

**SANTA CLARA CITY COUNCIL MEETING
WEDNESDAY, SEPTEMBER 26, 2007**

THE CITY COUNCIL FOR THE CITY OF SANTA CLARA, WASHINGTON COUNTY, UTAH, met for a regular meeting on Wednesday, September 26, 2007 at 6 p.m. in the J. Ballard Hafen Chamber of the City Office Building at 2721 Santa Clara Drive, Santa Clara, Utah.

Present: Mayor: Rick Rosenberg
Council Members: Mary Jo Hafen, Bruce Anderson, Matt Ence,
Herb Basso. Jerry Amundsen.
City Manager: Matthew Brower
Recorder: Barbara Salmon

Others Present: Jack Taylor, Public Services Director; Robert Hansen, Public Safety Director; Wally Ritchie, Finance Officer, Russ Gallian, City Attorney; Corey Bundy, Building Official; John Willie, City Planner; Todd Edwards, City Engineer; Angie Edwards, Carson Edwards; Kathleen Nielson; Jason Smith; Max Palfreyman; Keith Gubler; Bart Smith; Mel Taylor; Joyce Taylor; Heather Ovard; Clark Ence; Tom Gubler; Dale Gubler; Morgan Smith; Cami Leavitt; Clayton Leavitt; Merrilee Hafen; JR Hafen; Stan Plewe, Dixie College; Elwood Graf; Darrell Stucki; Wilford Hafen.

1. **Call to Order:** Mayor Rosenberg called the meeting to order at 6:00 p.m.
2. **Opening Ceremony:** Jerry Amundsen led the Pledge of Allegiance and then offered an invocation.
3. **Communications & Appearances:**
 - A. General Citizen Communications
 1. Stan Plewe, Dixie State College:
 - The Board of Trustees recommended affiliating with another institution to increase opportunities for students. (see attached information sheets)
 - A Resolution was adopted to approach the University of Utah (U of U)
 - This will not be a merger; the college will retain its identity
 - Pres. Young (U of U) expressed excitement with the idea
 - Both institutions would benefit
 - Question about the name, may involve some change
 - Resolution will go to the U of U on October 1 and a response will be made October 8.

2. Max Palfreyman – Law enforcement in Santa Clara
- 3 new officers – will the city now get some Code enforcement? – plantings blocking sidewalks; speeding, especially on Canyon View Drive; illegal parking; skateboard jumps & basketball standards on sidewalks - pedestrians forced into the street; dogs not on leashes. He and his wife walk every morning and rarely see a police car.
 - How does the public contact police after hours?
(634-5430 is non-emergency number at any time)
Wondered if this could be put in the Newsletter

B. Overview of Streetscape Ribbon Cutting and Open House Scheduled for October 19 and 20, 2007: Kathleen Nielson (schedule attached)

- Informed the council of the plans for the Streetscape Open House event on October 19.
- Showed sample invitation (attached)
- Mayor Rosenberg thanked her for her work on this and also for her work on Swiss Days.

4. **Working Agenda:**

A. **Public Hearing:**

6:25 p.m. -Public Hearing to Receive Public Input on the Utah Associated Municipal Power Systems (“UAMPS”) Integrated Resource Plan (“IRP”).

Jack Taylor explained that every city involved with Utah Associated Municipal Power Systems (UAMPS) must get public comment on an Integrated Resource Plan every 2 years.

This plan is a guide to reduce the carbon (CO) levels going into the atmosphere. Santa Clara has increased the size of the wire to reduce loss and uses improved transformers.

6:29 p.m. Opened to the public

No comments

6:30 p.m. Hearing Closed

Mayor Rosenberg asked Jack to present his UAMPS report at this time.

UAMPS Report:

- Jack reviewed for the public what UAMPS was, how it works and Santa Clara’s part in it.
- Looking at ways to encourage the public participation in CO reduction.

- Hunter Project: shut down temporarily – but did not affect Santa Clara
- IPP #3 – LA has an agreement to present – hope to work out the problems without a lawsuit.
- If coal power goes away, power costs go up
- Nuclear power is a future possibility – 2 sites already proposed in Utah
- Payson Project – saved \$500,000 last month against the market
 - Paige is getting out of the project – their capacity is for sale – Santa Clara is proposing to buy it – will come to council later
- City's generators have run regularly the last 3 months and saved \$60,000 against the market

B. General Business:

1. Consider Approval of New City Hall Marquee Sign: Kathleen Nielson, Heritage & Parks Commission Chairwoman
 - The Heritage & Parks Committee presented 2 choices: One said Santa Clara Town Hall; the other Santa Clara City – City Hall. Their preference was Town Hall, denoting a friendlier, hometown feeling, as the building will be more than a “city hall”.
 - Matt Ence commented that “City” and ‘Town” do have statutory meaning, but this sign is just to name the building not the government. Consensus of council was to use the “Town Hall” sign.

