

Minutes of the Salem City Council Meeting held on October 6, 2004 in the Salem City Council Chambers.

**MEETING CONVENED AT:** 7:30 PM

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

**OPENING REMARKS:** Mayor Brailsford asked if anyone would like to give an opening remark. Jeff Nielson offered an invocation for the opening thought.

**PLEDGE:** Colton Simons 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 R. Wills  
Councilperson Terry A. Ficklin  
Councilperson Paul J. Hair

**STAFF PRESENT:**

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

Excused from City Council Meeting  
Councilperson Dale Boman

**OTHERS PRESENT**

Jesse Kaupert  
Jeff Steiner  
Skyler Hancock  
A.J. Whiting  
Justin  
Russell McConahay  
Rody Lewis  
Jerry Christensen  
Gayle Baum  
Tim Hall  
Glenda Lyman  
Danielle Olsen

Michael Ith  
Larry Hughes  
Tyler Huff  
Sklyer Hughes  
Colton Simons  
Rhett Thomson  
Nate Horton  
Deb Thoman Christensen  
Brady Christensen  
Keith Lyman  
Mary Johnson

Hugh Davis  
Tyrel Carter  
Brock Lewis  
Tannon Bradley  
Taylor Dascomb  
Evan Stokes  
Jeff Gardson  
Don Williams  
Lori Hall  
Eric Lyman  
Lauren Quesenberry

**1. PRESENTATION TO GAYLEN LLEWELLYN**

Mayor Brailsford asked if Gaylen was present, she was not present at council meeting.

**2. BRADY CHRISTENSEN & MATT WALKER – EAGLE SCOUT PROJECT PRESENTATION.**

Mayor Brailsford asked if Brady or Matt were present, neither one were present.

**3. PUBLIC HEARING**

Open

**MOTION BY:** Councilperson Dale Wills to open public hearing.

**SECONDED BY:** Councilperson Paul Hair.

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

- a. An Ordinance Repealing & Re-Enacting the I-1 Industrial Zone

Mayor Brailsford turned the time over to Attorney Baker. Attorney Baker stated that this item has been in the working for a while. LEI Engineering wrote up their recommendation and gave it to Planning and Zoning. Planning and Zoning had some minor adjustments. The council also worked with Planning and Zoning. The zone is hopefully written to attract business to Salem. Some of the changes are on item # 23 we can not restrict sexually oriented business, but we can put restrictions on where they can be located. Some of the other key changes that were made are in section 40. Here it states the setbacks, heights, landscaping, and vision barrier fences. Paragraph 12 discusses the building design. With this ordinance, it should make business more attractive, and hopefully be able to attract business.

Mayor Brailsford stated that Attorney Baker was correct, when this ordinance was first written there was a lot of information included. It was too restrictive, and we were afraid it would not be attractive for new business. When Planning and Zoning met, they felt that it was appropriate to modify it. He stated they did a great job, and working with the council. The city is trying to attract business; we don't want them scared off.

Mayor Brailsford asked if there were any comments from the public on the zones, or if the council had any comments.

Councilperson Durrant stated it looks a lot better from the first time it was discussed.

Councilperson Wills stated a lot of work has gone into putting this together.

Councilperson Hair stated it looks good.

Councilperson Ficklin stated that under section 20, item number 4, if those types of business come, do we have any control of what type of waste will be put into

the sewer system. Attorney Baker stated that the city has pretreated standards; also item number 17 excludes some business that would not be good for the treatment plant. The pretreatment is already in the sewer ordinance.

Mayor Brailsford asked Keith Lyman if he had any questions. Keith stated he was wondering about landscaping and putting grass in. The problem is that the land where this zone is located will not be able to grow grass. Mayor Brailsford stated that the xeriscape would work great down there.

Mayor Brailsford asked if there were any other comments.

Jeff Steiner was wondering where the Industrial Zone would be located. Dave pointed out on the map where the industrial zone would be (it is located by where Olson's Green house is, North West end of town).

