

**SMITHFIELD CITY COUNCIL**

**JANUARY 13, 2016**

The Smithfield City Council met in a regularly scheduled meeting at 96 South Main Street, Smithfield, Utah on Wednesday, January 13, 2016. The meeting began at 6:00 P.M. and Mayor Darrell G. Simmons was in the chair.

The following council members were in attendance: Deon Hunsaker, Barbara Kent, Kris Monson, Jeff Barnes, and Curtis Wall.

City Manager Craig Giles, City Engineer Clay Bodily, Police Chief Travis Allen, and City Recorder Justin Lewis were also in attendance.

The opening remarks were made Barbara Kent.

**VISITORS:** David Barnes, Nay Dean Park, Sarah Wall, Susan Wall, Gordon Younker, Kelly Cannon (The Herald Journal), Pat Draper, Esterlee Molyneaux, Char Izatt, Bart King, Judy King, Mary Kay Hunsaker, Dave Forrester, Theresa Forrester, David Lillywhite, Edith Lillywhite, Jeffrey R. Gittins, Vern Nielsen, Jordan Larsen, Jamie Anderson, Michelle Anderson, Dominick Schumacher, Mike Nielson, Ruth Simmons

**SWEARING IN CEREMONY FOR CITY COUNCIL MEMBERS CURTIS WALL, JEFF BARNES, AND DEON HUNSAKER.**

Justin informed the audience that Curtis Wall, Deon Hunsaker and Jeff Barnes had been elected at the general election in November 2015. This is the first official meeting of 2016 and part of the process is making the newly elected officials take the Oath of Office.

Deon, Curtis and Jeff were sworn in as city council members after reciting and signing the Oath of Office.

**APPROVAL OF THE CITY COUNCIL MEETING MINUTES FROM THE DECEMBER 9, 2015 CITY COUNCIL MEETING**

\*\*\*A motion to approve the city council meeting minutes from the December 9, 2015 city council meeting was made by Barbara, seconded by Kris and the vote was unanimous.\*\*\*

Yes Vote: Hunsaker, Kent, Monson, Barnes, Wall

No Vote: None

**RESIDENT INPUT**

There was not any resident input.

**DISCUSSION AND POSSIBLE APPROVAL OF SPONSORING A CDBG APPLICATION FOR “THE FAMILY PLACE”.**

Craig reminded the council that Gordon Younker had come before the council in December to ask the city to sponsor a CDBG grant application in behalf of “The Family Place”. The council had some questions after the public hearing and requested answers before committing to sponsor the application.

Craig had spoken with Brian Carver from BRAG (Bear River Association of Governments) and Ron Salvesson from Hyrum City. They both agreed the process is good and the city should consider sponsoring the application. The city must sponsor the application in order for “The Family Place” to even apply for the grant. The building owned by “The Family Place” must also be on the capital improvement plan for the city.

The process would be that Smithfield City contracts with the State of Utah and then in return “The Family Place” contracts with Smithfield City. The work would be completed on the building and “The Family Place” would pay the cost of the work and then seek reimbursement from the city. The city in turn would seek reimbursement from the state.

Right now several activities are being held in the building but the building needs more improvements before it can be staffed full-time. One big issues is one of the furnaces is not functioning and the majority of the building is not properly heated.

Mayor Simmons thanked Craig for gathering the information on the liability and exposure the city might have and they appear to be minimal.

Craig explained a signed contract would be completed between the city and “The Family Place”. “The Family Place” has assets in Logan City and Hyrum City that could be seized if they default on the contract.

Craig provided the council with a detailed list of the grant request which is in the amount of \$200,000.

Barbara thanked Craig for clarifying the process and felt supporting the project would be appropriate. The new building in Hyrum City is a big addition to the city that offers valuable resources to the residents.

Deon expressed concern about the small children running around outside of the building where there is not a fence. Deon was worried one of them might be hurt by running into the highway since the building is located on the main highway through the city. Deon mentioned the programs offered are a great resource for the residents but hoped safety concerns outside of the building would be addressed.

Esterlee Molyneaux, director of “The Family Place”, thanked the city staff for meeting and reviewing the application as well as the city council for considering sponsoring the application.

Esterlee agreed with Deon’s safety concern and informed the council none of the programs will occur outside of the building in the future. There is not enough land to allow for a playground so all of the programs will be held inside the building. The summer program was called “Fun in the Sun” but will be held in the building in the future.

Kris reminded the council of a report Esterlee had presented to the council a couple of years ago. The report explained the city has the second highest number of child abuse cases in the valley. Kris supported sponsoring the application and thanked Esterlee and her staff for their service and the programs they offer to the community.

Mayor Simmons asked Esterlee to explain some of the programs to those that were in attendance that don’t know what “The Family Place” offers.

Esterlee informed the audience “The Family Place” is a private non-profit organization that focuses on building stronger families and helping children. Counseling is offered for children and adults. Education and prevention are taught as well. Smithfield City does have the second highest recorded amount of yearly child abuse which is most likely because the city has the second highest population in the valley. “The Family Place” has been operating in Logan City for 30 years and opened a new facility in Hyrum City in November 2015. The long term goal is to staff the Smithfield facility full-time.

Jeff asked how much grant funding had been received for the Hyrum City project? Esterlee informed the council the application limit had been \$100,000 per year and they had received \$100,000 per year for three consecutive years. Now the limit on the grant application has been increased to \$200,000 per year.

Jeff asked if the money has to be paid back? Esterlee remarked only if “The Family Place” defaults on the agreement.

Curtis wanted everyone to be aware he has had a working relationship with “The Family Place” for around eight to ten years as they are a customer of his through his employment.

