

1 Minutes of the Salem City Council Meeting held on June 15 & 20, 2005 in the Salem
2 City Council Chambers.

3
4 Council meeting on Wednesday June 15, 2005 was postponed because the lack of a full
5 quorum. The motion was made by Councilmember Lynn Durrant to postpone city
6 council meeting until Monday, June 20, 2005, morning at 8:00 a.m. Councilperson Dale
7 Wills seconded the motion. Those who asked to be on the agenda were notified of the
8 change. There were also postings of the change for the public to see.

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11 **MEETING CONVENED AT:** 8:00 AM, Monday June 20, 2005.

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13 **CONDUCTING:** Mayor Randy A. Brailsford.

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16 **COUNCIL PRESENT:**

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18 Mayor Randy A. Brailsford
19 Councilperson Dale R. Wills
20 Councilperson Dale Boman
21 Councilperson Stanley W. Green

16 **STAFF PRESENT:**

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18 Jeffrey Nielson, City Recorder
19 Chief Brad James, Police Chief
20 David Johnson, Public Works
21 Junior Baker, City Attorney

22
23 Excused from Council Meeting:
24 Councilperson Lynn Durrant
25 Councilperson Terry A. Ficklin

26
27 **OTHERS PRESENT**

28
29 Pauline Smith
30 John Callister
31 David Charles
32 Kevin Jones

29 Paul Tervort
30 Michael LaFontain
31 Sharlene Tyler

29 Lane Henderson
30 Grant Charles
31 Tasha Lopez

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

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37 Mayor Brailsford asked if anyone would like to give a motivational or inspirational
38 message. Paul Tervort stated he would like to offer a motivational message in the form
39 of a prayer.

40
41 **2. INVITATION TO SAY PLEDGE OF ALLEGIANCE**

42
43 Mayor Brailsford asked if anyone would like to invite those who would wish to
44 participate to stand and say the pledge of allegiance. Police Chief Brad James stated that
45 he would like to. He then led the pledge of allegiance for those who wanted to
46 participate.

47 **3. PUBLIC HEARING**

48

49 Open

50 **MOTION BY:** Councilperson Stanley Green to open public hearing.

51 **SECONDED BY:** Councilperson Dale Wills.

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

53

54 a. Kevin Jones – Zzorro 3 Annexation

55

56 Mayor Brailsford turned the time over to Kevin Jones. Kevin posted a map of the
57 annexation area. There are 13 property owners on the annexation; seven of the 13
58 are in favor of the annexation, which is over the 45% needed. He explained and
59 showed the location of the annexation. It is by 800 South and Salem Canal Road.
60 Elk Ridge Drive is on the West side. The question was asked who the names of
61 the landowners opposed to the annexation. Kevin stated the landowners on the
62 north, who had homes already, were against it (Sharlene Tyler, John Callister,
63 David Charles, and Michael Lafontaine). Kevin stated that Michael Hendrickson
64 was okay with the annexation, but he does not have a home on it yet. He also
65 stated that Willard Kowallis and his wife have passed away, but he has heard that
66 the heirs of the home are okay with it. A representative from the Kowallis family
67 stated that that is not true. The family is against the annexation. Kevin also
68 understood that the people, who purchased Dennis Totman property, and home,
69 were okay with the annexation. A lady who purchased the home stated they have
70 some concerns about the annexation. She is also concerned about the canal and
71 whether it would be covered when it is annexed into the city. Kevin stated that he
72 is sorry about some of the miss representations heard today. His partner Daniel
73 Bingham was the one who provided Kevin with all of the information.

74

75 Mayor Brailsford opened the discussion for the public.

76

77 Michael Lafontaine stated that he is concerned because when he was approached
78 he was told that if he did not sign the approval for the annexation he would have
79 to pay \$1,000 to buy out the Strawberry Electric. Kevin stated that there is a fee
80 for the Strawberry Electric. He was under the impression that in the upper portion
81 of the annexation (south) he had worked it out. The north section, he stated, Kim
82 Simmons wanted to annex into the city, and he would be willing to buy the
83 Strawberry Lines out for the others on the north. There would be no cost to those
84 property owners. Attorney Baker explained the process with the strawberry
85 electric and how they require the purchase of the infrastructure along with the 10-
86 year profit loss. The question was asked who would be responsible to pay for it.
87 Attorney Baker stated that the property owners are responsible for it and it would
88 have to be worked out between them.

