

SOUTH JORDAN CITY
CITY COUNCIL STUDY SESSION

January 6, 2015

Present: Mayor David Alvord, Councilman Steve Barnes, Councilman Chuck Newton, Councilman Chris Rogers, Councilman Mark Seethaler, Councilman Don Shelton, COS Paul Cunningham, City Attorney Rob Wall, Assistant City Attorney Ryan Loose, Development Services Director Brad Klavano, Administrative Services Director Dustin Lewis, City Commerce Director Brian Preece, IS Director Jon Day, City Council Secretary MaryAnn Dean

STUDY SESSION – 4:00 PM

A. Invocation

Councilman Rogers offered the invocation.

Mayor Alvord announced the resignation of City Attorney Wall. Mr. Wall will be going to work for Sandy City.

City Recorder Anna West passed out Conflict of Interest statements to the City Council to be completed and signed. She asked that they be returned to her by January 30, 2015.

Councilman Newton arrived at this time.

City Attorney Wall said regarding the opening ceremony and invocation, the city is currently meeting the requirements of the law. He encouraged the City Council to reach out to others to offer the invocation. It is beneficial to show that people other than Council Members are offering the invocation.

B. Staff Item: Annual Training (*By General Counsel Rob Wall*)

Assistant City Attorney Loose trained the City Council on the Open Meetings Act. In the Utah League of Cities and Town handbook, there is a section on public meetings that has good information. He indicated that any deliberations or final decisions should be made in an open meeting. A meeting is constituted by a quorum. Annually, they put out a notice when the meetings are scheduled. That notice has already been given. Each meeting has an agenda noticed. Some issues require a 7 day notice, some require 24 hour notice. An emergency meeting does not require 24 hour notice or an agenda. Special meetings can be called with 24 hour notice. They reviewed what constituted an emergency meeting. Mr. Loose reviewed the requirement for posting a notice for the various types of meetings.

Mr. Loose said the City Council can add items to the agenda at the meeting. Those items are for discussion only; they cannot vote on those items.

Mr. Loose reviewed the list of reasons that the City Council can meet in a closed (executive) session. He reviewed which meetings are required to have minutes and recordings. To discuss the character or competence of an individual, it is mandatory to do that in a closed meeting. Other issues are discretionary if they wish to discuss them in an open meeting. They record who was in attendance at the closed session, unless the people who went into the closed meeting would cause that the topic be divulged. They can record closed sessions to discuss the character or competence of an individual, but it is not mandatory. If there is a disagreement about recording the meeting, it would be up to the chair or the body to determine if it is recorded, making note of who wanted it recorded.

Mr. Loose said if people wish to audio or video record a meeting, they can do that. The city can require those individuals to be orderly and not disrupt the proceedings.

Councilman Seethaler asked if they can preclude pictures from being taken during a private meeting. City Attorney Wall said not if it is being held in a public place.

City Attorney Wall reviewed the city's code of ethics (Attachment A). He reviewed the City Council's legislative, administrative, and quasi-judicial authority (Attachment B). He discussed the policy relative to having communication with their constituents. He said under the code of ethics, information should be shared with the entire City Council that is important to decision making. The City Council has to communicate with the constituents. They should not talk to people about a matter where the City Council will be acting like a judge (quasi-judicial nature) in their case. If it's not a quasi-judicial matter, they can talk to residents or developers. Councilman Newton said the idea is to make sure they hear both sides of the argument.

The City Council asked staff to send them a *Microsoft Word* copy of the code of ethics.

City Attorney Wall noted a bill that Representative Cunningham may run at the next Legislative session regarding expulsion from a meeting.

The City Council took a break for dinner.

C. **Staff Item:** Food Truck Ordinance Discussion (*By Mayor Alvord and City Commerce Director Brian Preece*)

City Commerce Director Preece noted the difference between food trucks versus street vendors. He said if an owner of a property invites a food truck to a grand opening to pass out food, for example, that is allowed. If a truck is parked and selling food then that is not allowed under the current Ordinance. He said they need to address if they want the food trucks regulated in some manner. Some regulations could include to allow only a certain number of permits, allow them only in certain zones, or only on specific sites. It was noted that this policy does not apply to ice cream trucks or snow cone shops. Generally, those uses are not in competition with people on their site. With a food truck, there is the potential of competition with brick and mortar restaurants.

COS Cunningham said another concern is that sometimes trailers are used and they have portable generators that create noise and pollution issues.

