

Minutes

Francis City Council Meeting
Thursday, February 11, 2016
Francis City Community Center 7:00 p.m.
2319 South Spring Hollow Rd.
Francis, Utah 84036

Attending: Mayor R. Lee Snelgrove, Councilmembers Byron Ames, Matt Crittenden, Jeremie Forman, and Shana Fryer. City Engineer Scott Kettle, City Attorney Kraig Powell, City Planner Marcy Burrell and City Recorder Suzanne Gillett

Others Attending: Susan Cann, Julie Keyes, Renee Atkinson, John Keyes, Paul Watson, Dixie Thompson, Tyrel Jacobson, Mont & Stacy Lundgreen

1. Welcome, Introductions, & Pledge of Allegiance—The Mayor asked Councilmember Fryer to lead in the pledge of allegiance.

2. Public Comment—The Mayor explained that he would open the meeting to public comment. He stated that you need to state your name and that anything brought up not on the agenda will be issues that would be addressed at a future meeting. So he opened the comment session up.

Susan Cann had a couple of things to discuss. One of them is the minutes listed on the agenda for December 10, 2015 is that the agenda is posted twice and there are no minutes.

Second she has a question concerning item number E on the agenda. It is listed as Simmons/ Butler property on this agenda. Is it the same property as listed on the agenda on January 14, as Butler/Christensen property? She was told yes. Then on item D for the Ace Alec possibly amend development agreement, what date was this development originally done?

The Mayor told her it was somewhere around 2008. Susan then said, now the storage units are not on for tonight correct? The Mayor said correct. She asked if any public comments could be made on that then. The Mayor said you can make a public comment, but there is no decision to be addressed. She said that she just wanted to state as a member of the community I was on the Planning Commission when storage units were previously discussed on the other side of the street. We went to a great deal of thought and consideration on the storage units and how they would be. How they would be hidden from view to be esthetically pleasing and she wanted to make sure that will happen if they are allowed to be on the other side of the street. The Mayor thanked her.

The Mayor explained that when they get down to the Butler/Simmons property the only thing that will happen tonight is that we have to certify that what they petitioned for is the actual boundaries that they petitioned for.

The Mayor closed the public comment section of the meeting.

3. Public Hearings—None

4. Discussion, Updates and Approval on Potential Action Items

A. Resolution 2016-02 for Annual Meeting Schedule passed in January—The Mayor read the Resolution to all in attendance.

Councilmember Crittenden made a motion to pass Resolution 2016-02. Councilmember Ames seconded the motion. All in favor, motion passed.

B. Resolution 2016-03 for Municipal Wastewater Planning Program—The Mayor explained what this Resolution was for and read the Resolution to all in attendance.

Councilmember Ames made a motion to approve Resolution 2016-03 The Municipal Wastewater Planning Program Resolution. Councilmember Crittenden seconded the motion. All voted in favor and motion passed.

C. Uinta Shadows II Annexation—Possible Resolution of Annexation Agreement and Possible Ordinance for Annexation—The Mayor asked if this one was a public hearing and he was told no. We had the public hearing last meeting. The Mayor asked the Council if they have had a chance to read through it. The Mayor told Attorney Powell there were a couple of questions that he had on it. On page 5 of 9 it discusses in there the annexation fee per lot, but he didn't see anywhere in there where is discussed setting up the escrow account for professional fees and should that be in this agreement?

Attorney Powell said that if you look down on 4D just below that it talks about that they agree to pay all the costs to the city. He also said there is actually an ordinance that covers all of this and says how much the amounts and the accounts are supposed to be for actually anything that the city incurs for planning service, legal services, and engineering services. The Mayor asked if they should refer to that ordinance so there isn't any question. Engineer Kettle stated that they had to pay all the fees of the development process on the next page. The Mayor is just concerned about the escrow account and the professional fees that are kept in there. Attorney Powell said that he would just add a sentence to both 4D and 4E and he will just say these costs will be paid pursuant to the escrow account procedures set forth in city ordinances.

Engineer Kettle suggested that they add something about street connections meeting both city and county standards as well. That information will be added to the agreement.

Attorney Powell informed Council that the biggest obstacle is the well that will need to be moved and existing well will be abandoned. Improvements cannot be inspected and approved until the well has been re-located.