\*\*\*A motion for Smithfield City Corporation to sponsor the CDBG application for “The Family Place” in the amount of \$200,000 was made by Kris, seconded by Curtis and the vote was unanimous.\*\*\*

Yes Vote: Hunsaker, Kent, Monson, Barnes, Wall

No Vote: None

**DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 16-01, A RESOLUTION ADDING “THE FAMILY PLACE” LOCATED AT 502 SOUTH MAIN TO THE SMITHFIELD CITY CORPORATION CAPITAL IMPROVEMENT PLAN.**

Justin informed the council as part of the application process the building owned by “The Family Place” must be included on the capital improvement plan for the city or they cannot apply for the grant.

\*\*\*A motion to adopt Resolutions 16-01, a Resolution adding “The Family Place” building and property located at 502 South Main to the Smithfield City Corporation Capital Improvement Plan was made by Kris, seconded by Barbara and the vote was unanimous.\*\*\*

Yes Vote: Hunsaker, Kent, Monson, Barnes, Wall

No Vote: None

**UPDATE ON THE CIB APPLICATION FOR FINANCIAL ASSISTANCE ON A NEW GENERAL PLAN.**

Craig reminded the council the city had applied for a 50% matching grant through the CIB (Permanent Community Impact Fund Board) to help pay for the costs associated with a new general plan. The approximate cost of the plan is \$120,000 and the city had been awarded approximately \$64,000 from the CIB. The CIB had done a preliminary approval on January 7<sup>th</sup> and would do the official approval on February 4<sup>th</sup>. After the grant is officially awarded the city will start the general plan process. All facets of the city will be reviewed including a study on impact fees as well as a rate schedule analysis of all utility fees.

Craig mentioned he and most other people consider the general plan as a guiding document but then he read the following information provided by Brian Carver of BRAG (Bear River Association of Governments).

Craig read the following:

After the general plan is adopted all public uses should conform to that plan as stated in Utah State Code 10-9a-406.

“After the legislative body has adopted a general plan, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the current general plan”.

Mayor Simmons mentioned the CIB had been good to the city in the past and was thankful for their current approval on the grant application. Craig agreed and mentioned the county does not

participate in general plan updates so all of the cost falls to the city and thankfully the CIB had approved a grant to pay for 50% of the cost.

Jeff asked if there were many applications for assistance from the CIB? Craig mentioned there were several applications over one million dollars and the Smithfield application was one of the smaller ones at \$64,000.

### **DISCUSSION AND UPDATE WITH STATE OF UTAH SENATOR LYLE HILLYARD.**

Mayor Simmons informed the council that Senator Lyle Hillyard was trying to go before each city council in the valley to provide some information and answer questions from the council.

Senator Hillyard introduced his assistant Sandy Goodlander. Sandy started out as an intern for Senator Hillyard and was eventually hired as his assistant.

The legislature is concerned about many items this year and one of the biggest concerns of city councils throughout the state is the repair and maintenance of roads.

Senator Hillyard informed the council if there is a specific item that needs addressed in the city to contact him and he will try and find a solution.

Senator Hillyard has many contacts throughout the state and can get quicker results in most cases.

Utah has three main funds that tax is collected for. There is a gas tax that is dedicated for use on roads in the state. There is the education fund that is paid through income tax. These funds cannot be comingled. Sales tax is the life blood of the state as no property tax is paid directly to the state. Property tax is distributed to counties, cities and districts.

There is three hundred and eighty million dollars of new revenue of which sixty seven million is left from sales tax proceeds. In the past, a significant amount of money has gone to public education. Right now there is a thirty nine million dollar short fall in the fund and so that money will have to come from the sixty seven million of new revenue. The state is not collecting as much sales tax as projected.

Senator Hillyard informed the council he had grown up in Smithfield and worked at various jobs throughout his time in Smithfield but had a keen understanding of sales tax after working at Smithfield Implement. Idaho and Wyoming residents would come to Smithfield Implement to purchase items and always complained that the sales tax in Utah is much higher than in their homes states. There is a point where sales tax cannot go any higher but the number is unknown.

One big issue with sales tax is internet sales. Right now internet sales do not collect sales tax if the company selling the product has no ties to the state. There must be a connection between the

state and the business for sales tax to be collected. Projections show the State of Utah lost out on over one hundred ninety million dollars in sales tax in the last year and this does not include the portion that would have gone to the counties or cities.

On a person's income tax return there is a box where residents can pay sales tax on items they purchased that were not charged sales tax but should have been. Only about \$200,000 is collected in this manner.

Statistics show people are not purchasing as many goods and services as in the past.

Right now the sales tax rate in Salt Lake City is 6.80% and the majority of Cache Valley is at 6.60%. A 0.25% increase has been considered to generate additional revenue. As part of the prison relocation program the city that the prison is located in could collect charge an additional 0.50% which would push Salt Lake City over 7.50% if both increases were approved.

The Salt Lake City area is the number one area in the state for sales tax collection.

Some other programs paid by the state are Health and Human Services as well as the Utah Highway Patrol. State of Utah employees and benefits are paid as well by the state.

There is a current shortfall in the Medicaid program of thirty-nine million dollars for the state.

In the 1990's the State of Utah constitution was amended so that income tax revenue could only be used for higher education. There is around three hundred million in the account that can be transferred.

Last year a gas tax increase of \$0.05 per gallon was approved. For the first six months of the fiscal year around twenty-three million dollars in extra revenue was raised. Thirty percent of that revenue will go to B&C Road Funds which in turn should increase the B&C Road Fund allocation to the city around 20%.

