

**SANTA CLARA CITY COUNCIL MEETING
WEDNESDAY, JULY 12, 2017
MINUTES**

THE CITY COUNCIL FOR THE CITY OF SANTA CLARA, WASHINGTON COUNTY, UTAH, met for a Regular Meeting on Wednesday, July 12, 2017 at 5:00 p.m. in the City Council Chambers of the Town Hall at 2603 Santa Clara Drive, Santa Clara, Utah.

Notice of the time, place and agenda of the meeting was provided to the Spectrum and to each member of the governing body by emailing a copy of the Notice and Agenda to the Spectrum and also, along with any packet information, to the mayor and each council member, at least two days before the meeting.

Present: Mayor Pro Tem Mary Jo (Tode) Hafen
Council Members: Jerry Amundsen, Ken Sizemore and Jarett Waite
Assistant City Manager: Brock Jacobsen
City Recorder: Chris Shelley

Others Present: Dan Nelson, Fire Chief; Matt Ence, City Attorney; Bob Nicholson, City Planner; Sue McElhaney; Valerie King; Beverly Harper; Karen Shuman; Dr. David Park, Cindy Frei; Kye Nordfelt; Terese Willie; John Anderson; Janelle Anderson; Joshua Jackson

1. **Call to Order:** Mayor Pro Tem Hafen called the meeting to order at 5:01 p.m.

2. **Opening Ceremony:**

- Pledge of Allegiance: Ken Sizemore
- Opening Comments: Ken Sizemore

- Mayor Rosenberg and Councilman Herb Basso were excused from the meeting.

3. **Communications and Appearances:**

A. General Citizen Communications:

1. Joshua Jackson, 3892 Nicholas Drive, said he is hoping to get some help with a traffic issue in Heights West. He said he lives at the corner of Nicholas and Patricia and Patricia has become a straight shot to Pioneer and it is becoming a raceway. He said he was told that a car has been measured at going 60 mph and often they are going 35-40 mph. He is hoping the City will help with some solution whether it's a stop sign there to slow up the traffic or increase the police presence. He said he did call the City and they told him to call the police. The police said they will have someone there and he hasn't seen anyone there. He said he thinks people respond to positivity so he suggested putting up a sign that says to respect the neighborhood and think of the kids. He hopes the Council will help with some solution. He said a lot of kids play there and there are a lot of people on bikes. He asked the Council to add this to their agenda or turn this over to the City's public service people. He also asked about the park entrance being sealed off from

Tuscany. He wanted to know if that was temporary to shut down the construction vehicles or is that the new mandate that the park traffic will go past Tuscany instead of through Jacob.

- Jarett Waite said he was part of that decision. He said that construction trucks were bringing in roofing materials and they don't have any other way to get those materials to the buildings except for the back way and so the City decided to block that off for now until that is done. It could be anywhere from 1 to 2 months. He said that the City is also planning on paving the park parking lot fairly soon. He is not sure when that will be.

- Joshua Jackson said that as decisions are made for future traffic he wants the Council to keep in mind that 180 units are going past his home now and it's a neighborhood road and a neighborhood park and he hopes it doesn't become a collector road for everything. He also talked about a water pressure issue. He said they are having a lot less water pressure. He asked if the water pressure is gone from the subdivision down the hill and if there is anything to rebuild that pressure.

- Mayor Pro Tem Hafen said that Jack Taylor, Public Works Director, would be the person to answer the question about water pressure. He is out this week but this will go on the minutes. She asked Brock Jacobsen, Assistant City Manager, to pass this along to Jack Taylor.

- Brock Jacobsen said he will follow up on this with Dustin, who is Jack's assistant, tomorrow and find out if there are any issues with water pressure. He said they the City has had some wells go down and so we have been getting water from the Water District so he said he will find out if that is part of the issue too.

