

City of Taylorsville
Work Session
Minutes

Wednesday, October 13, 2010
Council Chambers
2600 West Taylorsville Blvd., Room No. 140
Taylorsville, Utah 84118

Attendance:

Mayor Russ Wall

Council Members:

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

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
Donald Adams, Grants Manager
Wayne Dial, Assistant Police Chief
Mickey Pahl, Code Enforcement Officer
Jeff Gallegos, Code Enforcement Officer
Marsha Thomas, Judge
Tracy Wyant, Police Sergeant

Excused: Mayor Russ Wall

Others: City Prosecutor Chad Woolley, John Gidney, Cathy McKitrick

18:00:46 Chairman Morris Pratt 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.

**1. Discussion of the Good Landlord Program and Business License Fee Schedule
– Mark McGrath**

18:01:43 Community Development Director Mark McGrath stated that he has been asked to re-evaluate the current Good Landlord Ordinance and implement changes, as appropriate.

18:02:15 Mr. McGrath reviewed the proposed language changes, as follows:

Landlords with multiple properties: This addresses a section of State code that stipulates that cities may not require owners of rental properties who have more than one rental property in the City to obtain more than one business license. The proposed change to the City Ordinance largely follows State law and clarifies, for example, that if one individual owns three rental homes in the City, only one license is required.

Council Member Barbour asked Mr. McGrath about a letter of complaint she recently received from a citizen in her district. Ms. Barbour relayed that the citizen complained about questions relating to fees and getting the “run around” in the Licensing Department. Mr. McGrath cited an abnormal delay in responding to the citizen due to a staff member’s bereavement leave. He indicated, however, that the citizen’s main objection is to paying the fee as it was established in the fee schedule.

Chairman Pratt asked Mr. McGrath to clarify the fee schedule when an owner has multiple units. Mr. McGrath explained that with the proposed changes, “location” will be defined in the ordinance. He stated that a landlord in the City would only buy one license with a base fee and then pay a disproportionate fee based on the actual number of units/properties owned.

Good Landlord Training: This proposed change adds some flexibility to the guidelines regarding accepted training classes. Landlords are currently required to attend the training taught by the Utah Apartment Association. This change adds language stipulating that “Said training shall be pre-approved by the license official” and an official certificate of participation will be issued. Mr. McGrath indicated that refresher courses may be substituted for full training sessions every other two-year period. Full training sessions shall be a minimum of four hours of class time and refresher courses shall be a minimum of two full hours of class time. Mr. McGrath noted that he will still have the ability to look at each training class that is presented and decide whether it is an acceptable substitute, or if the owner still needs to attend the training provided by the Utah Apartment Association.

Council Member Barbour and Chairman Pratt stated they have both had positive feedback regarding the value of the training classes.

18:17:18 Notice for Inspections: This issue addresses 5.76.100, Consent to Enter. Essentially what is being added is a sentence that the City, or authorized representative, will provide at least 24 hours notice prior to the inspection. Discussion ensued regarding inspections not occurring unless complaints are received. It was determined that the preferred method of notification would be written and sent by certified mail.

18:23:30 John Inch Morgan noted that the State Public Health Code gives the Utah State Health Department the ability to enter properties and conduct investigations if certain conditions are met. As this code details reasons that inspections are allowed, Mr. Morgan suggested examining the code and possibly incorporating it into the City's ordinance to ensure that appropriate thresholds are met for allowing inspections.

18:28:06 John Brems suggested creating language in the notice about the cause of the complaint that drives the notice, in order to address concerns that have been stated.

18:31:17 Council Member Catlin suggested adding language that states that if a Property Management Company changes, the person who has been responsible for the Good Landlord Program must notify the City and get the new person certified in order to keep their license.

18:33:36 Appeals to the Provisions of the Good Landlord Program: Currently, if there is a disagreement between the City and the landlord, the City wins and there is no appeal procedure in place for the landlord. It was recommended that 5.76.120 state, "Any person shall have the right to appeal to the City Council any decision rendered by the license official regarding any provision of the Good Landlord Program."

18:35:39 Mr. McGrath inquired whether appeals should go to the Council or another authority, i.e. the Administrative Law Judge. Council Member Johnson stated that these appeals should go to the Council in an effort to not add to the work load of the City Administrator. Council Member Rechtenbach suggested that these types of appeals don't fall under the duties of an elected official, but rather, are an administrative issue. He said that the decision should only come to the Council if the appeal continues past Administration's decision. Chairman Pratt stated that he also believes it is an administrative function. Council Member Barbour agreed and stated that it isn't the Council's role, as they are legislative not judicial. Council Member Catlin stated that he believes that it is an administrative function, as well.

