

**MINUTES OF THE  
HOLLADAY CITY COUNCIL MEETING**

**Thursday, February 20, 2014  
Mt. Olympus Room  
4580 South 2300 East  
Holladay, Utah 84117**

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**BRIEFING SESSION - 5:30 p.m.**

***ATTENDANCE***

Rob Dahle, Mayor  
Lynn Pace  
Patricia Pignanelli  
J. James Palmer, Jr.  
Steve Gunn  
Sabrina Petersen

**City Staff,**  
Randy Fitts, City Manager  
Stephanie Carlson, City Recorder  
Craig Hall, City Attorney  
Paul Allred, Community Development Dir.

Mayor Dahle called the briefing session to order at 5:38 p.m. The City Council reviewed and discussed the agenda.

The Council went over the proposed anti-discrimination ordinance.

**MINUTES OF THE  
HOLLADAY CITY COUNCIL MEETING**

**Thursday, February 20, 2014  
Council Chambers  
4580 South 2300 East  
Holladay, Utah 84117**

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**Council Meeting - 6:00 p.m.**

***ATTENDANCE***

Mayor Rob Dahle  
Lynn Pace  
Patricia Pignanelli  
J. James Palmer, Jr.  
Steven Gunn  
Sabrina Petersen

**City Staff**  
Randy Fitts, City Manager  
Stephanie Carlson, City Recorder - *excused*  
Craig Hall, City Attorney  
Paul Allred, Community Development Dir.  
Pat Hanson, City Planner

**I. *Welcome***

Mayor Dahle conducted and called the meeting to order at 6:04 p.m.

**II. *Pledge of Allegiance***

The Pledge of Allegiance was led by Cannon Hanson, from Boy Scout Troop 193.

**III. *Public Comments***

*Glen Davis – 2032 East Lincoln Lane.* Mr. Davis expressed safety concerns with the City Plaza. He stated that there needs to be some type of barrier on the Laney Avenue side to prevent it from looking like a roadway at night. Council Member Palmer stated that the city is aware of the problem and has installed a series of ballisters and chains with reflectors on the north end. The City is still evaluating what to do on the south end. Staff agreed to check to make sure they are still in place during construction.

*Jim Deans – 5269 South Alvera.* Mr. Deans addressed the Anti-Discrimination Ordinance. He stated that he drafted the 1989 Utah Fair Housing Act and has served on the Fair Acts Housing Board. The ordinance needs some refining to address legal flaws and does not address funding issues or a plan to deal with them.

*Yvette Simmons – 4262 South 615 East.* Ms. Simmons spoke in favor of the Anti-Discrimination Ordinance and stated that transgender citizens need this type of protection.

*Brandie Balken – Equality Utah.* Ms. Balken spoke in favor of the Anti-Discrimination Ordinance and sated that in 2009, a local Utah city created a template for ordinances that provides protections that reflect common values. According to a statewide poll conducted by *The Deseret News*, 72% of Utahns support these protections. They also have garnered the support of the LDS Church. Ms. Balken stated that these are common sense protections that represent the community's common values. She stated that Holladay will not be alone in implementing them. Eighteen other local governments have passed similar protections in Utah. Across the nation 21

states and more than 150 cities have passed both workplace and housing protections including Colorado, Nevada, and New Mexico.

The ordinances are good policy. They do not create special protections or place an undue burden on businesses or property owners. They have common sense exemptions for those that employ 15 or fewer employees, own four or fewer units, and for religious organizations. These ordinances simply prevent discrimination based on sexual orientation or gender identity. Ms. Balken stated that the protections are important. Currently in Holladay people can be evicted or denied employment or housing based on their sexual orientation or gender identity. She stated that it is not necessary to create a new position or commission to mediate the process. It can be overseen by the same person who administrates other complaints. The process is simple and includes four basic steps consisting of complaint, investigation, mediation, and fine assessment.

According to data from the Utah Department of Labor, three to five cases of discrimination based on sexual orientation or gender identity are reported in Utah each month. It is difficult to assess how many people have experienced discrimination in Holladay, because currently people have no channel to file a complaint. Indeed, without these protections, people likely fear speaking out about discrimination because they have no protections and could experience repercussions. As a Utahan, Ms. Balken believes that if even one person has lost their home or job based on discrimination, it is one too many. She attached a report from the Williams Institute which provided statistical information about the experiences of other Utahans.

