

SOUTH JORDAN CITY
CITY COUNCIL STUDY MEETING

January 18, 2022

Present: Mayor Dawn R. Ramsey, Council Member Tamara Zander, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Don Shelton, Council Member Jason McGuire, City Manager Gary Whatcott, Assistant City Manager Dustin Lewis, City Attorney Ryan Loose, Planning Director Steven Schaefermeyer, Director of Administrative Services Spencer Kyle, Director of Public Works Jason Rasmussen, City Engineer Brad Klavano, CFO Sunil Naidu, Strategic Services Director Don Tingey, City Commerce Director Brian Preece, Director of Government Affairs Melinda Seager, Police Chief Jeff Carr, Fire Chief Chris Dawson, IT Director Jon Day, GIS Coordinator Matt Jarman, City Recorder Anna Crookston, Meeting Transcriptionist Diana Baun, Associate Director of Recreation Services Janell Payne, Communications Manager Rachael Van Cleave, Assistant City Attorney Greg Simonsen

Others: CJ, Janice McClellan, Ed Oglevy, Tom Henriod, Chris Gamvroulas, Serra Nemelka

4:48 PM
STUDY MEETING

A. Welcome, Roll Call and Introduction: *By Mayor Dawn Ramsey*

Mayor Dawn Ramsey welcomed everyone present and introduced the meeting. She excused Council Member Patrick Harris and noted he was expected any time.

B. Invocation: *By Council Member Patrick Harris*

Council Member Patrick Harris had not arrived yet, Council Member Tamara Zander offered the invocation.

C. Mayor and Council Coordination

Council Member Patrick Harris joined the meeting in person.

Council Member Brad Marlor met with a developer looking at some property west of River Park, up on the hillside. He believes they will be coming before the council in a study meeting in the near future regarding the property.

Council Member Patrick Harris said he has been working with the same developer to help them create something that will be within the parameters of what our council would likely consider.

Council Member Marlor has also been encouraging them to move in a slightly different direction on a few of the items, hopefully lessen or avoid issues when this comes before the council.

Planning Director Steven Schaefermeyer asked if this is the property behind Lifetime or Market Street.

Council Member Marlor said it was the property behind Lifetime. This party was already working with staff, but they have indicated they are just about ready to move forward with the next step.

Council Member Don Shelton said this Saturday at 8:00 a.m. will be the first legislative update for the Western Growth Coalition; the meeting is being done virtually.

Director of Government Affairs Melinda Seager said this meeting is not regularly public noticed, but she will send the information to the City Recorder for that purpose.

Council Member Tamara Zander mentioned the Utah League of Cities and Towns (ULCT) Local Officials Day at the Capitol for our Youth City Council tomorrow; the council and staff discussed their plans for the day and where they needed to be.

Mayor Dawn Ramsey said there is a board meeting for the League tomorrow. Additionally, there will be a coordinating meeting before their Council of Governments (COG) meeting they are having at the Capitol on Thursday. They have invited Representative Waldrip to speak at their League Board Meeting tomorrow, he is joining with Senator Anderegg leading the charge on housing this session. She had some good discussion and debate with them last week at the Economic Opportunities Commission.

City Manager Gary Whatcott said the council and administrative staff have been invited to Bingham High School on Thursday, January 27. They will be celebrating the re-opening of the auditorium and having a special presentation.

Mayor Ramsey said this will be a ticketed event and email invitations will be sent soon. She also discussed the new sales tax bill being presented and where things are at right now. She had the chance to speak on behalf of cities and explain why she feels the way she does, along with why the League Board isn't supportive of the current bill. She also had a chance to explain why she voted no on behalf of the cities, she was the only "no" vote in the UEOC. The motion was made by President Adams to accept the bill and continue working on it, knowing there is still work to do; however, this was not the wording of the proposed motion and it was not read that way.

D. Discussion/Review of Regular Council Meeting

Oath of Office Ceremony:

District #3 Council Member, Don Shelton

Consent Action Items:

Resolution R2022-10, Arts Council Appointments

Resolution R2022-11, Planning Commission Appointments

Public Hearing Items:

Resolution R2022-09, Amending FY 2021-22 Budget.

