

City of La Verkin

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La Verkin City Council Meeting Minutes

Wednesday, July 19, 2023, 6:00 pm.

Council Chambers, 111 S. Main, La Verkin, Utah

Present: Mayor Kelly Wilson; Council Members: Patricia Wise, Micah Gubler, Blair Gubler, Richard Hirschi, and Chuck Hardy; Staff: Derek Imlay, Kyle Gubler, Chief Nick Nuccitelli, and Christy Ballard; Public: John Valenti.
Kevin Bennett was excused.

A. Called to Order –The invocation/thought and Pledge of Allegiance were given by Richard Hirschi at 6:01 pm.

B. Consent Agenda: (Items on the consent agenda may not require discussion. These items will be a single motion unless removed at the request of the Mayor or City Council.)

1. Declarations of conflict of interest
2. Agenda
3. Checks & Invoices: \$262,782.91

The motion was made by Councilman Chuck Hardy to approve the consent agenda as written, including the Checks & Invoices in the amount of \$262,782.91, second by Councilman Richard Hirschi. Roll Call Vote: Blair Gubler-yes, Wise-yes, Micah Gubler-yes, Hirschi-yes, Hardy-yes. The motion carried unanimously.

C. Public Hearing:

1. FY 2023-2024 Budget Amendment.

Kyle went over the changes in the proposed budget amendment.

Usually, the first amendment is around January, but because of the position that was created, it needed to happen now.

The property tax has been received, so he included that in the amendment along with changes to the sales & use tax, RAP tax, and franchise tax.

Expenditure: a new line was created titled Recreation to cover the new department. Some lines that were under Parks moved to Recreation. Salary & Wages did increase along with an estimated \$4,800 added to part-time people to fund overtime for recreation & events.

Kyle wanted to clarify the recreation director position is not a promotion for Maridee Johnson. She was an independent contractor with the City. In the last meeting, the position was created, and the salary range was established. At that point, the Mayor has the right to fill that position.

The public hearing opened at 6:10 pm

John Valenti-He submitted a letter for the public hearing but did not feel the need to summarize or read it. It was intended as more suggestions to the Council. See Exhibit A.

The public hearing closed at 6:11 pm.

D. Business:

1. Discussion and possible action to approve Resolution No. 2023-08; a resolution opening and amending the fiscal year 2023-2024 Budget.

Councilwoman Wise began by stating the Recreation Director position was created and the salary suggested at \$35,000 plus benefits which is another \$38,500. In addition, we estimate the City will incur another \$9,600 in contract help over the year.

Kyle reported Ryker Steglich's wage comes out of that contract amount, along with the additional \$4,800 to cover overtime for Derek's crew to cover events.

Councilwoman Wise asked about the logic of moving lines to the new line.

Kyle explained it all used to be under one line, but some of the lines apply more to Recreation. The amounts are the same; the lines just moved departments. Multiple categories under the Recreation Department don't show in this report because they are zero. The department is set up to grow if the Council ever determines it necessary.

Councilwoman Wise asked if this position impacts capital improvements, such as a pavilion at Riverwood Park.

Kyle replied Park Impact fees and the RAP Tax goes towards items like the pavilion and are not affected by the position.

Councilwoman Wise commented that by creating this position, we may have put other departments at a disadvantage. She asked Chief Nuccitelli if he had received what he needed for equipment and if he had asked for additional employees. Public Works-she feels strongly that the City needs to consider someone under Derek who can perform a sophisticated analysis of the City's needs.

She also feels the Treasurer and City Recorder positions are underpaid for what they are legally responsible for. She comments that she is okay with creating the Recreation Department but feels the Council needs to analyze pay for the other employees and create a more robust public works department. She doesn't know how soon the Council could act on it but does want it to be considered.

She also feels the City needs to do a feasibility study with UDOT for the downtown area.

The Chief replied that he received money for the equipment he needed and did not have an employee request at this time. The department did lose the grant for the investigator.

Kyle mentioned he had discussed the possibility of a city planner with the Mayor.

He has spoken with Chris Hall regarding the feasibility study, and the City can apply for that in October.

