

Minutes of the regular meeting of the City Council held April 19, 1995 at 6:30 p.m. in the Council Chambers of the City Hall, Bountiful, Utah.

Present:	Mayor:	John Cushing
	Council Members:	Samuel Fowler, Barbara Holt, William Moore(AR 6:55p.m.), Harold Shafter and Ann Wilcox
	City Manager:	Tom Hardy
	City Attorney:	Russell Mahan
	City Engineer:	Jack Balling
	City Recorder:	Arden Jenson
	Asst. City Treasurer:	Lorna Hartvigsen
	Planning/RDA Director:	Blaine Gehring
	Department Heads:	Neal Jenkins/Parks & Rec.
	Recording Secretary:	Nancy Lawrence

Official Notice of this meeting had been given by posting a written notice of same and an Agenda at the City Hall and providing copies to the following newspapers of general circulation: Davis County Clipper, Deseret News, and Salt Lake Tribune.

Mayor Cushing called the meeting to order, following which Councilman Shafter led the pledge of allegiance to the flag. The invocation was offered by Mr. Jenson.

Minutes of the regular meeting of the City Council held April 12, 1995 were' presented and unanimously approved as written on a motion made by Councilman Fowler and seconded by Councilman Shafter.

EXPENDITURES AND EXPENSES APPROVED FOR PERIOD APRIL 1-13,1995

Mr. Jenson presented the Expenditure and Expense Report for the Period April 1-13, 1995 in the amount of \$236,686.33 and responded to questions from the council. The expenditures were unanimously approved as presented on a motion made by Councilwoman Wilcox and seconded by Councilwoman Holt.

ORDER TO SHOW CAUSE APPROVED RE: BEER LICENSE OF RAINBO OIL

Mr. Mahan requested that an Order to Show Cause be issued and Notice of Hearing on the beer license of Rainbo Oil be scheduled for May 24, 1995 at 7:00 p.m. Councilwoman Holt made a motion to this effect, Councilman Shafter seconded the motion and voting was unanimous.

B & C ELECTRONICS AWARDED BID FOR UPDATE OF SOUND SYSTEM - RECREATION CENTER

Mr. Jenkins reported that bids were received from five vendors to replace the sound system at the Recreation Center and it is staff recommendation that the second low bid from B & C Electronics in the amount of \$16,510.00 be accepted. He stated that this is a local company who has provided the Recreation Center with quality service for the past 15 years.

(The low bid was in the amount of \$16,354.00). The budgeted amount for this project was \$7,000.00. When the budget was prepared, only a portion of the sound system was targeted for replacement. However, it has been determined that the speakers and wiring throughout the entire building should be replaced. The difference between budget and this bid will be made up by not doing two smaller projects this year, thus bringing this project within budget.

Councilman Fowler motioned to approve the recommendation of the Parks and Recreation Committee and award the bid to B & C Electronics in the amount of \$16,510.00. Councilwoman Wilcox seconded the motion. Councilman Shafter asked if there were any legal problems from not taking the low bid and Mr. Mahan stated "No, that this item is a price quotation for services". The motion carried unanimously.

WORK SESSION TO REVIEW SITE PLAN ALTERNATIVES FOR PUBLIC SAFETY BUILDING

The meeting adjourned to the Planning Conference Room at this time and Mr. Hardy reviewed the background of what has been done thus far regarding the construction of a new Public Safety building. He reviewed three alternative site plans prepared by the architect and noted that none of the plans provided the right combination of a desirable parking and traffic pattern for the Police Department, as well as a proper focus on the existing City Hall building. Therefore, the staff has prepared a site plan which incorporates a piece of private property contiguous to the southeast corner of the soccer field (presently used as a garden) and access via the private property directly south of the existing police/courts building. He reviewed the site plan, noting the following positive features:

1. The police would have a simple, quick access to Main Street;
2. The public entrance would be convenient--whether using the court or the police services;
3. The road pattern would provide a major focus on the existing city hall, and existing landscaping could be incorporated;
4. Existing parking could be kept intact.

He reviewed two possible accesses to Main Street (either a joint access or an exchange of property) and noted that this would have to be worked out with the owner of the office building.

One of the major concerns with the plans submitted by the architects was that the police portion of the building was in a secondary position and it was felt by the Committee that an expenditure as substantial as this project is should provide a proper posture for the police. In addition to studying the site plan, Chief Rapp and his staff have offered several suggestions regarding the inside design of the building. The suggested changes would make the building more user friendly and provide for better efficiency within the police department. It was the consensus of the group that the staff proceed with the plan as presented this evening, that the private property owners be contacted and, depending on the outcome of those contacts, that a more refined site plan and floor plan be prepared. The work session concluded at 7:26 p.m. and the meeting reconvened in the Council Chambers.

