

SMITHFIELD CITY COUNCIL

JANUARY 14, 2015

The Smithfield City Council met in a regularly scheduled meeting at 96 South Main Street, Smithfield, Utah on Wednesday, January 14, 2015. The meeting began at 6:02 P.M. and Mayor Darrell G. Simmons was in the chair.

The following council members were in attendance: Dennis Watkins, Barbara Kent, Kris Monson, Jeff Barnes and Brent Buttars.

City Manager James Gass and City Recorder Justin Lewis were also in attendance.

The opening remarks were made by Dennis Watkins.

VISITORS: L Alexandria Samuels, Amy Lara, Calvin Mikesell, Kelly Cannon (Herald Journal), Aubin Johnston, Ryan Rogers, Derek Johnson, Randy West, Dayna Downs, Jay Downs, Jeremy Hunt, Michelle Downs, Jeff Curtis

APPROVAL OF THE CITY COUNCIL MEETING MINUTES FROM THE DECEMBER 4, 2014 CITY COUNCIL MEETING

A motion to approve the city council meeting minutes from the December 4, 2014 city council meeting was made by Dennis, seconded by Barbara and the vote was unanimous.

Yes Vote: Watkins, Kent, Monson, Barnes, Buttars

No Vote: None

RESIDENT INPUT

There was not any resident input.

DISCUSSION AND POSSIBLE VOTE ON THE REQUEST BY NORTH RIDGE DEVELOPMENT, LLC FOR APPROVAL OF PHASE 6 (40 LOTS), OF THE FINAL PLAN FOR STONE HAVEN PLANNED UNIT DEVELOPMENT, LOCATED AT APPROXIMATELY 655 SOUTH TO 780 SOUTH AT 70 EAST AND 150 EAST. ZONED RM (PUD) (COMBINED MULTIPLE FAMILY RESIDENTIAL/PLANNED UNIT DEVELOPMENT OVERLAY ZONE).

Jim informed the council this request is for approval of Phase 6 of the Stone Haven PUD and this phase is the last phase in the project.

Jim reminded the council that 100 East is a public road but the small roads going off 100 East in the PUD are private roads as the city ordinance requiring all new roads to be public was not approved until after this project was approved so the private roads were allowed because of the previous approval.

Justin stated the planning commission had reviewed and approved the request at their December meeting.

Ryan Rogers asked the council to work with him in regards to the water dedication requirements for Phase 6 as the city is currently working on a new water dedication program ordinance and it might not be completed before Phase 6 is ready to start construction and the water dedication payment is due.

Jim explained to the council that per current city ordinance every new unit that is built requires water rights to be given to the city and the requirement is based on acre feet. The proposal being considered by the planning commission is to add an option for including developing a secondary (irrigation) water source in the development and the requirement of bringing water rights to the city would be decreased. The idea behind the change is to maximize the use of secondary water in the city. The irrigation company is in support of the change as the amount of shares they have is based on the number of acres being watered. The planning commission is still reviewing the ordinance and eventually it will be approved and sent to the council for review and consideration.

Jim remarked the user fee to connect to the irrigation system is quite expensive at \$2,000 per hookup and most people choose not to pay the fee and don't utilize the irrigation water. The new proposed fee would be \$1,200 which hopefully will make it more affordable for people to hookup and utilize the irrigation water.

Jim stated the new proposal is more favorable to Ryan and the development and that is why he is making the request to delay making the payment.

Jeff asked if the Stone Haven project had any irrigation water that was being currently utilized? Ryan remarked the entire project is using irrigation water.

Ryan asked for the approval of the development not to be held up because of the proposed new ordinance.

Brent asked if the current homeowners were being charged a hookup fee by the developer? Ryan stated they were not.

Jim explained the current ordinance encourages the developer to get water shares for the city and the new ordinance discourages that because the city is getting water shares and they are not being utilized by the city but the yearly assessment is still owed and paid.

Barbara asked in the motion to approve the request if wording should be included about the new ordinance? Jim remarked only if the council wanted to allow consideration of a proposed ordinance. Ryan stated if the new ordinance is not passed then the current requirements would still be in place. Dennis remarked he did not think it was necessary to include wording in the motion for an ordinance that may or may not be approved.

A motion to approve Phase 6 (40 lots) of the final plan for the Stone Haven Planned Unit Development, located at approximately 655 South to 780 South at 70 East and 150 East was made by Dennis, seconded by Brent, and the vote was unanimous.

Yes Vote: Watkins, Kent, Monson, Barnes, Buttars

No Vote: None

DISCUSSION ON COMCAST CARES PROGRAM.

Justin informed the council that Comcast had approached the city about a program they offer that is called "Comcast Cares". Comcast will select a couple of communities per year in the state and organize a day of service in the community and when complete will then make a donation to the city for the city to use where needed. There are not fees or costs to the city other than helping to get volunteers to participate on the selected date.

