

SOUTH JORDAN CITY
CITY COUNCIL MEETING

June 4, 2013

Present: Mayor Scott Osborne, Council Member Mark Seethaler, Council Member Chuck Newton, Council Member Brian Butters, Council Member Steve Barnes, Council Member Larry Short, CM John Geilmann, City Attorney Rob Wall, ACM Gary Whatcott, Police Lieutenant Rob Hansen, IT Director Jon Day, City Council Secretary MaryAnn Dean

Others: Chris Rogers, Judy and Bryce Greer, David Colton, James Dyal, Joshua Dyal, Jon Dyal, Kelly McPherson, R.J. Coles, Sylvia Anderson, Casey Malstrom, Sherry Malstrom, Kent Baker, Amy Smart, Steve Christensen, John Larsen, Spencer Kowallis, Ethan Horsley, David Kowallis, Thomas Volt, Mike Saville, Rulon Dutson, Liz Apking, Heather Carlson, Sheldon Astle, Ryan Wilson, James Gerritsen, Gary Clift, Paul Hammer, Bryan J. Flamm, Steven Roberts, Joan Rushton Carlson, Dannielle Wilson, Susan Egbert

6:00 P.M.

REGULAR MEETING

I. GENERAL BUSINESS

A. Welcome and Roll Call

Mayor Osborne welcomed everyone present. All members of the City Council were present.

B. Opening Ceremony

1. Invocation

Council Member Butters offered the invocation.

2. Pledge of Allegiance

Jonathan Dyal, scout, led the audience in the Pledge of Allegiance.

Mayor Osborne recognized some scouts present. Scouts from Troops 1975, 1689, and a another troop (number unknown) introduced themselves.

C. Motion to Approve Amended Agenda Items, If Any

None.

D. Minute Approval

1. May 21, 2013 Regular Meeting

Council Member Butters made a motion to approve the May 21, 2013 Regular Meeting minutes, as printed. Council Member Short seconded the motion. The vote was unanimous in favor.

II. CITIZEN COMMENT

David Colton, 11072 S. Woodfield Rd., introduced some scouts.

Ethan Horsley, 11281 Woodfield Rd., said on his street, there were some places paved a few years ago. The pavement has now peeled up and been torn up, and the old road is showing and there are bumps on the road. He asked if something could be done about that.

CM Geilmann indicated that staff would follow up on that request.

Spencer Kowallis, 11323 Green Grass Ct., said last year, there was a deer killed and left on the road for 2 weeks. It smelled and was unsightly.

Mayor Osborne noted the city's free smart phone app. He said through that app, they can report those kinds of issues quickly.

CM Geilmann noted carcasses on state roads are taken care of by (Division of Wildlife Resources) DWR.

Mayor Osborne recognized more scouts present. Scout Troop 1174 was introduced.

III. QUASI-JUDICIAL APPEAL HEARING

- A.1. Appeal AP-2013.03, Appeal of the Planning Commission Decision to Approve a Conditional Use Permit for Cash Store proposed to be located at 10384 S. River Heights Drive. *(By Community Development Director Shaw)*

CM Geilmann introduced Jodi Hoffman, an attorney contracted by the City to act as legal counsel in this matter.

Community Development Director Shaw reviewed the background information on this item. The Planning Commission did not feel there was sufficient evidence to overturn the approval. It was noted that the City Council has been given all information on both sides of the issue.

Jodi Hoffman, read a statement reviewing the process for the appeal hearing (Attachment A).

Council Member Newton made a motion to hear this appeal de novo, which means that new information will be able to be introduced. Council Member Seethaler seconded the motion. The vote was unanimous in favor.

Tyler Wilson, 3574 W. 10235 S., representing the neighborhood, said it has been made very evident by the neighbors that they oppose the idea of a cash store next to their neighborhood. He said the Planning Commission said that they didn't have enough evidence. How much evidence do they need? There was some evidence that this would impede the neighborhood. Some of the most compelling evidence came from the applicant themselves when they said that the employees keep a key fob around their neck to lock people out, if needed. The neighbors, their homes, and kids don't have key fobs. It will affect their property value and way of life. Since the Wal-Mart has opened, they have had 2 mailbox thefts. They are concerned about other establishments that this will draw. They are looking for some reprieve to help their neighborhood stay intact.

Mayor Osborne asked for any additional evidence.

Mr. Wilson said evidence is somewhat subjective in this case. There is not one neighbor in favor of this. He does not know of one appraiser that would indicate that their home values would be raised as a result of this business. There is no evidence to provide that this will be a positive thing for the neighborhood. It won't help the neighborhood in any way, shape, or form.

The petition signed by the neighbors was noted. The City Council was previously given a copy of the petition.

Amy Smart, 3398 W. 10305 S. said most of the studies that have been presented are not similar to their neighborhood. They feel that their neighborhood is unique in that the road with the cash store goes right into their neighborhood. They believe because of that, their neighborhood would be more impacted than some of the studies that the City Council has seen.

David Frederick, 3305 Wendover Ct., (Bedford TX), representing the Cash Store, said this is a 1200 sq. ft. facility. There will be two employees on site at a time. The store is an open concept. They have 11 stores in the Salt Lake City area. The key fob used is similar to what is used in a jewelry store. He has also seen them at architecture firms. It is used when employees count money. They have 300 stores in 7 states. They are selective on the real estate that they locate at. They try to locate near a national retailer. This will be a nice development and they want to be part of it. He referred to a study in Dallas that showed a cash store or similar business did not have a detrimental effect in the area.

Council Member Short asked what is an open concept? Mr. Frederick said there is a countertop with one on one interaction. There is no glass; it is like an open banking concept.

Council Member Barnes asked if they own all 11 stores in the Salt Lake area? Mr. Frederick said they lease the space; they own all of the stores. Council Member Barnes asked about the history of crime at those 11 stores? Mr. Frederick said there was 1 instance of crime in 6 years in Utah.

