

CITY OF SOUTH SALT LAKE  
CITY COUNCIL MEETING

COUNCIL MEETING Wednesday, January 11, 2012  
7:00 p.m.

CITY OFFICES 220 East Morris Avenue – Suite 200  
South Salt Lake, Utah 84115

PRESIDING Council Chair Irvin H. Jones, Jr.

CONDUCTING Council Member Ryan Gold

SERIOUS MOMENT OF REFLECTION/  
PLEDGE OF ALLEGIANCE Council Member Boyd Marshall

SERGEANT AT ARMS Officer Ferguson

COUNCIL MEMBERS PRESENT:  
Ryan Gold, Irvin H. Jones Jr., Boyd Marshall, and Michael Rutter,  
LeRoy Turner, and John Weaver

COUNCIL MEMBERS EXCUSED:  
Casey Fitts

STAFF PRESENT:  
Mayor Cherie Wood  
Charee Peck, Chief of Staff  
Lyn Creswell, City Attorney  
Glenn Smith, Urban Livability Director  
Dennis Pay, Public Works Director  
Troy Bennett, Parks & Recreation Director  
Craig Burton, City Recorder  
Kayla Moss, Deputy City Recorder

OTHERS PRESENT:  
See attached list

**APPROVAL OF MINUTES**

**November 16, 2011 Work Meeting.** Council Members Marshall moved to approve the minutes with one correction.

MOTION: Boyd Marshall  
SECOND: John Weaver

Voice Vote:

Fitts	Absent
Gold	Aye
Jones	Aye
Marshall	Aye
Rutter	Aye
Turner	Abstain
Weaver	Aye

Council Member Turner abstained because he was not in attendance at the meeting.

**November 16, 2011 Regular Meeting.** Council Member Weaver moved to approve the minutes of this meeting.

MOTION:	John Weaver
SECOND:	Boyd Marshall

Voice Vote:

Fitts	Absent
Gold	Aye
Jones	Aye
Marshall	Aye
Rutter	Aye
Turner	Abstain
Weaver	Aye

Council Member Turner abstained because he was not in attendance at the meeting.

**November 22, 2011 Special Meeting.** Council Member Weaver moved to approve the minutes of this meeting.

MOTION:	John Weaver
SECOND:	Mike Rutter

Voice Vote:

Fitts	Absent
Gold	Aye
Jones	Aye
Marshall	Aye
Rutter	Aye
Turner	Abstain
Weaver	Aye

Council Member Turner abstained because he was not in attendance at the meeting.

**December 7, 2011 Regular Meeting.** Council Chair Jones moved to approve these minutes with one correction.

MOTION: Irvin Jones  
 SECOND: LeRoy Turner  
Voice Vote:  
 Fitts Absent  
 Gold Aye  
 Jones Aye  
 Marshall Aye  
 Rutter Aye  
 Turner Aye  
 Weaver Aye

**December 14, 2011, Regular Meeting.** Council Member Turner moved to approve these minutes with one correction.

MOTION: LeRoy Turner  
 SECOND: Mike Rutter  
Voice Vote:  
 Fitts Absent  
 Gold Aye  
 Jones Aye  
 Marshall Aye  
 Rutter Aye  
 Turner Aye  
 Weaver Aye

**1. SCHEDULING.** The City Recorder informed those at the meeting of upcoming events, meetings, activities, etc.

**2. CITIZEN COMMENTS/QUESTIONS.** None.

**3. MAYOR COMMENTS.** Mayor Wood informed the Council that the City will be participating in “The Great Utah Shakeout” on April 17. This will be a mock 7.4 earthquake training event.

The City, in partnership with United Way, received a \$100,000 early learning grant that will allow the City to provide some much needed preschool services.

**4. CITY ATTORNEY COMMENTS.** City Attorney, Lyn Creswell, delivered a handout to the Council regarding the 2016 Committee that is being formed. A copy of the handout is attached and incorporated by this reference. It reviews the purposes of the committee and the topics they will review.

