

Minutes of the Salem City Council Meeting held on June 16, 2004, 2004 in the Salem City Council Chambers.

MEETING CONVENED AT: 7:30 P.M.

CONDUCTING: Mayor Randy A. Brailsford.

INVOCATION: Mayor Brailsford stated he would like to make an opening statement at this time. He gave an invocation.

PLEDGE: Councilperson Dale Boman invited all who would like to participate to stand and say the pledge of allegiance.

COUNCIL PRESENT:

Mayor Randy A. Brailsford
Councilperson Lynn Durrant
Councilperson Dale Boman
Councilperson Terry A. Ficklin
Councilperson Paul J. Hair
Councilperson Dale R. Wills

STAFF PRESENT:

Jeff Nielson, City Recorder
Chief Brad James, Police Chief
David Johnson, Public Works
Junior Baker, City Attorney

OTHERS PRESENT

Kevin Pritchett
J. Reed Cornaby

Erman Stone
Phillip Porter

Bret Davis
Ryan Dart

Mayor Brailsford stated that in the June Newsletter, the city initiated a policy for organizations wishing to place a notice of interest in the news letter.

Mayor Brailsford stated that the council will proceed with the agenda as written.

1. PUBLIC HEARING

MOTION BY: Councilperson Lynn Durrant to open the public hearing.

SECONDED BY: Councilperson Terry Ficklin

VOTE: All Affirmative (5-0).

a. Amend Budget for 2003 – 2004

Mayor Brailsford turned the time over to Jeff Nielson. Jeff stated that he gave the council a copy of the amended budget, and asked them if they had any questions. He mentioned some of the changes that were made; most of the amendments were made to reflect what actually has happened over the year.

b. Water Conservation Plan

Councilperson Wills stated that the water conservation plan is something that needs to be done with the state. It mentions what the city's plans are for water usage. It also allows us to get grants from the state. The plan has been worked on for the last several months, and it is required by the state. He asked the council if they had any questions. There were no questions.

MOTION BY: Councilperson Paul Hair to close the public hearing.

SECONDED BY: Councilperson Lynn Durrant.

VOTE: All Affirmative (5-0).

a. Amend Budget for 2003 – 2004

MOTION BY: Councilperson Lynn Durrant to approve the amended budget for 2003/2004.

SECONDED BY: Councilperson Terry Ficklin.

VOTE: All Affirmative (5-0).

b. Water Conservation Plan

MOTION BY: Councilperson Dale Wills to approve the Water Conservation Plan as it is written.

SECONDED BY: Councilperson Paul Hair.

VOTE: All Affirmative (5-0).

2. Approve Final Budget

Mayor Brailsford explained to the public what the revenue and expenses amounts are for this next year. Jeff Nielson explained there were some minor changes made to the budget from what was requested in the prior council meeting during the public hearing. Mayor Brailsford asked the council if there were any questions. Councilperson Wills was concerned about passing the final budget before we pass the telecommunication tax. Mayor Brailsford stated the council will come back for the approval of the final budget.

3. Beer Handler's Ordinance

Mayor Brailsford asked Police Chief James if there were any changes made to the ordinance since the county came and presented it to the council a few months ago. Chief James stated that to his knowledge there have not been any changes. Mayor Brailsford asked Bret Davis (a representative from the county) if there were any changes. He stated

that the only change is that there is no charge for the training and the badge, as long as they go through the training at the county health building. The person who is selling the beer must wear the badge. So far, all of the cities have been very supportive of this ordinance. We just want to protect the merchants. The training will teach people to check for ID. They will be working with the local police departments in doing compliance checks. Councilperson Boman asked where the responsibility for the buyer is. Bret stated that the training will teach the person selling the beer, so that they will not sell beer to underage people. This puts the responsibility on the person selling the beer. Attorney Baker stated that there is a Class A Misdemeanor for someone who sells beer to a under age person. Councilperson Boman asked if a person could not wear the badge. It was stated that if they wanted to they could, but they could not sell beer, which would probably not make the owner happy. Councilperson Wills was wondering if the city can regulate the consequences for under age buying, or is it the state. Attorney Baker stated that the city can not make the consequences greater than what the state law states. Police Chief James warned the council that they may get some owners of the convenience store coming to the council wanting the age limit to sell beer lowered.

