

Minutes of the Salem City Council Meeting held on September 4, 2013 in the Salem City Council Chambers.

Work session 5:30 p.m. with Planning and Zoning

Attorney Jody Burnett came to the council work session to talk to the City Council and Planning and Zoning members about land use issues. In his discussion he talked about the differences between legislative and administrative rolls of a city council. He also discussed conditional use permits. During the discussion the issue of group homes came up. Attorney Burnett then discussed the Fair Housing Act and how group homes fall under it.

City Council also reviewed information on the Gina Griffiths request that was on the agenda.

**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  
Councilperson Craig Warren

**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 Sid Jorgensen

#### **OTHERS PRESENT**

Valerie Fisher, Tamsen Dunn, Michelle Smith, Cindy Fillmore, Mike Fillmore, Frank Leany, Alyssa Peatross, Megan Smith, Katie Nielsen, Aubrey Ortiz, Amber Hancock, Chelsea Staimm, Chris Gouston, Noah Lovland

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

Mayor Brailsford asked if anyone would like to give a motivational or inspirational message. Councilperson Rees 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. SWEAR IN OFFICER GREG SMITH – Salem City Police Officer**

Police Chief Brad James introduced Officer Greg Smith, who is replacing Officer Matt Bell, who has left Salem City as an employee. Officer Smith was then sworn in as a new Police Officer for Salem City by Salem City Recorder, Jeff Nielson.

## **4. GINA GRIFFITHS - Council Request for Text Amendment**

Mayor Brailsford turned the time over to Gina Griffiths. Gina stated they are wanting to add onto their home about 20 feet, but the current ordinance would only allow them to add 10 feet. They live on a side lot, located at 350 South 500 East. She is looking for a text amendment to the zoning code. She stated they have a very unique situation, they have 30 feet from their home to the property line, the city then has another 10 feet to the canal, and then the canal has another 10 feet to the road. So there is a lot of room between her property line and the actual road.

Mayor Brailsford stated something that may or may not be an issue would be when the CUP line came in, if it went in the Salem Canal. He also brought up another issue that happened a few years ago, we allowed a change for another property owner who lives on North Main, and now when Main Street was put in for the Junior High School, you can see the issue we face now with the road not being straight.

Gina stated she is aware of the safety for a corner lot and how the visibility needs to be there. But with her lot it is a different situation, her house sits below the Canal Road and the visibility would not be a problem. Gina stated she talked with Attorney Baker and Dave Johnson about this and what some of the possibilities could be. Attorney Baker stated the city could sell the 10 foot property to give her enough footage, but he does not recommend that, another option would be to do a text amendment to the ordinance allowing something like this for certain conditions like the homes that are on the Canal Road. He feels he could to a text amendment that could work, but it would have to go before DRC, then a public hearing for both Planning and Zoning, and City Council. With the timing it would be about 90 days. He stated that city staff would just need direction from the city council.

Councilperson Christensen stated she checked with the Salem Canal Company, and they do have an easement on the canal. She is also concerned with the future, if the road does get wider and improvements done on the road, will there be an issue then.

Councilperson Cloward was wondering if there is a way to see how the change would affect other corner lots in the city. Attorney Baker stated the council could take time to go look at different situations in the city and see how it could be affected.

Councilperson Warren asked if something comes along in future development would they be affected by it. Attorney Baker stated that with the text amendment the new home would fall under the current code. He stated he could look at writing it for unusual circumstances, for example the area around a canal or other places where we have public easement that would give them a larger space for the setback.

Councilperson Warren would like to review it a little bit longer to see what the impact might be for other sites. Councilperson Cloward agrees and would also like to look at the different circumstances. Mayor would like to see a map showing the PUE (Public Utility Easements) are located and where this change might be affected. Would like the council to review it and then come back with recommendation for staff.

#### **5. APPROVE ORDINANCE AMENDING THE PUBLIC FACILITY ZONE WITH REGARDS TO SETBACKS FOR COMMUNICATIONS TOWERS**

Mayor Brailsford stated this item was on last council meeting agenda, but was postponed to allow the city to meet with some of the residents who would be affected by the change in the ordinance. He stated the meeting was held the other night and were able to meet with six of the eight neighbors who live next to the city shops, where a cell phone company would like to put a tower. After an explanation all of the neighbors were okay with the tower being placed at the city shops.