4. Working Agenda:

A. Public Hearing(s): None

B. General Business:

1. Update on Rocky Vista University. Presented by Dr. David Park, University Dean.

- Dr. David Park said he wanted to thank Mayor Rosenberg for allowing him to be on the agenda and he thanked the Council also. He said he is a Family Physician and an Emergency Room Physician. He said he is a resident of Santa Clara and is the Dean of Osteopathic Medicine. He said that Rocky Vista University is Utah's second medical school and Southern Utah's first medical school. He said that on Monday they will have 135 medical students doing their orientation on the 32 acre campus in Ivins. He said he wanted to extend his greetings to everybody. He said that all of the Council should have received invitations to their ribbon cutting ceremony on Friday. They are all welcome to come. They have invited all elected officials in the St. George area as well as all elected officials throughout Utah. He said he is also there to let the Council know that he and his family have been renting a house in Santa Clara deciding where they want to live. He said they have decided to purchase a home in Santa Clara so he will be a resident of this fine City. He said his son is a football player and his daughter is a volleyball player at Snow Canyon High School and he looks forward to being a community member and a resident and also from the University standpoint a great business neighbor and a partner with everyone in the City of Ivins and Santa Clara and the greater metropolitan area. He said they are a higher education institution and they are bringing a lot of faculty, staff and

employees here. He said that several of his faculty and staff have already purchased homes in Santa Clara and he is promoting what a wonderful place this is to raise families. He said he thinks that Council will be happy with the new increase of the residents in Santa Clara and he said they promise to be excellent neighbors. He also made the announcement that they are holding a community open house and a vendor fair on August 19 and everybody is invited to come. He said there will be bounce houses for the children and food and events and everyone is welcome to tour the medical school. He said they hope that this medical school is the future home for a lot of our students in Santa Clara and the surrounding area. He left flyers for the open house and asked Council to let the citizens know about it. He said he is available for questions.

- Mayor Pro Tem Hafen welcomed Dr. Park and told him that her neighbor is one of his new students. She welcomed him to the community.

- Ken Sizemore said that two of the new students have moved into his neighborhood. He said he thinks we are seeing a big impact from this facility in our community.

- Dr. Park described what kind of people these medical students are. He said it is extremely hard to get into medical school and these are amazing academic students and community members as well. He said they look for community service in their admissions profile so these students are top notch. When they graduate they will be in the top 1% of the most highly educated people in the world. They are going to be your new neighbors.

3. Consider Approval of a Proclamation to commemorate the 61st anniversary of Constitution Week and accept a donation from the Color Country Chapter, Daughters of the American Revolution for the Veteran's Memorial. Presented by Brad Hays, Parks & Trails Director.

- Mayor Pro Tem Hafen introduced Karen Shuman.

- Karen Shuman introduced a few members of the Color Country Chapter, Beverly Harper, Sue McElhaney, Janelle Anderson and Valerie King and herself. She said that the Daughters of the American Revolution is an organization that is fairly deep in rich history and it was begun in October of 1890. She there are more than 930,000 women who have joined the organization since it was founded and they became members to honor their heritage as well as make a difference in their communities across the country and the world. Their objectives are: historical, educational and patriotic. She said that the first chapter in Utah started in 1897. Color Country chapter began in 1997 so they are celebrating their 20th year. She said the main thing they are there for is to announce that September 17-23 is Constitution Week. It started in 1955 when the Daughters of the American Revolution petitioned Congress with a resolution and it was signed into law by President Eisenhower on August 2, 1956. The commitment of the NFDR is to encourage, study and educate about the Constitution, which was adopted by the American Congress of the Confederation on September 17, 1787. She gave out books about the Constitution to the Council members.

- Valerie King said that each member has to have proven direct blood lineage back to the revolutionary war and the patriots that actually fought or served in anyway. She said they do a lot of genealogy.

- Mayor Pro Tem Hafen read the proclamation to the Council. (See attached.) She said there will need to be a motion on this to approve it. Mayor Pro Tem Hafen signed the proclamation.

Motion to Approve a Proclamation to commemorate the 61st anniversary of Constitution Week and set September 17 through September 23, 2017 as Constitution Week.

Motion by Ken Sizemore, seconded by Jerry Amundsen.

Voting Aye: Ken Sizemore, Jerry Amundsen and Jarett Waite.

Voting Nay: None

Motion Carried.

- Mayor Pro Tem Hafen thanked the members of the Color Country Chapter of the Daughters of the American Revolution for their work.