Keith Lyman was wondering about sewer down there. Mayor Brailsford stated that everything is set for the sewer to be run down there. The power is also ready with the substation. Mayor also explained to the public the contract that was made between Payson, Spanish Fork and Salem, regarding the annexation in that area.

Close

**MOTION BY:** Councilperson Dale Wills to close the public hearing.

**SECONDED BY:** Councilperson Lynn Durrant.

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

- a. An Ordinance Repealing & Re-Enacting the I-1 Industrial Zone.

**MOTION BY:** Councilperson Dale Wills to approve Ordinance 10604 Repealing & Re-Enacting the I-1 Industrial Zone.

**SECONDED BY:** Councilperson Terry Ficklin.

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

#### **4. NORM CLUFF – DIVISION OF LOT #10 BRIDLE WOOD ESTATES**

Mayor Brailsford stated that the public hearing on this item was closed when it came before the council in January. He stated that the public is not allowed to express their thoughts during this meeting on this item. He then turned the time over to Norm Cluff.

Norm thanked the council for allowing him to come before them. He showed the council the plat map. Originally the plat had 10 lots; nine of them are about    acre, the other lot is about 7 acres. About three years ago, he wanted to divide the 7 acre lot, and make one that would be about 1    acre lot and the other one 5    acres. The zone is a R2 zone, and he is not asking to change anything with variance. He is only asking to divide the one lot. He stated that last time he came to council in January, the council tabled the decision.

Councilperson Wills asked Norm what has been done since the council tabled the item until the neighbors can come to a resolution with Norm. Norm stated he was able to hold a meeting with the people in the development with a church leader as the mediator. There were a number of issues brought up, and one of the biggest issues was the management control for the pond. The neighbors wanted equal voting rights to happen with the pond. Norm stated that he changed that so they would all have equal voting. Along with that Mike Parker, Gary Sivertsen, and himself were going to get a team to work on the pond. Before the meeting was over, Norm asked if the neighbors had anymore questions, no one had any questions. Norm also stated that another concern that has been mentioned in the past is where a home would be built, and how it would be built on a dam. Norm stated that the area is not a dam, and showed on a map where the dam is located. He has also had an engineering firm come and do a Geo Tech study, they indicated that the land would be okay to build on.

Mayor Brailsford asked Attorney Baker; in order to do a plat amendment what does the land owner have to do. Attorney Baker stated that either all of the land owners of the plat have to sign off on it, or a public hearing would have to be held. He stated that with the last motion and the council tabling the item, since the land owners did not sign off on it, and the public hearing was held last January. He would recommend either having another public hearing, or notify the land owners of the subdivision that it is an agenda item. Mayor Brailsford stated that it is only a recommendation to have a public hearing; he feels that nothing will change from what the public has stated in the last public hearings.

Councilperson Wills stated he appreciates what has been done, and is glad to see that some of the concerns have been met. He still has a concern with what is going on in the subdivision and feels that it is a bad situation there. He would hate to see someone else be placed in the bad situation. He feels that what Norm and the neighbors are dealing with is a civil situation. Norm stated that he is only here to ask for a dividing of a lot, nothing else. Councilperson Wills stated he is also concerned with the legality of the CCR (Construction Covenanted Restrictions) that Norm has written up. He feels that it is a very poor written CCR. It is written so there is a dictatorship, and that the people do not have any right with what is going on in the subdivision. He does not want to see someone else put into this situation. Mayor Brailsford wanted to have it recorded that this is the opinion of a councilperson and is not the opinion of the other councilpersons.

Lori Hall asked if she could make a comment, she stated that there is not one home owner who is in accordance with the CCR.

Mayor Brailsford asked if there were anymore comments from Norm or the council.

**MOTION BY:** Councilperson Terry Ficklin to table this item until next council meeting (October 20, 2004) and to notify all of the neighbors who are involved. Going with the suggestion of Attorney Baker. To also have each person involved state whether or not they agree or disagree with the splitting of the one lot to make two lots. He does not want

to talk about all of the other issues, he would only like to hear yes or no on the dividing of the plat.

