

SOUTH JORDAN CITY
CITY COUNCIL STUDY MEETING

August 17, 2021

Present: Mayor Dawn R. Ramsey, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Don Shelton, Council Member Tamara Zander, Council Member Jason McGuire, CM Gary Whatcott, ACM Dustin Lewis, City Attorney Ryan Loose, Planning Director Steven Schaefermeyer, Communications Manager Rachael Van Cleave, Director of Administrative Services Spencer Kyle, Director of Public Works Jason Rasmussen, Associate Director of Parks Colby Hill, CFO Sunil Naidu, City Engineer Brad Klavano, Police Chief Jeff Carr, Fire Chief Chris Dawson, Director of Government Affairs Melinda Seager, Strategic Services Director Don Tingey, City Commerce Director Brian Preece, GIS Coordinator Matt Jarman, City Recorder Anna Crookston, Meeting Transcriptionist Diana Baun

Others: Carol Brown, Martin Jensen, Wendy Thomas, Wayne Johnson

4:50 PM
STUDY MEETING

A. Welcome, Roll Call and Introduction: *By Mayor Dawn R. Ramsey*

Mayor Ramsey welcomed everyone present and introduced the meeting.

B. Invocation: *By Council Member, Tamara Zander*

Council Member Tamara Zander offered the invocation.

C. Mayor and Council Coordination

Council Member Don Shelton mentioned the Chamber Golf Tournament coming up on August 26, he is planning on being there.

Mayor Dawn Ramsey said she asked Executive Assistant Melanie Edwards to see if she could make her remarks in the morning, she has something at the Capitol that afternoon.

Council Member Shelton said the Western Growth meeting went great. After the Watt Smart presentation at the meeting, he is thinking we should have the same presentation to our council; it was from the Director of the Division of Air Quality and lasted about an hour. He is thinking about replacing all his lawn implements with electric ones, and there are grants to help residents with doing that as well. He was told that an old lawnmower running for one hour adds more air pollution than a newer model vehicle driving for an hour.

Mayor Ramsey said there were hours of meetings with the League, policy meetings as a board as well as with the Legislative Policy Committee (LPC). There was also a meeting afterwards to discuss what we could be facing if the 50/50 tax distribution is changed, the significant impact that would be to our city. In their board meeting, a council member from a very small community in southern Utah County corrected someone else when they said this would be really bad for the rural cities but good for the

bigger cities; he said that no, it's bad for everyone and he explained those challenges. They discussed 12 different areas of significant policy decisions and proposals that are already being discussed and drafted. The League sent out a survey last Thursday and asked cities to fill it out; Mayor Ramsey encouraged everyone to fill that out because the data collected is what they can use to help create legislation that is not going to create as much impact on communities. If they aren't successful at that right now, the window for this will be closed as the legislature already knows what it intends to do. The survey ends Thursday she believes, then they will collect the data and go through it; she and Cameron Diehl, next Tuesday, have to take their initial proposals to the subcommittee.

Council Member Harris asked the mayor to share her concerns.

Mayor Ramsey said she serves on a subcommittee as part of the Economic Opportunities Commission and they have three major concerns. The biggest concern is whether or not cities should be able to use incentives for economic development, the legislature wants to make it more enticing to cities to rezone for more housing and one of the new proposals is changing the 50/50 formula. For a community like ours that has a high population but has also worked really hard to put in economic development to ensure that tax revenue this is unfair. There are now rural communities that are receiving revenue because of point of sale that they have never received before, they don't have stores and big box places to shop. We all know retail is changing, but from a tax revenue standpoint this would be devastating for not just our community, but both Salt Lake and rural communities. The only way the 50/50 could be undone, and us not have to raise property taxes to a ridiculous level, would be to have another revenue source opened up; that means not giving a 45% exemption to all real estate so we only get to collect on 55%, or changing something else to help. Developers also know we need access to amenities if people are going to buy the homes they are building; however, because cities get more revenue from commercial than housing, legislative leadership feels like there are communities choosing not to put in housing. The League has been working tirelessly to collect the data, which showed permits for single family housing over the last 5-10 years, multi-family housing, along with retail and commercial development to see if these communities are really just planning for dollars. They want to see if the communities doing lots of retail aren't building homes, to look at the data and see if this is really an issue. South Jordan was in the top five of all three categories, and the data shows it's not happening; cities are not skipping housing to build commercially instead. Many of these people however in their personal lives, as developers, have gone to communities and wanted to rezone land and been told that space is being saved for commercial development. She visited with a council member from Saratoga Springs who said they are where we were 10 years ago. In South Jordan would have been one of those cities who said they were saving an area for commercial; now we are growing up, getting bigger and have the population to need those things and adding the commercial in the space that was set aside for it. They have another meeting in September, by then they need to have some solid things ready to go because if they can't help others recognize housing is a financial loss for cities the legislature will change things so retail and commercial is not a win in an effort to force more housing.

Council Member Marlor asked what the premise of the change was, if they are trying to ensure everyone addresses multi-family and higher density housing.

Mayor Ramsey said they want more housing to go in, and as land developers they don't want to be told land won't be rezoned because it is being held for commercial. They don't want to hear that commercial brings in more revenue than housing does, they want to change that so housing is more appealing and more rezones happen for housing to go in. The data however shows that is already happening, we know that from data across the state. At the end of the meeting, Cameron Diehl said

they really want to collect the data to show whether or not this is happening and Dan Hemmert said “Cam, I am going to be really honest with you, the data might not matter if this is what the leadership of the House wants.”

Council Member Tamara Zander asked if the Governor’s office agrees with all this.

Mayor Ramsey said so far the Governor’s office has been supportive of cities’ positions on this. She just spoke to his senior staff on Tuesday at the Governor’s Kitchen Cabinet meeting and they are hopeful that if they can also show the impact this will have on rural Utah it will help make sure things don’t change. One council member yesterday in a meeting said, regarding the 50/50, if their narrative is so focused on the impact to rural Utah they could just change a law that just says this only applies to counties of the first class.

Council Member Marlor said he doesn’t know how they can complain about South Jordan if we’re in the top 10 list nationwide, what else do they want us to do.