Mr. Creswell reported that two other committees have been formed. One is the Land Use Committee and the other is a task group to monitor what is happening with the Millcreek Township incorporation and those issues.

**5. CITY COUNCIL COMMENTS.** Council Member Rutter expressed his thanks to the Police and Fire Departments for all they do in the City.

Council Member Turner expressed his appreciation to Police and Fire as well.

Council Member Weaver congratulated Scott Madsen on his retirement after twenty-three years of service in the Police Department. He's grateful for all the work the City employees do.

Council Member Marshall congratulated Council Member Irvin Jones for being elected the Council Chair for 2012. He also thanked the City employees for the work they do. They are easy to work with and have the interest of the citizens at heart.

Council Member Gold also expressed his appreciation to Police and Fire.

**6. INFORMATION**

- a. Introduction of New Fire Marshal.** Urban Livability Director, Glenn Smith, introduced Clint Haymond as the new Fire Marshal for the City. Mr. Haymond has over fifteen years of experience in the fire prevention and firefighting arena. He comes from Salt Lake Community College where he has been the Fire Marshal for the past five years.
  
- b. Accomplishments 2011.** Glenn Smith, Director of Urban Livability, Troy Bennett, Director of Parks and Recreation, and Dennis Pay, Director of Public Works, reviewed the accomplishments of their respective departments for 2011. A copy of each presentation is attached to these minutes and incorporated by this reference.
  
- c. Pioneer Craft House Lease.** Mr. Creswell updated the Council on the Pioneer Craft House lease. In 2008 the City and Pioneer Craft House Inc. entered into a lease agreement. The general intent of that lease was to continue the relationship that had existed between Granite School District and Pioneer Craft House Inc. One of the key provisions was to continue the one dollar per year obligation for the use of the property. In 1999 and 2000 there were two Utah Supreme Court cases that looked at local governments where assets were being transferred to private or public entities and in both cases the Court held that the local jurisdictions failed to properly account for, or find value in, those transfers. In 2002 those two cases were codified in the current Utah Code. That section says one of two things have to occur; either the local community negotiates at arm's length a fair market value return, or compensation for property or a study is done to identify specific and direct benefit to the community that's of equivalent value to what the real estate cost would be. Mr. Creswell doesn't feel the lease complied with State law.

In 2011 Rick Davidson was asked to do a rentals comparable study to determine what each area of the Pioneer Craft House property could be

rented for. This provided a tool to determine its value as a rental property. This study was also provided to Mr. Jeff Hatch of Pioneer Craft House Inc. The study is the target. They need to approximate, or achieve a fair market resolution of the property based on the study. Mr. Hatch kept saying that what the City is asking for, as far as cash, is not presently within their capability to pay. He said it often enough that Mr. Creswell wondered if they would ever have the capability of meeting the fair market value.

Mr. Creswell and Mr. Hatch agreed to have an outside audit of Pioneer Craft House Inc. performed by Kari Cutler. She evaluated how sound it was, if it was meeting the statutory requirements, and its fund raising capabilities.

Mr. Creswell now sees one of two courses that need to be taken fairly quickly. One would be to terminate the agreement. There is a provision in the agreement that says that to the extent that the agreement violates law, the landlord (the City) has the ability to terminate it. If that occurred the City would move in and take over and have some immediate responsibilities to keep the program continuing. They would try to negotiate another agreement with Pioneer Craft House or other organizations that may be interested in providing the kinds of programming that goes on there. He's hesitant to do that but if they don't get resolution within the next thirty to forty-five days he will make a recommendation to the Mayor to do it.

The other option that is more supportive and recognizing of Pioneer Craft House is that they amend the lease. It would accommodate Pioneer Craft House and puts the City in a better position to manage the property day to day. This would include the recognition of dedicated spaces the Pioneer Craft House uses and the City will charge rent on the square footage. That dollar amount will be the annual rental rate for the dedicated space. Or the City would continue to recognize that they have program priority and give them the ability to schedule their programs and classes in advance on a quarterly basis. To do this they would submit what days, locations, and hours they need and pay a non-refundable fee up front to block those. All other times available would be scheduled by the City.