As the sales tax rate increases some groups or industries complain to the legislature and in some cases have been granted exemptions such as the food sales tax but an unintended consequence is the tax base is being narrowed not expanded.

Mayor Simmons informed Senator Hillyard that the council does have a concern about a section of road on the north side of Forrester Acres. The shoulder of the road is very narrow and is a difficult area to install a sidewalk and the city does not have the funds to pay for a new sidewalk for such a long distance. Safety is an issue as the kids do not have a sidewalk to get them to the school crossing to the east of this location.

Senator Hillyard said he personally knows and works with the director of UDOT and he can reach out to him since the road is a state road.

Senator Hillyard explained in the case of Richmond City a stop light was needed on the highway but did not meet the warrant analysis criteria but he was able to work with UDOT and convince them the stoplight was appropriate because of safety concerns.

There is a state sidewalk fund that can be used to help with sidewalk projects on State of Utah roads. A sidewalk was funded in North Logan City through this state fund.

Mayor Simmons informed Senator Hillyard he would put together some information on the concern of the council and forward to him for review and consideration.

Senator Hillyard complimented the council and city staff for keeping the cemetery grounds in such excellent condition.

Senator Hillyard also complimented the recreation center and the sports programs that are offered to the youth in the city.

Smithfield is a nice place to live and a nice place to call home.

The Smithfield Chamber of Commerce is a great asset to the community and Senator Hillyard appreciated receiving the monthly newsletter of what is going on with the chamber.

Mayor Simmons thanked Senator Hillyard for his willingness to come before the council and answer hard questions and pass along concerns and issues the state is dealing with.

Barbara informed Senator Hillyard of her concern about the speed limit and how UDOT keeps wanting to increase it on 100 North (SR-218) based just on numbers from a speed study not the lay of the land, demographics, baseball game parking, etc. Parking has been and will continue to be an issue but UDOT has not done their speed studies when baseball games are being played and traffic is forced to slow down. Senator Hillyard stated he would be glad to visit with the head of UDOT about the concern after he receives the information.

Senator Hillyard informed the council that each Saturday morning during the legislative session starting at 7:30 A.M. there is a meeting where the public can get updates and express concerns. The meeting is held at the Cache County Office Building located at 179 North Main in Logan. Usually it is only the same people that attend but everyone from the valley is invited.

Mayor Simmons thanked Senator Hillyard for his willingness to attend and work with the council on concerns.

Senator Hillyard informed the council some of the other big topics for this legislative session will be medical marijuana, the relocation of the prison and education funding.

Senator Hillyard has been the budget chairman for the last 11 years and only one year has the budget not passed unanimously and that one year only one person voted against the budget. The deadlock that is happening in Washington D.C. is not an issue in Utah as Democrats and Republicans do work together on items such as the budget.

The legislative session lasts for 45 days.

**PUBLIC HEARING, NO SOONER THAN 6:30 P.M., FOR THE PURPOSE OF CONSIDERING A REQUEST FOR A CONDITIONAL USE PERMIT BY DAVID & EDITH LILLYWHITE TO ALLOW A FOUR (4) LOT MINOR SUBDIVISION/INTRABLOCK DEVELOPMENT (HANSEN-KELLER SUBDIVISION) LOCATED ON PROPERTY LOCATED BETWEEN 265 SOUTH MAIN AND 272 SOUTH 100 WEST. ZONED R-1-10.**

Clay informed the council the subdivision technical review committee and planning commission had both reviewed the request and sent the request to the council for consideration. The request is for four new homes that would be part of an intrablock development.

Mayor Simmons asked if the planning commission had any issues or concerns? Clay stated there were some fire turnaround issues but they had been resolved.

*\*\*\*The public hearing opened at 6:52 P.M.\*\*\**

Bart King. I live next door to the area in question. Earlier this week I emailed the council some pictures and a section of the city code to review. I want you to consider the information I have provided. The developer stands to profit off of this project but none of the existing homeowners will. Our privacy is being invaded. I would ask the council that if the request is granted that the developer has to pay 100% of the cost to install a privacy fence. The developer will profit off of this project. I am worried about my animal rights. I am told by the city staff my animal rights won't be affected but I think they will be. I don't think my existing animal rights are being protected. The new homes will be built right next to my corral. There is a chance I will lose my animal rights down the road if the homeowners of these new homes complain. They will complain and I will lose my animal rights even though my rights have been grandfathered in.

Theresa Forrester. I have a concern that was mentioned in the planning commission meeting. I want more information on the disposal of the storm water. There is not a place for the storm water to go. There is not a way to get rid of it. I live on 100 West 200 South. The storm water used to be carried away in an irrigation ditch but the ditch has been filled in. There is nowhere for the storm water to go. The storm water currently runs to the end of 300 South 100 West and then collects in a big puddle. I was told a holding tank will be installed for this project and then drain over a period of time. I don't think it is adequate. There will now be more storm water created from the four new homes that is collected at 300 South 100 West. The road at 300 South

100 West is repaired every six to twelve months because of the damage caused by storm water. I think the problem will be increased not stay the same.

*\*\*\*The public hearing closed at 6:57 P.M.\*\*\**

**DISCUSSION AND POSSIBLE VOTE ON THE CONDITIONAL USE PERMIT REQUEST BY DAVID & EDITH LILLYWHITE.**

Clay explained there are requirements that must be met in regards to storm water. The storm water from this area will be drained into a sump. Sumps are used in a few areas of the city. The project engineer has calculated the size of the sump needed for the four homes.

