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City of Saratoga Springs
City Council Meeting
June 16, 2015

Regular Session held at the City of Saratoga Springs City Offices
1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah 84045

Work Session Minutes

Present:

Mayor: Jim Miller

Council Members: Michael McOmber, Shellie Baertsch, Rebecca Call, Stephen Willden, Bud Poduska

Staff: Mark Christensen, Kimber Gabryszak, Kyle Spencer, Owen Jackson, Kevin Thurman, Jeremy Lapin,
Nicolette Fike

Others:

Call to Order - 6:30 p.m.

Item 2 was pulled forward.

2. Departmental Update from the Planning Department.

Kimber Gabryszak gave an update and highlighted some of the department's goals and projects. In the last few years the number of applications per week has gone up to an average of 2.36.

Councilwoman Baertsch asked if they couldn't change the name of the Cahill Chapel to reflect where it was located and that it would probably be referred to as the Israeli Canyon Stake Center. She doesn't want there to be confusion as to where this church is located.

Kimber Gabryszak noted that The Springs Annexation has been recorded today. She introduced a project they have been working on with overlays on Google Earth.

Councilman McOmber noted that the Wiltshire fence issue has been resolved.

Kimber Gabryszak noted how it has been a great tool so far in catching potential problems.

Councilwoman Call asked Jeremy Lapin to update them on the south well.

Councilwoman Baertsch asked if the overlays were available to the residents.

Kimber Gabryszak said it is internal only for now. A lot of it is public information but some of it is not yet.

They can work towards that goal with a map that has a pending layer and a map with a recently approved layer. Then they can put links on the City website.

Mark Christensen commented that they have included neighborhoods that are not shown on google earth yet and this helps to find issues ahead of time.

Councilman McOmber hoped it could be available on the front computer to help the public.

Jeremy Lapin replied about the well. He said the drill rig was down but should be up in the next day or so.

They are at about 1000 feet now. They have been taking samples, the water is warm but in the realm of useable. He noted the findings so far. They believe they need to go a little deeper to see if the fractured zones continue. If they are still at 1200 ft. they may explore deeper. They will meet soon to talk about the findings. They are making pretty good progress. At this point it's good to do more exploratory work. He said most of their wells produce about 1000 gpm. They hope this will produce between 1000-2000 gpm.

After the test pumping it will give them direction on how large to make the hole and pump.

Councilwoman Baertsch asked if there was an estimate to how long to finish the well.

Jeremy Lapin said they are near the end of phase one. They would estimate the end of august to finish the hole, and then they need to design and build the pump.

Mark Christensen noted it would be next spring before the well would be online.

1. Discussion of the Resolution supporting HB 362 regarding additional 0.25% Sales and Use Tax for Transportation.

Kevin Thurman noted the League of Cities and Towns has asked the cities to pass a resolution to encourage County commission to submit this for voter approval. The draft resolution also encourages voters to

54 approve this additional sales tax dedicated to transportation. It's estimated by the League of Cities and
55 Towns that it would bring in an additional \$236,000 in transportation funds for the city. They also
56 estimate that we have a shortfall in our transportations needs of about that same amount. The .25%
57 would be split up so 40% goes to the city, 40% goes to UTA, and 20% goes to the County.

58 Councilwoman Call asked if they could encourage voters to make the decision, but not necessarily endorse it.
59 She thinks there are many things in there that don't need to be brought up like diabetes and she does not
60 agree with the transit portion.

61 Mark Christensen said he would be happy to put on the resolution what they would want.

62 Councilman Poduska was also concerned about the verbiage. He asked how many Cites would have to
63 approve it for the County to put it on the ballot.

64 Kevin Thurman said the County could still do what they want.

65 Mark Christensen said it's who is going to be left holding the political clout. It's kind of a hot potato game.
66 The more we age, the more we are going to need it. We either fund it through the general fund or look to
67 these types of things.

