

COUNCIL WORK MINUTES
APRIL 2, 2014

The City Council held a work meeting on Wednesday, April 2, 2014, at 5:30 p.m., in the Council Chambers, 10 North Main Street, Cedar City, Utah.

MEMBERS PRESENT: Councilmembers: Ron Adams; John Black; Paul Cozzens; Fred Rowley; Don Marchant.

EXCUSED: Mayor Maile Wilson.

Councilmember Marchant will serve as the Mayor Pro Tem for this meeting.

STAFF PRESENT: City Manager Rick Holman; City Attorney Paul Bittmenn; City Engineer Kit Wareham; City Recorder Renon Savage; Finance Director Jason Norris; Police Chief Robert D. Allinson; Leisure Services Director Dan Rodgerson; Public Works Director Ryan Marshall; HR Specialist Natasha Hirschi; Library Director Steve Decker; Animal Control Officers Stenson Bergstrom and Zack Banz, Animal Control Assistant Tina Garrison.

OTHERS PRESENT: Charles Jett, Tom Jett, Tom Marten, Rich Gillette, Sophis Gillette, Aaron Hatch, Cheyanne Cook, Danny Cook, Cassidy Brown, Courtney Terry, Bree Parkins, Shay Bauman, Bruce Hughes, Jamieson Holyoak, Kordan Nielson, Megan Jensen, Dustin Orton, Coby Woolsey, Parker Mallory, Jacob Bush, Holly Coombs, Doug Hall, Evan Ludwig.

CALL TO ORDER: Kent Mitchell of The City of Refuge Church gave the opening prayer; the pledge of allegiance was led by Coby Woolsey of Troop 746.

AGENDA ORDER APPROVAL: Councilmember Adams moved to approve the agenda order; second by Councilmember Rowley; vote unanimous.

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS; STAFF COMMENTS: ■ Employee of the Month, Tina Garrison – EAC: Travis Douglas – Tina is an outstanding employee, works hard to take care of animals at the shelter, and she loves her job. She has excellent customer service skills and she is a licensed Vet Tech. Tina is amazing at getting animals adopted, we have seen an increase in adoptions since she has been hired. She has learned the Animal Control ordinance and can explain it when needed. Tina is an asset to Cedar City Animal Control.

PUBLIC COMMENTS: ■Evan Ludwig – my wife asked that I express her feelings about the flower arrangements on the light poles, well taken care of and well watered and looked beautiful through the growing season. We commented many times about the care of the flowers. Also, we get grandkids down here and the new park facilities by the Library are really neat, the grandkids like them but we would like to make one suggestion, I would donate to it, but over the seats where the parents set could we get a

shade facility to keep people out of the sun, we could ask for donations from the community. I am also tickled pink to have local ministers pray at the Council meetings. ■Danny Cook – about 2.5 weeks ago my daughters' dog broke a cable and got into the neighbors' chickens, according to City Ordinance, I thought it would be a civil matter, but the Animal Control Officers said that by City ordinance he is deemed a dangerous animal because the chickens are domesticated animals. I realize that if a dog bites a person that is dangerous, I think chickens are farm animals, I feel it should be amended in some way. I had to pay \$140.00 to the shelter and sign an agreement that he was a dangerous dog. Marchant – were the chickens confined? Danny – I think they were running loose because there are still a few there. I think they are an attractive nuisance to a dog. I agree to the dog at large and pay for the chickens, but I feel it should be a civil matter where it is livestock. Where does it stop, you now allow rabbits? If the chickens get into our ant farm do they have to pay a \$700 fine? There has to be a way to distinguish between a human and an animal, but not the same as a farm animal. Black – let's have Paul look into this and give us some options. Cozzens – I agree with you, a dog will go after a chicken; I think we need to look at it. Adams – we will have to review the ordinance, we dealt with a dog biting an individual. ■Black – this is Kordan Neilson, he is the basketball player of the year, and he represented his school (Cedar High) well.

