

Minutes of the Salem City Council Meeting held on November 7, 2012 in the Salem City Council Chambers.

Work Session 6:30 p.m.

Attorney Junior Baker discussed the agreement with Doug Yates. He stated that the city required Doug Yates to upgrade the sewer line on 400 North from Main Street to about 100 East, because of his development to the East (Salem Heights). The sewer line in that area was too small to handle the impact of the growth and so it needed to be upgraded in size. Doug is responsible for it, but because it is associated with growth, he is eligible to be reimbursed by impact fees. The agreement on tonight's agenda is allowing that to happen.

Attorney Baker also talked about the ordinance updating the municipal code to comply with changes in the state code concerning alcohol sales to minors. This is now putting Salem City in compliance with the state law.

Mayor Brailsford and Bruce Ward discussed the draw down test results of our culinary water wells. They showed on graph what the draw down was and how the results were really good, especially with the dry year we have had.

Mayor Brailsford reported that Councilperson Rees and he will be meeting with SESD on power issues next Wednesday. Items they are looking at is the cost of power for the Maple Canyon Well, that is our water well that is on their power, and also other areas within the city limits that are being serviced by SESD. We are also looking at options of getting secondary water to the Harvest Ridge subdivision.

**COUNCIL 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

**STAFF PRESENT:**

Jeffrey Nielson, Finance/Recorder  
Chief Brad James, Police Chief  
Junior Baker, City Attorney  
David Johnson, Building Dept.  
Bruce Ward, Public Works/Engineer

Excused:

Councilperson Craig Warren

## **OTHERS PRESENT**

Brad Bishop, Yolanda Moser, Emery Moser, Brett Wilcox, Keelan Stewart, Jake Hartline, Bryce Black, Dalton Holman, Mason Iverson, Michael Eyre, Mike Walters, Christina Peterson, Nathaniel Meads, McKay Peterson, Corbin Rogers, Garrett Lee, Ty Bailers, Carson Peterson, Misty Thornock, Kylee Thornock, Nathan Thornock, Mathew Cory, Mary Corey, Helen Jones, David Jones, Michael Watson, Karen Taylor, Justin Taylor, Mitchell Hunter, Zach Hunter, Meagan Christensen, Olivia Christian, Bethany Wride, Preston Weight, Jason Hatfield, Aiwa Hatfield, Kevin Hatfield, Robert Worley

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

Mayor Brailsford asked if anyone would like to give a motivational or inspirational message. Councilperson 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 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. YOUTH COUNCIL REPORT**

Mayor Brailsford turned the time over to the youth council. Megan, Olivia, Bethany, and Preston from the youth council reported on the service project they did at the rest home in Payson. They have also began organizing for Pond Town Christmas and getting ready for their Sub for Santa.

### **4. ROBERT THORNOCK – Business License Request**

Mayor Brailsford turned the time over to Robert Thornock.

Robert stated that he has come back to the council to ask for approval of his business license that was denied on September 5, 2012. He has built a new shed, which is about 15 feet from the property line. He has had Dave Johnson and Chief James come and approve the building and to see if there is any smell. Robert stated that both approved the building and that there was no smell from doing the taxidermist business.

Jason Hatfield, who is the next door neighbor, stated that last time this item was at council meeting; Robert was told by the council that if he would build a new shed and contain the smell, the council would give him another opportunity. Jason stated that Robert built a new shed, but the smell is still there. Everyday Jason stated the smell of

rotting flesh is still there and has not been contained. Jason also thought that the new shed was supposed to be moved from the property line, he says it is only about eight feet from the old shed. Jason stated that he has no issues with the neighbors, but the smell is really bad.

Robert stated that he has been taking in some animal heads. He showed on the map where the new shed is located, he also has removed the old shed. The new shed has been sealed up and has insulation in it to control the smell. He had Chief James come out and he could not smell anything when he came.

Matt Cory, who lives on the other side of the Thornock's, stated that they have not had an issue with the smell. If they go to the Thornock's home, that they have on occasion smelled the odor. He also stated that the smell from the manure in the field behind their home is worse and more frequent.

Mayor Brailsford stated that the field and farm were there before any homes, so when the homeowners built or bought a home they knew that smell would be there, unlike when an existing resident causes an issue.

