staff for their effort putting on the Trunk or Treat event. It was a successful event with good turnout.

Paul Fotheringham reported that the newly updated crosswalks are complete on 5600 South and Woodcrest for the junior high and elementary students. He also attended the annual Mosquito Abatement District Conference.

W. Brett Graham informed the Council that Olympus High School student, Kade Brasher, took first place in the State Mountain Bike Race. He asked for details on the leaf program. Council Member Petersen stated that bags can be obtained at City Hall or the Library. The drop off location was identified as the Cottonwood Complex.

Mayor Dahle reported that there is an article in *The Valley Journal* about Knudsen Park, which consists of 8 ½ acres of open space just south of Tuscany and the Cotton Bottom on the very south end of the City. The property, which borders the freeway, was acquired by the City as part of the Millrock RDA and has sat dormant for the last 10 years. ZAP funds were used to improve it. The Mayor reported that the park is substantially complete and very nice. A children's interactive water play feature will be completed early next spring as well as an entryway arch. A grand opening will take place at that time. The park will be a great open space amenity for citizens and will protect the open space for years to come.

IX. Recess to City Council Work Meeting.

Council Member Gunn moved to recess and reconvene in a Work Session at approximately 6:38 pm. The motion was seconded by Council Member Petersen. The motion passed with the unanimous consent of the Council.

1. Discussion on Proposed Tree Ordinance.

Mr. Godfrey commented that issues that continue to arise pertain to a Tree Canopy Plan and when a 1:1 replacement is required. His understanding was that there has been discussion of street trees, heritage trees, and waterway trees, which require a 1:1 replacement rather than a canopy replacement. In order to accomplish that, there is a no fee permit that is approved by staff with no review by the Planning Commission.

Procedural and timing issues were discussed. Mayor Dahle pointed out that what has been added to the ordinance was to require a permit when a lot is scraped or clear cut. In addition, the tree canopy needs to be replaced. As written, the situation addressed earlier by the Kamlowky's is covered in terms of a no-fee permit for dead and dying trees. It was clarified that as written, in a similar situation a 1:1 replacement is required although the canopy would not have to be

replaced. Mr. Godfrey explained that the requirement does not pertain to the canopy and requires the replacement tree be of a similar type. The main issue was the streambed. It was thought that perhaps a portion of the dead tree may need to remain intact.

Council Member Petersen referenced the Tree Voucher Program for street trees and noted that the program was not well used. She suggested it be extended to include trees near waterways and clarified that \$50 vouchers are available for two area nurseries. Another option was to increase the voucher amount. The Mayor's recollection was that the program was funded with \$10,000 but only around \$2,500 has been spent. Council Member Petersen commented that the program would incentivize her to purchase larger trees.

Mr. Godfrey pointed out that the ordinance does not specify a penalty for someone who knowingly violates the provisions. In that case it would default to the normal zoning ordinance penalty with a Class B Misdemeanor. He considered it to be a heavy-handed penalty and asked if the Council would like to impose a penalty provision that would make it an infraction with a minimum fine amount specified. The Council agreed and suggested the minimum fine be \$500 and classified as a Class C infraction.

Council Member Gunn agreed to correspond with the Council, meet with Steve Glaser, and together with Mr. Allred, prepare one more draft to be available for review by the following Monday.

2. Discussion on SOHO License Agreement.

The new owners of SOHO Food Park, Craig and Mark Hale, were present to discuss the issues. They purchased the property from Mark Olsen and are now looking to make improvements. Mr. Godfrey identified the two issues consisting of the land use on the site as it is configured and improvements that might be made on the property. The second issue was the License Agreement. He reported that the City owns a sliver of right-of-way that is currently being used for parking as part of the SOHO Food Park operation. When the City approved the conditional use permit, a significant provision was that the parking remain available. Mr. Olsen always wanted to purchase the property from the City but the City declined. Messrs. Hale also would like to purchase the property.