The program was administered in Hyrum City in 2013 and 2014. The day of service in Hyrum last year had poor weather conditions and still over 800 people participated. West Jordan has already agreed to participate this year.

Comcast is requesting to have a minimum of 800 volunteers attend. They are asking for at least 1,000 people to sign up to help on the service day as usually 80% of those signing up show up for the project.

Everyone must sign up and get a wristband on the day of service. The number of wristbands issued is how Comcast determines how much they will donate to the city. The donation is based on "X" amount per person which at this time has not been determined. The amount paid per person in 2013 was \$16.00 and the amount paid per person in 2014 was \$18.00 per person. People of all ages and physical abilities are encouraged to participate.

The day of service will be held on Saturday, April 25th from approximately 8:00 A.M. to 12:00 P.M.

Comcast will provide a light breakfast, light lunch and a t-shirt to everyone that participates. Comcast pays the cost of all of these items.

Comcast is requesting a preliminary list of projects that the city is recommending to be completed.

There is not a limit on the amount of volunteers that can help or participate.

Barbara stated the same day, April 25th, is the Youth Council leadership conference and this program could be tied into the conference service project.

Kris also mentioned the canyon cleanup could be tied in as well at the same time.

Jim stated one of the criteria is to have a council member to oversee the project and work with Comcast to put everything together.

Barbara asked how the city was selected for this program? Jim stated it was a random selection.

Mayor Simmons suggested that Barbara be the council member in charge since she oversees the Youth Council and they will be involved on the day of service. Barbara stated Jeff could help out as well since he has a lot of involvement with the local scout troops. Jeff remarked he would be out of town that weekend.

Brent and Dennis both thought the program was worthwhile and the city should participate.

Justin stated one of the main things that Comcast had suggested was to start advertising immediately and keep advertising at least monthly. A recommendation was made to advertise in the city newsletter, Facebook and the city website.

Justin and Jim suggested the money raised could be used to purchase additional library furnishings for the new building. The library could be the purpose of the fundraiser and give people a reason to participate as they would know their service was getting funds donated for the library rather than an unknown cause.

The consensus of the council was to participate with Comcast in the program and Barbara would be the council member to oversee the day of service.

DISCUSSION AND APPROVAL OF A NEW TREE COMMITTEE CHAIRMAN.

Jeff reminded the council that Phyllis Smith had retired from the position of Smithfield City Tree Committee Chairman. Phyllis had been the chairman for five years, done a great job and will be missed by the committee and the city. The remaining committee members voted to approve Lisa Michaels as the next chairman and she has accepted pending approval of the city council. Kris remarked that she knew Lisa and she is a great person that is very dedicated and knowledgeable.

A motion to appoint Lisa Michaels as the Chairman of the Smithfield City Tree Committee was made by Jeff, seconded by Kris and the vote was unanimous.

Yes Vote: Watkins, Kent, Monson, Barnes, Buttars

No Vote: None

INITIAL DISCUSSION ON STORM WATER NEEDS, FEES AND FUTURE PROJECTS.

Jim reminded the council that storm water projects, issues and the long term plan have been discussed periodically over the last few years. The city has kept up fairly well but is still behind where it needs to be in regards to storm water drainage. In 2014, J-U-B Engineers did a study for the city determining the best way to handle the storm water problems on the south end of

town. The main problem areas being south of 300 South and west of 250 East on the south end of town. Right now the city does not have a good way to drain the storm water that is collected. The cost of the project to deal with piping the storm water to a suitable location would be quite expensive but there are some options. One option would be to obtain a loan and make yearly payments. A second option would be to save money over time and then pay cash for the project but it is not a feasible option as the city cannot wait until the funds are raised as the issue will have to be dealt with before then. A third option would be to consider implementing an impact fee.

Jim explained he thought the best and most fair alternative was the impact fee. There is a lot of property in the south end of the town that is not developed and when developed will lead to a significant amount of storm water being collected and nowhere for it to go. The cost estimates and engineering of the project have already been completed by J-U-B Engineers in the study from 2014. Both homes and commercial buildings would pay an impact fee. The city currently does not have a storm water impact fee so the areas like Stone Haven that have significant runoff have not paid to help resolve the storm water issue.

Jim proposed having an impact fee study completed and an impact fee for the area in question would be determined. The future construction would take the responsibility and cost of paying for the storm water problem so the entire city did not have to pay for the impact of the new development. There are local people that can be hired to do the study and where the engineering work has already been completed the cost of the study should not be significant. The cost of the study could be paid for with future storm water impact fees that are collected.

Jim gave examples of how water and sewer impact fees are collected and used to pay for projects in the city that were completed due to growth. Several cities already have storm water impact fees but Smithfield does not at this time.

Jim explained that the current water and sewer impact fee charged by the city are very low compared to other communities in Cache Valley and the State of Utah.