Mayor Simmons asked if there are any problems with storm water distribution as currently designed? Barbara asked if the water goes onto the road as described by Theresa? Clay stated the storm water from this project and the road is captured on the side of the road.

Mayor Simmons asked if the correct provisions have been included for storm water? Clay stated that is correct.

Jeff asked if the sump just collects storm water? Clay informed the council the sides of the sump are perforated and the bottom is not sealed and allows for storm water to be dispersed.

Jeff asked if the city has any storm water collection pipe in the area? Clay remarked there is not any storm water infrastructure in the area or curb and gutter.

Barbara mentioned that state code and regulations allow for what is being requested to be done if she remembered correctly. Clay stated that is correct. The engineer has to plan for a 24 hour 100 year storm in the design of the project.

Jeff asked where the sump is located? Clay stated all the storm water is collected on 100 West.

Barbara asked if all code requirements have been met? Clay stated that was correct.

Kris asked if the council can require the developer to pay for a privacy fence? Clay read city code section 17.84.020 that states the neighbors have to come before the council within 90 days of project approval to make a request for a privacy fence and then the council has the right to require a privacy fence be installed and paid 50% by the developer and 50% by the homeowner adjoining the property. The city does not require fences for subdivisions.

Kris mentioned she understood the privacy concern of the existing homes and the cost of the fence is something they most likely have not planned for.

Jeff asked the location of the new fence, if required? Clay stated it could be required around the entire project but the area by the roadway would need to be discussed.

Kris suggested to David Lillywhite he install a privacy fence around the project at his cost with no cost to the existing homeowners.

Barbara asked if the council can make it a requirement as part of the approval process? Kris remarked city code only requires the developer to pay 50% of the cost. Barbara mentioned David has the option to pay the entire cost of the fence but the ordinance states he would only be responsible for 50%. Kris mentioned there is no benefit of this project to the existing homeowners.

Deon mentioned he reviews maps everyday as part of his occupation and he had several concerns with the plat.

Deon asked if the area north of 260 South is a road or a common area? Who owns that area after the subdivision is complete? The ownership of the area needs to be shown. Who owns the area after all the homes are built? It is not stated on the plat. Is that area north of 260 South part of the street? David Lillywhite stated the area in question is a common area for all four new homes.

Barbara asked what type of surface would be in the common area? David stated it would be gravel. The shed at the end of the common area would have four bays and each homeowner would be allowed the use of one bay.

Deon asked who is responsible for the maintenance of the road at 260 South as well as the common area? David stated it would be the four new homeowners.

Deon suggested a maintenance agreement be completed as part of the approval process. Some lenders require the agreement before the transaction can be completed. David mentioned he planned to have a maintenance agreement put in place.

Deon asked for clarification on the 20 foot right-of-way leading out onto the highway. David stated that right-of-way is not part of this project but shows up on the plat.

Deon asked if the right-of-way was in anyway part of this subdivision? David stated it is not.

Deon mentioned the name of the subdivision on the plat is wrong as it says CTR and not Hansen-Keller and that clerical issue needs to be corrected.

Clay mentioned the 20 foot right-of-way needs to be verified on the title report. Deon mentioned the right-of-way is included on the plat and needs to be removed if it is not part of the subdivision. David agreed the description of the right-of-way needs to be removed from the plat. Deon stated most likely UDOT won't allow the access anyway.

Clay agreed to resolve all of the items mentioned by Deon before the final plat is signed.

David informed the council he had purchased the land and it was very expensive. David stated a previous council and mayor had agreed to allow for an assisted living facility there but the request had been denied by the mayor and council in 2015.

David felt a requirement for a vinyl fence would be a waste of money as a vinyl fence is easily damaged by animals such as cows and horses. There is the possibility of planting some vegetation in the area to block the view from the existing homes.

Kris mentioned she understood the concern of the existing homeowners and agreed with their request for a privacy fence.

David mentioned he does not want any issues either but at the same time he has the right to sell the property at a profit.

David stated Mayor Chad Downs had asked him many years ago to purchase the parcel from Lucinda Hansen and clean up the area.

David stated he would pay the developer cost of 50% for the privacy fence based on the city ordinance, if required.

David asked the council to consider the request based on law not emotion. The current request is legal and the right thing to do to the area according to David.

Curtis mentioned there are some pictures provided by Bart King showing the fence and area in question.

Edith Lillywhite mentioned when they purchased the area there was a cement silo, collapsed dairy barn with corrals, old hay barns with half of the wood missing as well as some unpruned trees. All of these items have been removed and the area has been cleaned up. The area has been improved and will look even better when the project is completed.

Bart mentioned he has animal rights and wants to be legal as well but the small area north of 260 South contains an old dilapidated cow shed and the area needs to be paved not covered with gravel.

Barbara asked if the fire trucks would have any reason to use the common area to turnaround where there is a turnaround between lots three and four? David stated all fire response would use the asphalt turnaround to back up and leave the area. The common area would be able to house vehicles, trailers or boats for the new homeowners.

Barbara asked if all of the common area would be covered with gravel? David stated that was correct.

Barbara asked if the common area could be used for parking? David stated that was correct.

Kris asked if a homeowner's association was being created and would govern the common area? David stated that was correct and a set of rules would be created for the entire area.

Deon asked why a conditional use permit was required? Barbara mentioned all intrablock developments require a conditional use permit as part of the approval process.

Mayor Simmons asked if the current corrals and fence are all in good condition? David stated that was correct.

Mayor Simmons asked if the request for the privacy fence was for esthetic reasons only? David stated a privacy fence will limit sight concerns but won't help with smell issues or flies and he would be willing to pay 50% as required by city code.