Ms. Balken expressed her appreciation for the City's willingness to have this conversation. She remarked that if Holladay decides to implement the recommended common sense protections, it will speak volumes about Holladay's commitment to a community where all residents are treated with dignity and respect.

#### **IV. *Consideration on Ordinance 2014-03 Amending to Chapter 13.080.150A – Development Near Waterways.***

Council Member Petersen moved to adopt Ordinance 2014-03. Council Member Pignanelli seconded the motion.

Council Member Pace made a substitute motion to adopt Ordinance 2014-03 with the following modifications: In paragraph C (2) add “and as appropriate the City Attorney” at the end of the sentence. In paragraph C (3) change “the property” to “their property”. Council Member Palmer seconded the motion. The Council roll call vote was as follows: Council Members Pace, Petersen, Pignanelli, Gunn, Palmer and Mayor Dahle in favor. Ordinance 2014-03 was adopted with a unanimous vote.

#### **V. *Consideration of Ordinance 2014-04 Anti-Discrimination Ordinance.***

Mayor Dahle commented that there have been numerous suggestions and emails between the Council regarding minor modifications to the ordinance. Those will be discussed here tonight and voted on individually.

Council Member Pace stated that the ordinance, as drafted, contains certain exemptions for four units or less, if owner occupied. The description of owner/occupied was not sufficiently clear as to its meaning. Mr. Hall was asked to provide clarification. The change would clarify that the owner is not limited to the person whose name is on the title, but that person and their immediate family.

Mr. Hall confirmed that the clarification would be inserted on page 9 paragraph 3, after the exemptions.

Council Member Pace moved to amend Section 26-3-101 paragraph 3B to read “for the purposes of this section, the term “owner” shall mean the owner, spouse, children and/or the owner’s parents or in-laws.” Council Member Gunn seconded the motion. The Council roll call vote was as follows: Council Members Pace, Petersen, Gunn, and Mayor Dahle in favor with Council Member Pignanelli and Palmer opposed. The amendment was approved.

Council Member Gunn suggested the addition of language to clarify that the ordinance is not intended to require people to provide services or goods just because they are part of a public accommodation. Public accommodation will be defined as referring to a federal statute 42USC Section 12181-7. Therefore the language would be incorporated by reference. He detailed communities that have statutes requiring services be provided to those who use public accommodations due to instances of people being denied a public service based on sexual orientation. Because the ordinance only deals with employment and housing, he suggested the additional language read “The provisions of this title do not, and are not intended to deal with discrimination in a public accommodation based on sexual orientation or gender identity as used in this section. The expression “public accommodation” shall have the same meaning as its definition in a certain federal statute.” Mr. Hall confirmed that this would be inserted in Section 26-1-115.

Council Member Gunn moved to approve the proposed amendment to state, “The provisions of this title do not, and are not intended to deal with discrimination in a public accommodation based on sexual orientation or gender identity as used in this section. The expression “public accommodation” shall have the same meaning as its definition in a certain federal statute.” Council Member Pace seconded the motion.

Council Member Palmer stated he believed the proposed amendment was not necessary, and was in favor of adopting the ordinance as written, so that it is uniform across the various cities, as the Utah State Legislature refuses to act on this issue.

The Council roll call vote was as follows: Council Members Pace and Gunn in favor with Council Members Palmer, Pignanelli, Petersen and Mayor Dahle opposed. The amendment failed.

Council Member Pace stated that there have been a number of citizens concerned with how this will affect their constitutional right to their free exercise of religion. The protections of the United States Constitution would trump the provisions of a city ordinance.

Council Member Petersen confirmed that the word “primarily” was added in several places in the ordinance referring to housing and employment to specify that a person cannot be dismissed “primarily” due to sexual orientation.

Council Member Pignanelli moved to adopt Anti-Discrimination Ordinance 2014-04 as amended by the prior vote and insertion of the word “primarily” as indicated by Council Member Petersen. Council Member Palmer seconded the motion.

Council Member Gunn made a secondary motion to amend Ordinance 2014-04 as written to remove the word “primarily” as inserted in the paragraphs, 26-2-101, 1, 2, 3 and 4. Council Member Palmer seconded the motion. The Council roll call vote was as follows: Council Members Palmer and Gunn in favor with Council Members Petersen, Pace, Pignanelli and Mayor Dahle opposed. The amendment failed.

Council Member Gunn read the following statement:

‘Because of the interest shown by Holladay residents and others concerning my vote on the anti-discrimination ordinance, I would like to explain my reasons for voting for this law.