Attorney Baker wanted to make it clear that to change the plat can either be done by having all of the signatures from the land owners or the city council can decide.

**SECONDED BY:** Councilperson Dale Wills.

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

### **BRADY CHRISTENSEN & MATT WALKER – EAGLE SCOUT PROJECT PRESENTATION.**

Brady Christensen arrived at council meeting; Mayor Brailsford turned the time over to him. Brady reported that he and Matt made six back boards for the CERT team. He showed the council one of the back boards. The mayor and council thought they did a great job. Mayor Brailsford was wondering if they were going to present them to SEMA (Salem Emergency Medical Association). He told them they have a meeting the following night at 7:30 PM. Brady said that he could go and present them.

### **5. DEB THOMAN – PIPING CANAL WEST OF 450 EAST**

Mayor Brailsford turned the time over to Deb Thoman. Deb stated she has two issues; the first one is about piping the canal along Canal Road. The second is a planter strip up by her home. Mayor Brailsford stated the council has gone up and looked at the property, and so has the public works department head. The council felt that doing away with the planter strip in front of the two homes would be a good idea. Because of what has been done up there with the Qwest building, it would make sense. The transition would come by the Otten's home. A question was asked about the storm drain, it was stated that hopefully the road will be sloped enough for the runoff to go to the other side. If not, then something would have to be done.

Deb thanked the council, and now was wondering about covering the canal, and when will it be done. She thought that in a prior council meeting it was stated that the canal would be piped from 400 East to 500 East when the Qwest building was going to be worked on. The council stated that they thought it was only going to be covered in front of the Qwest building. Mayor Brailsford stated that he thought there was a problem with the pipe from Strawberry that goes through the canal right there. There was some discussion on that pipe and the pipe at Jeppsen's, but it was determined that those pipes would not affect the canal. Mayor Brailsford stated that the other concern is funds to pipe the canal. The money would have to come out of the road fund. Each year we are only allotted so much from the state for roads. That money has to be used for repairs both big and small, snow removal and any other expenses associated with roads. He stated that he is also very concerned with the canal along Canal Road. When more and more traffic starts using it, the road becomes more dangerous. The city has been trying to

work with the person who owns the property to the south, to see about purchasing some of the land so the road could be widened. In about 10 years the CUP water line will be coming down that road, which will cover the canal up.

Councilperson Wills (who is over the roads) stated that it comes down to funds, and the funds are not available. The statement was made about doing an impact fee for the canal. Mayor Brailsford asked if anyone has talked to the canal company and if they are willing to help out. He stated that the city could find the labor to have it installed, but the funds to purchase the pipe are what we need. He asked Deb if she has time for a fund raiser, to be the chairperson over the fund raiser. Deb was wondering how much money would it take. Dave Johnson stated that it is about \$30 a foot, and the cost would be about \$36,000 for pipe and the labor cost would be about the same. Deb stated that it is very dangerous place; she has seen kids fall down in the canal and had a hard time getting out of it because it is so steep and deep right there. Someone stated that they heard if the city would provide the pipe, the canal company would do the labor. Mayor stated that the city would also help with the labor, that in the past we had to go back and finish up what the canal company did not do.

The question was asked about the people who use the ball fields, if the city could charge a little extra for fees. The council did not want to make the fees for the recreation more. Another question was asked who paid for the pipe in front of the Qwest building. It was stated the city paid for it, but required Qwest to do a lot of extra work around the building. Councilperson Wills stated that their has been a lot of the canal covered in the past, we are doing a little at a time. He also stated that by just paying for the pipe would take about 50% of the road budget. Mayor Brailsford stated he could talk to the canal company and see if something can be worked out. Dave Johnson asked Attorney Baker if a SID (Special Improvement District) would work in the area. Attorney Baker stated that a SID could work. The question was asked if the city would match any funds that were raised; the mayor stated that the city could see about matching the funds. Dave Johnson stated that because the canal is so deep right there, it would take a lot of fill to get it up to the level of the road. Mayor Brailsford asked Deb to get with him and they could go over some ways to help raise the money.