MOTION BY: Councilperson Dale Boman to approve Ordinance 61604 adopting Utah County's "EASY" standard for beer handlers permits.

SECONDED BY: Councilperson Paul Hair.

VOTE: All Affirmative (5-0).

Mayor Brailsford excused himself from the council chambers for this item, and turned the council meeting over to Councilperson Terry Ficklin (Mayor Pro-tem).

4. Ryan Dart – Subdivision Waiver on property at 523 N sr 198

Councilperson Terry Ficklin turned the time over to Ryan Dart. Ryan stated he represents Kevin Pritchett, who is the owner of the Car Source in Spanish Fork. Ryan stated that they have purchased the Davis Lube property (Rod Davis property). They are willing to put the improvements in which the council feels necessary. They will be hooking onto the sewer line. The plans right now are to asphalt to the west of the property, and put a fence around it. This will be where they bring cars in to be detailed, lubed, and get ready to be sold at their Spanish Fork car lot. Right now they have a couple of options for the lube shop, it will either be a national company or a local company, but it will remain a lube shop. Both the lube and the detailing shop will be cleaned up and some improvements made on them. They plan on putting curb and gutter on the west property. Also are looking at doing security lights. Councilperson Durrant asked if they had an agreement with Neways for the road. Ryan stated that they do not have an agreement in writing yet, they do have a verbal agreement. Ryan showed the council a map of what they want to do. The road would be done according to city code. He asked the council if they had any questions.

Reed Cornaby asked if there were going to be any retail sales. Ryan stated that there would not be any retail sales, the cars will be prepared for selling, by being detailed and

lubed. Those services will be offered to the public as well. They will also be purchasing fuel, tires, and emissions/safety here in town. Kevin Pritchett stated he has purchased a home in Salem and is excited to be a part of Salem.

Councilperson Wills is wondering about the written agreement with Mowers, and wondering how long before they can get the agreement. Ryan is hoping within the next couple of weeks. Tom Mower is out of the country right now. Ryan stated they are willing to deed their 33 feet for the city improvements. A concern was stated that if Mowers do not agree, then half of the road would be public and the other half would be private (Mower). Dave Johnson was wondering if the council could put a contingency on the motion to have the agreement with Mower's in writing. Ryan stated that both DRC (Development Review Committee) and Planning and Zoning agreed to the subdivision waiver. Councilperson Wills stated that he would like to see the agreement with Mowers in place first. Ryan stated that phase one of the project would take the road to the turn around, and phase two would be affected by the Mower agreement the most. If the agreement did not go through, they would make adjustments to phase two of the project and put the road all on their side of the property. Phase one is just going to be the parking lot, no building will be built on phase one. The question was asked what the plans were for phase two. Ryan stated right now they are not sure, but they have allowed Rod Davis to stay in the home until for the first of the year. Councilperson Wills was wondering about waiting a couple of weeks to see if the agreement with the Mowers will take place. He is concerned about having half a road. Dave Johnson stated that in the master plan, it shows the road there. Neways has also installed a sewer line according to public specs. Councilperson Boman asked what would happen if Neways decided not to sign the agreement. Ryan stated that when phase two is designed, they would have to make some changes. Mayor Brailsford (sitting with the public still) stated that the council could require them to install the full road on phase two on their property. Reed Cornaby asked if the council could put a contingency with the motion that certain things have to be done. From what he heard, Ryan stated they are willing to put the road on their side. Dave Johnson stated that if they put the improvements in now for phase one, then when phase two comes along knowing they may have to take out the improvements they made for phase one. Councilperson Ficklin stated that when the building permit is done for phase two, then the requirements of having the road on their property would be placed.