REQUEST FOR A SINGLE EVENT PERMIT FOR A BEER GARDEN FOR THE PRCA RODEO ON JUNE 13 & 14 – CEDAR CITY LIONS CLUB:

Rich Gillette – we are here to get comments or feedback. We have the concessions at the arena and want to look at adding this to our venue. Paul – it is in the business license, it is limited in the number per year, it has to be fenced off area separate and has to be monitored, and no one under 21 and it has to be consumed in the area. Adams – have you had this before? Rich – no, there has not been one there ever. Adams – is there a problem with it being on City property. Paul – there is a provision in the ordinance that says no alcohol in the parks, the Golf Course sells beer. When we did the no smoking we carved out the arena and golf course. Black – let's try it and see if it works. Rich – the storage would be in the concession area by the Diamond Z. There is a new set of bleachers and we would locate the beer garden in this area so people can still see the rodeo. We will also follow up with the licenses and permits from the State. Marchant – how have the concessions went so far? Rich – they have gone well, there are some that don't make as much money, but the group has enjoyed being there. All the profits go back into the community. I think we made between \$5,000 and \$6,000 last year. Black – Chief any concerns? Chief – no, Rich got with me. We will get with Byron, he has got pretty good at doing these. Rich – if it is successful I will come back for the PBR. Consent.

CONSIDER AN ORDINANCE AMENDING THE CITY'S ZONING ORDINANCE PROVISIONS RELATED TO HOME OCCUPATION PERMITS – BRUCE HUGHES/PAUL BITTMENN:

Paul – the next two are public hearings and have been advertised. The City has a provision in its Board of Adjustment that allows home occupations that are regulated, and are not to be major businesses. Some of the regulations are you cannot have outside employees unless you are a daycare, and there is a restriction on the size of the sign. The proposal is to change the rules on the employees, Planning Commission recommended up to 5 employees or not more than 1 for every 150

square feet. You can only have 25% of the ground floor of a home for the home occupation. The other amendment is to have adequate parking and will be gauged through the building and the zoning ordinance. The other thing he would like changes is the square footage of the sign, right now it is 1.5 square foot. He would like it changed to 6 square feet. We put a provision that if you have been approved for a home occupation you don't have to go back to the Board of Adjustments (BOA), but have to approve the square footage and parking parameters. Also they will have to let the neighbors know when they come to the BOA, they will provide notice either hand delivered or certified mail to all residents within 300 feet. Bruce Hughes – I am the violator that asked for the ordinance to be adjusted. I made a presentation, I do tax preparation, and the BOA heard the story and found the ordinance did not allow it, they were going to give a variance or conditional use permit and it was not available. If a daycare is allowed to have an employee, why can't I have an employee for my CPA business? The BOA approved my permit, the recommendation is to fix the ordinance. You fixed the purchase of police vehicles very quickly. Home businesses are a booming industry, especially in tax preparation. Also the majority of home businesses are owned by females, and Utah is the #3 in the nation for home businesses. My favorite Boom Town book has a chapter titled "Can Do Attitude". I was able to hire an employee that was offered a job in Salt Lake and he has since bought a lot and is building a home. This is a case of keeping people here for a job. This is an outdated ordinance that we need to be proactive in changing. The #1 priority is the integrity of the neighborhood. This makes it workable and definable and still leaves it in the hands of the BOA to make the determination. Cozzens – what about parking? Bruce – I have 12 off street parking, I have a 5200 square foot home and have adequate off street parking. For an average person they may not have adequate area. Cozzens – if we change the ordinance do others have to have parking? Paul – the off street parking would be dealt with, it depends on the type of business, the regulation on parking was set over 20 years ago, and the same rules are applied in the home occupation ordinance. Rowley – the way the ordinance is drafted the Board of Adjustments will see if the requirements are met? Paul – yes, and proponent would have to bring a diagram. Also, Larry or someone in the Building Department would inspect. Bruce – there is always an onsite inspection. The allowable prior signage is the size of a paper, the 6 feet recommendations I asked for is a modest sign. Paul - we eliminated the lighting and the sign has to be set back. Black – can it be lit by ground lighting? Bruce – I have landscape lighting, there will be nothing different. Paul – it says non illuminated sign. Black – someone can come in and make application, Larry's office determines if the requirements are met. Paul – if they show they meet the parking existing businesses can be grandfathered in. For a new business, Larry would look at the square footage of the home and do the calculation for parking and present it to the BOA. Black – it still has to go to the Board of Adjustments? Paul – yes. Marchant – you represent yourself, but also a cause for home occupations. Mayor Pro Tem Marchant opened the public hearing. Zurl Thornock – I am a resident of Cedar City and I am the chair of the BOA, I think the ordinance is very narrow only allowing daycares to have an employee. There are a lot of businesses that could work in the homes. It will allow the home occupation businesses to grow and create jobs. It is a good change. The only major change, as the BOA we have already been reviewing them carefully. Black – I have a concern with the parking, I hope we will be very mindful of the neighborhood. Zurl – the ordinance states how many