- Valerie King said she was at the dedication of the Veterans Memorial and told Mr. Sizemore that they as an organization would very much support the memorial. She told him that they would be back with a check and that check is for \$1,000. They presented the City with a check for \$1,000. She recognized Beverly Harper, a Santa Clara resident, for initiating this. She talked about how they raised the money. They had a lot of people baked things for a sale on Memorial Day and there were a lot of donations from citizens. She suggested using this money for a Veteran who can't afford to put their name of the Veteran's Wall.

2. Consider lifting the Moratorium in the Historic District. Presented by Bob Nicholson, City Planner.

- Bob Nicholson said that the Council instituted a moratorium on applications for new development or zone changes in the Historic District 3 or 4 months ago and that was until the ordinance had been updated and adopted and the Historic District boundaries and design guidelines resolved. All those things were accomplished at the last City Council Meeting. He said he thinks it is time to lift the moratorium and proceed with normal business.

Motion to Approve Lifting the Moratorium in the Historic District.

Motion by Jerry Amundsen, seconded by Jarett Waite.

Voting Aye: Jarett Waite, Jerry Amundsen and Ken Sizemore.

Voting Nay: None

Motion Carried.

4. Discuss and consider adoption of Ordinance 2017-17, Restrictions on Sale of Tobacco Products and Tobacco Paraphernalia. Presented by Matt Ence, City Attorney.

- Matt Ence told the Council that they have in their packet a draft ordinance. He said that this follows the pattern that was provided to us by the Southwest Public Health District and they provided the City with a copy of the ordinance that is currently used in St. George. He then took this and modified it for Santa Clara City. The idea behind this ordinance is because of the concerns that have been expressed about Smoke Shops and Vape Shops concerns about having those types of establishments in Santa Clara the ordinance is designed to require anyone who sells tobacco products or tobacco paraphernalia to obtain a license to do so. It's not a primary license. They have to be licensed either with a standard business license and be established in the community and they have to be either an establishment that's also selling food or has an alcohol sales

license. Essentially they have to already be established as already one of those other primary business purposes before they can obtain this secondary license to sell tobacco products and tobacco paraphernalia. It would in that way prohibit someone from coming in and opening purely a smoke or vape shop in Santa Clara. They would have to be a restaurant or convenience store or something else primarily before they could sell these products. Mainly the changes he made to St. George's form was to integrate it better into the City's administrative process of issuing licenses the idea being that once they have the tobacco license issued to them it would be renewed with whatever other license it's being backed on.

- Ken Sizemore asked how this affected existing businesses.

- Matt Ence said that the ordinance says that if someone is already established and selling tobacco products as of August 1 then they can continue to do so and they can obtain this new license. They do have to apply for the new license. They would have to do an initial application and once their license came up for renewal it would be automatic as part of their renewal. He said that Ditzzi had a question about this and if the Council would like the ordinance draft could be modified to make it so existing businesses that are currently selling tobacco products as of August 1 that they don't have to actually apply for the license until their next renewal. He feels that at some point we need to get that initial information from them that will qualify them for this new license but whether it's immediately or 6 month down the road he doesn't think that matters. It does make sense to minimize the disruption.

- Mayor Pro Tem Hafen asked if Matt had a suggestion as to which one is better.

- Matt Ence said it would minimize the administration hassle that Ditzzi has to do so she doesn't have to go through the process of getting the applications now, processing them and then doing the renewals at the first of the year it could just be deferred until the first of the year. It's going to have to be done either now or later.

- Mayor Pro Tem Hafen asked if we know how many establishments this would involve.

- Brock Jacobsen said he would say three, Dutchman's, Lightfoot and Harmon's. He asked Matt if there is a fee with this additional license.

- Matt Ence said the ordinance provides the City Council can adopt an additional fee although he has not specified a fee in the ordinance. That is the Council's discretion. He said if the Council wants to adopt a fee to cover additional administrative costs, which he doesn't think will be a lot, it can be done in conjunction with adopting the ordinance and it could even be put right in the ordinance but it might be better just to adopt it. He said he thinks the fee for all the other licenses the City does is \$50. This would be in addition to their other businesses license fees.

- Jarett Waite said that he noticed for them to get the license they have to prove square footage. He asked if the 2,000 and 10,000 are appropriate.

- Matt Ence said he believes that the existing businesses do satisfy that. He said that if Council feels that needs to be investigated more, that can be done. He said he was following St. George's lead on that one.

