

## Hurricane City Council Minutes – March 21, 2024

Minutes of the Hurricane City Council meeting held on March 21, 2024, in the Council Chambers at 147 North 870 West, Hurricane, Utah, at 4:00 p.m.

**Members Present:** Mayor Nanette Billings and **Council Members:** David Hirschi, Kevin Thomas, Clark Fawcett, Drew Ellerman, and Joseph Prete

**Also Present:** City Manager Kaden DeMille, City Attorney Dayton Hall, Police Chief Lynn Excell, Power Superintendent Scott Hughes, Public Works Director Mike Vercimak, City Planner Gary Cupp, Street Superintendent Weston Walker, Water Superintendent Ken Richins, Recreation Director Tiffani Wright, City Engineer Arthur LeBaron, Building Official Larry Palmer, Human Resource Director Sel Lovell, and City Recorder Cindy Beteag

### AGENDA

#### **4:00 p.m. Ribbon Cutting Ceremony for 700 West extension and roundabout**

A ribbon cutting ceremony was held at the intersection of 700 W. and 100 N. to celebrate the opening on 700 W from 100 N to 600 N. Council then returned to the City Office Building.

#### **5:00 p.m. Pre-meeting** - Discussion of Agenda Items, Department Reports

Swearing in of Officer Anthony Gonzalaz

Chief Lynn Excell reported that Officer Anthony Gonzalez graduated from the Police Academy on March 8, 2024, and is currently in field training.

Cindy Beateag swore in Officer Anthony Gonzalez.

Dorela Nuellari is continuing to work on social media posts and grants. Facebook followers have increased to 3,600, and Instagram followers have increased to 108.

Ken Richins reported that the Goulds Wash Well project will begin tomorrow, and the department has hired a new employee.

Scott Hughes mentioned the Utah Association of Municipal Power Systems (UAMPS) will meet with the City Council on April 4<sup>th</sup> to discuss upcoming projects. He invited the Council to register for the UAMPS toolkit workshop on April 17<sup>th</sup>. The Power Department is setting up power pedestals for the Car Show this weekend.

Chief Excell commented there is one more candidate in the Police Academy. Animal Control Officer Jennifer Jarvis is graduating from the LEO portion of her schooling and will soon become a certified officer. The department continues to work on the P25 radio renewal project. Matt's Off-Road Recovery turned out to be a great community event. Mr. Excell stated the department does not have a K9 Officer to replace Riko.

Larry Palmer stated that permits for twenty-three new homes and seventeen industrial buildings have been received. Jellystone plans to open this Memorial Weekend, and Ace Hardware plans to install shelving in the new building in September.

Tiffani Wright explained the sidewalk had been poured and rock installed on the exterior of the new gym building. The trail on 600 North cut off the south entrance at the ballparks, so the new entrance will now be closer to the power department.

Mike Vercimak mentioned the Public Works and Engineering Department have made headway on 1100 West property acquisitions. He received a letter from the State of Utah congratulating the City for becoming an MS4 Community.

Weston Walker stated the Street Department has installed the driver feedback signs, which a community member donated. They are receiving several tumbleweed complaints and tailwater runoff calls. Slurry sealing will start on May 16<sup>th</sup>, and the chip seal schedule will be presented next week. Residents have been notified that the road on 1380 West will be chip-sealed. An employee was promoted to Supervisor, with one open position remaining. Councilman Fawcett requested a list of the roads scheduled for slurry and chip seal.

Arthur LeBaron thanked the Street Department for setting up the rectangular rapid flashing beacon on the new section of 700 West. A traffic study will be conducted once the traffic has normalized. The City is working with the State Parks at Sand Hollow to obtain funding to complete the 3200 West interchange. Councilman Fawcett received a request from a community member asking for handicapped parking in front of the History Center. Mr. LeBaron explained an accessible route from the parking stall must be created to the building. Due to the slope, the roadway may need to be reconstructed. He noted that each entity requiring handicapped parking should provide it for themselves.

Gary Cupp reported that the Planning Department is steadily busy. Code Enforcement is receiving complaints regarding tumbleweeds from undeveloped properties. Councilman Fawcett mentioned there is a tumbleweed problem at the airport.

Gary Cupp continued the General Plan training from the previous meeting. He stated Chapter 3, " Our Heritage and Culture," aims to preserve and protect the farming and agricultural heritage. The second goal is maintaining Hurricane City's sense of place and quality of life. The third goal is to protect and vitalize Hurricane City's downtown area.

Kaden DeMille mentioned the budget meeting will be held on Monday at 3:00 p.m. in the Power Department building.

**6:00 p.m. - Call to Order –**

Mayor Nannette Billings welcomed everyone and called the meeting to order.