Resolution RDA 2022-01, Amending FY 2021-22 Budget.

Ordinance 2022-05, Amending 2.20.120, salaries of the Mayor and Council Members.

Ordinance 2022-06, Fixing the compensation for the South Jordan Mayor and City Council.

Ordinance 2022-07, Setting forth compensation for Mayor Dawn R. Ramsey.

Council Member Shelton sent some questions to CFO Sunil Naidu beforehand regarding the budget, he indicated those questions were answered appropriately.

E. Discussion Items

E.1. Art Council Appointment. (*By Assistant City Manager, Dustin Lewis*)

Assistant City Manager Dustin Lewis introduced Janice McClellan, who has been a member of the Arts Council for a number of years. Her term expired at the end of December and she has expressed a willingness to serve another term as the Mayor's appointment to the council.

Janice McClellan introduced herself. She lives in West Jordan, but just on the border, and she walks all over South Jordan so she feels like part of the city. She joined the Arts Council in 2014, when Lori Shepherd was in charge. They went to high school together and Ms. McClellan decorated for their class reunion and Ms. Shepherd brought her in after that. She has learned a lot and enjoys learning about what's going on with the city, helping to plan activities and ways we can make it look better. She has had her own painting and wallpaper business for about 40 years this year. She also does decorative painting, so she does a lot of fun art and sees a lot of fun art. She mainly wallpapers every day for a lot of high-end homes and clients, it keeps her climbing a ladder every day and wringing out sponges as a glorified wall washer.

ACM Lewis mentioned he believes she was part of the group that initiated the wraps on the utility boxes.

Ms. McClellan said yes, she loved that project and added that she had the chance to do a few bike themed pictures for the box wraps.

The council thanked her for her willingness to serve.

E.2. Residential Care Facilities. (*By City Attorney, Ryan Loose*)

City Attorney Ryan Loose said he and Assistant City Attorney Greg Simonsen have been discussing residential treatment facilities. These are group living homes and other types of treatment facilities you find within residential neighborhoods. In 2013, the city changed those from a land use process that went through Planning Commission and City Council type hearings, to a licensing type of process. What they found was that this area of law is so regulated by the DOJ, HUD and what the Fair Housing Act says, that you end up frustrating a lot of people after having a big public hearing, only to find out there are limited decisions to be made. Mr. Loose

said him and Mr. Simonsen took those decisions they had made, brought them to the city council in policy, and made it an internal licensing process. That means that since 2013 we have not had public hearings on these types of facilities, however there are a lot of rules and guidelines. The Residential Facilities Ordinance can be found under Business Licensing in 5.64. If the applicant asks for “reasonable accommodations” due to number of residents, distance from another center, etc., then we set up a hearing officer for that; by default that hearing officer is the City Manager. In recent years, City Manager Whatcott delegated that to the City Hearing Officer, Mr. Craig Hall, who hears our variances and other appeals from the code; this process works well for the city. There have been recent changes in the laws dealing with distance and other requirements, which prompted discussions on our ordinance. Additionally, previous Assistant City Attorney Todd Sheeran, rewrote the City of Bluffdale’s ordinance under its own title, and this added to the current discussion about updating the ordinance. He now has a draft ordinance he’d like to bring to the council that will update those items, along with suggesting they take up one of the vacant titles in the city code. They want to make this its own title in the city code, it will be a very short one and it will deal with these facilities. From a process standpoint, they are still going to work with City Commerce Director Brian Preece in Business Licensing, and City Commerce Executive Assistant Amber Katwyk who has been working these through, but it won’t be a business license. Treatment facilities range from places like Beehive Homes, for those who can’t physically care for themselves, to addiction recovery type treatment facilities. There is different licensing at the state level, so they don’t go through the business license process at our level. With the council’s permission, Attorney Loose would like to update the ordinance and bring it to the council as part of a new title, either 11 or 14, for that. He would also like to update, but not substantially change, and go back to a public hearing process, keeping it within the process we already have for administration.

Council Member Jason McGuire asked why a treatment facility for addictions is classified the same as a care-type home like Beehive Homes.

