

COUNCIL WORK MINUTES
APRIL 16, 2014

The City Council held a work meeting on Wednesday, April 16, 2014, at 6:00 p.m., in the Council Chambers, 10 North Main Street, Cedar City, Utah.

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

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; Fire Marshal Mike Phillips; HR Director Natasha Hirschi; Library Director Steve Decker; Water Superintendent Robbie Mitchell.

OTHERS PRESENT: Sola Tumanuvao, Elise Schfield, Tom Marten, Derek Morton, Tom Jett, Melanie Hirschi, Rich Gillette, Atlanta Yardley, Logan Payne, Chris Sanders, Doug Hall, Jack Sawyer, Betty Cuch, Gari Lafferty, Holly Coombs, Tracie Sullivan, Austin Sullivan, Damon Day, Gavin Zufelt, Ethan Zufelt, Matt Zufelt, Elise Waddingham, Megan Jensen, Vernon Jensen, Peter Junggren.

STAFF COMMENTS: ■Dan Rodgerson, I apologize for blaming Kit. Western Rock needs to pour a large test area, about 13,000 square feet of asphalt and rather than pouring it on their lot Kit coaxed them to do an offsite pour for \$0.60 a square foot, ½ of what usually costs. The area adjacent to Aquatic Center has been graded and shot and drainage is in and ready to go. Our crew had the grader go up and get it ready. We would like to move forward. We would like to move funds from another project. We have \$20,000 for Bicentennial Park, but we can't get prairie dog clearance. We would like to move \$8,000 from that project to this project. Rowley – what if the stuff is no good and starts to crumble? Kit – they go through preliminary tests to make sure it doesn't happen. They were going to do it today and they had a test fail. This is freeway type material. Rowley – on their project it would be free. What about across from the Main Street Park? Kit – that area is not ready. Black – what kind of conditions are they given from the State; do they have to give a lifetime? Kit – there is not a warranty period. Dan – that was my first question, they will take out the material and reuse it if they do it on their site. Cozzens – that is a great deal, it will add to the maintenance budget. Dan – this will only do about 1/3 of the parking lot. They don't want to do edges and round corners, a long strip. Rowley – what are they looking for? Kit – they take core samples taken for compaction and oil. Black – will it not butt up against the curb? Dan – there is not curbing. Black – will it be dirt, asphalt and then dirt? Kit – no, it will butt the existing asphalt, it will come from the existing parking lot. ■Rowley – why is there a dirt ramp up to the fly over? Kit – it is the livestock and pedestrian trail. The onramp is going between the freeway and light tower. They are angling it off is to line up the road behind Home Depot and because of the impact on the sellable property. ■Mike Phillips – we want to invite you to the 17th Annual Life Safety House. You have a schedule in your

box. If you come at the end of one you get lunch, if you come later you help clean up. It is a safety fair we have done for 17 years. I have given you data on fire prevention. We have taken juvenile caused fire from 18% to 1%. It is all next week. ■ Mayor – last night the Fire Department got to run 3 miles with 45 pound pack on their back.

PUBLIC HEARING TO REQUEST A CITY SPONSORSHIP FOR THE PAIUTE INDIAN TRIBE'S ANNUAL PAIUTE POW-WOW – JACK SAWYER & GARI LAFFERTY:

Jack Sawyer – last year you sponsored with us the Pow-Wow and it involves many things, baseball and other activities, parade and we would love to have you sponsor us again this year. We were thrilled to have Cedar City Corporation and the Tribe as sponsors for the Pow-Wow. It is the one time of the year when the Tribe can display their heritage and it is important to them. The Chair is Gari Lafferty and Betty Couch is over Indian Housing, we are a sponsor on the Pow-Wow. We feel it a pleasure to work with the City, it is nice for us and the City. We have quite a few folks coming in and using hotels and restaurants. We think it is that one time of the year that we do need your sponsorship. A Pow-Wow is kind of like a rodeo, if you have prize money you get better dancers. We want to build the Pow-Wow to have good dancers from all over the United States; we feel it is a great gathering place.