David mentioned he was forced to sell his first home because the city council from many years ago did not follow the master plan. David's neighbors put up a vinyl fence but it was ruined by animals. Bart's garage is south of his home and the garage should block most of the headlights that are going out of the development. City code states the developer has to pay 50% of the privacy fence cost if requested and David was willing to pay 50% but no more.

Bart mentioned the developer is just coming in and profiting off of the project and then leaving with no consequences for the future.

Deon stated he would support approval of the project if three items were resolved. The area north of 260 South needs to be labeled as a "common area" and a maintenance agreement for the road and common area needs to be submitted. The agreement can be simple but it needs to be recorded for the new homeowners to review before they purchase the property. The ingress/egress off of the highway needs to be removed from the plat description. Mayor Simmons mentioned the project could be approved with those stipulations and the plat would not be signed until all of the items were completed.

Jeff mentioned he understood the concerns of those that spoke during the public hearing. Most of homes in the city have several other homes they can see from their backyard. Lights and noise can be seen and heard from any area of town. The best use of the area is to develop the area as proposed. The plan is good and thought out.

Kris stated she agreed the property had been cleaned up but that she had concerns with animals and animal rights.

Curtis mentioned he had walked the property and the request had been reviewed by the planning commission three times. The land is zoned for the current request and would be a good use of the land.

\*\*\*A motion to approve the Conditional Use Permit request by David & Edith Lillywhite to allow a four (4) lot minor subdivision/intrablock development known as the Hansen-Keller Subdivision located at approximately 265 South Main with the following conditions: the area north of 260 South to be labeled on the plat as “common area”, a maintenance agreement be put in place for the common area and road maintenance, the name corrected on the plat and the right-of-way coming off of the highway be removed from the project description was made by Deon, seconded by Curtis and the motion passed by a vote of 4-1.\*\*\*

Yes Vote: Hunsaker, Kent, Barnes, Wall

No Vote: Monson

**PUBLIC HEARING, NO SOONER THAN 6:45 P.M., FOR THE PURPOSE OF DISCUSSING PROPOSED ORDINANCE 15-25, AN ORDINANCE AMENDING THE SMITHFIELD CITY SUBDIVISION REGULATIONS, TITLE 16 IN PARTICULAR CHAPTER 16.16.050 “DEDICATION OF WATER” AND ADDS IN ITS ENTIRETY TO TITLE 17, SMITHFIELD CITY ZONING REGULATIONS, CHAPTER 17.30 “WATER DEDICATION”.**

Clay informed the council the intent of the ordinance is to close a loophole that allows some commercial and residential developers to not have to pay a water dedication amount to the city on a new project.

In Section 16.16.050 the following words were added “commercial lot, or separate parcel created by the subdivision”.

Ordinances of other cities had been reviewed and considered before this ordinance was drafted.

Large users need to pay more.

Chapter 17.30 was being added in its entirety.

\*\*\**The public hearing opened at 7:35 P.M.*\*\*\*

Pat Draper. I am here this evening to represent the Smithfield Irrigation Company. A year or so ago I met with the council and an ordinance was passed where Smithfield Irrigation Company shares would no longer be accepted by the city. That ordinance was later rescinded. I would like to include that section in the new ordinance being considered for approval.

Mayor Simmons asked Pat to explain why this request is being made? Pat explained he had worked with former City Manager Jim Gass in the past and one concern was the amount of the connection fee charged by the irrigation company. The agreement was that the irrigation company would reduce the connection fee if the city would stop accepting the shares. The irrigation company reduced the fee around 50% to \$1,200 but the city is now accepting the shares again.

Pat felt it was in the best interest of the city and the irrigation company if the city does not accept Smithfield Irrigation Company shares. The water rights need to be kept on the land for beneficial use.

Jeffry Gittins stated this issue has been a concern for the irrigation board for many years.

Jeff Gittins stated he did not have a problem with the proposed ordinance.

Jeff Gittins asked Clay what amount had been paid, for example, by a developer building 100 apartments? Clay stated if the apartments are part of a subdivision they are charged per unit just like a house.

Jeff Gittins asked what was charged if the land was not subdivided? Clay stated no water dedication fees were collected by the city.

Jeff Gittins asked for an example of where this happened in the city? Clay stated the Stone Haven development, by Lee's Marketplace, paid on a per unit basis and the Stone Brook area, right next to Stone Haven, was not divided so no water dedication was paid to the city. Meter and impact fees were paid but a water dedication fee was not paid.

Jeff Gittins asked what was the total amount paid by Stone Brook? Clay stated zero for water dedication.

Jeff Gittins asked how many units are in the Stone Brook development? Clay stated he was not sure. Kris remarked this is the reason the proposed ordinance is being considered is so that developments like Stone Brook will have to pay a water dedication fee in the future.

Jeff Gittins stated if he was a small developer doing a three or four lot subdivision and had to pay a water dedication fee but a large developer on one parcel did not have to pay he could understand there was some inequality that needed to be resolved. Mayor Simmons and Barbara both agreed and stated that is why the proposed ordinance is being done so the loophole will be gone.

Jeff Gittins wanted to discuss the city taking Smithfield Irrigation Company shares in lieu of money for the water dedication. The current ordinance allows the city to accept the shares. Last

year a poorly worded ordinance was passed by the council and the later rescinded in regards to the city accepting the shares.

Jeff Gittins mentioned the irrigation company is older than the city and is good for the community. There are over 900 shareholders at this time.