Council Member Butters asked about the detrimental effect, including the surrounding property value? Mr. Fredrickson said one Planning Commission Member is an appraiser and she said she would not take the specific business in account. She would only appraise the building.

Council Member Short asked if only two people are in the store at once, do the rest line up outside? Mr. Fredrickson said no; they would all be in the store.

Mayor Osborne asked how long have they been running their 11 Utah stores? Mr. Fredrickson said 11 years. Mayor Osborne said other than police calls referenced, how many other complaints have been received? Mr. Fredrickson said none that he is aware of.

Council Member Newton asked if each Utah city has zoning restrictions against this type of business? Mr. Fredrickson said some cities have. He noted that typical restrictions are that the stores have to be a mile away from each other. Council Member Newton asked why those cities have those restrictions? Mr. Fredrickson said they would have to ask those city officials.

Council Member Newton noted that it has been stated that not much cash is kept on site. Mr. Fredrickson concurred and said most of their business is done through checks. Council Member Newton asked what income bracket does this business typically prosper the most? Mr. Fredrickson said in the \$50,000-\$75,000 a year range. Council Member Newton asked what interest rates are charged on loans at this location? Mr. Fredrickson said it differs from state to state. He is unsure of the interest rate in Utah.

Council Member Newton asked if there are no police incidents, why are there magnetic locks on the store? Mr. Fredrickson said to make the employees feels safer. It is similar to a jewelry store. With 300 stores, they do have instances from time to time.

Council Member Newton asked about signage for the business? Mr. Fredrickson said the signs are yellow and black, corporate colors, and the signs are done per city code and in accordance with the landlord of the building. They maximize their signage as much as possible.

Council Member Barnes said other than the one incident that has been referenced, are there other incidences where locks have been activated? Mr. Fredrickson said he does not have that information. The employees lock the doors twice a day when they are counting money. Council Member Barnes asked about a history log of any perceived threat? Mr. Fredrickson said there is not a log when the door is locked; there is a log kept at the corporate offices of when the panic button was hit. He does not have that log information with him. He noted that often, the panic button is hit on accident. It was noted that the policy on activating the panic button is open and liberal.

Council Member Newton asked what is the median income in South Jordan? Mr. Fredrickson said he did not know; he believes it is higher than their target range. Council Member Newton asked what is the median income in the adjoining neighborhood? Mr. Fredrickson said he believes it is in the \$90,000 range.

Council Member Short asked if tips are taken in cash? Mr. Fredrickson said normally payments are given in cash, but they also take debit cards and checks. They have a locked safe in the back. Money is deposited daily. They do title loans and cash advances. They do not buy gold, have pawn services, nor do they do check cashing.

Council Member Newton asked who is the regulator that oversees the business, other than the city? Mr. Fredrickson said the state. Council Member Newton asked if they have any obligation to any rules by the office of the comptroller currency under the US Department of Treasury. Mr. Fredrickson said yes, it is listed in one of the letters in their packet.

Council Member Short said with the title loans, do they ever take cars back there? Mr. Fredrickson said yes, but they are not kept on site. A third party repossess and disposes of the vehicles.

Council Member Barnes asked who has the discretion on the criteria for the loan and the interest rate? Mr. Fredrickson said the information is sent to a computer and corporate sets the parameters. He is not sure what the parameters are; it is based off income. Council Member Barnes asked if they track the need for the loan? Mr. Fredrickson said they ask what the money is needed for. He does not have the statistics with him that outline what the needs are for the loans that are given out. He can get that information.

Council Member Short asked about the hours of operation? Mr. Fredrickson said M-F, 10-6. Saturday 10-2, closed on Sunday. They have no plans to change the hours of operation.

Council Member Newton asked what are the home values in the neighboring subdivision? He said he understands that to be \$500,000 - \$750,000. Mr. Wilson said he believes that is correct. Council Member Newton said the median income for South Jordan is \$104,000. What is it in this neighborhood? Mr. Wilson said he believes it is more like \$130,000 - \$140,000.

They discussed the recent mailbox theft in the neighborhood. Mr. Wilson said some neighbors have put a locking mechanism on their mailbox, some have done a P.O. box, and they are looking into a locking mailbox system for the neighborhood. Council Member Newton said other than the mailbox theft, is crime low in the area? Mr. Wilson said yes, since he has lived there.

Council Member Newton asked do they expect that the neighbors might need the services of this facility, given their income levels? Mr. Wilson said he would go to a financial institution, and not a last chance stop. He believes most of his neighbors would not visit the establishment for loans. He said this is one shot away from being a legalized loan shark.

Mr. Wilson indicated that he is familiar with the Seattle study that has been submitted, but is not familiar with Waukegan study. He is also familiar with Mr. Hammer's letter, and feels those facts support his position.

Council Member Newton asked to be able to ask Mr. Hammer some questions about evidence that has been presented.

Paul Hammer, 10252 S. 3570 W., introduced himself.

Council Member Newton asked why his letter was provided to the Planning Commission? Mr. Hammer said he was asked to provide evidence relevant for opposing these businesses in this location. He said the cash store is one elephant in the room, but not the only elephant in the room. He appreciates the city discussing the issues with him. He said the state of Utah does not define usurious interest rates.

Council Member Newton asked about the home and income value in the neighborhood. Mr. Hammer said his home is not what it used to be worth. Right now, it is in the \$400,000 range. He said the homes are probably \$350,000 - \$500,000. There might be a home worth \$750,000. The income range is above the median range in South Jordan.

Council Member Newton asked about the crime data surrounding the existing cash store locations. Who provided the data? Police Lieutenant Rob Hansen said their crime analyst, which included a review and conclusion.

Council Member Newton asked why restrictions are placed on certain businesses? Community Development Director Shaw said he assumes because the City Council wants to limit the number of businesses in the city and that there are impacts to be regulated.

