

**MINUTES**  
**SANDY CITY COUNCIL MEETING**  
Sandy City Hall - Council Chamber Room #211  
10000 Centennial Parkway  
Sandy, Utah 84070

**October 16, 2007**

Meeting was commenced at 7:10 p.m.

**PRESENT:**

**Council Members:** Chairman Bryant Anderson, Vice Chairman Chris McCandless, Scott Cowdell, Linda Martinez Saville, Stephen Smith, and Dennis Tenney

**Mayor:** Tom Dolan

**Others in Attendance:** CAO Byron Jorgenson; City Attorney Walter Miller; Community Development Director Mike Coulam; Planning Director James Sorensen; Economic Development Director Randy Sant; Deputy to the Mayor John Hiskey; Police Chief Stephen Chapman; Council Office Director Phil Glenn; Council Office Manager Pam Lehman

**ABSENT/EXCUSED:**

**Steve Fairbanks** [illness]

1. **OPENING REMARKS/PRAYER/PLEDGE:**

The Prayer was offered by **Boy Scout Tanner Hart** of Troop #187, and the Pledge was led by **Kyndall Doughty**, a 6<sup>th</sup> grade student from Sunrise Elementary who is working on a presentation for the Reflections Program.

2. **CITIZEN(S) COMMENTS:**

- a. **Resident**, 2985 West Cove, asked that a build out requirement be considered as part of Qwest's franchise so that cable services are provided to a majority of residents in the City, and to also help create a level playing field between Comcast and Qwest.
- b. **Tyler Dallas**, 964 Marion Village Circle, employee of Qwest, stated that the video franchise Qwest is requesting is separate from the internet access that is already being provided to the majority of residents in the City. He believes that a mandated build out requirement would not be economically feasible for Qwest.
- c. **Jason Campbell**, 9736 South Bluffside Drive, Comcast Employee, stated that Comcast was hopeful that the City Council would consider a build out requirement in Qwest's franchise, and hold Qwest to the same standards that were required of Comcast in providing service to the majority of the residents. He believes a company the size of Qwest should be able to meet the expenses of build out requirements, which would offer a level but competitive field for both providers.

**Chairman Anderson closed Citizen Comments as there were no further comments.**

**PUBLIC HEARING(S):**

3. **Smart Rezoning**

Public Hearing to consider a request submitted by Brent Smart to rezone approximately 0.22 acres from the R-1-8 "Residential District" to the R-2-8 "Residential District". The rezoning would help facilitate the development of a twin home on the property. The property is located at approximately 1000 East 8167 South.

**Discussion: Planning Director James Sorensen** reported that the applicant Brent Smart is requesting to **rezone approximately 0.22 acres from the R-1-8 "Residential District" to the R-2-8 "Residential District"**. The property is located at approximately 8167 South 1000 East. Currently, there is an existing duplex dwelling located on the property. The applicant is proposing to remove the existing structure and build a new twin home on the site. The existing structure on the site is legal "non-conforming". Any expansion or alteration to the building is not permitted because the property is located within an R-1 Zone. In this case, the applicant is proposing to build a new structure on the site. The proposed rezoning would help facilitate the development of a residential twin home on the property.

The subject property is bordered on the north by a single family home within the R-1-8 Zone and Smart Lane. The property is bordered on the east by a single family neighborhood within an R-1-8 Zone (subdivision developed in the early to mid 90's). The property is bordered by 8175 South along the southern boundary, with 1000 East adjacent to the western portion of the site.

## **ANALYSIS**

The Sandy City Land Development Code states the following regarding the proposed R-2-8 Zoning District:

*15-03-02 Residential District*

*The Residential R-2 Districts are established to provide a residential environment within Sandy City that are characterized by slightly higher densities than single family districts, single family housing interspersed with two-family housing, a variety of housing sizes, a minimum of vehicular traffic, and quiet residential neighborhoods favorable for family life.*

The applicant is requesting that the property be rezoned in order to develop a proposed residential twin home on the site. If approved, this would allow for a twin home on a minimum lot size of 8,000 square feet. However, the applicant's lot exceeds the minimum lot size requirement (approximately 9,583 square feet). The proposed rezoning and associated development would help preserve the character of the existing adjacent neighborhood. It would also be an improvement to the immediate area.

