

COUNCIL MINUTES
FEBRUARY 14, 2024

The City Council held a meeting on Wednesday, February 14, 2024, at 5:30 p.m. in the City Council Chambers, 10 North Main Street, Cedar City, Utah.

MEMBERS PRESENT: Mayor Garth O. Green; Councilmembers: Robert Cox; W. Tyler Melling; R. Scott Phillips; Ronald Riddle; Carter Wilkey.

STAFF PRESENT: City Manager Paul Bittmenn; City Attorney Randall McUne; City Recorder Renon Savage; Finance Director Jason Norris; City Engineer Jonathan Stathis; Police Chief Darin Adams; Fire Chief Mike Phillips; Public Works Director Ryan Marshall; Economic Development Director David Johnson; JR Robinson.

OTHERS PRESENT: Paige Crossley, Kenten B Pope, Gerald Van Iwaarden, Kathy Long, Tyler Romeril, Sadie Hinck, Heidi Hailstone, John Fenn, Dallas Buckner, Bob Platt, Daryl Brown, Wendy Green, Tom Jett, Dane Leavitt, Rachel Belnap, Sara Greener, Jorn Grass, Todd McDonald, Alysha Lundgren, Burt & Shannon Poulsen, Christian Simmons.

CALL TO ORDER: Pastor Gerald Van Iwaarden of Westview Christian Church gave the invocation; the pledge was led by Randall McUne.

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

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS; STAFF

COMMENTS: ■ **Mayor Green** - I have appointed Ron Riddle to Iron County Economic Development Committee. ■ **J.R. Robinson**, Police Operations Lieutenant – the Animal Shelter falls under me, the Chief asked me to come tonight and give you the current state of the Animal Shelter. See Exhibit “A”, one page is for dogs, one page is for cats in the shelter. The orange shows the ideal operating capacity, but giving a little room to accommodate unforeseen circumstances, red is 100% capacity. In dogs we are at or above ideal, 33% of the time we are at 100% capacity, for cats it is more dire 71% of the time it is 100% capacity. Our staff works to move animals through as quickly as possible. They take great pride in being classified as a no kill shelter, they make great effort in keeping them healthy so they can be adopted or moved to a rescue, it is emotionally taxing on staff, and it is taxing on the budget, and we still are not able to accommodate all the needs. In November we turned away 8 people that had dogs to bring to the shelter and we didn't have shelter space, in December there were two people with dogs, and in January there were eight dogs and one cat. **Mayor** – we have space for 18 dogs, cats can be fixed and released, but dogs are another gig, we don't release them. Eight people with dogs turned away in November, eight in January. We can hold 50 cats and 18 dogs. **JR** – cats can be grouped. **Phillips** - are we doing the trap, neuter and release (TNR)? **JR** – yes, we are taking them to Best Friends to be neutered and released. **Phillips** – that was going to be done locally. **Chief Adams** – Best Friends are the savior; we are backed up 2-3 months. **Phillips** - can our people be certified and learned how do to that? **Chief** -no. **Melling** – that is an issue with DOPL for scope of practice. Best Friends is working on model legislation to expand the scope of vet techs to include neutering, spaying and neutering can only be done by a veterinarian, they want it to expand that scope so it can be done by vet techs. **Phillips** – we don't require them to be tagged, when they come in, we don't know where they belong, there is no accountability. **Chief** – it would help. **Mayor** –

our purpose is to serve the people of Cedar City not the dogs, what if we remove more to Best Friends, shouldn't we always have space for a dog. That happened with a city employee. **JR** – I can't speak for Best Friends, we have a great relationship, they take a number of animals, when the numbers go down, a large number of animals are being moved to Best Friends. **Mayor** – on dogs we are not out of sync only the last 6 months. **JR** – it is more expensive to keep dogs at home and for us, it is more expensive to feed. I know Enoch and the County are turning away dogs and cats. **Wilkey** – what is our ratio for surrendered animals versus captured? **JR** – I can't speak to that tonight. **Wilkey** – do we charge if you surrender an animal? **Chief** – yes. **JR** – we turn away all aggressive dogs. **Phillips** – we are an animal adoption shelter so we don't want aggressive animals. **Mayor** – will the vets put aggressive dogs down? **Chief** – the challenge is people adopt or have one that becomes aggressive, and unless they take them to the vet to be euthanized, they bring it to the shelter, but we are not the clearing house. **Wilkey** – those turned away, were any aggressive? **JR** – they didn't differentiate. **Phillips** – I always wondered why we didn't tag and chip animals, it is a way to help control dogs. **JR** – each animal that leaves the shelter is chipped. **Phillips** – we should have dog tags. **Melling** – we have a dog, didn't get a license, but have it chipped. It would only discourage people from picking up their animals from the shelter and getting cited. **Wilkey** – what is the surrender fee? **Chief** – \$100, we have talked about increasing that, so they go to the vet to have it put down. **Mayor** – I think we need to come up with solutions. We have had at least 5 months where we are not accepting animals, we need a solution, whether we put them down, have the vet put them down, or take to Best Friends. **Chief** – we will work on that. Brittany is working hard to get credit toward that. **Chief** – can you find out if the 8 turned down because of overcapacity or aggressive. **Cox** – are we housing old animals with medical issues that if it was my dog, I would have it put down. **JR** – we operate as a shelter not a rescue. **Cox** – but are there some that are on their last leg. **Phillips** – there was a time we did euthanize a few dogs, no kill is not 100%. **Chief** – we euthanize under 10%, we can do that for age, illness, etc. There is statute that requires us to keep a dog for 5 days, and we could euthanize at that time. **Mayor** – because of money or humanitarian? **Chief** – both. **Mayor** – we need a better solution for the dogs. **Phillips** – next Wednesday morning the Chamber is holding the annual State of the City breakfast at the Marriott Courtyard and the Mayor will give the State of the City as well as Kanarraville, Enoch, Brian Head, and Parowan, it is \$10 for the breakfast. **Wilkey** – it is filling up quickly, so get your ticket. **Wilkey** – I was reached out to by a citizen where 1025 intersects with 1150 West on a curve, the citizen says there is a little spot on 1050 where it gets really tight, they would like a red curb. **Paul** – those requests start with the Police Chief and City Engineer, and they bring it to council. **Melling** – I got an email by Beacon Drive that said since the no outlet sign went up 70% of the traffic went down.

