

CITY OF SOUTH SALT LAKE
CITY COUNCIL MEETING

COUNCIL MEETING

Wednesday, May 10, 2017
7:03 p.m.

CITY OFFICES

220 East Morris Avenue
South Salt Lake, Utah 84115

PRESIDING

Council Chair Ben Pender

CONDUCTING:

Mark Kindred

SERIOUS MOMENT OF REFLECTION/
PLEDGE OF ALLEGIANCE

Sharla Beverly

SERGEANT AT ARMS

Cody Coggle

COUNCIL MEMBERS PRESENT:

Sharla Beverly, Mark Kindred, Portia Mila, Johnny McConnell,
Ben Pender, Kevin Rapp and Shane Siwik

STAFF PRESENT:

Mayor Wood
Lyn Creswell, City Attorney
Randy Sant, Economic Development Consultant
Dennis Pay, City Engineer
Alexandra White, City Planner
Craig D. Burton, City Recorder
Ariel Andrus, Deputy City Recorder

OTHERS PRESENT:

See attached list.

APPROVAL OF MINUTES

April 12, 2017 Work Meeting. Council Member Rapp moved to approve these minutes

MOTION: Kevin Rapp

SECOND: Ben Pender

Voice Vote:

Beverly: Yes

Kindred: Yes

McConnell: Yes
Mila: Yes
Pender: Yes
Rapp: Yes
Siwik: Yes

April 26, 2017 Regular Meeting. Council Member Mila moved to approve these minutes.

MOTION: Portia Mila
SECOND: Sharla Beverly

Voice Vote:

Beverly: Yes
Kindred: Yes
McConnell: Yes
Mila: Yes
Pender: Yes
Rapp: Yes
Siwik: Yes

NO ACTION COMMENTS

1. **SCHEDULING.** The City Recorder informed those at the meeting of upcoming events, meetings, activities, etc.
2. **CITIZEN COMMENTS/QUESTIONS.** None.
3. **MAYOR COMMENTS.** Mayor Wood advised the Council that the resume for Rusty Vetter to be considered as the Administrative Law Judge for South Salt Lake. She said if the Council would like to move forward with Mr. Vetter she would like him to be brought before the Council on the May 24th meeting. She also added that Public Works week is May 21st through May 27th and Public Works would like to host the City Council for a tour of public works on May 22nd at 5:00 p.m.
4. **CITY ATTORNEY COMMENTS.** None.
5. **CITY COUNCIL COMMENTS.** Council Member Siwik passed his condolences to the Joe Davies family. He said Officer Davies career as a police officer with South Salt Lake was very much appreciated and he appreciated the City’s involvement in the funeral.

Council Chair Pender said Officer Davies worked as a Sargent and worked for the City for thirty years and he resided in South Salt Lake as well. He said Officer Davies was a great guy and he remembers him while growing up. He

added that Officer Davies was a great asset to the community and to the police department and he wanted to give his family condolences and appreciation for what he did for the community. He said he agreed with Council Member Beverly's opening comments and added that he appreciates all that teachers do and agreed that they are underappreciated a lot of times. He thanked all the teachers out there.

Council Member Mila wanted to send her thoughts and prayers to the Davies family. She said she did not know Officer Davies personally but she has heard great things about him. She also appreciates everything that teachers do. She also added that last Saturday night she attended the fire department appreciation banquet and it was a really nice event. She said it was nice to recognize the firefighters because they deal with a lot and they are a very busy fire department and she wanted to thank them for all that they do.

Council Member Rapp wanted to pass his condolences to the Davies family as well and he appreciates his service to the City. He would like also like to give his appreciation to teachers. He said that teachers have a big impact on his life and he agreed that they are underappreciated.

Council Member Kindred advised the Council that he forwarded on a letter composed by Amy Winder. He heard from the Mayor and a couple of Council Members that they would like to add their names to the letter but he had not heard from everyone. He added the letter mentioned Ms. Winder opposition to the homeless shelter site along the Jordan River. He asked if there was a replacement for Debbie Snow on the Jordan River Council.

Mayor Wood said Council Member Siwik was to take Ms. Snow's place.

Council Member Siwik said he was not sure if he was or not.

