

City of Taylorsville
Work Session
Minutes

Wednesday, February 9, 2011
Council Chambers
2600 West Taylorsville Blvd., Room No. 140
Taylorsville, Utah 84118

Attendance:

Mayor Russ Wall

Council Members:

Vice-Chairman Larry Johnson
Council Member Dama Barbour
Council Member Bud Catlin
Council Member Morris Pratt

City Staff:

John Inch Morgan, City Administrator
John Brems, City Attorney
Cheryl Peacock Cottle, City Recorder
Jessica Springer, Council Coordinator
Del Craig, Chief of Police
Mark McGrath, Community Development Director
John Taylor, City Engineer
Scott Harrington, Chief of Finance
Keith Snarr, Economic Development Director
Marsha Thomas, Judge
Patrick Tomasino, Building Official

Excused: Council Chairman Jerry Rechtenbach

Others: John Gidney, Kristie Overson, Kaye England

18:00:53 Vice-Chairman Larry Johnson called the Work Session to order at 6:00 p.m. and welcomed those in attendance. City Recorder Cheryl Peacock Cottle conducted a Roll Call, wherein all Council Members were present, except Chairman Jerry Rechtenbach who was excused.

1. Closed Session

a. Strategy Session to Discuss Pending or Potential Litigation

Council Member Morris Pratt **MOVED** to convene a Closed Session to discuss the sale and purchase of real property and also a Closed Session regarding pending or potential litigation at 6:00 p.m. Council Member Dama Barbour **SECONDED** the motion. Vice-Chairman Larry Johnson called for discussion on the motion. There being none, he called for a roll-call vote. The vote was as follows: Pratt-yes, Catlin-yes, Barbour-yes, Rechtenbach-excused, and Johnson-yes. **All members of the City Council voted, and the motion carried by a unanimous vote.**

CLOSED SESSIONS

Those in attendance at this Closed Session were: Council Members Barbour, Catlin, Johnson, and Pratt; Mayor Russ Wall, City Administrator John Inch Morgan; City Attorney John Brems, and City Recorder Cheryl Peacock Cottle. Chairman Rechtenbach was excused. Minutes for the Closed Session were taken and are now on file as a Protected Record.

Council Member Morris Pratt **MOVED** to adjourn the Closed Session at 6:41 p.m. and convene an additional Closed Session to discuss the sale and purchase of real property. Council Member Dama Barbour **SECONDED** the motion. Vice-Chairman Larry Johnson called for discussion on the motion. There being none, he called for a roll-call vote. The vote was as follows: Pratt-yes, Catlin-yes, Barbour-yes, Rechtenbach-excused, and Johnson-yes. **All members of the City Council present voted and the motion carried by a unanimous vote.**

b. Strategy Session to Discuss the Sale and Purchase of Real Property

Those in attendance at this Closed Session were: Council Members Barbour, Catlin, Johnson, and Pratt; Mayor Russ Wall, City Administrator John Inch Morgan; City Attorney John Brems, Grants Manager Donald Adams; and City Recorder Cheryl Peacock Cottle. Chairman Rechtenbach participated in this Closed Session via telephone. Minutes for the Closed Session were taken and are now on file as a Protected Record.

Council Member Morris Pratt **MOVED** to adjourn the Closed Session at 6:46 p.m. and convene the City Council Work Session. Council Member Bud Catlin **SECONDED** the motion. Vice-Chairman Johnson called for discussion on the motion. There being none, he called for a roll-call vote. The vote was as follows: Pratt-yes, Catlin-yes, Barbour-yes, Rechtenbach-excused, and Johnson-yes. **All members of the City Council present voted and the motion carried by a unanimous vote.**

**2. 2010-2011 Midyear Budget Presentation and Dissemination of Budget Documents –
Mayor Russ Wall, John Inch Morgan, Scott Harrington**

18:47:50 City Administrator John Inch Morgan presented a budget narrative and spreadsheet to Council Members.

Chief of Finance Scott Harrington referenced changes to the Midyear Budget and asked that the City Council review the documents for discussion at next week's meeting.