Jeff Gittins asked the council to put together a committee, working group or panel to sit down with the council, city engineer and irrigation company to work on this issue. Jeff Gittins suggested bringing in an expert in this field such as Bob Fotheringham. The irrigation company has a concern and it needs to be reviewed and dealt with. The city has been willing to rent some irrigation shares in the past but when the city takes the shares as part of the water dedication process there becomes less shareholders. The city currently provides culinary water as well as irrigation water in some areas. The number one recommendation from J-U-B Engineers was to leave the irrigation shares in use in the system. The irrigation board has made some concessions and now the council needs to work with the irrigation company to resolve the issue.

Barbara mentioned the proposed ordinance has nothing to do with the city accepting Smithfield Irrigation Company shares and that is a different issue than the proposed ordinance. Kris agreed.

Jeff Barnes mentioned the entire ordinance needs to be reviewed and rewritten so everyone can understand what is required.

Mayor Simmons mentioned it would be hard not to accept one irrigation company's shares but continue to accept another irrigation company's shares such as the Cache Highline Irrigation Company. Would it be fair to just eliminate one entity but still include all the others?

Mayor Simmons suggested having a workshop where the council would attend and have experts in the field as well as someone from the Utah Division of Water Rights.

Jeff Gittins mentioned the issue is more than just this proposed ordinance, it is the entire process. Mayor Simmons agreed but stated the proposed ordinance can be adopted and the issue of the irrigation company shares being accepted by the city can be reviewed at a later time.

Jeff Gittins suggested having a workshop meeting before passing the ordinance. Mayor Simmons mentioned the council needs to do what is best for the entire city not just one entity or person. The council is not in a rush to pass this ordinance but it can be considered.

Barbara suggested passing the proposed ordinance and then reviewing this other issue at a later time. The loophole needs to be closed now and the other issue can be dealt with later.

Mayor Simmons asked who would be affected by this proposed ordinance currently? Clay stated the owners of the Cantwell Lumber property was one area that came to mind.

Mayor Simmons suggested having a workshop in the future with the irrigation company and someone from the Utah State Division of Water Rights.

Deon mentioned he had tried to contact Bob Fotheringham and Will Atkin as they are experts in the field. Deon wanted some clarification on the difference between the commercial use of water as well as the residential use of water. Deon felt it would be appropriate to include both the Smithfield Irrigation Company as well as the Cache Highline Canal Company in future discussion.

Jeff Gittins stated if the shares are not utilized they can be forfeited to the state.

Mayor Simmons mentioned the council could table the ordinance if they were not comfortable with how it was written at this time.

*\*\*\*The public hearing closed at 7:51 P.M.\*\*\**

### **DISCUSSION AND POSSIBLE VOTE ON ORDINANCE 15-25.**

Jeff and Deon both asked for clarification on apartments, condos and separate parcels and how the amount collected for the dedication is determined. Clay explained the amount to be collected for water dedications is determined in Section 17.32.030.

Jeff informed the council he had talked to water rights expert Will Atkin. Will stated the constitution of the State of Utah does not allow for cities to sell water rights or shares. Logan City and Smithfield City are accumulating more irrigation shares than are being utilized. Smithfield City has water rights that are not be utilized. The Del Monte water right is one of them. The city has the option to file a change order to convert the water rights from irrigation use to municipal use. Most likely the Smithfield Irrigation Company would oppose the request. Most of the irrigation water in the city is from the Smithfield Irrigation Company. The original water dedication ordinance was not clear and was hard to understand. A new ordinance was created and approved by the planning commission and the city council. After a couple of months the council and city staff, as well as others, were confused on the new ordinance and it was later rescinded. The code is now back to the original confusing and hard to understand ordinance and needs to be rewritten so everyone understands what is required. A workshop between the council and the Smithfield Irrigation Company board would be appropriate and well worth the time. It is in the best interest of the city to have a good working relationship with the irrigation board.

Barbara suggested the current loophole be closed and the Smithfield Irrigation Company share concern be addressed at a future time.

Barbara asked Pat Draper if he had any issues with the proposed ordinance? Pat said he did not. Kris felt it would be appropriate to close the loophole at this point as well.

Deon expressed concern that only requiring one acre foot of water for a 40 unit complex was not enough and needs to be reviewed. Clay mentioned that concern is addressed on the size of the meter and applicable fees are paid based on meter size.

Jeff mentioned Section 17.030 is an entirely new section.

Barbara felt it would be appropriate to close the loophole now.

Barbara thanked Pat and the irrigation board for reducing the fees as that was a start in the right direction for everyone involved.

Barbara mentioned the current ordinance could be passed and as these other items are addressed if this ordinance is deemed not appropriate it could be rescinded at a later time.

\*\*A motion to adopt Ordinance 15-25, an Ordinance amending the Smithfield City Subdivision regulations, Title 16 in particular Chapter 16.16.050 "Water Dedication" and adds in its entirety to Title 17, Smithfield City Zoning Regulations, Chapter 17.30 "Water Dedication" was made by Barbara, seconded by Kris and the vote was unanimous.\*\*\*

Yes Vote: Hunsaker, Kent, Monson, Barnes, Wall

No Vote: None

## **CITY MANAGER REPORT**

### **DISCUSSION ON BUILDING PERMIT SERVICES FOR THE CITY**

Craig reminded the council city building inspector Jon Wells is retiring at the end of March. An advertisement had been placed in several places advertising for a building official/building inspector. The job application period closes on Friday, January 15<sup>th</sup> but as January 13<sup>th</sup> only four applications had been received and none of the applicants had any of the required certifications. Jon will be gone most of March as he uses up his personal leave time.