Mary Cory asked if there was an HOA for the subdivision. It was stated that there is not an HOA for the subdivision.

Attorney Junior Baker stated that if Robert meets the ordinance then he is entitled to the business license. If he does not meet the ordinance then he is not entitled to the business license. If the council determines there is a smell then they deny the license or change the ordinance. He stated that if Robert does meet the ordinance, and when Chief James went down there he did not smell anything, but if we get a complaint from a neighbor then we need to address that complaint. It is up to the Thornock to comply with the ordinance, if he creates the odor from the business then he does not comply with the ordinance.

Chief James reminded the council of the background concerning the Thornock business license request. He reiterated to council that Mr. Thornock has a process at his taxidermy business that involves the decaying of animals that produces a dead animal smell. He stated that the current city's home occupation ordinance specifically states that a home occupation business cannot produce offensive odorous matter or other objectionable effects.

Chief James said that Building Inspector David Johnson and he did an onsite follow up inspection at the Thornock's residence after Robert Thornock had built a new building. Robert had taken measures to contain the dead animal smell to the inside of the building and that during this inspection no dead animal smell could be detected while standing outside of the new building. The Chief did note however, that after the door to the building was open you could detect the dead animal smell.

Chief James told Robert Thornock that if his business license was approved it would be his responsibility to contain the foul odors to the inside of the building. Any complainant

about his business producing objectionable odors would start the process of the revocation of his business license.

Chief James stated that the Hatfield's who are next door neighbors to the Thornock's had expressed to him that the dead animal smell is still present even after the Thornock's had built the new building. The Chief told the Hatfield's to maintain a list of dates and times they could detect the objectionable smell. He also suggested that they contact city council members about their concerns.

Chief James also asked the Thornock's why the building was not built in the center of the property as it was discussed in council meeting. He was told that because they have a day care business at the home, they have to have enough green space for the day care, and it would have taken that space away.

Mayor Brailsford asked about chemicals that are being used. Robert stated he had talked to the fire chief and Chief James about the chemicals he uses and there were no concerns, because they were household items.

Councilperson Rees asked if we determine the issue from the Hatfield's logging the events or what they say, or do we need to go down and verify the smell ourselves. Mayor Brailsford stated that any of the police officers are capable to go to the home and see if there is a smell. If there is a smell, then the license will be revoked.

Mayor Brailsford asked Jason Hatfield, since the new shed has been built, has he called the city to report the smell. Jason stated that he has called Councilperson Warren.

Councilperson Rees stated that if the items that the council asked the Thornock to complete have been completed, except the moving of the building to the middle of the property. He feels that they have made a big effort to correct the problem. He also stated that no one representing the city has been able to verify the smell.

Councilperson Christensen felt that it would be okay as long as the smell is contained within their property.

Misty Thornock stated that there is another smell that has been by the home and in the neighborhood lately, it is the smell of a rotten dead animal and it is not from their business.

Jason Hatfield stated that when the building was gone there was no smell, but now that the building is back there is a smell.

**MOTION BY:** Councilperson Sterling Rees to approve the license at this time, as the Thornock's have done what they stated they would do, but the odor will also need to be contained.

**SECONDED BY:** Councilperson Janie Christensen.

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

Mayor Brailsford told Robert that his business license has been approved, but if we receive a complaint and an officer goes down and finds that there is an odor the officer will cite them and the license will be revoked. If Robert continues to do business without a license then the issue will be handled by the courts. He wanted to make sure Robert was clear on this; Robert stated that he understood it.

**5. DOUG YATES – Addendum to the Development Agreement with Salem Hills LLC Concerning Sewer Line Reimbursement**

Attorney Baker reported that Doug Yates, a developer, was required to upgrade the sewer line on 400 North from Main Street to about 100 East, because of his development of Salem Heights. The city asked him to do his improvements when we were doing the water line and other improvements on 400 North. This agreement allows Doug to be reimbursed back for the price of the project with 3.5% of sewer impact fees collected. The amount of the project was \$102,987.10.