**3. Discussion of Taylorsville Drug Court and Small Claims Court Issues
– John Inch Morgan**

18:55:41 City Administrator John Inch Morgan referenced a request from Council Members during the prior City Council Meeting to bring back information regarding the Small Claims Court. Mr. Morgan noted that Judge Marsha Thomas, who presides over Small Claims, was in attendance and is prepared to respond to any questions.

18:56:14 Chief of Finance Scott Harrington illustrated updates to the spreadsheet addressing Small Claims that was distributed in November, 2011. He said that December figures are now included in the new spreadsheet.

18:57:27 Discussion was held regarding Small Claims Court fees. It was noted that the City has no control over changing fees, other than lobbying legislators. It was confirmed that expenses in the Small Claims Court are being covered by revenue received. Council Member Pratt cautioned against directing too many Court resources toward the Small Claims Court.

18:58:12 Mr. Harrington reviewed assumptions made in the compilation of the Small Claims Costs and Case Load Report. He stated that costs for the Small Claims Court are out of the hands of City Administrators and are based on court activity.

18:59:40 Mr. Morgan referenced an e-mail string between Judge Kwan, Mayor Wall, and Mr. Harrington to try and solidify the cost of the Substance Abuse Court. Mr. Morgan said that an impasse has been reached in identifying those costs. He indicated that it is difficult to identify a definitive total net cost. He noted that there is some question regarding "opportunity costs" if the Substance Abuse Court did not exist.

19:01:01 Mr. Morgan noted that Judge Kwan is currently out of town and not able to attend this meeting.

19:01:33 Mr. Morgan clarified that no official notice was received by the City regarding decertification of the Substance Abuse Court; however, a hearing was held and a

recommendation came from Judge Fuchs that the Court be decertified. Mr. Morgan relayed that the Commission accepted that recommendation and gave Judge Kwan notification that he had 90 days to wind down the Court. Mr. Morgan further relayed that Judge Kwan believes he was given 90 days to provide additional information in order to certify the Court.

19:02:20 Mr. Morgan said that he has requested minutes from the Commission Meeting and described Richard Schwarmer's interpretation of the recommendation that the Court be wrapped up within 90 days.

19:03:08 It was clarified that the City learned a year ago that the Court would need to certify in July of 2010 and that the Court has not yet met criteria for the certification. Council Member Catlin inquired why the Substance Abuse Court is still being allowed to operate. He reported that the Taylorsville Court has more clerks than courts in Ogden, Murray, West Jordan and Provo. He expressed his disappointment that successes in the Taylorsville Court have not been shown.

19:04:58 Council Member Pratt asked for clarification on the memo that was received from Judge Fuchs. Mayor Wall estimated that the City received that specific document from the Sheriff's Office approximately four months ago, but did not receive it directly from the Commission.

19:07:01 Mayor Wall reviewed discussions held with the Administrative Office of the Courts to help deal with problems in the Taylorsville Substance Abuse Court. He said the official recommendation was to decertify the Court until July, 2010. Mayor Wall explained that Judge Kwan has a different interpretation of the 90-day recommendation given and believes he has 90 days to finalize certification. The Mayor said that City Administration has no control over the Court and is in need of standardized procedures. He noted that, although the Council has budgetary control over the Court, it would be difficult to cut the budget of an operating court.

19:09:54 The Mayor cited Administration's efforts to assign hard costs to the Substance Abuse Court, but said Judge Kwan disagrees with the assessment by Administration.

19:10:37 Council Member Catlin reviewed the number of clerks employed in other courts. He indicated that the Taylorsville Court has more clerks, but is still losing money while other courts are not.

19:11:27 Judge Thomas confirmed that Taylorsville's court caseload is about the same as that of Summit County. Mayor Wall relayed that Summit County employs one judge and five clerks. He cited Judge Kwan's explanation that Taylorsville Court cases are more complicated than those in Summit County.

19:12:32 Council Member Barbour asked City Attorney John Brems to address options for dealing with court issues.

19:13:29 Mr. Brems cited one option to make each budget line item a department, so that money cannot be moved around. Mr. Morgan said that a different budget structure could possibly be implemented.