The Mayor stated that Planner Burrell had provided them with the proposal. She said that was the proposal as is, but she didn't know if the annexation agreement needs to specify that there needs to be walking trails. There was a brief discussion. Attorney Powell said that if we are making them do some kind of a special trail and it's a condition of the annexation then he puts it in the annexation agreement, but if it's just going to be covered by the normal standards as part of development then they don't need to.

Councilmember Forman said as he recalled they are not requiring anything special other than what is in the code. Planner Burrell said that is correct.

Attorney Powell said sorry since he just walked in he just wanted to make sure, so you got, the Mayor told him that the first two resolutions had already been done. So Attorney Powell said so on the item when you are ready to act when you are done with discussion and all of that, there is an Ordinance for annexing the property, Ordinance number 2016-04 and actually you would need to adopt that one first and then the Resolution after the annexation agreement.

The Ordinance actual says in Ordinance 2016-04 it says if you look on the second page of the ordinance, section five. It says to adopt the Resolution after the Ordinance.

The Mayor said as he understands it for the benefit of the public as well as Council this still doesn't put into specifics the development. They can take this proposal and change it around and go through that process of discussing and changing that, this doesn't affect, correct?

Attorney Powell said yeah although, yes your right. Attorney Powell said it is a two-step process. You can annex the land into the city with some general idea of what they think they want to do and that is the annexation process. Then you file the annexation ordinance, you file it with the Lt. Governor, they make a new map of the city and then your boundaries are changed for the city. Then, they start the development process like any other subdivision would that's now in the city, and they present concept plan, preliminary, final and all of that. The only qualification to that is, as you noted earlier Mayor we say in the annexation agreement that as a condition of annexing them we say that they may develop no more than twenty lots. If they want to re-configure them or come up with a different drawing during that development process they can certainly submit it. But, it won't be more than twenty lots based on the development agreement.

Second question the Mayor had is that because of some of the property that we have annexed in the past, that is sitting doing nothing, is it possible to put any kind of a time frame on this so they basically have to start from the beginning again.

Councilmember Forman asked start all over again on what. Attorney Powell said once it is in the city, it's in the city. Now, it's really funny you ask this question because I just was made aware of possible Utah legislation for disconnection. Disconnection is the official name for de-annexation. Until this bill came up, the only person that could petition for disconnection was the property owner. Now, the Mayor of a city can petition for a disconnection. Under these

circumstances even this bill probably wouldn't do anything because you still have to go through the disconnection procedure, which is to un-annex or de-annexing it, you have to get fifty percent of the signatures from the owners on the petition. Then it comes to the City Council and the City Council would decide on the disconnect. He is just trying to think through if you could ever disconnect. He doesn't think it would be a possibility to take it back out of the city.

Councilmember Ames asked if at any time under disconnection does it automatically go back to county then. The Mayor said part of the reason he asks this is because it seems like they annex something in and everybody is good to go and then ten or fifteen years down the road the property is still sitting there and then you have people coming back and wanting to know if they have to start the process all over again. He is concerned because of all of the land sitting here with nothing happening.

Attorney Powell said the way that Marcy and working on the land use recodification and all of the changes with the general plan, one thing we are including in there is expiration time limits on development approvals, so see once this is annexed in they won't have any subdivision approved. So what we are definitely recommending is part of this re-write on the codes is that your development approval will expire if you don't record your plat within a year, it will expire.

Planner Burrell said that if a developer stops progress for sixty days straight and makes no meeting with the staff or Planning Commission or City Council then the staff can send a letter to the developer stating do you want to see work on your development, because if you do you will have to start over at ground zero. So, they actually have a sixty day time limit.

Attorney Powell said that's while it's pending though. Planner Burrell said that's while there working through, this is not annexation, but it's for the development. Attorney Powell said Marcy what if they are done with their development process and they have final approval and it's just not recorded yet. She said yeah, she didn't know. Attorney Powell said that it's one year. Engineer Kettle said that if they haven't recorded the plat within a year then they have to start over.

Mont Lundgreen asked if the public could ask for a clarification on what was just talked about. The Mayor asked him what it was he needed clarified. Mont said just thinking this through if you approve a development and they sat on it and they approved the plat and you mentioned something about the escrow. The Mayor said for professional fees. Mont then asked if they were assessing for sewer improvement and things like that. The Mayor said there was an annexation fee per lot that would go into upgrades. Engineer Kettle said that he thought he was talking about impact fees. The Mayor said yes, there were impact fees. Councilmember Forman and Ames said that the impact fees are assessed at the time of building. Councilmember Forman explained that the impact fees could go up with time.