**MOTION BY:** Councilperson Aaron Cloward to approve the Agreement with Doug Yates.

**SECONDED BY:** Councilperson Sid Jorgensen.

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

**6. APPROVE ORDINANCE UPDATING THE MUNICIPAL CODE TO COMPLY WITH CHANGES IN THE STATE CODE CONCERNING ALCOHOL SALES TO MINORS.**

Attorney Junior Baker explained that this ordinance updates our city code so it is in compliance with the changes in the State Code dealing with alcohol sales to minors. The state wanted the cities to have a uniform code across the state. This code will bring us in compliance with the state.

**MOTION BY:** Councilperson Sid Jorgensen to approve Ordinance 110712 Updating the Municipal Code to Comply with Changes in the State Code Concerning Alcohol Sales to Minors.

**SECONDED BY:** Councilperson Sterling Rees.

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

## **7. APPROVE 2013 COUNCIL MEETING CALENDAR**

Mayor Brailsford asked about next council meeting on November 21, 2012 and wondering if the council wanted to change the time to be at 3:00 p.m. since it is the day before Thanksgiving.

**MOTION BY:** Councilperson Aaron Cloward to change next council meeting to begin work session at 2:30p.m. and council meeting at 3:00 p.m.

**SECONDED BY:** Councilperson Sterling Rees.

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

Mayor Brailsford asked the council if they had any questions regarding the schedule for Council Meeting for 2013. There were no questions.

**MOTION BY:** Councilperson Sid Jorgensen to approve the calendar for 2013.

**SECONDED BY:** Councilperson Janie Christensen.

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

## **8. OPEN COMMENT**

Mayor Brailsford asked if there were any questions from the public. There were no questions.

## **9. APPROVE MINUTES OF OCTOBER 17, 2012**

**MOTION BY:** Councilperson Janie Christensen to approve the minutes of October 17, 2012 as written.

**SECONDED BY:** Councilperson Sid Jorgensen.

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

## **10. APPROVE BILLS FOR PAYMENT**

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

**SECONDED BY:** Councilperson Aaron Cloward.

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

Mayor Brailsford reported the amount of the bills being approved tonight is \$422,929.71

## **COUNCIL REPORTS**

### **11. MAYOR RANDY BRAILSFORD**

Mayor Brailsford stated that Sunday is Veteran's Day, and wanted to salute all veterans tonight and thank them for their service. Would also like to wish those who are currently serving our country, especially those from Salem, a happy Thanksgiving.

Mayor Brailsford reported on the following items: the city received a report from the Division of Water Recourses that our pond is doing well this year. We received a report back about the swan that passed away; they stated that it died of lead poisoning. The budget from Salem Days is complete, we did great this year. The bills were around \$36,000 but we were about \$10,000 in the positive. He thanked everyone who was involved with Salem Days. Stokes Grocery store had their first anniversary; he thanked them for all that they have done for Salem City and the residents.

Mayor Brailsford turned the time over to Police Chief Brad James. Chief James reported that he wanted to recognize one of our sergeants; he then read the recognition letter:

*On the evening of October 3, 2012 a representative of the United State Border Patrol contacted you by telephone with a very special request. They had lost former Utah County resident, Agent Nicholas J. Ivie in an unfortunate on duty shooting incident the day before in Arizona. The Tucson Section Commander for the Border Patrol asked if Sergeant Bishop would oversee the coordination of law enforcement efforts in the preparation, arrival and internment of Agent Ivie here in Utah.*

*Realizing what a major undertaking this would be, he still graciously accepted this assignment. He professionally and effectively coordinated with Utah Law Enforcement Organizations, Utah Government Officials, Salt Lake International airport employees, Southwest Airlines, UVU Officials, a local mortuary, numerous Federal Agencies and the Ivie family to accomplish this.*

*Chief James proudly expressed to him a job well done. Because of your commitment to this assignment the arrival, the celebration and funeral of Agent Ivie was successful and impressive. Each and every aspect of this important assignment was flawless. The United States Border Patrol, the Ivie Family and Law Enforcement here in Utah are very appreciative of his efforts.*

*Because of his calm demeanor, willingness to adapt to change, foresight, organization and tenacity he not only proudly represented Utah Law Enforcement, Salem Police Department and Salem City but, each and every citizen of the great State of Utah.*

Chief James presented to Sergeant Bishop the certificate of appreciation.