Councilman Micah Gubler said regarding salaries; the City pays 100% of the health insurance for employees, which is unheard of in the insurance industry.

The motion was made by Councilwoman Patricia Wise to approve Resolution 2023-08; a resolution opening and amending the fiscal year 2023-2024 Budget, second by Councilman Chuck Hardy. Roll Call Vote: Blair Gubler-no, Wise-yes, Hirschi-yes, Micah Gubler-yes, Hardy-yes. The motion passes.

2. Discussion and possible action to approve Proclamation 2023-03; a proclamation encouraging fire restrictions.

Mayor Wilson reported this goes along with the State Fire Restrictions.

Kyle reported this does not remove the currently approved firework restrictions.

The motion was made by Councilman Richard Hirschi to approve Proclamation 2023-03; a proclamation encouraging fire restrictions, second by Councilman Micah Gubler. Roll Call Vote: Hardy-yes, Hirschi-yes, Micah Gubler-yes, Wise-yes, Blair Gubler-yes. The motion carried unanimously.

3. Discussion on short-term rentals.

Kyle reported staff has met with Hurricane City to discuss their process for finding and enforcing illegal short-term rentals.

He has decided on what company he would recommend the City hire. That contract will come before the Council for approval. It will be about \$5,000 per year from the Community Development line.

Staff would like Council support before submitting the contract.

He explained this would be a civil process instead of a criminal process. He went over Hurricane's process, deadlines, and fines and said La Verkin would also need to establish deadlines and penalties. The City would also need to hire an outside attorney as part of the appellate process.

The goal is to get people into compliance, not to make money.

Mayor Wilson stated the Council needs to be on board with this even though friends, neighbors, and clients will be affected.

Councilman Micah Gubler said he would probably be affected by this the most but still feels we must do what's best for the City.

Councilwoman Wise stated she feels the City needs to do right by the 100 legal vacation rentals we have and the residents in those neighborhoods by enforcing the law.

Kyle explained this company would find all short-term rentals in La Verkin, bed & breakfast facilities, whole house vacation rentals, tents, etc. They will gather all the information, and the City will begin the process by sending a letter.

Councilwoman Wise said once the contract has been signed, she would like something posted on the website and social media sites stating what La Verkin's short-term rental policy is and the enforcement program we are implementing. The more public this decision is, the more neighbors and real estate agents know what to expect.

Councilman Hardy asked if the City has anything in place to address nuisances from short-term rentals.

Chief Nuccitelli answered that some of those were addressed during the company presentation. They can provide a hotline that the City advertises that states who to call and at what times, and they are funneled directly to the people listed on the vacation rental.

If people need police assistance, they can call dispatch anytime.

E. Mayor & Council Reports:

Mayor Wilson-There will be a work meeting at 5:00 pm before the August 2nd City Council meeting with our State Representatives. He would like them to be aware of the help La Verkin City needs to repair the irrigation system.

Councilwoman Wise pointed out they may need to know a new system still won't clean the water enough to meter.

Mayor Wilson explained the City has been talking with the Washington County Water Conservancy District about trading water. There will also be re-use water from the sewer treatment plant that La Verkin will have water rights to and possibly the ability to access re-use water from the Hurricane treatment plant.

Derek reported the City is preparing for the irrigation meters. All new subdivisions and building permits are required to install a yoke and idler.

Blair Gubler-Nothing to report.

Wise-She passed out a ZRC handout showing their progress from 2008 to now. Iron County is now a member, and Kane County has begun attending the workshops and is interested in participating. They are also hiring a coordinator.

Commissioner Victor Iverson is presenting at tomorrow's Economic Development meeting.

The Rim to River Trail is still waiting for the engineering studies to be completed.

Micah Gubler-Founders Day celebration is Monday.

Hirschi-Hurricane Valley Fire District still needs to hire a fire chief. It has not been posted yet; they are still trying to convince the acting Chief to take the position.

Hardy-Southwest Mosquito is moving along well. Historic Preservation Association- they have three of the five members. He would also like some alternates.

F. Citizen Comment & Request for Future Agenda Items:

No comment.

G. Adjourn:

The motion was made by Councilwoman Patricia Wise to adjourn, second by Councilman Chuck Hardy. The motion was carried unanimously at 6:58 pm.