MOTION BY: Councilperson Lynn Durant to allow the subdivision waiver with the contingency that if in the future of phase two development, and no signed agreement with Neways (Mower) has been done; then the full 66 foot road would need to be on their development, and the existing improvements (curb/gutter/sidewalk) would have to be moved to connect with the future roadway.

SECONDED BY: Councilperson Dale Boman.

VOTE: Affirmative 4, Councilperson Wills Nay (4-1).

Mayor Brailsford took his seat back with the council.

5. ALLAN STUBBS – PROPERTY USE

Mayor Brailsford asked if Allan Stubbs was present. Allan was not present. Mayor stated that this item is regarding the situation with his road that was discussed during a prior council meeting. Councilperson Ficklin was wondering about making a person do the upkeep on the road until the other half of the road is built. Attorney Baker stated he does not think the council could do that. The council could abandon the roadway in hopes that the person would deed it back. Chief James showed the council some pictures of the road, and showed where damage is starting. It was stated that the problem is where the asphalt ends and the dirt begins, there is a ledge and the asphalt starts to break away. Right now someone has put dirt there to make it even, but that would be washed away and back to the same problem. Chief James stated the other problem is the big trucks bring dirt onto the road, which is also against our ordinance. The problem with that is catching the person when it happens. If the feathering is kept up, it would help out the problem. Mayor Brailsford stated that the council needs to move on; Allan is not here to discuss it. A letter was sent to Allan about using it, so we can keep following up with the letter.

6. ORDINANCE ON TELECOMMUNICATIONS SERVICE TAX

Mayor Brailsford turned the time over to Attorney Baker. Attorney Baker explained that in council a few years ago, the council adopted the cell phone tax. This year this tax was eliminated by the state legislation. Instead they are allowing the cities to impose a service tax on telecommunications, and allowing up to 4%. Because the city already had the cell phone tax, the state tax commission would impose the 4% tax unless they were notified by a city otherwise. A couple of months ago the council decided to go with a 2.2% rather than a 4%. Since it was discussed and under your discretion a letter was sent to the State Tax Commission stating the rate of 2.2%. Tonight the council is adopting the ordinance for that, along with the interlocal agreement with the State Tax Commission allowing them a 1% administrative charge. The council can change the tax percentage any time, up to the 4%. If we do it now it would cause problems with the State Tax Commission because we have already told them we committed to the 2.2%.

MOTION BY: Councilperson Terry Ficklin to approve Ordinance 61604A establishing a tax on the gross receipts of telecommunications service providers; setting the rate for such tax; and establishing the effective date of the tax.

SECONDED BY: Councilperson Lynn Durrant.

VOTE: Affirmative 4, Councilperson Wills Nay (4-1).

7. INTERLOCAL AGREEMENT WITH TAX COMMISSION

Attorney Baker stated this is the interlocal agreement with the tax commission. This is what was discussed in the prior item.

MOTION BY: Councilperson Terry Ficklin to approve the interlocal agreement with the state tax commission.

SECONDED BY: Councilperson Paul Hair.

VOTE: Affirmative 4, Councilperson Wills Nay (4-1).

APPROVAL FINAL BUDGET

Mayor Brailsford stated that the council would go back to approving the final budget at this time.

MOTION BY: Councilperson Terry Ficklin to approve final budget for 2004/2005.

SECONDED BY: Councilperson Dale Boman.

VOTE: All Affirmative (5-0).

Mayor Brailsford stated that Councilperson Terry Ficklin needs to leave early, so he will allow him to do his council report now.

Councilperson Ficklin stated the mayor and him met with BFI this afternoon. The city is now in the 5th year of the contract with them. They talked about the contract and came up with an amendment to the contract, and will have it on the agenda next council meeting. He also handed the council an invitation for the 29th of June for a tour of the solid waste sites. We have a great facility.

Councilperson Ficklin stated he would like to go to item # 11, since he is over the cemetery.