PUBLIC COMMENTS: **■New City Flag Presentation Ceremony: Gabbie Costello and Sadie Hinck**, Youth Council Mayor. We have a long history of our flag project on the city website. It was a community project; it was a lengthy project. We adopted in December, tonight we would show it, and Kenten Pope the Flag Artist is in the audience. **Sadie** – thank you to the community and the elected officials for all the support on this project, it is a very rewarding thing for me personally to move something through a government body. The flag was revealed. **Phillips** – I want to thank the artist Kenten Pope for all he did on this project. **■Christian Simmons** – I have a question for the people of Cedar City, every time we have an election I see trucks for Donald Trump, I think we should vote for Jesus for President of the US, because our Country needs it. **■John Fenn** – my wife and I moved here 3 years ago;

we love living in this city. My pioneer roots go back 150 years in Cedar City, Nellie Unthank was my great, great grandma. I am honored as a veteran to be recognized by citizens including young people. I have been thanked more since living here than I have since I left Viet Nam. I am excited about things that go on, Wreaths Across America, Veterans Day, Memorial Day, Honor Guard Funerals. I want people to be honored in Cedar City that we will be, next year, the only city in Utah with a National Cemetery, there is one a Fort Douglas that is closed, there is a national one in Bluffdale, ran by the State, there are a few in Nevada, we will have a national cemetery, if you haven't driven by, it is something to be proud of and I hope we make every effort to shout out that we have a national cemetery.

CONSENT AGENDA: (1) APPROVAL OF MINUTES DATED JANUARY 17, 19, & 24, 2024; (2) RATIFY BILLS DATED FEBRUARY 1 & 8, 2024; (3) APPROVE THE APPOINTMENT OF KATHY LONG TO THE CATS BOARD. MAYOR GREEN; (4) APPROVE LOCAL CONSENT FOR CINDELMARMAR LLC DBA DULCES RETONOS. JORGE CARRANZA/CHIEF DARIN ADAMS; (5) APPROVE A SINGLE EVENT ALCOHOL PERMIT FOR SOUTHERN UTAH MUSEUM OF ART FUNDRAISING DINNER & LIVE ART AUCTION ON MAY 11, 2024. JESSICA KINSEY/CHIEF DARIN ADAMS APPROVE; (6) APPROVE A SINGLE EVENT ALCOHOL PERMIT FOR THE CEDAR CITY CHAMBER OF COMMERCE 74TH AWARD GALA ON MARCH 7, 2024. RENE COLE/CHIEF DARIN ADAMS; (7) ACCEPT THE PETITION TO ANNEX 10.66 ACRES OF PROPERTY IN THE VICINITY OF 1711 WEST 3000 NORTH. PLATT & PLATT/RANDALL MCUNE; (8) APPROVE A VICINITY PLAN FOR PHASES 1 & 2 OF THE PRAIRIE AT BAUER MEADOWS PUD LOCATED AT APPROXIMATELY 1950 S. WESTVIEW DRIVE. GO CIVIL/DON BOUDREAU; (9) APPROVE THE REQUEST TO MOVE ACCESS DRIVEWAY AND TO AMEND/TERMINATE LEASE AGREEMENT WITH DAN ROBERTS FOR THE COLDWELL BANKER ADVANTAGE PROPERTY LOCATED AT 26 N MAIN. GO CIVIL/RANDALL MCUNE; (10) APPROVE A LAND TRADE WITH STATE INSTITUTIONAL TRUST LANDS ADMINISTRATION (SITLA) FOR PROPERTY IN THE VICINITY OF MAIN STREET & NICHOLS CANYON ROAD. PAUL BITTMENN: Paul - one comment on the SITLA exchange, they had the engineers working on getting out of the FEMA Flood channel, the legal description changed a little, we had our engineers work through it and all is good.