Brent asked for clarification if the storm water impact fee would be charged throughout the city on new buildings or just the south area? Jim explained the impact fee would only be charged in the areas of the study which in this case would be the south end of town.

Brent asked how the impact fee is implemented when currently detention ponds are required to be installed by developers? Jim explained that detention ponds would still be required and then the storm water that is collected in the pond would be released into the city storm water system and the impact fee is to help pay for the storm water system or infrastructure to help it drain.

Mayor Simmons asked Jim for clarification on his request to the council? Jim stated he would like to know if the council was okay with him getting a cost estimate on having a storm water impact fee study completed and then bring that information back to the council at a future time for review and consideration.

Brent stated the study would be the next step in the process since the engineering work was already completed. Jim agreed.

Brent asked why there are three different impact fees for water? Jim explained that an impact fee is based on where you reside in the city and what systems you get benefit from of the city. Some areas benefit from the new tank and pay a portion of the tank cost where other areas do not benefit from the new water tank; therefore, they don't pay the cost of the tank project.

Jeff asked if the project needed to be designed or just the study need to be completed? Jim remarked the design is done. The study would be completed to determine the cost of the impact fee that could be charged to builders and developers.

Mayor Simmons asked how the amount of the impact fee is determined? Jim explained that the cost of the project is determined and then the amount of users of the project is determined and a calculation is used as set by the state to determine the amount that can be charged.

Mayor Simmons asked if there was a state mandate to deal with the storm water issues the city is experiencing? Jim stated there is not a state requirement at this time and the main problem on the highway was just resolved but the problems in the south end of town are getting worse as more areas are developed. The need for the repair is based on growth now and in the future.

Dennis explained he felt the timeline on getting the study completed was important and it needed to be done soon as there is more talk of future development quite soon on 800 South.

The consensus of the council was to get a cost of the storm water impact fee study and then discuss the issue again at a future council meeting.

**DICUSSION AND APPROVAL OF SURPLUS SALE ITEMS:
FREE MOTION 11.9 SPIN BIKES (B0101972, B0101029).**

Justin asked the council for permission to sell two spin bikes that the recreation center owns. Some new equipment had been purchased to replace these two bikes. The council must approve the surplus sale of the items since they have value. Each bike was expected to bring at least a few hundred dollars.

A motion to approve the surplus sale of two (2) Free Motion 11.9 Spin Bikes Serial# B0101972 and B0101029 was made by Jeff, seconded by Kris, and the vote was unanimous.

Yes Vote: Watkins, Kent, Monson, Barnes, Buttars

No Vote: No

CITY MANAGER REPORT

Jim updated the council on the library project. The new building has been occupied and is up and running. The old building is being renovated. There was a sag in the floor of the old

building that was an issue and a new bearing wall was installed and the old floor was lifted about 3/4 of an inch to one inch. The majority of the demolition has been completed and there have been some minor setbacks along the way but they all appear to be resolved at this point.

Jeff asked if the old restrooms had been removed yet? Jim stated they were removed.

Jeff asked for an update on the basement door entrances on the old building. Jim responded that the walls had been poured but the brick work had not yet been completed.

Barbara asked if there would be an opportunity at the library to do any community service as part of the Comcast Cares day of service project? Jim said when the renovation project is completed there are books and shelving that will need to be moved but it would not be part of the day of service project as the library project should be done before then.

Jeff asked for an update on the removal of the walls in the old building. Jim explained that about 2/3 of the walls on the upper floor will be new when the project is completed and all of the walls in the basement will be new when the project is completed. The cost of the new walls was estimated at \$12,700.

COUNCIL MEMBER REPORTS

Brent did not have any additional items.

Jeff did not have any additional items.

Kris informed the council for the annual "Night of Giving" not as much money was raised as in past years; therefore, not as many families were served. A smoke alarm went off just before the auction at the event and the building was evacuated and some of the people never came back into the event after it was evacuated. Lee's Marketplace catered the event and inadvertently placed an item under the smoke alarm that caused it to go off. Jeff remarked that a Christmas carol event was going on as well and had to temporarily evacuate the building because of the fire alarm as well.

Kris thanked the Smithfield Chamber of Commerce for all they do and the lives they help and change.

Barbara mentioned that the youth council executive council will be having their monthly meeting on Thursday night at 8:00 P.M. and then the entire council will meet at 8:30 P.M. to make valentines.

Barbara stated some of the youth council members would be attending the "Day at the Legislature" event later in the month.

Barbara asked Jim if the mouse problem had been resolved at the senior center? Jim stated some traps had been set and he was not aware of any current problems.

Barbara asked if a service project should be done to clean the chairs at the senior center? Jim stated it would be better to have them professionally cleaned and he would get a cost estimate.

Barbara mentioned she had gone to the library on the first day it had opened in the new building and it was exciting to see the new building in operation.

Dennis did not have any additional items.