Attorney Loose said it has to do with the Americans with Disabilities Act. Under that act, a person with a disability is allowed to live in a residential area by matter of right; a disability can include physical disabilities, mental disabilities, etc. Addiction, as long as the person isn’t currently using, is classified as a disability. There are circumstances and times when someone disqualifies themselves to stay in the facility because they relapse and start to use again, and at that point they no longer qualify to be there, under both our city licensing and the state licensing.

Council Member Zander asked who determines when an addict is considered clean to be admitted.

Attorney Loose discussed that there are all sorts of requirements for admittance. The business running the facility has admission criteria they use to screen potential and current residents. If a patient violates that, they remove the patient from the facility. We have the ability to audit those records, and in the past that has been done through Code Enforcement. We have found those audits to not be terribly productive on our side because these people know their business better than we do, but also because the state audits them and ensures compliance.

Council Member Zander said if she was living in a neighborhood and one of these became established there, she would want to know if the state has a follow-up system where the business is required to test residents on a regular basis.

Attorney Loose said depending on the type of facility, there are mandatory testing requirements.

Council Member Zander pointed out the facility on Redwood Road and how that is in a great location, being more commercial. She asked to clarify that they as a city council cannot stop a residential treatment facility from locating in one of our neighborhoods.

Attorney Loose said yes, they cannot stop it and it has been that way for several decades. Ed Oglevy is here and used to work in the Attorney General's Office. Attorney Loose and the Mayor have been speaking with him and some residents in his neighborhood where one of these homes was proposed to go. They didn't meet all of the requirements at the time of their application, but they could come back with those requirements met and try again. The law is very clear, you cannot stop someone from buying the home next to you if they have a drug problem, or if they have a bunch of obnoxious kids, or if they are in a wheelchair or have any other type of disability or life situation. Generally, you can't stop people with disabilities from moving next to you either, and this is where the law starts. These are just people with disabilities that want to live in a group setting so they can get better. He is not the social scientist, but there is social science data accepted by law as valid data, that people recovering from addiction do better in a residential neighborhood than they do in a commercial/industrial type area because they feel more like part of a community. There are many debates around the distance requirements, so we now allow applicants to apply for "reasonable accommodations" when the requirements can't be met. Within a half mile of the facility on Redwood Road, there is another home in the neighborhood. The distance requirements are supposed to make it so the neighborhood doesn't become a community of residential treatment facilities. In this specific case off Redwood Road, they don't share the same entrance, the residents don't come from the same communities and wouldn't be interacting with each other, so it was reasonable to waive the distance requirement. There was another situation, in our city in the area behind Walmart. There was already a residential treatment facility and the company who owned it wanted to buy the house next door to have one male and one female facility. We denied that request as unreasonable because there were about 15-20 homes and they would be taking two of those, along with practically doubling the population of the neighborhood. The average amount of residents used to be between 12 and 16, however the more recent applications have been for between 20 and 28; the applicants insist that for therapeutic and financial necessity they need those higher numbers. Most of the applications in the twenties back out quickly when they are asked if they have the right kind of sheet rock, sprinklers, etc., because at a certain occupancy you need a higher level of fire protection. They are buying larger homes in places like River Park and Polo Club Court, and they are big enough to hold that many people, but because they have the business aspect they need those safety upgrades. The majority of our residential treatment facilities are somewhere between 12 and 16 residents. Most research and literature on therapeutic necessity puts 12-16 as the right therapeutic number. Most of the time they ask for more residents because they know they will always have some turnover, and if they have 16 they may only have 12-14 in there at

any given time. Last time they looked, he doesn't remember any crime issues in areas with these facilities.

Police Chief Jeff Carr said none has come to his attention, but they haven't done any kind of data analysis.

Attorney Loose said he was going to speak with our GIS Coordinator, Matt Jarman, and have him run some numbers for them in relation to crime stats. In general, they haven't had any huge issues with these facilities that is changing the character of a neighborhood. We currently have about four to five facilities, and at one point he thinks we might have had up to six.

City Commerce Director Brian Preece said they have had several applications, but for the reasons discussed above, they were denied. The applicants even went to the Appeal Officer and the denial was upheld because they didn't meet the requirements.