68 Councilman Poduska asked how soon they need to make the decision.

69 Councilwoman Baertsch said the County Commissioners need to know by August 15 to put it on the ballot in
70 the fall. They can put it on the ballot whenever they want but they are looking at when to put it on. Many
71 cities want them to put it on later. We ought to just get it on the ballot one way or the other, even though
72 she doesn't necessarily think it's a good idea.

73 Kevin Thurman commented that it's distributed on 50% point of sale and 50% population. That benefits the
74 city as we continue to grow and add businesses. We are going to see an increasing amount of that
75 revenue over time.

76 Councilman Willden is fine with encouraging the commission to put it on the ballot as long as they remain
77 neutral, not as an endorsement. He would be comfortable if Councilwoman Call would want to get
78 together with administration and write up something else.

79 Councilwoman Baertsch explained how the bill changed from the original concept during the legislative
80 policy meetings of a truly local option to the State Legislature getting a hold of it and adding UTA into
81 it. She has problems with 40% being given to UTA. She also doesn't like the way the resolution is
82 written. She doesn't like that it says that we approve of the Senate bill the way it was passed when we
83 don't. She might be okay with it with more simple language just saying the voters should decide.

84 Councilman McOmer noted we recently raised the gas tax at the same time and he is against forced
85 mandates. We have to remember that we elect local officials for a reason, to manage local affairs. He is
86 not in favor of this especially with the forced 40% to UTA. If it was UDOT in general he would be more
87 open. He is also concerned about recommending it be put on the ballot to begin with because he thinks
88 the language would be confusing to the residents and a lot of money would be spent spinning it. Unless
89 some things are changed from the State level he would not recommend to the County that it be put on the
90 ballot.

91 Mayor Miller commented that having been at the MAG meetings, he is not in favor of giving UTA another
92 40%. He has concerns with their funding for the BRT. He would not be in favor of putting this on the
93 ballot as written, and would not be in favor of pushing this.

94 Councilwoman Call suggested changes to the resolution.

95 Kevin Thurman took note of the suggested changes.

96 Councilman Willden would suggest we just don't support it at this point.

97 Mark Christensen thinks we have been given direction and they will draft something in case it is needed in
98 the future.

- 99
100 **3. Agenda Review:** - No review was done tonight.
101 a. Discussion of current City Council agenda staff questions.
102 b. Discussion of future City Council policy and work session agenda items.

103
104 **Adjourn to Policy Session 7:02 p.m.**
105
106

Policy Session Minutes

Present:

Mayor: Jim Miller

Council Members: Michael McOmber, Shellie Baertsch, Rebecca Call, Stephen Willden, Bud Poduska

Staff: Mark Christensen, Kimber Gabryszak, Kyle Spencer, Owen Jackson, Kevin Thurman, Jeremy Lapin,

Sarah Carroll, Chelese Rawlings, Jess Campbell, Andrew Burton, Nicolette Fike, Melissa Grygla

Others: Stephen Hilton, Kevin McMillan, Darrell and LeAnn Marth, E .Kaipo Rokobuludrau, Margaret

Weddle, Paul Weddle, Tim and Danai Willden, Janae Wahnschaffe, Jeremy Vick, K. Becraft.

Call to Order 7:02 p.m.

Roll Call - Quorum was present

Invocation / Reverence - Given by Councilman McOmber

Pledge of Allegiance - led by Councilman Willden

Public Input - Opened by Mayor Miller

Ahtu Rokobuludrau is doing his Eagle project through the City. He is doing storm drain awareness, with markers and fliers. He came by to thank them and make them aware of his project.

Public Input - Closed by Mayor Miller

Awards, Recognitions and Introductions

- Library Board Recognitions – postponed to another meeting.

Item 4 was moved forward.

