

Minutes of the Work Session meeting of the Syracuse City Council held on May 28, 2013, at 6:00 p.m., in the Council Work Session Room, 1979 West 1900 South, Syracuse City, Davis County, Utah.

Present: Councilmembers: Brian Duncan  
Craig A. Johnson  
Karianne Lisonbee  
Douglas Peterson  
Larry D. Shingleton

Mayor Jamie Nagle  
City Manager Robert Rice  
City Recorder Cassie Z. Brown

City Employees Present:

City Attorney Will Carlson  
Finance Director Steve Marshall  
Public Works Director Robert Whiteley  
Parks and Recreation Director Kresta Robinson  
Fire Chief Eric Froerer  
Police Chief Garrett Atkin  
Community Development Director Sherrie Christensen

The purpose of the Work Session was for the Governing Body to hear public comments; hear a presentation from Scott Peppler re: recycling; receive a report from the Mosquito Abatement District; hear a request to be on the agenda from the West Davis Corridor Team; receive a presentation from the North Davis Sewer District; review special meeting agenda items three, four, and five; discuss RDA areas; discuss proposed utility rate increases; discussion regarding the budget; and discuss Council business.

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**Public comments**

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Leon Smith stated he wanted to talk to the Council about watering restrictions; he read in the newspaper some information about proposals to better control water consumption in the City and he asked if that is true. Mayor Nagle stated the City has been asked by the Weber Basin Water Conservancy District and the Davis and Weber Canal Company to consider watering restrictions. Mr. Smith stated his thoughts are that it is necessary to get serious about the issue. He stated one proposal was to educate the residents about potential water shortages and another was to impose a watering schedule for the City. He stated he does not think education will work because there is a prevailing attitude that people pay for their water year round and they want to make sure they are going to get their fair share of water. He added some people have always watered their lawn in the same manner and they will not be willing to change that. He stated that for the past two years he has driven past the same business daily on his way to work and they are watering every day for approximately an hour. He stated he called the business and asked the receptionist if the owner knew his water was coming on every day. He stated the receptionist told him that she would inform her boss of the situation so he watched the business for another five or six weeks and noticed his watering habits had not changed. He stated he called again and there were still no changes. He stated he also called the City and the City told him there is nothing they can do about it. He stated it is a difficult issue and he is not sure what can be done to get people to conserve.

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TJ Jensen stated he wanted to give a “shout-out” to Councilmember Lisonbee; last weekend he had a situation in his neighborhood with ducklings. He stated they got separated from their mother and they were stuck in a storm water grate. He stated he also found one in his basement and rather than take the ducklings to Ogden he called Councilmember Lisonbee to see if she knew anyone local that could handle wildlife. He stated there is a local resident that has a duck pond and she was able to take the ducks. He stated he wanted to thank Councilmember Lisonbee for her assistance in the matter.

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Ray Zaugg stated the Council will be talking about a potential opt-out recycling program. He stated the he thinks the City should elect for an opt-in program because many residents in an opt-out program would assume they are required to participate and they do not have an option to opt-out. He then stated he also wanted to comment about the potential utility rate increases and he noted one of the calculations in the staff report is inaccurate. He added he feels the proposed increases over the next three years is too steep and he asked the Council to carefully review the issue.

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**Presentation from Scott Pepler re: recycling**

Scott Pepler with Rocky Mountain Recycling addressed a letter to Mayor Nagle asking that the City consider an opt-out curbside recycling program. The letter was included in the Council packet along with letters from two Legacy Junior High School classes encouraging the City to implement a recycling program.

Mr. Pepler provided a PowerPoint presentation to the Council regarding his proposal to consider an opt-out recycling program.

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Council discussion regarding the proposal ensued with the outcome being that the Council was not interested at this time in considering an opt-out curbside recycling program.

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**Report from the Mosquito Abatement District**

The Council received a report from Gary Hatch, manager of the Mosquito Abatement District and Lloyd Waite, Syracuse City's representative on the District's Board of Trustees regarding the operations of the District in Syracuse and the surrounding community. The report was prompted by an email received from a resident regarding District operations and a suggestion to use dragonflies to control the mosquito population.

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The Governing Body asked questions regarding District operations throughout the presentation.

