

KURT ALLEN FISHER
P.O.B. 11753
Salt Lake City, Utah 84147-0753
fisherka@csolutions.net
(801) 414-1607 (cell)
May 31, 2019

VIA EMAIL: c/o jo.walz@slcgov.com

Jackie Biskupski, Executive Director
Chris Wharton, Vice Chair of Board of Directors
SALT LAKE CITY REDEVELOPMENT AGENCY
451 South State, Room 418
Salt Lake City, Utah 84111

VIA EMAIL: council.comments@slcgov.com

Salt Lake City Council
SALT LAKE CITY CORPORATION
451 South State Street, Room 326
Salt Lake City, Utah 84111

Cc Via Email: Jackie Biskupski, mayor@slcgov.com
Chris Wharton, District 3 council person, chris.wharton@slcgov.com

Re: Petition to Salt Lake City Council and Mayor Biskupski in their capacities as the Board and Executive Director of the Salt Lake Redevelopment Agency to allocate \$1.5 million in funds to the Department of Public Utilities (“DPU”) in support moving the 4th Avenue Chemical Treatment Plant Allocation (the “Well”)¹ at approximately 200 North Canyon Road, Salt Lake City, Utah

Comment to Salt Lake City Council in Opposition by Kurt A. Fisher regarding the 4th Avenue Well in the Department of Public Utilities (“DPU”) 2019-2020 Budget Request, DPU Detailed Project 5132268-2015-0213²

Sirs:

¹ Salt Lake City Department of Public Utilities. 2019. Information Website on 4th Avenue Well Project (url: <https://www.slc.gov/utilities/fourth-avenue-well-project/>, accessed May 2019).

² Department of Public Utilities 2019-2020 Line Detail Budget, April 28, 2019 (url: https://stories.opengov.com/saltlakecity/published/MSDLN3_f and File: Attachment 1 - draft Proposed Public Utilities FY2019-20 Budget.pdf at page 33.)

Salt Lake City Department of Public Utilities proposed Well at approximately 200 North Canyon Road in Salt Lake City should be moved to the May 9 open house Option 2c site³ to the park at State and Canyon Road in a redesigned anti-terrorist and earthquake hardened structure, admittedly at an increased cost.⁴ As noted in other comments, the stasis of the dispute between the DPU and local residents is: “Who will pay an additional 1 to 1.5 million USD to move the DPU’s proposed well from 4th Avenue and Canyon Road to the park to the south, or such other location as the DPU might determine is appropriate?” Previously, your commentator has suggested either deferral of other DPU projects to the future and reallocating budget authority to the 4th Avenue Well or authorizing an 8 mill increase in the DPU water, sewer and lighting rates.⁵

A third option to obtain the supplemental funds to move the Well, proposed here, might be the use of tax increment funds of the Redevelopment Agency pursuant to an interlocal agency agreement as authorized by Utah Code Annotated § 17C-1-207(1)(a)(i)(B) (effective May 14, 2019)⁶ and-or Utah Code Annotated § 17C-1-204 (effective May 14, 2019)⁷.

Following the City’s adoption of its 2016 Downtown Master Plan⁸ and 2016 temporary moratorium on the imposition of developer fees of at least \$7.1 million⁹ (and otherwise needed to pay of infrastructure improvements related to that development), the Central Business District¹⁰ has witnessed an explosion of large hotel and multiple family apartments and condominiums. The Downtown Alliance’s 2017 “Downtown Rising” Action Plan¹¹ envisages between 48,000 and 75,000 people living and working in the CBD to the immediate southwest of the proposed

³ Memorandum by David E. Hansen, Hansen, Allen and Luce, Inc., to B. Stewart, Salt Lake Department of Public Utilities, re: 4th Avenue Well Assessment (hereafter "HAL Report") (url: https://docs.wixstatic.com/ugd/80b28b_3607f771b2984d63a44ce7a4c3d1c7a9.pdf).

⁴ HAL Report at 15.

⁵ Letter by K. Fisher to City Council dated May 28, 2019.

⁶ url: <https://le.utah.gov/xcode/Title17C/Chapter1/17C-1-S207.html>.

⁷ url: <https://le.utah.gov/xcode/Title17C/Chapter1/17C-1-S204.html>.