*The City's General Plan indicates the following:*

*Goal: To design neighborhoods to facilitate neighborhood identity and to preserve the character of the Neighborhoods once established.*

*Policies: Recognize that economics alone is not sufficient reason to alter established neighborhoods. Human and environmental impacts also should be recognized.*

*Require proposed zoning changes to be in harmony with established neighborhoods.*

A neighborhood meeting was conducted on August 22, 2007. Approximately 6-8 people were in attendance to discuss this proposal. The minutes from this meeting indicate that the majority of people in attendance were in favor of the proposed development. The adjacent residents felt that a new twin home would be a big improvement on the site.

Consideration regarding any development on this property should take into account the following issues as part of the building permit review process:

- Multiple driveway access
- Street requirements/improvements
- Grading & drainage plan
- Other items as determined necessary

### **STAFF RECOMMENDATION**

Staff recommends that the proposed **Smart Rezoning** from the R-1-8 "Residential District" to the R-2-8 "Residential District" be approved based upon the following findings:

- a. The proposed rezoning is in compliance with the Sandy City General Plan and Land Development Code.
- b. The proposed rezoning is in harmony with the goals of the Housing Element of the General Plan in providing a variety of housing types and choices.
- c. All site concerns as well as those listed in the staff report will be considered and worked out prior to building permit approval.
- d. Development at the subject location can be compatible with the surrounding area.

**Brent Smart**, 8233 Kirkwood Circle, applicant, stated that he is anxious to get the project started. The rezone would facilitate the building of a twin home on the property for himself, his daughter and her family.

**Chairman Anderson opened the Public Hearing. As there were no comments, the hearing was closed.**

**Motion:** **Scott Cowdell** made the motion to have documents brought back in two weeks to adopt the Smart Rezoning, to rezone approximately 0.22 acres from the R-1-8 "Residential District" to the R-2-8 "Residential District". The rezoning would help facilitate the development of a twin home on the property. The property is located at approximately 1000 East 8167 South.

**Second:** **Dennis Tenney**

**Vote:** **Cowdell – Yes, Tenney- Yes, McCandless – Yes, Smith -Yes, Fairbanks – Absent, Saville – Yes, Anderson- Yes**

**Motion Approved: 6 in favor - 1 absent**

### **COUNCIL ITEMS:**

#### **4. Qwest Broadband Services Recommended Franchise Agreement**

**Discussion:** **City Attorney Wally Miller** presented a handout for the Council's review on the Administration's recommendations on Deployment of Service Suggestion for the Proposed Qwest Franchise **[See Exhibit "A"]**.

Mr. Miller explained that the City Council asked the Administration to determine if a compromise could be worked out between Qwest and Comcast, and then bring back recommendations for the Council's consideration.

Qwest is requesting a franchise agreement to provide video and internet services in the City. The issue of concern for both Qwest and Comcast are build out requirements. Comcast was required to build out the city, and believes that Qwest should also be required to do the same. Qwest believes that the market has changed over the years, and that a build out requirement would not be economically feasible, and that the market should govern and determine how far they build out in the community. The Administration is asking for the Council's direction on what type of approach they would like the Administration to take; either the "carrot" or "stick" approach.

**Bryant Anderson** clarified that the purpose of this discussion was for the Administration to provide a recommendation for the Council to consider.

**Wally Miller** stated that the Administration would recommend taking the "carrot" approach at first, and then if that proves to be unsuccessful, a mandatory approach could be taken.

**Bryant Anderson** asked Mr. Miller to explain the time line Qwest would be required to meet in providing service to the residents.