89

90 David Charles stated that he is concerned about the animal rights and the power
91 issue; he feels the city should be responsible for the fee. Mayor Brailsford stated
92 that when you annex into the city you would keep your animal rights. Once the

93 property is divided into smaller lots that do not meet the requirements for animal
94 rights, they will be lost. He also stated that if the property is greenbelt, it would
95 stay greenbelt until it is changed by the property owner. The property tax is a
96 little higher in the city, but you also receive the benefits of being in the city.
97

98 The representative of the Kowallis family asked who would be responsible for the
99 curb and gutter. Mayor Brailsford stated that when the land is developed, the
100 property that is being developed would have to have curb and gutter, and the
101 developer would be responsible for it. The question about the canal also came up.
102 The canal is the same as the curb and gutter; when the land is developed, if the
103 canal is part of that property, the developer would be required to cover the canal.
104 The question was asked about the zone. Mayor Brailsford stated that the General
105 Plan is showing that area as a R2 zone, this would be determined when the
106 annexation is approved. The lot size for R2 is 1500 square feet. Other concerns
107 that came up, when the land to the south is developed who will determine where
108 the roads go. The property owners to the north are very concerned about being
109 land locked. Mayor Brailsford stated that the property is only being annexed;
110 when the land is developed it goes through the process and different committees
111 who look at the developments and try to make sure no one would be landlocked.
112 The representative to the Kowallis stated that he was told that if he did not sell his
113 property he would be landlocked.
114

115 Mayor Brailsford stated he is very concerned about some of the items that have
116 been brought up, the misrepresentations, and what has been stated to some of the
117 landowners. He recommended to the landowners to get with Kevin and his
118 partner to go over some of these items of concern and try getting them resolved.
119 There was another question on the power, what happens if Kevin fails to pay
120 Strawberry for the power, who would then be responsible. Attorney Baker stated
121 that it all has to be worked out before the annexation may happen.
122

123 a. Kevin Jones – Zzorro 3 Annexation
124

125 **MOTION BY:** Councilperson Stanley Green to continue the public hearing on
126 Kevin Jones – Zzorro 3 Annexation.

127 **SECONDED BY:** Councilperson Dale Boman.

128 **VOTE:** All Affirmative (3-0).
129

130 Attorney Baker stated that with the percent of landowners being so close, there
131 should be proof brought in to the council. The council agreed and told Kevin he
132 needed to bring proof in of the percentage of property.
133
134
135
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137

138 b. Ordinance Amending Certain Provisions of the Subdivision and Zoning
139 Ordinances of the Salem City Municipal Code.

140
141 Mayor Brailsford turned the time over to Attorney Baker. Attorney Baker stated
142 that the state law requires some changes to be made with the Land Use
143 Development and Management Act. These changes made will affect our
144 Subdivision and Zoning Ordinances. One of the key areas that are being changed
145 is the way public hearings are now done for items in this ordinance. The Utah
146 State law requires public hearings to be with Planning and Zoning. Attorney
147 Baker feels that the public hearings should also be held during council meetings.
148 The other item is the conditional use, he then read from the ordinance about the
149 conditional use. He stated that this is a standard that we do follow, and it is
150 spelled out in the law. Another change for the council is that once a developer
151 has turned in the application, and paid the fee, the council when acting as a
152 administrative can not deny the request if it meets all the standards. When the
153 council is acting as a legislate function, this is when the standards are created, this
154 is where the council can say no. If the development meets all of the standards,
155 then the council can not say no.

156
157 Another change is the notice for the public. Junior read from sections from the
158 state law that states when public hearings are needed. When talking to other
159 lawyers, they feel that the safer way is to schedule public hearing for preliminary
160 plat rather than for final plat review. The reasoning is why have public hearings
161 for the final plat, when everything has already been approved and meets all of the
162 requirements. Why put the council in that position to have public comment on
163 items that have already been approved. The question was asked regarding when
164 the council is approving the preliminary ,are they acting as a legislative body?
165 Attorney Baker stated that is an administrative function, but when you are
166 adopting standards and voting on them, then you are acting as a legislative body.
167 Councilperson Wills stated that he has some concerns then with the PUD, it
168 allows a wide variation, and feels we should look at those standards. Attorney
169 Baker stated that the PUD does have some give and takes to it.