Council Member Seethaler asked why Mr. Wilson feels the Planning Commission voted in favor of permitting the store to open? Mr. Wilson said he is not sure. He noted that many cities pass restrictive ordinances for these businesses. There are many reports to find regarding these businesses. No one said this is a good thing for the city or that it is a necessary business. The evidence is the key fobs to make employees feel safe; what about the neighborhood? He said there is cash there. People make cash payments.

Council Member Seethaler asked if this is permitted to open, what is a principle consideration? Mr. Wilson said to restrict access to the neighborhood by closing the road or installing a gate.

Council Member Seethaler asked if any states have prohibited this business? Mr. Fredrickson said no. He said in Idaho and Washington, the rules changed after the fact and they chose to leave those states. He said he cannot answer what those changes were. He said the most effective restrictions for their business are the hours of operation. He indicated that they were willing to memorialize in an agreement the conditions placed on this approval.

Mr. Fredrickson indicated that the business is successful and expanding, but he did not have specific financial information to share.

Steve Christensen, attorney representing the cash store, said he appreciates the concerns of the neighborhood. He noted that he has been involved in a number of South Jordan developments

over the last few years. The concern on this application is to determine if conditions can be placed on the use to mitigate any reasonably anticipated detrimental effects. He said he does not know of evidence showing an increase in crime. Is there any reasonably anticipated detrimental effect? He said the CUP should be granted. The Ordinance has this use listed as a Conditional Use Permit.

Mr. Wilson said anyone would have to agree that this would not provide a benefit to the city. There is evidence to prove that it will provide a detriment.

Mayor Osborne closed the hearing.

Council Member Seethaler made a motion to recess the City Council regular meeting, and move into a closed session to review the testimony and evidence presented. Council Member Butters seconded the motion. Roll call vote. The vote was unanimous in favor.

Mayor Osborne indicated that no decision will be made regarding this item tonight. A written decision will be submitted by legal counsel, per the City Council's instruction, at a future meeting.

Council Member Newton made a motion to come out of closed meeting. Council Member Seethaler seconded the motion. The vote was unanimous in favor.

IV. SHORT RECESS PRIOR TO BEGINNING BUSINESS & PUBLIC HEARINGS

None.

BUSINESS AND PUBLIC HEARINGS

V. PUBLIC HEARINGS AND POTENTIAL LEGISLATIVE ACTION ITEMS

- A.1. **PUBLIC HEARING** – Rushton Meadows/Bowler Development L.C. – Randy Bowler (Applicant) Resolution R2013-37, Authorizing execution of Development Agreement; Resolution R2013-25, Land Use Amendment (LUA-2013.03) Approving an amendment to the Future Land Use Plan Map from Village Mixed Residential, Open Space and Commercial to Medium Density Residential, and Village Mixed Residential to Open Space; and Rezone Ordinance 2013-06-Z, Changing the Zoning Map from A-1 to R-M-8, and R-M-8 to OS-P on property located at 11000 South Bangerter Highway. (*By Community Development Director Shaw*)

Community Development Director Shaw reviewed the background information on this item. Lynn Bowler, applicant, indicated that he has no new information.

Council Member Seethaler asked how supportive is the company to build the development, as proposed? Mr. Bowler said they are excited about the proposal. It was a huge financial hit to

their company, but they feel it will benefit the community at large. They feel it is a great compromise.

Mayor Osborne opened the public hearing.

Chris Rogers, 10775 Sienna Dune Dr., representing some of the HOA's west of this development. This proposal has met with the approval of the residents in the adjoining area. At a town hall meeting in April, the citizens indicated that they were in favor of the proposal. He recommended approval.

Mayor Osborne closed the public hearing.

The developer, neighbors, and staff were complimented for their efforts on this project.

- A.2. Potential Administrative Action Item – (See V. A.1.) Development Agreement R2013-37
- A.3. Potential Action Item – (See V. A.1.) LUA Resolution R2013-25
- A.4. Potential Action Item – (See V. A.1.) Rezone Ordinance 2013-06-Z

Council Member Seethaler made a motion to approve Development Agreement R2013-37, LUA Resolution R2013-25, and Rezone Ordinance 2013-06-Z. Council Member Newton seconded the motion.

Roll call vote on Development Agreement R2013-37. The vote was unanimous 5-0 in favor.

Roll call vote on LUA Resolution R2013-25. The vote was unanimous 5-0 in favor.

Roll call vote on Rezone Ordinance 2013-06-Z. The vote was unanimous 5-0 in favor.

- B.1. **PUBLIC HEARING** – Ordinance 2013-11, Amending the South Jordan Planning and Land Use Ordinance, Title 17, Specifically Amending Section 17.130.040.050 of the Code Regulating the number of Pigeons to be kept on a lot as allowed per code. Boris Majnaric (Applicant)

Planner Schindler reviewed the background information on this item. He noted that the applicant is not present.

Mayor Osborne opened the public hearing.

Kent Baker, 9493 S. 1860 W., said he is the immediate northbound neighbor. He said the applicant is a nice man, but there are too many birds. The neighbors are not in favor of the proposal to allow over 200 birds. He said these pigeons are not kept in a coop; they are homing

and racing pigeons that are meant to fly. The neighborhood feels that any change to the Ordinance is not okay, except to limit the hatchlings that are allowed.

Mayor Osborne closed the public hearing.

B.2. Potential Action Item – (See V. B.1.) Ordinance 2013-11

Council Member Seethaler indicated that the hatchling issue could be addressed at a future time.

Council Member Seethaler made a motion to not modify the Ordinance, and to keep the current Ordinance in place, consistent with the findings of the Planning Commission. Council Member Barnes seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

Council Member Seethaler asked that this issue be dealt with in as humane a matter as possible. He encouraged staff to be careful and respectful of the resident's property.