Mayor Ramsey said we get referred to often by legislative leadership as a city that “gets it,” and they appreciate it, but she thinks they feel there are many communities that don’t and it is being framed as helpful and making housing less of a loss of revenue for cities. Dan Hemmert was very clear that data may show otherwise, but if this is what they really want done they will make it happen.

City Attorney Ryan Loose said it might be good to start thinking of strategies, if it does start to shift that way, to adjust and prepare for this.

Mayor Ramsey said she is in no way, shape or form trying to throw anyone in legislative leadership under the bus; she is just telling everyone what was said and that this was what was reported in the meeting. This is what Representative Schultz and Dan Hemmert said, so we know what we’re up against and the reasons for it. Representative Schultz said they don’t want to ruin budgets for cities, so anything they change would be going forward and not retroactive; however, there was no clarity as to what that could look like or how that would work.

D. Discussion/Review of Regular Council Meeting

Ordinance 2021-15 Illicit Storm Water Discharges
Ordinance 2021-16 ADU

Council Member Zander asked about the Accessory Dwelling Units (ADUs) and changes. She asked to clarify that House Bill 82 was passed by the state, now we have until October 1 to implement it; what we are implementing is what the state already mandated, and she asked if we changed anything specific to our city and what kind of ripple effect this will have if approved.

Planning Director Steven Schaefermeyer said we have customized this to our ordinance in terms of definitions and things like that, but there haven’t been any policy changes that weren’t already approved in the past. We have only done the bare minimum to bring our code into compliance. For example, last year we talked about the availability of putting a guest house on a lot in most single family zones as long as the lot was large enough; that hasn’t been changed and a guest house can only be placed in the A1 and A5 zone, or the R1.8 zone. Possible changes to that may be brought

forward to the council later, but it doesn't change what zones this code applies to. This code doesn't apply to the PC Zone or Daybreak, only to A1, A5 and the rest of the single family zones.

Council Member Zander said there have been many conversations on the Daybreak social media page about this; she asked to clarify that, based on what was just explained, House Bill 82 doesn't apply in Daybreak.

Director Schaefermeyer said our changes don't apply directly to the zone. House Bill 82 did have some language about HOAs, but we have never regulated what an HOA can do. If you have an HOA (outside of Daybreak) in an R1.8 zone, and the CC&Rs say no ADUs, House Bill 82 wouldn't affect that restriction. Even though the city has always allowed ADUs in that R1.8 zone, if the CC&Rs don't the city doesn't enforce that and it would have been approved; the HOA can still tell the homeowner that it's not allowed in the HOA. This bill addresses this, but we have never regulated ADUs in Daybreak through the ordinance that is before the council tonight; ADUs in Daybreak have always been regulated by the development agreement and the design matrix.

Attorney Loose said there are many city attorneys and other professionals who think they can't retroactively void out a term in a CC&R, however the legislature decided to do that anyways retroactively. Prospectively they can say no, you can't put it in, however retroactively many think that's a tenuous thing because that's interfering with contract; that is not our fight to fight, the HOAs can decide whether or not they want to take that on with the state legislature. Regarding the PC Zone, the statute only applies to primarily residential areas, not residential zones. Director Schaefermeyer and his team, along with Attorney Loose and his office, feel that based on Daybreak's development agreement it is not primarily residential; therefore, they believe that they don't need 75% of the city including Daybreak, because Daybreak is not primarily residential. Of the primary residential areas, 75% of those have to allow accessory dwelling units; Daybreak isn't included in that based on looking at the Master Development Agreement (MDA), the total community structure and everything that is part and parcel, not just driving the neighborhoods.

Council Member Zander asked to clarify that the entire community of Daybreak is in its own little bubble, and this bill being passed tonight is for the rest of the city?

Attorney Loose said no, this requirement is for the areas of the city that are "zoned primarily for residential use." Those parts of the city are part of this and 75% of those have to be allowed internal ADUs. Daybreak isn't part of a primarily residential area, just like the Town Center area or Merit Medical's Campus wouldn't be considered primarily residential.

Council Member Zander asked what the response would be to a neighbor in Daybreak who asked if they were allowed to have an internal ADU.

Attorney Loose said that would be up to their CC&Rs, just as it was before.

Director Schaefermeyer said the way the city processes ADUs for Daybreak is through the building permit process, whereas with other zones in the city there is an actual ADU permit. Usually it's caught in the building permit process where someone submits a building permit to finish a basement but it's an ADU. When that happens we tell them they have to get the ADU permit first, then we can review the building permit. In Daybreak, we get the building permit and look for the stamp from the

HOA to say they have reviewed it according to their requirements; we can always question if they reviewed it correctly, but that is the process for Daybreak and is not going to change.

Attorney Loose said the process for Daybreak will not change from the city's perspective, but the HOA may decide to change things and decide to allow more.

Council Member Zander said the "word on the street" is that tonight we are voting on this and the HOA is waiting to hear what South Jordan City is going to do. She asked if once this is voted on, does it go back to the HOA and they have the option to make adjustments.

Attorney Loose said this doesn't change anything at all for the HOA in Daybreak.

Council Member Zander said her point is that what we do tonight isn't going to impact any of Daybreak.

Attorney Loose said they still have to decide if they think the statute applies retroactively, and how that may affect them; that is up to them to decide, not the city as we are not part of that agreement. Regarding the city's process, if we get a building permit that looks like it's for an internal ADU in Daybreak and it has their stamp, we are just going to process it; if it doesn't have the stamp we will tell them to go get the stamp from their HOA.

Director Schaefermeyer said if they want to change their process we do need to have a conversation.

Attorney Loose said the only changes will be if the HOA decides to make changes, then they will have to go back and see if their changes affect the MDA or any other agreements the city has with them that would have to be altered.

Director Schaefermeyer has spoken with Stephen James since the conversation started and he believes they are on the same page. Any information Council Member Zander is hearing is not coming from the HOA. He assured her that none of the HOAs have contacted him with questions.

Attorney Loose said that if anyone is contacted, they can say the state law applies to areas that are primarily zoned residential. Daybreak, because of its zoning as a planned community, isn't considered primarily residential when you take into account how much office, industrial and other uses they have called out in square footages and units, open space, etc.

Council Member Zander asked if someone has an issue with how the ADUs are done in Daybreak, should they go to the HOA rather than the city.