Councilmember Phillips moved to approve the consent agenda items 1 through 10 as written above; second by Councilmember Melling; vote unanimous.

CONSIDER AN AMENDMENT TO CITY ORDINANCE 35-6 TO PROHIBIT LONG VEHICLE PARKING IN THE VICINITY OF 686 E. CANYON RANCH DRIVE. TRAVIS RIGBY/JONATHAN STATHIS: Councilmember Melling moved to approve the ordinance amending Ordinance 35-6 to prohibit long vehicle parking in the vicinity of 686 E. Canyon Ranch Drive;

Wilkey – do we have to have permission from the other landowner? **Jonathan** - no, it would just be signed at this point since there is no curb. We did propose another option based on Wilkey's comments where it prohibits both long and heavy equipment so it would allow recreational vehicles with trailers. They have to be both long and heavy. It is 2,600 lbs,

which is State Code. **Melling** – the motion is to approve the packet language which had both parameters.

Motion second by Councilmember Riddle; roll call vote as follows:

Robert Cox -	AYE
Tyler Melling -	AYE
Scott Phillips -	AYE
Ronald Riddle -	AYE
Carter Wilkey -	AYE

CONSIDER AN ORDINANCE AMENDING THE FINAL PLAT OF THE WILDFLOWER SUBDIVISION PERTAINING TO LOTS 28 AND 29 LOCATED AT APPROXIMATELY 653 S 2475 W. WATSON ENGINEERING/RANDALL MCUNE:

Daryl Brown, Watson Engineering – are there any questions? **Phillips** – there are two dwellings on the property, one on each property? **Daryl** - yes, a home on one and a garage on the other. **Jonathan** – it is not a dwelling.

Councilmember Wilkey moved to approve the ordinance amending the final plat of the Wildflower Subdivision pertaining to lots 28 & 29 located at approximately 653 South 2475 West; second by Councilmember Cox; roll call vote as follows:

Robert Cox -	AYE
Tyler Melling -	AYE
Scott Phillips -	AYE – it does match the neighborhood character.
Ronald Riddle -	AYE
Carter Wilkey -	AYE

CONSIDER ORDINANCES AMENDING THE GENERAL PLAN USE FROM NATURAL OPEN SPACE TO CENTRAL COMMERCIAL AND FOR A ZONE CHANGE FROM ANNEX TRANSITION (AT) TO CENTRAL COMMERCIAL (CC) FOR A PROPERTY LOCATED AT OR NEAR 1581 PROVIDENCE CENTER DRIVE. PLATT & PLATT/RANDALL MCUNE; **Bob Platt**, Platt & Platt – nothing has changed since last week.

Councilmember Phillips moved to approve the ordinance amending the General Plan use from natural open space to central commercial and change the zone from annex transition to central commercial for property located at or near 1581 Providence Center Drive; second by Councilmember Melling; roll call vote as follows:

Robert Cox -	AYE
Tyler Melling -	AYE
Scott Phillips -	AYE
Ronald Riddle -	AYE
Carter Wilkey -	AYE

CONSIDER THE FINAL PLAT OF EKKO VIEW SUBDIVISION PHASE 1 IN THE VICINITY OF 1820 N. LUND HIGHWAY. GO CIVIL/RANDALL MCUNE: **Dallas**

Buckner, Go Civil – we have been working with the Developers and Randall, we did the water swap and the CC&R's, and the fees have been paid. **Randall**- we are good on everything required.

Councilmember Melling moved to approve the final plat of Ekko View Subdivision Phase 1 in the vicinity of 1820 N. Lund Highway; second by Councilmember Riddle; vote unanimous.

CONSIDER AN ORDINANCE AMENDING THE FINAL PLAT OF THE FIDDLERS CANYON SUBDIVISION UNIT 5 PERTAINING TO LOTS 1 AND 2 AT APPROXIMATELY 732 EAST FIDDLERS CANYON ROAD. GO CIVIL/RANDALL

MCUNE: Dallas Buckner, Go Civil – this is the amending that we had a lengthy discussion on last week. The property owner wants to join their property, currently Conex boxes are not prohibited. **Phillips** - I have trouble with this because of how the storage containers are set and it is in an R-1. I know we don't have an ordinance against it, but it is not in the spirit of an R-1 neighborhood. To follow through on what we say in our general plan, so I can't support this. **Melling** – the storage unit issue I feel is separate than combining lots. When we do that, we take infrastructure we would have two taxpayers paying, but I know we have always done it. The issue is not the storage container, but we have a property owner that wants to combine lots.