**Wally Miller** indicated that the time line for build out requirements is optional. The City could grant a five or six year franchise, with options for an additional two to three years if Qwest meets the 20% build out requirement.

**Steve Smith** stated that he saw only a few slight differences between Qwest's and Comcast's proposals. Comcast's proposal is for a seventeen year franchise agreement, with 20% build out in the first five years. This would give Qwest twelve years to meet the remaining 80% build out in the City.

**Jerry Oldroyd**, Attorney representing Comcast, stated that Comcast's proposal would be to create a franchise agreement ranging between 10 -15 years, where Qwest would be required to identify the area in which they plan to build out first. If Qwest is successful in the market, they would then be required to build out an additional 20%. Mr. Oldroyd believes that if build out requirements are not included in the franchise, the City may be required to renegotiate another agreement down the road.

**Wally Miller** stated that he sees both Qwest and Comcast's proposals as "mirror images" of each other. Comcast would like to take the "stick approach", and Qwest is proposing to take a much softer approach.

**Jerry Fenn**, President of Qwest, stated that Mr. Miller aptly described the carrot vs. stick approach; however, he felt that there were differences between each proposal. The "carrot" approach would provide incentives, not mandates, with a voluntary build out where Qwest can determine where initial deployment will take place. If Qwest meets certain percentages of build out at the end of the six year franchise, Qwest would then be eligible for extensions on to the original franchise.

**Scott Cowdell** proposed a recommendation where the City approves a 20 year franchise agreement that includes build out dates and timelines that are set by the Administration for Qwest to meet. Mr. Cowdell felt his proposal would avoid the continual negotiations that are

being proposed every three, four, or five years in the franchise. He felt this would also provide a level playing field between both competitors.

**Dennis Tenney** thanked Comcast, Qwest, and the Administration for their recommendations. Mr. Tenney stated that he supports the Administration's recommendation of the "carrot" approach. This approach places the responsibility in the City's hands, plus gives Comcast and Qwest the opportunity to approach the City to request future deployment of new technologies that may take place.

**Chris McCandless** stated that he liked Comcast's recommendation where the grantee would begin construction on the upgrade of its network within one year of the effective date of the franchise, also that the grantee must file an annual report describing the number of service locations within the franchise area. He stated that he would endorse Mr. Miller's concept of the "carrot" approach with one condition: If Qwest does not meet the incentives in the franchise; the City would then take the "stick" approach. He apologized to Comcast for the build out requirements that were placed on them years ago.

**Motion:** **Dennis Tenney** made the motion to direct the Administration to negotiate a franchise agreement with Qwest based on the principals of the "carrot" approach, to include a six year franchise based on provisions that Qwest provide a 20% build out within a three year period, and that the contract be subject to review for extension or recession at the end of the three year period, also, that Qwest be required to present an annual report to the City Council twelve months from the initiation of their contract, to keep the City apprised of any future plans.

**Second:** **Chris McCandless**

**Substitute Motion:** **Scott Cowdell** made a substitute motion directing the Administration to negotiate a 15-20 year franchise agreement with Qwest with time frames and build outs, without percentages and increments, and that a yearly report be given to the Administration from Qwest.

**Second:** **Linda Martinez Saville**

**Discussion on the Motion:**

**Dennis Tenney** stated that he would not support Mr. Cowdell's substitute motion. Mr. Tenney felt that certain mandates on build out need to be placed on Qwest to make certain they provide service to the residents within a certain time frame.

**Phil Glenn** cautioned the Council that certain requirements need to be included in the franchise in order to guarantee that all four quadrants of the City receive services.

**Chris McCandless** stated that he felt a 15-20 year franchise would relinquish some of the authority the Council is mandated to control.

**Scott Cowdell** stated that Qwest should be given a substantial amount of time in order to build a clientele. The current three year proposal, in his opinion, does not provide adequate time, nor does he believe that it will be very effective.