Director Schaefermeyer said that is true of anyone in any HOA. When this law was passed he received a call from a panicked HOA president who asked what the city was going to require them to do. Director Schaefermeyer said we are not getting into the business of internal HOA workings, so if they want to continue to not allow them in their HOA we are not going to get involved with that.

Council Member Marlor asked if staff was going to walk them through what the possible opportunities are for ADUs in currently zoned residential areas during the presentation.

Director Schaefermeyer said yes.

Council Member Marlor said he has several areas with large lots in his district and he wants to make sure he can articulate the new requirements.

Director Schaefermeyer said largely in zones A1, A5, R1.8, R2.5 and R3 they have always been allowed to have an internal ADU; the difference now is we don't limit the size of it, which is a conversation that has been had in the past regarding whether we should be limiting the size of internal ADUs. It used to be 35% or 1,500 square feet and the state has said we can no longer regulate the size.

Attorney Loose said the state didn't change anything in regards to detached ADUs or guest houses. The main thing they said was the city can't require a minimum or maximum square footage, and we can't require more than one onsite parking space.

Director Schaefermeyer said we have been consistent with other mixed use zones in the city, the PC zone obviously being the most prominent and largest mixed use zone in the city, but there are others; this change in ADUs applies to them in the same way that we are applying them to the PC zone. They have tried to be very consistent in how they viewed this.

Council Member Zander asked what Mr. James thought about this when he called Director Schaefermeyer, was he just trying to understand it.

Director Schaefermeyer said yes, he didn't say anything about the HOA's position. They obviously have concerns, but he just wanted to make sure he understood what these changes were.

Mayor Ramsey said this took a lot of work to even allow the cities to require the one parking spot. The legislation originally drafted was that there could be no city oversight whatsoever, zero regulation by cities on any ADUs.

Attorney Loose said that even if this did apply in Daybreak, one of the things we argued for was that internal ADUs shouldn't be allowed on lots less than 6,000 square feet; once you start looking at that there are many lots in Daybreak and other more dense areas that just don't have lots that large. That is part of this new law and our ordinance that no lot size smaller than 6,000 square feet can be considered for an internal ADU. If we wanted to go smaller we could, but the state says you can't be more restrictive than their law.

E. Discussion Items:

- E.1. Bingham Creek Regional Park Authority member appointment. (*By Strategic Services Director, Don Tingey*)

Strategic Services Director Don Tingey presented the appointee list (Attachment A).

Director Tingey said Martin Jensen had to leave the meeting due to another obligation. He explained Wendy Thomas's appointment is as a South Jordan resident and confirmed she works for Herriman City, but this appointment was made because of her being a resident of the city. She has been very involved in park development and recreation in South Jordan personally as well as professionally.

Council Member Zander asked if this list being presented was something that the council got to approve or disapprove, or if they have already moved forward with these names.

Director Tingey said the plan is to bring a resolution to the council at the first meeting in September with the appointments if he given approval tonight. The county will in turn do the same at one of their early September meetings.

Council Member Zander asked if the decision is made jointly between our council and the county, or made by us only.

Director Tingey said these are mutually agreed upon board members, so it is agreed upon jointly.

Council Member Zander asked if it was possible for the city to say no and the county to say yes, or vice versa.

Director Tingey said we are mutually agreeing and presenting the same names that were mutually agreed upon, so if there was someone that we didn't agree upon we would find someone else they could mutually agree upon.

Mayor Ramsey said this is being done to officially create the governing board, supported by South Jordan City and Salt Lake County, but the governing board of this park is who will govern this park. We are providing the funding and have a stake in it, but that is why we are making sure the people we present to represent the city's interest in this are who we want representing us.

Director Tingey said he and Mr. Jensen got together and agreed mutually on these names as people they felt had experience in park development. Mr. Johnson has 40 years of experience and has been on the Sugarhouse Park Authority Board there for years and watched that grow. Martin Jensen is the Director of Parks and Recreation for Salt Lake County, he and Mr. Jensen have spent hours with staff putting the park authority together and will be working on putting the policies and procedures together as well.

Council Member Marlor asked if the board will elect their own chair.

Director Tingey said yes.

Council Member Zander asked how long each member will serve for.

Director Tingey said up to two 3 year terms, so six years max.

Council Member Zander asked at the end of three years, who decides if they continue; does their board decide, or the city and county.

Director Tingey replied that it goes back to whoever appointed them, so the city and the county.

Mr. Johnson said he is a retired 40 year veteran of Salt Lake County Parks and Recreation. He lives in South Jordan, and he has been here for 18 years. He was asked to throw his name into the hat on this and he gave it a lot of thought as to whether he would or wouldn't. He was the mayor's representative on the Sugarhouse Park Authority from 2000 to 2020. Sugarhouse Park, in his mind, was probably the first conservation easement that was really executed well in Salt Lake County. It was at the site of the old prison and was given to the city and county in joint ownership with the idea of turning it into a park. They created a park authority, which this draft MLU is modeled quite heavily after. In his mind it has been a marvelous success as far as what can happen to a park that is managed well with good foresight and what the people in the

surrounding area want to see. For that reason, he thought he would like to be on this first board and try to help set up the goals and bylaws and make sure that Bingham Creek Regional Park becomes the jewel of the west end of the valley. There is 160 acres at this facility with a lot of potential. It will take a lot of money to get to that point, hence the partnership with the city and county to hopefully make that happen in a shorter time than either entity could alone. With the influence, support and knowledge from the board members that are proposed here he believes it is off to a good start. If he is appointed to the board, he would be glad to accept.

Wendy Thomas has lived here in South Jordan for 20 years. She worked for South Jordan for over eight years before seeking some new opportunities in Herriman where they have been able to really expand their parks and trails system, as well as see some of the economic development benefits from that. She is passionate about parks and people, and bringing that all together. She has loved having her children grow up in South Jordan; her daughter is a senior this year, her youngest, at Bingham High School. She likes bringing people together, providing unique destinations that aren't cookie cutter while also being sustainable; that's something she is really working towards now, more sustainable areas. She sees this as an opportunity for growth, both personally and professionally, and she loves to give back to her community.