Prayer, Thought, and Pledge led by Arthur LeBaron

Declaration of any conflicts of interest

Councilman Prete declared a conflict of interest on New Business #9. He will abstain from voting.

Minutes of the Regular City Council Meeting for February 15, 2024

Kevin Thomas motioned to approve the Minutes of the Regular City Council Meeting for February 15, 2024. Seconded by Drew Ellerman. Motion carried unanimously.

Retirement presentation for K9 Riko

Mayor Billings reported that Officer DeMille and K9 Officer Riko are retiring tomorrow. She expressed gratitude for their service on behalf of the community.

### **Public Forum – Comments From Public**

Tonya Wilkins lives in Pecan Valley. Her home has been directly affected by the swamp that has been there for several years. She recognized that the developer now building on the lot so it will eliminate the water. However, she expressed concern that her complaints were ignored for three years. She asked the City Council to ensure that the project would be completed in a timely manner. Mayor Billings explained that if a property owner chooses to purchase a home in an undeveloped area, they have decided to accept the condition of the undeveloped property surrounding their home. She noted that the City cannot force a property owner to develop their property. Arthur LeBaron stated the property owner had submitted a plan to decommission the detention basin and divert the water to the permanent retention basin.

William Sickert recently moved to Hurricane City. He emailed Mayor Billings a press release regarding motocross tracks. He offered to replace and retire any tattered flag in Hurricane City. He expressed his love for Hurricane City and felt this was a great way to give back to the community. He asked the Council to create an ordinance to prevent the sale of exotic animals.

### **OLD BUSINESS**

1. Discussion on an **ordinance preventing retail sales of puppies and kittens** - Andrea Kaz

Summary:

This item was discussed on February 15th and continued so Council could research the topic more. That applicant did speak during Public Forum on March 7th and Council asked them to provide examples of ordinances.

End of summary.

Robin Smith thanked the City Council for considering this issue. She is advocating for elected leaders to be aware of the business practices of these commercial entities. These businesses prey on the public with their high prices and show blatant disregard for the health of poorly bred animals.

Andrea Kaz stated seven states have adopted ordinances similar to the ordinance presented.

Councilman Thomas agrees with Ms. Kaz and disagrees with predatory lending practices. However, restricting these businesses crosses the line of their constitutional rights. Mayor Billings reiterated that the legislator's position is to follow the Constitution. These businesses are not illegal. Councilman Thomas read a sentence from the letter provided. "The most important duty of elected officials at the National and City level is to protect citizens from harm." He feels their job is to protect the citizens from an overreaching government. Councilman Hirschi doesn't want to take away free agency. He disagrees with the lending practices. However, it is not the role of the government to restrict citizens from their choice to purchase anything.

Dayton Hall reported that the City Council directed him to look into the legality of this ordinance. During his research, he found that some ordinances adopted in Utah were essentially prohibited because it was not a legitimate basis to regulate some businesses versus other businesses. If the City Council chooses to proceed with an ordinance to regulate this industry, it must do so carefully. Councilman Fawcett is not in

favor of regulating what businesses can sell. Ms. Kaz suggested a resolution or proclamation to raise awareness, support shelters, and promote adoptions from shelters and rescues.

Councilman Thomas directed Staff not to adopt an ordinance but rather work forward with a proclamation or resolution regarding the wisdom of selling and purchasing animals, emphasizing an encouragement to adopt pets from shelters and rescues.

**2.** Consideration and possible approval on a **preliminary plat and sensitive lands application for Kolob Views**, a 20 lot single family subdivision located at 1400 W 900 S. Stratton Dev LLC, Applicant. Colt Stratton, Agent.

Summary:

3/14/2024 Update by Dayton Hall/Gary Cupp:

This item was last discussed at the February 15th meeting and continued to allow the applicant time to submit a revised plat to add lots to phase 1 and to amend the alignment of 1150 West through the subdivision based on appropriate elevations of the future roadway. As of this writing, City staff have not received any additional information and, therefore, have no updated comments. Staff therefore recommends that the item be continued to allow the applicant opportunity to submit the requested information, and also to allow staff sufficient review time once the submittal is received.

Notwithstanding, Staff's initial recommendation remains unchanged, which is to only approve portions of the plat that have legal access. Lots that must be accessed by the future 1150 West do not have legal access because the roadway does not exist, and for that reason, Staff and the Planning Commission recommended approval of Phase 1 only. If the Council chooses to create lots without legal access in Phase 2, the City Attorney recommends that language be added to the plat that the lots have no entitlements and may only be built on after legal access and public facilities/utilities are established.