Mr. Hatch is still concerned about coming up with the rental payment and usage fees. They have talked in concept about an "in kind" service program of up to fifty percent of the cash value. It has to be direct and offset the City's budget requirements. It has to replace what would otherwise be a budget obligation.

The City is funding about \$75,000 dollars a year in both operations and maintenance and personnel support for the Pioneer Craft House. It also has capital needs. The property has the potential to offset some, but not

all, of those costs through rental and other fees. Presently the City realizes very little from rentals or fees so the City is shouldering the costs. They need to get in a position to generate some revenue. There also needs to be an inventory completed to determine who owns what property on the site.

The interlocal agreement that the City signed with Salt Lake County restricts the use of the property to cultural art activities which need to be continued.

Mr. Hatch said it has been an arduous task to work on. When you're looking at a cash lease rate going from one dollar to fifty or sixty thousand dollars in one year it's an enormous change for an organization that currently operates on a budget under \$25,000 a year. Their primary source of assets at Pioneer Craft House is volunteer labor. They quantify that at about \$80,000 of volunteer services that they count on every year for their functioning that's in addition to the time the teachers teach classes. They do get some compensation for the time they are teaching.

They are currently operating at between 350 and 400 hours of actual class time per quarter. The real challenge is how to make use of the additional space so it can pay. They can't pay the total \$75,000. Their board felt it was too much for them to try to do that in too short an order. He doesn't know what the answer is but he and the board are willing to work as much as they can to try to find a solution. One helpful direction might be to phase in the rent in a way that they have some time to build up a base of charitable giving that can help support them and could be a major cash flow benefit for both the City and Pioneer Craft House. He's hoping they can find a structure that can get the bills paid and continue on together in the future.

Mr. Creswell told the Council that the phasing of rent has lost some steam because they have discussed it for eight months and they're still not there. The concept of phasing would have to happen fairly rapidly if at all. It could still work but in the reasonable future they have to be at full rental value for the property.

Council Chair Jones said Kari Cutler's audit appears to say that the people are great, fine artists and enthusiastic about their craft but they're not very good businessmen. If they had the resources or support of a business model that they could make it a viable operation.

Ms. Cutler said that's a fairly accurate overview. They do have to adopt a business model which would include sustainability plan, engage in some strategic planning, and in some capacity building activity that would create their ability to meet the annual benchmark. If they don't do those things the likelihood of meeting those benchmarks are really slim. If they do those things, she feels they have the capacity to bring in more funding.

Mr. Hatch indicated they were interested in doing those things. They have agreed in theory to recruit board members who have the skill sets that are lacking but the action on those items has not yet occurred.

Council Member Weaver suggested that Pioneer Craft House Inc. may consider looking at the dedicated space based on what their economic model will support with the anticipation that as they have a better economic footing the City would be open to allowing an expansion of dedicated space.

Mr. Hatch explained that with board member turnover and a fire at the Craft House it has been hard to keep things moving forward the last six months. They have some new board members and are now moving ahead with fundraising and grant applications.

Deputy Recorder, Kayla Moss, requested that the Council take the New Council Business item next in the meeting.

Council Member Marshall moved to take the item out of order.

MOTION:	Boyd Marshall
SECOND:	LeRoy Turner
<u>Voice Vote:</u>	
Fitts	Absent
Gold	Aye
Jones	Aye
Marshall	Aye
Rutter	Aye
Turner	Aye
Weaver	Aye

**ACTION ITEMS**

**New Council Business**

- 1. Appointments by the Mayor.** Mayor Wood recommended moving John Anderson from part-time to a full-time planning commissioner and also presented for advice and consent, Brandon Dalton, to serve as a planning commissioner.

Council Member Rutter moved to suspend the rules.

MOTION:	Michael Rutter
SECOND:	Boyd Marshall

Voice Vote:

Fitts	Absent
Gold	Aye
Jones	Aye
Marshall	Aye
Rutter	Aye
Turner	Aye
Weaver	Aye

Council Member Rutter moved to approve Brandon Dalton as a planning commissioner.