**Bryant Anderson** felt that Qwest should be required to have a 25% build out requirement for adjacent areas if they are allowed to cherry pick.

**Motion:** **Chris McCandless called the question for the substitute motion**

**Second:** **Dennis Tenney**

**Vote:** The Council responded verbally in the affirmative to the motion.

**Vote on the Substitute Motion:** Cowdell- Yes, Saville- Yes, Smith – No, McCandless- No, Tenney- No, Fairbanks – Absent, Anderson – No

**Motion Fails:** 2 in favor, 4 opposed, 1 absent

**Motion:** Dennis Tenney called the question for the original motion

**Second:** Scott Cowdell

**Vote:** The Council responded verbally in the affirmative to the motion.

**Vote on the original motion:** Tenney- Yes, McCandless- Yes, Saville- Yes, Smith – Yes, Cowdell- No, Fairbanks- Absent, Anderson- No

**Motion Approved:** 4 in favor, 1 absent, 2 opposed

**Wally Miller** stated that the Administration would begin negotiations with Qwest for the franchise agreement with a recommendation to include an annual report.

5. **Interlocal Cooperation Agreement: Township**

**Resolution #07- 49 C** – authorizing the execution of an Interlocal Cooperation Agreement between the cities of Murray, Sandy, Holladay, City of South Salt Lake, Salt Lake City, Taylorsville, West Valley City, South Jordan and West Jordan to hire consultants for an annexation survey.

**Motion:** Dennis Tenney made the motion to adopt **Resolution #07-49 C**, authorizing the execution of an Interlocal Cooperation Agreement between the cities of Murray, Sandy, Holladay, City of South Salt Lake, Salt Lake City, Taylorsville, West Valley City, South Jordan and West Jordan to hire consultants for an annexation survey.

**Second:** Scott Cowdell

**Vote:** Tenney –Yes, Cowdell – Yes, McCandless- Yes, Saville – Yes, Fairbanks- Absent, Smith – Yes, Anderson – Yes

**Motion Approved:** 6 in favor- 1 absent

6. **Sister Cities Slide Presentation**

**Discussion:** Councilman Chris McCandless introduced Ryan Christensen, a member of the Sandy Rotary Club, who traveled to Piedras Negras, Mexico with Mayor Dolan, Chris McCandless, Steve Smith, and Ken Ivory to meet with local officials. John Swallow, along with his son also participated in the trip as part of his son's Eagle Scout project to collect toys and deliver them to children who live in the poorer areas of Peidras Negras. Mr. Christensen was assigned to take pictures of the trip, and then compile a power point presentation for the Council.

**Ryan Christensen** presented a brief synopsis on the history of Piedras Negras. The City has a population of approximately 150,000 to 250,000 people, and was founded on June 15, 1850. The name Piedras Negras means "black rocks", which is derived from the areas large production of coal. The City is located 142 miles south west of San Antonio, and is the birthplace of nachos.

Mr. Christensen stated that the Rotary Club, along with the Sister City organization is committed to making a difference for the people in Peidras Negras and to help them catch the vision of bettering the community.

**Mayor Dolan** noted that Sandy City will continue to improve relationships with Piedras Negras by planning future visits for their officials to meet with our city officials. Peidras Negras is a very progressive community. He believes this relationship provides an opportunity for cultural

exchange for members of our community to help those that are in need.

**Bryant Anderson** asked if a community event had been planned to help raise funds for the Community Hospital in Piedras Negras.

**Mayor Dolan** stated that the Rotary Club organizes events for Piedras Negras since fund raising does not fall within the jurisdiction of the City. By putting the word out and involving the residents and media, funds could be raised for this worthwhile cause.

**Chris McCandless** stated that much can be accomplished for the citizens of Piedras Negras with very little money. He stated that this has been a very worthwhile experience for all who have participated.

8:50 p.m.

**Motion:** **Dennis Tenney** made the motion to adjourn City Council Meeting and convene into Redevelopment Agency Meeting.