Initial Staff Summary for the 2/15/2024 City Council Meeting:

This application was initially heard by the City Council and was tabled on June 1, 2023, due to a lack of a sensitive lands plan and nonconformance with the Transportation Master Plan. The applicant has subsequently proposed a revised preliminary plat for 20 single-family lots. The site is located south of Mountain View Estates and along 1150 W. The Planning Commission heard the application on January 11, 2024, and unanimously voted to recommend approval of only phase 1 due to a lack of adequate public access to the proposed phase 2 lots that would need to be accessed from 1150 W. Staff supports the Planning Commission's recommendation with the added clarification that the preliminary plat be approved for phase 1 only, and that the remaining property be excluded from the plat approval due to inadequate public facilities. -- Gary Cupp

End of summary.

Gary Cupp explained Staff recommends continuing this item to allow time to review the application. Colt Stratton reported that due to the road's elevation, most of the lots will be accessed via a culdesac. The other two lots will have a bulb out, and the road will be built to accommodate a fire turnaround. Dayton Hall noted that Staff must review the application before City Council approval.

Kevin Thomas motioned to continue consideration and possible approval on a preliminary plat and sensitive lands application for Kolob Views, a 20 lot single family subdivision located at 1400 W 900 S. to the next City Council meeting. Seconded by Joseph Prete. Clark Fawcett, Drew Ellerman David Hirschi, Kevin Thomas, and Joseph Prete – aye. Motion carried unanimously.

**3. Discussion about our City Vision, Mission Statement, and Motto.**

Summary:

This item was first put on the agenda on March 7th. It will be on all future agendas until a vision, motto, and mission statement have been decided.

End of summary.

Mayor Billings read each City Council member's and Staff recommendations and comments. She will send all the recommendations to the Councilmembers to narrow down their favorites.

**NEW BUSINESS**

**1. Consideration and possible approval of awarding the contract for the Pavement Maintenance project at the airport - Mike Vercimak**

Summary:

This agenda item is to award a contract for pavement maintenance at the City Airport. The City received two timely bids, one of which was deemed nonresponsive. The remaining bid was submitted by Straight Stripe Painting in the amount of \$143,035, which is approximately 25% lower than the engineer's estimate. The Project Manager, Kirt McDaniel of Wookpert, Inc., considers Straight Stripe Painting to be qualified and capable and recommends that the company be awarded the project, subject to UDOT concurrence. The City will be responsible for 10% of the project cost, which is an amount available in the budget. -Dayton Hall/Mike Vercimak

End of summary.

Mike Vercimak stated two bids were received. However, one bid did not meet the requirements. After review by the consultant, the Staff recommends awarding the bid to Straight Stripe.

Clark Fawcett motioned to approve awarding the contract for the Pavement Maintenance project to Straight Stripe Painting in the amount of \$143,035. Seconded by Joseph Prete. Roll call vote. Kevin Thomas, David Hirschi, Drew Ellerman Clark Fawcett, and Joseph Prete – aye. Motion carried unanimously.

**2. Public Hearing to take comments on the following:**

- a. Proposed amendments to the 2023-2024 Fiscal Year Budget
- b. A request for disposal of property along 1100 West in conjunction with the Bench Lake Townhomes plat
- c. A request for disposal of property along 1100 West adjacent to Hurricane Fields Estates

No comments.

**3. Consideration and possible approval of Resolution 2024-13 approving & adopting amendments to the 2023-2024 budget**

Summary:

This item is to approve amendments to the 2023-24 budget. The specific amendments are notated in the 3-page spreadsheet included in the packet.

End of summary.

Clark Fawcett motioned to approve Resolution 2024-13. Seconded by Kevin Thomas. Roll call vote. Joseph Prete, David Hirschi, Drew Ellerman Clark Fawcett, and Kevin Thomas – aye. Motion carried unanimously.

**4. Consideration and possible approval of Resolution 2024-15 disposing of property for the realignment of 1100 West in conjunction with the Bench Lake Townhomes plat. - Scott Stratton**

Mayor Billings read the following summary:

Engineering Summary: 1100 West in its traditional location along the Bench Lake Townhomes project frontage does not meet engineering standards for horizontal alignment geometry. The realignment of 1100 West has been contemplated for nearly 10 years and the City has used corridor preservation funds to purchase property to make the realignment possible and the sewer has already been installed in the newly acquired alignment. There is a portion of land that will be excess property that has preliminarily been agreed by a previous City Council to dispose of in exchange for improvements and dedication of property by Scott Stratton (see attached). - Arthur LeBaron

The City Attorney recommends that this transfer is approved on the condition that the conveyance will occur after the relocation of 1100 West to its new alignment and concurrently with the recording of the corresponding phase of the Bench Lake Townhomes plat. This condition is incorporated into the proposed resolution.