PUBLIC HEARING TO CONSIDER REZONE REQUEST FOR PROPERTY AT 2280 SOUTH ORCHARD DRIVE-KENT WINEGAR, APPLICANT

At 7:30 p.m. Mayor Cushing introduced the request of Kent Winegar to rezone the property at 2280 South Orchard Drive from R-1-6.5 to C-G. Mr. Winegar is desirous of constructing a new grocery store at this site. The Mayor acknowledged the large number of citizens in attendance (standing room only) and requested that the presentations be made and received courteously and encouraged groups to be represented by selected spokespersons. Mr. Gehring reviewed that the property in question is owned by the Calders and Boultons and necessary agreements have been made by Mr. Winegar for purchase of the property. The Calders and Boultons have signed the rezoning petition and are in agreement with the proposed change. He then reviewed the intended use of this property as reflected in the Master Plan and the recent changes to the ordinance regarding this particular area of the city. The ordinance provides very detailed guidelines at the site plan approval phase and he reviewed those items that can and cannot be regulated by the city.

Mr. Gehring also addressed the concern of how the proposed development would impact the area and he stated that a grocery store would provide the need for an anchor which has been missing for the past few years and would help bring back economic vitality to the area, improve overall commercial property values, and bring in new businesses. He then presented the following findings:

1. The zone change is in compliance with the Bountiful City Comprehensive Plan and represents a compatible use in the area.
2. Based on the findings of the private traffic engineer's study, as confirmed by our City Engineer, traffic in this area can be sufficiently handled on existing streets without problems.
3. One of the reasons the previous proposal was denied was because of the uncertainty surrounding the future of the land directly west of the proposed store. This has not been resolved with the development of Franklin Farms subdivision. The

property directly adjacent to this site will be developed as single family homes with the buyers of those lots fully aware of what will be going in next to them.

4. Utilities in this area are sufficient to handle all service to and from the site.

5. We have been assured by the Fire Department that through adequate site planning and compliance with the Fire and Building Codes, fire safety is not an issue for this site.

Based on these findings, Mr. Gehring reported that it is the recommendation of staff and the Planning Commission that this request receive a favorable approval.

Kent Winegar, developer, expressed appreciation for the opportunity to work together with Ronn Marshall, developer of the contiguous residential property and commercial development. He thanked those who have demonstrated their support for a Dick's Market at this location and noted that market studies indicate that the store would be very successful. He noted that they have studied the issues at length and are committed to being a good neighbor if permitted to go ahead with this project. Reed Larsen, store development department for Associated Food Stores, then spoke on the market strengths for the proposed store. Peter Wiscombe, current Dick's Market manager, verified that the shopper list which had been compiled at the Centerville Dick's Market is accurate and represents *households, not individuals*. He noted that the addresses were verified and names were eliminated from the list of customers if a duplicate address was found.

Steve Meier, design consultant for the new store, reviewed the traffic study which was done in the area. He displayed a map which showed the current traffic patterns and those predicted after development of the property. Although some traffic patterns would change, he pointed out that the residents of the general area already shop for groceries and pass through the existing neighborhood. The proposed market would result in re-routing of existing traffic. However, the capacity analysis indicated that all of the streets involved would be well within their planned limits. He stated that regardless of how the subject property is developed, there is a need for a sidewalk on at least one side of 2200 South street and Mr. Winegar is willing to participate in construction of that sidewalk.

Ronn Marshall, developer of the contiguous property, stated that he felt the grocery market will provide a good neighbor for the contiguous residential development. This project will also provide for the area to be cleaned up and provide a better look for the existing businesses of Fla's and Domino's Pizza.

Councilwoman Holt asked Mr. Winegar to address the issue of what the site plan buffer would be and whether or not there would be a fence. Mr. Winegar said that an 8-ft. high fence is planned (and Mr. Gehring noted that ordinance restricts to 6-ft.) with a 10-ft. landscape berm between the fence and the commercially developed property. Mr. Marshall noted that the homes in the proposed subdivision will range from \$200,000 to \$500,000.

Dan Jones and Pat Jones (Dan Jones and Associates, pollsters) reported on the market study which was done citing the favor/disfavor of citizens within 1/2 mile radius of the proposed store. The questions reflected a majority in favor of the store being located as proposed by Mr. Winegar, with statistics ranging from 57% for and 32% against, to 61/31 and 60/20.