18:41:53 Definition of "Automotive:" Mr. McGrath indicated that language regarding inspection services has been added to the Automotive Definition. He noted that this issue goes back to the appeal that was previously brought to the Council. He said that the new language will leave no doubt that the auto emissions and inspection businesses fit within the automotive category.

18:42:24 Fee Schedule Modifications: The suggestion was made that businesses who can demonstrate that they haven't had code enforcement issues or police and fire issues have the ability to apply for some sort of a waiver or reduction of the disproportionate fee.

18:47:00 Chairman Pratt stated that his understanding is that each business license is reviewed by the Police Department, Fire Department and Code Enforcement and there is a charge built into the business license fee schedule for those services. Mr. McGrath clarified that the study that was done bases the City's current fees on the amount of calls in each category and the categories that had more use of services, i.e. rentals, large restaurants, firework stands, etc., were required to have an extra regulatory analysis which added to their base fee.

Chairman Pratt asked about the possibility of giving a cost reduction to owners who may not be a part of the Good Landlord Program, but are still good landlords because they don't require the use of police, fire or code enforcement.

Mr. McGrath clarified that there is currently a provision that if you violate the ordinance after receiving the Good Landlord status it will be revoked.

Council Member Rechtenbach stated his belief that the Good Landlord program has been proven to reduce crime and better communities and so if people want the reduction in costs they need to be a part of that program. He suggested that the City should not be lenient in its goal to improve the quality of life in the City.

Council Member Catlin expressed that he sees no problem with giving an extra break to those who are not in the Good Landlord program, but after a year haven't had any calls for service or any complaints.

18:57:35 Council Member Barbour stated that the clause that she was most concerned about in the ordinance was regarding personal property rights and since that is being amended, she believes the rest is fine.

Council Member Johnson expressed that those who break the law should pay for it, and those who do the right thing should get a bit of a break.

19:00:36 Mr. McGrath was asked to draft some alternatives that give owners who are not in the Good Landlord Program the ability to receive a discount based on a good track record.

2. Discussion Regarding a Possible Ordinance Respecting the Abuse of the Intoxicating Chemical Substance Commonly Known as Spice – Chief Craig

19:01:07 Taylorsville Police Chief Del Craig asked for direction from the Council regarding a proposed ordinance similar to that passed by Ogden City for regulating the use of a chemical substance known as “Spice.” He indicated that a State law will likely be implemented during the next legislative session.

19:02:53 Chief Craig recognized City Prosecutor Chad Woolley and asked him to share his perspective on issues that have come before the Court. Issues were also cited related to Community Development due to business cropping up to sell this type of material. Chief Craig asked for direction on whether Taylorsville would like to pursue this now or wait until State legislation is passed.

19:03:45 Chief Craig addressed questions about Spice. He indicated that the issue has been on the radar screen for awhile. He relayed that Ogden has seen more prevalence for it being used and sold. Taylorsville has had a few cases where officers have encountered it and struggled to find ways to charge.

19:04:12 Prosecutor Chad Woolley outlined the prosecution’s perspective on Spice and ways that it is used, as follows: currently, it is mostly used by those who are on probation for other substances because it doesn’t show up on tests required by probation officers and it will still give users a high without being illegal. Spice can be tested for but, because it is not illegal, the standard tests don’t test for it.

19:06:23 Prosecutor Woolley described cases of concern, one of which is a local establishment that is selling Spice and the other regarding a case where an officer pulled over a car with a large bag of Spice and all of the paraphernalia to smoke it. He noted that these are the very same items used to smoke marijuana, but because Spice is not illegal there was nothing that could be done to prosecute. There was discussion regarding whether Huffing statutes could be cited, but it was clarified that no one at this point has attempted to use that ordinance. Prosecutor Woolley relayed that this is becoming an increasingly bigger issue and he is confident that State legislation will be passing law to outlaw Spice soon.

19:08:56 Council Member Barbour asked for further clarification on the makeup of Spice. Prosecutor Woolley explained that various herbs are being coated with a synthetic form of THC. He relayed that local establishments are both making spice and buying it from other places and bringing it in.

19:11:23 Chief Craig read information on Spice in response to questions from the Council. He explained that Spice is still something people are experimenting with and some say it gives the

same high as Marijuana; some users don't agree. The Chief indicated that Spice is gaining popularity among high school and college age individuals, as well as among probationers and parolees. He noted that since it is sold as incense, there is no age limit like there is with smoking.

Council Member Johnson expressed concern over children being able to have access to this substance and said that he believes its use must be stopped in Taylorsville now before it gets too out of hand.