Attorney Powell said just to be clear, the annexation fee in the agreement is paid for all of the lots at the time of plat recording of the subdivision, not of the annexation.

There was a brief discussion and explanation on all of the fees.

Councilmember Forman said so what we need to decide tonight is do we want to annex them in the city tonight or not.

Mayor Snelgrove read and reviewed Ordinance 2016-04 with all present. There was some discussion and corrections made on the zones. It is part AG-1 and R-1.

Councilmember Ames made a motion to approve Ordinance 2016-04 with the changes in section 3 we are amending to include both R-1 as currently there and adding AG-1 as well and adding the change discussed about the Francis City Land Use and Annexation Policy Plan. Councilmember Crittenden seconded the motion. Roll call vote Ames aye, Crittenden aye Forman aye, Fryer aye and Mayor Snelgrove aye. Motion passed

Mayor Snelgrove read the Resolution to all present. He asked if they needed to add the changes made in the annexation agreement. Attorney Powel said just to make it clear in the motion in the minutes. The change would be the annexation agreement as amended tonight.

Councilmember Forman made a motion to approve Resolution 2016-01 as amended tonight. Councilmember Crittenden seconded the motion. Roll call vote Ames aye, Crittenden aye, Forman aye, Fryer aye, and Mayor Snelgrove aye. Motion passed.

D. Ace Alec—possibly amend development agreement—The Mayor explained that Ace Alec was here tonight and he wanted to discuss a change in his development agreement. The Mayor invited them to come forward.

Greg Griffin introduced himself and said that they had a couple of exhibits to present so that everybody was clear on things. He reviewed the property with everyone. There was some discussion on the road and how that all came about back when the church went in.

Attorney Powell jumped in and told the Mayor where he thought they should stand and put their displays.

Ace Alec explained that they had done a land swap with the school district and how that all happened. It is currently zoned commercial, there is a development agreement that goes back many years. Approximately in 2008 they looked at taking a portion of this into town homes under their commercial zone with a conditional use permit.

They had some bad things happen with the market and the economy so this is one of those properties that has been annexed and sitting for a while. Things are a little bit better right now and as we take a look at this property today that looks like something that makes some sense today. As they look at it they realize a couple of things they still have to go through the process with it. But, we have a development agreement hanging out there. They are due in front of the Planning Commission with a concept that he will show them. After they talked with staff it just

seemed like a good idea to come and talk to you guys first. Understanding that we still have the conditional use permit and still have the preliminary and final plat to go through. The development agreement sort of puts us in a funny chicken to the egg position so we thought you guys should see it first. So you can get a feel for what they are doing and where they are headed with it, because that will be one of the first things that they will need to re-negotiate on the project first.

Development agreement was the 25th of March 2008. Mr. Griffin said that the discussions at the time were to put these units in a spot where they could draw some more value. When the economy made the move that it did the property values dropped and he felt it was not appropriate to continue at the time. The idea now is to put in town homes.

Mr. Griffin and Mr. Alec wanted to get the Council involved because there would need to be changes made to the development agreement to allow them to do all town homes with a conditional use permit and not keep the front part of the property just commercial.

The Mayor asked if you're proposing a change in the development agreement, what specifically you are asking to change from what the agreement exists now and what you hope it to be.

Mr. Alec said to be clear it wasn't in his opinion that like development agreements get modified all the time and you guys are even discussing one now as you move forward. In the Francis Code the most appropriate at the moment is a conditional use permit in the commercial. When all of this was annexed back when certain individuals weren't popular here they bought it as a conditional use agreement as it being zoned commercial. So a lot of you may remember me from a few years ago.

Under Kraig, Scott and Marcy's suggestion we thought it would be good to have an informative meeting with you guys. I don't know in my opinion that we specifically need to modify the development agreement, we want to give you guys an idea of what we are doing.

Councilmember Forman said this is currently zoned C-1. Mr. Alec said that is correct. Councilmember Forman said so that everything they are proposing would need to have a conditional use permit. Mr. Griffin said everything that we are proposing is in the code and where the code is headed, but it is a different use and in the first conversation they ran in to was that the development agreement specifies stuff that has nothing to do with town homes.