- Jarett Waite said that one thing to watch out for is a business that will come in and say they are selling one thing but are really a vape shop.

- Kye Nordfelt, Utah Public Health Department, said that St. George has a challenge with that. They had a company come in and buy a place that is over 10,000 square feet and they said they were trying to sell groceries but the biggest part of it was to sell tobacco. He said that Cedar City put in their ordinance a requirement that a certified public accountant review their records to prove that the business isn't making over 35% on

tobacco sales. He asked the Council in what situation could someone get a tobacco specialty license or this additional tobacco license.

- Matt Ence said they would have to meet the requirements. They would have to either be engaged in the sale of food and beverage products and in a building larger than 10,000 square feet or engaged in the sale of fuel and in a building larger than 2,000 square feet or they have to have an on premises alcohol beverage sales license or they have to have a business license as a pharmacy and be larger than 10,000 square feet or be a business that is already selling tobacco products as of the date. They have to fall into one of those categories to obtain the license. He said the ordinance says that the operation of retail tobacco specialty business is prohibited.

- Jarett Waite asked about the third requirement that they have an on premise alcohol beverage license. It doesn't have a square footage attached to it.

- Matt Ence said that is the same language that came from the St. George ordinance. He doesn't really know the reasoning behind it. He said there is so many different categories of alcoholic beverage licenses and so many types of entities that could have an alcohol license and so many restrictions on those entities that they know what those things are because they are so highly restricted as an alcohol seller. He is not opposed to making a modification if there needs to be a minimum square footage. He said it is up to Council to decide if this is close enough to adopt tonight or if changes need to be made and brought back.

- Jarett Waite said he is just trying to think of ways to get around this because people may try at some point. He said he like the way the ordinance is written and thinks this catches what we need to watch out for. He still had a concern on the third item.

- Brock Jacobsen said that right now the Granary is the only other business that has an alcohol license.

- Matt Ence said they could basically qualify for this license and start selling tobacco products if they wanted to.

- Mayor Pro Tem Hafen asked what the State law says on that.

- Matt Ence said that there is an actual tobacco sales license that is issued by the State. It's not as onerous as an alcohol sales license. There are some requirements up to and including in some cases posting a bond and those kinds of things. There are many restrictions of who it could be sold to and if the law is violated they could lose their licensure pretty quickly.

- Mayor Pro Tem Hafen asked if anyone obtaining a license for Santa Clara has to have a State license too.

- Matt Ence said yes they do and that is listed in the ordinance as one of the requirements. They have to prove they already have a State license.

- Ken Sizemore asked Matt if he is comfortable that we are also catching the vape products.

- Matt Ence said he was careful when he was working through this to look at the State definitions and the State definitions are very clear. They list e-cigarettes and vapor type products. He said in his opinion it is very inclusive. He said that in our definition of tobacco products it says "tobacco product as defined in the Utah Code" and that's where it catches all of that. All of these people will be paying multiple license fees. He said he and Ditzel talked about doing this application as an addendum to the other application. Then it won't be a whole separate thing they have to fill out and Ditzel has to process just part of their application going forward. We can minimize the amount of paperwork.

- Mayor Pro Tem Hafen said that Council needs to decide if the existing businesses need

to get their licensing in August or if it is okay to let them wait until January. She asked Matt if there was a risk either way.

- Matt Ence said he didn't think so. If they get to wait until their licensing renewals come up, he can do a modification to the draft so it can be covered. The way it is currently written they would be required to do it right away so Ditzzi would call them and tell them the law has changed and they need to give her some information. Either way it shouldn't be burdensome to them.

- Ken Sizemore said that if they were to do it now according to how this is written would this fall into the next cycle so they don't have to renew in August for tobacco and then in January.

- Matt Ence said yes if a license is issued now it would go until their next business license renewal, which would be the first of the year.

- Jarett Waite asked why they would be allowed to sell tobacco if they have an alcohol beverage license.

- Matt Ence said he doesn't know. That line can be struck from the draft if Council is uncomfortable with it. We don't need to include the alcohol license part. The three businesses that might be most concerned about this, they are going to fall under these requirements anyway.