19:14:05 Mayor Wall stated that there is currently no ability to move money inter-departmentally unless he approves it; although, the Council can override his disapproval.

19:14:33 The Mayor explained that Judge Kwan originally stated that he could run the Court with fewer clerks, but then went to the Council requesting more temporary clerks; at that time the Council directed the Judge to submit such a request to the Mayor, and the Mayor then turned down the request. Mayor Wall said that the Judge doesn't believe the Council and Administration are united in their view of court issues.

19:15:12 Council Member Barbour inquired about the possibility of creating a line item for drug court and then removing it from the budget. Mayor Wall said that there is currently a line item for the drug court, but that budget is only used to buy treats for the Drug Court Graduation. He relayed that Judge Kwan has indicated this is the only cost and that the Drug Court is actually saving the City money.

19:16:11 Mayor Wall said that in the past he has instructed City prosecutors not to sign off any individuals going to Drug Court, but the Judge subsequently tells the defense to instruct defendants to plead guilty and then sentences them to the Drug Court. The Mayor said that he has heard that some defense attorneys tell their clients to plead guilty in Taylorsville and then an appeal can be filed.

19:18:14 Council Member Pratt inquired about the status of the temporary clerks employed in the Court. He observed that it seems Administration is not on board with the hiring of the temporary employees, although they have not objected during previous Council Meeting discussions.

19:18:34 Mayor Wall said that the Judge's original request is reflected in the current proposed mid-year budget adjustments. The Mayor said that by not approving the Court's transaction request, he has essentially disapproved the request.

19:18:49 Mr. Harrington illustrated the transfer request in the budget from warrant services to salaries and wages in order to fund the temporary employees. Mayor Wall said that all Department heads are told that they may request budget adjustments from him and if he says no,

they are always allowed to request the change from the Council. Mayor Wall clarified that he is not recommending the proposed adjustment, but it has been included for Council consideration.

19:21:08 Mayor Wall explained that when the State decertifies the Court, all it means is that the State will no longer fund the Court. Mayor Wall agreed that it doesn't make sense to keep running the Substance Abuse Court when it is not acceptable to the State Court system.

19:22:19 Further discussion was held regarding decertification of the Drug Court, the number of clerks in the Court, the lack of supervision of judges, and potential cuts to the Court's budget. Mayor Wall said that he doesn't doubt that the Drug Court changes lives, but questions how the City can afford it. He said that non-compliance with State standards raises suspicions on the validity of the Drug Court. Mayor Wall acknowledged that Judge Kwan totally believes that he is doing what is best for Taylorsville citizens, but Administration objects because the Drug Court is not certified.

19:26:52 The Mayor noted that the penalty for non-certification of the Court is not clearly defined.

19:27:23 Council Member Pratt disagreed with the statement made in Judge Kwan's email that personnel costs incurred would be the same in the absence of a Drug Court.

19:28:41 Mr. Harrington cited some unknown factors he faces in trying to analyze actual costs for running the Drug Court.

19:29:08 Mr. Morgan indicated that Administration plans to bring their estimates on Drug Court costs forward, but speculated that those will differ from the Judge's estimates.

19:29:23 Council Member Johnson requested detailed information from Judge Kwan regarding why Taylorsville cases are different from other court cases.

19:29:46 Mr. Morgan stated that Judge Kwan is currently out of town, but has requested an opportunity to personally answer questions about the Drug Court.

19:30:26 Council Member Pratt referenced unresolved issues with mid-year budget adjustments in relation to the Court. Mayor Wall reported that Judge Kwan has agreed to halt the work of temporary court employees until staffing and budget issues are resolved, and the Mayor has recommended that he do so.

19:31:33 Mayor Wall explained that although it is within his purview to make budget adjustments within a department, he would still like input from the City Council. Council

Member Pratt said that the Council has already expressed support for the Mayor's position. Mayor Wall stated that Judge Kwan does not view it that way.

19:31:59 Council Member Barbour clarified that the City Council was very firm in stating that they would not approve budget adjustments for staffing and that the issue was to be resolved between the Judge and the Mayor. She suggested that the Council's position was previously made very clear, and that the Judge does understand it.