Council Member Harris said South Jordan is putting 50% of the money in to this, Herriman is not putting any money in; when making decisions, will Ms. Thomas be consulting with any of the staff or city council of Herriman on any of the things going on at the park.

Ms. Thomas said she doesn't see that. A lot of us wear different hats and we all know professionally when to take them off and put them on, this is no different than that. She does bring a unique regional viewpoint, and she has already met with city staff about how this park connects to Daybreak, Herriman Parks, Riverton Parks, etc.; how we can create a system between our cities that really promotes active transportation and lifestyle, including riding your bike from one park to another.

Council Member McGuire asked the appointees what makes a great park.

Mr. Johnson said a variety of interest for a large variety of people, it needs to service more than the soccer group, the BMX group, the swimming pool group; it needs to try to service as many people as it can with something this size and that's a challenge.

Ms. Thomas agreed with Mr. Johnson, but also added lifespan; we don't just want it to be a park for kids, we want it to be a park for everyone to enjoy. We want to bring in those elements of lifespan by looking at what would attract an 80 year old, but also attract a four year old to the same area.

Council Member Zander asked their views on pickle ball.

Ms. Thomas thinks it is a great sport for the lifespan, she is very supportive of pickle ball in the right areas. They are just putting in their first pickle ball courts in Herriman and they need to be conscientious of how they impact the surrounding neighborhoods. With this park's location there is a lot of space.

Mr. Johnson said the master plan design already has some marked in the far southwest corner, he believes 16 courts, modeled after Wardle Park and that is enough for tournament play.

Wendy Thomas loves that people are passionate about it and that it gets people out, it's a sport where kids can play with their grandparents and it's for everyone.

Council Member Zander said we just put courts in Highland Park and they are never empty; you have to go hours in advance and put your paddle in the fence and hope you might get to play. It is extremely important to her that they not only put the 16 courts in, but possibly consider more. In Daybreak, Highland Park, there are people coming regionally to that park to play. If we are putting a lot of money into this park as a city, back to Council Member Harris' point, she wants it to be focused on accommodating our city but also regionally as the county is bringing in money. We have made sacrifices financially in our city for this park, so she doesn't want anyone's priority to be West Jordan, Herriman or Riverton; she wants it to be South Jordan.

Ms. Thomas said pickle ball courts are actually a big "bang for your buck" in the park and recreation world, you get a lot of utilization out of those courts.

Council Member Don Shelton said the big problem with these pickle ball courts is that they are in Phase II, so it would be great if they could be bumped up.

Mr. Johnson said he is no longer a county employee, his interest for being on this was creating a park that is good for the next 100 years and the people that it serves. He doesn't want to be on a worthless board that he leaves feeling like it was a waste of time; he wants to provide value, be helpful, and he is very interested in being on this to promote that good.

Council Member Don Shelton asked Mr. Johnson, after 20 years on the board in Sugarhouse, what he felt the biggest problem was.

Mr. Johnson said Highland High School didn't have enough room for a baseball field, so they proposed to the park authority they build their Highland Baseball Field at Sugarhouse Park. For three years the council chambers were full as they went through the due process including how it would look, where it would go and the requirements that had to be put in place to locate it there and satisfy everyone filling the chambers; since then they have modified and the field is gone. However, that became a win for the park because they spent about a half a million dollars to improve the irrigation system, turf and parking, and created a nice baseball field that others could use when the season was over. To work through that process with the constituents was really tough, but in the end it worked out quite well.

Council Member Shelton said the board seemed to work together pretty well.

Mr. Johnson said the board had one representative from the county, one from the city, and initially there were five at large members; after a period of time that was moved to nine so there were seven civilians and two appointed people on the board. It is imperative that the board members are dedicated and have the best interests of the park at heart. Whether he is chosen or not, his comment to the council would be to have someone who is passionate and cares about the park and willing to put in the time.

Director Tingey said before Mr. Johnson retired they had the exact same conversation, discussing over those 20 years who the best board members were, what assets they brought; passion was a big point, along with not having a specific interest. It is one thing to have passion, it's another to have passion in a focused area; you don't want just a baseball, football or soccer person. Mr. Johnson discussed the good board members over the years with Director Tingey and what skill sets they brought with them, they tried to use that to help them create the current list of names.

Council Member Marlor asked the appointees about their time, if they are doing anything full time now or involved in anything else.

Mr. Johnson said he is currently unemployed, he has rental houses he is updating and grandkids getting more attention than they used to, he also enjoys working with wood. He has his own schedule now, as opposed to someone else's, and he has time to put in. This isn't going to be a 40 hour a week job, but he has enough time to dedicate to make sure it heads in the right direction.

Ms. Thomas said she has plenty of time, you make time for things you feel are important. As a public servant we do that, we put in the hours required to make sure the community is built the right way and things are done the right way. She has a full time job and a family, and it is a lot of juggling, but her kids are older and she is passionate about this.

Mayor Ramsey asked what their favorite part is about living in South Jordan.

Ms. Thomas said they moved here in 2001 she lives in Council Member Zander's District. When they moved here there The District wasn't there, there was nothing to the west; but to see the growth and diversity that has come into the city has been fun to watch. It's not always exciting for everyone, but its fun to see the progression over the years that we are seeing in the southwest corner of the valley. She loves living here because it's safe, her kids grew up here and she doesn't see them moving any time soon because she loves her street and neighbors...this is home. She loved her time working for the city, built great relationships here, and is just happy to serve.

Mr. Johnson said he likes the Jordan River Trail, he walks or rides his bike down there and can go 20 miles in either direction; the connectivity with other trails that spur off of that are what make it a pleasant and unique city. Bingham Creek should tie into the Jordan River in some fashion so this is a good connection. It is a pleasant place to live. He is retired and eventually he will move out of this metropolis, they have been empty nesters for five or six years now and they will move at some point, but not because they don't like it here; they would eventually like to move to something a little less crowded.

Mayor Ramsey said this is not something they are taking a vote on tonight, but they do need to let staff know if they want them to bring these names back for the next council meeting to pass by resolution. We have Angela McGuire, along with Wendy Thomas and Wayne Johnson with their years of experience and being residents. We have identified such talented residents who are passionate about parks but also have a variety of experience in a lot of different ways; all of that, on top of our professional staff. She believes that with Director Tingey working for the city and Mr. Jensen working for the county, Associate Director, Colby Hill who is a city employee along

with another county employee, to have the other three appointees be South Jordan residents is advantageous. She is personally very supportive of this list.