**Second:** **Linda Martinez Saville**

**Vote:** **The Council responded verbally in the affirmative to the motion.**

9:10 p.m.

**Motion:** **Dennis Tenney** made the motion to adjourn Redevelopment Agency Meeting and reconvene into City Council Meeting.

**Second:** **Chris McCandless**

**Vote:** **The Council responded verbally in the affirmative to the motion.**

**[See Separate Redevelopment Agency Minutes]**

**\*\*\*City Council Meeting\*\*\***

**7. Housing/ Neighborhood Rehabilitation Program**

**Motion:** **Scott Cowdell** made the motion to table the Housing/Neighborhood Rehabilitation Program discussion to the October 30, 2007 City Council Meeting.

**Second:** **Dennis Tenney**

**Vote:** **The Council responded verbally in the affirmative to the motion.**

**7. MAYOR'S REPORT**

a. No report was given.

**8. CAO'S REPORT**

a. **Byron Jorgenson** presented copies of the weekly departmental briefs, along with a chart on property tax rate comparisons for Sandy City and other cities in the State and County. Mr. Jorgenson noted that Sandy City is the third lowest in the State on property tax assessments, and that the City Council should take satisfaction in the accomplishments that have taken place in the City.

**Bryant Anderson** stated that he could recall only one time in his the 21 years of service on the City Council that property taxes had been raised, and that was in his first year of service on the City Council.

b. **Wally Miller** reported that the School District Election would be moving forward.

**9. COUNCIL OFFICE DIRECTOR'S REPORT**

a. **Phil Glenn** presented a disclosure from the Administration for the Intern to study After

School Programs, the updated calendar reminding the Council of the first Senior Citizen Art show and Gala at the Sandy Senior Center, a copy of a press release announcing the first Sandy Heritage Festival scheduled for Saturday, October 20<sup>th</sup>, and a copy of the edited Council Policies and Guidelines for the Council's review. This item will be discussed at the October 30, 2007 City Council Meeting.

- b. **Phil Glenn** stated that a brief meeting would be held prior to next week's scheduled tour to adopt the bond pricing for road projects.

10. **OTHER COUNCIL BUSINESS**

- a. **Linda Martinez Saville** presented a brief report on the 4<sup>th</sup> Annual Drug Endangered Children Conference that she attended on August 8<sup>th</sup> – 9<sup>th</sup>, at Westminster College. She reported on the many programs that are available to assist people in the community. She indicated that she would like to eventually implement some of these programs at the Sandy Boys and Girls Club. Some counseling services are already being provided to children at the club. She reported that she has twelve children who are currently utilizing counseling services at the club.

**Chris McCandless** requested to invite the Police Department to present a report on the effects that drugs have on the community, with suggestions on how the City can assist in helping to eliminate the escalating drug problem in our community.

**Linda Saville** reported that principals from Sandy Elementary and Mount Jordan Junior High are working together to form a committee to oversee the needs of children and families who are in need of counseling services.

- b. **Scott Cowdell** informed the Council that a constituent called complaining of a citation they received on a metal shelter used for a vehicle which has been in their yard for some 20 years. He asked staff and the administration to consider if metal shelters should be grandfathered if in existence prior to the ordinance adoption.

- c. **Scott Cowdell** requested that the Administration prepare recommendations and guidelines for residents living in mobile home parks to make certain they are aware of their rights if the property is ever sold and purchased by a developer. He would also like to have guidelines established that would allow the City to assist in mitigating moving expenses, similar to the help that was rendered to residents living in the Blue Pines Mobile Home Park.

- d. **Phil Glenn** reported that **Councilman Steve Fairbanks** had asked to be excused from the Council meeting as he was not feeling well.

At approximately 9:30 p.m., **Dennis Tenney** made a motion to adjourn Council Meeting, motion seconded by **Scott Cowdell**.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

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**Bryant F. Anderson**  
Council Chairman

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**Pam Lehman**  
Council Office Manager

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