

Minutes of the Salem City Council Meeting held on August 20, 2008 in the Salem City Council Chambers.

Work Session: Discussion on Extension for subdivisions. Two of the subdivisions are on paper, meaning they only have preliminary approval, and one is just about finished (they have bonded, have final plat approval, and residents have homes and living in the subdivision).

Discussion on the Civic Center Agreement: the agreement has been revised, based on discussions from prior council meetings. This was presented to the council and a group of residents.

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

**CONDUCTING:** Mayor J. Lane Henderson

**COUNCIL PRESENT:**

Mayor J. Lane Henderson  
Councilperson Lynn Durrant  
Councilperson Brent V. Hanks  
Councilperson Terry A. Ficklin  
Councilperson Stanley W. Green  
Councilperson Todd R. Gordon

**STAFF PRESENT:**

Jeffrey Nielson, City Recorder  
Bruce Ward, City Engineer  
David Johnson, Public Works  
Junior Baker, City Attorney

**Excused:**

Chief Brad James, Police Chief

Mayor Henderson excused Councilperson Ficklin for the first part of Council Meeting; he is attending the South Utah Valley Solid Waste District meeting. Also Councilperson Green is on call tonight at the hospital, so he maybe in and out.

**OTHERS PRESENT**

Erman Stone  
Sandra Cole  
Mallory Byrnes  
Ivan Ciarke  
Soofie Christensen  
DeLyle Richards  
Ed Melzer

Rick Hereth  
Jeff Simonsen  
Carol Jorgensen  
Clayton Clarky  
Marilyn Mitchell  
Rose Stewart  
Don Berge

Barbara Bomen  
Camilla Simonsen  
J. Spencer  
Bill Young  
Karen Anderson  
Norma Melzer

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

Mayor Henderson asked if anyone would like to give a motivational or inspirational message. Jeffrey Nielson stated he would like to offer a motivational message in the form of a prayer.

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

Mayor Henderson invited those who would 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.

Mayor Henderson introduced Matt Marzials as the New Salem City Recreation Director. Matt stated he was excited to work for Salem City; he has been working with Spanish Fork Recreation.

### **3. PUBLIC HEARING**

**MOTION BY:** Councilperson Stanley Green to Open the Public Hearing.

**SECONDED BY:** Councilperson Lynn Durrant.

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

**a. Text Amendment to the PUD Ordinance Regarding Upgraded Building Materials**

Attorney Baker stated that this amendment is an oversight that should have been inserted into the PUD Ordinance. When we adopted the PUD, building materials were discussed and should have been part of the ordinance, but for some reason it was left out. This is putting the building material portion back into the PUD ordinance.

Mayor Henderson asked if there were any questions.

**b. Camilla Simonsen – Zone Change on Property located at 155 W. SR 198 from C-1 to C-2**

Mayor Henderson turned the time over to Camilla Simonsen. Camilla stated this property is on SR 198, where the old house, which used to be the old train station, was torn down. When she bought the property she was under the impression it was zoned as C-2, but instead when the zone was changed on this property a while ago, it was zoned as C-1. Camilla is hoping to change the zone to C-2 because the C-2 zone requires a shorter set back. In order to fit the building and parking lot she is wanting, it would need to be a C-2 zone.

Camilla stated she wants to build a 3500 square foot retail building, with the hope of getting a food establishment also. The building is designed for two types of business. She has been approached by a couple of different business who are interested.

Councilperson Gordon asked about the parking for the building, would she have enough. Camilla stated that she would have enough if it is zoned C-2. Councilperson Gordon also asked about the water connection in the back of the property. Camilla was not sure about it, but she would look into it. There was also a question asked about parking on the Highway, and also about a cross walk, if there is going to be a food establishment, it might be a good idea to have the cross walks on the highway to the high school. It was stated that there will not be parking on the highway; Camilla stated there will be 16 parking stalls in the business. It was stated that the problem with the crosswalk is that the city has to get permission from UDOT to do anything on the highway, and it is a challenge to do that.

Mayor Henderson asked if there were any questions.

Close

**MOTION BY:** Councilperson Lynn Durrant to Close the Public Hearing.

**SECONDED BY:** Councilperson Stanley Green.

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

**a. Text Amendment to the PUD Ordinance Regarding Upgraded Building Materials**

**MOTION BY:** Councilperson Brent Hanks to Approve the Text Amendment to the PUD Ordinance Regarding Upgraded Building Materials.