170
171 Mayor Brailsford had a question on the bonding, and how it needs to be from a
172 qualified financial origination. Attorney Baker stated that is a requirement, that
173 the letters of credit and escrow bonds shall be from a federally insured bank and
174 shall be submitted on standard forms. Attorney Baker stated other changes are the
175 construction standards, proposing the option to use modified roll back curb.

176
177 Another recommendation is a clerical change, the county has recommended
178 changing the PUD (Planned Unit Development) to just PD (Planned
179 Development). Another change is that we currently require the developer to pay
180 2.5% of the bond to be used for inspection fees. It is being proposed to changing
181 it to 5%. This fee will be non-refundable.

182

183 Other changes include taking a member of the city council off of the Planning and
184 Zoning board. They can still have the assignment of being over planning and
185 zoning, but will not be on the board. One reason is that the council will be the
186 appeal board now, and if some recommendations came from DRC and Planning
187 and Zoning, and someone wanted to appeal that, the council would be the appeal
188 board. The law has also eliminated the board of adjustments; this will be done by
189 the 4th district court. Attorney Baker referred to the ordinance and read from it.

190

191 Councilperson Wills has a question on the rolled back curb. He likes the idea of
192 the roll back, but what about the older part of town where you could have people
193 with different types of curb and sizes. He does not want to have mixture of rolled
194 back and straight. Dave Johnson stated that he feels that the roll back should be
195 done in the new subdivisions. He felt that DRC can make the recommendations,
196 and when a single home is being built, that Dave can make the recommendations.
197 A lot of the transitions between roll back and straight curbs would be made at the
198 intersections.

199

200 Mayor Brailsford asked if there were any questions from the public on this item.

201

202 **MOTION BY:** Councilperson Stanley Green to accept ordinance 62005 with
203 special note accepting roll back curb with the discretion of the public works
204 director and DRC, and change PUD to PD, and public hearings for preliminary
205 plat approval.

206 **SECONDED BY:** Councilperson Dale Wills.

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

208

209 Close

210 **MOTION BY:** Councilman Dale Boman to close the public hearing.

211 **SECONDED BY:** Councilperson Stanley Green.

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

213

214

215 **4. Approve Final Budget for 2005 – 2006 and Amend Budget for 2004 - 2005**

216

217 Mayor Brailsford stated that the final budget needs to be approved before June 22, 2005.
218 The budget has been worked on and presented to the council.

219

220 **MOTION BY:** Councilperson Stanley Green to approve the final budget for 2005/2006
221 year.

222 **SECONDED BY:** Councilperson Dale Boman.

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

224

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226

227

228 Mayor Brailsford stated that the amended budget for 2004/2005 has been given to the
229 council for review, and asked if there were any questions.

230

231 **MOTION BY:** Councilman Dale Wills to approve the amended budget for 2004/2005
232 year.

233 **SECONDED BY:** Councilperson Dale Boman.

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

235

236

237 **5. Donald & Pauline Smith – Subdivision Waiver at Approx. 350 W. 800 S.**

238

239 Mayor Brailsford turned the time over to Pauline Smith. Pauline explained that they
240 would like to have a subdivision waiver. They would like to build a home on one lot. She
241 stated that their house would be facing south, across from the Salem West Stake Center.

242 There was some discussion about the curb and if they would set the precedence for either
243 having roll back curb or a planter strip. It was recommended that they have the high back
244 curb instead of roll curb because it is a main road and not in a subdivision. The other side
245 of the road is high back, so this will help maintain the consistency of curb in the area.

246

247 **MOTION BY:** Councilperson Dale Wills to approve Donald & Pauline Smith
248 Subdivision Waiver at approx. 350 W. 800 S.

249 **SECONDED BY:** Councilperson Stanley Green.

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

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252

253 **6. Mike Daley**

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255 Canceled off council meeting, decided to go before DRC.

