

CITY OF SOUTH SALT LAKE
CITY COUNCIL WORK MEETING

COUNCIL MEETING

Wednesday, February 10, 2016
6:00 p.m.

CITY OFFICES

220 East Morris Avenue #200
South Salt Lake, Utah 84115

PRESIDING
CONDUCTING

Council Chair Deborah A. Snow
Council Member Shane Siwik

COUNCIL MEMBERS PRESENT:

Mark Kindred, Portia Mila, Ben Pender, Kevin Rapp,
Shane Siwik, and Debbie Snow

COUNCIL MEMBERS EXCUSED:

Sharla Beverly

STAFF PRESENT:

Mayor Cherie Wood
Lyn Creswell, City Attorney
Kyle Kershaw, Finance Director
Sharen Hauri, Urban Development Director
Craig Burton, City Recorder
Paula Melgar, Deputy City Recorder

OTHERS PRESENT:

See attached list.

Matters for Discussion

- 1. Financing options for purchasing green space at Granite High.** Economic Development Consultant, Randy Sant, presented an analysis for the Granite High School property regarding what may be available that could be used to assist with the cost associated with developing a park or green space on the development. Mr. Sant explained that back in 2013 the City created a community development project area for the Granite High property back at the time when a movie studio was scheduled to go in and there was a need by the developer for some type of tax increment participation. The project area was created but the City never officially adopted the budget or went through the process of getting the tax entities to participate in the budget because the City never received a proposed development for the property.

In order to complete the analysis, Mr. Sant took the current development site plan and undertook the tax increment analysis. Mr. Sant explained the analysis to the council. A copy is attached to these minutes and incorporated by this reference.

If the City wants green space without taking money out of the general fund, the only way to get it is through a redevelopment project area and having the taxing districts support it. An impact fee or other mechanism would have to be used to make it up.

Council Chair Snow suggested using impact fees and tax increment to buy green space from the contractor and make payments of approximately \$300,000 a year

Mr. Sant explained that the park impact fee is a one-time \$140,000 and the tax increment would be annual and approximately \$179,000. But, the developer would not be selling the property without a 6.5 to 7 percent interest rate on the loan.

Mr. Sant advised Council that the conversation needs to happen with Granite School District to determine their support in the City's upcoming projects and support for the tax increment. Mr. Sant believes the City has leverage with their rezoning authority, since without rezoning the property someone needs to come in and build just houses and they cannot afford that.

Council Member Rapp asked how long the process takes.

Mr. Sant replied that it is about a 60 to 90 day process. The tax increment is a really good tool that the Council has available to them. He believes they have leverage that they can sit down with the District and make a deal that makes both the City and District happy.

Council Chair Snow asked for if all taxing entities need to participate.

Mr. Sant answered no.

Council Member Snow clarified that if certain entities do not participate, the City can still go forward with a smaller percentage of tax increment.

Mr. Sant agreed.

Council Member Mila asked how common it is for table 6 of the presentation to happen.

Mr. Sant explained that this is quite common in order to achieve participation and get to a win-win agreement with developers. It is within reason and authority of the Council to negotiate what property should look like and to ask the developer to do more with that property. Mr. Sant also proposed the scenario of giving developer the tax increment, for the developer to develop the green space within the property. There are other things that need to be done, conversations with the developer, the School District and the County need to occur in order to establish their flexibility. Afterwards, the City needs to come back and develop different scenarios on how to come up with the money and what is the best way to do that. Is it better to do it with a bond, with the school district, with the developer?

2. **Tree ordinance revisit: description of the changes and the costs.** Council Member Rapp explained how there are some large old trees on a private property that have other neighbors concerned and complaining about the potential hazard of these trees to the surrounding neighbors. He expressed his wish of finding a way to fine these property owners until they take the tree down. He would like a complain based program that people can report these kind of issues, give violators a two week warning to cut the tree down and if that is not complied with, the City would fine a certain daily amount until compliance is achieved. He also cautioned other Council members about the arrival of the Emerald Ash Borer, which is an insect that originated in Europe and it is making its way west, killing 90-95% of all ash trees.

City Attorney, Lyn Creswell, explained about the reluctance in our country for cities to enter private property but in situations of imminent danger, then government can intervene. The location of the tree is of importance, if a dangerous tree is located near a roadway or school yard, they are more prone to take action than if the dangerous tree is surrounded by other private properties. Mr. Creswell explained that this latest scenario is a civil matter between property owners, not a city problem. The question is does the City want to get themselves in the position of taking an initiative away from private property owners where they have a remedy already in the law that they can pursue?