Leslie Merrill, 2347 South Orchard Drive, spoke in opposition to the zone change and she introduced other opponents John Wainwright, Gerry Jordan, Frank Redondo, Milt East, Tom Mabey, and Ken Shepherd. These citizens were chosen to represent the opposition group. She stressed that the zoning ordinance should be the document used to decide this issue, not the Master Plan. She stressed that the Master Plan is just that--a suggested plan--and does not need to be followed precisely. She also noted that the issue at hand is a re-zone request, not a site plan approval and thought needs to be given to the use of this property in later years if Dick's Market turns out not to be there.

John Wainwright, owner of the lot and home under construction east of the subject property, stated three main points of opposition: (1) there is no compelling reason to change the zone; (2) other grocery stores are very accessible to this neighborhood and their market will be diluted by the addition of another competitor; (3) the commercial use is not

compatible with the contiguous residential community and will bring debris, litter, etc.

Gerry Jordan, 2186 Penman Lane, expressed concern regarding the increase in traffic and the safety issues involved. He noted also that the security lights necessary during the night would have a negative impact on neighboring residences. These issues would cause a negative impact on the property values.

Frank Redondo, 2417 South Orchard, referred to the May 1994 City newsletter and the emphasis that the Mayor and Council had put on Bountiful as a beautiful place to live. He stated that the focus of this matter is not in keeping the residential area beautiful, but supporting a commercial developer.

Milt East read a letter from Tom Mabey which stressed the following points of opposition to the rezone request: (1) the City has many areas zoned for commercial use which are not prospering--a focus should be on supporting the current commercial area; (2) The proposed increase in new taxes will be 25 percent--a relatively small tax base increase compared with the negative impact on the neighborhood; (3) the possibility of diluting the market of existing grocery stores to their failure; (4) the possibility of the property being used for something other than a grocery store in the future; and (5) the Dan Jones survey focused on the shopping pattern for grocery stores; this issue is one of zoning.

Ken Shepherd, counsel for the opposition, summarized the concerns stated by the citizens. He emphasized that the Council should not be favoring a developer at the expense of the residents and he challenged the *need* for another grocery store in the area.

Representing 5-Points Mall management, questioned the ability of Food-4-Less to be successful if another store is approved in the market area and he requested that the Council deny the zoning petition. The use of Dick's Market using the anchor space at the mall was discussed; however, Mr. Wickham stated that Flemings lease does not expire for 3 1/2 years and he does not know what their intent will be at that time.

Someone spoke in opposition to the request, with their general concerns being traffic, loss of property value, and the possibility that the new Dick's Market might fail and leave unoccupied commercial space which has a tendency toward problems.

Mayor Cushing closed the public hearing portion of the meeting and stated that, although he does not vote, he does not vote, he would give a positive recommendation to this request based on the expertise of staff and the Planning Commission. Councilwoman Holt noted that both sides of this issue have been represented well. After studying issue of concern, i.e, traffic impact, fire safety, impact on other stores, growth, and immediate neighborhood vs general well being of community, she motioned for approval of Ordinance No. 95-9, entitled AN ORDINANCE AMENDING SECTION 14-2-102 OF THE BOUNTIFUL CITY CODE BY AMENDING THE OFFICIAL ZONING MAP OF BOUNTIFUL, UTAH TO RE-ZONE PROPERTY LOCATED AT APPROXIMATELY 2280 SOUTH ORCHARD DRIVE FROM R-1-6.5 TO C-G. Councilman Moore expressed appreciation to the citizenry for their involvement on this and to the staff for their research and documentation. After carefully analyzing the request, he stated that he felt approval of the request would benefit the community as a whole and he seconded the motion.

Councilwoman Wilcox expressed empathy with the citizens in attendance who were opposed to this request, citing numerous incidences when areas contiguous to her home were changed. She said that her vote this evening is based on three major points: (1) a recognition that growth brings change, (2) the responsibility to represent the entire community, not just a segment of the citizenry; and (3) support of the Master Plan as a general tool in guiding the growth and development of the City. Councilman Fowler indicated that he would vote in opposition to the request based on the intense opposition of the property owners who live in the immediate neighborhood. Councilman Shafter said he was opposed to the rezone because there is no guarantee of what commercial uses will be permitted in the future and others might be more negative than a grocery store. He also questioned the impact of a new store in the southern part of the city and stated that approval of this request will be a major mistake on the part of the Council. Mayor Cushing called for the vote and the rezone request was approved by a 3/2 vote with Councilmen Shafter and Fowler voting nay.

The meeting adjourned at 11:33 p.m.