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**Request to be on the agenda: West Davis Corridor team**

Utah Department of Transportation representative Randy Jeffries made a request to be on the agenda to provide the Council with an update regarding the progress of the West Davis Corridor project. He followed a PowerPoint presentation, which is available on UDOT's West Davis Corridor website.

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The Governing Body then directed inquiries to Mr. Jeffries regarding the West Davis Corridor project.

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**Presentation from North Davis Sewer District**

During the May 14, 2013 Council meeting City staff presented the North Davis Sewer District's (NDS) request to the Syracuse City Council to extend the contract with the NDS. The City Council expressed concerns about the length of the extension and asked that a representative of the NDS come to the meeting on the night of May 28 to identify the minimum extension that the NDS needs for current bonding.

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Kevin Cowan, General Manager of the NDS, Dave Tafoya, NDS Board Chair, James Schroeder, NDS Accountant, and Preston Kirk, representative of George K. Baum Accounting associates were present to answer questions from the Council regarding the proposal to extend the NDS contract extension.

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Council discussion regarding the item ensued, with the outcome being that the Council will consider an amendment to the agreement at the May 28, 2013 meeting; that amendment will then be provided to the NDS Board for their consideration and potential acceptance.

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**Review Special meeting Agenda item 3 – Proposed**

**Ordinance 13-06, Amending Title Six, Chapter Five of the Syracuse City Code regarding irrigation service.**

A staff memo from City Attorney Carlson explained the Davis & Weber Counties Canal Company, the primary supplier to Syracuse' pressurized irrigation ("secondary") water system, announced that 2013 water shortages require it to drastically limit water distribution. Customers can expect to receive 25% to 40% less water this year than in previous years. Since Syracuse operates its own secondary water system, the City has a choice in how to impose this reduction on the residents of Syracuse. Even so, the City should plan to have only 60% of last year's water to meet the secondary water needs of residents and visitors during this irrigation season. This requires the City to promptly implement some form of water conservation. Traditionally, municipal water conservation efforts have focused on prescriptive regulations, such as rationing water for specific uses or requiring installation of specific appliances or infrastructure. Recent research suggests that market-based policies (charge higher rates for more use and lower rates for less use) are the most cost effective way to conserve, while prescriptive regulations are better at reaching a specific conservation level. See "Comparing price and nonprime approaches to urban water conservation," Water Resources Research, Volume 45, W04301. Since Syracuse has thus far declined to meter secondary water, it does not currently have an option of a market-based conservation strategy.

At the meeting on May 14, 2013, the City Council expressed interest in an ordinance recommended by the St. Johns River Water Management District in Florida. This ordinance allows watering two days per week for up to thirty minute increments, subject to several exceptions. Four concerns were expressed:

1. Agricultural irrigation needs to be exempt.
2. Any penalties should only be applicable in drought years.
3. Moisture detectors on sprinkler systems may be prohibitively expensive.
4. People should be trusted to self- regulate without an ordinance.

Regarding agriculture, in the draft ordinance landscape irrigation is defined to exclude "agricultural crops, nursery plants, cemeteries, golf course greens, tees, fairways, primary roughs, and vegetation associated with recreational areas such as playgrounds, football, baseball and soccer fields." Accordingly, farms will not be regulated by the proposed ordinance.

An enforcement trigger has also been added to the proposed ordinance. The proposed ordinance attaches no penalty for watering outside the schedule "unless the City Council has passed a resolution declaring a drought." The ordinance allows the Council to pass such a resolution upon recommendation of the Public Works Director and limits the life span of the resolution to "the end of Daylight Savings Time for that calendar year or passage of a nullifying resolution by the City Council." Basic research on moisture detectors indicates that costs can be minimal. For example, Amazon is selling a Hunter Solar Sync Rain Sensor for about \$77. Finally, whether to regulate secondary water conservation or simply educate is a policy decision for the Council to make. Even so, as operators of a secondary water system, the City has a duty to ensure that the system operates. The City has been informed that its water supply will be substantially lower this year than in past years. Failure to take action to conserve water will result in a drained and damaged system and substantial expense to the city.

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Mr. Carlson reviewed his staff memo. There was input from City Manager Rice and Public Works Director Whiteley throughout the staff discussion.

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Council discussion regarding the item ensued. The Council reached the consensus to continue the public hearing during the special meeting and table adoption of the proposed ordinance.