## **6. BUSINESS LICENSE**

### **a. John & Teri Bryan – Movie Vending Machines**

It was stated that John and Teri Bryan did not want to do this business at this time.

### **b. Aaron Arrington – On Line Exotic Tie Sales**

Mayor Brailsford stated that Aaron wants to sell exotic ties over the internet. He lives at 253 North 100 East. The license has been approved by all of the appropriate people. The council did not have any problems with the license.

**c. Kathy Chase - Quilting**

Mayor Brailsford stated that Kathy wants to do long arm quilting at the home. She lives at 32 South 400 East. She would be sewing quilts that people bring to her home. The license has been approved by all of the appropriate people. The council did not have any problems with the license.

**d. Robert Pierce – Construction (Office Only)**

Mayor Brailsford stated that Robert wants a license for his concrete construction company. The home would only be used for office work. The license has been approved by all of the appropriate people. The council did not have any problems with the license.

**7. P. GAERTNER – SEWER AT 1056 N. SR 198**

Mayor Brailsford turned the time over to Mr. Gaertner. Mr. Gaertner stated he would like to purchase the property that was owned by Maughans (between the nursery and Brent Hanks building). The property is currently owned by Capital Community Bank. The problem is that when Maughans subdivided the lot it lost its privilege to have a septic tank. He would like the council to allow a septic tank on the property. He is planning on putting commercial business on it. One part would have a restaurant, a mix of Brazilian and Italian food. The other part of the building would rent out for commercial use. Does not want to subdivide, just wants to use the one lot. Councilperson Durrant was wondering what types of business the others would be. Mr. Gaertner was not sure yet. Dave Johnson stated that if the septic tank is not approved by the county, then a holding tank might work. He also stated that the sewer trunk line for that area would eventually go straight west to the lagoons. Mayor Brailsford stated that when the sewer line comes within 1000 feet, he would be required to tie into the line. He also mentioned that with the holding tank, the size would have to be designed for the type of business and how many people would be using the business. It may also be required that each business have their own holding tank.

**MOTION BY:** Councilperson Lynn Durrant to approve the septic tank at 1056 North SR 198 upon approval from the county, but if not approved by the county then approve the use of a holding tank with the restriction that the holding tank size be designed according the business. When the sewer line comes within 1000 feet that the business would be required to connect to the sewer.

**SECONDED BY:** Councilperson Terry Ficklin.

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

**8. RESOLUTION ON POLICY CHANGE FOR MONIES RECEIVED REGARDING SHUT OFF ACCOUNTS.**

Mayor Brailsford stated that the city office had a situation the other day, where a person was placed on shut off; they came in and paid with a check. Over the weekend the person moved out of town. The check that they gave us did not clear the bank. So the city is stuck without recovering the money. This resolution is stating that when a person is placed on shut off status, they will need to pay by cash, money order, or cashier check. This will prevent the situation from happening again.

**MOTION BY:** Councilperson Dale Wills to approve Resolution 10604 on Policy Change for Monies Received Regarding Shut Off Accounts.

**SECONDED BY:** Councilperson Lynn Durrant.

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

**9. FIRE CONTRACT WITH UTAH COUNTY**

Mayor Brailsford stated that this contract has been approved by the Fire Chief, Police Chief, Attorney Baker, and himself.

**MOTION BY:** Councilperson Dale Wills to approve the mayor to sign the Fire Contract with Utah County.

**SECONDED BY:** Councilperson Paul Hair.

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

**10. COMMERCIAL BUSINESS LICENSE FEE**

Mayor explained to the council that the city office staff has requested to have the commercial business license fee raised from \$25 to \$50. The mayor asked Jeff Nielson why the change. Jeff explained that with the raising of the home occupation, the city office staff felt that it would make sense to raise the commercial also. Mayor explained that commercial business brings in tax base to the city; they are also paying on demand electrical meters. The reason why the home occupation went up to \$50 was to cover the time the staff had to do inspections on the business.