Councilmember Melling moved to approve the ordinance amending the final plat of the Fiddlers Canyon Subdivision Unit 5 pertaining to lots 1 and 2 at approximately 732 E. Fiddlers Canyon Road;

Wilkey - in the future with a storage container, if the council made a change to Conex containers itself, if you cannot have them in an R-1 would they be grandfathered forever or what. **Randall**- it is complicated, a lot of it comes back to investment backed expectations, but if we give a few years to clear out we would be ok with the courts. **Wilkey** – where it is not a house or a structure, I think it is different. I feel the same as Phillips that we do need to look at these, but I agree with Melling that they are two separate things. **Riddle** – I agree it is two separate issues, combining the lots and storage containers.

The motion was seconded by Councilmember Riddle;

Phillips – I would like to request that staff look at other municipalities on storage containers and have a discussion here. **Wilkey** - we also need to look at how we define them in our ordinance, they are defined as a structure and I don't think that is what they are. **Phillips** – that may happen if we get other ordinances. **Cox** – I agree they are separate issues, I think there are wheeled vehicles that look worse. I think we can have them with some restrictions.

Roll call vote as follows:

Robert Cox	-	AYE
Tyler Melling	-	AYE
Scott Phillips	-	NAY
Ronald Riddle	-	AYE
Carter Wilkey	-	AYE

CONSIDER A BUILDING PERMIT AGREEMENT FOR CHELSEY PARTNERS LLC, DEFERRING PUBLIC IMPROVEMENTS FOR PROPERTY LOCATED AT APPROXIMATELY 3100 WEST (LUND HIGHWAY) AND 2800 NORTH. GO CIVIL/RANDALL MCUNE: Dallas Buckner, Go Civil – this is the detention will be installed with phase one, but the infrastructure be completed with the next phase.

Councilmember Cox moved to approve a building permit agreement for Chelsey Partners LLC deferring public improvements for property located at approximately 3100 West (Lund Highway) and 2800 North; second by Councilmember Melling; vote unanimous.

CONSIDER AN ORDINANCE VACATING A PUBLIC RIGHT OF WAY AT APPROXIMATELY 140 NORTH 300 EAST. TOM JETT/RANDALL MCUNE: Councilmember Melling moved to approve the ordinance vacating a public right of way at approximately 140 North 300 East; second by Councilmember Riddle;

Phillips – I want to include some language on the deed in regard to a 20' easement on the north side of the property for city maintenance.

Roll call vote as follows:

Robert Cox	-	AYE
Tyler Melling	-	AYE
Scott Phillips	-	AYE
Ronald Riddle	-	AYE
Carter Wilkey	-	AYE

CONSIDER THE DISPOSAL OF TWO PARCELS OF CITY PROPERTY LOCATED AT APPROXIMATELY 140 NORTH 300 EAST. TOM JETT/RANDALL MCUNE:

Councilmember Phillips moved to approve the disposal of two parcels of city property located at approximately 140 North 300 East with a 20' easement on the NE portion of the property for ingress and egress for maintenance; second by Councilmember Melling;

Tom Jett -- I agree with that, it will take up about 70% of the property. **Paul** - we will have that language on the deed.

The vote on the motion was unanimous.

PUBLIC HEARING TO CONSIDER APPROVING A RESOLUTION PROVIDING FOR THE CREATION OF THE IRON HORSE PUBLIC INFRASTRUCTURE DISTRICT AS AN INDEPENDENT BODY CORPORATE AND POLITIC; AUTHORIZING AND APPROVING A GOVERNING DOCUMENT AND AN INTERLOCAL AGREEMENT; AND RELATED MATTERS. LEAVITT LAND/RANDALL MCUNE:

Tyler Romeril, Leavitt Land – nothing since last week, just before the notice went out. We took out the impact fee language we spoke about, and we adjusted the legal description of the Armbrust property and added a minor section and it will be included on the plat. **Wilkey** – is this the Armbrust property we wanted an easement on? Yes.

Mayor Green opened the public hearing, there were no comments. The hearing closed.

Wilkey - I have talked with people this week and all like this way better than the other PID that we did.

Councilmember Phillips moved to approve a resolution providing for the creation of the Iron Horse PID as an independent body corporate and politic; authorizing & approving a governing document and an interlocal agreement; second by Councilmember Melling; vote as follows:

AYE: 5

NAY:

