

SOUTH JORDAN CITY
CITY COUNCIL WORK 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, Community Development Director George Shaw, City Planner Greg Schindler, Chief of Staff Paul Cunningham, City Council Secretary MaryAnn Dean

Others: Kevin Pomeroy

4:00 P.M.
EXECUTIVE CONFERENCE ROOM

SPECIAL WORK SESSION

Council Member Barnes offered the invocation.

I. STUDY SESSION

A. Cash Store Appeal AP-2013.03 (*CDD Shaw*)

Community Development Director Shaw said the Planning Commission has had two hearings regarding the Cash Store. He reviewed the information that has been submitted on each side of the issue. The applicant was asked to submit documents and address impacts and crime statistics for the review. Staff was asked to research what other municipalities do regarding cash stores. He said most municipalities regulate the business by having a cap at the number of cash stores allowed, or having a distance requirement between stores, or both. South Jordan has a distance requirement of 1 mile between stores, but there is no cap in the Ordinance. He said the use would only be allowed in the C-C zone, and possibly the C-F zone and that limits the number of uses in the City. He noted all of the materials submitted by the neighbors, applicants, and additional staff information including, a matrix and the crime statistics in the community. He said there are 2 cash stores currently in the city. They have not seen a crime increase as a result of those stores. He said staff has not seen anything sufficient to overturn the Planning Commission's decision to approve the Conditional Use Permit.

Jodi Hoffman, outside legal counsel retained on the item, was introduced. Mayor Osborne said because this issue has potential litigation, Ms. Hoffman will give them counsel in a closed session.

Council Member Newton made a motion to go into closed meeting for potential litigation. Council Member Barnes seconded the motion. The vote was 4-0 in favor, with Council Member Short absent. Note – Council Member Short arrived during the closed session

II. CLOSED SESSION

A. Closed Executive Session to discuss pending or reasonably imminent litigation.

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

III. STUDY SESSION - CONTINUED

B. Rushton Meadows/Bowler Development Rezone; R2013-37, R2013-25 & 2013-06-Z
(*CDD Shaw – Development Agreement by Director Tingey*)

Community Development Director Shaw reviewed the rezone request. He noted that the City is a party to this to get the trail completed in the area. The developer is proceeding under the RM-8 zoning. The developer will be improving the trailhead park and trail with the development. He noted that the bottom part of the property is proposed to be townhomes; the rest of the development will be single family homes. Only the area with the multi family units will have to meet the open space requirement. The trail will be done simultaneously with phase 1. The park will be completed with phase 4, which will be done in 2-3 years.

Council Member Short indicated that he knows the person doing the financing for this project. City Attorney Wall said if they don't do business, there is no conflict and there is no ethical or legal reason to declare it.

C. Ordinance 2013-11, Amend Title 17.130.040.050 Pigeon Ordinance
(*City Planner Schindler*)

City Planner Schindler reviewed the proposal. The applicant believes that he had his pigeons legally for years. He claims that a former staff member told him in 1996 that he could have the pigeons. They contacted the former staff member, and he does not recall giving anyone permission to have those pigeons. That is irrelevant because the code did not allow it.

Mayor Osborne asked if there is a mechanism to have a scaled approach to the applicant's compliance?

City Prosecutor Ed Montgomery said the appellant will not be here tonight. City Attorney Wall said staff has considered what other communities have done regarding this issue.

Mr. Montgomery reviewed the prosecution history for the appellant. They have worked with and accommodated him in every conceivable way for 2 years. This is a chronic problem that the court is dealing with, separately from this Ordinance change. Tonight's decision is whether to allow more than 40 pigeons; the rest is the court's responsibility.

Mr. Montgomery said the 40 limit is not set in stone. It doesn't include babies (pigeons 4 months or younger). In this case, the judge said the applicants could have 40 adult pigeons and 40

juvenile pigeons. He said the language in the old Ordinance was tighter and they may need to address that in the future. Sr. Planner Schindler said the Ordinance requires that the birds be banded and that will help them figure out the age of the bird.

Council Member Seethaler noted the difference between sporting pigeons that can be confined and these pigeons. The pigeons in this case are homing pigeons and they fly freely.

It was noted that the Ordinance requires an annual review.