Councilman Newton said his concern is that if the trucks are registered, the business is based out of the people's home and the sales tax would be based out of the home location. If they allow food trucks, they are allowing competition to their businesses, with no tax benefit. It could impact their brick and mortar businesses.

Councilman Shelton asked how the existing restaurateurs in the city feel about the food trucks? COS Cunningham said he didn't know. For some businesses, the food trucks create synergism and create more business. He said hardly anyone has a policy on food trucks in this end of the valley.

Assistant City Attorney Loose said Thanksgiving Point invites Waffle Love 2 times a week, and would like to have them more. It was noted that Waffle Love was also at the city's farmers market and Country Fest. Councilman Newton said he is okay with allowing the food trucks at certain events, but not on a regular basis. Strategic Services Director Tingey noted that Provo had a food truck farmers market on Thursdays.

Councilman Rogers said they can limit the use to commercial or office zones. Councilman Newton expressed concern over competition with existing restaurants. COS Cunningham said they can ask the Chamber of Commerce and the local restaurants their opinion on the issue. Councilman Newton said he is okay with it if the owners of the trucks were registered in the city so they collect sales tax. Councilman Barnes said the local restaurants will likely not want to have the competition, but that doesn't mean the food trucks shouldn't be allowed.

Councilman Seethaler recommended that they test out a policy this Spring. Mr. Preece recommended that they only allow trucks or single self contained units. Trailers cause bigger problems.

Councilman Newton said he would be okay with it for a trial period, if they limit it to areas like Mulligans, Heritage Park, by the City Center, or by the splash pad. Mr. Preece asked if they should allow the food trucks on public streets?

Councilman Rogers said he feels they should be less restrictive in the pilot period so if there are things they don't like, they can change it. They discussed not allowing it in the ball park because they don't want to compete with the concessionaire.

Councilman Rogers said they should make sure the trucks understand this is just a pilot program. He said if they are looser with the restrictions, they will see where the trucks go to be successful. He said they can restrict the use from residential properties. Putting a cap on the total number of trucks allowed might make sense as well.

Councilman Seethaler said they could license the trucks or sell a limited number of licenses.

Mayor Alvord said he has faith in the free market. What problem are they solving by regulating this? Councilman Seethaler said right now, no food trucks are permitted. When problems arise, they will know what regulations make sense. He said he feels they should start allowing them on a smaller scale and then expand. Councilman Newton concurred.

Mayor Alvord asked why they need to limit the amount of food truck licenses? They don't limit the amount of restaurants allowed in the city. He said it feels like they are trying to regulate the economy. He said the market for food trucks and restaurants differ.

The City Council discussed starting the test out with 10 food truck licenses. Mayor Alvord said there won't be 10 food trucks that get a license in the city. Councilman Seethaler said he is more interested in learning about the issues that arise than an actual number of licenses.

Staff will bring back a pilot plan for food trucks.

D. **Staff Item:** Rosemond University Assessment Funds

The City Council determined to discuss this item in the regular City Council meeting.

ADJOURNMENT

The January 6, 2015 City Council study session adjourned at 5:59 p.m.

This is a true and correct copy of the January 6, 2015 Council Study meeting minutes, which were approved on January 20, 2015.


South Jordan City Recorder

RESOLUTION R2012-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING THE CODE OF ETHICS REGARDING EX PARTE COMMUNICATIONS AND MAKING MINOR GRAMMATICAL CHANGES FOR CLARIFICATION PURPOSES.

WHEREAS, the Code of Ethics for Members of South Jordan City Council, Boards, Committees and Commissions adopted by the South Jordan City Council deals in part with ex parte communications; and

WHEREAS, currently ex parte communications by members of the South Jordan City Council, Boards, Committees and Commissions ("Members") are prohibited with developers or others having a financial interest in the City; and

WHEREAS, Members of the City Council have a fiduciary duty to be available to and communicate with the residents, business owners, developers, and others, who live or conduct business in the City; and

WHEREAS, the South Jordan City Council has determined that amending the Code of Ethics to clarify that ex parte communications relative to matters where Members act in a quasi-judicial capacity are those communications which are inappropriate and making minor grammatical changes, is in the best interest of the health, safety, and welfare of the residents of the City of South Jordan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH:

Section 1. Amendment. The Code of Ethics for Members of South Jordan City Council, Boards, Committees and Commissions Adopted by the South Jordan City Council is amended as shown in Exhibit A.