Mr. Griffin informed Council that they just wanted to let them understand they are here and they want the development agreement to reflect that.

Councilmember Ames said that he would like to see the other foam board. He also asked if the property included the old shed and wondered what type of clean up that would need. He just wanted to make sure there were no contaminants or anything like that.

Mr. Griffin said everything was clean that he was aware of. There are some wet lands and they have tried to leave them alone. This is more of a study for parking and fire approval and to make sure there is enough room. It gives them an idea of what may be allowable in the code while making sure they have good setback and room for landscaping and things like that.

Then they have a concept left over from a prior design and obviously it will change with the design of the actual buildings. The idea is to do something contemporary but not over the top fancy but something that is nice. It is something that will be suitable for young families and retirees and the kind of people looking for this type of product.

The Mayor asked so what is in place now has been changed once. Attorney Powell said yes, the Mayor asked if that was because of the owner change. Attorney Powell said so actually there is a recorded development agreement for the, well the original one before the original one. The original one is called the Last Frontier Commercial Development initial development agreement. That's the one that is marked March 25th2008. And, just so you get the parties right this one was signed by Eric Simmons who is the current owner now. Although it was negotiated by Bruce Dickamore.

Mr. Alec stated that they had purchased it from them pending its rezoning stated as commercial.

The Mayor said so the amendment created the commercial?

Attorney Powell said it's a little more complicated than that. So let me make sure I describe it for you. The first one was called the Last Frontier Commercial Development initial development agreement. That's March 25, 2008, and it says right here on the first page the developer intends to develop the real property described in today as a commercial development known as The Last Frontier Commercial Development. So that was the original, and one thing that Scott pointed out to me just in memory, quit a few years back now is that at the time this was all being discussed as Mr. Alec just mentioned is contingent upon it being re-zoned commercial, but the re-zoning of commercial area is larger, deeper than what our plan for or commercial core of zoning is.

Mr. Griffin and Mr. Alec tried to show and explain on their maps the boundaries. There was a brief discussion.

Attorney Powell said that as staff we just want to make sure that we give you all the information that we have researched ok. So that you will have the best information to make a decision. So Mayor here is what I want to say about that list. What Scott just pointed out, the reason we think this is important to note is, this commercial corridor that is usually there was expanded for this project for a re-zoning ordinance as near as we can tell from these agreements or the hope of producing a commercial project. The request now before you is to change the commercial use to residential use and multifamily use. It is possible if you think about this it is possible if that had been presented back in the original for residential, multi-

family is an allowed use in the commercial zone. Sorry, it's a conditional use in a commercial zone that's true in your zoning code. But, multi-family is not a permitted use in your other residential zones. So, essentially they received a larger commercial zoning than we usually have for our commercial corridor with the idea that it was going to be a commercial project. Currently they are requesting that in that larger expanded area of commercial that they be allowed to do residential. I just want to make sure that you understand that.

Now I will go through and finish just so you get the chronology. So, March 25, 2008 was commercial development initial development agreement. The amended development agreement first amendment to the initial development agreement is actually signed and dated the same time and the same day, that's because we hadn't ever got the original signature on the version that quickly came up to this extra development agreement. Let me read to you quickly this one said on or before the effective date of this amendment this is the first amendment to the first development agreement. The town shall zone all the property as C-1 commercial zoning, and then right down here it says, upon approval of this amended development agreement and upon re-zoning of the project as C-1 zoning the paragraphs of the initial development agreement which said that you wouldn't get any approvals immediately that you have to come in for future approvals, it says the paragraphs of the initial development agreement are exclusively amended to grant rights to the developer of the project for general commercial uses in the C-1 zone, subject to the terms of the initial development agreement and this amended development agreement in subject to Francis Town ordinances, standards and policies.

Attorney Powell said then as Ace Alec, Mr. Alec was pointing out a minute ago, and this is also really important for you to know. As soon as, not long after these were signed and we've been able to document this in the minutes and in some memos and things. They begin discussing with the city planner at the time, their desire to do some residential in there instead, they came up with their concept plan and they brought the concept plan to Planning Commission. Now remember under your ordinances concept plan, in Francis it doesn't grant anything, doesn't vest anything it is a step that has to happen for review. But, I think it is fair to say for them as they have pointed out to us that you know this is not an idea on the residential itself, it is not that they just came up with in 2016. They actually discussed it with Allison Weyher the City Planner way back in 2008 as residential. Now, what it might have been was part residential at that time and kind of the discussion in the maps that we have seen.