C.1. **PUBLIC HEARING** – Shamrock Estates 1) Resolution R2013-31, Authorizing execution of Development Agreement; 2) Land Use Amendment Resolution R2013-18, Amending the Land Use Designation from Village Mixed Use (VMU) and Office (O) to Medium Density Residential (MD), and Rezone Ordinance 2013-02-Z, Changing the Zoning Map from Agricultural (A-5) and Professional Office (P-O) to Residential Multiple-Family 8 (R-M-8) on 9.02 acres of property generally located at 10950 S. River Heights Drive. Jim Giles (Applicant). *(By Community Development Director Shaw)*

Community Development Director Shaw reviewed the background information on this item.

Bryan Flamm, Candlelight Homes, said the property was originally identified as a different use. They could not make the original designs work. They transitioned to this single family home project.

Mayor Osborne disclosed that Candlelight Homes is one of his clients.

Council Member Newton said this is a great project. How do they overcome the topography challenges? Mr. Flamm said they will be tiering down the project.

The frontage road on the plan was noted. Council Member Seethaler asked if this will be a walkable neighborhood? Mr. Flamm said yes.

Mayor Osborne opened the public hearing. There were no comments. He closed the public hearing.

C.2. Potential Administrative Action Item – (See V. C.1.) R2013-31 Development Agreement

C.3. Potential Action Item – (See V. C.1.) LUA Resolution R2013-18

C.4. Potential Action Item – (See V. C.1.) Rezone Ordinance 2013-02-Z

Council Member Newton made a motion to approve R2013-31 Development Agreement, LUA Resolution R2013-18, and Rezone Ordinance 2013-02-Z. Council Member Short seconded the motion.

Roll call vote on R2013-31 Development Agreement. The vote was unanimous 5-0 in favor.

Roll call vote on the LUA Resolution R2013-18. The vote was unanimous 5-0 in favor.

Roll call vote on Rezone Ordinance 2013-02-Z. The vote was unanimous 5-0 in favor.

D.1. **PUBLIC HEARING** – Saville Estates Land Use Amendment File LUA-2013.04, Resolution R2013-24, Amending the Future Land Use Map from Rural Residential (RURAL) to Low Density Residential (LD) and Rezone Ordinance 2013-04-Z, Changing the Zoning from Residential 1.8 (R-1.8) to Residential 2.5 (R-2.5), on four parcels (7.98 acres) generally located at 11450 S. 2700 West. Trevor Hull – Applicant. *(By City Planner Schindler)*

Planner Schindler reviewed the background information on this item.

Council Member Barnes asked about the impact of the height of homes? Planner Schindler said the height limit on the homes in both the R-1.8 and R-2.5 zones is 35 ft.

Council Member Seethaler asked about access to the adjoining property? Planner Schindler said the layout shows a stub street to Lizzy Cove for a future extension.

The historical use of the property was discussed. It has been used agriculturally, with livestock on it. Some of the existing homes will be retained.

Kyle Spencer, Northern Engineering, representing the applicant, said they will meet the fencing requirement. The irrigation line will also be taken care of when they get through the design process. They will address concerns with tail waters.

Council Member Barnes asked about the height requirement of the homes. Mr. Spencer said the intent is to be consistent with the homes in Cove Estates. He cannot speak to the height specifically. Council Member Barnes asked the developers to address the height issue with the concerned neighbors.

Mayor Osborne opened the public hearing.

Richard Coles, 2747 W. 11400 South, said he likes the proposal. He suggested that the home heights be lower on the northern part of the subdivision, and get taller towards Lizzy Cove. He has concerns about water run off. He also understands a rock wall will be built.

Gary Clifft, 11469 S. 2950 W., requested that a masonry wall be built between his lot and the new development. He noted that he has large animals and he does not want kids getting into his animals, or the animals to be able to get out. He noted the irrigation ditch on the west and south boundary lines. He also noted the tail water problems. The houses in Lizzy Cove have been flooded. He expressed concern about multi story houses being built behind him and people looking down into his property and complaining about the horse mess. Limiting the height of the homes on the west edge to single story would help.

Susan Egbert, 11323 S. 2700 W., said she is not opposed to the change. It has been a hardship on the property owners to pay taxes on these large lots. She noted that the area used to be all agricultural.

Aleta Taylor, 11131 S. Anna Cir., said she hopes they consider secondary water with this development, as part of the development agreement. She is in support of the subdivision.

Robert Paul, 11508 S. 2700 W., said he is the neighbor to the south. He said 20 years ago, he bought his property for more space and animal rights. He said later, some of his pasture was developed into Cove Estates. He is glad the Seville's can do this; it has been a hardship for them. He said they should consider piping for secondary water; they piped for secondary water for Cove Estates and it is not used. He said tail water was an issue for Lizzy Cove. He said their animal rights should be grandfathered; he does not want the new neighbors to complain about the existing animals.

Mayor Osborne closed the public hearing.

Planner Schindler reviewed the masonry wall requirement.

Casey Malstrom, 2787 W. 11400 S., said there is an irrigation ditch through the property. He asked what will they be doing with that? City Engineer Klavano said they don't have a site plan design yet. This is just a zoning request tonight.

Council Member Seethaler asked about protection for existing landowners with respect to animals. Planner Schindler said the existing animal owners should be ok, as long as the property is being maintained to code.

Council Member Seethaler asked about the prospect of secondary water? City Engineer Klavano said they put in secondary water, wherever feasible.

D.2. Potential Action Item – (See V. D.1.) LUA Resolution R2013-24

D.3. Potential Action Item – (See V. D.1.) Rezone Ordinance 2013-04-Z

Council Member Barnes made a motion to approve LUA Resolution R2013-24, and Rezone Ordinance 2013-04-Z. Council Member Butters seconded the motion.

Roll call vote on LUA Resolution R2013-24. The vote was unanimous 5-0 in favor.

Roll call vote on Rezone Ordinance 2013-04-Z. The vote was unanimous 5-0 in favor.

- E.1. **PUBLIC HEARING** – Milar Rezone File REZ-2013.04, **Ordinance 2013-05-Z**, Changing the Zoning from Residential 1.8 (R-1.8) to Residential 2.5 (R-2.5) on one 0.83 acre parcel located within the Eden Ridge #2 Subdivision at 9923 Eden Ridge Drive. Gordon Milar – Applicant. *(By City Planner Schindler)*

Planner Schindler reviewed the background information on this item.