**SECONDED BY:** Councilperson Todd Gordon.

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

Councilperson Stanley Green left council chambers.

**b. Camilla Simonsen – Zone Change on Property located at 155 W. SR 198 from C-1 to C-2**

**MOTION BY:** Councilperson Lynn Durrant to Approve the Zone Change on Property located at 155 W. SR 198 from C-1 to C-2.

**SECONDED BY:** Councilperson Brent Hanks.

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

**4. HEARTHSTONE DEVELOPMENT – PRELIMINARY APPROVAL FOR PLAT B OF VISTA ROYALE ESTATES AT APPROXIMATELY 350 N. 280 W.**

Sandra Cole, who is a representative from the Vista Royale home owners association, presented to the council some concerns they have, and what they expect of the developer. She stated that one of the concerns is that lot 21 is a bigger lot, and the developer was going to have that for himself. The concern they have is that the land in the development is common ground, and they want to make sure that lot 21 will also be common ground. The way it appears on the plat, it does not meet the developments CCR's. Sandra also stated that they are concerned about the maintenance of that lot, until it is developed, who will maintain the weed patch. They want to make sure that it is maintained.

It was stated that they city does not have control of the CCR, if a developer meets the city's requirements for a subdivision, then we are required to grant them the subdivision. Attorney Baker stated that as the Home Owners Association, they have more control of the plat than the city does. He suggested that they can require some of the items that they have concerns with are agreed upon before they sign the easements. Attorney Baker stated that the easements are required before the plat can be recorded.

Mayor Henderson asked if there were any more questions or concerns. The question was asked if the city can control the home that is built on the property. It was stated that the city can not, if it meets all the codes, but the CCR can control it. The builder representing the developer stated that they are planning on building the same type of home style to match the area.

Attorney Baker suggested to the council that the city require the easement for the turnaround.

**MOTION BY:** Councilperson Lynn Durrant that we Approve Hearthstone Development – Preliminary Approval for Plat B of Vista Royale Estates, at Approximately 350 N. 280 W., with the condition that they get written approval from the homeowner's association on the proposed turnaround and that the HOA grant the easement for that turnaround.

**SECONDED BY:** Councilperson Todd Gordon.

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

Councilperson Green and Ficklin returned to council meeting.

**5. COMMUNITY CENTER RENTAL AGREEMENT**

Councilperson Durrant stated that the council discussed this during the work session with a group of residents who have worked on an agreement. One of the concerns that have been brought up is that the ½ day rental is \$200, and the question has been brought up about renting it for \$100, and not allowing the kitchen to be used.

A concern from the council is the city needs to be able to pay for wear and tear on the facility. There was some discussion on the rates, and what other centers rental fees are, and how we are in line with other centers.

Mayor Henderson stated that the council can approve the agreement with the changes, deny it, or table for further discussion.

**MOTION BY:** Councilperson Brent Hanks to approve the Agreement as it has been presented to the Council.

Councilperson Durrant made the suggestion of allowing a four hour rental period for \$100, and a deposit of \$500. Have three separate four hour blocks that may be rented Monday – Thursday, without any food or kitchen allowed.

Mayor Henderson asked for a second on Councilperson Hanks Motion. There was no second, so the motion did not carry.

**MOTION BY:** Councilperson Lynn Durrant to accept the changes to the agreement as written, and to add a limited usage for four hour block, these set times will be determined by the city office staff, no food and no use of the kitchen, may only be done Monday – Thursday, and may be rented for \$100 for the four hour block, with a \$500 deposit.

**SECONDED BY:** Councilperson Todd Gordon.

**VOTE:** 3 Aye, 2 Nay; Roll Call: Councilperson Todd Gordon; Aye, Councilperson Terry Ficklin; Nay, Councilperson Lynn Durrant; Aye, Councilperson Stanley Green; Aye, Brent Hanks; Nay.

Councilperson Green left the Council Chambers.

## **6. CLAYTON CLARKE – EAGLE PROJECT/RESURFACING THE BOAT DOCK AT POND**

Clayton stated he would like to rebuild the old boat dock. It needs to be repaired, and he would like to redo the cement and resurface the dock. He has met with Steve Cox on the project of what he would like to do. He stated that he is working with Geneva Rock to get the cement donated, and then looking at other donations for the lumber. The question was brought up about the danger of using pre-treated lumber, and how it might produce poisons into the water. Mayor Henderson asked Councilperson Gordon to look into the pretreated lumber, and if it is dangerous.

