

Minutes of the Salem City Council Meeting held on February 20, 2013 in the Salem City Council Chambers.

Worksession 6:30 p.m.

Mayor stated that he heard back from the church on the property by the Salem LDS Stake Center on Canal Road. The price they came back with was \$59,000. So at this time he does not feel to pursue it.

Attorney Junior Baker explained that with tonight's agenda item dealing with the zone change, that the council will be wearing the legislative hat. He stated that the council can approve or deny the zone request. If they deny it they do not have to have a reason to deny it. The second part of the public hearing is the subdivision; this is when the council would act in the administrative mode. If the zone request is denied then the second item of the public hearing would not need to be acted on.

**MEETING CONVENED AT:** 7:00 p.m.

**CONDUCTING:** Mayor Randy A. Brailsford

**COUNCIL PRESENT:**

Mayor Randy A. Brailsford  
Councilperson Janie Christensen  
Councilperson Aaron Cloward  
Councilperson Sid Jorgensen  
Councilperson Sterling Rees

Excused:

Councilperson Craig Warren

**STAFF PRESENT:**

Jeffrey Nielson, Finance/Recorder  
Chief Brad James, Police Chief  
Junior Baker, City Attorney  
Bruce Ward, Public Works/Engineer

David Johnson, Building Dept.  
Matt Marziale, Recreation  
Clark Crook, Electrical

**OTHERS PRESENT**

Dawn Taylor, Nelson Taylor, Brad Taylor, Shelley Hendrickson, Karen Taylor, Ian Andrus, Leif Wilde, Kaden Peterson, Connor Hozen, Clay Carter, Rachel Parry, Tonjelle Halladay, Amilyn Gardner June

## **1. VOLUNTEER MOTIVATIONAL/INSPIRATIONAL MESSAGE**

Mayor Brailsford asked if anyone would like to give a motivational or inspirational message. Councilperson Sid Jorgensen stated he would like to offer a motivational message in the form of a prayer.

## **2. INVITATION TO SAY PLEDGE OF ALLEGIANCE**

Mayor Brailsford asked if anyone would like to lead the audience in the pledge. Councilperson Rees invited those who wish to participate, to stand and say the pledge of allegiance with him. He then led the pledge of allegiance for those who wanted to participate.

## **3. PUBLIC HEARING**

### **Open**

**MOTION BY:** Councilperson Sterling Rees to open the public hearing on Nelson Taylor item #1 Zone Change Request on Property located at 1291 S. 420 W. From R-15 to R-12.

**SECONDED BY:** Councilperson Aaron Cloward.

**VOTE:** All Affirmative (4-0).

### **A. NELSON TAYLOR**

#### **i. Zone Change Request on Property located at 1291 S. 420 W. From R-15 to R-12**

Mayor Brailsford wanted to clear up a comment that Nelson Taylor told Planning and Zoning members. The comment Nelson told them, was that Mayor Brailsford told him that with the new R-12 zone he could subdivide his property. Mayor wanted to clear-up this statement; he told Nelson that he could go through the process of a zone change, and that would be to go to DRC, Planning and Zoning and then to council. He told Nelson to get a hold of the city office to begin the process. Mayor stated that Nelson has gone through the process, and he is here at council to ask for their approval. He noted that Planning and Zoning had recommended against the zone change request.

Nelson stated that about 15 years ago he built the subdivision, the last lot in the subdivision was a bigger lot and it is the one that he took. He stated that he has had a garden on one side for a while, but times have changed and he and his wife would like a smaller lot. A few years ago he came to the city for a zone change for the same property and was told it was not the right time and was denied. After talking to the mayor and finding out about the R-12 zone he felt that the time was right to request the change. He read through the new zone and felt that he qualifies for the new R-12 zone. He went to DRC and they felt that the

subdivision would be okay, but he would have to get the zone changed first. He went to Planning and Zoning and they denied his request to have a zone changed.

Nelson stated that he knows that Planning and Zoning is just a recommendation board, so he would like to request to have the zone changed on his lot to R-12.

Attorney Baker stated that this is a zone change request; the council has the discretion to approve or deny the request. He stated that he meets all of the requirements for the R-12 zone, but again the council has the discretion to either approve or deny the request. He also pointed out that just because Nelson meets the requirements of the zone, does not mean that Nelson is entitled to the zone change.