Gordon Milar, 2599 W. Royal Tee Lane, applicant, said they are cleaning up something done many years ago. He indicated that he does not know when a home will be built on this lot.

Mayor Osborne opened the public hearing. There were no comments. He closed the public hearing.

- E.2. Potential Action Item – (see V. E.1.) Rezone Ordinance 2013-05-Z

Council Member Barnes made a motion to approve Rezone Ordinance 2013-05-Z. Council Member Seethaler seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

- F.1. **PUBLIC HEARING** – Ordinance 2013-09, Updating the City's Alcoholic Beverage Licenses Ordinance, Title 5.12, to reflect recent State law changes. *(By Chief of Staff Cunningham)*

Chief of Staff Cunningham reviewed the background information on this item. They are bringing the code into compliance with State law. They are also eliminating the provision for a microbrewery.

Council Member Seethaler noted this item was discussed during the work session. They are striving to comply with the current legislative governance from the State of Utah.

Mayor Osborne opened the public hearing. There were no comments. He closed the public hearing.

- F.2. Potential Action Item – (See V. F.1.) Ordinance 2013-09

Council Member Butters made a motion to approve Ordinance 2013-09. Council Member Seethaler seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

- G.1. **PUBLIC HEARING** – Ordinance 2013-10, Repealing and Re-Enacting Section 5.62 of the South Jordan Municipal Code Updating the City’s Residential Facilities Ordinance to reflect recent State law changes.
(By Chief of Staff Cunningham)

Chief of Staff Cunningham reviewed the background information on this item.

Mayor Osborne noted that staff was going to pursue more information on increasing the distance requirement, as noted in the work session. He asked about the allowance of 8 individuals in a residential facility. City Attorney Wall said 8 is legally defensible. They can lower the number to 6, but the majority of the facilities will be up to 8 anyway.

COS Cunningham said staff is comfortable with the Ordinance, as written. If they change the distance requirement, they can make a small amendment in the future.

Mayor Osborne opened the public hearing.

Aleta Taylor, 11131 S. Anna Cir., said this use can be hard on the neighbors. The one in her neighborhood has torn relationships apart. They don’t have to tell anyone about the use. She asked if the process could be helped so it is not so damaging to the neighborhood.

Mayor Osborne closed the public hearing.

- G.2. Potential Action Item – (See V. G.1.) Ordinance 2013-10

COS Cunningham said they have to be careful not to set up any public notice criteria. They cannot respond to public clamor because it becomes discriminatory. He said they encourage the applicants to talk to the neighbors.

COS Cunningham explained the provision for no outpatient treatment. They need to distinguish between AA and someone paying for counseling and coming to the site to receive services. City Attorney Wall read a provision from the Fair Housing Act outlining that it is unlawful to discriminate against these uses.

Council Member Short made a motion to approve Ordinance 2013-10. Council Member Barnes seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

VI. OTHER BUSINESS

- A.1. Resolution R2013-19, Prohibiting the use of an Ignition Source, Including Fireworks, Lighters, and Matches in certain areas within the City.
(By Fire Chief Evans)

Fire Chief Evans reviewed the background information on this item. He noted one change from the 20 ft. restriction to 30 ft. of undeveloped wild land and containing dry vegetation including brush, grasses, weeds, or other combustible vegetation.

The City Council discussed the area that is restricted from having fireworks. Fire Chief Evans said there is no reason for people to have those items in the restricted areas, unless they intend to set the fireworks off. Council Member Butters said it was restricted the same last year. Fire Chief Evans clarified that only possession of fireworks is restricted. People can possess lighters or matches in the restricted area but may not use those items. He noted that they have a separate Ordinance that deals with smoking in city parks and open spaces.

It was noted that the Fire Chief does not have the authority to deal with this; the City Council has to impose the regulations.

Council Member Newton asked if the restrictions can be extended to January 2014 to include New Years? Fire Chief Evans said no because it is based on environmental conditions. He said he can bring back a separate Resolution in November or December, if they feel it is necessary.

A.2. Potential Action Item – (See VI. A.2.) Resolution R2013-19

Council Member Seethaler made a motion to approve Resolution R2013-19, as amended. Council Member Barnes seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

B.1. Resolution R2013-30, Approving a Public Arts and Cultural Development Board Arts Grant to Hillary Emmer on behalf of Jordan Youth Choir in the Amount of \$2,500 for the 2013 Jordan Youth Choir Season. (*By Community Services Director Tingey*)

Parks and Recreation Director Tingey reviewed the background information on this item. He said there is still a balance in the PACDB account, after this grant. Council Member Butters said there is approximately \$4,200 in the fund, after this grant.

Council Member Seethaler asked who is participating from the city? Council Member Butters said it is a new organization; they have no idea how many from South Jordan will participate. All participants will be from the southwest part of the valley. It was noted that this is a standard grant amount of a new organization.

The City Council discussed the process to get a grant approved. They discussed the definition of art, which is a broad definition.

B.2. Potential Action Item – (See VI. B.1.) Resolution R2013-30

Council Member Butters made a motion to approve Resolution R2013-30. Council Member Short seconded the motion. Roll call vote. The vote was unanimous in favor.

- C.1. Resolution R2013-32, Authorizing the Capital Expenditures for attached critical projects and purchases from the Capital Projects Fund Balance and approval to move forward on said projects and purchases. (By City Engineer Klavano)

City Engineer Klavano reviewed the background information on this item. He passed out a Capital Expenditure Summary (Attachment B). COS Cunningham said the IT study report will be presented in 2 weeks. He said the first phase will be \$1.3 million. It is a big chunk of their 5 year commitment. After they have seen the IT recommendation, another request to specifically request the money will come forward.