**MOTION BY:** Councilperson Dale Wills to deny the request to have the business license fee for commercial business raised from \$25 to \$50.

**SECONDED BY:** Councilperson Terry Ficklin.

**VOTE:** Affirmative 3, Nay Councilperson Hair (3-1).

## **11. APPROVE MINUTES OF SEPTEMBER 15, 2004**

Councilperson Lynn Durrant stated that under Mayor Brailsford report, it states that Councilperson Lynn Durrant did not have anything to report. It should be Mayor Brailsford.

**MOTION BY:** Councilperson Dale Wills to approve the minutes of September 15, 2004 with said changes.

**SECONDED BY:** Councilperson Lynn Durrant.

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

## **12. APPROVE BILLS FOR PAYMENT**

**MOTION BY:** Councilperson Wills to approve the bills for payment.

**SECONDED BY:** Councilperson Terry Ficklin.

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

Councilperson Hair had a couple of questions. The invoice from Folsom Associates they have Sales Tax added to the invoice, the Yellow Freight invoice did we get a discount on that price and finally is the invoice from Butterfield Ford for \$25,271 is it for the new police truck. Jeff Nielson stated that the Folsom invoice there is a tax exempt certificated attached to the invoice that will be sent, so we will not be charged for sales tax. The Yellow Freight invoice they actually charged us \$2,400, he had been working with them for six months and was able to get it down to \$1,300. The invoice for Butterfield Ford is for the new police truck which will be used by Chief James.

## **13. OPEN DISCUSSION**

Mayor Brailsford opened the meeting for open discussion.

Reed Cornaby wanted to thank the Mayor for getting the pot hole fixed along Canal Road. He also has a concern by Neways where the highway goes from one lane to two lanes and one turning lane for 400 North, then right after that going back to one lane. It was stated that UDOT was the ones that did the road, and the city did not have any say in what was going on.

Jeff Steiner stated he heard a rumor that the BYU farm area was being annexed into the city. Mayor Brailsford stated that it is not being annexed into the city, but that it is in our declaration of annexation.

Reed Cornaby had another question regarding what is going on at U-Check. Mayor Brailsford stated that letters have been sent to him. He is doing an industrial business in a commercial zone. He also does not have a current business license. Chief James stated he talked to him the other day regarding the equipment and the thing he is building out

there. They told him that it would be moved the following week. Mayor told Attorney Baker he would like something done, this has gone on long enough. He wants to know what our options are. Attorney Baker stated that we can send him a citation or a civil injunction. The civil injunction would get it to court faster. Mayor Brailsford wanted to know which would be the best action to get it cleaned up. Attorney Baker stated that if we wait a week to see if he cleans it up, if not then give him a ticket. Mayor Brailsford stated that if he does move it, what would stop him from doing it again. The statement was made about shutting down the utilities. If a business does not have a current business license then shut down the utilities. A business would have to be defined as a commercial business. Attorney Baker stated that an ordinance could be written to shut the utilities off when a commercial business does not have a current business license. He also feels that the quickest solution would be to give a ticket to him. The council agreed upon doing an ordinance also.

Councilperson Dale Wills left the council chambers at 9:30 P.M.

Clyde Bradford was wondering what the council would like to do regarding the carriage rides around the pond for Pond Town Christmas. The mayor asked Clyde if Paul Bliss ever got in touch with him. Clyde stated that he has not. The council agreed to allow Clyde to do the carriage rides and to have a contract written up, since Clyde was the first one to approach the council on the idea. Mayor Brailsford asked Attorney Baker to get a contract ready for next council meeting.

## **COUNCIL REPORTS**

### **14. MAYOR RANDY A. BRAILSFORD**

Mayor Brailsford did not have anything to report tonight.

### **15. COUNCILPERSON TERRY A. FICKLIN**

Councilperson Terry Ficklin did not have anything to report tonight.

### **16. COUNCILPERSON PAUL J. HAIR**

Councilperson Paul Hair stated that Mike Pritchett and Bruce Ward (Aqua Engineering) have been working on the D.O. meters at the sewer plant. So far they are working great, and it is charting the reading out for us. Dave Johnson stated that D.O. meters have been hooked up to the computers now, so the aerators will turn on when they are needed. This should help save a lot of money with power costs.