ABSTAINED: 0

CONSIDER AN ORDINANCE CHANGING THE ALLOCATION OF RAP TAX

DISTRIBUTIONS. PAUL BITTMENN: Paul – we have two proposals, (1) 10% of total tax revenue off the top for preservation and restoration and then another 10% for a sinking fund for Heritage Center and split the rest 40% Arts and 60% Parks a& Rec. (2) 33% for Rec Arts and Park and 10% for P&R for preservation and only 5% for Arts preservation and restoration and find other revenue sources for the Heritage. **Phillips** – Councilman Wilkey and I talked about this for some time. With the growth of the Arts organizations, we wanted to get additional funding and not penalize P&R for all their great work. The Arts has not been utilizing all the 10% of the preservation and restoration, it is our feeling with the general operating budget the theater has and there is a balance for the overall maintenance of the arts facility and give another 5% to help fund some of the newer organizations. That was the reason for that and leave the P&R whole. **Wilkey** – I have spoken with members of the community, I feel that the majority of the voters that voted for RAP are voting to help Arts and keep things going P&R, I don't think the voters voted to take another 10% off the top for remodeling. **Riddle** – how is that different than the roof on the Golf Course. **Cox** – they voted for RAP, not the specifics. **Wilkey** - I said I can't prove it, but the ones I talked to that is how they felt. **Cox** – the additional 10% is because of the remodel. We have two new parks and the number of people that use the parks is a much larger portion. **Phillips** – the city also subsidizes the Aquatic Center. **Riddle** - we subsidize everything. **Paul** – we do the library, parks, Aquatic Center, Arena, and Golf Course. **Riddle** – we need to start somewhere, but I don't want to take from the Parks & Rec. if we can make every person that comes through town put money toward that. **Wilkey** - it would be about \$110,000 a year. **Wendy Green** – when they took out the percentage for the sound board it didn't seem like a fair deduction for the arts. It is the city building and they need to be responsible, and they need to be responsible for the maintenance and it shouldn't come out of RAP tax. **Phillips** – I tried to explain, we have a maintenance fund, and it has a balance, and it is used on occasion for improvements there. I think we want to try and support like we are building new parks, rather than take money from them, there are arts that are flourishing. If you look at the \$110,000 that is the allocation USF receives every year, that is a large chunk of change. **Riddle** – if we go the other route with 60/40 the arts get about \$70,000 more. **Wilkey** – in the current ordinance, what is the language of the 10%, is it a shall or will, does it have to go to maintenance. **Paul** - it is not maintenance; it is preservation and restoration. **Melling** – proposal #2, arts are getting the same amount but without putting the 5% in the preservation

fund, the fund now is a little over 4-5% of accumulation. What if we did something like that, but phase into the first option as inflation grows so we pick a dollar amount at the allocation and any amount above that 10% of the allocation is set aside for the Heritage Center sinking fund, it is then not a hit to anyone's budget over last year, but over time there is more money for the Heritage Center? **Phillips** – the people using the facility should be helping. For every ticket sold, put \$1 toward the fund, a user fee to help put into the fund, they aren't all local. **Melling** – that would be for only those that charge admission. **Phillips** – they are creating the wear and tear on the building. I need to see some numbers. **Riddle** – the 10% additional goes toward the sinking fund. **Cox** – that goes to arts exclusively. **Phillips** – that is a real hit on P&R. **Cox** – look at the number of people on the parks and baseball diamonds and other places, that is a much greater spread than it is in the theater, it should be allocated where it is being used. **Paul** - definition of preservation and replacement fund reads as follows *"preservation and replacement fund shall mean a fund established with RAP tax revenue that may be allowed to accumulate over time."* Let me explain that, when we put the definition in we had a requirement of all the groups that spent RAP tax they had two years to spend it or you had to give it back, so the wordings may be allowed to accumulate over time was a direct reference to that 2-year period to say this fund can build up, it doesn't have that two-year obligation on it. *"it shall only be spent on the preservation and replacement of Cedar City owned cultural facilities or Cedar City owned recreational facilities that would otherwise qualify for the use of RAP Tax funding. All the expenditures from the preservation and replacement funds shall be made only after recommendation by the appropriate RAP Tax board and approval of the Cedar City Council."* **Riddle** – I hate taking from the parks, that is one of the largest uses in Cedar City and Iron County, the parks, ball fields, any grass facility we have, but we have to start somewhere for the Heritage Theatre. **Wilkey** – I would like it to come from the general fund. **Phillips** – there are looking of allocations of \$300,000, \$500,000, the arts get much less because there are so many organizations. **Ken Nielson** - we could have Little League and soccer groups, all those that use our facilities come and ask RAP, that includes 4-H Clubs at the Arena, Jr. Rodeo, there are a lot of nonprofit groups that could come, we don't because we tackle facilities for them. We don't have them come for their operations. Preservation, we have an eyesore with Park Discovery, what we deal with is not \$10,000, it is our costs, playgrounds and restrooms are expensive. There are things we preserve like the Golf Course irrigation we saved for several years. Park Discovery is to the point where URMA will close it. **Phillips** - when the Little League and Soccer people use the facility, they pay. Do they pay for the lights when they are turned on? **Ken** -no, they do not. **Phillips** – that is the Arts in our facility they have to rent it. **Cox** – what does the \$50 go to? **Ken** - the umpires, etc. If we didn't have Little League and soccer clubs then we would have to provide that service.