**MOTION BY:** Councilperson Aaron Cloward to approve Ordinance 90413 Amending Public Facility Zone

**SECONDED BY:** Councilperson Craig Warren

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

#### **6. APPROVE STATE SEWER REPORT RESOLUTION**

Bruce Ward stated this report goes along with our discharge permit. Last council meeting we heard from the Utah Division of Water Quality Board, where they discussed the discharge permits and what is going to be required of Salem City in the near future. This report is a self assessment of our waste water treatment facility and collections. We have to do the report every five years. Councilperson Rees asked if a lot has changed in the last five years. Bruce stated not a lot has changed. Next time we do the report we will have different standards that we will have to meet, based on the changes

from the state. Councilperson Rees asked if there is anything we need to be concerned with. Bruce stated that there was not anything to be concerned with on this report.

**MOTION BY:** Councilperson Sterling Rees to approve resolution 90413

**SECONDED BY:** Councilperson Janie Christensen

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

## **7. APPROVE MINUTES OF AUGUST 21, 2013**

Councilperson Christensen stated on line 176 she stated that she was the one mentioning it would be a good idea for the Eagle Scouts to come before the council.

Mayor Brailsford also mentioned Matt Marziale discussed in directors meeting about if the Eagle Scout has not completed his project within six months, they would need to restart the process over and pick another project.

**MOTION BY:** Councilperson Craig Warren to approve the minutes of August 21, 2013 with said changes.

**SECONDED BY:** Councilperson Sterling Rees

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

## **8. 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 stated that the amount of the bills being approved tonight is \$399,301.11.

## **9. PUBLIC COMMENT**

Mayor Brailsford asked if anyone had anything for public comment.

Frank Leany stated he had a concern with a girl's group home who purchased Terry Ficklin's home. He understood they would need a conditional use permit before they could be allowed. He is wondering if they have applied for a permit and if Salem also has an ordinance in place to limit how many people can live in the home if they are not related.

Attorney Baker stated Salem City does not require a conditional use permit for this type of business, and they have not approached the city yet. He also stated with the American Disability Act, they are allowed to come into the area of a residential zoning and it would

be unconstitutional to put conditions on their business. He stated the group home is a level one home, and does not treat criminal youth.

Mayor Brailsford stated the council had Attorney Jody Burnett come and discuss land use during our work session. He stated that this item came up in the discussion, and Attorney Burnett told us he has been to court over a number of times for group home issues for other cities in Utah. We found out it is a federal law that mandates laws for the group homes, not the state or city. In looking at our ordinance, Attorney Burnett stated ours is as strict as we want to have it.

Gina Griffiths asked what type of girls would be in the home. Mayor Brailsford stated the type of girls would be from homes where the DFS has been involved within the family. They can have a limit of 16 girls in the home, there will be a staff there 24/7. They will also be attending our local schools.

Councilperson Cloward stated, in work session the council asked Attorney Burnett if we needed to complain to someone or have the rules changed whom can we go to. Attorney Burnett told them to contact their US Congress representatives.

Councilperson Rees stated from what he understood, the girls going to the home are not criminals, but if they do criminal acts they will be kicked out of the home.

Frank Leany stated he has not heard a lot about the home, and is glad to hear some information about it.

Mayor Brailsford stated when he heard rumors of it, he had Chief James go and look into it and ask other cities who have a group home. Chief went to Orem City and talked to the police chief there, since the owner of the group home in question also has one in Orem. Chief James found out the group home would not be a big impact to the city.

Mayor Brailsford stated a few years ago we had a group home that was located in the same area, except this home had youth that were criminals. It was shut down by the state because of the problems and was not run properly. It was a different situation than what we are faced with this group home.

Frank Leany stated we want to keep Salem City, the City of Peace.

Some other questions were asked about the parking for the staff and visitors, and what about security on the neighbors' homes or for the home itself.

It was stated from what the city has heard, it is a level one home for youth girls, and we have to treat the home like any other neighbors. It is no different if we had a family of four felons moving next door, we can't treat them any different. Mayor Brailsford stated from what we were told tonight in work session, we have to be very cautious how we deal with the group homes, we will try to do all we can legally as the city to make sure we are safe.

Mayor Brailsford asked if there were any other questions. There were no more questions.