From the beginning of our consideration of this ordinance I have been concerned with the lack of evidence that discriminatory practices in employment and housing toward gays and lesbians have been present in our city. I have done as much research as I know how on this issue and have been made aware of only one alleged incident of discrimination in housing and none in employment. Indeed, the one alleged incident may simply have involved tenant misbehavior, rather than an act of discrimination.

If my vote on the ordinance were based solely on evidence of past discrimination in housing or employment in Holladay, I likely would have voted against the ordinance. However, I am persuaded that there are compelling reasons to adopt it. First, I believe that acts of discrimination in housing and employment against gays and lesbians have occurred elsewhere and acknowledge that they may be committed here in the future. Hopefully, this ordinance will prevent that from happening.

Second, a significant majority of my constituents who have communicated with me on this issue support the ordinance.

Finally, my fellow Council Members and I wish to show gays and lesbians by this ordinance that they are welcome among us and that the City of Holladay condemns any discrimination against them.

I am mindful of the concern that by adopting this ordinance the Council inadvertently may be forcing merchants or tradesmen to provide services or goods to gays against their will. (This fear is usually described in the context of gay-wedding-related services.) I am also aware of fears that adoption of our ordinance would allow gay men to use women’s restrooms.

I have looked at these arguments carefully and have concluded that they are not relevant to our ordinance, which only deals with discrimination in employment and housing. The horror stories concerning forced services appear to come from states or communities in which discrimination is banned in public accommodations, like schools, restaurants, retail stores and public restrooms. That is not a principle embraced by our ordinance.

I also reject the argument that the adoption of this ordinance or the analogous bill pending before the Utah Legislature would somehow prejudice the State’s pursuit of its appeal in the gay marriage litigation. The two issues—discrimination in employment and housing, on the one hand, and gay marriage, on the other—are completely unrelated. It is inconceivable to me that the Federal Tenth Circuit Court of Appeals would conclude that the existence of a Holladay ordinance banning discrimination against gays in

employment or housing has any relevance to the issue of whether Utah's ban on gay marriage violates the Equal Protection Clause of the U.S. Constitution.

For the above reasons I have voted for our anti-discrimination ordinance. And in so doing I say to our gay community: "You are welcome here."

The Council returned to the main motion. The Council roll call vote was as follows: Council Members Petersen, Pignanelli, Gunn, Palmer and Mayor Dahle in favor with Council Member Pace opposed. Ordinance 2014-04 was adopted with a majority 5-to-1 vote.

**VI. *Consideration of Resolution 2014-08 Authorizing the Mayor to Execute a Tolling Agreement with Holladay Boulevard Ventures, LLC for the Installation of Parking Stalls at Approximately 4646 South Holladay Boulevard.***

Council Member Petersen moved to approve Resolution 2014-08. Council Member Pace seconded the motion. The Council roll call vote was as follows: Council Members Pace, Petersen, Pignanelli, Gunn, Palmer and Mayor Dahle in favor. Resolution 2014-08 was approved with a unanimous vote.

**VII. *City Manager Report***

Manager Fitts reported on the following:

- The house next to City Hall will be demolished in the coming week.
- The brick work is going up on the public safety building
- The City has submitted a GRAMA request to the County regarding the annexation. Today we received a bill for \$280 and the stack of documents

**VIII. *Council Reports.***

Council Member Pace reported that the city is now halfway through the legislative session and the real action is yet to come.

**IX. *Other Business.***

**X. *Adjourn City Council Meeting and Convene to a Work Meeting.***

Council Member Petersen moved to adjourn the City Council Meeting and reconvene in a Work Meeting. Council Member Pignanelli seconded the motion. The Council voted in the affirmative and the Council meeting adjourned at 7:09 p.m.

## WORK MEETING – February 6, 2014

### **ATTENDANCE**

Mayor Rob Dahle  
Lynn Pace  
Patricia Pignanelli  
J. James Palmer  
Sabrina Petersen  
Steven Gunn

### **City Staff**

Randy Fitts, City Manager  
Stephanie Carlson, City Recorder - *excused*  
Craig Hall, City Attorney  
Paul Allred, Community Development Dir.  
Clarence Kemp, City Engineer  
Rick Whiting, City Planner

Mayor Dahle convened the Council in a Work Meeting at 8:32 p.m.