August 2, 2023

Date Approved

ATTEST:

Christy Ballard
Christy Ballard
City Recorder

Kelly B. Wilson
Mayor Kelly B. Wilson

July 17, 2023

Christy Ballard, City Recorder
La Verkin City
435 North Main Street
La Verkin, UT 84745

RE; Discussion and possible action to approve Resolution No. 2023-08; a resolution opening and amending the fiscal year 2023-2024 Budget.

Pursuant to the Public Notice posted by the city, I am providing these formal written comments to the council regarding the Discussion and possible action to approve Resolution No. 2023-08; a resolution opening and amending the fiscal year 2023-2024 Budget

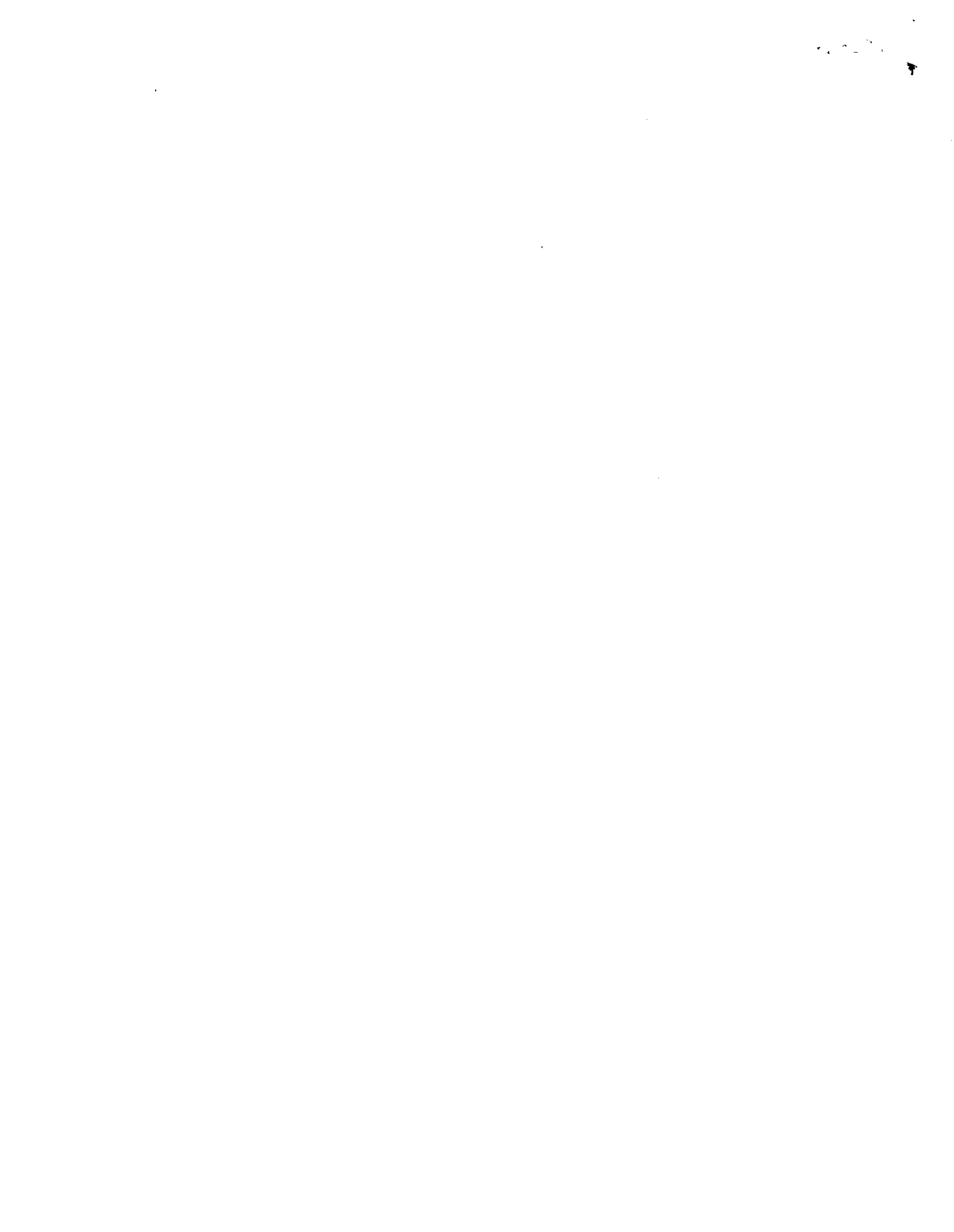
As I understand the proposed amendment it concerns in large part, the funding of the recent (July 5, 2023) creation of a new Directorship position and a new city organizational subdivision to operate, manage, and or maintain the city's recreational programs and city events. Since the verbal limit of three-minute rule (at hearing) would preclude the council from hearing all my remarks in full I would again ask that they be read into and made a part of the record.