MOTION: Michael Rutter

SECOND: LeRoy Turner

Voice Vote:

Fitts	Absent
Gold	Aye
Jones	Aye
Marshall	Aye
Rutter	Aye
Turner	Aye
Weaver	Aye

Mayor Wood advised the Council that they still have one part-time planning commissioner position open. She extended an invitation to Andrew Rail from the Citizens for a Responsible South Salt Lake PAC and has never received a response. She will be bringing someone to the Council in the future to fill this position.

The Council then went back to Information on the agenda.

- d. Granite High Property Update.** Mr. Creswell thanked the Mayor and Council members for the significant community outreach that they have done since the election. They have tried to meet with everybody who has concerns on either side of the issue.

Mr. Creswell reported that during the election process there was one provisional ballot cast that we knew was not a resident and had listed a business address as his residence. The City received the list of registered voters from the County for South Salt Lake and identified a fair number of individuals who listed address that we believe, but have not confirmed, are on business streets and business area of the town and are not likely to have residential property associated with them. Community Development Director, Mike Florence, reviewed the list to determine if a business license or business was associated with the address. Then they visited the property to determine if there was an actual residence on the property. After that process approximately thirty-five potential improper voters, or

individuals who declared themselves eligible to vote in South Salt Lake, were found.

That information was presented to Sherrie Swensen, the County Clerk, and her staff and they discussed the process by which, in subsequent elections, the City could make sure that we had a more accurate voter list. This will not effect this last election but would the next election. It requires a voter from South Salt Lake with the information we have to file a petition with the County Clerk challenging those particular voters. The challenge would be done one voter at a time, with a petition for each voter.

Once the County receives the petitions they will try to verify if the addresses are residential addresses for those voters. If not then they will act to remove those names from the rolls for future elections. If the people demonstrate to the County that they do reside there we have a code enforcement issue because none of the properties identified are zoned for residential use.

The concern is that we had seven of those thirty-five individuals actually cast votes. If a portion of those cast votes for, or against, the bonds you can see how that would have affected the election when the final margin was five votes difference. So the integrity of the election seems to have been effected by these voters. The intent is to see that it doesn't happen again. This activity has been going on in previous elections. We have a record going back to 2006 where individuals at these addresses have voted in some of the elections but not all of them.

Council Member Gold asked what the penalty is for this.

Mr. Creswell said initially he wasn't going to refer this to the District Attorney's Office because he didn't see that there was a concerted activity by an individual or group. But Sherrie Swensen said this was an unusually large number of individuals for a City our size and she encouraged him to make contact with the DA's office, which he did. It will be their call as to whether they move forward. So, there could be criminal liability but on the civil side the responsibility is to make sure that we don't have anybody like that voting again.

Council Member Gold expressed concern that if there is no penalty behind this type of practice it will continue.

Mr. Creswell advised that the City will be paying attention to this going forward and will review the voter list early in the process and challenge anybody, prior to the next election, to make sure we don't have this problem going forward.

Another option is to take the election to court to have it thrown out but Mr. Creswell advised against doing that.

Council Chair Jones said he would be reticent to do criminal penalties until he's been reading the comments in the editorial page and the e-mail they received. At that point he's thinking what is cheaper, throwing the election out through legal fees or doing another election.

Mr. Creswell advised that the City has so much going on right now and Granite is not the only issue. There are so many good things going on. If he takes it to court and it goes before a judge, it's the only story in town. It will draw from the Council's ability to communicate with the citizens and get the work of the City done because it will be high profile. It will be a state story and there will be a lot of activity. There are other ways to solve this.

Another issue that came up in the elections was a criminal challenge to the City's use of public funds. Mr. Creswell met with the District Attorney's Office and they have asked for some information. The question raised by the DA's office had to do with access to the City's process during the decision timeline. The DA asked if those people who opposed the bond had a reasonable opportunity to come in and speak to the question. Mr. Creswell took a large stack of papers in about a foot high of every single City Council meeting, all the outreach meetings, all the work meetings, everything that was done over two years to the DA's office. He hasn't received a reply back yet. The City has responded fairly and appropriately to the question that was raised by the District Attorney Office as to whether or not we impeded anybody's right to have a dialogue with the City regarding the ballot proposal.