2. Resolution 2007-16R: A Resolution Requesting Recertification of the City of Santa Clara Municipal Justice Court.
 - Barbara Salmon explained that the court must be re-certified every four years. This process looks at the city's ability to provide the facilities, staff and financing for the court. Santa Clara qualifies as a Class 4 court because of the number of citations issued per month. This dictates the frequency court must be held, the staffing, etc. and The city must agree to provide what is necessary. An opinion letter from the city attorney and the proposed resolution from the council will Be sent to the Administrative Office of the Courts for their review and determination of recertification.

******Motion to adopt Resolution 2007-29 (Copy attached) Requesting Recertification of the City of Santa Clara Municipal Justice Court.**

Motion by Herb Basso, seconded by Mary Jo Hafen.

Voting Aye: Jerry Amundsen, Herb Basso, Mary Jo Hafen, Bruce Anderson and Matt Ence.

Voting Nay: None

Motion Carried.

3. Consider Approval of Road Dedication Plat for Sun Ridge Subdivision Main Access Road.

Russ Gallian: This item was tabled from the last meeting pending resolution of some owner issues.

- Met and issues were resolved – Gubler family wanted assurance from city of amount of future development costs – city could not bind a future council – Gublers agreed to give easement for an 8-foot trail on one side of the road if no sidewalk would be required on the other – city agreed as topography is not good for a sidewalk there anyway – city can make such a commitment as a valuable concession was given in exchange – the agreement needs to run with the land and be recorded with the County Recorder - need to add easement to allow cleaning and maintenance of that slope.
- Recommended approving the agreement and the road dedication plat.
- Some name and spelling errors on the plat need correcting.

******Motion to approve the agreement with the Gubler Family as outlined by the City Attorney and also approve the Sun Ridge Road Dedication plat subject to the required spelling and name changes.**

Motion by Herb Basso; seconded by Jerry Amundsen.

Voting Aye: Jerry Amundsen, Herb Basso, Mary Jo Hafen, Bruce Anderson and Matt Ence.

Voting Nay: None

Motion Carried.

4. Consider Approval of Phase I Final Plat for Sun Ridge Subdivision.

This item was also tabled from the last meeting subject to issues with the road dedication plat being resolved.

******Motion to give Final approval to the Sun Ridge Phase 1 Subdivision.**

Motion by Matt Ence; seconded by Bruce Anderson.

Voting Aye: Matt Ence, Bruce Anderson, Mary Jo Hafen, Herb Basso and Jerry Amundsen.

Voting Nay: None

Motion Carried.

5. Consider Award of Bid for Purchase of Replacement Street Sweeper.

Jack Taylor addressed the council:

- Street sweeper is worn out – high maintenance costs – not quality performance
- Trade in of \$15,000 was offered

- Proposed it be kept as back up or sold privately
- Proposed a lease/purchase – have budgeted for the lease payment
- Other cities, St. George, Ivins, have tried other companies and Johnson has proven the best.
- \$184,000 approx. – using Vernal city’s bid for cost estimate

******Motion to award the bid to Allianz for a Johnson Street Sweeper at a cost of \$184,271.**

Motion by Mary Jo Hafen; seconded by Bruce Anderson.

Voting Aye: Matt Ence, Bruce Anderson, Mary Jo Hafen, Herb Basso and Jerry Amundsen.

Voting Nay: None

Motion Carried.

7. Ordinance 2007-29: An Ordinance to Amend the Zoning (Land Use) Ordinance of the City of Santa Clara, Utah, by Amending Title 17, Chapter 17.20 Entitled “Supplementary and Qualifying Regulations,” Section 17.20.220 Entitled “Exception to Lot Standards;” And Reciting an Effective Date.

John Willie addressed the council:

- A request from a resident for exception to setback initiated this change.
- The Planning Commission recommended a change to the ordinance to allow a lesser setback adjacent to flaglot stems.

******Motion to adopt Ordinance 2007-29 (copy attached) Amending the Zoning (Land Use) Ordinance of the City of Santa Clara, Utah, by Amending Title 17, Chapter 17.20 Entitled “Supplementary and Qualifying Regulations,” Section 17.20.220 Entitled “Exception to Lot Standards.**

Motion by Matt Ence; seconded by Bruce Anderson.

Voting Aye: Matt Ence, Bruce Anderson, Mary Jo Hafen, Herb Basso and Jerry Amundsen.

Voting Nay: None

Motion Carried.

5. Executive Session:

7:13 p.m.