Section 2. Effective Date. This resolution will be effective immediately upon passage.

APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, STATE OF UTAH, ON THIS 17th DAY OF April, 2012, BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Mark Seethaler	X			
Chuck Newton	X			
Brian C. Butters	X			
Steve Barnes	X			
Larry Short	X			



Mayor: Scott Osborne
Scott Osborne, Mayor

ATTEST: Anna M. Wiss
City Recorder

Approved as to form:
Randy [Signature]
Assistant City Attorney

not limited to: the United States and Utah Constitutions; the South Jordan City Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City policies and procedures.

3. Conduct of Members

The professional and personal conduct of Members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other Members of Council, boards, committees and commissions, the staff or public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order as established by the City Council, board, committees and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City Staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues,; listen courteously and attentively to all public discussions before the body,; and focus on the business at hand. They shall refrain from interrupting other speakers,; making personal comments not germane to the business of the body,; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council, boards, committees and commissions, which they may have received from sources outside of the public decision-making process. Ex parte communication dealing with matters that will be heard by Members in a quasi-judicial capacity with developers or others having a financial interest in the City is shall be deemed inappropriate. Members shall refrain from communication where all parties are not present, with any individual, group or business regarding matters that are pending before them in a quasi-judicial capacity.

8. Conflict of Interest

In order to ~~assure~~ ensure their independence and impartiality on behalf of the common good, Members shall not use their official positions to influence governmental decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

Because of the value of the independent advice of boards, committees, and commissions to the public decision-making process, Members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board, committee and commission proceedings.

16. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealing with City employees to in no way create the perception of inappropriate direction to staff.

17. Implementation

As an expression of the standards of conduct for Members expected by the City, the South Jordan City Code of Ethics is intended to be self-enforcing. It therefore becomes most effective when Members are thoroughly familiar with it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientation for candidates for City Council, applicants to board, committee and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the South Jordan City Code of Ethics. In addition, the Code of Ethics shall be annually reviewed by the City Council, boards, committees, and commissions, and the City Council shall consider recommendations from boards, committees, ~~and~~ commissions, and the staff to update it as necessary.

18. Compliance and Enforcement

The South Jordan City Code of Ethics expresses standards for ethical conduct expected ~~for~~ of Members of the South Jordan City Council, boards, committees, and commissions. Members themselves have the primary responsibility to ~~assure~~ ensure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of boards, committees, and commissions and the Mayor, have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics are brought to their attention.

The City Council may impose sanctions on Members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or loss of committee assignment.



LEGISLATIVE

ADMINISTRATIVE

QUASI JUDICIAL

LEGISLATIVE

ADMINISTRATIVE

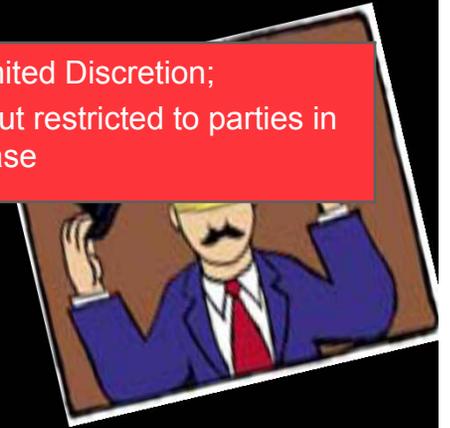
QUASI JUDICIAL

Characteristics

- Broad Council Discretion;
- Public Input Relevant

- Limited Discretion;
- Limited or no public input

- Limited Discretion;
- Input restricted to parties in the case



LEGISLATIVE

ADMINISTRATIVE

QUASI JUDICIAL

Characteristics

- Broad Council Discretion;
- Public Input Relevant

- Limited Discretion;
- Limited or no public input

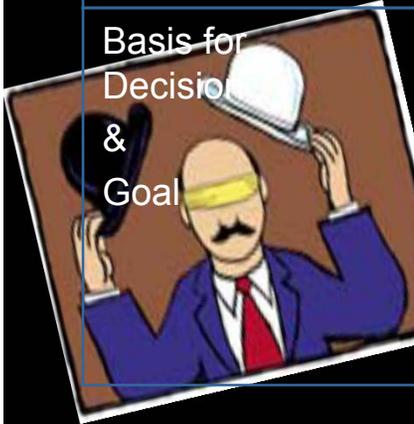
- Limited Discretion;
- Input restricted to parties in the case