Engineer Kettle said that one thing that he would like to clarify is when the original initial development agreement was signed, town, multi-family housing was not allowed in the C-1 zone. When the amended development agreement was signed multi-family housing was not allowed in the C-1 zone. It wasn't until Ace had discussions with Allison that it was brought before the City Council and I believe somewhere in November. The Mayor said Allison's report was dated the 24th of November. Engineer Kettle said so October or November is when the City Council amended the zone to say we will allow multi-family housing. So, back when all of this started we anticipated this would be straight commercial. When we made the agreement to

extend the commercial zoning to the back of the property we were planning for it to all be commercial.

Councilmember Forman said so the development agreement was signed prior to the zone change or use change in that zone, which applies? If the development agreement was signed by both the city and the developer in March and then the change for the use and the zoning was signed or put into code in November which code applies to that development? The old code or the new code.

Planner Burrell said that this was the concept plan that was approved in November, and if you look in the very back in November 2007 I believe is when they approve the concept it has commercial in it. But, it also has mixed used, so they have a mixed use area and then they have commercial on the other side. So the commercial was always there as well as they had the option for the mixed use, but now they are wanting to take the commercial away. So that is what they are wanting to know is are you ok taking commercial out?

Councilmember Forman stated that what he is saying is that the development agreement had the commercial in there, and the multifamily housing was not a condition, it was not a conditional use in commercial zoning at the time the development agreement was signed. But, it is now, so which code applies is his question. Does the old code apply to that development or does the new code apply to that development. Because if the new code applies to that development I'm not one hundred percent sure there is a lot we can do other than negotiate a little bit because it is a conditional use because it is a use that can be accomplished there.

Planner Burrell informed them that she looked in the minutes in November of 2007 was when the Planning Commission approved the concept plan. But, then in January of 2008 is when these letters came out from Allison saying that property in Francis Town now known as the Last Frontier Commercial Development located at 1550 South State Road 32 was re-zoned commercial in October 2006. She explained to the council which letter she was reading from and read from the letter. It said that this was re-zoned commercial in 2006, so even back at that date they would have commercial. Then you go on to November 2008 the letter that was written to Ace says as promised I have reviewed the Francis Town Development Code to determine the necessary steps to obtain a conditional use permit to construct town homes accommodating the C-1 zone. The Town Council recently amended the development code to allow town homes/condos as a conditional use in the C-1 zone. Yours will be the first application of the new ordinance. So, that was dated November 2008.

The Mayor said if you annex a piece of property and you have it zoned commercial C-1 the regulations for that C-1 zoning would go into effect when you applied to develop it. So, if you bought C-1 and it said I could only have a gas station, but I waited for a year to develop it, then it allows a hotel, gas station convenient store whatever. At the time I applied for what I wanted to put on the land is the code that I would have to go by.

Attorney Powell said that Utah Law is unique for land use codes. He said that it is very interesting, it says that the law that is the law on the date of your application is the law that applies. That was Councilmember Forman's question was when was the law applied to develop, has that already happened or not happened.

Mr. Griffin said no, this was a new application. Councilmember Forman wanted to know if there was one before that was already approved. Yes, it went to the Planning Commission but not the Council, so it was never finalized and they basically have to start all over.

Attorney Powell said he needed to add a big but, would be that he believes that the development agreement which was negotiated for consideration would take precedence over some of these other timing issues. And, I will tell you why. The development agreement was negotiated for a re-zone which is a discretionary decision by the City Council. So, you didn't have to grant this re-zone. Especially a re-zone that took in this additional property and technically this is one way you could look at it. The city did that for the bargain for the exchange of saying ok you can build a commercial development we will grant you a re-zone. So that's what they gave you and that's what you gave them. You gave them a re-zone ordinance and they gave you a commercial development.