Council Member Newton said he feels that replacement of some of the vehicles, other than police and fire, might be more assertive than needed. He asked if they will be scheduling a presentation on fleet management? Tom Volt, fleet manager, noted the point system used when a vehicle becomes viable for replacement.

Council Member Seethaler said they have not been able to review the methodology for vehicle replacement. He said it represents a significant expenditure. He said regarding the IT study, he is okay earmarking the funds, but not expending them at this time. He asked if they will be reviewing the fleet management in an upcoming work session to discuss the inventory, process, and costs?

CM Geilmann said the management of the fleet falls under the purview of the CM and the fleet manager. Council Member Seethaler said he would like to understand the policy of the city with respect to replacement, purchase, number of vehicles, whether we lease or buy, etc. It is their right to understand that before they approve a large expenditure. CM Geilmann said he thought the new leasing program was going to be outlined tonight. Council Member Seethaler noted the lateness of the hour. Council Member Seethaler said he would like an education on the policy and the process. He noted that he does not want a 5-10 minute department spotlight on this issue.

Mayor Osborne said he has been told they have 297 vehicles. Mr. Volt said that includes trailers, lawn mowers, etc. Mayor Osborne said that is the kind of information he needs. CM Geilmann said the listing of vehicles has been published. Council Member Seethaler said he would like to understand how many miles the vehicles go before replacement and to have a better understanding of the challenges they face, and the resources that will be needed year to year. He wants to understand the old leasing program as well as the new program. He would like to understand the policy and practices, in addition to a list of what they have and what they are replacing. He said he doesn't understand enough to approve tonight's request. Mayor Osborne said he would like to see a road map of where they are going and how often these budget requests will come so they can plan for future expenditures.

Mayor Osborne said if this is for expenditures in next year's budget, what is the urgency? Is this a modification to the proposed budget? ACM Whatcott said right now, there is no appropriation for fleet. Mayor Osborne said there is no appropriation for any of these items. Council Member

Seethaler said the proposed funds for these projects is the “slush fund”. It also affects the next Resolution they will be discussing regarding how much to put in the reserve fund.

Council Member Seethaler said his concern is with the bottom 2 items on the list on the first page (Attachment B), until he has more information on those two items.

Council Member Newton asked what is the \$60,000 for, just the street repair? City Engineer Klavano said it is street repair and transit pipes. The water fund will pay for a percentage of the project.

C.2. Potential Action Item – (See VI. C.1.) R2013-32

Council Member Seethaler made a motion to approve Resolution 2013-32, including only the first 7 items totaling \$802,000. The remaining two items are to be earmarked, but they are not authorizing it to be spent at this time. Council Member Short seconded the motion. Roll call vote. The vote was unanimous in favor.

D.1. Resolution R2013-33, Determination by City Council of which of the Capital Expenditures that the City Council will authorize and approve to move forward on said projects and purchases. *(By City Engineer Klavano)*

City Engineer Klavano reviewed the background information on this item.

Mayor Osborne said many of the projects should be funded by class c road fund money. He feels they need to look at that fund as it is intended from the State. In the future, it will get harder and harder to fund the road projects. Council Member Newton said by doing that, they are still just switching money from one pocket to another. ACM Whatcott agreed that by using the class c road funds for roads, it will clarify where the money is being spent. Mayor Osborne acknowledged that not 100 percent of the class c road funds will be used for roads. City Engineer Klavano said the road fund will always be supplemented to some degree.

CM Geilmann said his understanding is that the process Mayor Osborne has requested has started in the next fiscal year’s budget.

Council Member Seethaler proposed that for the Resolution under item E.1., they move \$500,000 to the General fund. They could then fund all projects listed on the first page, and would carry over \$193,000 for the projects listed on the second page (Attachment B). With the surplus CIP and General Fund after the close of the fiscal year, they can use that for some of the other projects.

Council Member Newton suggested they table item D.1. and E.1. until they can get better insight from staff. Council Member Seethaler said approving it shows more a good faith effort to fund the projects and put money in savings. Council Member Barnes said if any of the unfunded projects became a higher priority, they could borrow the money from savings, if needed.

Mayor Osborne said they need to understand why they have the reserve fund and see if there is an opportunity to use it in a more constructive way.

Council Member Short asked if they would consider putting \$450,000 in the General Fund, so they can use \$50,000 for the historical committee bus crash memorial. Council Member Seethaler said he is open to the history committee's proposal. He feels they can get some private donations for the project. Council Member Barnes suggested they use the money in the victims of the bus crash's honor to put towards the AED program, rather than a monument. Council Member Short said the history committee wants a monument to remember the victims.

D.2. Potential Action Item – (See VI. D.1.) R2013-33

E.1. Resolution R2013-22, Increasing the Reserve Fund from 18% to 25% of the Annual General Fund. (By *Finance Director Naidu*)

E.2. Potential Action Item – (See VI. E.1.) R2013-22

Council Member Newton made a motion to table Resolutions R2013-33 and R2013-22, until they get some more information from Finance Director Naidu.

Council Member Seethaler made a substitute motion to approve Resolution R2013-22, and to change the reserve amount from \$1 million to \$500,000, and to permanently fund the CIP in the amount of \$2,358,947, and to table Resolution R2013-33. Council Member Barnes seconded the motion.

Roll call vote to table Resolution R2013-33. The vote was unanimous 5-0 in favor.

Roll call vote to approve Resolution R2013-22, as amended. The vote was unanimous 5-0 in favor.

F.1. Resolution R2013-34, Authorizing the implementation of Water Enterprise Budgeted Capital Improvements Projects and Authorizing the allocation of the respective project budget. (By *City Engineer Klavano*)

City Engineer Klavano reviewed the background information on this item. The projects are budgeted in the next fiscal year budget. The money will be spent after July. He clarified the budgeted amount versus the funded amount. City Engineer Klavano discussed the transit material that many pipes are made out of. The pipes break a lot and have asbestos. They will be replacing the pipe as they do projects. It will take several years to replace the pipes.