19:32:17 Mayor Wall apologized that he was not in attendance during earlier discussions. He said that if he had been at the meeting, he would have made his non-approval very clear.

19:32:23 Council Member Barbour suggested that the budget adjustment for additional court staff should be removed from the budget.

19:32:34 The consensus of the Council was that the mid-year budget should be adjusted to reflect that a staffing adjustment is no longer an option.

19:32:50 Mr. Harrington agreed to change the budget document to remove the Court employee salary adjustment and then forward the amended document to Council Members by February 10, 2011.

19:33:19 Council Member Johnson said that he wants more time to study the proposed budget adjustments. Mr. Morgan clarified that it is not mandatory to pass the mid-year budget next week. He explained that the budget has been prepared to give the Council the option to pass it or to move it for further consideration at a future meeting. He noted that when Administration first began dealing with mid-year budget adjustments, there were not a lot of changes to be made and most amendments dealt with the 16 resolutions already passed by the Council. Mr. Morgan said that originally it was thought that the budget could be passed in one meeting, but given the complexities that have entered into the budget since that time, it is the Council's prerogative to move it to other meetings.

19:34:33 Mr. Morgan confirmed that the FY 2010-2011 Budget was passed by resolution and the mid-year budget adjustments will be consistent with that.

4. Discussion Concerning Changing Rear and Side Yard Setbacks for Awnings and Other Attached Structures in Residential Zones – *Mark McGrath*

19:34:59 Community Development Director Mark McGrath relayed that the City recently had two applications appear before the Board of Adjustments that were denied. He explained that these applications involved property owners who have built covered awnings into the required setbacks, as established in the City Zoning Code.

19:35:36 Mr. McGrath noted that the current code stipulates that anything attached to the main structure that is covered by a roof and supported by either a wall or a column is considered part of the main structure and must adhere to the City's setback standards.

19:35:55 Mr. McGrath illustrated images of code violations on two properties relating to setback standards.

19:36:27 Mr. McGrath reported that in both instances the Board of Adjustment recommended to the applicants that a variance wasn't appropriate, based on the fact that criteria established by the Board and by State law was not met. He relayed that the Board has suggested that a more appropriate way to address this issue is through an ordinance amendment.

19:41:13 Mr. McGrath asked whether City Council Members believes an ordinance adjustment is appropriate and whether they want to investigate the possibility of allowing these types of structures. Mr. McGrath said that, if that is the case, the matter can be forwarded to the Planning Commission for input.

19:42:10 Council Member Johnson inquired why code violations relating to attached structures have not been enforced sooner.

19:42:42 Mr. McGrath stated his surprise at how many violations relating to structures he actually found when he went looking. He said that even though the City is aware of some violations, it is a sensitive issue to ask property owners to demolish existing structures. He explained that follow up on violations has generally been done after a complaint is received.

19:38:32 It was observed that structures attached to homes in violation of code is a City-wide problem that detracts from neighborhoods. Discussion was held regarding this potentially controversial issue and the need to be consistent through the City.

19:45:54 Mr. McGrath described current setback standards for attached structures.

19:49:45 The consensus of the City Council was to send this issue to the Planning Commission for further study and recommendation.

19:51:17 Mr. McGrath agreed that the City could have been more aggressive with enforcement in the past in regards to attached structures.

5. Other Matters

There were no other matters for discussion.

6. Adjournment

19:51:51 Council Member Morris Pratt **MOVED** to adjourn the City Council Work Session. Council Member Dama Barbour **SECONDED** the motion. Vice Chairman Johnson called for discussion. There being none, he called for a vote. The vote was as follows: Pratt-yes, Catlin-yes, Barbour-yes, Rechtenbach-excused, and Johnson-yes. **All City Council members voted in favor and the motion passed unanimously.** The meeting was adjourned at 7:51 p.m.



Cheryl Peacock Cottle, City Recorder

Minutes approved: CC 03-02-11

Minutes Prepared by: Cheryl Peacock Cottle, City Recorder