Because of that I think there could be an argument that the development agreements are still in force their contracts and you know if you, if you wanted to push it you could require commercial. Now that is just kind of reviewing some of the legal pros and cons here that is tempered by the fact that they proceeded then with the plan to propose some unless mixed use which was already kind of there. We amended the code to allow mixed use and this will probably be the last thing that I say about it all. Your trying to figure out what the legal rights and obligations are, one other thing that I think would be really important for you to consider about whether you even want to argue about the legalities is, what is your planning purposes for this land, and so that's why I wonder if Marcy just, you have been working with Mountainlands Association of Government on the new general plan and stuff and we are getting lots of input on commercial and where commercial should be in the city and where is it going to be most beneficial and how much commercial is there going to be and all of that. So, as you look at these applicants who are asking for all this stuff, not only do you have contracts and legal obligations and ordinances and statues, but I think you also ought to figure well for other practical reasons do we really care what's legal, do you want to listen to their presentation or do you want to say well I'm not going to listen to the presentation until we figure out the legalities that's all up for you I'm just saying those are all issues that I think that you need to sort through.

Councilmember Forman said that he agrees one hundred percent. Ace said we don't want any trouble. Councilmember Forman said his big concern is that he thinks that this city is suffering and that we need some commercial use. This is a constant inner struggle that he has, he wants and believes that people in America have the right to use their property the way they want to use it as long as it doesn't, all of these things. So, he would really like to see commercial.

Mr. Griffin informed the Council that he would talk to that. This is what I do, I have a minor in planning and I have been doing this for thirty years and when Ace hired me, the intent was Greg what kind of commercial can we put on there because he makes more money. We looked at this and what is here and the truth is and you guys now this and I'm sure I'm not the first person to tell you that you don't have enough roof tops for commercial out here. So, Marcy and I have kind of talked about this. The first thing you are going to see is a gas station and a convenient store that doesn't change ownership.

So you look at something like this that is seven and a half acres. So what is that 300,000 feet of ground and 25% coverage at 75,000 feet of commercial? I couldn't tell you what could possibly go here for commercial. Because there is not enough roof tops to buy enough pizzas or fill enough teeth just yet. So when we look at this, yes its and economic decision but we have heard over and over that Francis wants commercial, well I'm the guy that brings commercial to small communities and if you get some rooftops and some sensible places, people will start to show up, the first person that is going to show up is Walgreens and you need twelve and a half to fifteen thousand people to drive a Walgreens, when they see it they will show up the next day. Because they watch and they pay attention. So when we look at this site we have a cemetery, state highway, commercial on both sides, a school and church property. This is a naturally buffered site for townhomes and that's why we picked that. For us it makes sense, it's within the code and it helps you towards your goal of commercial.

Ace said that at the time he talked with Allison he said to keep in mind that this property is the cemetery and all of the school district property behind it. Then it's residential next to that. So, if there is a spot for responsible multifamily townhome development this sits in that pocket really well. A friendly reminder that PUDS like this are usually the most beautiful places in communities because they are maintained by an HOA.

Ace said so for those of you that weren't there it wasn't us that pitched that Last Frontier Development when Mr. Dickamore owned the property. So, the goal is to be responsible. We have done one or two projects here before those of you who know us they have all worked out really well. We have always stuck to our word.

Attorney Powell, I don't, I don't, I don't, this is completely this is your decision and I'm just making observations that hopefully help you think through this. What I took from that whole discussion which is the discussion that they made to staff that took about an hour we met a few weeks ago as they were talking about this concept.

What I took from that whole discussion if, if there to be believed. And I, looked up Mr. Griffins credentials and he is a commercial builder. If they could build commercial on this right now they would do it because it would make them a whole bunch more money than this project you know. So they would be the first ones who would want to build commercial on, basically there ready to say like you said property rights like you said their ready to build and ready to develop their property. They would much rather build a commercial project on here right now, but they know from what they said that it will go belly up you know. Mr. Griffin stated that they couldn't

finance it for one thing. Ace Alec stated that both sides of the road are zoned commercial it's not like you have a shortage of commercial.

The Mayor asked at this point they want to know if we are interested in discussions to move forward with multifamily dwelling. Which would take a re-zone process to R-2. Planner Burrell started to explain what they wanted to do and Attorney Powell spoke over her and said that what they want to do is an amendment legally what I believe we need is an amendment of development agreement which is a discretionary decision on your part. Alright now, just taking legal strategy here. I have no idea where this is going, there is lots of money involved and there is property involved so they could go hire legal counsel at some point and say at some point and say hey we believe that we didn't really promise to do all commercial and you guys are being too strict and so we are going to get our attorney involved. I imagine, they have never said that ok I'm just saying, I'm just telling you, you know what could happen.