256

257

258 **7. Jared Jensen**

259

260 Canceled off council meeting, decided to go before DRC.

261

262

263 **8. Resolution of Intent to adjust a common boundary with Woodland Hills**

264

265 Mayor Brailsford asked Attorney Baker if Woodland Hills has passed this resolution.
266 Attorney Baker stated that they had passed it. He then gave a little history about the
267 Davis Ranch and how part of the Davis Ranch is in Salem, and part is in Woodland Hills.
268 Davis's would like to have all of their property in Salem. The Utah State law allows a
269 city to do a common boundary, rather than a de-annexation, by passing the Resolution
270 then holding a public hearing. The agreement would be signed after that. The agreement
271 is the next item on the agenda. The council can approve the agreement to be signed after
272 the public hearing. Attorney Baker read a little bit of the agreement to the council (the
273 council all had copies of it). He pointed out that Woodland Hills is asking for an access

274 road through the ranch, and if it is developed to make sure the access road is still there.
275 That would be an emergency fire escape road if Woodland Hills ever needed it. The
276 Davis pond would also be accessible for the use of fire fighting if ever needed. The
277 Davis' were okay with it. Councilperson Wills stated he has a concern with paragraph
278 six. Attorney Baker stated that it is reasonable, and they must meet Salem City Standards
279 when developing adjacent to Woodland Hills. He stated that Earl Davis did not have a
280 problem with either. Councilperson Wills was still concerned about it. Attorney Baker
281 stated again, that the council could adopt the agreement with the condition to wait until
282 after the public hearing.

283
284 **MOTION BY:** Councilperson Stanley Green to approve Resolution 62005C of Intent to
285 Adjust a Common Boundary.

286 **SECONDED BY:** Councilperson Dale Boman.

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

288

289

290 **9. Approve Boundary Adjustment Agreement with Woodland Hills.**

291

292 Attorney Baker stated that this is the agreement that was discussed in the prior agenda
293 item.

294

295 **MOTION BY:** Councilperson Stanley Green to approve the Boundary Adjustment
296 Agreement with Woodland Hills, with the condition to wait until after the public hearing
297 on July 20, 2005.

298 **SECONDED BY:** Councilperson Dale Boman.

299 **VOTE:** Councilpersons Boman and Green; Aye, Councilperson Wills; Nay (2-1).

300

301

302 **10. Ordinance Amending the Tax Rate on the Gross Receipts of**
303 **Telecommunications Service Providers**

304

305 Mayor Brailsford turned the time over to Attorney Baker. Attorney Baker stated that the
306 city's current phone tax rate is 2.2%; the max the state will allow is 4%. The intent of the
307 phone tax was to replace the cell phone tax that was in place a couple of years ago. He
308 stated that the state tax commission might change the max to 3%. It has been
309 recommended for budget purposes this year, to change Salem City's Phone Tax rate from
310 2.2% to 4%.

311

312 **MOTION BY:** Councilperson Dale Boman to adopt Ordinance 62005 Amending the
313 Tax Rate on the Gross Receipts of Telecommunications Service Providers to 4%.

314 **SECONDED BY:** Councilperson Stanley Green.

315 **VOTE:** Councilpersons Boman and Green; Aye, Councilperson Wills; Nay (2-1).

316

317

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319

320 **11. Approve Resolution Establishing Electric Utility Rates**

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322 Attorney Baker stated that it has been proposed to have a \$7.00 base rate on all electric
323 users utility bill. The city used to have a minimum charge of \$6.50; the base rate would
324 do away with the minimum charge. Also, with commercial demand, their minimum
325 charge will also be changed, but there were very minimal commercial businesses that
326 were charged the minimum rate of \$17.50. They would not be charged the base rate also.

327

328 Councilperson Wills is concerned that we should be looking at ways to decrease
329 expenses, rather than raise fees and taxes.

330

331 **MOTION BY:** Councilperson Stanley Green to approve Resolution Establishing
332 Electric Utility Rates by charging a \$7.00 base rate.

333 **SECONDED BY:** Councilperson Dale Boman.

334 **VOTE:** Councilpersons Boman and Green; Aye, Councilperson Wills; Nay (2-1).