******Motion to move to Executive Session to discuss pending or reasonably imminent litigation.**

Motion by Herb Basso; seconded by Jerry Amundsen with all members present voting aye. Motion Carried.

7:30 p.m. Reconvened to open meeting.

6. Consideration of Authorization to Commence Litigation to Establish Dedication by Public Use of Stucki Lane on the Property Owned by Mr. Mel Taylor Etal

Russ Gallian, City Attorney: Gave background on this issue

Overhead used (copy attached) showing property in question

- Stucki Lane was a marked roadway
- Neighbors claim it was used for a very long time
- 15 feet owned by city (deeded by Graff family) (yellow on attached sheet)
- Other side obtained by Mel Taylor (orange on attached sheet)
- Law says that if a person allows access across any land for a 10 year consecutive period, the access is deemed dedicated to the public use.
- Some residents concerned with property rights and rightly so, but this is not a taking.
- Asked council to authorize a finding for litigation to prosecute for public use under the 10-year rule.
- Need to get engineer to survey and determine width of roadway.
- Portion affected also has pipeline for water district in it – so it is still used for public.
- Law allows the minimum for a normal roadway – city ordinance will allow a 44 foot road.
- City owns 15 feet (yellow on attached sheet), Chad Gates needs to give some and the balance will come from Mel Taylor.

Mel Taylor: Beekeeper, uses his lot there as mating yard in spring every year – needs access.

- Stucki's offered lot to him in 69, but he could not afford it then; bought it later – realized it was landlocked – went to Mr. Stucki to buy a strip of land for access – bought it.
- Gave a triangle of land on Old Farm to city when Somerset Estates was developed (purple on attached sheet).
- Claims public is not using roadway, Stucki Lane, only those property owners to the south that he allows to cross his land.
- Upset that the city threatened him with a lawsuit if he would not sell.

Russ Gallian: letters were sent requesting his cooperation – the prescriptive use goes back prior to Mr. Taylor's ownership – not a "takings" case.

Elwood Graf: Trying to understand city's involvement – which street is involved? – street on south (pink on attached sheet) was fenced when he was a boy – feels should be restitution to Mr. Taylor.

Clark Ence: There is history with city involved with this piece of property

- wondered if city had reviewed this
- former council thought this would be resolved by landowners.
- Defined council's responsibility to citizens – to protect citizens' rights that come with possession of property.
- Was city expending money in litigation that should be private property owners' responsibility?

Merrilee Hafen: Addressed property to the south of her property (pink on attached document)

- Roadway (east/west) not used for a number of years, since she bought her property.
- Was it a dedicated road?

Dale Gubler: Road has been used publicly for years before Mel Taylor was even born – Arlo Hafen used it – Hyrum Gubler used it – Keith Stucki's family used it – Dale's dad used it – others.

- Was used through Mel Taylor's land until subdivision in late 1990's and still uses it.
- Wilford Hafen still uses it.
- Mel got 10 feet of right-of-way (green on attached sheet) between his property and Somerset Estates.
- Roadway was fenced 20 feet wide in the past - Graff's gave 15 feet to city (part of yellow on attached sheet) – Somerset gave some - there is 50 feet on the south end (other part of yellow on attached sheet)

Darrell Stucki: has no documentation, but his dad told him – dad set property aside as right-of-way – claimed he did not know what he was signing when he signed the papers giving the land to Mel Taylor – he never received any money for it.

- Darrell's family, the Graff family and the Gubler family all accessed their property using Stucki Lane.

Wilford Hafen: When he purchased his property – there was an improved roadway – city put a Stucki Lane sign up – public used it.

- Feels it is a public street and always has been.
- Bought his property about 20-25 years ago.

Mayor Rosenberg: asked for council decision/resolution on proceeding or not with litigation.

Russ Gallian: summarized staff position

- felt had competent testimony of public use of the roadway way back – use may have fluctuated over the years, but still used as a public road.
- Classic situation of road dedication for public by use – not a taking – deemed dedicated – already done under the law – Mr. Taylor can dispute and the court will determine the outcome.
- Mr. Taylor got other property – as referred to in the “petition” mentioned by Clayton Leavitt – in return for providing other access.
- Feels dedicated prior to Mr. Taylor’s purchase – the fact that Mr. Taylor has paid taxes for several years on the property is not an issue.
- Steps to continue:
 - Engineer needs to define the road
 - meet with Mr. Gates to determine how much he will dedicate
 - proceed with litigation
- Would be happy to negotiate with Mr. Taylor, but feels this is a clear case of a 10-year road.

Mary Jo Hafen: Need to make this work as a public road; understands maybe why past council left it to private property owners, but should not go on; needs to be settled one way or the other.