Craig informed the council he had reached out to the Cache County Building Inspection department to gather some information on the services they offer and provide. The county would work with the city on a year to year basis or on a long term basis.

Craig explained the way the budget is currently done it appears the city makes a substantial amount of money on building permits on a yearly basis but in reality the city loses money or only makes minimal revenue. As the budget is currently done; the wages for the building inspector and staff members helping with building permits does not come out of the building inspection budget. Jon's wage and benefits as well as a portion of other staff members that help with building permits is over \$100,000 per year and this does not include new equipment or an automobile.

If the city were to contract with the county; the county would do all the permitting, collect all the fees and then remit 20% of what they collect to the city on a monthly basis. If nothing is collected then the city receives nothing in return. The county would cover all commercial and residential building inspections. If the city builds a new building the county will not charge the city for the inspections. The county would only charge if expenses such as having a private engineer review is necessary.

Craig recommended to the council the city contract with the county for future building inspections for the city. The agreement with the county is very short and simple.

Mayor Simmons asked if the county is currently the backup for the city when Jon is not available? Craig stated that is correct and the city pays the county \$50 for each inspection they do in behalf of the city.

Jeff asked if contractors would now go to the county building in Logan to submit their building plans? Craig stated that is correct and the county is going more automated so plans can be submitted electronically.

Justin mentioned several municipalities in the valley contract with the county. Justin mentioned that Richmond City has contracted with the county for many years and is very happy with the service that is provided. Paul Berntson is the lead building official for the county and he comes before the council at least once per year to give an update. Paul is willing to come to more meetings if the council has a request. The county collects the fees and typically remits the 20% due to the city by the middle of the following month. The county is hiring another full-time building inspector to help meet the demand and expectations of the cities they contract with.

Justin informed the council one of his biggest concerns has been that when Jon or the potential new hire is out of town the city cannot offer good support and service. Only having one person that can do building inspections is hard to meet customer demands and expectations. The county has three full-time inspectors and is in the process of adding one more full-time inspector so someone is always available.

Justin stated he also has workload concerns with some of the members of the city staff. Char Izatt is already overwhelmed handling business licenses and planning and zoning issues as well as assisting with building permits. Some of the building permit items had been shifted to Lora Lee Wise but the current workload is more than the staff can handle in this regard and hiring another employee is not possible due to budgetary concerns.

Jeff asked if all of the county inspectors are ICC certified? Craig stated that is correct.

Barbara suggested contracting with the county for a year and then reviewing to see if the council is happy with the service. If not, then a new building inspector could be hired by the city.

Craig informed the council he had reached out to some potential applicants but none of them were willing to apply as they are making significantly more money at their current employer than the city is willing to pay at this point. Right now the city cannot offer a competitive wage to a building inspector with all of the required certifications.

\*\*\*A motion to approve Smithfield City Corporation to contract with Cache County Corporation for building permit and inspection services was made by Jeff, seconded by Barbara and the vote was unanimous.\*\*\*

Yes Vote: Hunsaker, Kent, Monson, Barnes, Wall

No Vote: None

Craig updated the council on some of the hot topics the legislature will review in their upcoming session. Two of the big topics will be indigent defense in the court system and police officer body worn cameras.

Chief Allen had been part of a conference call and gave an update on what had been discussed in regards to body worn cameras for police officers.

House Bill 386 had been proposed in 2015 and was not approved. The bill is being considered again in the upcoming legislative session.

Right now 2/3 of all police agencies in the state are using body worn cameras.

Of the departments using body worn cameras 92% of them have a written policy for the body worn cameras with the majority of the policy being based on the dash camera policy of each department.

The Smithfield City Police Department does not have a specific policy on body worn cameras but the department does use a best practice policy. The best practice policy of the department is to record everything.

Of the agencies not using body worn cameras; 95% of those departments plan on utilizing them in the future. Most of those departments are waiting to see if the legislature makes them mandatory. The hope is if the legislature makes them mandatory the State of Utah will help to pay for the associated cost for the cameras and storage of the video.

Representative McKay has concerns of what is recorded when homes are entered and there will be more information in the future on what is allowed and not allowed to be recorded in a home and who has access to the video.

The current proposed house bill is only in regards to departments already utilizing body worn cameras.

Senator Thatcher believes the policy for body worn cameras should be handled by POST (Peace Officer Standards and Training Council) not through legislation. POST mandates all requirements for peace officers in the state.

Representative McKay has meet with the Chiefs Association for the state and is an ex-law enforcement official.

Representative McKay's biggest concern is that POST only consists of three civilian seats on the board and the rest are law enforcement representatives.

## **COUNCIL MEMBER REPORTS**

Curtis mentioned he was happy to be involved and was thankful for his time served on the planning commission as it had made the transition to city council quite smooth.

Jeff did not have any additional items.

Kris mentioned the Smithfield Chamber of Commerce would have their monthly meeting on Thursday, January 14<sup>th</sup>. The Sub for Santa program for 2015 had been a great success. There were more families needing help than ever before. The chamber is good for the city and does a lot of service for the community that people are not aware of.

Curtis asked when the chamber meets? Kris remarked they meet monthly at a local restaurant and the next meeting would be at noon on Thursday the 14<sup>th</sup> at Jim's Grill.

Barbara mentioned the senior citizen program is going well and Rachael Bott is doing a tremendous job. There were 50 people that attended the luncheon and entertainment on Wednesday, January 13<sup>th</sup>. Barbara was excited to see changes being made there with different food items and entertainment.

Mayor Simmons asked if there is an age limit to attend? Barbara stated she thought around 55 but nothing was set in stone.