Councilmember Melling moved to table until the first meeting in March;

Paul – what is your expectation from staff. We don't know what direction to move. **Melling** – we just need to hash it out amongst ourselves without having a quorum. **Jason** – the recommendation I made based on listening to everyone and having additional discussion, I recommended both staff and council is to leave P&R share of RAP alone 1/3 each and focus on arts their 1/3, they asked us for more operating money, so I recommended instead of preserving 10% let them spend 5% more of their allocation, they want more for operating the arts groups. I recommend leave 1/3 of P&R alone and Arts get more of their 1/3 on the preservation. There is talk on the renovation of Heritage, but Arts are asking for more money,

they are not asking for renovating the Heritage Center. **Paul** – Mr. Cox asked if we ran numbers, no we just got a proposal today. I will use last year's numbers for option one and two.

The motion was seconded by Councilmember Cox; vote unanimous.

CONSIDER A SETTLEMENT AGREEMENT WITH ACCESS FOUNDATION.

RANDALL MCUNE: Randall – this is an agreement with regards to a congregate living organization. They asked for 12 they are allowed 4, it was denied, we discussed going with 8 which appears what a court would think was ok. We offered that for both locations, they have the one in Fiddlers up for sale. We also said it does not establish precedent; any others would have to go through the process. **Phillips** - does it need council approval. **Randall** – yes, it is an agreement. **Wilkey** - we are saying go ahead with the 8. This is procedurally how the council can approve it. Staff has to go with 4, Paul and the BOA said no to the request for 12. **Randall** – the attorney has agreed with 8, but nothing is final until it is signed.

Councilmember Melling moved to approve the settlement agreement with Access Foundation; second by Councilmember Phillips; vote unanimous.

CONSIDER APPROVAL OF FINAL CLOSING DOCUMENTS FOR THE PURCHASE OF 520-ACRE FEET OF WATER. PAUL BITTMENN:

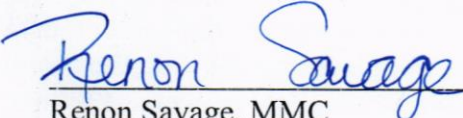
Paul – the transaction for the purchase of the water, we will deposit our funds with the escrow agent, they will hold on to the funds until they get the deeds for the water rights, when they get the deeds for the water rights they will transfer our money to Midvalley Water LLC and then from Midvalley Water LLC to the current owner of the water rights. At the same time, he transfers our money we are going to secure our interest with a note and a trust deed on the water rights. Once everything is fine, it should take a day or two, they will transfer the water rights to Cedar City and release the trust deed. It has been through multiple versions, there is an amendment to the purchase agreement, it says we will secure our interest via a trustee note and when the rights are transferred to us, we will release the funds. **Phillips** - is Midvalley LLC on the State records. **Paul** - they were as a new organization, which is the same people we have been working with. **Wilkey** - what do we do as far as change applications, do we do it after the water is ours, or has it already happened. **Paul** - when the deed transfers the title company files notice with the State Engineer, that is the change application for the rights, but does not change the diversion, we do that, we want to decide where we want to use them and track that on our own. **Wilkey** – we take a risk that the change application can be denied. **Paul** - we know the water right is a good right with a sole source capacity, no defects as far as nonuse, we have built in that there is not any non-use defects. I suppose the State Engineer could do something unexpected and deny us the ability to use it, it has never happened before.

Councilmember Melling moved to approve final closing documents for the purchase of 520-acre feet of water; second by Councilmember Wilkey; vote unanimous.

CLOSED SESSION – REASONABLY IMMINENT LITIGATION: Councilmember Wilkey moved to go into closed session at 7:04 p.m.; second by Councilmember Cox; roll call vote as follows:

Robert Cox	-	AYE
Tyler Melling	-	AYE
Scott Phillips	-	AYE
Ronald Riddle	-	AYE
Carter Wilkey	-	AYE

ADJOURN: Councilmember Phillips moved to adjourn at 7:18 p.m.; second by Councilmember Riddle; vote unanimous.