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**Review Special Meeting Agenda items 4 and 5 – Proposed agreements with Irben Development for purchase of water shares.**

A staff memo from City Attorney Carlson explained in January 2012 the City entered an agreement to sell 60.595 acres of land directly south of Jensen Park ("South Jensen Park") to Irben Development ("Irben"). That sale had a settlement deadline of October 18, 2013 and did not include the transfer of any water rights. Irben has asked the city to finance the sale over 18 months between next October and April 2015. Additionally, Irben plans to develop a residential subdivision on the property, which will require Irben to convey water rights to the City as a condition of subdivision approval. Seller Financing Irben has drafted the attached "Addendum No. 4" to the Real Estate Purchase Contract and requests the City Council's approval. This addendum proposes five changes to the contract:

1. Under the current agreement, payment of \$1,969,400 is due in full at the settlement date, October 18, 2013. Under this Addendum, Irben will make a down payment "at closing" of \$527,850.00. There is no closing date provided.
2. Under this addendum, Irben will make three additional payments at six month intervals for the remaining \$1,441,550.00 owed.
3. The City's loan to Irben will be charged 3% simple interest per year. Assuming the payments are on schedule, this will amount to approximately \$43,200.00 in interest over 18 months.
4. The land would be divided into four horizontal quarter sections stacked from south to north. At closing, the southernmost section would be transferred to Irben. Upon the first loan payment the next section to the north would be transferred, and so on until all payments are received and all land transferred.
5. Irben has until September 18, 2013 to choose this City financing. By September 18, both parties must also agree on the form of the promissory note.

City staff has three concerns about the proposed addendum: the extended time of the contract will extend the time that the city is exposed to risk, seller financing will place restrictions on the city's ability to expend the funds as required by law, and the proposed time frame assumes a rate of home sales that is historically unsupported for new subdivisions in Syracuse. First, approving addendum 4 will extend the time that the city is exposed to risk. The City entered this real estate purchase contract seventeen months ago and is obligated for another five months under the current agreement. During that time, the city has been prevented from considering changed circumstances, including the improved economy and UDOT's proposed West Davis Corridor route, in deciding what to do with the land. Should addendum 4 be approved by the City Council, the City will sell land in April 2015 based on its estimated value in December 2011. Additionally, during the time that the city is financing Irben's development, it will also be regulating the development as the land use authority. This could result in subdivisions being proposed under an ultimatum of approving a subdivision or risking the sale of the remaining sections of land. Second, the land in question was purchased by the city with park purchase impact fees and so the money from the sale must be used to purchase additional park lands. Under state code, the city must spend impact fees "within six years of their receipt." UCA §11-36a-602(2)(a). Unspent impact fees plus interest should be refunded to the developer. UCA §11-36a-603. Neither statutes nor case law outline the time frame that applies when impact fees are spent and then returned to the city years later, which is what is anticipated here. If the time frame is six years from original receipt, then the City will be in violation as soon as it receives payment for South Jensen Park. If the six year time frame is paused while the city has expended the funds and then resumes when the funds are returned to the city, then it will be important the City act promptly to expend the Park Purchase funds. If the six year time frame restarts when spent impact fees are returned, then the city will have six years from the first payment for South Jensen Park to spend the funds. Since the city is selling a large span of park property, it would serve to promptly purchase a separate large span of park property. The Seller financing will create a span of at least eighteen months between the first payment and final payment to the city, which will require the city to either purchase multiple smaller land areas or to wait to purchase a large space. This delay increases the risk that the City would be in violation of the time restraints on expending impact fees. Third, while Irben anticipates using profits from the sale of properties on the earlier sections to fund their payments for later sections, the eighteen month time frame would require that homes be built at a rate that is not supported historically in Syracuse. This increases the risk to the city that either 1- the sale of the later sections will fall through, or 2- Irben will return with requests for subsequent addendums to further extend the time before payment is due. Since the recession, developers have been cautious in creating subdivisions. For example, Trailside Park has proposed subdivision phases of approximately ten lots at a time, completing one phase before beginning the next. Since 2002, city code has required subdivisions larger than 36 lots be planned in subsequent phases, which prevents developers from over committing resources before the subdivision can be completed. Even with this cap, several subdivisions across the city remain unfinished, the result of developers who were more optimistic than the market could support. Irben anticipates building approximately 200 homes, or 50 per quarter section. This would require Irben to build and sell approximately 150 lots over the course of eighteen months, approximately two per week every week. Even with the recovering economy, Syracuse has issued building permits for 74 single family residences in 2013, which is about 3.5 per week across the entire city. While possible, Irben's projected development is very optimistic. Should Irben fall short, the City will either be left holding the bag on the remainder of the property, or be asked by Irben to extend the city's time commitment and risk. For the above reasons, City Staff urges extreme caution in considering whether to approve Addendum 4. The City Council may accept, reject, or amend Addendum 4 and the Water Rights Memorandum of Understanding. If accepted or amended, they will be forwarded to Irben Development for consideration. City Staff recommends extreme caution regarding Addendum 4.