It was reported that when the City allowed the use of the property for parking, they did so by virtue of a License Agreement, which differs from an easement in that it is a contractual right to use the property. That was done for a specific reason. If there were ever a circumstance where the City needs the right-of-way back, they would not want to be in a situation where they are forced to take it back through eminent domain or condemn an easement that was granted. The owners were looking for enough security to justify the investment in the property and for more permanency. Mr. Godfrey commented on the land use issues and stated that the new owners may want to do things on the property that they City may not support.

Mayor Dahle clarified that part of the issue is that the License Agreement is referenced in the conditional use and is an annual fee. Mr. Godfrey explained that the current provision allows the City to force the owners to vacate the property at any time. He suggested the Council consider tying the License Agreement to the current use and specify that so long as the property is used in the present manner, the City will not revoke the License Agreement.

Council Member Petersen stated that this is a contentious issue in her district, particularly among residents in the Kentucky Avenue area. One of concerns was that there is already extremely limited parking in the area. It has been a relief for residents when the use shuts down in the winter whereas an outdoor permanent structure could result in it becoming a year-round use.

Mr. Godfrey stated that the property owners may also want the ability to freely transfer the License Agreement, however, he was not comfortable with that. He did not recommend the City enter into a long-term relationship that could be transferred where the City does not have control over who comes in next. It was noted that the license runs with the operator.

Craig Hale commented that he considers the park to be a community asset and something they want to continue. He was concerned that the City wants to control the use so tightly. He is heavily invested in Holladay and wants to continue to improve it. Council Member Graham pointed out that there are limits and only a certain number of customers can be accommodated. The Council has to consider how to retain it as a community asset and ensure that it doesn't become a liability. While he patronizes the park, he also avoids driving through the area. He understood the pros and cons. Mr. Hale described the improvements being considered but stated that they cannot complete them without some changes to the License Agreement.

In response to a question raised, Mr. Godfrey explained that the downside of entering into a 25-year agreement if it is subject to the same type of use would be if the use severely deteriorates. He did not think the licensing of the property being tied to the use was of concern, however, it is a highly impactful use. Council Member Stewart agreed with Mr. Hale's claim that it is the core gathering place in the City. He personally would like to see more people there. While liability concerns should be addressed, he suggested the City encourage more people to come out since every business owner in the area can attest to the fact that their business has done better based on the number of people who frequent SOHO Food Park. He suggested the City look for opportunities to help in that regard. He did not see a downside to it being tied to a food park use since the portion the City owns is a tiny sliver of the parking lot.

With regard to liability insurance, Council Member Graham asked if there was a standard that could be referred to.

Mr. Godfrey's primary legal concern was tying up public property in a right-of-way in this manner. He explained that the City retains the power of eminent domain so they would never lose control even with a License Agreement in place. Parking issues were discussed as well as the potential for a shared parking arrangement.

3. Review of School Community Council Assignments.

This item was discussed in the Briefing Session.

4. Calendar – Schedule of Upcoming Meetings.

Council Meetings: November 8 and December 6. The Interfaith Service is November 18 at 6:30 p.m. History Night – November 15 and the Tree Lighting in Nov. 26. The Council Christmas Social is Wednesday December 5 at 6:00 p.m.

X. Closed Session pursuant to Utah Code Section 52-4-204 and 205 to Discuss Personnel Issues, Potential Litigation and Property Acquisition and Disposition.

XI. Adjourn City Council Meeting.

Council Member Gunn moved to adjourn. Council Member Stewart seconded the motion. The motion passed with the unanimous consent of the Council.

The City Council Meeting adjourned at 8:02 p.m.

I hereby certify that the foregoing represents a true, accurate and complete record of the Holladay City Council Meeting held Thursday, November 1, 2018.

Stephanie N. Carlson, MMC
Holladay City Recorder

Robert Dahle, Mayor

Minutes approved: **January 17, 2019**