F.2. Potential Action Item – (See VI. F.1.) R2013-34

Council Member Newton made a motion to approve Resolution R2013-34. Council Member Barnes seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

- G.1. Resolution R2013-35, Authorizing the implementation of certain Capital Improvement Projects and authorizing the allocation of the respective project budget from the Park Impact Fee Account. *(By City Engineer Klavano)*

City Engineer Klavano reviewed the background information on this item.

Mayor Osborne said he likes the ideas, but is concerned about how the projects encumber the city perpetually.

They discussed the proposal for a splash pad. Mayor Osborne expressed concern about Oquirrh Park being able to handle the additional people and asked where would they park? City Engineer Klavano said the parking lot is typically not used; they can look at additional parking.

Council Member Seethaler said the big city park might be more appropriate for the splash pad, rather than a neighborhood park. It might be well suited as a community asset. Parks and Recreation Director Tingey said they are also concerned that a free splash pad might affect the revenues of the recreation center.

Council Member Newton asked about the master plan expense. Parks and Recreation Director Tingey said one part of the plan is a community survey with some parks questions. If they don't do the survey, that would decrease the cost of the master plan.

Council Member Newton asked if rock monuments at the city entrances would qualify for park impact fees? Parks and Recreation Director Tingey said it depends, but many times it is considered a street improvement, not a park improvement.

- G.2. Potential Action Item – (See VI. G.1.) R2013-35

Council Member Short made a motion to approve Resolution R2013-35. Council Member Seethaler seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

- H.1. Resolution R2013-36, Authorizing the implementation of certain Capital Improvement Projects and authorizing the allocation of the respective project budget from the Storm Drain Impact Fee Account. *(By City Engineer Klavano)*

City Engineer Klavano reviewed the background information on the item.

- H.2. Potential Action Item – (See VI. H.1.) R2013-36

Council Member Seethaler made a motion to approve Resolution R2013-36. Council Member Butters seconded the motion. Roll call vote. The vote was unanimous 5-0 in favor.

VII. REPORTS AND COMMENTS

A. MAYOR

Mayor Osborne noted that they have had a significant increase in the CDBG funds, rather than a 5% decrease.

Mayor Osborne said VECC is working on an interlocal agreement. They are going to consolidate everyone in Salt Lake County into a central location. He noted that there is still work being done on the funding mechanism for the homeless issue.

Mayor Osborne said they are working in COM on a proposal to bring all of the cities of the Salt Lake County together so that if a local tax is proposed, how the tax would be implemented, and to ensure the tax would remain in the county that it is being taxed on. He said they don't want to use the formula used for the class b and c road funds because they will use 25 percent of the taxes in rural communities.

B. CITY COUNCIL MEMBERS

Council Member Barnes requested daily updates on the city's website for people who are filing for city office.

Council Member Barnes proposed a pie summit at his house for all current City Council members, city management, and all candidates for office so they can get to know each other. He suggested Thursday, June 20th at 7 pm. It will be publically noticed.

Council Member Seethaler noted an issue with the city posting no parking signs on the fence in front of the Burgon home. He appreciated the city working with the Burgon's on that issue. He noted that the Burgon home has been accepted to be placed on the historic registry.

Council Member Seethaler gave a report on the Young Entrepreneur Academy graduation.

Council Member Short said the History Committee would like to have their monument for the bus crash done this year, as it is the 75th anniversary of the crash. The committee has been told not to get private donations. He said they have some good ideas for the park.

Council Member Butters said the PACDB hosted a reception for the annual artist contest. The art is on display at the Gale Center. There are various types of art work submitted by adults, teens, and kids.

C. CITY MANAGER

CM Geilmann noted the City Council's Country Fest instructions relative to the parade.

CM Geilmann discussed the August 17th visioning meeting with the facilitator. The City Council will be receiving a call from the Novak Group so the facilitator is prepared for the August 17th meeting.

The City Council discussed the SOJO marathon. In the last 3 years, it has not turned a profit and the director of the race can no longer run it. They are looking for help and direction from the city. He said Healthy South Jordan has fallen apart as an organization. He asked if the city would be interested in managing or partnering with a private director for the race? He said it takes 150-200 volunteers. He said he is concerned about staff being able to assist with this marathon. His recommendation is that they contract to manage the marathon and partner with a professional race director. He said they will use the city resources where available. He feels it is advantageous for the city, and it is a Boston Marathon qualifier.

Council Member Newton said he feels it is good PR for the city.

The City Council discussed using the city's variable message signs, and consolidating some of their current races. They will be able to offset some of the costs.

Council Member Seethaler said he feels there are a lot of intangible benefits. Mayor Osborne concurred. He said he feels it would be a growing asset to the city. It will draw others to the city and promote the city.

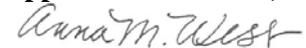
The City Council instructed staff to make contact to take over the marathon and start negotiations to get that done.

ADJOURNMENT

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

The June 4, 2013 City Council meeting adjourned at 12:08 a.m.

This is a true and correct copy of the June 4, 2013 City Council meeting minutes, which were approved on June 18, 2013.


South Jordan City Recorder

Cash Store Appeal

1. 82 residents from the Jones Farm neighborhood have timely appealed the Planning Commission's April 9, 2013 decision to issue a Conditional Use Permit for the Cash Store that is proposed to be located at 10384 S. River Heights Drive.
2. Tonight, the Council will act as South Jordan's Appeal Authority to determine, "anew", if the Cash Store is entitled to a Conditional Use Permit as a matter of law, and if so, whether mitigating conditions should be imposed to ensure the public health, safety, welfare, and economic viability, to enforce the land use and development ordinances of the city, and to implement the general plan of the city.
3. At the inception of this hearing, both the appellants and the applicant should designate a coordinating spokesperson to provide an orderly presentation of materials. Who will coordinate the appellants' presentation? *Response: Tyler Wilson*. Who will coordinate the applicant's presentation? *Response: David Frederick*.
4. The Council has received and read 321 pages of information submitted on this issue.
5. You may assume that the Council has prepared for the hearing by reading the information submitted.
6. The Council is sitting as a "quasi-judicial" body and is limited in this role to apply existing law to the facts presented in this hearing and in the materials that are presented to them.
7. The Council may not respond to "public clamor" but may request information from specific individuals.
8. To ensure fairness and due process for both the appellants and the applicant, the Council has retained Special Counsel to advise them on this appeal.
9. At the conclusion of the hearing, the Council will deliberate in closed session and will instruct its Special Counsel to draft a written decision to memorialize the facts that the Council found persuasive and how the law applies to those facts.
10. The decision will then be voted on at the next noticed meeting.