Council Member Marlor hopes, with this group of individuals, the chair will likely be a South Jordan Resident. He doesn't know if Director Tingey would be that person that is up to the board but he hopes that it is someone who is very passionate from the city.

Mayor Ramsey said the residents of South Jordan are also residents of the County, they bring regional perspective plus professional expertise. She really appreciates the efforts that have gone into this to find rounded individuals who can represent the interests of the city, the park authority, and the county at large with experience.

Council Member Shelton agrees with the mayor, that this is terrific work. He thanked everyone for their efforts, and Mr. Johnson and Ms. Thomas for being willing to serve.

Council Member Harris thanked Mr. Johnson and Ms. Thomas for coming in and being willing to represent South Jordan and the county.

E.2. Public Infrastructure Development (PID) process and policy. *(By Strategic Services Director, Don Tingey)*

Strategic Services Director Don Tingey reviewed prepared presentation (Attachment B).

Director Tingey explained there are a few reasons to pass an approved policy statement on Public Infrastructure Districts (PIDs), the main one being we can pre-empt any legislative action that might happen; there aren't many cities that have passed them, and even fewer cities that have actually implemented PIDs in the state and we want to make sure we are in control of the process. PIDs are similar to a Redevelopment Agency (RDA) or a Community Redevelopment Agency (CRA), however they are a taxing entity; they establish a mill levy and issue debt through that mill levy to create public infrastructure, also known as a unique enhancement.

Council Member Harris asked to clarify that they are not necessarily saying whether or not they are in favor of a PID just that by doing this it allows them to have control in the event that something comes forward.

Director Tingey said before a developer can request a PID, we need to have this policy statement so they know what the criteria is for a letter of intent. After a letter of intent there is a governance document; if the letter of intent says we can move forward then we can do a governance document after that, which includes stuff from the letter of intent plus a whole lot more.

Council Member Shelton asked if the legislature is proposing to force cities to do PIDs.

Mayor Ramsey said yes.

City Attorney Ryan Loose said that isn't the reason we are doing this, but we are trying to avail ourselves of the tool that the legislature has authorized if the situation is right. We have had a few developers come in and ask us if we have a policy, and then ask if we would consider it. This way, under the right circumstances, we can say we might consider one; this is a tool that we want to be able to control and do the right way, so we are making a policy by which we could. The legislature has received a lot of pressure from what's called the "Property Rights Coalition."

Right when Covid hit around March 2020 they sent an oddly worded letter to the League saying they know this is a hard time and in an effort to help everyone out, in the interim, they are happy to help the legislature pass a bill allowing them to do PIDs on their own without cities. This would have meant the legislature wouldn't force us to do it, but they would authorize this process to a land owner without any city approval; that met resistance, as expected and got shot down. After getting through that, the last session it came up a few times, but there wasn't a concerted effort. It is lying low right now, waiting for the right time when they think they can get it through. Again, they wouldn't force us to do it, but it would allow a land owner to do their own PID, regardless of the city's opinion, and they just overlay it. Right now, in Utah, to get a PID you have to work through the cities. There will always be a push to change this.

Mayor Ramsey said there are whisperings of legislation being worked on as we speak.

Attorney Loose said he doesn't know how strong this push will be, it depends on what else is going on and who wants to push it, the anecdotal story, etc. They would love to be able to use this tool more often; a lot of cities don't have the ability to do what we did with the assessment area bond created with Daybreak that was unique in that situation. Developers sometimes need the help to get all that infrastructure, it's very expensive.

Council Member Harris asked if, by going through this and having this policy statement, this would allow a developer to come in and say they've met the requirements we have outlined, and in turn have a stronger case for approval than they would otherwise.

Attorney Loose said it doesn't create an entitlement, even if they meet all the requirements; it certainly is signaling to everybody that, under the right circumstances, we will consider it and approve one under the right circumstances. This is why Director Tingey has made copies for everyone to look over, and Mr. Loose will send an email if anyone would prefer an electronic copy, and let him know if they don't have enough discretion. They just borrowed what Gilmore & Bell put out as the template and borrowed mainly from West Jordan, but also other cities to put this together. If they need to customize it to give more clarity or discretion, it can be added. He does think it creates an expectation that the city will enter into good faith negotiations and conversation with willing developers who come apply.

Director Tingey said it's really no different than a RDA or CRA; it's in our toolbox, we've told some yes and others no.

Attorney Loose said if the council will never consider them and just don't like them, why have the policy. By having the policy we are saying that under the right circumstances and good faith we will entertain questions.

Mayor Ramsey asked if "under the right circumstances" means under what we see as the right circumstances, or under what the developer believes are the right circumstances.

Attorney Loose said it is based on the city's decision making criteria, not the developer's. This is a purely legislative item, it cannot be used to guarantee the option in any way.

City Manager Gary Whatcott said it's like an RDA or CRA, we can still say no to those, just like we can say no to this.

Attorney Loose said they are playing with the discretion in the legislative realm, which is arbitrary, capricious or illegal. They are setting forth a policy of what they will consider, but it is still a legislative choice the council is making to bond and to allow this tax by nature.

Council Member Marlor asked if this initiates or accelerates because we passed the ordinance.

Attorney Loose said he can't answer that, developers are looking for every tool in the toolbox; several developers have already asked us about this and he doesn't believe this will slow down people asking us.

Manager Whatcott said if cities don't figure out how to do this, the legislature will tell them how to do it under their rules. This has been out there and nobody has really been embracing it. Developers have been coming to cities and asking about them, and everyone is saying they don't have one. That is what will get back to the state level that they put the tool out there but the cities aren't doing anything with it, they aren't even putting it in the toolbox. This is why we want to think about this now, how would we structure it, and that's why we're doing this in a work meeting; we want to work through it and see if it makes sense for us. We know there are areas coming forth in the future that this might really work for, some commercial areas and things of that nature. We probably wouldn't want it in place for a residential development, but those are things the council needs to think about while they're creating this. When we say "pre-emption of the legislature," we want to talk about what they could come back and do if we don't start working through some of these tools.