The next question that came out involving Granite was regarding the City's property management. One of the questions raised by the opponents was, "Aren't you in fact acquiring redundant property? Can't you accomplish what you need to do already with the property you have?" Mr. Creswell has prepared a process by which they could evaluate City real property resources which is attached to the handout he gave the Council. A copy is attached to the minutes and incorporated by this reference. They are going to inventory and evaluate every single property the City has. The objective is to identify the needs that relate to property and are we using the property we have to the highest and best use. This assessment process will take five or six months.

The last issue is the alternatives for acquiring and financing the Granite High property separate from, or different from, the bond proposition and is part of the handout that is attached to these minutes. Currently, no conclusions have been drawn.

**ACTION ITEMS****Unfinished Council Business****1. Council Paperless Agenda Options.**

Council Member Rutter asked Scott Turnblom, the Information Technology Manager, if he is still confident that the iPad product is the best product for the Council right now.

Mr. Turnblom answered yes with one note. He explained that every electronic device is going to be a personal choice. Will an iPad, a notebook, or something else be better? It's a personal choice. There's no question with the market that the iPad is the best item for consuming data and it works best with the system the City has.

Council Member Turner asked if they go with the iPad can he learn it.

Mr. Turnblom answered yes. Apple has well proven that it is very intuitive. The iPad is probably the most intuitive electronic device on the market.

Mr. Turnblom feels they've gotten sidetracked on the hardware. What they're trying to do is provide the Council an electronic agenda and get rid of the paper.

Council Member Weaver feels what they've been trying to accomplish is to provide a tool that has State statutes, the municipal code, council packets, and that presentations could be sent to them on the spot and updated instead of having all the handouts and the pile of things that have been waiting for them throughout the week. They could have all that in a much more timely manner. Part of the discussion was giving the Council greater opportunity to review the information beyond the print deadline. This would expedite that tremendously. They have been careful and have done a cost analysis on it and determined there are cost savings involved and efficiencies they can benefit from. He thinks it is time they move forward with the reminder that Mr. Creswell pointed out at the beginning, that the devices are City property and any and all information on it is public and could be GRAMA'd. Side conversations and e-mailing during meetings is completely inappropriate.

Council Member Turner advised that if he is hired to do a job it doesn't matter if they put a PC or a Mac in front of him, he's going to learn to do it on that machine. He agrees with Council Member Weaver on what the issue is. The hardware, as long as it will do the job, isn't the issue.

Council Member Weaver reminded everyone that this item has already budgeted for.

Council Member Marshall moved to accept the recommendation of using the iPad.

MOTION: Boyd Marshall

SECOND: LeRoy Turner

Voice Vote:

Fitts Absent

Gold Aye

Jones Aye

Marshall Aye

Rutter Aye

Turner Aye

Weaver Aye

- 2. **A Resolution of the City Council of South Salt Lake Authorizing the Mayor to Allow City Employees to Provide Private Improvement Services on City Work Time.** Mr. Creswell advised that he needs a little bit more time to work on this item.

Council Member Weaver moved to put this item on Unfinished Business of the next Council meeting.

MOTION: John Weaver

SECOND: Michael Rutter

Voice Vote:

Fitts Absent

Gold Aye

Jones Aye

Marshall Aye

Rutter Aye

Turner Aye

Weaver Aye

Council Member Marshall moved to adjourn.

MOTION: Boyd Marshall

SECOND: Michael Rutter

Voice Vote:

Fitts Absent

Gold Aye

Jones Aye

Marshall Aye

Rutter Aye

Turner Aye

Weaver Aye

The meeting adjourned at 9:20 p.m.

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Irvin H. Jones, Jr., Council Chair

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Craig D. Burton, City Recorder