MAYOR'S REPORT

Mayor Simmons informed the council the Community Core Committee had met recently and Jeremy Hunt led the discussion. The faith based groups were well represented at the meeting. The current project is to gather all of the emergency preparedness plans from the faith based groups and get them all standardized to work together. The committee meets on the first Wednesday of each month at 6:00 P.M. in the city office building.

Mayor Simmons asked how the search was going to replace Officer Jason Ostermiller that had recently accepted employment with Utah State University and left the police department. Jim stated Chief Allen would be presenting the proposed new hire later on in the council meeting.

Mayor Simmons informed the council that he had been approached by the LDS Church with a request asking if the local missionaries could utilize the recreation center every morning for thirty minutes. The local senior couple missionaries would be working to oversee the request. The missionaries are restricted to 30 minutes per day of work out time and are hoping to utilize the local recreation center. Most likely the activities would be restricted to walking, running and light workouts.

Jeff asked how many missionaries would utilize the recreation center? Mayor Simmons remarked it would be two at this point but could grow to more as the mission in this area has expanded recently.

Kris expressed concern that a precedent would be set by allowing the LDS missionaries to utilize the center and other requests by other faith based groups would need to be treated the same way. Another condition would be there could not be any proselytizing at the recreation center.

Barbara asked how a pass to the center would be issued? Kris remarked it would be a generic pass passed from one missionary to another as they transfer areas.

Mayor Simmons remarked that he was surprised the request had been made as normally the missionaries are not allowed to go to public areas that have TV's and other items.

Kris remarked the missionaries would be safer running in the gym than on a city street in the winter in the early morning.

Mayor Simmons asked the council for more time to research the issue and make sure there were not any problems with the request.

PUBLIC HEARING ON PROPOSED ORDINANCE 14-05 WHICH AMENDS TITLE 17: SIGNS: 17.36.060 PERMITTED SIGNS: PERMITS NOT REQUIRED: 17.36.070: PROHIBITED SIGNS.

Jim reminded the council that this ordinance was introduced at the December council meeting and that it was to address some issues and concerns with signs and recreation programs being run outside of the city that were directly competing with city sponsored recreation programs and advertising in the city limits. Currently, the ordinance states that a business cannot advertise on property not belonging to the business and that issue is addressed as well. Jim informed the council he recommended changing some of the verbiage that had been approved by the planning commission such as the size of allowable signs. The original ordinance stated that signs up to 10 square feet would be allowed and the revised section now stated 20 feet as a sign that is 10 square feet is small and very hard to see. The words "public entertainment" had been removed as well as there could be many different definitions of "public entertainment".

****The public hearing opened at 7:12 P.M.****

There were not any comments from the public.

****The public hearing closed at 7:13 P.M.****

DISCUSSION AND VOTE ON ORDINANCE 14-05.

Jeff stated he thought the ordinance was straight forward and thought out.

****A motion to adopt Ordinance 14-05, an Ordinance amending the Smithfield City Zoning Regulations, Title 17: Signs; 17.36.060 Permitted Signs; Permits Not Required; 17.36.070 Prohibited Signs, was made by Jeff, seconded by Barbara and the vote was unanimous.****

Yes Vote: Watkins, Kent, Monson, Barnes, Buttars

No Vote: None

DISCUSSION AND APPROVAL OF THE HIRING A NEW POLICE OFFICER

Chief Travis Allen informed the council that Jason Ostermiller had left the department on December 31st as he had accepted employment at Utah State University. The position was advertised and 14 people had applied. An employee interview board was created and five applicants were interviewed. The officer that was selected for hire is Trent Currie. Trent is originally from Payson, Utah and worked for the Sandy City animal control department for about 10 months. Trent has been going to school at Utah State University and has a bachelor's degree in business. Trent is also fluent in Spanish. Trent has been a reserve officer for the city for about four months and is done with his field training so he can start doing solo patrol immediately. Trent is not currently employed and can start working full-time immediately.

Jeff asked if the position is full-time at 40 hours per week? Chief Allen stated that was correct.

Kris asked what the wage for the position is? Jim stated the starting wage is \$32,280 per year.

Chief Allen informed the council that Trent resides in Logan and meets the residency requirement for employment with the city. Trent has been working as a reserve for the department and has donated approximately 300 hours of time in the reserve program.

Kris asked Trent if he was still going to school? Trent said he is not currently going to school as he had determined he wanted to be a police officer and already has one bachelor's degree.

Mayor Simmons asked Trent for his thoughts on the city and what needs to change or be watched over? Trent remarked that as growth occurs; crime will increase. The Sandy Police Department had around 140 police officers and 10 animal control officers. The issues that Sandy was experiencing seemed to be issues that were occurring in West Valley City and Salt Lake City and then spreading to other local communities.

Mayor Simmons thanked Trent for his willingness to work for the city and help the community.