spaces they will have to provide. The square footage is also based on the size of the home. It has to remain as a residence and that must be the main function of the home. We are only allowing other type of businesses to be able to have an employee and the size of the sign. The public hearing was closed. Rowley – some homes are so large so we set the limit to 5 employees. Cozzens – I think we just need to be good neighbors. Zurl – they have to notify neighbors within 300 feet. Adams – was there any discussion about other businesses? Zurl – this is the only time we have had this come up. Adams – some businesses you will have cars coming and going constantly. Zurl – with daycares the cars don't stay long, you could have some that come to have taxes reviewed, but they would have to provide enough parking. Paul – that was a conversation that the Planning Commission had, they looked broader than accounting offices, and the cap on the 5 employees was also part because of traffic. Delivery trucks are already allowed, there are provisions for things larger than average delivery trucks. Adams – it is a 1 ton capacity. Zurl – a single employee business could already be approved by ordinance, they are concerns that are already discussed and in place. Adams – what if you have a circular drive way in front of your house and you add a drink service in your house and have traffic coming constantly to get a drink. For Mr. Hughes business it is ok. Paul – the entire business has to be conducted within the house, but there is an exception for daycares to have a play area. Cozzens – we had a business next to us and it became congested and it became a problem. Rowley – that is where the 300 feet notice comes in play. Evan Ludwig – the home industries most don't run into the night, some are a few days a week, usually not later than a normal store, and a lot of the neighbors will be away to their own jobs. I assume you allow parking in front of the house and I don't know about the accountant, he is probably really busy now, but not always. It could be a mom sewing curtains or baking bread. People will be scrambling to bring in a few dollars and if they do it will help Cedar City out. If there is a rough spot go to your neighbor and smooth it out. Tom Jett – I don't want any home based business to be upset, a lot of products are started in garages or homes, but a comment was made about a drive up for drinks. I can envision that type of scenario, something deeply oriented. Look at something where people stay 30 minutes or greater. I buy used furniture and stuff it in my garage and sell it on trade-o. Find a limit on time spent for guidelines. Bruce Hughes – if you try and micromanage laws and ordinances you will paint yourself into a corner. You have the beauty of the BOA and that is the monitoring element of the ordinance. The hearing closed. Action.

**CONSIDER AN ORDINANCE AMENDING THE CITY'S ZONING
ORDINANCE PROVISIONS RELATED TO ALLOWING STRUCTURES IN
THE FRONT YARD SETBACK – EVAN LUDWIG/PAUL BITTMENN;**

Paul – this is another public hearing. Mr. Ludwig approached the city to amend the zoning ordinance; we now prohibit structures in the front yard setback which is 25 feet behind the curb. We do that because of public utilities, safety issues. We were looking in some of our old books, setbacks have been on the book since at least 1953, and it has been around a long time. Mr. Ludwig has constructed a structure in the driveway from the front yard fence to almost touching his garage and uses it for a garage. He would like an amendment that if they provide documentation that if they had a disability they could have such a structure. The BOA denied the request. Evan Ludwig – let me commend

Paul and Mr. McUne. We bought our home 35 years ago, I met with a group of 3 people and they set for criteria for the recommendation and then 3 weeks ago I was to meet with the board of reviews. Ten years after serving in Viet Nam I contracted health issues; the carport has been up for 3 years. While we were in Florida I had some heart problems. I got infested in Viet Nam and they took out 9 pounds of tissue to get rid of the critters. I have had problems with Agent Orange, because of the surgery I have back problems, and I rupture a disc every 2 to 3 weeks. I also have a transverse colon. I have a condition where my bones grow together. I have a lot of problems that the service to my country caused. When I was young and had kids at home I had labor. The doctor said I need to stop the stress of shoveling and other things. We enclosed from the house to the carport and have motion lights put in. The carport is tilting quite a bit; it runs to the street, the gutters run to the yard. My wife has MS, I have troubles cleaning the windshield. Marchant – is the purpose of you being here so you don't have to shovel snow, because that can be arranged for. Evan – people have said that, I am too proud; I have plowed for widows and widowers, I had a snow plow business for many years. We have a neighbor across the street that is a professor that is in a wheel chair. We are hoping to get assistance into the concrete laws for when people need help to make their lives more livable. Can we get this into a waiver until my wife and I die or go into a nursing home and have to sell the home and we can have this moved. I went to American Title Insurance and there were no restrictions when we moved here. The people bought the Sorensen house across the street from us. His wife needs to get in the van from a wheel chair and they would like to get it under cover. I would like something written in for people with disabilities. There is the ADA. There are exceptions already in the City. The carport does not infringe on the City's sidewalk, there are no power, gas, water underneath the property. There has got to be some way of addressing this issue to accommodate people. I am willing to put something on our title that the home cannot be sold with this attached. Marchant – we will give this due diligence, there are concerns we have. The public hearing was opened, there were no comments, the hearing closed.