## **17. COUNCILPERSON LYNN DURRANT**

Councilperson Lynn Durrant stated that UMPA (Utah Municipal Power Association) will be coming to the next council meeting work session to discuss the issues with Lake Powell. She stated that after a meeting they had with UMPA it was discussed that it looks like a power hike will be happening next year.

The power department is having problems with the Arrowhead Substation; it is leaking nitrogen and will have to be taken down for repair. She stated that she had a discussion with Darrell the other day; he was stating there is a lot of work that has to be done. He suggested looking at increasing connection fees to help justify the cost for a new person. It was stated the connection fees are to cover actual cost to connect to power. The cost is \$125 for a regular subdivision. She stated that the other option was raising impact fees. It was stated that a study would have to be done to look at impact fees and the connection fee's can only be to cover the cost for a hook up. Back to the substation, we need to find out if Strawberry Electric has the contract to do the O&M or if it is Strawberry Water. Strawberry Water does not have the equipment to work on it since the two entities have divided.

The power department had some issues with a resident when they were trimming trees. Councilperson Durrant told Darrell to get Seven Trees to come and be a third party representative. This might help to have a professional company there.

The Library is doing very well; Kerry is excited and is doing a great job. Last August they had 600 books checked out, this August they had 1200 books. Mayor Brailsford stated that the city is going to pay for half of her insurance, and Payson will be paying \$100 of it also, since she works for Payson Library too.

Councilperson Durrant discussed the issue of hiring another employee for the power department and some of the other options that could be done to help the power department out. One of the items discussed was instead of the power department installing the power infrastructure in new subdivisions, that the developer could hire a contractor to install it. Attorney Baker stated that the city could have a list of approved contractors that could install the power in the subdivisions.

Councilperson Durrant also stated that there had been discussion about hiring out for an electrical contractor to do the connection at the sewer plant head works. It was determined that would be a good idea.

Mayor Brailsford stated that the city does not have the money; he would like to hire more employees but does not know how to get more money. He does not want to raise taxes. He said we need to get some big business in to help with a lot of the cost for the city.

## **18. PUBLIC SAFETY**

Chief James discussed the burglaries that have been happening around town. The burglars have been caught. Need to make sure people are aware, and if they see anything suspicious to call the police. Also reminded everyone to keep their car doors locked at night.

Mayor Brailsford left the council chambers at 9:50 PM.

## **19. DAVE JOHNSON, PUBLIC WORKS DIRECTOR**

Dave Johnson stated that by Diamond Grill, there is a concern about how the sidewalk and road line up. With 47 feet of asphalt, it would leave a 16\_ foot planter strip. Diamond Grill would like to get the grades for the parking lot and wondering what the city would like to do with the sidewalk. Dave is wondering what the council would like to do, if they would like to have the planter strip or do a monolithic pour. Another option is to have a 3 foot planter strip, allow Diamond Grill to use the city right-of-way for parking. The sidewalk would have to match up with the sidewalk to the west in front of the residential home. Diamond Grill will have to put the improvements in. There was talk one time of cutting access off to the highway on the road, not sure what has happened with that. Also the mayor talked one time of having it a 66 foot road, but when it would get further west by Reo Carson, there would be a problem. The council thought that having the 3 foot planter strip and allow Diamond Grill the use of the remaining footage of city right-of-way. They also thought it would have to be discussed with Councilperson Wills, since he is over roads.

Dave also reported that the barley straw that is being used at the sewer plant lagoons is working, this is according to information we have from the prior year and comparing it with this year.

Mayor Brailsford returned to the Council Chambers at 10:05 P.M.

## **CLOSE CITY COUNCIL MEETING**

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

**SECONDED BY:** Councilperson Terry Ficklin.

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

**MEETING ADJOURNED AT:** 10:05 P.M.

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Jeffrey Nielson, City Recorder