Herb Basso: Not a taking – may have to have the judicial system decide – wishes it could be decided as neighbors rather than spending tax dollars in court to get a decision.

Matt Ence: Hopes this can be resolved among the private property owners regardless of what the city decides to do – remembers using the road as a youth – clear difference of opinion – maybe court action is the only way to go
 - agrees with council woman Mary J Hafen, needs to be settled now, one way or the other.

Herb Basso: Should this go to the court or try to work it out?

Russ Gallian: clearly used by public – properties were landlocked without it.

Bruce Anderson: Asked Mr. Taylor if he would be willing to sell the property.

Mel Taylor: Will sell property for market value – how much is it worth to property owners?
 (Member of public commented Mr. Taylor had said he would for \$1 million)

Tom Gubler: If there is a signed document (petition) why is there any argument here?

Russ Gallian: Asked for authority to proceed with final research of the facts to show public use and proceed with litigation.

Private property owners have offered to pay costs. – no conflict for him as the city has the same interests – it is a public road - if established public right – public should not have to pay for it.

******Motion to authorize Russ Gallian, City Attorney, to proceed with preparing and filing of legal action for public use, engage engineers to do a survey of where the road is and leave it in his discretion to do any investigation he feels is necessary; not to preclude possibility of settlement by private property owners.**

Motion by Matt Ence; seconded by Jerry Amundsen.

Voting Aye: Matt Ence, Bruce Anderson, Mary Jo Hafen, Herb Basso and Jerry Amundsen.

Voting Nay: None

Motion Carried.

5. Reports:

A. Staff Reports:

Wally Ritchie: Streetscape Update: summary handout attached.

- Hope to install street lights this week

- Some delay due to sod needing to be taken out and reinstalled, but Felice Electric feels if the landscapers can stay ahead of them, they can do 10 planters a day and still meet the schedule.

- Jack Taylor expressed some concern with crosswalks – Jerry Amundsen will check it out in the morning.

B. Council Reports:

Matt Ence: None.

Bruce Anderson: Appreciated Matt Ence's comments on the Stucki Lane issue.

Mary Jo Hafen: The Arts Committee went to County Commission and now official – calendar was 1st item of business.

Jerry Amundsen: MPO met – new business was to authorize the director to go to the county and start the process for the "Corridor Preservation Fund".

Herb Basso: Heritage & Parks report – had a good meeting – need to keep

the Historic District guidelines on the radar screen and set up a time for the adhoc committee and the H&P to get together on this.

Mayor Rosenberg: would like a copy of the invitation list for the streetscape ribbon cutting (Matt Brower will email it to him) – also wants some of the key chains to give out.

- Vision Dixie map was given to council members – Santa Clara is way ahead of others with zoning – should put a link to Vision Dixie on the web site – and mention that in the newsletter – also put a summary of proposed developments in the newsletter to keep public more aware of what is happening in the city.
- DAWHAC – meeting later in the month
- Brad at Five County is the ombudsman for affordable housing.

Matt Brower: Reminded council of work meeting on October 3 and October 19 ribbon cutting for streetscape – invited them to as many of the events as possible.

- Ence Development – Staff is passing this on the the Planning Commission, but does not feel it meets the spirit of the Planned Development Zone.

Barbara Salmon: Asked council to review the copy of St. George's requirements for licensing of landlords that was put in their boxes and be prepared to discuss at the work meeting on October 3 what requirements they would like for Santa Clara – Matt Brower reminded them part of the budget was based on this beginning in January of 2008.

Jack Taylor: Mark Marshall passed his 3rd year apprentice test, Well #6 went down today – the motor exploded – Well #7 was being put into the system and the spare motor will be installed in Well #6.

.7. Approval of Claims & Minutes:

******Motion to approve the minutes of the August 22, 2007 Regular Meeting with a change on Page 2 "ground water" changed to "geologic hazard", Page 3 review tape regarding Donald Bush comment on no pressure in his water system when toilets flushed, and spelling error "toniqnt" on page 4 to be corrected; the September 5, 2007 Joint Work Meeting with a note added that Matt Ence arrived at 6 p.m.; the September 5, 2007 special Meeting; and the claims through September 21, 2007. Motion by Matt Ence; seconded by Bruce Anderson with all members present voting aye.**

Motion Carried.

8. Calendar of Events:

- Work Meeting to Tour New City Hall Building: September 26, 2007 at 5:00 p.m.
- Monthly Work Meeting: October 5, 2007 at 5:00 p.m.
- Streetscape Ribbon Cutting and Open House October 19 and 20, 2007

9. Adjournment:

Meeting adjourned at 9:50 p.m.
Motion by Jerry Amundsen
Seconded by Herb Basso

Barbara Salmon – Recorder

Date Approved: _____