As I understand it there are still no current written documents concerning the proposed employee or position, i.e., position descriptions, previous contractual agreements, organizational plans, listing or descriptions of the programs and events being overseen and or managed, or other matters, or budgets (except as follows), or other materials, being submitted along with the proposal, rather it appears both sitting council members as well as any citizen commentators are only offered a brief proposal in ordinance form, and (Upon request for citizen commenters) a bare budget document referencing some budget dollar adjustments.

A Budget document is the poorest means of conveying necessary decisional information to the council (and citizens) about the creation of an entirely new position and department, as the only information being given is how much money (\$73,000) is being proposed to be spent, without any particulars as to why.

Typically, budget documents and control points or line items provide generalized totals, limited titles, and or basic or broad categories. These dollar amounts are intentionally vague and nonspecific to individual expenditures, in his regard the proposed budget amendment is somewhat (and possibly intentionally) obfuscatory in nature, the amounts can only be clarified through rigorous and scrupulous questioning. For example in a budget document may have a line item for "Salary & Wages", "Employee Benefits", or "Part Time Employees", and an aggregate amount of dollars assigned, without providing the numbers and type of employees, or how specifically each ammount is being expended. Keep in mind citizens unlike Council members do not see Checks and invoices, or other "packet" details provided to assist in decision making, even when these items might become available to citizens it is after the fact, and after a vote.

Once again it appears that only some of these items are, or can only become available to citizens via GRAMA, if they in fact even exist or have been developed.



On another matter, I note that each year all City officials including any board and committee members are required to attend an ethics training session. This training often stresses that "we live in a fish bowl", and that all matters and actions (public business) taken by the city representatives are by law, if not by principal, intended to be conducted publicly in open public session. At times the discussions demonstrated individual council members had frequent and ongoing discussions and specific knowledge of these matters not shared or otherwise provided to the council at large, and the public, this should not be occurring.

Concerning the instant matter the position in question over time was not handled openly and honestly and publicly, leading to speculation that council prerogatives may have been biased or prejudicially applied or exercised.

Initially, the programs / events to be overseen by the created position were a collection of unrelated events largely administered by various volunteer groups and or individuals. I participated in one such group, the La Verkin "Winterfest" celebration. Several of the original volunteers for many, if not most, of these events still remain as a committee type arrangement (although as I understand it meet much less frequently), as do the programs they created and oversaw. The success of these programs is primarily tied to the creativity, dedication, and innovation of these same non-paid volunteers and individuals. Although the participants were unpaid, each year the committee members received a small gift at minimal cost.

At some point in time this all-volunteer arrangement no longer sufficed, possibly due to time commitments or obligations necessary for oversight performed by city staff or officials. Possibly this same arrangement existed to some degree with most events or individual programs. Ultimately, a decision was made at the city level to contract some or all of oversight or management of these non-specified and unenumerated group of festivals and or events. This "contractual arrangement" was never openly presented or discussed in an open public forum, nor was the contract or its terms and conditions provided publicly. It is at this point; I feel the city failed to fulfill its ethical and possible statutory obligation to its citizens.

Let me say that within specific pre-budgeted dollars for major and minor services, the city administration (without further council action) typically and routinely grants or awards such limited contracts for services that the city does not secure through employment, and which are generally specific in nature, non-recurrent, and or exploratory or investigational in nature. These contracted services could range from things like creating a website, to road repair, to sign creation, to window washing, to carpentry, or rehab of office space etc. The council can determine to what degree it wishes to specify, direct, manage, or control these matters.