Mayor Henderson stated that he would like to move to item number 9, because it may determine how items 7 and 8 are handled.

Bill Young read his request to the council:

Because of the national real estate credit problem, the sale of real estate, especially lots, are at a stand still. Many developers such as ourselves, with good intentions and reputations of meeting all our time-lines and obligations to finish our developments, are unable to secure the financing to finish projects in a timely manner, because all schedules were made anticipating a normal market to sell our properties and provide the capital to meet our scheduled obligations. In addition, because of the market, the evaluation of our projects that provided the equity for our capital output has declined, and therefore our ability to secure additional capital, even when we have continued to keep our credit and payments in check has deteriorated.

Therefore, I petition the Salem City Council to consider such hardship and grant a 12 month extension, or holiday, across the board to developers in meeting the requirements of their development construction. Such will allow the economy to recover and will not force development businesses into further debt or default because of circumstances created by the lack of responsibility of the national banking industry and its national government regulators; and by imposing rigid timelines that are inflexible to unforeseeable events. There is a national crisis, and communities should be flexible to govern without causing undue hardship at such time to its businesses that have made significant investment into the growth and stability of the community. We therefore ask Salem City Council to respond to the crisis at hand, and extend all development construction deadlines and bonding requirements 12 months, to responsibly provide relief to the real estate development industry that has in the past provided for the growth, stability and capital for infrastructure as the community progresses forward.

Attorney Baker stated that the ordinance only allows the council to approve a six month extension on a subdivision. He stated that the difference with this request is that this subdivision has final plat approval, and the bond has been posted. The city does not have control of the bond; it would be up to the bank where the bond has been posted. If the developer can get the bank to agree to an extension, then it might be something the city could look at, but we would require the bank agreement first. Bill Young stated that they have the entire infrastructure installed; there are a few landscaping items, a retention pond, and fencing that are left.

Mayor Henderson asked who would be responsible to contact the bank. Attorney Baker stated that it would be unto the developer to get the request from the bank and present it to the city.

Bruce Ward stated that another concern is that the residents, who have bought into the subdivision, have paid a lot of money for a finished subdivision. We should think about them too. We also need to make sure that if we do allow the extension that all safety items are done; curb and gutter, sidewalk, and asphalt. Bruce also stated that we would

hold up any building permits. Bruce also mentioned that Bill is asking for an extension on all subdivisions, not just his.

The council felt that the extensions would need to be a case by case situation.

Mayor Henderson stated that he felt that the six month extension would be okay, as long as the city received a letter from the bank stating that the bank is okay with the six month extension on the bond.

**MOTION BY:** Councilperson Terry Ficklin to approve Bill Young's extension on Harvest Ridge Phase 3 for six months, subject to the city receiving a letter from the bank extending the bond.

**SECONDED BY:** Councilperson Brent Hanks.

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

Councilperson Stanley Green returned to council meeting.

## **7. DALACO – EXTENSION ON SKYVIEW ESTATES SUBDIVISION**

Mayor Henderson stated that this subdivision came to council in July asking for an extension, but was tabled until tonight's council meeting. They have previously had two other extensions already. No one was present to represent Skyview. Bruce Ward stated that if this subdivision is not granted an extension, then the property goes into raw ground again because a final approval was not completed on the subdivision.

**MOTION BY:** Councilperson Brent Hanks to deny the extension request from Dalaco for Skyview Estates Subdivision.

**SECONDED BY:** Councilperson Lynn Durrant.

**VOTE:** All Affirmative (5-0).

## **8. CAROL JORGENSEN – EXTENSION ON WHISPER RIDGE SUBDIVISION**

Carol Jorgensen stated that their subdivision expires on the 18<sup>th</sup> of September. She wants an extension on it. They only have preliminary plat approval also at this time. Also, because of the winter months, they are wondering in six months if they could have another extension. It was stated that she would need to be on the council agenda again.

**MOTION BY:** Councilperson Lynn Durrant to approve the six month extension for Carol Jorgensen on Whisper Ridge Subdivision, and to put on the council agenda in six months for another extension approval.