- Jerry Amundsen said that all of the liquor sales businesses have come before City Council and that allows the potential to scrutinize it a little bit.

- Matt Ence said that those licenses all do come before City Council. At least the initial application.

- Jarett Waite said that if they do that whole process and then further down the road decide they do want to sell tobacco products as long as it isn't a big part of their business they would be fine under this ordinance. Regardless of their size or where they are located as long as they met the requirements for selling alcohol they are okay to sell tobacco products.

- Matt Ence said that the State law with respect to tobacco licensing and alcohol licensing doesn't cross over.

- Jarett Waite said he is fine just waiting until the regular license cycle for current businesses to get this license and adding that language. He doesn't want to see them burdened.

- Mayor Pro Tem Hafen asked if they would need to be made aware right away that this is coming.

- Matt Ence said we would want to make them aware but we could let them know that they don't need to do anything right now but we will be asking for some additional information when their business license comes up.

- Mayor Pro Tem Hafen asked Matt how he felt about the alcohol and tobacco wording. Does he want to strike that or leave it in there?

- Jarett Waite said it was hard to get the Granary's alcohol beverage license. He said he thinks Santa Clara citizens would be fine having that struck out. He is just thinking of ways that businesses might be able to find a loophole and he thinks that leaves a bit of an open door.

- Jerry Amundsen said that it does seem to leave a bit of a loophole and he would be in favor of striking that item on the document.

- Jarett Waite said he wondered about the date August 1. Should we bump that up a little bit so we don't end up with a 2-week window where somebody jumps on this. He thinks that Vape Shops are hunting for locations and he doesn't want to leave a door open.

- Matt Ence said he has no objection to that at all.

Motion to Approve Ordinance 2017-17, Restrictions on Sale of Tobacco Products and Tobacco Paraphernalia with the following amendments: 1. The date for which current businesses selling tobacco products are allowed to continue. 2. Under section 5.10.030a, #3 “an on premise alcohol beverage sales license” will be stricken out. 3. Language will be added to state that Santa Clara City’s current businesses selling tobacco products don’t have to obtain this license until their regularly cycled business licenses the first of the year.

Motion by Jarett Waite, seconded by Jerry Amundsen.

- Matt Ence asked if Jarett wanted to include a fee in his motion.

Motion to Approve Ordinance 2017-17, Restrictions on Sale of Tobacco Products and Tobacco Paraphernalia with the following amendments: 1. The date for which current businesses selling tobacco products are allowed to continue. 2. Under section 5.10.030a, #3 “an on premise alcohol beverage sales license” will be stricken out. 3. Language will be added to state that Santa Clara City’s current businesses selling tobacco products don’t have to obtain this license until their regularly cycled business licenses the first of the year. 4. There is no additional fee.

Motion by Jarett Waite, seconded by Jerry Amundsen.

Voting Aye: Ken Sizemore, Jerry Amundsen and Jarett Waite.

Voting Nay:

Motion Carried.

- Mayor Pro Tem Hafen said this will probably be rewritten. She asked Matt how he wanted to do this.

- Matt Ence said that because the modifications made are pretty minor he will make those changes and bring them back for Mayor Pro Tem Hafen’s signature.

5. Consider approval of Ordinance 2017-18, Vacating an easement for Merrill Properties. Presented by Bob Nicholson, City Planner.

- Bob Nicholson said that this was talked about at the last Council Meeting. This is located at Paradise Village at Zion behind lots 107 & 108. He said that Jack Taylor looked at this and felt okay about it. The existing easement is 20 feet wide. They are vacating about a 5-foot width, which means 14-15 feet will remain. Jack felt that was adequate. It parallels the Hamblin Parkway right of way. He said that this was talked about and approved but we didn’t adopt an ordinance for this. It was required that we hold a public hearing for this because it is an easement but we didn’t have the ordinance so tonight the ordinance is on the agenda. This is the ordinance to approve that so we can get it recorded.

Motion to Approve Ordinance 2017-18, Vacating a portion of the public utility easement for Merrill Properties.

Motion by Jerry Amundsen, seconded by Jarett Waite.

Voting Aye: Jerry Amundsen, Jarett Waite and Ken Sizemore.

Voting Nay: None

Motion Carried.