Nelson stated that he has done everything that he was supposed to do. He stated that some of the neighbors are not in favor of the zone change.

The location of the property was shown on the map.

Dawn Taylor showed the council what Nelson and her have in mind as far as building a new home if the property is able to be divided. She explained that many of the homes in the neighborhood are very close together and this new home would not be any different. She also stated that the style of home they want would fit perfectly into the area.

Councilperson Rees asked about the existing home and what they plan on doing with it. Dawn stated they would like to sell it and then move into the new home, it would be a smaller home.

Bruce Ward stated that the lot sizes for the proposed subdivide would be 12,000 and 12,469 square foot lots.

Councilperson Cloward, who lives in this subdivision stated that his lot is 15,000 square feet, and wondered if there are any other lots in the subdivision that are around 12,000 square feet. It was stated that in that subdivision there are not. Councilperson Cloward stated that this is a difficult situation, but one of the responsibilities of a councilperson is wearing the hat for land use. He stated that when we talk about land use we want to create what we want the city to be in the future. When a subdivision is created it is required to meet certain requirements. When the original subdivision was created it met the requirements of the subdivision standards and also with zoning. He stated that when the council begins to allow spot zoning into subdivisions it shows poor planning on our part as the city. There are many vacant lots in other subdivisions that are in the same circumstances as this lot. If we approve this spot zone then we need to look at other similar request, then we begin to lose the vision of what we want as a city. It is a concern to begin spot zoning. When Planning and Zoning and the council went through the general plan, they looked at some of the older areas in the city,

not subdivisions, and felt that those areas would be good for the R-12 zone, to eliminate some of the vacant and larger lots in the older part of town. The area we are discussion tonight is in an established subdivision and was not intended for the R-12 zone. Councilperson Cloward stated it is not fair for the other 85 lots in the subdivision who had to meet all of the requirements and to change that for one lot feels it is not right.

Nelson Taylor stated that Councilperson Cloward has a valid point, but feels it is a very narrow point and does not do any justice.

Councilperson Cloward stated that he is concerned about setting a precedent if we do spot zoning, which would allow others to do the same. He stated that we created zones for a reason; we need to look at the vision of the city.

Mayor Brailsford asked if there were any other questions from the public.

Brad Taylor, son of Nelson, appreciates what has been said. He said the city has the R-12 zone and this recommendation meets the requirements of the zone. He stated that he understands if it was not the intent of the council to have the R-12 zone in established subdivisions, but if that is the case then they should look into it and make the ordinance clearer. He said for right now Nelson does meet the requirements for the R-12 zone.

Dawn Taylor stated that six years ago when they came to the council it was not very friendly. She wanted to thank the council; this time has been a little more pleasant. She appreciates the council wanting to look at the vision of the city.

Shelley Hendrickson stated where she lives; her property is zoned for low density. If the council approves this request tonight, then what is to say where she lives someone coming in and splitting lots behind her property and zone it R-8. This would not fit within the surrounding area. She would appreciate knowing that the city council is following and staying in harmony with the general plan. As the chairperson for Planning and Zoning, they have spent a lot of time on the general plan.

Councilperson Christensen stated that she went to the hand book on this to see what it states; she too has read the complaints of the neighbors, but feels that they are not reasonable hardship complaints, and did not read the paragraph from the land use hand book because the opposing neighbors were not present. We need to look at each situation as a case by case and feels that this zone change would not change the look of the area around it. Feels that it is a very comparable home that he wants to build and she does not have a problem with it. She also stated that it is hard to approve one and then not approve a different one, but looking at the area and the home they want to build, and feels it would fit in.

Attorney Baker stated that Nelson is asking for the zone change on the one existing lot, then if that is approved then he will ask for approval to subdivide the one lot.

Shelley Hendrickson stated as a resident she is concerned that if the council approves this zone change that they would be obligated to change other zone request that may come in, because their lots are too big. She feels that the city should not spot zone and that it is not good planning for the city.

Brad Taylor stated that his parents are not able to care for the larger lot anymore, and to help them out they want to build a smaller home by subdividing their larger lot.