**SECONDED BY:** Councilperson Brent Hanks.

**VOTE:** All Affirmative (5-0).

## **9. BILL YOUNG – SUBDIVISION EXTENSION DISCUSSION**

Went before item #7

## **10. DWR AGREEMENT**

Attorney Baker stated that this is an agreement with the DWR (Division Wildlife Recourses), that the city will maintain the area of the pond, so that it can be used for fishing recreation. The only concern is that the agreement requires the city to maintain the level of the pond. The city does not control that; it would be up to the pond company.

**MOTION BY:** Councilperson Brent Hanks to approve the agreement with the DWR, with the exception that the city does not control the level of the pond.

**SECONDED BY:** Councilperson Lynn Durrant.

**VOTE:** All Affirmative (5-0).

## **11. AWARD BID FOR 750 NORTH ROAD IMPROVEMENT PROJECT**

Bruce Ward stated that we opened the bids for the 750 North road project. This is the road that will be going just south of the grocery store. He stated that the low bid, which was below the engineers estimate, was Johnston and Philips. Bruce stated that the city will still need to do a sewer line and a pump station for the grocery store. There was some discussion on asphalt, and how cement maybe cheaper to do a road, rather than asphalt.

**MOTION BY:** Councilperson Brent Hanks to award the bid for the 750 North road improvements to Johnston and Phillips in the amount of \$414,987.09.

**SECONDED BY:** Councilperson Stanley Green.

**VOTE:** All Affirmative (5-0).

Councilperson Stanley Green left council meeting.

## **12. RESOLUTION ON PERSONNEL POLICY**

Attorney Baker stated that, with the hiring of Matt as the recreation director, the concern about having him exempt but not classified. Attorney Baker explained the difference between exempt and classified, and the classification of who would qualify for severance and which employees are classified and exempt employees.



Bruce Ward stated that we need to add public works director on the list of paragraph A and B.

**MOTION BY:** Councilperson Lynn Durrant to approve Resolution 82008 with the changes of adding the Public Works Director to the list.

**SECONDED BY:** Councilperson Terry Fickin.

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

### **13. APPROVE MINUTES OF AUGUST 6, 2008**

**MOTION BY:** Councilperson Lynn Durrant to Approve Minutes of August 6, 2008 Council Meeting.

**SECONDED BY:** Councilperson Todd Gordon.

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

Councilperson Green returned to council meeting.

### **14. APPROVE BILLS FOR PAYMENT**

**MOTION BY:** Councilperson Brent Hanks to Approve the Bills for Payment.

**SECONDED BY:** Councilperson Todd Gordon.

**VOTE:** All Affirmative (5-0).

### **15. PUBLIC SAFETY**

### **16. OPEN DISCUSSION**

Reid Cornaby thanked the council for the honor of being the Grand Marshal for Salem Days. He also stated that the Copes did a great job.

### **COUNCIL REPORTS**

#### **17. MAYOR J. LANE HENDERSON**

#### **18. COUNCILPERSON LYNN DURRANT**

Councilperson Durrant stated that the final walk through at the library is scheduled for next week. It is scheduled to re-open on September 8.

**19. COUNCILPERSON TERRY A. FICKLIN**

Councilperson Ficklin reported that the solid waste district has been working with Commissioner Anderson to get the property re-zoned, or a text amendment approved, to allow a transfer station on the property owned by the solid waste district adjacent to the regional wastewater facility site. Request is going to the County Planning Commission next month, then to the County Commission.

He also reported that a company is looking at the feasibility of using methane or burning garbage to generate electric power.

**20. COUNCILPERSON STANLEY W. GREEN**

**21. COUNCILPERSON BRENT V. HANKS**

**22. COUNCILPERSON TODD R. GORDON**

Councilperson Gordon stated that the sidewalk replacement looks good.

**23. DAVE JOHNSON, PUBLIC WORKS DIRECTOR**

**24. BRUCE WARD, CITY ENGINEER**

**25. ATTORNEY S. JUNIOR BAKER.**

**ADJOURN CITY COUNCIL MEETING TO EXECUTIVE SESSION FOR  
POTENTIAL LITIGATION AND PERSONNEL**

**MOTION BY:** Councilperson Stanley Green to adjourn city council meeting and enter into an executive session for discussion on potential litigation and personnel issues.

**SECONDED BY:** Councilperson Durrant.

**VOTE:** All Affirmative (5-0).

**MEETING ADJOURNED AT:** 8:43 p.m.

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Jeffrey Nielson, City Recorder