4. REPORTS:

a. Mayor

Mayor Miller commented that baseball complex was a great announcement. It brings community together and helps build character in the kids. He has met with the landowner and others involved making sure it gets done right the first time.

b. City Council

Councilwoman Baertsch said we had a successful Splash and thanked all who came and all who helped. They had a great concert and fireworks and they had more entries in the parade than usual. There was great attendance from patrons and vendors. She felt the best part of the whole thing was that they announced the new City Sports Complex that they have acquired land for, and they shared the Plans for Shay Park. They also had a small carnival at Splash. She announced that they got the Fence issue with Wiltshire resolved. They had a minor code issue come up that they would like to take care of with the number of animals listed as per person; it needs to be changed to per household.

Councilman McOmber wanted to also thank everyone for their support with Splash days. They have some fun plans coming up with their 20th anniversary in a couple years. They were only able to acquire a few minutes of fireworks but got some more for free and he thanked those who were able to step up. He also expressed thanks that the new road resurfacing for Pioneer crossing was much better. He also thanked staff for getting the light at the North Commerce Drive on Redwood Road going with UDOT. He also wanted to thank Kimber Gabryszak and the planning department for helping to mitigate the problems with the Wiltshire subdivision fence. It will be a great asset to the community.

Councilwoman Call also echoed the others appreciation of Civic Events for Splash Days. She wanted to officially welcome Rocky Mt. Chocolate factory and Cold Stone into the City. She updated on the Phragmite on the lake and everything that has been treated so far will be smashed down this year. She announced the new Sports Complex to the Jordan River Commission because it will be next to that area. They would like to help get some non-motorized boat put-in's near there on the river. She shared kudos to Mayor Miller and the Parks committee for their work on this.

158 Councilman Poduska also wanted to thank Civic Events for Splash and he liked the fireworks. He
159 thanked the Planning department and their work on the new maps. He wondered if the new sports
160 complex could be publicized on the website.

161 Mark Christensen responded that it has been circulating on Facebook and they would put a link up on the
162 City website soon.

163 c. **Administration communication with Council** - Nothing at this time.

164 d. **Staff updates; inquiries applications and approvals** - Nothing at this time.

165
166 **POLICY ITEMS**

167
168 **1. ACTION ITEMS:**

169 a. **Consideration and Approval of the Appointment of City of Saratoga Springs Library Board**
170 **Members.**

171 i. **Resolution R15-24 (6-16-15): A resolution appointing Kevin McMillan, Ryan Bankhead, Janae**
172 **Wahnshaffe, to the Library Board and establishing an effective date.**

173 Melissa Grygla presented Kevin McMillan, Ryan Bankhead (not present) and Janae Wahnshaffe to fill
174 positions on the Library Board which will become vacant on July 1, 2015.

175 Mayor Miller appreciated their service and they look forward to the library growing.

176 Councilman McOmber thought these were great assets to the board.

177 Councilman Willden commented that he was able to interview a few of the individuals and it's exciting
178 to have such great people volunteer. And to those leaving, they have done a fantastic job.

179
180 **Motion made by Councilwoman Call to approve Resolution R15-24 (6-16-15): A resolution**
181 **appointing Kevin McMillan, Ryan Bankhead, Janae Wahnshaffe, to the Library Board and**
182 **establishing an effective date. Seconded by Councilman Willden. Aye: Councilman Willden,**
183 **Councilwoman Baertsch, Councilman McOmber, Councilwoman Call, Councilman Poduska.**
184 **Motion passed 5 - 0.**
185

186 **2. CONSENT ITEMS:**

187 a. **Consideration and Possible Approval of the Final Plat for Jordan View Landing located at 400**
188 **West and Crossroads, Ivory Homes, applicant.**

189 i. **Resolution 15-26 (6-16-15): Addendum to resolution of the City of Saratoga Springs pertaining**
190 **to the City Street Lighting Special Improvement District to include additional subdivision lots.**
191 **(Jordan View Landing)**

192 b. **Adoption of Resolution R15-27 (6-16-15): Establishing the Certified Tax Rate at a no tax rate**
193 **increase.**

194 c. **Minutes:**

195 i. **June 2, 2015.**
196

197 Councilwoman Baertsch asked about a rock retaining wall on Jordan view landing. Do they need to make a
198 condition that they comply with building code?