Brent asked Trent if Sandy City had an effective dog ordinance? Trent responded that Sandy City really enforced dog licensing and that he was always investigating dog related issues. As the population increases the number of dogs increases in the city as well.

Brent asked if the number of dogs in Sandy City was limited? Trent remarked that up to five were allowed and that a special permit was required for three or more. Before the permit was granted the animal control department had to inspect the property and it had to meet certain criteria.

A motion to approve the hiring of Trent Currie as an employee/officer for the Smithfield City Police Department at a wage of \$32,280 per year was made by Kris, seconded by Jeff, and the vote was unanimous.

Yes Vote: Watkins, Kent, Monson, Barnes, Buttars

No Vote: None

Barbara asked Chief Allen if each police officer was currently wearing a body camera? Chief Allen responded that the Smithfield Police Department officers are currently wearing body cameras. There is current legislation that will be discussed in the upcoming session that may develop specific rules regarding the body cameras. The federal government is considering making the body camera mandatory and all of the police departments are hopeful grant funding will be available if the federal government makes them mandatory.

DISCUSSION WITH FIRE CHIEF ON PURCHASE OF EQUIPMENT FOR WILDLAND FIRE CALL OUT AND RESPONSE.

Jim reminded the council that two summers ago some of the firefighters responded to some wildland fire calls and the department ended up profiting about \$20,000. The \$20,000 was then used to purchase equipment and make a wildland fire brush truck for the city department to use.

In the summer of 2014 the newly equipped truck and three firefighters responded to various wildfires in Oregon and California. The fire department received approximately \$75,000 in revenue from the fires and had expenses of approximately \$32,000 resulting in a profit of \$43,000. Chief Downs is requesting the remaining \$43,000 be used to purchase a new truck and purchase the necessary equipment to make another wildfire truck that could respond to future calls. The council would need to approve the expense even though the revenue has been received since it is such a significant amount and change to the fire department budget.

Justin also explained that the equipment on scene earns the city "X" amount per hour along with each firefighter that is on scene.

Jim explained the intent is not to make a money generating piece of equipment but to have the equipment available for local response when needed but at the same time the equipment would make a profit for the city on occasion. The number and intensity of the wildfires in recent years has been increasing and the city department has responded to many requests for help.

Barbara remarked the proposal would help the local department to be more prepared when needed. Jim concurred and informed the council the fire department had responded to wildfires in Millville and Portage within the last year.

Mayor Simmons asked if the local service is diminished if both wildfire trucks are in service elsewhere? Jim stated service would not diminish as only a couple of members of the department respond to these fires at a time and the local station is always full staffed.

Dennis asked for clarification on the \$20,000 profit that was earned in the previous budget year. Jim explained that the profit was used to purchase equipment that is currently being used on the existing truck and it was a budgeted amount in the previous budget.

Dennis asked if the proposal includes purchasing a new truck? Jim stated a new flatbed truck would be purchased at a cost of around \$38,000 and then it would be outfitted with wildland fire response equipment.

Dennis asked for clarification if the proposal was in the current budget? Jim stated the request would be to make an increase to the fire department budget for both the \$75,000 revenue and to approve the expense of \$75,000 as well for the purchase of the equipment. Right now the profit from the wildfires is in the general fund account.

Dennis remarked that he liked the concept of investing in the department and strengthening the department at the same time. The proposal made sense.

Jim asked if the department could utilize the entire \$43,000 for the new equipment as it would be budget neutral to the fire department budget to increase the revenue \$75,000 and the expense \$75,000.

The consensus of the council was to approve the equipment purchase request and include the adjustment to the budget in the next budget adjustments hearing.

****The regular council meeting was temporarily adjourned at 7:36 P.M. so the RDA board meeting could be held.****

****The regular council meeting was reopened at 8:10 P.M. at the conclusion of the RDA board meeting.****

CONTINUED DISCUSSION AND POSSIBLE DECISION ON THE APPEAL BY CHRIS BIGGS FOR THE DENIAL OF A DOG KENNEL LICENSE BY THE PLANNING COMMISSION FOR A KENNEL PERMIT FOR FOUR (4) DOGS LOCATED AT 200 SUMMIT DRIVE. ZONED R-1-12.

Mayor Simmons asked Chris Biggs if he had completed all of the assignments requested at the last council meeting by the council? Chris stated all four dogs were licensed and chicken wire had been placed in the south east corner of the backyard until the fence could be properly repaired. Chris informed the council he had purchased bark collars for the dogs as well.

Mayor Simmons asked Jim if he had toured the area since the last council meeting? Jim stated he had not been up to Chris's residence since the last meeting.

Jim commented the dogs had not been licensed by the end of 2014 as required but were now all licensed. Chris stated there was an issue with the rabies license on one of the dogs and it had been resolved and all of the dogs were licensed.