⁸ Salt Lake City Corporation. May 24, 2016. The Downtown Plan: Downtown’s Story from Tomorrow (url: <http://www.slcdocs.com/Planning/MasterPlansMaps/Downtown.pdf>).

⁹ Smart, Christopher. Nov. 2, 2016. Salt Lake City Council extends moratorium on impact fees, a pause costing \$500,000 per month. The Salt Lake Tribune (url: <https://archive.slttrib.com/article.php?id=4533501&itype=CMSID>).

¹⁰ Salt Lake City Ordinances, Chapter 2.34, CBD Neighborhood Development Plan (1982 as amended) (url: https://www.sterlingcodifiers.com/codebook/getBookData.php?chapter_id=48661#s444789); CBD Neighborhood Development Plan (May 1, 1982) (url: http://www.slcrda.com/wp-content/uploads/2016/08/CBD_Project-Area-Plan.pdf).

¹¹ Downtown Alliance. 2017. Downtown Rising Action Plan: 2017 (url: https://www.downtownrising.com/_files/DTR_ActionPlan_2017Final.pdf).

Well chlorination facility.¹² The City anticipates through 2040, that current full-time residents will increase from 5,000 to 20,000 persons and that the population of daily commuting workers will increase from between 54,000 to 88,000 persons.¹³

In the last three years, the City engaged in aggressive development of multi-family residential and hotel units and has added about 3,000 new units in the CBD. In April 2019, the Redevelopment Agency approved a low-interest loan to aid construction of a new 225 luxury hotel at the CBD's The Gateway development.¹⁴ This present and future commercial and high-density housing development has resulted in an increased need for sufficient water pressure and water quality.¹⁵ As a result of this growth and the need to comply with other health, safety and water drinking requirements,¹⁶ the DPU proposed a new pumping house and chlorination facility at the site of an existing underground Well, that has operated principally during the summer months since 1943 (*id*).

Both the City's 2016 Master Plan and the Downtown Alliance's 2017 Downtown Rising Action Plan did not evaluate and were silent on needed public water infrastructure improvements needed to support planned growth (*id*). It is axiomatic that the CBD's growth requires expansion of the water system infrastructure; the two are inexorably connected. This is also not news. The City and the CBD relied on open ditches for its drinking water until the arrival of the Transcontinental Railroad spur in 1870 and a downtown hotel owner first offered to pay for a

¹² Salt Lake City Corporation. May 2016. Salt Lake City Central Business District Master Plan (url: <http://www.slcdocs.com/Planning/MasterPlansMaps/Downtown.pdf>). The 48,000 estimate is based on the 2010 Census and the 78,000 person estimate comes from the local chamber of commerce: the Downtown Alliance.

¹³ Downtown Rising at 5 and 9.

¹⁴ McKellar, Katie. April 23, 2019. Salt Lake City Approves \$7M loan to build boutique hotel at the Gateway. KSL News (url: <https://www.ksl.com/article/46538016/salt-lake-city-approves-7m-loan-to-build-boutique-hotel-at-the-gateway>).

¹⁵ Semerad, Tony. April 30, 2019. The fight over pump house pits needs of Salt Lake City's thirsty downtown against a quiet neighborhood in Memory Grove. The Salt Lake Tribune (url: <https://www.sltrib.com/news/2019/04/30/residents-mouth-memory/>). "[T] the well is considered crucial to keeping the city's water system resilient and meeting demand in the growing downtown area, around Capitol Hill and even at Salt Lake City International Airport" (*id*).

¹⁶ Salt Lake City Dept. of Public Utilities, Undated, Project Notice (hereafter the "Project Notice") (url: https://docs.wixstatic.com/ugd/80b28b_f6fe751ac8f54376970f1e9d5b471440.pdf); Memorandum by B. McIntire to K. Lindquist, Salt Lake City Planning Department dated August 30, 2018, re: Open House Public Comment Responses (hereafter "August 2018 Comments") (url: https://docs.wixstatic.com/ugd/80b28b_0bc4214b1c61450897cfbd5cc5a0e6ee.pdf); Bowen Collins and Associates, circa August 2018, re: Salt Lake City Planning Commission Assessment Memorandum (hereafter the "Bowen Memorandum") (url: https://docs.wixstatic.com/ugd/80b28b_0e07c5f9e8ff4047a4bd9405ee4d95cf.pdf); HAL Report, *supra*.