6. Approve Ordinance 2017-19, Approving the Final Operating & Capital Budget, FY 2017-18. Presented by Brock Jacobsen, Assistant City Manager.

- Brock Jacobsen said that this is a cleanup item from when we adopted the Budget we didn't have the ordinance on there so we are adopting the ordinance that goes along with the Budget when it was approved on June 14, 2017. There are no changes. We just forgot to put the ordinance on there.

Motion to Approve Ordinance 2017-19, Approving the Final Operating & Capital Budget, FY 2017-18.

Motion by Ken Sizemore, seconded by Jerry Amundsen.

Voting Aye: Jarett Waite, Ken Sizemore and Jerry Amundsen.

Voting Nay: None

Motion Carried.

5. Reports:

A. Mayor / Council Reports

Jerry Amundsen:

- No board meetings to report.

Jarett Waite:

- Nothing to report.

Ken Sizemore:

- He hasn't had any meetings to report.

Brock Jacobsen:

- Told Council that they may have gotten an email from League of Cities and Towns. He told Council to let him know if they are interested in going to let him know so he can get them registered. Rooms are already booked. He told the Council to let him know if there are any of the side items they would like to do there. He has already heard from Herb Basso and Tode Hafen.

Chief Dan Nelson:

- Two engines have come back from the Brian Head fire. Ty and his crew are on the Arizona Strip. There were no fires reported during the 4th of July. They did assist Ivins on one fire.

- Ken Sizemore asked about the comments from the open house.

- Bob Nicholson said they received 39 comment cards and they are in Corey Bundy's office. He said he sent out to the Planning Commission a summary of those comments. He said they talked about those comments at the Planning Commission last night. He said the summary can be forwarded on to the City Council.

Mayor Pro Tem Hafen:

- She attended a meeting concerning Snow Canyon State Park. They are talking about

making an addition to the building by the campground and may partner with the desert tortoise people. The road is done there and they have done improvements on the campground. It looks really nice.

- Heritage Commission met last night. A house is being demolished on Santa Clara Drive. Another business is going in.
- The seed display is under construction.
- Swiss Days planning is going well.
- The glockenspiel is coming along. She has photos of the characters that are being carved for it. It should be installed in September. The frame will be a little difficult to install.
- Brock Jacobsen said that Tracy Ence Company will be at the City Offices on Friday morning to start framing in around the clock tower and then the mirrors will be coming. He said the key has disappeared for the chimes.
- Jarett Waite said he has been working with Jack Taylor on the chimes. The chimes have nothing to do with the clock. They are not connected together. Jack is going to move the chimes unit up to the attic area so it will all be in one place so that they are easy to adjust when they are off from each other. He asked Jack to show him what is going to be used for the music or what they recommend. It would be nice if they were connected some how. Jack was going to look into it.
- Mayor Pro Tem Hafen asked if anyone knew how high up the bucket truck would go and how many pounds it can lift.
- Brock Jacobsen didn't know how many pounds but it can go as high as a power pole.
- Mayor Pro Tem Hafen said it has to get up there and it will be about 500 pounds.

6. Approval of Claims and Minutes:

- June 28, 2017 City Council Regular Meeting Minutes
 - July 5, 2017 City Council Work Meeting Minutes
 - Claims through July 12, 2017
- Ken Sizemore said he had one correction on the minutes for June 28. On page 13, there was a vote and then there was a second vote. He said the names are not right. It says that Herb Basso voted yes and that he (Ken) voted no and he says that he voted yes and that Herb voted no.

Motion to Approve the Regular City Council Meeting Minutes from June 28, 2017 with the corrections, the City Council Work Meeting Minutes from July 5, 2017 and claims through July 12, 2017.

Motion by Ken Sizemore, seconded by Jarett Waite.

Voting Aye: Ken Sizemore, Jerry Amundsen and Jarett Waite.

Voting nay: None

Motion Carried.

7. Calendar of Events

- July 24, 2017 Pioneer Day (City Offices Closed)
- August 13-16 UAMPS

8. Executive Session: None

9. Adjournment:

Motion to adjourn by Jerry Amundsen.

Seconded by Jarett Waite with all members present voting aye.

Meeting Adjourned at 6:09 p.m.

Chris Shelley – City Recorder

Date Approved: _____