Relative to water shares the City serves dual roles as the "Seller" of South Jensen Park without water rights and the "Land Use Authority" requiring conveyed water rights as a condition of subdivision approval. Irben has asked the city as

Seller for help providing the water rights to the Land Use Authority. Accordingly, the City Attorney has drafted the attached Memorandum of Understanding for the Council's consideration. Under this Memorandum of Understanding, Irben must convey water rights to the Land Use Authority as required by city code. This is a condition of subdivision approval. However, for the portion of any proposed subdivision that is on South Jensen Park, Irben Development may instead pay the City \$9,836.07 per acre or part thereof. The city will not deposit any such payment in the general fund or park purchase impact fund, but in the Secondary Water Operating Fund. If Irben's proposed subdivision were to develop less than an acre of South Jensen Park, it could pay \$9,836.07 instead of conveying water rights for that portion. On the other end of the spectrum, if Irben's proposed subdivision develops all of South Jensen Park, it could pay \$600,000.00 instead of conveying water rights for South Jensen Park's portion of the subdivision. Whether it pays or conveys water rights is in the discretion of Irben. This price is in accordance with the fair market value of water rights at Layton Canal Company, the irrigation company that supplies water to the area surrounding South Jensen Park. Public Works Director Robert Whiteley has determined that Layton Canal water shares are one acre foot per share and are currently valued between three and four thousand dollars per share. This MOU values the water rights at under \$3,300 per acre foot. Mike Thayne of Irben has disputed the City's valuation of water shares. He indicated that he has purchased some water shares at a lower price and that several decades ago, before water rights were conveyed as a condition of subdivision approval, water shares were valued under one hundred dollars each. Nevertheless, he has agreed to enter this Memorandum of Understanding at the price indicated. The City Council may accept, reject, or amend this Memorandum of Understanding. If accepted or amended, it will be forwarded to Irben Development for consideration.

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Mr. Carlson summarized his memo.

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The Council took a break at 8:28 p.m.

Councilmember Lisonbee excused herself from the meeting.

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The Council work session meeting resumed and Mr. Carlson continued discussing the potential agreement with Irben Development. There was Council discussion and inquiries throughout.

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Representatives of Irben Development then provided a brief explanation of their request for the agreement. The Council directed their questions regarding the agreement to said representatives.

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Mayor Nagle suggested the Council break from the work session meeting and continue the discussion regarding the agreement in the special business meeting prior to taking action.

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The work session meeting resumed.

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### **Discussion regarding RDA areas.**

City Manager Robert Rice and Finance Director Steve Marshall utilized a PowerPoint presentation to lead a discussion regarding potential improvements to the two RDA areas in Syracuse City.

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Council discussion centered on potential improvements to be made to the eastern parking area in the Town Center RDA. Consensus was to continue the discussion at a future RDA work session meeting in order to allow the RDA Board to consider improvements to the northeast parking area near Wendy's restaurant.

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Council and staff discussion then centered on potential improvements to be made in the 1700 South RDA.

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### **Discussion regarding proposed utility rate increases.**

Finance Director Steve Marshall utilized a PowerPoint presentation to lead a discussion regarding a proposed utility rate increase.

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Council discussion regarding the item ensued. The Council directed staff to provide a number of options for them to consider relative to utility rate increases at the June 11, 2013.

**Discussion regarding the budget.**

There was no discussion regarding the budget

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**Council business**

Councilmember Duncan provided a brief report regarding the recent Memorial Day celebration event.

The meeting adjourned at [10:37:11 PM](#) .

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Jamie Nagle  
Mayor

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Cassie Z. Brown, CMC  
City Recorder

Date approved: June 25, 2013