Council Member Catlin stated that this is another case where law needs to be passed at the State level and not the City level. He noted that even if Spice is outlawed in Taylorsville, it will still be available until it is handled by State statute. He suggested that pressure be put on local legislators to get appropriate legislation passed quickly.

19:15:20 Chairman Pratt said that he is not confident that it will be passed by the State quickly. He stated his support of the proposed ordinance in the City until State law is implemented.

19:16:02 Council Member Barbour expressed her concern over all the factors that have been mentioned.

19:16:55 Council Member Catlin clarified that he has no problem supporting a City ordinance, but there is a need to be careful, because this is a broader issue.

19:17:17 Chairman Pratt asked if Spice is being sold as incense, how its prohibition might be enforced. Chief Craig explained that this is the same challenge that is faced with any new chemical substance. He suggested that as Spice gains popularity, field tests will be developed, there will be a learning curve, and then each case will be taken as it comes.

19:20:12 John Brems cautioned against being the first test case on prosecuting this issue. Chief Craig clarified that having a State statute would put the City on firmer ground.

19:21:29 John Brems explained that if the City's goal is to help the Drug Courts prosecute this then there is an easier way to do that, but if the goal is to keep Spice from being sold then the ordinance is appropriate. Prosecutor Woolley further stated that having a Statute would make it easier to prosecute these cases; however, as the State begins to draft their legislation they will be looking to cities that have prosecuted these cases for wording on the statute itself. He noted that if the City prosecutes a case and loses, that will help determine what needs to be said to prosecute successfully in the future. Mr. Woolley stated that there is a need to get Spice off the street now and the only way to do that is to have an ordinance in place so that it can be prosecuted.

19:25:42 Council Coordinator Jessica Springer confirmed that November 10, 2010 is the date for legislative breakfast.

19:26:42 Chairman Pratt suggested bringing this issue back next month after meeting with legislators.

3. Overview on Administrative Code Enforcement – *Jeff Gallegos*

19:28:25 Code Enforcement Officer Jeff Gallegos presented a Power Point presentation regarding code enforcement efforts.

19:31:05 Officer Gallegos reviewed the Code Enforcement Process, including notification of the code violation and process for non compliance. He relayed that over half of the violations are resolved after the first notice. Officer Gallegos also described the process for receiving complaints from the community.

19:34:10 Code Enforcement Officer Mickey Pahl clarified that the website is currently being redesigned, which will allow the process for submitting complaints online to run much smoother.

19:35:07 Officer Gallegos explained that each complaint is addressed immediately. He said that usually the property is visited the day following receipt of a complaint, and then the notification letter is generated. He relayed that, by law, 10 working days are allowed to rectify the situation.

19:35:48 Officer Pahl clarified that the 10 days excludes weekends and 2 days for mailing, so it could be up to 16 days from the first letter to resolve. He noted that if the property is still not compliant, another more forceful letter is sent out with another 16 day time limit; if still not resolved, the case then goes to a fining status. Officer Pahl relayed that only 6% or 7% of cases ever go to that extent.

19:37:06 Council Member Catlin cited some ongoing long-term cases. He asked about whether a tree growing over a neighbor's property line is the responsibility of the tree owner to keep it out of the neighbor's yard or the neighbor's responsibility to trim the portion that is in his yard. Officer Gallegos answered that it is the tree owner's responsibility, and if they are not in compliance they will get a code violation letter.

19:38:21 It was confirmed that 79% of code enforcement cases are pro-active and identified by officers.

19:38:44 Officer Pahl stated that if someone with a code violation contacts them and asks for more time, the City is more than willing to work with them as a team to resolve the issue.

19:39:29 Officer Pahl distributed information regulating the encroachment of trees.

19:40:01 Council Member Barbour thanked Code Enforcement for their hard work and referenced an issue that was in her district that was resolved quickly. She stated that her neighbors have expressed their gratitude as well.

19:40:17 Officer Gallegos illustrated a sample Courtesy Notice Letter, pointing out the case number, the nuisance definition, the violation, and the deadline for compliance. Officer Pahl explained that due to some of the form letters not having enough specific detail they have begun adding highlights and notes with specific details relating to each violation, in an effort to give the homeowner every possible detail needed to get property into compliance. Officer Gallegos added that they have been considering adding a photo to the notice letter to eliminate confusion as to what is being referenced.

19:42:41 Council Member Johnson thanked Code Enforcement for getting a house on 3200 West cleaned up and then asked about whether the City is able to get the Canal Company to clean up areas around the canal that are full of weeds and attract rodents. Officer Gallegos answered that every year it seems to get harder to deal with the Canal Company and to get them to take responsibility for certain parts of the canal. He suggested that efforts to identify issues begin earlier in the year.