Chief James then went over a presentation with the council regarding Officer Bell and the K-9 dog Dizzy. He talked about and showed photos of a training the K-9 did at the High School recently. He explained that it has been a big benefit by having the K-9 unit doing random drug checks at the High School, and having the students see those checks.

Bruce Ward talked about a recent fire that happened next to his home. He showed photos of the fire and how close it came to his home. The fire started in the detached garage. He thanked the Salem Fire Department for their quick response. Mayor Brailsford stated that this is why setbacks are important. Chief James reported that it was a three alarm fire, we had Payson and Spanish Fork fire departments respond. He commended all of them on the work they did.

Sergeant Bishop reported that the fire was a fast moving fire; there was paint, propane and other flammable material in the building. He stated that Salem City Fire Department arrived within six minutes of being dispatched.

Mayor Brailsford reported that we received our audit report for fiscal year 2012; our auditors will be here for our next council meeting to go over the report. He stated that the city is doing well. The council will receive the audit report tonight and ask them to review it and be ready for next council meeting.

## **12. COUNCILPERSON STERLING REES**

Councilperson Rees reported that UMPA and SUVPS also received their audits, both came back very well. Matt at the recreation has had a lot of Eagle Scout projects submitted and completed. Pond Town Christmas is on the 23<sup>rd</sup> of November at 6:00 p.m. for the lighting. UMPA business dinner will be on the 16<sup>th</sup> of November at 6:30 p.m. at the Salem Community Center, wanted to make sure the council has RSVP.

## **13. COUNCILPERSON JANIE CHRISTENSEN**

Councilperson Christensen reported that the library is having their board meeting the following night. The scarecrow contest went well, Stacy Bliss with the Salem City Office won best scarecrow for Salem. The Ribbon Cutting for Stan's Drive In went well, and then Miss Salem is putting her papers in to serve a LDS Mission.

## **14. COUNCILPERSON AARON CLOWARD**

Councilperson Cloward reported that the lights for Pond Town Christmas are being tested. The cement for the replacement shop floor is being poured. There have been a couple of Eagle Scout projects, one at Knoll Park restrooms to have the shingles replaced and one at the Cemetery to have the trees planted and another one is the gazebo at the cemetery, which is coming along and will be a great addition to the cemetery. In



recreation, men's basketball is starting tonight, there are 19 teams participated. For comparison Spanish Fork has 16 teams and Payson has 8 teams. Little league wrestling is also starting up soon.

#### **15. COUNCILPERSON SID JORGENSEN**

Councilperson Jorgensen reported that we have a report from our water department about the water well drawn down test for the wells that Bruce and the mayor went over in work session, we will be getting the one for Maple Canyon well soon. We used a lot of water this year for the PI. Bruce has the report for the PI that he will be going over in the council retreat. SUVMWA had a meeting; the USGS came down and talked to the group. Bruce Ward reported that the ground water report that SUVWA is doing will be presented in a few months.

Councilperson Christensen was excused at 8:20 p.m.

Councilperson Jorgensen reported that he was part of the debriefing with the fire; he stated that he was very impressed with how it was handled and dwelt with.

Mayor thanked the council for all that they do and appreciates their service.

#### **16. COUNCILPERSON CRAIG WARREN**

Councilperson Warren was excused from council meeting.

#### **17. PUBLIC SAFETY – CHIEF BRAD JAMES**

Chief James wanted to wish everyone a Happy Holiday Season.

#### **18. DAVE JOHNSON, BUILDING DEPARTMENT/PUBLIC WORKS**

Dave Johnson did not have anything to report tonight.

#### **19. BRUCE WARD, CITY ENGINEER/ PUBLIC WORKS DIRECTOR**

Bruce Ward did not have anything to report tonight.

#### **20. ATTORNEY S. JUNIOR BAKER.**

Attorney Junior Baker did not have anything to report tonight.

**ADJOURN CITY COUNCIL MEETING**

**MOTION BY:** Councilperson Sid Jorgensen to adjourn city council meeting.

**SECONDED BY:** Councilperson Aaron Cloward.

**VOTE:** All Affirmative (3-0).

**MEETING ADJOURNED AT:** 8:25 p.m.

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Jeffrey Nielson, City Recorder