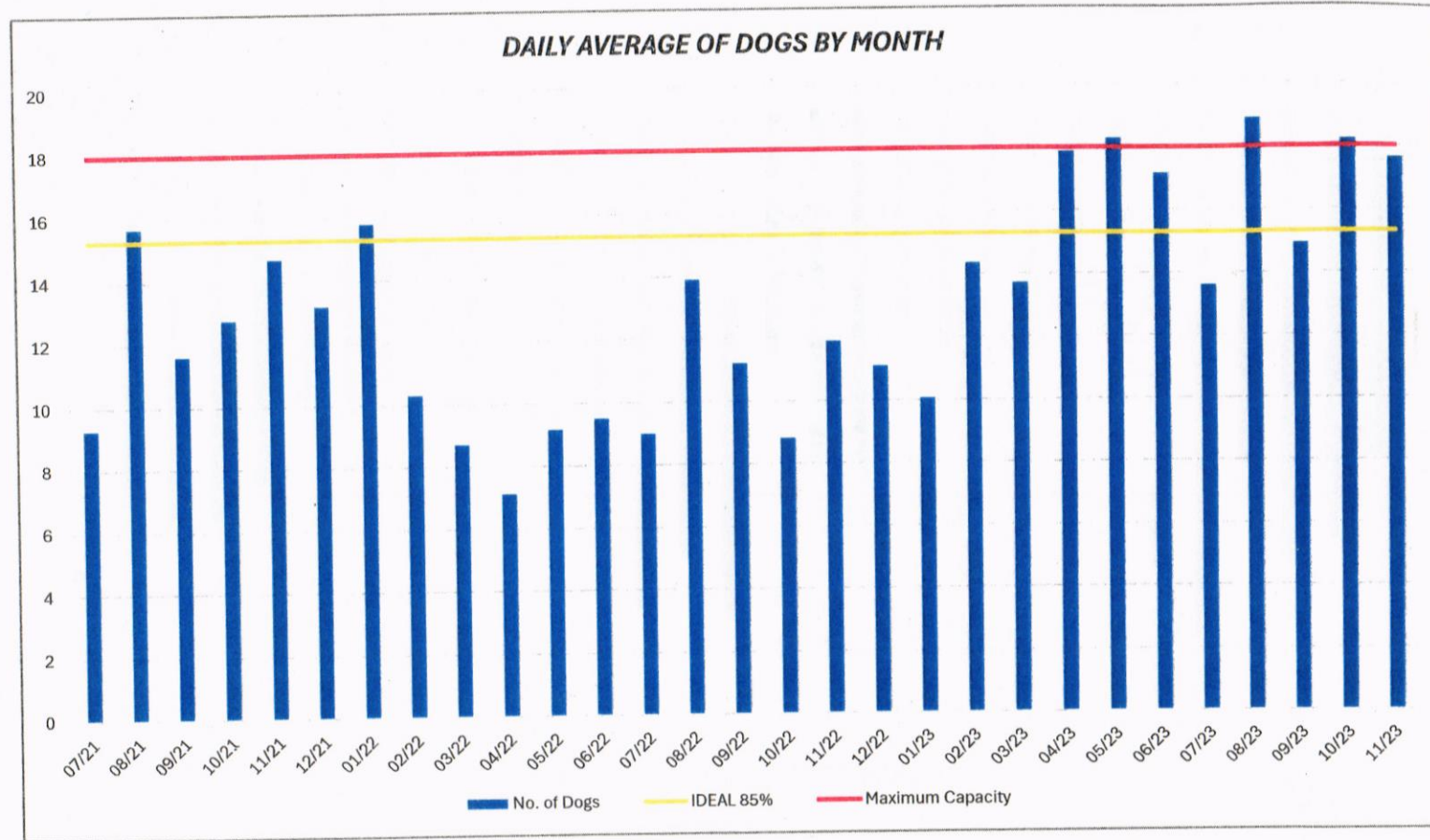
Renon Savage, MMC
City Recorder

DAILY AVERAGE OF DOGS IN SHELTER

MON/YR	No.	IDEAL	MAXIMUM CAPACITY
07/21	9.29	15	18
08/21	15.71	15	18
09/21	11.63	15	18
10/21	12.77	15	18
11/21	14.7	15	18
12/21	13.19	15	18
01/22	15.81	15	18
02/22	10.32	15	18
03/22	8.71	15	18
04/22	7.13	15	18
05/22	9.16	15	18
06/22	9.5	15	18
07/22	9	15	18
08/22	13.9	15	18
09/22	11.23	15	18
10/22	8.81	15	18
11/22	11.9	15	18
12/22	11.1	15	18
01/23	10.06	15	18
02/23	14.36	15	18
03/23	13.71	15	18
04/23	17.87	15	18
05/23	18.29	15	18
06/23	17.17	15	18
07/23	13.61	15	18
08/23	18.9	15	18
09/23	14.93	15	18
10/23	18.23	15	18
11/23	17.63	15	18
11/23	17.16	15	18