199 Jeremy Lapin said given it has a sidewalk adjacent to it; it will have to comply with all engineering and
200 building codes. He thinks they could make a condition that they comply with building code but it's a
201 little redundant.

202 Councilman McOmber would be redundant to make sure it's clear.

203 Councilwoman Baertsch also noted with parking, they have eleven of the required visitor spots but there is
204 another note that says they have another one, but it's not really a parking stall.

205 Jeremy Lapin said he can take care of that in the plan review.

206 Councilwoman Baertsch also asked on page 22 of the packets it has a layout with the sq. footage of the
207 buildings but not one of them matches the tables.

208 Kimber Gabryszak said it could be the footprint and not the actual sq. footage of the building.

209 Councilwoman Baertsch noted the difference in the numbers.

210 Kimber Gabryszak noted it could be the difference between the sq. footage in the floor plan and the finished
211 product measured outside the walls. They will still be reviewing when they submit for building permits
212 as well.
213 Councilwoman Baertsch noted to public that when they get the packets they don't see every detail and so she
214 wants to make sure it all matches. She noted she emailed changes to the minutes.
215 Councilman McOmber had a change to the minutes. Row 169 about amenities for Shay Park. He means the
216 additional trees.
217 Councilwoman Call wanted to clarify on the parking, she had a noted about a space adjacent to lot 108 and it
218 has on the plat one parking stall. She also noted she had sent in changes to the minutes.
219 Councilwoman Baertsch noted that was the note she talked about that Jeremy Lapin would take care of.
220 Kimber Gabryszak recommended adding a condition that there should be semi- private fencing along 400 E.
221 Council agreed to add that.
222 Councilman Poduska noted they have improved the layout from the original design and they have improved
223 the use of the buildings and open space.
224 Councilman Willden is excited to approve the no tax rate increase.
225

226 **Motion made by Councilwoman Baertsch to approve Consent Items a, b, c, adding to item a, condition 4,**
227 **A railing compliant with building code shall be installed along the sidewalk by all retaining walls. And**
228 **5. Fencing along 400 east shall be semi-private. Including all minutes changes previously emailed in**
229 **and Councilman McOmber's change to minutes stated at this meeting. Seconded by Councilman**
230 **Poduska. Aye: Councilman Willden, Councilwoman Baertsch, Councilman McOmber, Councilwoman**
231 **Call, Councilman Poduska. Motion passed 5 - 0.**
232

233 **3. PUBLIC HEARING ITEMS:**

- 234 **a. Public Hearing: Budget Amendments for Fiscal Year 2014-2015.**
235 **i. Resolution R15-28 (6-16-15): A resolution amending the City of Saratoga Springs Budget for**
236 **Fiscal Year 2014-2015 and establishing an effective date.**

237 Chelese Rawlings presented the Budget amendment for approval. The majority is for book entries for
238 depreciation of capital assets. For Shay Park estimated costs and budgeting for Sports complex
239 design, also in roads fund for a light at 800 west.

240 Councilman McOmber gave a heads up for the 20th anniversary for Saratoga Springs, he thought that
241 instead of funding all the extra in one year, he would suggest funding that over two years.
242

243 **Public Hearing – Opened by Mayor Miller**
244 No comments at this time.
245 **Public Hearing - Closed by Mayor Miller**
246

247 **Motion made by Councilman Willden to approve Resolution R15-28 (6-16-15): A resolution**
248 **amending the City of Saratoga Springs Budget for Fiscal Year 2014-2015 and establishing an**
249 **effective date. Seconded by Councilman McOmber. Aye: Councilman Willden, Councilwoman**
250 **Baertsch, Councilman McOmber, Councilwoman Call, Councilman Poduska. Motion passed 5**
251 **- 0.**
252