CEMETERY CREMATION BURIAL RATES

Mayor Brailsford turned the time over to Councilperson Ficklin.

Councilperson Ficklin reported there have been some concerns about the burial rate for a cremation that the city charges. He stated that Jeff Nielson gave the council a paper showing cremation fees of some of the surrounding cities. All of our other rates are very

comparable, except for the cremation. He would recommend lowering the cremation rates to half of what the fees are for a burial.

MOTION BY: Councilperson Terry Ficklin to lower rates of the cremation to half of what the regular fees are for opening and closing of a grave.

SECONDED BY: Councilperson Lynn Durrant.

VOTE: All Affirmative (5-0).

Mayor Brailsford stated he would like to go to item # 10 Strawberry Water Rights
STRAWBERRY WATER RIGHTS

Mayor Brailsford turned the time over to Attorney Baker. Attorney Baker stated that this resolution will allow Salem City to accept Strawberry Water Rights. The way it is written, it is a case by case basis, upon the review of DRC and Planning and Zoning. Mayor Brailsford stated he would like to see a change on page two where it states culinary water, to also add secondary water.

MOTION BY: Councilperson Terry Ficklin to approve resolution 61904 with said changes.

SECONDED BY: Councilperson Dale Boman.

VOTE: Affirmative 4, Councilperson Wills Nay (4-1).

Reed Cornaby asked what the difference is when Strawberry will allow us to use the water. Mayor Brailsford stated if it is Strawberry Water or the District, either one will have to provide the city with water. Dave Johnson mentioned that when we accept the 1.33 acre feet of water per home, it will need to be calculated out. This might be something Attorney Baker needs to do. Mayor Brailsford was wondering about having it calculated out for 10 years. Strawberry is allowed so many acre feet from Strawberry Reservoir. Another good thing is that we do not have to show proof of usage with Strawberry Water.

Councilperson Terry Ficklin left the council chambers at 8:55 P.M.

8. STATE COURT CONTRACT

Mayor Brailsford stated this is the same contract done each year with the state court. It is stating the state pays us for the work that Jane does for court issues.

MOTION BY: Councilperson Dale Wills to approve the state court contract for 2004/2005.

SECONDED BY: Councilperson Lynn Durrant.

VOTE: All Affirmative (4-0).

9. QUESTAR GAS FRANCHISE AGREEMENT

This item is not ready.

10. STRAWBERRY WATER RIGHTS

This item was discussed earlier.

11. CEMETERY CREMATION BURIAL RATES

This item was discussed earlier.

12. APPROVE MINUTES OF JUNE 2, 2004

MOTION BY: Councilperson Lynn Durrant to approve the minutes as they are written.

SECONDED BY: Councilperson Paul Hair

VOTE: All Affirmative (4-0).

13. APPROVE BILLS FOR PAYMENT

Councilperson Hair was wondering if the city has received the new fire truck yet. It was stated that the truck is still being worked on.

MOTION BY: Councilperson Dale Boman to approve the bills for payment.

SECONDED BY: Councilperson Dale wills.

VOTE: All Affirmative (4-0).

14. PUBLIC SAFETY

Chief James asked the council if they had any questions for him. There were no questions from the council.

15. OPEN DISCUSSION

Phil Porter (Chairperson over the Salem Days Parade), asked the council if they were going to allow candy to be thrown at the parade. He has talked to Chief James about it, and he stated from a safety issue, he does not feel it would be a good idea, and does not agree with it. With some discussion, the council felt that they would allow candy to be tossed, but would not allow little kids to toss the candy. They want to make sure the candy can make it to the people watching the parade, so that the candy stays away from

the parade participants. The council wanted to make sure the people in the parade know about this.

COUNCIL REPORTS

16. MAYOR RANDY A. BRAILSFORD

Mayor Brailsford showed the council the new flag. He told the council he would like to present it to the citizens and have a dedication ceremony.