#### **a. Discussion on Highland Drive Master Plan and RO Zone.**

The Council reviewed the Master Plan page by page and discussed the proposed changes. Mr. Allred agreed to make the changes and send out the revised version to the Council prior to the March 3 Meeting.

#### ***Closed Session Pursuant to Utah Code Section 52-4-204 & 205 to Discuss Personnel Issues, Potential Litigation, and Property Acquisition and Disposition.***

Council Member Petersen moved to go into Closed Session to discuss personnel issues, property acquisition, and disposition. Council Member Palmer seconded the motion. The Council roll call vote was as follows: Council Members Petersen, Pace, Pignanelli, Gunn, Palmer and Mayor Dahle in favor. The Council convened in a closed session at 8:14 p.m.

Those in attendance at the Closed Session were: Council Members Petersen, Pace, Palmer, Gunn, Pignanelli and Mayor Dahle. Others present included Craig Hall, Randy Fitts, Paul Allred, Clarence Kemp and Mark Olsen.

Minutes of the Closed Session were taken and are on file as a Protected Record.

Council Member Pace moved to adjourn the Closed Session and reconvene the Work Meeting. Council Member Petersen seconded the motion. The Council roll call vote was as follows: Council Members Petersen, Pace, Pignanelli, Gunn, Palmer and Mayor Dahle in favor. The motion to go out of closed session at 8:55 p.m. passed with a unanimous vote.

Mayor Dahle reconvened the Work Meeting at 8:56 p.m.

#### **b. Discussion of proposed PUD Ordinance.**

Planning Commission Chair, Chris Jenson, joined the discussion and shared with the Council the perspective of the Planning Commission. The Council has made it clear that they prefer using the minimum lot size, width, etc., standards in place currently as the most appropriate way to calculate and “cap” the lot density for any future PUD development and that any other method that would result in an increased number of lots over and above that “cap” is unacceptable. Staff agreed to work on the proposed language and look at some of the unintended consequences.

**c. Discussion on Scholarship & Awards Dinner**

The Council discussed moving forward with the dinner. They also decided to increase the scholarship amount to \$1,000 for the high school recipients. There will again be an award for a teacher from each high school who will be recognized and given a dinner certificate.

Mr. Hall and Mayor Dahle agreed work on the Holladay Foundation and getting 501(c)3 status, board members, mission statement, etc. Mayor Dahle hopes to have it organized and meeting by the Fall.

**d. Discussion on Council Priorities**

The Council reviewed the priorities for 2014. This will be used to help set the agenda as the year goes on.

**e. Calendar**

Ms. Carlson reviewed the meeting schedule for March and April. Council Member Pace stated that he would not be in attendance at the March 13 meeting due to the end of the legislative session. The Council was asked to check their schedules for April due to Spring Break and the ULCT conference.

**f. Other Business**

**XIII. Closed Session Pursuant to Utah Code Section 52-4-204 & 205 to Discuss Personnel Issues, Potential Litigation and Property Acquisition and Disposition.**

Council Member Petersen moved to go into Closed Session to discuss personnel issues, property acquisition, and disposition. Council Member Palmer seconded the motion. The Council roll call vote was as follows: Council Members Petersen, Pace, Pignanelli, Gunn, Palmer and Mayor Dahle in favor. The Council convened in a closed session at 10:03 p.m.

Those in attendance at the Closed Session were: Council Members Petersen, Pace, Palmer, Gunn, Pignanelli and Mayor Dahle. Others present included Craig Hall, Randy Fitts, Paul Allred, and Clarence Kemp.

Minutes of the Closed Session were taken and are now on file as a Protected Record.

Council Member Palmer moved to adjourn the Closed Session and reconvene the Work Meeting. Council Member Pignanelli seconded the motion. The Council roll call vote was as follows: Council Members Petersen, Pace, Pignanelli, Gunn, Palmer and Mayor Dahle in favor. The motion to go out of closed session at 10:49 p.m. passed by a unanimous vote.

**XIV. Adjourn Work Meeting.**

There being no further business, Council Member Palmer moved to adjourn with Council Member Petersen seconding the motion. The Council voted in the affirmative and the meeting adjourned at 10:50 p.m.



*I hereby certify that the foregoing represents a true, accurate and complete record of the Holladay City Council meeting held Thursday, February 20, 2014.*

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Stephanie N. Carlson, MMC  
Holladay City Recorder

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Robert Dahle, Mayor

Minutes approved:     March 19, 2014