Barbara stated she stood by her comments from the last meeting. Until the fence is properly repaired and secure she would not vote in favor of granting the kennel permit. Chris stated the fence is secure and an animal cannot get out of it. Barbara responded it must be adequate and secure before she would consider approving the request and temporary is not acceptable.

Justin asked Chris if the two broken posts on the east side of the backyard had been replaced? Chris stated they were replaced.

Barbara asked if someone had to be home in order for the bark collars to work? Chris stated he purchased bark collars that would activate even when he is not home.

Barbara asked how Chris felt about having bark collars on the dogs as he had previously mentioned he wanted the dogs to bark to keep people away. Chris stated that was correct; he wanted them to bark but it was more important to get the kennel permit than to let them bark. Barbara mentioned she did not want the dogs barking at people on the golf course behind the house.

Barbara asked Chris if he still had four dogs? Chris stated that was correct.

Jeff commented there are certain standards and specifics in the city zoning ordinance and the fact is that Chris has had ample time to resolve all of these issues and they were not resolved. Chris remarked that was not correct as there had not been any new phone calls or issues reported to the

local police department recently. Jeff stated there was ample testimony at the planning commission meeting stating there were still issues.

Kris mentioned she had issues with the fact that Chris had four dogs and one died and then he got another new dog knowing he was still not in compliance. Chris stated that was correct.

Barbara asked how many dogs have continued to be on the property? Chris stated there have been four dogs on the property for a couple of years. Barbara responded to Chris that he was proving he was willing to not comply with the rules by continuing to stay non-compliant for two years.

Chris asked Jim to pull up the city ordinance on the projector so it could be reviewed. Barbara responded that was fine but the fact was Chris had four dogs when only two dogs are allowed. Chris disagreed with Barbara's comment stating the city ordinance allows for four dogs under certain parameters. Jeff asked where in the city ordinance it stated that a person would be allowed four dogs? Barbara stated the city ordinance states a person cannot have four dogs unless they have a permit and Chris did not have a permit so he was in non-compliance. Chris commented at the time of the original kennel permit application he only had two dogs.

Barbara suggested that Chris come into compliance for a certain amount of time set by the council before the permit is granted as Chris has proven to be non-compliant to this point. Chris responded that he had four dogs and two were removed and then one of the two died. The other dog was brought back to the residence so it would not die. Chris stated the original kennel permit request should have been approved based on the city code as it is written. Kris stated while being non-compliant and having three dogs Chris had got a fourth dog which was not allowed. Barbara stated there is not a right in the city code to have dogs. Chris stated that was incorrect; the city code allows for two dogs without a permit. Barbara stated whether a person has two dogs or four dogs they still need to be clean, not bark and live in an area they cannot get out of. Chris reminded the council he did not have a fence initially but had installed one to try and keep the neighbors happy. Barbara reminded Chris he has continued to demonstrate a willingness to be non-compliant.

Jeff read a section of city code and discussed the general criteria involved in a kennel permit and informed Chris nowhere in the city code does it say the kennel permit has to be granted. Chris responded that he read city code 17-32-100 differently than that. The code stated in his opinion that there could be no more than four dogs, the property had to be bigger than 10,000 square feet and there were some breed criteria that no longer apply and he was in compliance with all of those items. Kris reminded Chris the city code said "may" grant a permit it never said anywhere a permit would for sure be granted.

Jim explained to Chris that the land-use authority in this instance is the Deputy City Recorder, Char Izatt. Char is allowed to issue the permit if certain criteria is met but in cases where there have been complaints or other issues the issuance of the permit is sent to the planning commission for review. Each kennel permit request is reviewed on a case by case basis. Chris stated he read the city code differently than what Jim had stated. Jim disagreed and remarked the

kennel permit request can be reviewed and discussed when complaints, issues or other circumstances arise.

Chris asked the council if they had the document he had provided at the last council meeting and if they had reviewed it? The council acknowledged they all had a copy and had reviewed the document.

Jim explained to Chris the city attorney had reviewed all of the information from the last two years regarding the kennel permit request as well as the information provided by Chris from the ombudsman. There are several issues that have to be addressed, per city code, such as safety issues, noise issues from barking and sanitation concerns. Complaints had been received by the city both verbally and written. The permit request could be denied based on the city code per all of the mentioned items. Section 10 of the city code requires a plan for fencing and screening and a plan during either kennel permit request had never been provided to the city. The city has many options based on the city code, the motion can be approved or denied or approved with conditions.

Jim suggested to Chris that he demonstrate over a period of time he was willing to meet and resolve the concerns of the city and the neighbors and then request the kennel permit.

Chris asked if a temporary permit could be granted? Jim stated possibly during a probationary period, Chris remove two of the dogs to become legal per the ordinance and during a certain period of time demonstrate a willingness to keep the area clean, stop the remaining dogs from barking and repair the fence so it will not fall over. Having temporary chicken wire is not a permanent long term solution or acceptable. Jim suggested to Chris he put forth some effort to show his actions long term will be to resolve the neighbors' issues and then at that time the council could review the request and make a decision. Mayor Simmons concurred with Jim's comments on offering a probationary period of time to become compliant.