Council Chair Pender recalled Council Member Siwik saying he would like to be a member of that board.

Mayor Wood added that there is a South Salt Lake staff member that attends those meetings as well.

Council Member Kindred advised that there needs to be an ordinance for the Central Valley Water approval. He said he still hasn't seen that come before the Council and the meeting is coming up at the end of May.

6. **COUNCIL ATTORNEY COMMENTS.** None.
7. **INFORMATION – South Salt Lake Chamber of Commerce report.** South Salt Lake Chamber of Commerce President, Gary Birdsall gave the Council a handout with information on the Chamber as well as letters of recommendation. A copy is attached to these minutes and incorporated by this

reference. He told the Council about the Night on Commonwealth event coming up in the City on May 20th. The Chamber has played a part in the marketing of that event. He said Mike Aguilar from the Board of Directors for the Chamber came up with an idea that the Chamber is currently working on called PAWS and it is a program to get a service dog for a veteran. He said the money towards that program is raised through the Chamber of Commerce Foundation and that is a new foundation. There will be a kickoff party for that foundation around the 24th of July and have a Pie and Beer day. More information on that will come later. He advised the Council there is a multi-Chamber luncheon project and every other month a luncheon is held. He said the next one will be held at the Jordan Valley Water Conservancy District. The South Salt Lake Chamber is hosting the luncheon in July. He said he is building a business partnership with Winco currently. He said that he would like to see more Council members at business events because of the tax revenue that South Salt Lake businesses bring in.

Council Member Beverly thanked the Chamber and the local businesses for coming forward when the City was making arguments against the homeless shelter. She was very impressed by the Chamber and the businesses. She thought that was a great opportunity for the Chamber to capitalize on and gain membership from more businesses.

Mr. Birdsall continued and said they were very organized and had meetings during that time. He said the businesses showed a lot of passion and he wants them all to join the Chamber.

The Council moved on to the Public Hearing.

PUBLIC HEARING

A Consideration by the South Salt Lake City Council to vacate a portion of an alleyway located between Commonwealth Avenue and Utopia Avenue. The vacated area contains 2,810 square feet. South Salt Lake staff recommends vacating the remaining portion of the alleyway located between Commonwealth Avenue and Utopia Avenue subject to input from surrounding property owners and businesses. The additional vacated area contains 4,555 square feet. Application is made by LD Investments, LLC.

- 1. Alexandra White, for the City, to present information and answer questions.** Ms. White gave a presentation to the Council about the alleyway. A copy is attached to these minutes and incorporated by this reference. She advised the Council that City staff did hold a neighborhood meeting on May 2nd and she goes into detail about this meeting in her presentation. She said that Skip Brooks one of the property owners was in favor of taking over maintenance of the storm drain. She said that the some of the other property owners requested further information before they decided to take over maintenance. She said if the City was to maintain the

storm drain there are some areas of concern including blockage of the alleyway and other encroachment of the alleyway with seating areas and a portable restroom from Shades of Pale. There is also a seating area where Pat's BBQ is located that is an encroachment.

Council Member Kindred asked if the portable restroom was used by customers or employees of Shades of Pale.

Ms. White said it is used by both employees and customers. She said the owner of Pat's BBQ is in support of the vacation and the applicant supports the proposal. She went over the options for vacating the alleyway.

Council Chair Pender asked if the neighborhood meeting is usually something the City Council is invited to or is it just for staff.

Ms. White said generally it is a staff level meeting.

Council Member Kindred asked if City Engineer, Dennis Pay, had anything to add in regards to the storm drain.

Mr. Pay said that the storm drain is being evaluated by the City. He said he would anticipate some maintenance that would need to be done and with the current encroachment it has been difficult for the City to access the alley. He said the storm drain was installed about twenty years ago but he expects that it is still in a decent condition since it only drains a small area.

Council Member Kindred asked if the City owned this alleyway or is it simply an easement and he asked if there was any monetary value.

Mr. Pay said it is a public right away and there is no monetary value to the City.