Gari Lafferty, Paiute Tribe Chair – It is a great pleasure to have a joint venture with the City. I would like to invite you to the Pow-Wow. We will have to entice you to come and meet our council, we are all women. Date is June 13 & 14. The dedication of the monument will be Saturday after the parade; it is a site to see. We hope to see you there.

Marchant – would this be community promotion funds? Mayor – the Community Promotions have already been allocated. Rowley – would this be better served by RAP Tax funds in the future? Paul – we will put you on the list for RAP Tax applications.

Jack – we are featuring the Aztec group from California this year, it will be an extra draw for the folks. A lot of people that come feel there is no place for them to sit and be, we are going to work on that. We will have this group perform some at the Park after the dedication and their main program is on Saturday night. We think we are on schedule to do something great with the Pow-Wow. Black – how much are you asking for? Jack - \$3,000.

Mayor Wilson opened the public hearing. There were not any comments, the hearing was closed. Consent with the funds out of the Executive Discretion account.

CONSIDER A LEASE AGREEMENT WITH LOGAN PAYNE FOR THE CONTINUED USE OF THE CITY'S WATER RIGHTS – LOGAN PAYNE: Logan Payne – this is for proof of beneficial use with the State Water Engineer. It was going to be developed and the water was deeded to the City.

Paul – the Utah Constitution prohibits municipalities from selling or leasing their water. There are a few ways to transfer; one is like when we sold Kolob to another government entity. A few years ago the City got into a situation where had quite a bit of farm land

and the owners of the land wanted to annex and develop their property. We had people annexing their property and we didn't have requirements on the water shares. The farmers have good, old water shares and we didn't get any of those shares off the early land that was developed but we supplied water to the developments. That became a problem; we enacted the water acquisition ordinance requiring developers to bring water rights so we can supply water to eventual customers. The property Mr. Payne is talking is 3000 North, west of Bulldog and it did annex and has been used for agriculture purposes and he is asking to use the water that came with the property. He would use the rights until he stops farming the property or the city gives 30 day notice letting him know we need them. Until then he would maintain his own system to get the water and maintain the irrigation system. Rowley – we can't lease. Paul – it is inconsistent, very gray. We will not sell him the rights; we are letting him use them. Black – is there any difference than the Harker water? Paul – the Harker's property is not annexed. Rowley – this property could be productive and useful with water we cannot use at this time. Paul – we own more rights to water than we use on a yearly basis. Rowley – are you talking on surface water? Black – surface or pump? Logan – both, 44 shares surface water from Coal Creek Irrigation and 16 acre feet underground and supplemental with surface shares. You can water 8 acres of ground. Kit – this is about .75 acre feet per share. Rowley – we own rights to water in Coal Creek, is there some way that we could dump the water all summer to the aquifer recharging zone with a settling pond? Kit – there is a way, but we can't use the Airport pond because it attracts birds in the summer. You would have to find another area. Cozzens – why if we lease water to Harkers, why is this different? Paul – Harker's are not in the City, these guys gave us the water with annexation. Kit – Harker's are using city water on other land, these guys are using the water on the land it came in with. Logan – the agreement goes along with the Code saying you can use the water with the land it comes with. Black – is there a sunset? Paul – it is until it is fulfilled, he develops or we give 30 day notice to take the water rights back. Kit – you know my thoughts on leasing water. The water has been used on this property for farming and this was the intent of the ordinance, he is meeting the intent of the ordinance. Action.