19:44:11 Chairman Pratt asked about the code regarding woodpiles for residences that heat their homes with wood burning fireplaces. Officer Pahl responded that as far as he is aware woodpiles are allowed, as long as they don't attract rodents. He indicated that stacked woodpiles are the only exception to the junk and debris rule.

19:45:31 Council Member Johnson asked about what can be done along the canal to prevent rodents. Officer Pahl answered that the Health Department has a large number of resources and help is available to people who need it for trapping rodents. He added that the Department will also come out and help identify possible sources and solutions for keeping rodents away.

19:48:15 Chairman Pratt asked about property owners who are accumulating items to take to the dump and if there is a reasonable amount of time that residents can accumulate the items without being cited. It was explained that if the accumulation is not in a trailer, and it is not obviously intended to be transported and a complaint is received, Code Enforcement will send out a courtesy notice; if explanation is received regarding the situation and the intended timeframe for hauling, then the matter can be worked out. Officer Pahl explained that because they are out driving around so much, they are usually able to identify the situations where it is not just an accumulation of junk, but accumulation for a purpose.

19:48:28 Officer Gallegos illustrated the Notice of Violation, and reviewed fine structures. He explained that approximately 93% of cases are resolved at this point. Explanation was given regarding the handling of violations not visible from the street. It was noted that these types of violations are usually only addressed after receiving an actual complaint from neighbors. Officer Gallegos illustrated the Notice/Certificate of Non-Compliance and an invoice for fines that is sent to properties that are still not in compliance after the second notice. If still not in compliance after receiving the Certificate of Non-Compliance, violators are scheduled for hearings before the City's Administrative Law Judge, Greg Christiansen. It was clarified that the Administrative Law Judge makes final determination on what a reasonable and prudent fine is and how the case is actually resolved. It was noted that approximately 50% of property owners scheduled for hearings do not show up. Officer Gallegos confirmed that for violators who do not appear, a notice of recordation encumbering the property is awarded for the full amount of fines.

19:57:16 Officer Gallegos detailed goals that have been identified since implementation of the new Administrative Code Enforcement Program. He then showed before and after photos of some success stories.

19:59:03 Council Member Catlin asked about a hole in a concrete wall in his district at approximately 4300 South Redwood Road. Officer Pahl agreed to investigate the matter immediately. He asked Council Members to contact code enforcement officers whenever they identify an issue that needs to be looked into.

20:00:59 Council Member Barbour asked about graffiti clean-up and expressed concern that sometimes the paint to cover it up doesn't match and almost looks worse than the graffiti itself. Officer Pahl explained that he and Officer Gallegos do approximately 95% of the cleanup personally or work with property owners for removal. He noted that often times it is just a quick fix with whatever donated paint is on hand to cover up profanity or vulgarity and get it out of site as quickly as possible. Officer Gallegos added that if the graffiti is on a private residence or business, they do give the owners opportunity to take care of it on their own if they would like to have it done a certain way.

20:05:24 Council Member Johnson asked Chief Craig about the possibility of posting signs offering an award for turning in known offenders. Chief Craig answered that they have tried offering awards before, primarily through schools, and the results are sporadic. He cited hesitation in putting up signs because it is almost like issuing a challenge to offenders and there is some question as to whether the reward notice generates more graffiti.

4. Other Matters

20:08:14 Council Member Johnson inquired about the status of the wall planned to go around the recycling business on 6200 South because it is currently an eye sore. City Administrator John

Inch Morgan responded that he is not sure about the schedule, but will follow up on it and see if a timeframe can be determined. He agreed to report back to the Council on this issue.

20:09:20 Council Member Rechtenbach updated the Council on how well the 6200 South changes are working. He cited very positive feedback he has received and said the changes at the intersection have been a marvelous success.

Council Member Rechtenbach reminded everyone about the Economic Development Forum being held the next morning, October 14, 2010, at the Salt Lake Community College. He encouraged everyone to attend in support of local businesses. He commended Keith Snarr for his work on economic development in Taylorsville.

5. Adjournment

Council Member Catlin **MOVED** to adjourn the City Council Work Session. Council Member Johnson **SECONDED** the motion. Chairman Pratt called for discussion. There being none, he called for a vote. The vote was as follows: Rechtenbach-yes, Johnson-yes, Catlin-yes, Barbour-yes, and Pratt-yes. **All City Council members voted in favor and the motion passed unanimously.** The meeting was adjourned at 8:11 p.m.


Cheryl Peacock Cottle, City Recorder

Minutes approved: CC 11-03-10

Minutes Prepared by: Cheryl Peacock Cottle, City Recorder