2. Open Public Hearing.

- 3. Receive Public Input. Attorney for the applicant, Curt Bentley** spoke on the behalf of the developer, David Blake. He said the development is going to be a residential building. He said in their petition they submitted two options to the City and he thinks it would be beneficial if the entire alleyway was vacated or at least the portion that abuts the parcels that the developer owns. He said the developer would be willing to maintain the storm drain in the portion that he owns and up to Houston Hydraulics located next to that property. He said his client would not want to take over maintenance of the entire downstream portion. He said he thinks that would help the City because it would deal with some of the encroachments. He said they are working with Shades of Pale, which is their tenant, they have

some things to relocate. They would like to have at least the portion of the alleyway that they own vacated as soon as possible to allow the development to proceed. He said demolition is currently scheduled for the end of May and the construction financing is scheduled for the middle of June.

Clay Beck, 166 West Commonwealth Avenue. He said he figured that one day this alleyway would be vacated. He is not opposed to the vacation. Their question is how they will maintain the storm drain since the City has not been able to maintain it because of the encroachments by the other businesses. He wants to make sure there is an agreement with all of the property owners on how the storm drain will be paid for and how it will be maintained otherwise he feels like the property owners are getting themselves into a bad situation by taking over something that they won't be able to maintain. His business is in support of the vacation but they just want to do it the right way and have all the answers.

Trent Fargher, Shades of Pale. He is concerned about the storm drain in the middle of property. He said when it rains there is a lot of water that comes off of the buildings and all the water slops towards the drain in the middle of the property and he is concerned where the water will go if the drain is removed. He believes there needs to be a drainage mechanism from the buildings. He doesn't think the storm drain could be completely eliminated because it would flood the property.

4. Close Public Hearing

5. **Discussion by the City Council.** City Attorney, Lyn Creswell added that the City just went through a State audit of storm water procedures and the results were very good but it is clear from the audit and what is happening State wide that the City's legal obligations for storm water systems throughout the City are on the rise so the City has a legal obligation that the storm water is properly draining and meeting the State requirements. The storm water issue is the central issue for this discussion.

Mr. Pay said the developer would be required to handle any storm water that falls into the area vacated. The developer would have to come up with a way to capture storm water and take it out into the City system on Utopia Avenue and it is something that can be done by their engineer and he does not see that as a major hurdle for the project. He said the City has two concerns with storm water, one being water quality and the other is flooding. He said they anticipated that there would be redevelopment in this area and the storm water pipe would not need to stay in the area because there could be other ways of capturing the storm water and taking it into the City system.

Council Member Beverly asked if there is language that could be put in the

legal contract to help with this problem.

Mr. Creswell said that this is what the City Attorney's office is working on and this item won't come back before the Council until all the legal issues are resolved and it should be a straight forward solutions.

Council Member Siwik asked if the contract can be drafted so the applicant will be responsible for the whole maintenance of the storm drain and not just the portion in the vicinity of their property.

Mr. Creswell said yes.

Council Member Kindred asked what would happen with Shades of Pale once this property is developed.

Mr. Bentley said they are working with Shades of Pale to have them continue to stay. He said there is a lot of work involved because the buildings are all connected to ones that will be torn down but they are working on the engineering on how this will all work out. He said some of the encroachments such as the boiler may have to be moved indoors and that can be expensive and difficult to move. He added that the developer is interested in vacating the whole alleyway in order to deal with some of the encroachments on the alleyway. He said having some of that space to relocate the boiler would be helpful to keep Shades of Pale in its current location. He said that the developer is on a time limit and they don't have a lot of time to wait for a decision on this.

Council Member Beverly said she is in favor of the option of vacating the entire alleyway. She thinks that it is important for Pat's BBQ and Shades of Pale to have their outdoor seating. She said that Mr. Fargher has shared his visioning for Shades of Pale with the Council. A copy is attached to these minutes and incorporated by this reference.

Mr. Bentley advised the Council that the developers are not willing to commit to storm drain maintenance of the whole alleyway. They are willing to maintain the section that they own as well as the where Houston Hydraulics is.

Council Member Siwik said he does not support the vacation unless the developer is willing to maintain the storm drain all the way down the alleyway.

Mr. Bentley said that the property owners may be able to come to an agreement all the way down the line.

Council Member Siwik said he does not think it is fair that the developer should make every other business owner take this on when they are the ones that would like to vacate the alleyway.