- 253 **b. Public Hearing: Rezone, General Plan Amendment and Concept Plan for Cahill Chapel located at**
254 **163 West Ring Road, LDS Church, applicant.**
255 **i. Ordinance 15-20 (6-16-15): An Ordinance of the City of Saratoga Springs, Utah, adopting**
256 **amendments to the City of Saratoga Springs' Official Zoning Map and Land Use Map of the**
257 **General Plan for certain real property totaling 5.17 acres located at approximately 163 West**
258 **Ring Road; instructing the City staff to amend the City Zoning Map and Land Use Map of the**
259 **General Plan; and establishing an effective date.**

260 Sarah Carroll presented the plans for the project. The applicant is requesting a General Plan (GP)
261 amendment and Rezone for 5.17 acres in order to submit applications for a new church in this
262 location. The request is to change the land use designation and zone from Regional Commercial

263 (RC) to Neighborhood Commercial (NC). Churches are Conditional uses in the NC zone, but are not
264 allowed in the RC zone. NC zoning would help preserve the original commercial intent of the area.
265 Staff recommends approval. The Concept plan does not require a public hearing.
266

267 **Public Hearing – Opened** by Mayor Miller

268 Stephen Hilton would really appreciate this plan moving ahead. He thinks the church will add to
269 property values and will not obstruct a view as much as other homes and businesses would. He is
270 in favor of this.

271 **Public Hearing - Closed** by Mayor Miller

272
273 Councilman Poduska appreciates the modifications they have made and going to a NC zone would take
274 care of the concerns they had previously.

275 Councilwoman Call has no concerns but would point out that Regional Commercial in the remaining
276 area here is a good place for businesses. They think the church makes a good buffer area here
277 between the homes and RC and has no concerns with the application for the church parcel rezone.

278 Councilman McOmber echoes Councilwoman Call's comments. This location is good but he doesn't
279 want to set precedence that they will be changing Regional Commercial to NC as a regular practice.
280 He does not want the church coming back with a landscape plan that is all rocks, the grass looks nice
281 and inviting and is cooler. He asked staff to please encourage them to not ask for variance on that
282 again. Other than that it looks good.

283 Councilwoman Baertsch has no problem with the rezone and also thinks it will be a great buffer. She
284 asked if they could please change the name because it is not on the actual Cahill Road. This is a
285 highly sloped area and should not block much if any of the view for homeowners. She echoes
286 Councilman McOmber's comments on landscaping. Her one concern on the concept plan is that they
287 need to address the garbage surround and storage. It is in the middle of the parking and affects
288 several stalls.

289 Councilman Willden thinks the downzone is the best solution, it provides a good buffer and it's a great
290 place to put it.

291
292 **Motion made by Councilman McOmber to approve Ordinance 15-20 (6-16-15): An Ordinance of**
293 **the City of Saratoga Springs, Utah, adopting amendments to the City of Saratoga Springs**
294 **Official Zoning Map and Land Use Map of the General Plan for certain real property totaling**
295 **5.17 acres located at approximately 163 West Ring Road; instructing the City staff to amend**
296 **the City Zoning Map and Land Use Map of the General Plan; and establishing an effective**
297 **date. Seconded by Councilwoman Call.**
298

299 Councilwoman Baertsch asked if they had findings with this.

300 Councilman McOmber amended the motion to include "**with the appropriate findings.**"

301 Councilwoman Call seconded the amendment.
302

303 **Aye: Councilman Willden, Councilwoman Baertsch, Councilman McOmber, Councilwoman Call,**
304 **Councilman Poduska. Motion passed 5 - 0.**
305

306 **c. Public Hearing: Amendments to Legacy Farms Community Plan located at 400 South Redwood**
307 **Road, DR Horton, applicant.**

308 Kimber Gabryszak presented the amendment. The applicants are requesting approval of an amendment
309 to the Legacy Farms Community Plan (CP) to modify the permitted material for the shared lanes
310 from concrete to asphalt. The applicant expressed that it was always their intent to have this be
311 asphalt. Kimber noted that to be fair staff and the applicant never discussed the material for this lane,
312 so there were two thought processes going on. They are not looking to be a plain asphalt drive, it will
313 have stamped features and a raised entrance.
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315 **Public Hearing - Opened** by Mayor Miller

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No comment at this time.