335

336 Mayor Brailsford was concerned that the budget had been passed with the understanding
337 that the tax increase and electric base rate were included in the approved budget.

338 Councilperson Wills stated that he knew the budget had to pass by June 22 according to
339 Utah State Law. He still feels very strongly that the city should look at ways to reduce
340 expenses, before increasing taxes.

341

342

343 **12. Approve Crack Seal Machine Interlocal Agreement**

344

345 Councilperson Wills stated that Salem has an opportunity to share a crack seal machine,
346 for the roads, with Spanish Fork and Mapleton Cities. This will allow our city workers to
347 do the crack sealing on our roads rather than hiring out. He feels this would be a great
348 investment for the city. Our cost on it would be \$3,484. The question was asked if it
349 would work like the chip seal, where we send crews to the other cities to work on it.

350 Councilperson Wills stated that it would not, that our crews would only be working on
351 our roads.

352

353 **MOTION BY:** Councilperson Dale Wills to approve the Crack Seal Machine Interlocal
354 Agreement with Spanish Fork City and Mapleton City.

355 **SECONDED BY:** Councilperson Dale Boman.

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

357

358

359 **13. APPROVE MINUTES OF June 1, 2005**

360

361 **MOTION BY:** Councilperson Boman to approve the minutes of June 1, 2005 as written.

362 **SECONDED BY:** Councilperson Stanley Green.

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

364

365

366 **14. APPROVE BILLS FOR PAYMENT**

367

368 Mayor Brailsford stated that the bills were reviewed on Wednesday June 15, while the
369 council that was present was waiting.

370

371 **MOTION BY:** Councilperson Stanley Green to approve the bills for payment.

372 **SECONDED BY:** Councilperson Dale Wills.

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

374

375

376 **15. PUBLIC SAFETY**

377

378 Police Chief Brad James stated that the city was able to purchase a used ambulance from
379 Provo City. He feels that it was a great purchase for the city. The cost was \$500.

380

381

382 **16. OPEN DISCUSSION**

383

384 Mayor Brailsford asked if anyone had anything for open discussion, there was nothing for
385 open discussion.

386

387

388 **COUNCIL REPORTS**

389

390 **17. MAYOR RANDY A. BRAILSFORD**

391

392 Mayor Brailsford stated that he has some concerns on the bids for the new tennis courts,
393 and would like to resolve them before he proceeds with the bids.

394

395

396 **18. COUNCILPERSON DALE BOMAN**

397

398 Councilperson Dale Boman did not have anything to report this morning.

399

400

401 **19. COUNCILPERSON LYNN DURRANT**

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403 Councilperson Lynn Durrant was excused from council meeting.

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406 **20. COUNCILPERSON TERRY A. FICKLIN**

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408

409 Councilperson Terry Ficklin was excused from council meeting.

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412 **21. COUNCILPERSON STANLEY W. GREEN**

413

414 Councilperson Stanley Green did not have anything to report this morning.

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417 **22. COUNCILPERSON DALE R. WILLS**

418

419 Councilperson Dale Wills did not have anything to report this morning.

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421

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

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424

425 **24. ATTORNEY S. JUNIOR BAKER.**

426

427 Attorney Junior Baker handed to the council a proposed ordinance dealing with town
428 home standards. The ordinance will be having a public hearing with Planning and
429 Zoning, and then with Council on July 20. He has given it to the council so they can
430 review it and make any recommendations for it. Mayor Brailsford had some questions on
431 siding. Councilperson Wills had questions on the roof pitch, the HOA, the acreage.
432 Attorney Baker asked them to put in their recommendations for Planning and Zoning.

433

434

435 Paul Tervort was wondering if he could be on the council agenda for an item dealing with
436 water annexation with Bartel Mortenson and an agreement that was made between Bartel
437 and the city. Mayor Brailsford asked Paul if they could meet with Attorney Baker to see
438 if it could be resolved before coming to the council meeting.

439

440 **CLOSE CITY COUNCIL MEETING**

441

442 **MOTION BY:** Councilperson Dale Boman.

443 **SECONDED BY:** Councilperson Stanley Green.

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

445

446

447 **MEETING ADJOURNED AT: 9:15 AM**

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449

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451

452

Jeffrey Nielson, City Recorder