CONSIDER BIDS FOR THE CITY'S 2014-15 HEALTH, DENTAL, VISION AND LIFE INSURANCE – NATASHA HIRSCHI:

Natasha – we had our insurance, Leavitt Group go out for bid for medical, dental, vision and life insurance, you have the bids, see Exhibit "A". The bids are a decrease; our utilization has been very good this year. Black – kudos to staff for that. Natasha – we have been at about 64% utilization. We are reviewing the proposal, we need to make sure they are apples to apples and companies are not buying our business. I don't have recommendations at this time, we are going to take it to our EAC on Friday, and review the numbers and come back next week with a recommendation. Rowley – you didn't change the co-pays? Natasha – no, the plans are similar with high deductible health plan with a health savings account. It would be the same coverage we now have. Rowley – are they reasonable companies, do they pay claims and answer questions. Natasha – we met with Regents and PEHP today. Rowley – do they have a providers list and would they all have a reasonable number of physicians? Natasha – we are looking into all of that. Marchant- it is important to have someone you can work well with as much as a decent premium. That is critical, it is not

just dollars and cents, and it is also customer service. Rowley – maybe call three entities they serve and ask how they are treated. Natasha – we asked for that today. Not everything will be exactly the same, but we want to compare the best we can. Black – does the State Insurance Commission do a rating on performance? Rick – there are private firms that do, I don't know about the State. Adams – I wonder if the League does. I want to compliment staff and the City moving this direction several years ago. I sat in a full room with 60-70 individuals, and we are way ahead of the curve. They complemented those on that for moving in this direction. I came out feeling good about what we have done as a city by changing to a HSA. I want to compliment staff and the previous Mayor. Rick – Natasha does a great job and one of the things we continue to encourage our employees to do is make wise insurance usage. We looked online at facilities, physicians and providers to see how it affects their claims and out of pocket. Adams – the League has a new benefit group that got a lot of this information. Rowley – doe the Utah League provide insurance? Natasha – they are just venturing out working with this group. A lot of what they offer is similar to what we are doing. Rick – they are using Tom Harper, former Bountiful City Manager for this group. Action.

Natasha – if we switch carriers there is a lot of paper work to get it ready for July.

CONSIDER A TAXILANE & AVIATION WAY PUBLIC IMPROVEMENT

AGREEMENT – BRENNAN WOOD: Brennan – Spencer Grant is here representing MSC. We worked closely with MSC to come up with the agreement. We are working on a couple projects because of the EDA grant, MSC is working on a hangar and the taxi lane ties them together, and it all ties back to the EDA which has a 9 year tracking requirement. The agreement is in the packet, we have worked closely with Paul. It points out where the money is coming from for Taxi lane and Aviation Way, EDA 70%, Go Ed 26% and MSC 4% is funding. We want to start about the same time. We are all doing step by step and in the end all projects are completed. We have an estimate on the taxi lane from Cramer & Noble, for Aviation Way the estimate came from in house. If the bids are out of line we want to know the number and they want to stay within the initial bid. If there is more financial commitment than the 4% the MSC can recommend an alternative. You cannot get more money from EDA or GoEd. Prior to awarding bids the City will provide the amount to MSC. Prior to awarding the bid, June 7, adequate funds available for Hangar and the taxi lane for through the fence agreement.

Paul – we are at a spot good with the language? Spencer – yes, and we will be breaking ground on May 1st. The County had secured the other method of dealing with Prairie Dogs and it was less expensive as well as much easier. Black – should the bids not come in as projected, is that a rebid process? Spencer – there are multiple options, we can cover the difference, but we want to protect ourselves. We are relying on the estimates from Creamer and Noble and the City. There are two or three ways to work around this. Brennan –there are plenty of options. The EDA window is 5 years if it doesn't work this year. GoEd is the same, it is a commitment to Cedar City Economic Development. I want to commend working with Spencer; we put Paul through the ringer with a number of drafts. Consent.