Public Hearing - Closed by Mayor Miller

Chief Campbell met and had discussion with D.R.Horton and there were some trees in the diagram that he has asked that they move for better movement, so that council was aware it wouldn't be exactly like the diagram shown.

Mark Christensen noted that the applicant had always maintained that it would be opportunistic placement of trees so as to meet codes and access.

Councilman McOmber said in his mind it has walkways and has always been concrete and he sees it as a shared walkway/driveway with kids playing in the area. With the variances in the different materials, grass and no curbing, he doesn't think it meets what they were expecting. He doesn't like the drainage in the middle of the roadway. He would like to see it stay concrete. He thinks there needs to be some kind of curbing. He thinks this is a legislative decision and doesn't think it meets the long term welfare of the City. He would like to see the driveway lights, on the backs of the buildings, stay on because there are no street lights. Maybe with sensors or something so it is not so dark, or figure out a way to put other lights in on the road.

Kevin Thurman commented that this is an administrative decision because the Community Plan and the Master Development Agreement approvals were both administrative decisions, that the Council made findings that they were administrative because they wanted to protect against the referendum issue. Because they were administrative then the amendment would also be an administrative decision. It doesn't mean you don't have any discretion, but it does mean it's a different standard of review. Instead of looking at if it advances the General Welfare, which is a Legislative decision, an Administrative decision looks to see if there is something in the code that allows you to impose that condition on the applicant.

Councilman McOmber appreciates his council but feels it is a legislative decision because he sees it as an issue of the health and welfare of the city.

Councilwoman Baertsch also disagrees because when we make laws that affect future development, they can come back and amend a Village Plan then it's creating new law for new parts of this development. She thinks certain staff members have an agenda with this. She thinks what they are proposing is more dangerous than had they left it as straight asphalt. By just stamping and coloring the intersections they are actually creating crosswalks across a road and not a shared area. If they did the entire thing colored and stamped she could potentially get on board with it, if they also did the curb and gutter and had proper lighting, but the way it's presented she is an absolute no.

Councilman Willden wanted to clarify that with a Community Plan zone they are creating a separate subset of ordinances specific for that property.

Kevin Thurman replied that is correct, when this was adopted, when the Planned Community zone was adopted, the Annexation agreement was adopted, the District Area Plan, at that time it was a legislative decision .

Councilman Willden had asked because we had established in there code. He sees concrete written, that is part of the code that has been established.

Kevin Thurman replied that the Community Plan was adopted separate from the District area plan and when you make findings like we did with the MDA you have to live with that. The courts have said that you can't make a declaration that one thing is an administrative decision and then change your mind.

Councilwoman Baertsch said when they approved those they were approving the overall concept, densities, that type of thing. This is individual rule, and therefore that is legislative.

Kevin Thurman replied that when we adopted the Community Plan and established these rules we made the findings that the decision was administrative.

Councilman Willden commented that regardless of whether it's administrative or legislative he doesn't see anything that mandates that they have to accept the change. It's not a great product and there are a significant amount of concerns and it's a different product than they brought to begin with. He is not supportive of the change.

368 Kevin Thurman agrees, all it really does is changes the standards that you have to comply with. When
369 it's an administrative decision you have to look at the standards that have been established and make
370 sure your decision is based on those standards.

371 Councilman Willden commented that it sounds like from an administrative decision there is a lot of
372 discretion.

373 Kevin Thurman replied there is, it just makes our job harder because we have to articulate the findings of
374 why the change is not in accordance with the previously adopted standards.

375 Councilman Willden commented that for him it is written concrete and it significantly changes the
376 product they are offering, and it's known to cause problems in other parts of the city.

377 Councilman Poduska asked if they have used this same interplay with pedestrians and cars in other units,
378 and how does it work.

379 Kimber Gabryszak noted it is especially common in Europe and some other planned unit developments
380 are using it around the county, maybe not this particular pattern, but a variety of colors and materials
381 and articulation and ways to slow traffic down are used.