Council Members question the difference between having people cited for weeds and other small violations and not being able to cite them on dangerous trees.

Mr. Creswell asked if this is just for trees or anything that presents a danger to the neighborhood.

Council Member Pender asked who would determine if a tree is dead?

Council Member Rapp advised Council Member Pender that City has a certified arborist, who could make that determination.

Mr. Creswell explained how South Salt Lake only uses civil remedies to address property owner issues. The civil process is significant enough that it takes the City time and resources; it goes through an ALJ (Administrative Law Judge) that can issue an abatement order and there is a significant process with that; that City is already doing. He explained that City does have a nuisance tree ordinance, within the criminal statute, which allows for the City prosecutor to go on to a property and to charge a class C misdemeanor, take the property owner before the Court Judge and issue a fine. The problem with the criminal side is that the tree is still not going to get removed. The Municipal Court does not have the same ability to go in and intervene that the Administrative Law Judge, on the civil side, has. Mr. Creswell explained that the civil process has been brought before the council before but would have an additional cost if City was going to address trees citywide on private property; which led to a pushback from the Council due to budget issues.

Council Member Pender asked if the Judge could order that in lieu of a fine, the

defendant would be required to remove the tree. Also, wouldn't the criminal process be faster than the civil process? Mr. Creswell suggested that the prosecutor may be the best venue to negotiate with the defendant on dropping charges if tree gets removed.

Hannah Vickery, Deputy City Attorney, gave a brief overview of the difference between the civil and criminal remedies. Ms. Vickery explained how the criminal process can be lengthy due to investigation, the screening process, and filing and scheduling with the court.

Council Chair Snow expressed her understating of this criminal process being already in place but not being used because it threatens a person with a misdemeanor which could threaten their livelihood. She finds it heavy handed.

Mr. Creswell presented the final issue on the civil side of liability, which does not exist on the criminal side. If the City creates an expectation that it is going to identify and address trees on private property, it is going to be included in every lawsuit from here on out and paying claims on trees that fall on private property because we have assumed a governmental duty to pay attention to those. If the issues are kept criminal, the City does not have such liability, but the civil side does create a general expectation. The City insurance would not increase immediately but once the first claim is filed the premium would increase significantly.

Council Chair Snow continued the discussion to another meeting in order to address next topic on the agenda.

3. **Parks impact fee study.** City Engineer, Dennis Pay, talked about the impact fees process. He explained that a legal process needs to be followed to establish a fee and put it in place. He hoped to address some of the main issues. Mr. Fred Philpot, with Lewis, Young, Robertson & Burningham, has helped the City do some economic analysis of the parks and establish a level of service that is needed in order to charge an impact fee and presented his findings. A copy of the 2016 Impact Fees Parks & Recreation presentation is attached to these minutes and incorporated by this reference.

Council Chair Snow asked how long it will take for the legal review.

Mr. Creswell said it would be completed by the middle of next week and the City would be ready to announce a public hearing.

Mr. Philpot advised that the City needs to give a 10 day noticing period in advanced of the public hearing.

Council Chair Snow informed those present that time is of the essence if City is going to put in place the parks impact fees. There are a number of new developments coming into the City and City wants this process moving to be able to capture the benefits from it. She expressed her hope for this process to be completed within next

two weeks.

Mr. Pay stated that City could have something prepared to hold a public hearing at the next meeting but he is not sure if everyone on the Council is comfortable with that without staff going through the details of the analysis beforehand.

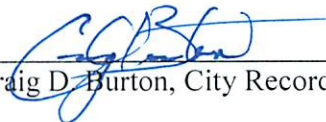
Ms. Vickery explained that the noticing requirements are very rigid for impact fees, including the posting of the required legal documents in a public library and three places in the City. The notice of the public hearing has to be posted on the website, in the newspaper, etc. The City needs the finalized documents that still need to be presented to City Council at the public hearing.

Mr. Creswell advised that it would probably happen during the first meeting in March which would allow for this presentation to be continued to the next work meeting.

Council Chair Snow continued this topic to next meeting and thanks everyone for coming.

Meeting adjourned at 7:03 p.m.


Deborah A. Snow, Council Chair


Craig D. Burton, City Recorder