Council Member McGuire would like to see this as its own title, it makes things clearer.

Attorney Loose said it also helps us distinguish between what's a license and what this is.

Council Member Marlor asked to clarify that these are not halfway houses. These homes aren't housing residents who have been charged with a crime and then are being placed in the middle of a subdivision in a recovery situation. Specifically, he is wondering about sex offenders recovering in a neighborhood.

Attorney Loose said those types of offenses don't qualify under addiction the same way a chemical addiction does for the disability qualifications. For criminal acts, if someone gets arrested and booked for drunk and disorderly they usually don't spend a bunch of time in jail. Many times the family picks them up and takes them to a facility like these. Those who have been convicted of offenses and are in prison and are coming out, their addictions are not chemical (drug or alcohol) so they don't qualify for the same protections under the law. Those people would go somewhere like an Odyssey House, and those types of places are generally located in a more commercial zone or area; we do not have any of those in our city to his knowledge.

Council Member Shelton asked about property taxes, what type they are paying.

Attorney Loose said his understanding is that they qualify for, and are paying, residential property taxes.

Council Member Marlor asked if counseling centers are different from these recovery centers.

Attorney Loose said they do counseling in some of these facilities, but specific counseling centers are generally in commercial zones and operate as a business as no one is staying overnight.

Planning Director Steven Schaefermeyer noted they would be a similar use to a medical facility.

Council Member Marlor asked if a counseling center could qualify in the same way Beehive Homes does.

Attorney Loose said no.

Director Schaefermeyer said we had a case where they wanted to do an outpatient counseling center in a commercial area, and put a residential piece next to it; that can only be allowed if it's a mixed use zone where residential is permitted, and in this case it wasn't.

Council Member Marlor said he would like to see it under a separate title as well.

The council agreed that this should be its own title and section.

Attorney Loose said it seems like he has the council's direction, he will bring it back in the next two to three meetings.

Mayor Ramsey noted she forgot to mention during the Mayor and Council Coordination portion of the meeting that she has two conferences in early February that she needs to attend in Washington, DC. The conferences are back to back. One is with the National League of Cities where she will represent the State of Utah for the League of Cities and Towns, the other is for the National Regional Councils which is with the Wasatch Front Regional Council where she chairs the Regional Growth Committee. There is one day in-between the two conferences, so rather than flying home and coming right back, she is going to stay in-between. The city does not pay for this, this is all on the two groups she is representing. It is great that we have the chance to go and be a part of these discussions, and she is really curious to hear what will be discussed. This will also give her a chance to meet with our congressional delegation, and that's always a good thing. She is going to strategize beforehand and decide what directly city-related items she needs to bring up. She will meet with them during the WFRC meeting, but she will also have a little bit of time in-between and she is already scheduling time to see what she can do that's specifically going to benefit the city. This leads to a question about the City Council Meeting on February 1, she can be here for that meeting and then take a red-eye flight to DC and go straight to the conference, or she can fly there on February 1 and get settled in the hotel before joining our meeting electronically that night. She asked the council what their thoughts were on the options.

The council agreed she should go on February 1 and join electronically that night.

Council Member Shelton motioned to recess the combined City Council and RDA Study Meeting and move to combined Executive Closed Session. Council Member Zander seconded the motion; vote was unanimous.

RECESS COMBINED CITY COUNCIL & RDA STUDY MEETING AND MOVE TO COMBINED CITY COUNCIL & RDA EXECUTIVE CLOSED SESSION

F. Executive Closed Session

F.1. Discussion of the character, professional competence, or physical or mental health of an individual.

F.2. Discussion of the purchase, exchange, or lease of real property.

*ADJOURN COMBINED CITY COUNCIL & RDA EXECUTIVE CLOSED SESSION AND
RETURN TO THE COMBINED CITY COUNCIL & RDA STUDY MEETING*

ADJOURNMENT

Council Member McGuire motioned to adjourn the Study Meeting. Council Member Shelton seconded the motion; vote was unanimous in favor.

The January 18, 2022 City Council electronic study meeting adjourned at 6:42 p.m.