382 Councilman Poduska likes the shared lane concept. All out streets are asphalt and he assumes where the
383 cars are it will be asphalt and perhaps the pressed areas would make it nice. It would seem we should
384 retain the ability to modify whatever we have approved in the past and if a builder is found in a
385 particular ground that they need to change materials, we should retain that ability to adjust to the
386 circumstances. If we have approved this plan the question was whether there was a clerical error, can
387 we look at the original intent and adjust the clerical error. He would be willing to make that change
388 and not have a big to-do and get things built.

389 Councilwoman Call thinks that legal has pointed out some aspects to it being an administrative decision,
390 we don't have a great deal of latitude and we are subject to more scrutiny. She says we stick with
391 what we have and keep it as concrete. She echoes Councilwoman Baertsch's comment that maybe if
392 they did the whole things stamped, maybe they could look at that. She feels Europe is not a good
393 parallel. They don't have as many vehicles per household that we have. She noted this wouldn't
394 work for larger vehicles. Stepping away from something that has already been approved, she feels
395 there is not a lot of ambiguity. She feels this is going away from what residents already expect and
396 knowing their motivation to make sure the residents' health and welfare is not compromised, she is
397 good with keeping it the way it is.

398 Councilwoman Baertsch asked staff to verify on their changed visuals they have added to where this is
399 allowed to all T-4 area. She does not want this allowed everywhere. It should only be T4 shared lane
400 areas that they had already approved. Pg. 29.

401 Kimber Gabryszak looked at the digital approved version and it said it was previously permitted in T4SL
402 as well and T4.

403 Councilwoman Baertsch we specifically took it out of the regular T4. We need to verify they did what
404 we told them they were supposed to do.

405 Councilman Willden asked where the ambiguity came from.

406 Kimber Gabryszak replied the ambiguity was not extreme, this is defined as a walkway but information
407 above is about a transportation way, the driving lane. Technically a shared lane does not have a
408 walkway, (an area exclusively for pedestrians) their argument was that they cut and pasted and
409 missed editing the table, They argue that this is not a walkway because it is not exclusively for
410 pedestrians.

411 Kevin Thurman said to remember that labels and titles are not binding, it's the actual text. He thinks it
412 says concrete, that it's not ambiguous.

413 Councilman Willden has a hard time saying it was on accident because of the color.

414 Councilwoman Baertsch feels on the drafts it was white and on the final they slipped the tan in there.

415 Mark Christensen couldn't imagine that they would have missed this meeting.

416 Kimber Gabryszak noted that what happened was that when they discussed the scheduling they tried to
417 put it through quickly so that if it was approved or not they could have the final construction
418 drawings ready. But Krisel Travis was going to be out of town and they wanted to continue it tonight
419 but they couldn't put it off but we had already noticed it.

420 Jeremy Lapin said they had a pre-con today and they drew the construction drawings with alternates 1
421 and 2 and it has a note that the alternate to be used is based on Council approval. That covers both
422 scenarios.

423 Kevin Thurman would recommend that they continue it.

424 Councilwoman Call thinks it's pretty concrete where we stand.

425 Kimber Gabryszak remarked that to make the decision they continue this based on fairness because they
426 are not here to respond.

427 Councilwoman Call noted it may not be in anyone's best interest to have this discussion again. Krisel
428 Travis told her that she didn't think she needed to be there and it's been public noticed.

429 Kimber Gabryszak said that is fine, she just wanted Council to understand that Krisel was going to be out
430 of town and they had hoped it would be continued.

431 Kevin Thurman commented that they do need to consider this as an administrative decision, what he
432 would recommend is that they continue it so staff can draft some proposed findings or they take a
433 recess and brainstorm what findings they can come up based on code.