17. COUNCILPERSON DALE BOMAN

Councilperson Boman stated that the float is up and going. He also stated that he needs the names of the people who are over the events for Salem Days. He needs this information so it can be put in the news letter.

18. COUNCILPERSON LYNN DURRANT

Councilperson Durrant stated that the council should have a copy of the draft for the assignment of substation operating agreement with SUVPS and Strawberry Water Users Association. Attorney Baker stated he has not seen it yet. Councilperson Durrant stated she will give SUVPS's her recommendation to signing it, upon Attorney Bakers approval.

She also reported that the library had sod put in, and it looks good.

Mayor Brailsford stated that during the night of the Salem Days pageant, he would like to recognize Merle Christiansen for her 100th birthday which she just celebrated.

19. COUNCILPERSON TERRY A. FICKLIN

Councilperson Ficklin reported earlier.

20. COUNCILPERSON PAUL J. HAIR

Councilperson Hair reported that at the sewer plant, Aqua Engineering had the new wire pulled and put in place. Mike Pritchett has asked for equipment to finish a new pump. A portion of pump was already here, we just needed the remaining parts. Councilperson Hair told Mike to go a head and order those parts. Also Aqua Engineering is moving forward with the D.O. meters at the sewer plant.

A. NEW POLICE VEHICLES

Councilperson Hair stated he has received some state bids for two new police vehicles. Both would be trucks, the one truck would be for Chief James and could be delivered around mid August. The other truck would be to replace the animal control truck. This truck could be delivered right away. The old animal control truck will be given to the street department. There are three bids for the animal control truck. One from Ford for \$20,896, Dodge \$21,121 and a Chevy extended cab for \$21,967 that could be delivered immediately. The recommendation is to go with the Chevy, because of the extended cab. The other truck is a 2005 Ford Super Crew, with a shell for \$26,696. The other bids were a Dodge Quad Cab which was not big enough for what is needed and Chevrolet could not get 2005 bids until July. If needed, there is money in our state savings account which could be brought down and then paid back over the year.

MOTION BY: Councilperson Hair to approve the purchase of the two vehicles including all of the equipment for a total price of \$51,900.

SECONDED BY: Councilperson Dale Wills.

VOTE: All Affirmative (4-0).

B. BIDS FOR BACK HOE

Councilperson Hair stated we have an opportunity to lease a back hoe from Century Equipment Company. We would trade in the old back hoe and get a credit of \$18,000, which would be applied over a 3 year period. It has been recommended to go with the lease. This would give us a new back hoe each year. Mayor Brailsford recommends the signing of the lease after Attorney Baker reviews the lease.

MOTION BY: Councilperson Dale Boman to approve the lease agreement upon Attorney Bakers approval.

SECONDED BY: Councilperson Lynn Durrant.

VOTE: All Affirmative (4-0).

Mayor Brailsford told Councilperson Durrant that Diane Pritchett has stated she would help out with the youth council, to replace Gaylen Llewellyn.

21. COUNCILPERSON DALE R. WILLS

A. PROPERTY ON CHRISMAN DRIVE

Councilperson Wills stated that he has talked to Dave Johnson about this item, and when the improvements are put in, the road would be a good road. He feels it would not be in the city's best interest to abandon the road.

22. DAVE JOHNSON, PUBLIC WORKS DIRECTOR

Did not have anything to report tonight.

23. ATTORNEY S. JUNIOR BAKER.

Attorney Baker stated that the mayor has received a complaint about some of the council members meeting after council meeting has been adjured. The council needs to know they can not meet together afterwards, because it is violating the open meeting law. You need to make sure that avoid the appearance of meeting.

CLOSE CITY COUNCIL MEETING

MOTION BY: Councilperson Lynn Durrant to close city council meeting.

SECONDED BY: Councilperson Dale Boman.

VOTE: All Affirmative (4-0).

MEETING ADJOURNED AT: 9:45 P.M.

Jeffrey Nielson, City Recorder