Barbara mentioned to Chris she hoped he realized how frustrated the city is and the neighbors are with his continued lack of effort to be compliant and when a person is not compliant it is easy for the council to deny the person's request.

Chris informed the council there are people in the area where he lives that don't think there should be any dogs in that area of town and in their opinion is not a good area for dogs. Chris expressed concern no matter what he does the neighbors will still complain; even if all of the issues are resolved.

Chris expressed frustration that the request was made to install a fence and he had done it and to get the dogs licensed and he had done that as well but still a permit had not been granted. Chris stated he had spent thousands of dollars on a fence that is sight proof and purchased bark collars to keep the dogs quiet and the neighbors are still upset.

Barbara reminded Chris that during all of this time of him building a fence and doing other items he still had four dogs which is not allowed under the city code and he continued to be non-compliant and he knew he was non-compliant. Chris responded he is trying to comply and he

does not want the dogs to leave his property as each dog is worth of \$1,000. The dogs are his kids pets and are well taken care of.

Jeff mentioned to Chris that a person who owns expensive dogs would normally take more time and spend more effort to keep them safe and based on past evidence the dogs were not being properly cared for and were disturbing the neighbors. Chris responded that is pure speculation on the part of the neighbors and the council as he spends over \$400 per month on dog care and feeding.

Jeff informed Chris that the number one animal complaint in the city is dogs and it is not an issue just in his area but throughout the city.

Kris stated she likes dogs and did not mind having neighbors that have dogs. The concern is four dogs are on the property and have been for a long time while Chris continually continues to be in non-compliance. The permit request should have been made and obtained before dogs three and four were purchased. Kris mentioned she was sorry one of the dogs had died but even at that point Chris was still not in-compliance based on the fact he still had three dogs when only two were allowed. Kris reiterated the fact she was concerned that a fourth dog was purchased when Chris knew only two dogs were allowed so it continued to show a willingness to be non-compliant. Barbara concurred with the comments made by Kris and expressed concern that Chris was continuing to show his willingness to be non-compliant.

Barbara suggested a six or twelve month probationary period be established where hygiene, the fence and the willingness to come into compliance by only having two dogs could be demonstrated by Chris. At that point; the council could then review the request again.

Chris expressed concern his neighbors will continue to complain even if he does everything the city council has asked him to do to comply. Barbara asked Chris to set a goal of not having any complaints for the next six months. Chris mentioned he understood the concerns of the council but in several months when the request is made again the same neighbors would come in and complain as they have a personal vendetta against him.

Barbara asked Chris to become compliant and only have two dogs, repair the fence, keep the dogs from barking and keep the feces gathered up and the issue with the neighbors would most likely be resolved.

Chris asked for suggestions on what he should do when he comes back in several months and the same neighbors complain as it would be his word versus theirs. Jeff mentioned the council would review all of the facts and concerns; not just the word of the neighbors.

Barbara asked Chris to make the fence as safe as possible and a temporary repair was not sufficient. Barbara informed Chris she would not vote in favor of approving the kennel permit until the fence is completely repaired with no temporary fixes.

Barbara reiterated to Chris that he must come into compliance for several months having only two dogs at the residence; not four.

Mayor Simmons asked Chris if he had submitted a written plan showing fencing and the dog kennel location to the city? Chris stated he had not. Mayor Simmons asked for Chris to develop a written plan that could be presented to the city council for review.

Jim suggested during the probationary period the local animal control officer make periodic inspections of the property so if complaints arise the animal control officer can support or refute the claims in the future.

Mayor Simmons stated he was more comfortable having a 12 month probationary period than a six month period as the issues, if any, will be during the summertime when people are outside. Barbara agreed. Jeff suggested at least through September so it would include spring, summer and the early fall.

Mayor Simmons asked Chris to develop a plan of how the dogs would be cared for, how the fence would be maintained and how the other issues would be resolved and to present the plan to the council.

Mayor Simmons asked the council if they wanted to consider a probationary period? Jeff stated he thought it would be a good idea. Barbara agreed as well and thought having the animal control officer make periodic inspections would be appropriate and worthwhile.

Kris mentioned to Chris by coming into compliance and working with the neighbors he will be perceived differently by his neighbors.

Mayor Simmons asked Chris if he would be willing to try and comply? Chris stated he would and requested a time period of at least a couple of weeks to find a new home for two of the dogs.

Mayor Simmons asked Chris to develop a written plan for the property and get two of the dogs relocated to another place as soon as possible.

Barbara thanked Chris for the progress he had made to this point as some things had been done and accomplished.