434 Councilwoman Call asked if the DAP and Community Plan were adopted as administrative decisions,
435 that included the code. The code specifies concrete and the request to change to another material
436 would then be treated as a code change. By denying this request to change to code, the council is not
437 preventing the applicant from asking for the code change again so she does not understand why
438 denying would be an issue

439 Kevin Thurman understands the Council's concerns and frustrations. He said the legislative decision
440 didn't happen at the adoption of the Community Plan and Master Development Agreement. You
441 adopted findings that stated it was an administrative decision that was applying 19.26 and the
442 District Area Plan and the Planned Community Zone. So when they established the standard of
443 Concrete it was an administrative decision so now amending that is an administrative decision. He
444 recommends, so that it is defensible, that Council articulate findings. If the Council doesn't want us
445 to articulate finding that is fine.

446 Councilwoman Call is still having a hard time understanding why we need to specify finding for a denial
447 to the request for a code change.

448 Councilman Willden doesn't see the problem with tabling this with the expectation that this will be a 5
449 min. conversation because the decision won't change.

450 Councilman McOmber wants to add how many hours staff put in to this, if we continue it, it will be
451 many more hours. It doesn't end. It's all about the money for them.

452 Councilman Poduska would recommend that we be careful to not deride the applicants.
453

454 **Motion made by Councilwoman Baertsch to deny with the finding that it does not further Code**
455 **19.26.01. 4 and 6.**

456 Councilwoman Call asked with the administrative decision, could we add in the motion the finding
457 that concrete doesn't equal asphalt.

458 Councilwoman Baertsch **added to her motion to include the finding that concrete does not equal**
459 **asphalt.**

460 **Councilwoman Call Seconded the motion.**

461
462 Councilman Willden is not supportive of changing from concrete to asphalt but will be voting no
463 because he would rather follow staff recommendation and continue the item till the applicant can
464 be present.

465 Councilwoman Baertsch asked if we have actual findings is there any reason to continue?

466 Mark Christensen replied that in this type of proceeding, typically the stronger the findings, the more
467 defensible your position will be. He believes the attorney was asking for the time to make sure
468 those findings are drafted to make a very defensible case.

469 Councilwoman Call asked if we continue it do we have to rehear the public hearing.

470 Staff responded no.
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Nay: Councilman Willden, Councilwoman Baertsch, Councilman McOmber, Councilwoman Call, Councilman Poduska. Motion Failed.

Motion made by Councilwoman Baertsch to continue the item in order to allow our Lawyer time to put together the findings and conditions as discussed tonight. Second made by Councilman McOmber. Aye: Councilman Willden, Councilwoman Baertsch, Councilman McOmber, Councilwoman Call, Councilman Poduska. Motion passed 5 - 0.

- 5. REPORTS OF ACTION. – None tonight.
- 6. Motion to enter into closed session for the purchase, exchange, or lease of property, pending or reasonably imminent litigation, the character, professional competence, or physical or mental health of an individual.

Motion made by Councilman McOmber to enter into closed session for the purchase, exchange, or lease of property, pending or reasonably imminent litigation, the character, professional competence, or physical or mental health of an individual. Seconded by Councilwoman Call. Aye: Councilman McOmber, Councilwoman Baertsch, Councilman Willden, Councilman Poduska and Councilwoman Call. Motion passed unanimously

Meeting Moved to Closed Session 8:27 p.m.

Closed Session

Present: Mayor Miller, Councilman Willden, Councilwoman Baertsch, Councilman McOmber, Councilwoman Call, Councilman Poduska, Mark Christensen, Kevin Thurman, Spencer Kyle, Nicolette Fike, Holly Neibaur

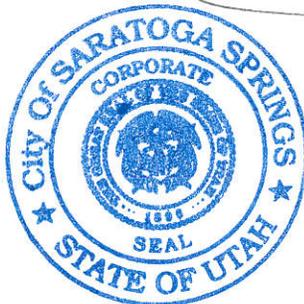
Litigation and Personnel matters were discussed.

Closed Session Adjourned at 8:50 p.m.

Policy Meeting Adjourned at 8:50 p.m.

July 7, 2015

Date of Approval



[Signature]

Mayor Jim Miller

[Signature]

Lori Yates, City Recorder