D. Shamrock Estates Rezone, R2013-31, R2013-18 & 2013-02-Z (*CDD Shaw*)

Community Development Director Shaw reviewed the rezone application. The area is master planned for office. He reviewed the issues with water and sewer. The area is not likely to be developed as office. The proposal is to rezone the property to RM-8 because there are a variety of lot sizes, but there is a restriction in the development agreement that they can't exceed 4 units per acre. The neighbors like the plan. The smaller lots are near River Heights Drive because of the topography of the land. There is no open space requirement because all of the lots are proposed to be single family residential. The plan shows landscaping between River Heights Drive and the first row of homes, but he is not sure if that will happen. It was noted that the subdivision could have an access to the north at some point.

E. Saville Estates Rezone; R2013-24 & 2013-04-Z (*City Planner Schindler*)

City Planner Schindler reviewed the application.

Mayor Osborne asked if the street going out to 11400 South is sufficient to connect the subdivisions? City Planner Schindler said yes. He said there was some concern about the height of the homes. In the residential Ordinance, the maximum height of the homes is 35 ft.

F. Gordon Milar Rezone; R2013-05-Z (*City Planner Schindler*)

City Planner Schindler reviewed the rezone application. There is one lot that they want to divide to 2 lots. A rezone is required. The adjacent properties have animal rights so a masonry wall would be required on both lots.

G. Ordinance 2013-09; Amendment to Title 5.12 Alcohol Beverage Licenses
(*COS Cunningham*)

Chief of Staff Cunningham reviewed the proposed Ordinance amendment. They are bringing the Ordinance into compliance with State Law. The City's position has consistently been that they do not want alcohol to be the primary business; they want the alcohol sales secondary to food sales at an establishment.

Mayor Osborne asked about an existing restaurant in the city, and if they are in compliance with the new 60/40 food to alcohol sale ratio? Lieutenant Hansen said they have never been in violation with the 50/50 ratio. He is not sure where they fall in relation to the 60/40 ratio.

COS Cunningham noted that this change also removes the allowance for a microbrewery in the city. If someone applies for a microbrewery license, they will address it at that time. They are adopting state law definitions. He reviewed the map of alcohol licenses within the city limits.

COS Cunningham noted that the Glenmoor Golf Course has a grandfathered tavern license. He said there is protection for schools and community uses and noted the required 300 ft. buffer. That buffer is a city and state law.

Council Member Seethaler asked about the issue of a mixed use residential building relative to an alcohol license. COS Cunningham said the alcohol license would apply to commercial uses. There is no restriction of sales of alcohol with the proximity of a residential unit. The 300 ft. buffer relates to off premise beer sales relative to schools and community locations. There is no inherent protection to residents; that policy is consistent with other cities.

CM Geilmann discussed the difference between a restaurant license and a tavern license. They are complying with state law. The police department is aware of the type of facility and the clientele that will frequent those establishments.

COS Cunningham said at some point, the city might want to get a codifier for the code. It is legally defensible, as written.

H. Ordinance 2013-10; Amendment to Title 5.62 Residential Facilities

COS Cunningham reviewed the Ordinance amendment. There are currently 2 residential facilities in the city and he noted their location. He said they will see other applications. He said they have to have a reasonable accommodation process. In the new state law, cities don't have instruction other than to follow Federal and State law. They have to preserve a residential character. He said background checks can be required for certain types of treatment facilities. If there are more than 8 people that are proposed to live in the residential facility, they have to ask for it through reasonable accommodation and go through that process. He noted that the two existing facilities are in full compliance.

COS Cunningham noted that there is a ½ mile restriction between residential facilities. Mayor Osborne asked how did they come up with the ½ mile restriction? COS Cunningham said they looked at what other cities are doing. City Attorney Wall said ½ mile has never been successfully challenged, but 1 mile has been successfully challenged in other states. He said staff can do more research on a 1 mile restriction. Mayor Osborne asked staff to look into that. City Attorney Wall said they cannot regulate based upon the disability. There is underlying belief that the way to deal with these individuals is to integrate them into the community, and that has been upheld by the Supreme Court.

ADJOURNMENT

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

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

Anna M. West
South Jordan City Recorder