As a suggestion or thought, maybe the city should have offered these contracts or funding arrangements to those who created and or managed the non-specified and unenumerated group of events, on an exploratory basis. This could have resulted in significant savings, increased creativity and innovation, spurred volunteerism and public participation, and negated the need to create a permanent position new city subdivision and exorbitant costs for citizens to bear. This type of arrangement could have also allowed the Council over time to monitor and plan a means of funding (on an individual program level) these or other proposed programs and /or any proposed changes going forward.

In the alternative, and in all fairness, the City could have easily and fully described and opened this position to the same volunteers and creative talents who already created and operated the program; the proposed individual, and the public at large.

During the recent public hearing much was made of:

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the current success, without any statistics, or specific references, of the unspecified or unenumerated events;

the potential loss of the current candidate through other job offers;

and the insufficiency of the current (unavailable) contract.

First, the council is being offered only one choice, one candidate, one salary amount, and one option concerning benefits. The Council can simply accept this arrangement, or can act appropriately, as an independent governing body exercising plenary budgetary, staffing and organizational authorities.

Concerning the loss of the current candidate through other job offers, it's hard to gauge the veracity of any job offers for the following reasons. First without knowing any of the specifics of the current position i.e., number and types of events, duties, hours, responsibilities, knowledge requirements, or other abilities, its difficult to address whether any of the other jobs require more or less work, travel, hours, etc.

In addition, given current budget outlays, it's not likely Toquerville would be able to compete as their wage schedule is significantly lower (many times 50% less) than La Verkin's. It is also unclear as to what if any specific County position was offered, again with the same caveats.

I worked for many years involving similar decisions, Frankly, often times prospective employees claim better job offers and present a short window for acceptance of the same. Many will eventually leave if the grass is greener elsewhere. I've already seen turnover in some core city positions (some more than once) with very little impact on citizens, some of the new employees have actually improved departments and services.

Since the original contractual arrangement has not been provided, there is no way of knowing, other than through budget submissions, and checks and invoices, what was spent and why.

During discussions the proposed action was portrayed as a "promotion" (in house) but the previous "contract", did not vest any individual with rights as an employee for these purposes, no more than any other pay for services arrangements in the past as previously provided, granted those contracted individuals any city employment status.

Without any supportive information number and types of events, duties, hours, responsibilities, knowledge requirements, or other abilities, the position is offered as an "exempt" employee. There are several categories of exempt employment under Utah law, although not provided, I could assume that the exemption is administrative in nature (possibly based solely on the salary amount). Although lengthy, the following link provides a general overview of the Administrative exemption:

[Fact Sheet #17C: Exemption for Administrative Employees Under the Fair Labor Standards Act \(FLSA\) | U.S. Department of Labor \(dol.gov\)](#)

Keep in mind exempt employees typically don't have (unless specified by the city via code or regulatory controls) a set minimum hours of work, and typically are not entitled to overtime or other premiums or compensatory time off.

It is unclear if the new hire will have any supervisory or managerial functions for any of the employees in Parks, or Recreation divisions / subdivisions, (budget documents do not address these matters) another FLSA consideration.

With regard to the budget dollar amount changes, I can understand that projections of revenues can and do change based on several circumstances. It is not always as clear with

regard to expenditures, e.g., why all RAP Tax dollars are being spent in Recreation; why and what specific part-time employees are being moved from the Parks Department to Recreation Department, and what role this or these employees might have; why the new proposed position is only funded in the recreation portion of the budget, more information concerning the position and proposed budget dollars would generate many more questions.

The basic question remains whether the city and citizens need a specific employee, in a specific category, for a specific number of hours, over a specific number of events, at a specific rate of pay or salary, with specific benefits package, performing a specific range of duties and functions, with a specific budget; whether the decision must be made today, next week, next month; next year, among other items. The answer to this question is solely within your power and discretion to exercise and no one else's. I only ask that you individually and collectively give due consideration and due diligence in exercising that representational function.

Sincerely,