CAPITAL EXPENDITURE SUMMARY

City Council June 4, 2013

Fund	Capital Projects Fund Balance
Beginning Balance	\$2,858,497.00

Resolution 2013-32, Critical Capital Expenditures

Item	Amount	Running Balance
Traffic Signal @ Daybreak Parkway & 5600 West	\$77,000.00	\$2,781,497.00
Street Repair in Glenmoor/Transite Pipe Replacment	\$60,000.00	\$2,721,497.00
4800 West, Skye Drive to 10200 South, Fed Match	\$450,000.00	\$2,271,497.00
3200 West Mill & Overlay, 10400 South to Bison Ridge	\$100,000.00	\$2,171,497.00
Round-about (Oval-about) 11400 South @ District	\$30,000.00	\$2,141,497.00
Fire Station 61 Remodel	\$70,000.00	\$2,071,497.00
Plaza Repair	\$15,000.00	\$2,056,497.00
IT Study, Phase 1 Implementation	\$685,000.00	\$1,371,497.00
Funding for Fleet Replacement Program	\$678,000.00	\$693,497.00
Total	\$2,165,000.00	

Ending Balance with Resolution R2013-32 Critical Capital Expenditures	\$693,497.00
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CAPTITAL EXPENDITURE SUMMARY

City Council June 4, 2013

Fund	Capital Projects Fund Balance
Beginning Balance	\$693,497.00

Resolution 2013-33, High Priority and Desired Capital Expenditures (City Council to Pick & Choose)

Item	Amount	Running Balance
Road Repairs for Streets in Glenmoor Area, Non Transite	\$372,409.00	\$321,088.00
10400 South Full Depth Reclamation	\$378,000.00	(\$56,912.00)
11010 South & Redwood Intersection Improvements	\$50,000.00	(\$106,912.00)
3200 West, 10593 South to 10431 South	\$248,000.00	(\$354,912.00)
3200 West, 10400 South to 10250 South	\$445,000.00	(\$799,912.00)
3200 West, 10200 South to 10080 South (Right of Way only)	\$220,000.00	(\$1,019,912.00)
3200 West Street Lights. 10000 South to 10600 South	\$40,800.00	(\$1,060,712.00)
Skye Park Playground Improvements	\$130,000.00	(\$1,190,712.00)
City Park North Playground Improvements	\$80,000.00	(\$1,270,712.00)
Bolton Park Playground Improvements	\$40,000.00	(\$1,310,712.00)
Canal Trail - South Jordan Canal	\$37,500.00	(\$1,348,212.00)
Glenmoor Park & Trailhead Amentities Phase 2	\$125,000.00	(\$1,473,212.00)
Entry Park Features	\$10,000.00	(\$1,483,212.00)
City Hall Airflow Re-balancing	\$20,000.00	(\$1,503,212.00)
Rubberized Flooring Replacement	\$10,000.00	(\$1,513,212.00)
Mulligans Wall Repair	\$15,000.00	(\$1,528,212.00)
Total	\$2,221,709.00	

Ending Balance with Resolution R2013-32 Critical Capital Expenditures	(\$1,528,212.00)
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CAPTITAL EXPENDITURE SUMMARY, ENTERPRISE FUNDS, WATER C.I.P.

City Council June 4, 2013

Fund	Enterprise Funds, Water C.I.P.
Beginning Balance	\$3,816,500.00

Resolution 2013-34, Critical Capital Expenditures

Item	Amount	Running Balance
10200 South Transite Replacement, Bangerter to Dunsinane Dr	\$130,000.00	\$3,686,500.00
Transite Water Replacement in Glenmoor Area	\$2,850,500.00	\$836,000.00
Secondary Water Projects, convert parks from Culinary	\$614,000.00	\$222,000.00
Total	\$3,594,500.00	

Ending Balance with Resolution R2013-34 Enterprise Funds, Water C.I.P. Expenditures	\$222,000.00
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CAPTITAL EXPENDITURE SUMMARY, PARK IMPACT FEE ACCOUNT

City Council June 4, 2013

Fund	Parl Impact Fee Account C.I.P.
Beginning Balance	\$2,485,776.00

Resolution 2013-35, Park Impact Fee Account C.I.P.

Item	Amount	Running Balance
Splash Pad Installation	\$480,000.00	\$2,005,776.00
Updating Parks, Trails and Open Space Master Plan	\$80,000.00	\$1,925,776.00
Oquirrh Shadows West Park Development	\$150,000.00	\$1,775,776.00
Jordan Valley Aqueduct Trail Development	\$275,000.00	\$1,500,776.00
Total	\$985,000.00	

Ending Balance with Resolution R2013-35 Park Impact Fee Account C.I.P.	\$1,500,776.00
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CAPTITAL EXPENDITURE SUMMARY, STORM DRAIN IMPACT FEE

City Council June 4, 2013

Fund	Parl Impact Fee Account C.I.P.
Beginning Balance	\$317,739.00

Resolution 2013-36, Storm Drain Impact Fee Account C.I.P.

Item	Amount	Running Balance
Update Storm Drain Master Plan	\$70,000.00	\$247,739.00
<i>Total</i>	<i>\$70,000.00</i>	

Ending Balance with Resolution R2013-36 Storm Drain Impact Fee Account C.I.P.	\$247,739.00
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