## **COUNCIL REPORTS**

### **10. MAYOR RANDY BRAILSFORD**

Mayor Brailsford reported we have been working a lot on water issues this year, there are many cities in the county who are having water problems and are very concerned about having enough water. We still need to encourage residents to be water wise. The BYU water well, we will be shutting down, we were very glad we have this water to use. He also reported the Highline Canal is looking at shutting down at the end of the month.

Councilperson Rees asked if we had anyone call on the executive order we approved the prior council meeting. It was stated we have had a couple of people call with questions on it.

### **11. COUNCILPERSON STERLING REES**

Councilperson Rees reported on Tuesday night when we had the heavy rain, he had a neighbor who was able to get his canoe in the middle of the road and float around. Bruce Ward stated he saw that area and reported we had ½ inch of rain in about 40 minutes, which is a lot of rain in that short amount of time. Mayor Brailsford stated our PI usage the following day was only down 50%, it should have been down to 0%.

### **12. COUNCILPERSON JANIE CHRISTENSEN**

Councilperson Christensen reported the city float will be put away for the year. With sewer we had a spike in one of our test when the rain storm happened, which indicated we might have an infiltration problem.

### **13. COUNCILPERSON AARON CLOWARD**

Councilperson Cloward reported the parks department has been taking down some old trees around the pond and then working on the new expansion at the cemetery. In recreation, flag football and soccer have seen a big increase in participants. We need another soccer field to use.

### **14. COUNCILPERSON SID JORGENSEN**

Councilperson Jorgensen was excused tonight.

## **15. COUNCILPERSON CRAIG WARREN**

Councilperson Warren stated Bruce Ward and him attended an information meeting regarding storm drain issue. Salem City has now been placed in a new category that has put more restrictions onto us as city.

Bruce Ward stated we have received notification from the State that we are now in a new category regarding storm drain. Salem City has 180 days to draft and submit a storm water plan to the state, and then on day 181 we have to have it implemented. There are a lot of regulations, one is the city is now the storm water police for Salem City, we will have to create ordinances that will create fines. He has talked with other cities who have gone through this, they have told him it is a nightmare and not an easy task. There is a lot of paper work involved, but it is a requirement now from the state. We will also be audited by the state on the storm water, if we are found in any violations it could be up to \$32,000 a day. He talked about another city that is similar in size who went through the process and felt they were ready. The city volunteered to be audited; after it was completed the state fined them over \$200,000 for violations. Bruce stated this is not something we want to mess with, we want to make sure it is done correctly.

Councilperson Warren stated we need to get this going and be completed in the 180 days. The other problem is each city is different so we will have to come up with our plan, we can't copy another cities plan. Councilperson Warren stated after going to this meeting and seeing what is required of us, he feels we will need to hire a consulting firm to write up the plan for us. We may also need to hire someone full time to keep up on the paper work. This is something we cannot put off.

Bruce Ward stated that this is something he hopes to have information on a consulting firm for next council meeting.

Councilperson Warren also explained we had the recycling bins dumped 25 days last month, and each time it is dumped it costs the city \$25. We also have not had a problem with other debris being dumped into the bins since we have placed the signs and had information put into the newsletter.

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

Chief Brad James did not have anything to report tonight.

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

Dave Johnson reported as of July 1 we have issued 10 building permits and he has 20 other building permits on his desk, six of those are town homes. He also reported that since January 1, he has issued 70 permits.

**18. BRUCE WARD, CITY ENGINEER/ PUBLIC WORKS DIRECTOR**

Bruce Ward stated he reported on the storm drain.

**19. ATTORNEY S. JUNIOR BAKER.**

Attorney Baker did not have anything to report tonight.

**20. JEFF NIELSON – CITY FINANCE DIRECTOR**

Jeff Nielson reported our independent auditors were here the prior week doing the field work for the audit. He is hoping they will be completed with the audit and have the financial for FY 2013 along with the report to the council by mid-October. This is something we are required by the state to have done each year.

**21. MATT MARZIALE, RECREATION DIRECTOR**

Matt Marziale was excused tonight.

**22. CLARK CROOK, ELECTRICAL DIRECTOR**

Clark Crook was excused tonight.

**ADJOURN CITY COUNCIL MEETING**

**MOTION BY:** Councilperson Craig Warren to adjourn city council meeting.

**SECONDED BY:** Councilperson Janie Christensen

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

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

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Jeffrey Nielson, City Recorder