Mayor Simmons asked if the issue would go back before the planning commission? Jim suggested keeping the request with the city council and Brent agreed.

Mayor Simmons asked Chris to become compliant and submit a written plan to the council for review.

Mayor Simmons cautioned Chris there is not a guarantee the kennel permit request will be granted in the future but the first steps in the process will be to get two of the dogs a new home and get the written plan submitted to the council for review.

Jim informed Chris he would be willing to meet with him and help him with the process and answer any questions he may have.

Kris asked if a week was long enough to find a new home for the dogs? Chris stated that would be fine.

Mayor Simmons suggested reviewing the case again in nine months or so.

Brent asked Chris to make sure all of the wood fence panels are secured properly with screws not small staples. Chris mentioned he had installed screws on all of the fence panels. Barbara asked Chris to double check each panel to make sure it was secured with screws. Chris agreed to the request.

Jeff asked if it would be possible for the dogs to escape under the fence? Chris stated they could not but if there was an issue he had considered installing concrete curbing to make sure it would not happen. Brent suggested including that concept in the plan.

Mayor Simmons informed Chris the council wanted to work with him but is very apprehensive based on past experience and Chris's willingness to continue to be in non-compliance.

Mayor Simmons also mentioned this issue is more than about dogs; it is about being a good neighbor. Everyone in the area wants it to be vibrant and attractive and being a good neighbor is part of the process. Removing the broken down vehicles from the front yard would be part of the process. Chris remarked he could move the samurai rock crawler vehicle to the backyard.

Mayor Simmons asked Chris if he was willing to clean up his front yard? Chris responded he would do so.

Mayor Simmons commented by being a good neighbor and taking care of his place his relationship with his neighbors would improve.

Dennis suggested that 30 days be given to come into compliance based on a past precedent where another community member was given that amount of time to come into compliance with their dog related issues.

A motion to table the decision on the appeal for a dog kennel license for Chris Biggs at his residence at 200 Summit Drive was made with the following conditions: (1) the request will be reevaluated no sooner than nine months from January 14, 2015, (2) a kennel development plan must be submitted to the city council for review, (3) a willingness to help resolve the neighbor's concerns must be demonstrated, (4) actions will be validated at the residence by the city animal control officer or members of the city staff, (5) two of the four dogs must be removed from the location within thirty (30) days. The motion was made by Dennis, seconded by Brent and the vote was unanimous.

Yes Vote: Watkins, Kent, Monson, Barnes, Buttars

No Vote: None

Chris asked if he could have two of the dogs for one month and then switch to the other two dogs the following month as long as only two dogs were at the residence? Kris stated that would not be possible; the same two dogs need to stay at the residence for the probationary period.

A motion to adjourn at 8:57 P.M. was made by Kris.

SMITHFIELD CITY CORPORATION

Darrell G. Simmons, Mayor

ATTEST:

Justin B. Lewis, City Recorder

SMITHFIELD CITY CORPORATION 96 South Main Smithfield, Utah 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 14, 2015**. The meeting will begin at 6:00 P.M.

Welcome and Opening Ceremonies by Council Member Watkins.

1. 6:03 P.M. Approval of the city council meeting minutes from the December 4, 2014 City Council Meeting
2. 6:05 P.M. Resident Input
3. 6:15 P.M. Discussion and possible vote on the request by North Ridge Development, LLC for approval of Phase 6 (40 Lots) , of the final plan for Stone Haven Planned Unit Development, located at approximately 655 South to 780 South at 70 East and 150 East. Zoned RM (PUD) (Combined Multiple Family Residential/Planned Unit Development Overlay Zone).
4. 6:30 P.M. Discussion on Comcast Cares program.

Smithfield City Council Meeting Minutes, January 14, 2015

5. 6:50 P.M. Discussion and approval of new Tree Committee Chairman.
 6. 7:00 P.M. Public Hearing on proposed Ordinance 14-05 which amends Title 17:
Signs: 17.36.060 Permitted Signs: Permits not Required: 17.36.070:
Prohibited Signs.
 7. 7:10 P.M. Discussion and vote on Ordinance 14-05.
 8. 7:20 P.M. Initial discussion on storm water needs, fees and future projects.
 9. 7:40 P.M. Discussion and approval of surplus sale items.
FreeMotion 11.9 Spin Bikes (B0101972, B0101029)
 10. 7:50 P.M. Discussion with Fire Chief on purchase of equipment for wildland fire call
out and response.
 11. 8:10 P.M. Continued discussion and possible decision on the appeal by Chris Biggs
for the denial of a dog kennel license by the planning commission for a
kennel permit for four (4) dogs located at 200 Summit Drive. Zone R-1-
12.
 12. 8:30 P.M. City Manager Report
Police Officer Hire Approval
 13. 8:45 P.M. Council Member Reports
 14. 9:00 P.M. 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 01/12/15, and the Utah Public Meeting Notice website.