Attorney Loose said he hates to make decisions solely on reaction, or potential reaction, to what might happen legislatively because they are using anecdotes from all over. He does want to say, to Manager Whatcott's point, that if no city adopts the tool that was put in the toolbox and there is even a discussion, that certainly isn't a good place to be.

Council Member Marlor asked how many there are here in Utah.

Attorney Loose said most of our neighboring cities have adopted something including West Jordan, Herriman, possibly Sandy, Vineyard, Provo, Eagle Mountain, Payson, and even some down south. Provo's is very specific to one big commercial-type project, it was adopted to facilitate that.

Mayor Ramsey said she can see this being an opportunity, if we have a policy, to use the platform that our city finds itself with this year to try to encourage other cities to do this in an effort to pre-empt legislative direction.

Attorney Loose said when the legislature gets the right push they will push, they will just enable the property owners to do it themselves and remove us from the equation; as the letter stated, the legislature will say this helps us because now we don't have to tax our residents for that extra infrastructure, they'll do it for us and give us the cover since we didn't do it. This doesn't change anything for the residents, they still get the tax. As Manager Whatcott mentioned, where this could be a useful tool is really more on some of the commercial projects, rather than on the residential. We have to look at the application and what it entails, but there are many different ways this tool could be used. What he would like the council to consider is whether they want one more tool that they have discretion to exercise under the right circumstances, knowing that if

they put the tool in the toolbox they should always negotiate in good faith with the applicants that want it. This doesn't mean giving them what they want, we do this with RDAs and CRAs, negotiate in good faith; that doesn't mean we give them what they want every time. Does the council want to forego a tool that could be very useful, especially with some of the projects (some of which can't be talked about in an open meeting) that are coming or that people want to bring here. If we don't have that tool we can't offer it, we'd rather have that tool in place and ready to go rather than doing it project specific and spur of the moment; we can weigh three or four different tools for the situation. There are a lot of big projects that could potentially come to South Jordan, and for some of them this could be a useful tool.

Council Member Marlor asked how many cities actually provide a bonding opportunity for public infrastructure like we did with Daybreak.

Manager Whatcott said Laura Lewis has done many of them.

Director Tingey said the larger, more progressive cities do it all the time.

Attorney Loose said this is for unique opportunities. Many that he knows of aren't exactly like what we did with Daybreak, like the ones in Summit County, they are more high dollar value property things and sometimes for commercial. That big of a scale of a residential neighborhood is less common because you don't usually have just one developer and land owner like we did.

Director Tingey said repayment is more viable on commercial projects than residential, like the assessment bond that we are years ahead of in repayment because we are collecting a residential assessment every time a building permit is pulled.

Manager Whatcott believes it only worked here because of the size.

Attorney Loose said it also worked because of the deals we made.

Council Member Marlor said that is the alternative to what we are talking about here in many ways.

Manager Whatcott said that clearly puts it in our books though, and that's sometimes why you might not want to use an assessment area bonding based on where you're at; a PID might be a better tool.

Council Member Marlor said as long as your coverage ratio is okay, you still end up with the public infrastructure in the end and you're covered. In the future, as a council, if you evaluate one of these PIDs and you offered an alternative and had a coverage ratio that we felt comfortable with, would that be as good or a better alternative to a PID.

Attorney Loose gave the example of a discussion he had with a rather large land owner, you have the land owner and a developer with an option to buy the land and take it down in phases. That developer cannot generally obligate the land through an assessment area like we did because they don't own it, they own the options on it; they have to do it as they go because it's such a large piece, they literally couldn't do the assessment we did because they don't own it outright, or they own it but already have a loan to a bank. This may be the only route available to them based on

their circumstance, this is just another tool. These are questions that could certainly be asked, if you could look at other tools.

Manager Whatcott said by no means are we compelled, but it's nice to have all the opportunities if you need them.

Council Member Marlor said that unfortunately, the stories Mr. Loose sent to them are atrocious.

Attorney Loose said those were situations with no city in the middle, the developers were left to impose their own PIDs; if Utah ever gets to that point it will be over the objection of the cities, and it will be out of their hands at that point. As of right now it's a tool we do have control over, and the council would be the ones making the adjustments if needed during the life of the PID, so those situations wouldn't happen.

Council Member Marlor asked if this legislation is similar to nearby cities they've looked at. It doesn't need to be identical, but he wonders if it looks to the legislature that we have enough mass with the same type of legislation in place, they won't try and come in and pre-empt that.

Director Tingey said the form template is based on a template from Gilmore & Bell, who is the bond counsel that drafted the legislation. The cities around us massaged the policy to fit the project they are working on, or to try to get something in place for potential projects.

Council Member Marlor said he doesn't like these at all, but his alternative is whether he likes it better than the legislature and what they will do.

Mayor Ramsey said they would just take cities out of it, then developers could just impose their own.

Attorney Loose said just because we and other cities do this, it doesn't mean they won't still step in and do it. He doesn't want to give false expectations that this will stop those who are pushing for this tool to be outside the reach of cities, but while we have that option we may as well have it in the tool kit at our discretion. It does help us legislatively if they start saying they created the option and no one is using it, we can say we have it and are ready for the right thing.

Manager Whatcott said he thinks it is good if we do want the tool, that everyone can read it and understand what our criteria is if they want to use it; it's not the other way, that we're feeling compelled to meet somebody else's expectation to make it work, we get to set the parameters and if they meet them it might be something we look at.

Attorney Loose said if we have a project we really like, and then we write it, then we are writing to their project rather than a standard they come in and apply for.

Council Member Zander asked to clarify they took the framework for this from West Jordan.

Attorney Loose said the template came from Gilmore & Bell, but he turned to West Jordan quite a bit in the drafting.

Council Member Zander asked what in ours is different and specific to us.

Attorney Loose said all of them are very similar, and that's a reason why they wanted to bring the council a preliminary draft, to get their input. He said Mr. Tingey will remember they used to

have a “first reading calendar” and the purpose of that was so the council could weigh in. They no longer use that, but are essentially treating this the same way; this is such a big issue they want it to be read and marked up, picked apart. The main things he did were technical changes. The policy Gilmore & Bell laid out meets the statute clearly, gives discretion to the cities and as the entity creating the district it all lies with the city so it meets the basic protection stuff there. He cleaned it up, it said things like “put an executive here” but he made sure that we had the mayor, council, and city manager’s office doing the right functions so the right things are hitting the right people; the application is going to staff, not to the mayor and council. Other than that, it is the stock policy because he knew they would be going through it.