Basis for Decision & Goal

- Citizen opinion
- "Public Clamor"
- Creates new law
- "Vision" of Council
- Great Deference Given
- Reasonably Debatable

- Based on law
- Public Opinion Irrelevant
- Does not create/"Bend" law
- Enforce/interpret law
- "Substantial Evidence"
- Reasons Stated ("Findings")

- Based on law
- Public Opinion Irrelevant
- Public or Third Party Input ("Credible Evidence" only)
- "Substantial Evidence"
- Reasons Stated ("Findings")



LEGISLATIVE

ADMINISTRATIVE

QUASI JUDICIAL

	LEGISLATIVE	ADMINISTRATIVE	QUASI JUDICIAL
Characteristics	<ul style="list-style-type: none"> ● Broad Council Discretion; ● Public Input Relevant 	<ul style="list-style-type: none"> ● Limited Discretion; ● Limited or no public input 	<ul style="list-style-type: none"> ● Limited Discretion; ● Input restricted to parties in the case
Basis for Decision & Goal	<ul style="list-style-type: none"> ■ Citizen opinion ■ “Public Clamor” ■ Creates new law ■ “Vision” of Council ■ Great Deference Given ■ Reasonably Debatable 	<ul style="list-style-type: none"> ■ Based on law ■ Public Opinion Irrelevant ■ Does not create/“Bend” law ■ Enforce/interpret law ■ “Substantial Evidence” ■ Reasons Stated (“Findings”) 	<ul style="list-style-type: none"> ■ Based on law ■ Public Opinion Irrelevant ■ Public or Third Party Input (“Credible Evidence” only) ■ “Substantial Evidence” ■ Reasons Stated “Findings”
Who is making the decision?	<ul style="list-style-type: none"> ● City Council ● Planning Commission (ADVISORY opinion to the City Council, ONLY) 	<ul style="list-style-type: none"> ● City Council ● Planning Commission ● Board of Adjustment ● Mayor ● City Manager ● City Staff 	<ul style="list-style-type: none"> ● City Council ● Board of Adjustment ● Employee Appeals Board ● License Appeal Board ● <u>Courts</u>

LEGISLATIVE

ADMINISTRATIVE

QUASI JUDICIAL

	LEGISLATIVE	ADMINISTRATIVE	QUASI JUDICIAL
Characteristics	<ul style="list-style-type: none"> • Broad Council Discretion; • Public Input Relevant 	<ul style="list-style-type: none"> • Limited Discretion; • Limited or no public input 	<ul style="list-style-type: none"> • Limited Discretion; • Input restricted to parties in the case
Basis for Decision & Goal	<ul style="list-style-type: none"> ■ Citizen opinion ■ Public Clamor" ■ Creates new law ■ "Vision" of Council ■ Great Deference Given ■ Reasons Stated ("Findings") 	<ul style="list-style-type: none"> ■ Based on law ■ Public Opinion Irrelevant ■ Does not create/"Bend" law ■ Enforce/interpret law ■ "Substantial Evidence" ■ Reasons Stated ("Findings") 	<ul style="list-style-type: none"> ■ Based on law ■ Public Opinion Irrelevant ■ Public or Third Party Input ("Credible Evidence" only) ■ "Substantial Evidence" ■ Reasons Stated ("Findings")
Who is making the decision?	<ul style="list-style-type: none"> • City Council • Planning Commission (ADVISORY opinion to the City Council, ONLY) 	<ul style="list-style-type: none"> • City Council • Planning Commission • Board of Adjustment • Mayor • City Manager • City Staff 	<ul style="list-style-type: none"> • City Council • Board of Adjustment • Employee Appeals Board • License Appeal Board • <u>Courts</u>
Example	<ul style="list-style-type: none"> ■ Budget ■ General Plan ■ All Municipal Ordinances ■ Amendments to Ordinances ■ Annexation Policy 	<ul style="list-style-type: none"> ■ Application of any law to a specific situation ■ Building Permits ■ Subdivision Approvals ■ Conditional Uses ■ Variances ■ Business Licenses 	<p>Appeals:</p> <ul style="list-style-type: none"> ■ Conditional Use ■ Business License Denial ■ Subdivision Denial ■ Variance Denial ■ Sign or Driveway Appeal ■ Employee Appeals