LEISURE SERVICES YOUTH SCHOLARSHIP PROPOSAL – DAN

RODGERSON: Dan - last year P&R Board asked for a program for kids that cannot afford a program, at the same time we had the Polar Plunge separate from the previous sponsor. We sat around the table for a worthy cause and we decided for kids that cannot afford programs. We have \$500 from that event and a sponsor that donated \$100. We joined with ICSD and mom or dad would bring a form to school district for free or reduced lunch, it would go to Healthy Iron County and they waive 80% of the cost. It is a great program working with School District and Healthy Iron County. Our finance director was not excited about dealing with small cycles, so the check will come from Healthy Iron County and we will cut a check 4 times a year.

Jason – we have not been in the business to look at individual financial situation. I don't know that we have staff to evaluate financial situations or be in the business to make this decision. Rowley – will Healthy Iron County do that? Dan – if they are on free or reduced lunch at the school. We will leave it to the School District to how it will happen, we won't determine eligibility. Rowley – School District and Healthy Iron County will determine qualification. Dan - I don't think it needs a vote. Jason – we need to revise the budget to expend the funds. Tracie Sullivan – what if kids are home schooled? Dan – there is a form that Healthy Iron County can make that call. Action agenda to revise the budget.

DISCUSS THE ANIMAL CONTROL ORDINANCE: Paul – not too long ago we had a simple ordinance that if you have an animal at large it is prohibited and you get a ticket. There was an incident where a young lady was severely injured by a dog that was loose and felt the ordinance was insufficient. Staff drew up a proposal with 4 classifications of animals, a normal animal, aggressive, dangerous and vicious animal, the restrictions get greater as they go up. A six sided enclosure for dangerous animal and if you take them out a 4 foot lease and muzzle. If the dog causes injury or death to domestic animals it is determined to be dangerous. Last week a gentleman came in and said his dog was at large, went down a few animals and killed some chickens, Animal Control Officers picked up the dog and classified it dangerous. The gentlemen said this is a little much, it is a dog. Marchant – were the chickens running free or confined? Chief – they were in the neighbors back yard and they are not required to be confined. The council asked for a recommendation, it is to take domestic fowl out to classify as dangerous. We would drop it to an aggressive animal with a lower fine, would not need 6 sided cage or muzzle. Three strikes it is a vicious animal. Rowley – what is the difference between dangerous and vicious? Cozzens – the neighbor's dog came in our back yard and our dog attacked the neighbor's dog and my daughter went to help the dog and it bit my daughter, what would it be determined? Paul – probably dangerous, but it is nothing if it is on your yard. We have tried to clean up the language in our ordinance. We want our staff to look at all things equal. Paul – we have had people come in dead serious and say they have pet chickens. Chief – what about rabbits, dogs like rabbits as much as chickens, are the guidelines the same so the dog is not held to the higher standard. Paul - We took out a dangerous animal. Chief – you get in trouble if you get too specific. Paul - Animal at large that attacks another animal it is not dangerous. If a guy gets a ticket it goes to Justice Court and the Judge will adjudicate the ticket and the judge could order

restitution. Rowley – will the gentlemen be able to dismantle the 6 sided cage? Paul – we will amend the charges down and take out the dangerous animal. Action.

DISCUSS THE SIGN ORDINANCE: Marchant – we initiated discussion last fall and we reached a leveling point where nothing has been changed or done, but there is still discussion to finalize some things. I don't think we need to do that tonight, but review the material we discussed last fall. Cozzens – we had a company from St. George put signs up for a month they said sale one weekend only. I think the Code Enforcement pick those up and throw them away. Marchant – there are yard sale signs the same, we should charge a fine for a violation for leaving the signs up. If we are not enforcing it, don't have it on the books. Black – suggestions on how we go through the sign ordinance? Paul – if there is one issue on speeding up remedies, we can write that up. If it is more comprehensive we can take a little time. Black – I would like to look at off premise. Can we review the ordinance and make comments to staff and bring it back. Paul – yes, but there are regulations on billboards. Rick – or go through the entire ordinance and point out what you want discussed and then it will go to the Planning Commission.