**Close**

**MOTION BY:** Councilperson Aaron Cloward to close the public hearing on Nelson Taylor item #1 Zone Change Request on Property located at 1291 S. 420 W. From R-15 to R-12

**SECONDED BY:** Councilperson Sterling Rees.

**VOTE:** All Affirmative (4-0).

**i. Zone Change Request on Property located at 1291 S. 420 W. From R-15 to R-12**

**MOTION BY:** Councilperson Aaron Cloward to accept the recommendation of Planning and Zoning, to stay consistent with the General Plan, to not spot zone, and to deny the Nelson Taylor Zone Change Request.

**SECONDED BY:** Councilperson Sterling Rees.

**VOTE:** Councilperson Janie Christensen; Nay, Councilperson Sterling Rees; Aye, Councilperson Aaron Cloward; Aye, and Councilperson Sidney Jorgensen; Aye. (3 Aye, 1 Nay).

Mayor Brailsford stated that with the denial of the zone change, item two of the public hearing – vacating of lot #25 of the Nelson Taylor Subdivision – there is no need to act upon that item, it would be denied with item one denial.

**Open**

**MOTION BY:** Councilperson Sid Jorgensen to open the public hearing for the ordinance amending the commercial zones of the comprehensive zoning ordinance.

**SECONDED BY:** Councilperson Aaron Cloward.

**VOTE:** All Affirmative (4-0).

**b. Approve Ordinance Amending the Commercial Zones of the Comprehensive Zoning Ordinance.**

Mayor Brailsford stated that Planning and Zoning would like to spend more time on this ordinance.

Shelley Hendrickson stated that she was unable to attend the last Planning and Zoning meeting, but knows that some of the members along with her would like to have a work session for their next meeting. She feels this would help, especially since there are two new members on the commission. Planning and Zoning continued their public hearing on this until their April 10, 2013 meeting.

Mayor Brailsford asked if there were any comments. There were no comments.

**MOTION BY:** Councilperson Janie Christensen to continue the public hearing on the Ordinance Amending the Commercial Zones of the Comprehensive Zoning Ordinance until April 17, 2013 council meeting.

**SECONDED BY:** Councilperson Sid Jorgensen.

**VOTE:** All Affirmative (4-0).

**4. APPROVE AGREEMENT BETWEEN SALEM CITY AND JOHN ALLAN**

Attorney Baker presented the agreement to the council. He stated that if the city ever has a police officer involved in a fatality incident, we would need someone to represent them. We want to provide legal support to the officer, but we want to make sure we know where the support is coming from. He stated that he would not be able to be the first initial legal support, since he represents the city. This would be for the first initial counsel, after that the city would not cover it. He said the contract is based on an hourly basis and the city would not pay anything until the service is used. He would be available 24 hours a day, and the rate is \$200 per hour and \$250 per hour after regular business hours. He commented with some issues that have happened in other cities, he feels this would be a good thing for the city to have in place. Attorney Junior Baker felt that the rates were a little high, but shouldn't be more than a few hundred dollars.

Councilperson Rees asked if we would need someone outside of the city besides Attorney Baker. Attorney Baker stated that it is a protection to both the city and the police officer. If the officer has done something outside of what they should have done, then the officer would be responsible for the cost after the first initial meeting. The statement was made that if the officer does something that the city disagrees with or feels was not right in the situation, then the city would pay for the first initial visit but then the officer would be responsible. Attorney Baker stated that is correct.

Councilperson Christensen was wondering if Spanish Fork has an agreement like this and other cities have this. Attorney Baker stated that Spanish Fork City is working on one with their insurance carrier. Attorney Baker stated that he knows that Utah County Sheriff's have it. He is not aware of other cities if they have it or not. He mentioned that

Provo, Orem, and most of the bigger cities have a similar program in place.. Councilperson Christensen mentioned that Payson City does not have it in place. Attorney Baker stated in speaking with Chief James about this, we feel that it would be a good thing for the city and the police department and a feel good offer for our officers. He reminded the council that it is only for the first initial interview, then after that the officer would either be on their own, or the city would cover it, depending on the investigation.

**MOTION BY:** Councilperson Sterling Rees to approve the agreement between Salem City and John Allan.

**SECONDED BY:** Councilperson Sid Jorgensen.

**VOTE:** Councilperson Janie Christensen; Nay, Councilperson Sterling Rees; Aye, Councilperson Aaron Cloward; Aye, and Councilperson Sidney Jorgensen; Aye. (3 Aye, 1 Nay).