TOTAL KENNEL SPACE

	TOTAL	PERCENT	IDEAL
CATS	50	42.5	85%
DOGS	18	15	



PERCENT MONTH AT/ABOVE IDEAL 30.0%
 PERCENT MONTH AT/ABOVE MAX 10.3%

FY 23-24 PERCENT MONTH AT/ABOVE IDEAL 66.7%
 FY 23-24 PERCENT MONTH AT/ABOVE MAX 33.3%

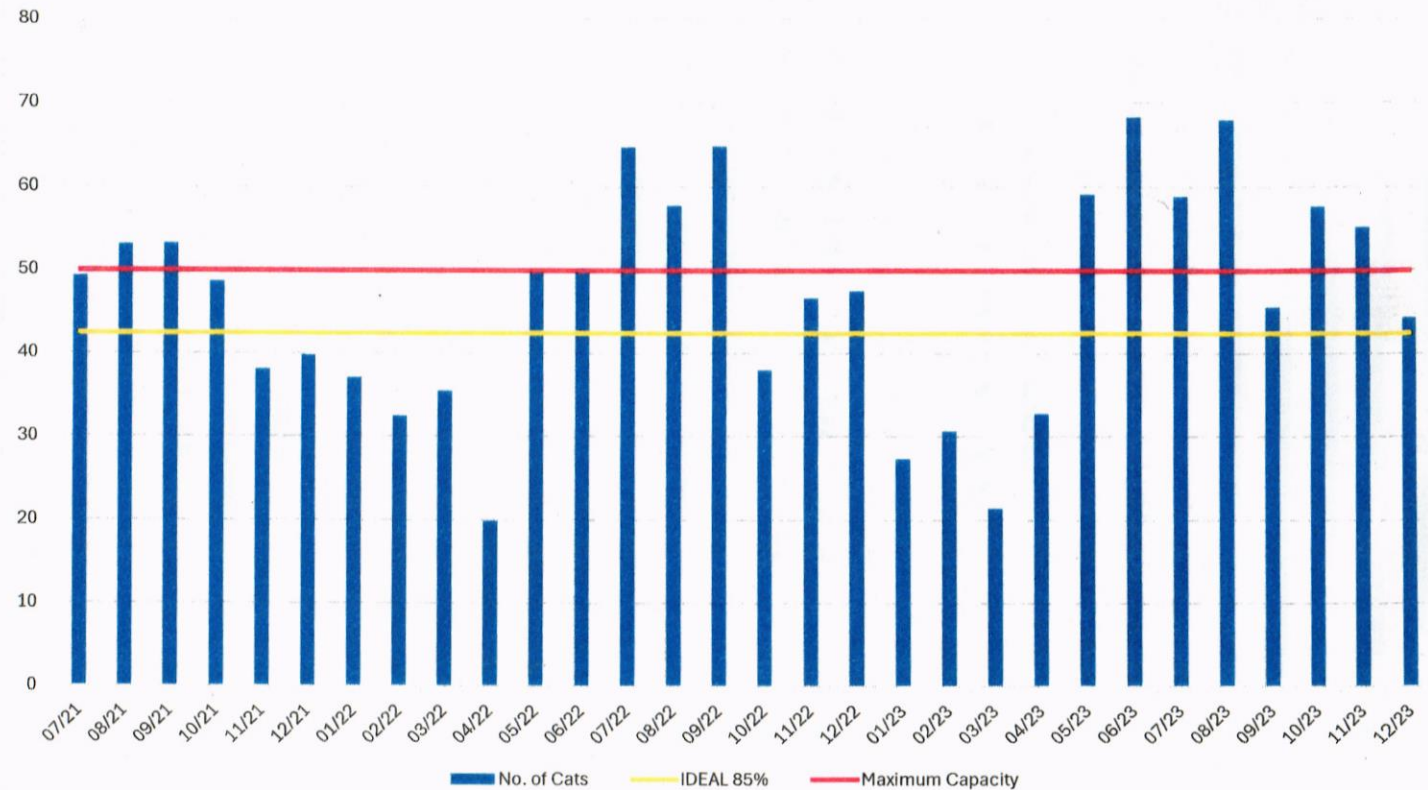
DAILY AVERAGE OF CATS IN SHELTER

MON/YR	No.	IDEAL	MAXIMUM CAPACITY
07/21	49.32	42.5	50
08/21	53.16	42.5	50
09/21	53.27	42.5	50
10/21	48.68	42.5	50
11/21	38.17	42.5	50
12/21	39.9	42.5	50
01/22	37.16	42.5	50
02/22	32.54	42.5	50
03/22	35.55	42.5	50
04/22	19.93	42.5	50
05/22	49.68	42.5	50
06/22	50.07	42.5	50
07/22	64.71	42.5	50
08/22	57.81	42.5	50
09/22	64.83	42.5	50
10/22	38.06	42.5	50
11/22	46.7	42.5	50
12/22	47.55	42.5	50
01/23	27.43	42.5	50
02/23	30.71	42.5	50
03/23	21.45	42.5	50
04/23	32.83	42.5	50
05/23	59.16	42.5	50
06/23	68.3	42.5	50
07/23	58.97	42.5	50
08/23	68	42.5	50
09/23	45.6	42.5	50
10/23	57.74	42.5	50
11/23	55.23	42.5	50
12/23	44.39	42.5	50

TOTAL KENNEL SPACE

	TOTAL	PERCENT	IDEAL
CATS	50	42.5	85%
DOGS	18	15	

DAILY AVERAGE OF CATS BY MONTH



PERCENT MONTH AT/ABOVE IDEAL 63.3%
 PERCENT MONTH AT/ABOVE MAX 40.0%

FY 23-24 PERCENT MONTH AT/ABOVE IDEAL 100.0%
 FY 23-24 PERCENT MONTH AT/ABOVE MAX 71.4%