Chief – we take down 100's of signs every year, at one time we looked at enforcement, but we were told to allow yard sales. We looked at ordinances that some yard sales are more a business. We want to allow 2 or 3 yard sales a year. We haven't used code enforcement. We will tell people in the newsletter about the signs. Black – after they have their signs up they have to take them down. Give a time limit. Marchant – how difficult if we had people register their yard sale at the City office when and where then we could give them a list of compliance with the yard sale, post signs but can't be in certain locations and then give 24 hours to take the signs down. That way we have a path to follow so they know what is expected of them. Rowley – I don't see very many yard sale sign left up. Chief – our volunteers are taking the signs down. We will enforce what you want, but the people will voice their opinions to you. Marchant – we want common sense. Paul – the ordinance is part of the zoning ordinance, there is a provision on amendments that council can give guidelines and send it to Planning Commission. If you want to pick out a few things and give us a list. This will come back to another work meeting.

CONSIDER AN ORDINANCE AMENDING THE CITY'S OUTDOOR TIME OF DAY IRRIGATION RESTRICTIONS – PAUL BITTMENN: Paul – present ordinance adopted in 2002 says no outdoor irrigation between 8AM and 6PM unless testing sprinklers, new sod or a special exemption by City Engineers office, it has been difficult to enforce, penalty is a criminal charge, class B misdemeanor and enforcement is not great, people are difficult to bring around. We have heard often is not different than the schools, sports field, etc. Between 2002 and today we have made improvements. We are proposing that we leave the same structure in place, if you irrigate during those times the sun evaporates the water. We defined outdoor irrigation, plants, trees and grass. We have culinary system, ditch water and secondary irrigation system, non-potable water have been defined, that water is used by the City, SUU and School District. We exempted ditch water and secondary water. The culinary system is restricted 8AM – 6PM, new sod, seed for lawn is exempt for 30 days. Testing your irrigation system is an

exception. We added an exception for nursery's and permits issued by Water Superintendent. We also proposed a change in the penalty, within a one year period 3 strikes, 1st notice on door, 2nd we disconnect your water service, come in pay a \$50 penalty and we turn it back on, 3rd we disconnect you service and \$100 penalty on your bill. We looked at 8 or 9 different places in Utah and Las Vegas. This puts it in a staff realm, Public Works would keep a log. Enforcement will be through the Water Department and the Police Department. Rowley – the warning will state that the next time you will be fined and your meter will be disconnected. Paul - They can appeal to the City Manager which would be to waive the penalty. Rowley – are any recreation areas being careless and taking advantage to watering during the day. Paul – Dan said P&R would try to water before 8AM to lead by example. Kit – a problem with secondary watering system, there is limited capacity, if all are on at the same time they don't have the pressure they need. Rowley – sometimes some of our potable water ends up in the lake and we need to be careful with the water no matter who is using it.

Black – given the situation this winter being so dry, what can we do to accommodate that? Robbie – I don't have an answer, some people say they have to water their roses all year long. Black – late February it was dry and grass needed some water and so did shrubbery. Robbie – some cities have months that you cannot water during the certain times. We started two wells last week, so now we are up to 3 wells, it is affecting our system already. Rowley – noon time in March is cooler than 8AM in July. The year round thing is problematic. Marchant – how do we make people understand the problem with our water situation? What can we do to help Cedar City residents understand if we use it now we may not have it later. Be prudent and use common sense. Rowley – the Mayor did a great job in the newsletter. Marchant – can we get with people that sell fertilizer and have them post signs that talk about the watering schedule and have their employees remind people.

Mayor – if you approve the changes it can go in the newsletter again. Rowley – ask the media to do public service announcements. Rob – people know about it but know there is not any enforcement so they don't care. I think the warning on the door will work better. Action.

EXECUTIVE SESSION – REASONABLY IMMINENT LITIGATION:

ADJOURN: Councilmember Marchant moved to adjourn and move into the Executive Session at 7:40 p.m.; second by Councilmember Black; vote unanimous.


Renon Savage, CMC
City Recorder