Justin informed the council that Rachael Bott is doing a tremendous job. On her own time she arranges all the entertainment, meals and cooking of the meals. Rachael does not have any children and the senior citizens are very important to her. Rachael works for the Williamsburg Retirement Center in Logan and is a tremendous asset to the city. Rachael recently found someone that would help to assist her each Wednesday. Rachael's biggest concern is having the meal and entertainment each week even if she is not available as for the majority of those that attend it is the only time they get out of the house on a weekly basis.

Barbara mentioned the youth council is going strong and the youth council is planning on doing some service projects at "The Family Place" building. The youth council will also be heavily

involved with the Comcast Cares Day of Service. The day of service will be advertised in upcoming newsletters as well as other locations.

Barbara informed the council she as well as some residents have a major concern about parking and safety along the road in front of the Blue Sox baseball diamond. Barbara wanted to make sure as the property acquired from the Pitcher Family is developed it includes ample parking for current fields and future fields.

Barbara asked for the Heritage Trail to be connected through the Pitcher Property as soon as possible as children from the trailer court and neighboring apartments could use Heritage Trail to access the school crossing area without having to be on the road (SR-218/100 North). Craig stated he would review the area with Clay and they would present a rendering at a future council meeting.

Jeff asked if the trailer court and apartments could access the trail? Barbara commented she would work with the trailer park and apartment complex owner to make sure there is access if the trail is connected.

Barbara asked if anyone had pictures of the library before and after the construction and renovation project was completed? Clay and Jeff both stated they would supply Barbara with the pictures she needs. Barbara mentioned Comcast would like to use some of the pictures in their advertising program for the year.

Deon mentioned there were many changes to the city staff since he had last served on the council eight years ago. Deon liked the idea of having council related information available on tablets for review.

Mayor Simmons thanked everyone for their service and dedication to the city and mentioned he was excited to work with the council on new projects in the upcoming year.

## **MAYOR'S REPORT**

The Mayor and council discussed council member assignments for 2016.

Kris would oversee the recreation center, celebrations and the library.

Barbara would oversee the youth council, senior citizen program and assist with the library when needed.

Jeff would oversee parks, the tree committee, cemetery and assist with the planning commission when needed.

Deon would oversee the historical society, code enforcement, water and storm water.

Mayor Simmons felt it would be appropriate to form some neighborhood committees that could help with code enforcement items.

Curtis will oversee the planning commission and be the council representative for the Smithfield Chamber of Commerce.

Mayor Simmons will continue to oversee the fire department, police department, sewer, emergency response and golf course.

Barbara asked who would be over the Comcast Cares Day of Service? Mayor Simmons asked Barbara to continue to be the contact person but wanted the entire council to be involved with this project. Jeff will continue to work with the boy scouts that are involved with Eagle Scout projects on the day of service. Curtis mentioned "The Family Place" always has a need and there are several Eagle Scout project opportunities there.

Barbara mentioned the next day of service would be on Saturday, April 30<sup>th</sup>.

Barbara asked for the street sign at 400 South Main to be looked at. Mayor Simmons asked Craig and Clay to resolve any issue with the sign.

*\*\*\*Kris made a motion to adjourn at 8:33 P.M.\*\*\**

**SMITHFIELD CITY CORPORATION**

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Darrell G. Simmons, Mayor

**ATTEST:**

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Justin B. Lewis, City Recorder

**SMITHFIELD CITY CORPORATION**  
**96 South Main**  
**Smithfield, UT 84335**

**AGENDA**

Public Notice is given that the Smithfield City Council will meet in a regularly scheduled meeting at 96 South Main, Smithfield, Utah on Wednesday, **January 13, 2016**. The meeting will begin at 6:00 P.M.

Welcome and Opening Ceremonies by Barbara Kent.

1. Swearing in ceremony for city council members Curtis Wall, Jeff Barnes and Deon Hunsaker.
2. Approval of the city council meeting minutes from December 9, 2015
3. Resident Input
4. Discussion and possible approval of sponsoring a CDBG application for “The Family Place”.
5. Discussion and possible approval of Resolution 16-01, a Resolution adding “The Family Place” located at 502 South Main to the Smithfield City Corporation Capital Improvement Plan.
6. Public Hearing, no sooner than 6:30 P.M., for the purpose of considering a request for a Conditional Use Permit by David & Edith Lillywhite to allow a four (4) lot minor subdivision/intrablock development (Hansen-Keller Subdivision) located on property located between 265 South Main and 272 South 100 West. Zoned R-1-10.
7. Discussion and possible vote on the conditional use permit request by David & Edith Lillywhite.
8. Public Hearing, no sooner than 6:45 P.M., for the purposed of discussing proposed Ordinance 15-25, an ordinance amending the Smithfield City Subdivision regulations, Title 16 in particular Chapter 16.16.050 “Dedication of Water” and adds in its entirety to Title 17, Smithfield City Zoning Regulations, Chapter 17.30 “Water Dedication”.
9. Discussion and possible vote on Ordinance 15-25.
10. Update on the CIB application for financial assistance on a new General Plan.
11. City Manager Report  
Discussion on building permit services for the city.

12. Council Member Reports
13. Mayor's Report

Adjournment

**Items on the agenda may be considered earlier than shown on the agenda.**

In accordance with the Americans with Disabilities Act, individuals needed special accommodation for this meeting should contact the City Recorder at (435) 792-7990, at least (3) days before the date of this meeting.

Prepared, posted in the City Office and library, emailed to each Council Member, emailed to the Herald Journal, Smithfield Sun, and forwarded to be posted on the City Web Site on 01/11/16, and the Utah Public Meeting Notice website.