Mr. Bentley responded by saying the alleyway is being blocked by other businesses and it is a public right away and so to some extent all the property owners are at risk and by vacating the alleyway it would solve the encroachment issues.

Council Member Kindred said he is in favor of continuing this subject because he believes there are more that needs to be discussed and more legal issues to be worked through.

Council Member Mila agreed with Council Member Kindred. She believes there are still questions that need to be answered.

Council Chair Pender and Council Member McConnell also agreed that it needs to be continued.

Council Member Rapp said that they need to figure out the storm drain issue.

Council Member McConnell said he doesn't want to see the businesses in that area get hurt by this and he would like to see those businesses continue to grow.

Council Member Siwik asked if any of the businesses were completely opposed to the vacation.

Ms. White said that three of the property owners had concerns and requested further information and once the property owner receives the information they may or may not come to a conclusion. She said that Mr. Brooks, the owner of Pat's BBQ, said he would be willing to maintain the storm drain so that would just leave two property owners that have not said if they would be willing to maintain the storm drain.

Council Chair Pender asked if the City was going to get the additional information for the property owners that requested it and he would like some follow up on that.

Mr. Pay said that they are working on that information and most of that information was related to the storm drain.

Council Member Siwik said if the other business owners are willing to maintain the storm drain then there is no need to make the developer maintain the whole storm drain but he thinks there is still a lot to work out.

Council Member Mila said she is hoping the City can get some answers quickly since the developer is on a timeframe.

Mr. Creswell thinks that he can report back to the Council in a month from now and they should have a lot of the answers. He said they may not have the agreement in a month but they would be close to that point. He suggested that the Council bring this back at the June 7th meeting. He said that the engineering issues that need to be figured out are not too complicated and that can be figured out over the next month.

Council Member Siwik moved this item to unfinished Council business for June 7th.

MOTION: Shane Siwik

SECOND: Kevin Rapp

Voice Vote:

Beverly: Yes

Kindred: Yes

McConnell: Yes

Mila: Yes

Pender: Yes

Rapp: Yes

Siwik: Yes

ACTION ITEMS

NEW BUSINESS

- 1. **Amendment to Title 17.03 Definitions and 17.15 Commercial Land Uses to Allow for Automobile Auctions as a Permitted Use** Ms. White presented information regarding this item to the Council. A copy is attached to these minutes and incorporated by this reference. The applicant is proposing to add auto auctions to the commercial land use matrix of the City Code. She said the applicant would have to make some landscape updates in the front of the property to be in compliance with City Code.

Council Chair Pender said some of the cars on the lot sound like they still have personal property in the car and he wonders if this will cause more criminal activity in the area. He thinks it will be one more thing that the police department is going to have to contend with.

Ms. White said she would like to turn the time over to the applicant to answer the Council's questions.

Council Member McConnell said he is struggling with the concept of holding cars hostage in the City. He said the City already has a lot of used car lots.

Council Member Mila said that this company is taking repossessed cars from unpaid loans and the company is selling the cars to make their money back so she does not look at this holding a car hostage.

Council Chair Pender advised the Council that this is a title loan company and if the customer does not pay the loan then the title loan company can sell the car. He thinks this will bring up civil issues because of someone being upset that they did not get their car back.

Council Member Mila asked how often the auctions would be going on and she would also like to know how the applicant plans to deal with security issues and possible increased police calls.

Council Member Siwik said it seems like this business has already been doing these auctions for a while.

Ms. White said it was something that came to the City's attention and now they are addressing the issue.

Council Member Kindred asked how long this business had been doing these auctions.

Ms. White did not know how long it had been going on. She said it was something the business licensing department came across and it was suggested the owner put in an application to come into compliance if the Council chooses to go that direction.

Council Member Kindred asked how many other auto auction businesses are in the City.

Ms. White said zero. She said there are two auction houses and they could auction vehicles but they are not specifically an auto auction lot.

The Applicant, Michael Debenham, 3355 South State Street, said that this auto auctioning has been going on at this location for about three years. He said he more than half of the vehicles are voluntary surrenders. They are cars that his company has given loans on and most of the cars are towards the end of their life so that is usually why people voluntarily give them up. He said that customers do not have to sneak in to get their possessions he said that these people can come in at any point to retrieve their possessions and those things are kept for thirty days. He said whatever monetary amount above the loan amount that his company makes is returned to the owner.