Director Tingey said that as staff, when they first saw PIDs, they were opposed to them as well especially on the residential side as they didn’t see the benefit of it. However, they are an additional tool in the toolbox.

City Commerce Director Brian Preece asked if they start saying no to residential, which they know is what is driving the legislature, is this going to be looked at the same way as the zoning.

Attorney Loose said the developers are going to push this, even the ones that are friends that we work well with; Ivory Homes is a big fan of PIDs, and they are going to be because it’s in their best interest running a business, as are we. The difference is that ours is the public business of a city, and we have to lobby for what’s in our best interest. If they do a push with their stories, we bring ours and sometimes we are very effective at killing things. He thinks for our economic development and our city, solely based on what the legislature may or may not do in the next few years, if we think this can help us possibly do some of the projects that may be coming here we should have the tool.

Director Preece said he still wonders about the future effects.

Attorney Loose said we should do what’s right for us, then we lobby and argue.

Director Tingey said West Jordan had a residential neighborhood that was looking to one of these, it was looking to put some trails and open space amenities in; in their policy statement they have the residential but only up to four mills, where statutorily they went to the full max on a commercial mill levy which is 15. They looked at a specific project there that was being proposed and the four mills generated enough money to pay for the excess unique enhancements of the trails and open space that the PIDs were going to pay. We don’t have a specific project in front of us, West Jordan had a couple projects in front of them while they were making it so they were preparing their policy statement while a letter of intent was to the side.

Council Member Marlor asked if that PID application in West Jordan moved forward.

Attorney Loose said he wasn’t sure, the only PID he is aware of that went all the way through was the Provo one; there is also one in Vineyard that is still in the works. He also looked at Provo’s policy and saw a few things we might want to look at. He wanted to get this in front of the mayor and council so they could look at it and talk through it. He is aware that our controls we have right now are different than those in Denver; this may be the right tool for us, it may not, but he wants everyone to take a look at it and send comments. He will start a group email for it and he is happy to answer questions.

Manager Whatcott said they are not trying to shove it down the council's throat at all.

Council Member Zander asked if he feels this is going to protect us from the legislature.

Council Member Shelton said this will at least give us a level of control for a period of time, as long as possible.

Mayor Ramsey said this is something we can use from a legal perspective to say we are trying. Our city is being looked at with everything we do, and this is something that can be used as leverage to try to push back as long as possible.

Manager Whatcott said he thinks that's more of what we are getting out of it, a little bit of goodwill and/or credibility; we are trying to be active in the development community in finding ways and tools to help move things through the process.

Council Member Zander said this in no way says "the door is open."

Manager Whatcott said we're all in the same boat, no one wants to add more tax and that's what this is, a tool to tax people. Our situation is different than Colorado, at least at the time it was written, as we have some say in things where they had no say there. The developer could borrow against their own PID in that state, whereas that's not allowed here.

Attorney Loose said they can buy the bonds they sell.

Manager Whatcott said at least here it is structured differently from the onset from the legislature.

Council Member Marlor said he hopes the League takes a look at this and says the way to preempt this is to negotiate with the legislature and just require all the cities to have the PIDs in place, as opposed to going around us and saying it's not being done so they let the land owners decide. We may need to express to the League that if we don't do this, and we allow this, they will go around it.

Manager Whatcott said we also want to be a competitive player. If you have all the surrounding cities offering other tools that we don't, it could take us out of the game. We may not want to do it in the end, but we at least have that option, rather than not even being considered because we don't have them at all.

Mayor Ramsey said we don't want to be the city the legislature uses as the bad example.

Director Tingey said part of the process is doing a full financial pro forma, so we understand in numbers what the benefit is financially and for public benefit; the city is getting something beyond just the public infrastructure that could have been obtained from an SAA.

Council Member Marlor thinks many will think we're wrong, because if we don't allow it we will have to raise property taxes eventually and everybody gets hit by a property tax, as opposed to just the people in the PID getting the benefit of that infrastructure. That is the only positive thing he has gleaned from this discussion.

Attorney Loose said that is essentially what the assessment area did. He would not make any decisions on this solely based on what may or may not happen at the legislature, that is too

volatile of a group and we don't know what's going to happen because so many things change. The council needs to decide if they want a potential tool for all the reasons Manager Whatcott stated, and then consider at least the legislature won't use us as a bad example.

Mayor Ramsey asked when Mr. Loose would like final feedback.

Manager Whatcott said there is no rush, this can be put back in as a work meeting item in the back part of September to give us enough time to give comments and reassemble it before bringing it back to decide if we want to do it or not.

Director Preece said if they don't pass it they will have some scrutiny, but if we pass it with the intent of never passing one we're in trouble too.

Council Member McGuire motioned to adjourn the meeting. Council Member Zander seconded the motion, vote was unanimous in favor.

ADJOURNMENT

The August 17, 2021 City Council electronic study meeting adjourned at 6:29 p.m.

This is a true and correct copy of the August 17, 2021 City Council Study Meeting Minutes, which were approved on September 7, 2021.

Anna Crookston

South Jordan City Recorder

Bingham Creek Park Authority

Proposed Initial Governing Board Members

Board shall consist of **seven (7)** people *mutually agreed* upon by both Members.