metal pipeline from the 4th Avenue and Canyon Road area to the downtown so guests could have access to higher quality water and pressure to support upper floor bathrooms.¹⁷ That petition was denied and in December of that year, the City formed the Water Department. In 1872 the City began construction of wood laminated pipe from City Creek to the downtown business district.¹⁸ In the 1950s, renewed post-WWII growth downtown and degraded water quality led to U.S. Public Health Service to threaten closing the airport and the bus and train stations to public travel. A negotiated settlement between the City and the Public Health Service led to the ten year construction of the water treatments plants in City Creek, Big Cottonwood and Little Cottonwood Canyons.¹⁹

At the May 9 opening house, the DPU stated that the 4th Avenue Chemical Treatment Plant is needed primarily to meet the needs of residents in the Capitol Hill, and East and West Marmalade Districts²⁰, although the DPU's website notes that "the well has produced 5 million to 7 million gallons of water per day, supplying the Downtown and Capitol Hill areas much of their drinking water in peak demand summer months."²¹ The Capitol Hill neighborhoods are filled-in residential areas with little potential for further growth, and the existing water system has filled its summer-time water needs since the 1950s. Thus, the Well project is primarily needed to provide higher quality water at higher water pressures to the exploding downtown Central Business District.

This raises an equity question that is also the second stasis of the dispute between the DPU and neighborhood residents: Who should pay and who should suffer unavoidable adverse consequences? Should all system users pay? Should the life-styles and property values of nearby residents - who do not relatively benefit from the chemical plant - suffer?²² Should the primary beneficiary of the new chemical treatment and pumping plant – the Central Business District - be required to pay more in proportion to the higher benefits that the CBD will receive? Is it equitable and just for the City and its departments, after waving at least \$7.1 million in developer fees, to now claim poverty and insufficient funds to move the Well to a more socially optimal site?

This comment takes the latter view: the CBD should contribute more because it receives most of the benefit of the project.

The legal authority for the Redevelopment Agency to fund a project outside the CBD's physical boundaries is unclear. Your commentator, who is not an attorney, takes the view that the

¹⁷ Richards, R. T. (1953). *Of Medicine, Hospitals, and Doctors*. Salt Lake City, Utah: University of Utah Press.

¹⁸ Hooton, LeRoy, J. (1986). *Salt Lake City's First Water Supply*. Salt Lake City, Utah at 21-22 (url: <http://www.slcdocs.com/utilities/pdf%20files/story.pdf>).

¹⁹ Salt Lake Telegram. (1951, Dec 27). *Water Posers No Nearer S.L. Solution*. Salt Lake Telegram. Salt Lake City, Utah (url: <http://digitalnewspapers.org>); Hooton at 30-31.

²⁰ Fisher, personal recollection. DPU Map "Maximum Percentage of Water Received from 4th Avenue Well by Neighborhood" presented at May 9 hearing.

²¹ (url: <https://www.slc.gov/utilities/2018/10/16/learn-more-about-our-4th-avenue-well-project/>).

²² Semerand, above, at ftn. 15.

State Legislature's 2019 amendments to the Agency's organic law allows for an interlocal agreement between the CBD, the City and the DPU to make a contribution to an adjacent water infrastructure project that is principally for the CBD's benefit.

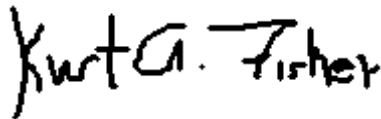
At the June 4 budget hearing the Salt Lake City Council should condition approval of the budget for the 4th Avenue Well, Project 5132268-2015-0213, on the DPU applying to the Redevelopment Agency for supplemental funds to move the Well to the nearby park site or to such other location as the DPU finds appropriate.

This comment is also a petition to the Redevelopment Agency to approve a loan or grant to the DPU for supplemental funds needed to move the Well and in support of infrastructure essential to support implementation of the 2016 CBD Master Plan and further CBD growth.

The current proposed DPU siting at 4th Avenue and North Canyon Road inequitably puts too much of the adverse burdens of the Well on nearby residential neighbors and does not require an adequate equitable contribution from the CBD – the principal beneficiary of the proposed facility.

As always your cooperation is appreciated. Please feel free to contact me with any questions that you may have.

Very Truly Yours

A handwritten signature in black ink that reads "Kurt A. Fisher". The signature is written in a cursive, slightly slanted style.

Kurt A. Fisher