But, my position is that the development agreement needs to be amended, because right now it basically says that they have two different development agreements that both say it was going to be commercial uses. Now there counter argument might be, well yeah, but commercial use includes multifamily in your zone and then we would have to argue about well yeah, but the timing was you had the agreement first before the zone was amended ok so those could be some legal arguments, all right, but I think that procedurally Mayor what needs to happen is that if they are going to do this we need to write a new development agreement. Which means the development agreement needs to be amended, so they are coming essentially to ask you tonight what your reaction would be if they submitted an official application to amend the development agreement to allow a project that they are proposing as a conditional use. They are ready to submit that kind of whole application, which would be an amendment development agreement and a conditional use multifamily umm and we suggested to them that they at least come to you and talk about it.

The Mayor said so he has two questions. That does not go to the Planning Commission for the amended agreement, Attorney Powell said not at this time. The Mayor asked is there a public hearing required or necessary to amend the development agreement.

Attorney Powell said that his recommendation to you would be, that's a really good point. My recommendation to you would be that you do the amended development agreement as a motion at some point, probably not at this meeting. But, no there is no public hearing required, but you need to realize that there are a bunch of public hearings required on what they are asking for.

What the Mayor does not want to have happen is to have this discussion and then have them go to the Planning Commission and they say well we have been to the City Council they have kind of given us the nod so that should not hold over the Planning Commission as far as what the City Council is going to do until we get the input from the Planning Commission so in this case so if it doesn't go to the Planning Commission first then the decision we need to make is

are we willing to consider and application for change in the annexation agreement, no in the development agreement. That's the decision that we are at tonight.

Councilmember Ames commented that if we are stuck with the old development agreement, I think we are stuck with a development that doesn't make any sense and we are going to have land that sits like it sits right now forever. So, if we want the land to do something other than sit I think that ultimately it will require an amendment to the development agreement for a more sensible use than what is currently proposed under the old agreement.

Councilmember Forman felt that the other thing that we all need to think about and remember is that just because we amend the development agreement does not mean that this is exactly what happens. This can be negotiated.

Alec Alec stated that it really is to the cities credit that it was done well to have this be a conditional use of commercial rather than having it be blanket zoning now. I know you have other plans in the next six or twelve months, but that really allows you input rather than blanket zoning.

Alec Alec said that he and Kraig talked about it and it doesn't really matter because it doesn't change his opinion about it to be responsible. So if they have to go a different way they would end up with a similar project anyway.

The Mayor asked Councilmember Crittenden what he thought. Councilmember Crittenden said that he was in agreement with Byron on that.

The Mayor would entertain a motion. Pardon me Mayor I need to make one more comment. Attorney Powell said that as you know staff has been working a lot on preparing the general plan and trying to get all this new zoning stuff. If you think that some multifamily is ok and you don't want a bunch of multifamily umm then one of the things that staff would recommend in the review of the general plan and zoning ordinance is you might want to take out of your commercial code the fact that multifamily was put in which is what they are using now to do this. So, the other commercial spots all along that you want to save for commercial and you want to say it's going to be commercial and only commercial then take that out.

The Mayor again asked for a motion to commit us to consider an amendment to the current amendment of the development agreement. Councilmember Forman commented that's another thing, just because we say we are going to consider it doesn't mean we are going to pass it. The Mayor said that I am just asking for a motion.

Attorney Powell said that your motion should be worded to say that they will go to the Planning Commission to present the conditional use proposal, but that this is contingent upon the City Council ultimately in its discretion granting the amended development agreement which decision you're not making tonight, but you're willing to consider it and have them go to the

Planning Commission so that it can be presented to you. So you are not saying yes tonight, basically you are saying we will consider rather than saying yes, we will amend.

Councilmember Ames made a motion that we send this to Planning Commission to present for conditional use proposal and that is conditioned upon ultimately the approval is conditioned upon City Council considering and amended development agreement. Councilmember Fryer seconded the motion.

Councilmember Crittenden asked if there is any way, as far as granted it's a proposal for the start of whatever. Can the density change? The Mayor said as we go through the conditional use yes.

