



MINUTES – CITY COUNCIL Special Meeting

Tuesday, January 23, 2020

City of Saratoga Springs City Offices

1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah 84045

City Council Special Meeting

Call to Order: Mayor Jim Miller called the Policy Meeting to order at 4:00 p.m.

Roll Call:

Present Mayor Jim Miller. Council Members Stephen Willden, Michael McOmber, Chris Porter, Ryan Poduska, and Christopher Carn attended via teleconference.

Staff Present City Attorney Kevin Thurman, Assistant City Manager Owen Jackson, Economic Development and Public Relations Director David Johnson, Senior Planner Sarah Carroll, Senior Planner Tippe Morland, Planner Rachel Day, Planner Gina Grandpre, and City Recorder Cindy LoPiccolo.

Invocation by Council Member Porter.

Pledge of Allegiance led by Director Johnson.

BUSINESS ITEMS:

1) **Consideration of Resolution to Initiate Proceedings Under the Pending Ordinance Doctrine in Utah Code Section 10-9a-509 and City Code Section 19.02.02(206) With Respect to Removal of Conditional Uses; Resolution R20-8 (1-23-20).** City Attorney Kevin Thurman presented the Resolution formally initiating the “pending ordinance” doctrine indicating the Council’s intent to initiate proceedings to amend the Land Management Code, in this case with respect to Conditional Uses, which under Utah law is a permitted use and Utah Code requires the city to set standards that apply to conditional use permits. He advised the Land Use Authority does not have the authority to come up with conditions, standards and conditions must be spelled out in the code which raises a concern as there is misunderstanding what a Conditional Use is. Based on that requirement, it is his understanding Council would like to strike Conditional Uses in the code and direct the Planning Commission to review and determine the designation of uses as permitted or prohibited, and to establish standards and criteria that apply to those uses for approval. A good example is City Code Section 19.08 in regard to home occupation, which provides criteria for approval.

In response to Council Member Porter, City Attorney Thurman reported because the conditional use is a form of a permitted use the public believes there is a lot of discretion for approval of a Conditional Use Permit (CUP) or conditions can be imposed, so it is difficult for the Land Use Authority making the decision to reconcile what the public’s expectation is and what they legally can do. The law says a conditional use has to be approved if detrimental impacts can be mitigated in accordance with established standards. A use is not discretionary, it is code based and fact based and the city applies standards to determine what conditions to apply. State legislation converted this from something where the Authority had some discretion to now strictly being a permitted use based on what the law is. He advised as the Planning Department processes a large number of

home occupation applications, staff has recommended the home occupation use be changed to permitted use in the pending ordinance in order to allow staff to continue processing these permits and not cause delay as City Code Section 19.08 addresses home occupations and includes standards for approval.

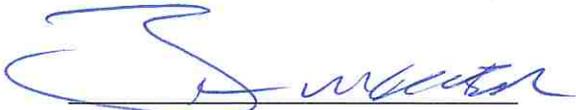
Motion by Council Member Porter to approve Resolution R20-8 (1-23-20) to Initiate Proceedings Under the Pending Ordinance Doctrine in Utah Code Section 10-9a-509 and City Code 19.02.02(206) With Respect to Removal of Conditional Uses, and include language designating home occupations a permitted use in residential zones, was seconded by Council Member McOmbler.

Vote: Council Members Carn, Porter, Willden, McOmbler, and Poduska – Aye.

Motion carried unanimously.

ADJOURNMENT:

There being no further business, Mayor Miller adjourned the meeting at 4:10 p.m.



Jim Miller, Mayor

Attest:



Cindy LoPiccolo, City Recorder

Approved: *2-4-20*