CONSIDER EXPENDING BALANCE OF CAPITAL BUDGET (CARPET) ON COMPUTER SERVER(S) IN THE AMOUNT OF \$6,169.38 – STEVE DECKER:

Steve – we have a budget of \$15,000 for carpet, and the carpet installation will begin tomorrow. Our license on our server is up the end of June. We would like to take the rest of the capital and take some grant funds and purchase new servers on a warranty. Black – was that not considered that in the budget? Steve – it is not, I forgot. If we transfer this money and use some grant money and then we will put it on our list for rotation. Black – can you go through the quotes? Steve – we went through the procedure, three local vendors, only one quote and it was more than going through the ILS vendor, and the ILS vendor will charge \$750 to load the software and it is about 16% higher than the ILS. The local company bid \$85 per hour for any onsite installation which would be an additional cost. The local vendor was Mountain West, they have the contract on our computers, and they do a marvelous job, but they do not have our servers. Consent.

CONSIDER A RESOLUTION ADOPTING A PREMIUM ONLY PLAN FOR CEDAR CITY CORPORATION – NATASHA HIRSCHI: Natasha – this is revising our old cafeteria plan, and making it compliant for when we changed the insurance to a

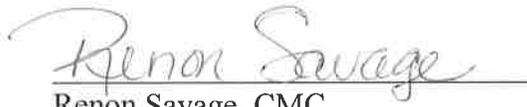
high deductible plan. We don't offer the plans in our cafeteria plan anymore; this allows the employees to contribute to their health savings accounts. There is no cost; it is to keep us compliant with the IRS for health insurance. Action.

PUBLIC HEARING FOR THE REVISION OF THE 2013-14 FISCAL YEAR BUDGET – JASON NORRIS: Jason – we discussed this a few weeks ago. Ryan Marshall – we went through the justification for the transfer to help us start on road maintenance, \$269,000 from the fund balance to the street department budget. Black – in our conversations we talked about paying back the C-road funds. Ryan – after next year we anticipate to come in under budget on the maintenance as well as the south interchange loan payment that will go away. The public hearing was opened, there were no comments. The hearing closed. Action.

CONSIDER A ROAD DEDICATION OF PROPERTY LOCATED IN THE VICINITY OF THE NORTHEAST CORNER OF THE INTERSECTION OF INDUSTRIAL ROAD AND AIRPORT ROAD - PAUL BITTMENN: Paul – this is on the south side of Staheli West property, when they pulled the building permit for the facility we approached them about dedicating additional right-of-way for the road and they will improve it with curb, gutter and sidewalk. We hope to get the remainder of the property for the road when the railroad vacates their rails. Rowley – there is property to the east that is going to do the same. Paul – Mr. Gilbert still owns some of that property and he is going to dedicate the road. He is not pulling a building permit, but we have heard that he may put in the curb and gutter with Staheli's. Kit – we will get additional width from the railroad. It will line up with Fort Cedar PUD. Evan Ludwig – what will happen to the railroad property when they tear out the rails? Paul – the railroad will dispose of their interest and we will see if the city gets the property or not? Evan – will we try and get them to donate the property? Marchant – we don't know. Consent.

Marchant – thank you for allowing me to be your Mayor Pro Tem.

ADJOURN: Councilmember Rowley moved to adjourn at 6:55 p.m.; second by Councilmember Black; vote unanimous.


Renon Savage, CMC
City Recorder