One (1) of the appointments shall be a *merit employee from the County's Division of Parks and Recreation* and **one (1)** of the appointments of the City must be a *merit employee from the City Department of Parks and Recreation*

*Interlocal Cooperation Agreement (2020)
Section 6(a)*

1 Don Tingey
South Jordan

2 Martin Jensen
Salt Lake County

3 Angela McGuire
South Jordan Resident

4 Wendy Thomas
South Jordan Resident

5 Wayne Johnson
South Jordan Resident

6 Colby Hill
South Jordan merit employee

Patrick Leary
Salt Lake County merit employee 7



Establishing Public Infrastructure Districts

Policy Statement

Policy Statement

Definitions

Process & Fees

Decision Making Criteria

Governing Document
Requirements

Submittal Instructions

- **Five (5) Sections of Policy Statement:**

- Definitions
- Process for applying, including fees charged
- The City's decision-making criteria
- Governing Document requirements
- Submittal Instructions

Definitions

Public Infrastructure District

Public Infrastructure

Publicly-dedicated Amenities

Unique Enhancements

- **Public Infrastructure District (“PID”)**
 - Separate taxing entity (SB228, 2019 General Session)
 - Financing tool for development or redevelopment of certain areas of the City as approved by the City Council
- **Public Infrastructure**
 - Basic structures and facilities required for the development based on the zone and demand as determined by the City (ie. streets and utility systems).
- **Publicly-dedicated Amenities**
 - Features or facilities of a development which are not considered Public Infrastructure and are accepted as dedicated to the City upon completion
 - Open space, improved parks, trails, signage and street furniture
- **Unique Enhancements**
 - The difference between the cost of the zone’s required Publicly-dedicated Amenities and the City’s determined value of a developer’s additional obligated publicly-dedicated amenities.
 - Must benefit both the District and the City as a whole

Process & Fees

Size, location, area context,
development history and proposed
development

Summary of Public Infrastructure and
Publicly-dedicated Amenities

Proposed Timeline

Petition

Conflict of Interest

Engagement Letters

- **Letter of Intent to form a Public Infrastructure District (PID)**
 - Description of the District Area
 - Size, location, area context, development history and proposed development
 - Summary of Public Infrastructure and Publicly-dedicated Amenities
 - Proposed timeline for District creation
 - Acknowledgement that a petition must be signed prior to the hearing date for the governing document
 - by all property owners and registered voters
 - approving the creation of the proposed District
 - Consenting to the issuance of debt in an amount sufficient for the proposed plan of financing
 - Disclosure of any conflict of interest
 - Copies of signed engagement letters between the applicant and applicable consultants and legal counsel

Process & Fees (continued)

District Advisory Committee

Planning, Engineering, Public Works, Legal,
and Budget & Finance

Review Letter of Intent

Review Process

- District Advisory Committee (“DAC”) is a Creating Entity committee that advises the Mayor, Creating Entity Council and other policy-makers about district issues. The DAC may include representatives of:
 - Planning, Engineering, Public Works, Legal, and Budget & Finance
 - Other agencies as needed
- The DAC reviews the letter of intent utilizing these criteria to determine whether or not to direct the applicant to proceed with preparation of a draft Governing Document for submittal
 - Conceptual approval DOES NOT assure approval of the governing document.

Process & Fees (continued)

Submit Draft

DAC Review

Forward to City Council

Governing Document

- Submit draft Governing Document to the City
- DAC reviews draft Governing Document for compliance with the criteria and requirements contained herein.
- Final Governing Document forwarded to City Council for action through the standard City's statutory process

Process & Fees (continued)

Letter of Intent Review Fee

Governing Document Review Fee

Other Expenses, as necessary

Fees

- Letter of Intent Review Fee
- Governing Document Review Fee
- Other Expenses:
 - Fund an escrow account for the payment of all consultant, legal and other reasonable fees and expenses incurred in the review process

The City's decision-making criteria

Public Benefit

Evaluation Criteria

Evaluation of Applicant

- **Public Benefit**
 - Public benefit – “Unique Enhancements”
 - Conformance with City’s policy goals
 - Contribution to regional and sub-regional infrastructure
 - Sustainable design
 - Mixed-use development components
 - High quality site and building design
- **Evaluation Criteria**
 - Districts should not include land that is already included within boundaries of another PID
 - Tax levy justification
 - Residential (up to 4 mills)
 - Commercial (up to 15 mills)
 - Debt term (30 years maximum)
 - Issuance of debt must NOT be in excess of value of unique enhancements
 - Demonstrated public benefit directly resulting from the creation of the District
- **Evaluation of Applicant**
 - Historical performance of the Applicant
 - Finance plan of the District
 - Development Plans of the District to the master plans of the City
 - Regional or overall benefits to the City
 - Credit worthiness of Applicant

Governing Document requirements

District Description

Requirements & Expectations

- **District Description**
 - Letter of Intent information, revised as necessary
 - Estimated construction costs of infrastructure
 - Phasing of construction
 - Financial plan
 - Proforma financial overview
 - Proposed financing examples
 - Anticipated mill levies required to meet debt
 - Analysis of proposed mill levies
 - Comparison of mill levies
 - Proposed operating budgets (3 years)
 - Other forms of public financing and assistance
 - Ownership and Maintenance
 - Inclusions/Exclusions
 - Proposed governance plan, including transition from appointed to elected Board
- **Requirements and Expectations**
 - Ownership of improvements
 - Debt service pledge with tax shall meet all applicable statutes
 - Conveyance of land, easements or improvements
 - Meet design standards of public entity
 - Creating Entity zoning, codes and standards
 - Pay all fees and expenses
 - May not double tax any end user for the cost of improvement
 - Utilize City's bond and disclosure counsel with District bonds

Governing Document Requirements

Notice to the County Recorder

Annual Notice to Property Owner

Annual Report to City

Notice of significant changes

- **Disclosure and Reporting Requirements**
 - **Notice to County Recorder – within 30 days of District formation**
 - Description of boundary
 - Governing Document
 - Finance and repay infrastructure and other improvements through levy of property tax
 - Maximum rate
 - Debt may convert to general obligation debt
 - **Annually notify property owners of existence of the District and next scheduled meeting of the Board of the District**
 - **Annually provide to the City Manager’s Office**
 - Budget
 - Audited financial statements
 - Names and terms of Board Members and progress toward milestones
 - Rules and regulations of District
 - List of current interlocal agreements
 - Official statements of current outstanding bonded indebtedness
 - Current approved Governing Document
 - District Office contact information
 - **Significant changes to the Governing Document**
 - Exclusions or inclusion of property
 - Change in maximum mill levy
 - Consolidation with any other district
 - Change in dissolution date

Submittal Instructions

Annual Financial Information

All Other Documents

Further Information

- **Submittal Instructions**

- Annual Financial Information
- All Other Documents
- Further Information