Council Member Kindred asked what hours they plan on holding the auctions, what day they hold the auctions and typically how many cars are auctioned off.

Mr. Debenham said they typically auction off sixty cars a month in two auctions. He said the auctions are usually held every other Friday between about noon and one.

Council Member Beverly asked what they do about security in the area.

Mr. Debenham said this lot is the back of a used car lot and it is a fenced off area.

Council Member Beverly asked if in the three years they have been doing the auctions if they have had issues with burglary or crime.

Mr. Debenham said about two years ago they had a problem with people breaking in their lot but they fixed the areas where they trespassers were breaking in and they have not had a problem since.

Council Member Rapp clarified that is someone wanted to retrieve their possessions they would just have to make an appointment to come in.

Mr. Debenham said yes. They are open ten hours a day, six days a week. He said they keep the possessions for thirty days and then after that they are disposed of.

Council Chair Pender asked how many parking stalls they have.

Mr. Debenham said he is not sure exactly how many.

Council Chair Pender asked why they never applied for a business license for this part of the business.

Mr. Debenham said as a financial institution they can dispose of the vehicles and he said they may have not have fully understood the regulations on this.

Council Member Mila said she used to work for a credit union and they would repossess cars, store them in the parking lot and sell them. She said technically they would have been doing something wrong so she can see where they have a business with a license they just did not understand that this was wrong.

Council Member Siwik said that this ordinance that they are proposing still would not cover banks or credit unions.

Ms. White said State law has an auction chapter and that chapter specifically defines the types of businesses that can sell the vehicles for no profit.

Council Member Beverly asked if the only improvements on the property would be landscaping.

Ms. White said that the property is paved so it meets that requirement and the applicant would need to landscape the area to meet that requirement. She said it would need to be fifty percent live plant material and there is also a tree requirement. She said there are also requirements for the park strip and there would need to be permanent irrigation.

Council Member Beverly asked if the applicant would be willing to make those upgrades.

Mr. Debenham said he has discussed this with the land owner and he indicated there will be water and sewer in the area as well.

Council Chair Pender said he would like the police department to take a look at this and get their thoughts on this. He thinks the City has more than enough car lots in the City and he feels that this is like another car lot. He said he is not comfortable with the security in the area and he feels this will bring more problems to the community.

Council Member Mila said since they have already been operating for three years they should be able to look at police records and see if there have been problems at this business before.

Council Member Beverly moved this to unfinished business for May 24th regular Council meeting.

MOTION: Sharla Beverly
SECOND: Johnny McConnell

Voice Vote:

Beverly:	Yes
Kindred:	Yes
McConnell:	Yes
Mila:	Yes
Pender:	Yes
Rapp:	Yes
Siwik:	Yes

2. New Bidding Requirements for Large City Projects

Council Member Beverly moved this to unfinished business for July 12th regular Council meeting.

MOTION: Sharla Beverly
SECOND: Shane Siwik

Voice Vote:

Beverly: Yes
Kindred: Yes
McConnell: Yes
Mila: Yes
Pender: Yes
Rapp: Yes
Siwik: Yes

Council Member McConnell moved to adjourn to closed meeting pursuant to Utah Code Annotated, 1953, as amended, Sec. 52-4-204, Sec. 52-4-205 (1) (a), et seq. for the following purposes: Discussion of character, professional competence, physical or mental health of an individual

MOTION: Johnny McConnell

SECOND: Portia Mila

Roll Call Vote:

Beverly: Yes
Kindred: Yes
McConnell: Yes
Mila: Yes
Pender: Yes
Rapp: Yes
Siwik: Yes

Closed meeting adjourn at 9:45

Council Member moved to adjourn.

MOTION:

SECOND:

Voice Vote:

Beverly: Yes
Kindred: Yes
McConnell: Yes
Mila: Yes
Pender: Yes
Rapp: Yes
Siwik: Yes

The meeting adjourned at 9:45 p.m.

Ben Pender, Council Chair

Craig D. Burton, City Recorder