## **5. PUBLIC COMMENT**

Mayor Brailsford asked if there were any comments for public comments. There were no comments.

## **6. APPROVE MINUTES OF FEBRUARY 6, 2013**

**MOTION BY:** Councilperson Sid Jorgensen to approve the minutes of February 6, 2013 as written.

**SECONDED BY:** Councilperson Sterling Rees.

**VOTE:** All Affirmative (4-0).

## **7. APPROVE BILLS FOR PAYMENT**

**MOTION BY:** Councilperson Sterling Rees to approve the bills for payment.

**SECONDED BY:** Councilperson Janie Christensen.

**VOTE:** All Affirmative (4-0).

Mayor Brailsford stated that the amount of the bills being approved tonight is \$777,000.

## **COUNCIL REPORTS**

### **8. MAYOR RANDY BRAILSFORD**

Mayor Brailsford stated that with the budget, we have used a lot of salt this year because of the weather and will have to make adjustments in the roads budget. He is also wondering about the property tax from the prior year and that the money is not coming in. The subdivision inspection fees are up. He asked the council to make sure they watch their budget.

Mayor Brailsford asked Bruce and Councilperson Cloward to have something done with the steps at the head of the pond. They are very icy and he is concerned. He also reported that he is still working with the LDS church for the opportunity to purchase water rights from the BYU farm.

#### **9. COUNCILPERSON STERLING REES**

Councilperson Rees stated that he does not have anything to report tonight.

Mayor Brailsford reported that he is still working with SESD about kilowatt hours being charged for our Maple Canyon Well. He would like to set up a meeting and have Councilperson Rees be there.

Mayor Brailsford also reported that he is still working with Strawberry Water and the lost generation. There is a meeting in the morning with the Bureau, and the contract that was established in 1901 is going to be addressed.

#### **10. COUNCILPERSON JANIE CHRISTENSEN**

Councilperson Janie Christensen reported that Miss Salem applications are wrapping up. The Library is having the speaker from the Huntsman Cancer Institute come and do a presentation on February 23. The Chamber had a networking meeting at the civic center this last week, and the women in business group had a meeting and had a good turnout for it.

#### **11. COUNCILPERSON AARON CLOWARD**

Councilperson Aaron Cloward reported that basketball is wrapping up and will be doing registration for spring sports soon. At the cemetery the crew is getting ready to layout the sprinkler system for the new addition.

Mayor Brailsford stated that the new replacement shop is a great facility, that the city crew has done a great job with the building.

#### **12. COUNCILPERSON SID JORGENSEN**

Councilperson Sid Jorgensen also commented on the replacement shop, and how they have been able to stay within the budget that they were given. In the water department, the crew is doing a lot of maintenance on the water and PI system, along with helping out with the snow plowing.



**13. COUNCILPERSON CRAIG WARREN**

Mayor Brailsford stated that Councilperson Warren is excused tonight; he is at a SUVSWD meeting.

**14. CHIEF BRAD JAMES - Public Safety Director**

Chief James stated that he does not have anything to report tonight.

**15. DAVE JOHNSON - Building Official Director**

Excused

**16. BRUCE WARD - City Engineer/Public Works Director**

Bruce Ward stated that he does not have anything to report tonight.

**17. ATTORNEY S. JUNIOR BAKER.**

Attorney Baker stated that he does not have anything to report tonight.

**18. JEFF NIELSON – City Finance Director**

Jeff Nielson explained to the council that the budget worksheets for next year's budget have been handed out to the directors to get working on them. He would like the council to work with the directors and have a preliminary budget turned in by March 15. He also handed out to the council a timeline of the budget process.

**19. MATT MARZIALE – Recreation Director**

Excused

**20. CLARK CROOK - Electrical Director**

Excused

Adjourn Council Meeting

**MOTION BY:** Councilperson Janie Christensen to adjourn city council meeting.

**SECONDED BY:** Councilperson Aaron Cloward.

**VOTE:** All Affirmative (4-0).

**MEETING ADJOURNED AT:** 8:10 p.m.

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Jeffrey Nielson, City Recorder