All we are doing is saying we are willing to have another discussion. ***So, we have a motion and a second on the table. Councilmembers Crittenden, Forman, Ames, and Fryer all voted aye. Mayor Snelgrove voted aye. Motion passed.***

E. Certification on Simmons/Butler property on Hwy. 32 and Paige Lane—The Mayor informed Council that this is a letter from Suzanne to notify you that I have determined and certified that the petition for the Butler/Christensen annexation accepted by the City Council for further consideration on January 14th, 2016 meets the requirements of the Utah State Code. On the second page there is a copy of the Public Notice that will go in the paper for three weeks and then the next meeting after that we will have a public hearing on that.

F. Frontier Days---Councilmember Forman explained that he had looked into the contracts for the rodeo. Our contract expires this year with Circle J. Councilmember Forman explained the contract dates and the pricing difference for the new contract. Overall increase of \$300 in the contracts.

Councilmember Crittenden stated that he thinks everybody has been happy with what we have had haven't they? He was told yes. He feels that they have done a good job. Councilmember Forman feels that they have been really good to work with.

The Mayor said that they were turning the announcing and everything over to Circle J this year. This will be put on next month's agenda for vote.

There was some discussion on having a rodeo queen contest. Councilmember Forman feels that we should not have a queen contest. Councilmember Ames and Fryer think that we should continue to have a queen contest. Councilmember Ames said that he would be in charge again if the Mayor wanted.

G. Sewer Update—No updates to give, no good working weather. As soon as the weather breaks they will be back on site.

5. Council Business

A. Council Reports---There were no other items brought up.

B. Planner Reports---Planner Burrell informed Council that she met with the county municipal planners about all of the zone changes. They did have a meeting on the 4th, she is not positive because she was not there. But, she believes they forwarded the vote for the Planning Commission on to the County Council. So, according to what they discussed with her there is a split vote for the Planning Commission for the county. Half of them are for the high density zoning and half of them aren't. It depended on how loud you yelled at the commission public hearing. Some of them got what they wanted and some of them didn't. So the County Council is going to have to go through everything. Because according to the County Planners things need to be revitalized, it is not where it needs to be yet.

So they asked us as a city to be actively involved and really get the word out that this is not what we want to have AG-6 zone around our city as well as the highway corridor that would allow more lots. There was some discussion.

C. Mayor Reports—The Mayor informed everyone that we had a complaint from a citizen that we were not noticing the public hearings correctly. The Mayor said that there were some cities that made resolutions and some cities hand out packets to everyone. Should the policy be packets don't go out until after the meeting? The Mayor explained what the cities position has been in the past.

Councilmember Forman said he doesn't have a problem and that there is nothing that we are doing that is secret, there never is so as far as he is concerned the public should be able for the most part to get what we have. He suggests that those items should be listed as drafts until the final copy of what is actually going to be presented. Nothing is a secret.

The Mayor said that we have to have the notice into the paper so that it publicizes for at least ten days before the public notice. In that ten day period of time Marcy may be collecting other information that she may not have had the day that the notice was posted. These items could change before the meeting so someone could come in early and get a draft and then things change and they think we are hiding something that we are not. Maybe we could add a clause saying additional material may be added the night of council.

Councilmember Forman thinks that we change the wording and that you make those things a draft copy and beyond that no matter what you do there is always going to be someone, somewhere that says you are hiding things. That is always going to happen.

Councilmember Ames asked Kraig if changing the wording of the notice or not, what does the law require that the notice actually be given. Then if the law says something then we just comply with the law. Attorney Powell said there is not state law that requires information be given with the notice or be available ahead of time. Only requirement is the Agenda Notice.

Attorney Powell went into more detail on how the Grama notice worked and explained the state law a little bit more. There was a brief discussion on Grama requests and notices.

D. Financial Reports— Council reviewed financial statements.

E. Report & Approval of Bills Paid—The Mayor added two more bills to the check register. He then explained why the purchases were made.

Councilmember Ames made a motion to approve the check register with additions. Councilmember Forman seconded the motion. All voted in favor, motion passed.

F. Approval of Minutes from January 14, 2016 City Council Meeting—***Councilmember Fryer, made a motion to approve the minutes of January 14, 2016. Councilmember Crittenden seconded the motion. All voted in favor and motion passed.***

6. Closed Executive Session---None

7. Meeting Adjourned—***Councilmember Crittenden made a motion to adjourn. The Mayor and all Councilmembers seconded the motion. Motion passed and meeting adjourned.***

Meeting adjourned.

Minutes accepted as to form this 10th day of March, 2016.

Mayor R. Lee Snelgrove

City Recorder Suzanne Gillett