The Bench Lake Townhomes project will put into effect the designed realignment of 1100 West, which will mitigate substandard geometry in the area. The property in question is currently owned by the City through prescriptive use, and should be disposed of and incorporated into development adjacent to the new roadway.

It is recommended that the City dispose of the property that is described in the proposed Quit Claim Deed, and I concur with the City Attorney's recommendation regarding the timing of the conveyance. End of summary.

Kevin Thomas motioned to approve Resolution 2024-15. Seconded by Jospe Prete. Roll call vote. Clark Fawcett, Drew Ellerman David Hirschi, Kevin Thomas, and Joseph Prete – aye. Motion carried unanimously.

**5. Consideration and possible approval of Resolution 2024-16 disposing of property along 1100 West adjacent to Hurricane Fields Estates - Scott Stratton**

Mayor Billings read the following summary:

In 2018 Scott Stratton and his partner quit-claimed a 60-foot wide parcel to Hurricane City for 1100 West, pursuant to a conversation he had with the mayor at the time. The deed was recorded without any input or review from the Engineering Department. It was later discovered, and all parties became aware, that 45 feet is all that the City needed to provide for the future roadway.

In 2023 Hurricane City began the process of acquiring right-of-way for 1100 West. When presented with an offer to purchase, Scott Stratton asked that the City deed back 15 feet of the 60 that was previously deeded prior to him signing over any more property. I have prepared a legal description of the 15 feet in question, reserving a public utilities easement. -Arthur LeBaron

The master planned width of 1100 West in the area is 90 feet, centered on the Section line. Only 45 feet is needed on Scott's West boundary. The 15 feet in question is excess and can be abandoned.

The Engineering Department recommends disposal of the 15 feet in question while reserving a public utilities easement, 10 feet wide. This will help the City in acquiring the property needed from Scott Stratton for 1100 West.

End of summary.

Kevin Thomas motioned to approve Resolution 2024-16. Seconded by Joseph Prete. Roll call vote. Clark Fawcett, David Hirschi, Drew Ellerman Kevin Thomas, and Joseph Prete – aye. Motion carried unanimously.

**6. Consideration and possible approval of a Proclamation regarding the discharge of fireworks**  
Summary:

City Ordinances restrict the use of fireworks to July 2-5, July 22-25, New Year's Eve, and Chinese New Year's Eve. In addition, the Ordinances authorize the Mayor to place by proclamation one of three conditions on fireworks. Based on a recommendation from the Fire District, the Mayor is proposing Condition 3, which is to restrict the discharge of fireworks to the following four locations: Spilsbury Park ball fields, American Legion ball fields, Three Falls Park, and Dixie Springs Park. The Mayor's proclamation does not require Council consent, but the Mayor is seeking the Council's approval of the proposed proclamation. - Dayton Hall

End of summary.

Dayton Hall read the proclamation included in the packet. Councilman Fawcett suggested allowing the discharge of fireworks at Grandpa's Pond. Mayor Billings explained that the ordinance can be updated to add additional locations in the future.

Joseph Prete motioned to approve a Proclamation regarding the discharge of fireworks. Seconded by David Hirschi. Clark Fawcett, Drew Ellerman Kevin Thomas, Joseph Prete, and David Hirschi – aye. Motion carried unanimously.

**7. Consideration and possible approval of transferring funds from the sale of abandoned property**  
- Chief Excell

Mayor Billings read the following summary:

Under Utah State Law, abandoned property that is left in the custody of the Police Department can be sold at auction following the procedure outlined under state law to do everything we can to locate the owner. Over the past couple of years, we have sold property through TNT Auctions that has met the threshold of the law, and we currently have in that account a total of \$ 15,024.32.

Under Utah State Law, funds in this account have to be allocated by the City Council to be utilized. At this time, we are asking the City Council to allocate \$10,936.00 to the Police Department to complete the purchase of our replacement pistols due to wear and to convert to the Red Dot sights. Law

enforcement is rapidly converting to the Red Dot sight weapons due to the increased accuracy, which will reduce liability.

I can answer any additional questions, I do appreciate your consideration of this request and your continued support. Chief Excell  
End of summary.

Chief Excell explained that the department is converting to red dot sight weapons. Red dot sights increase firearm accuracy by more than forty percent.

David Hirschi motioned to approve transferring funds from the sale of abandoned property in the amount of \$10,936.00 to the police department. Seconded by Clark Fawcett. Roll call vote. Joseph Prete, Drew Ellerman Kevin Thomas, David Hirschi, and Clark Fawcett – aye. Motion carried unanimously.

**8. Consideration and possible approval of selection of a consultant for the Hurricane City Storm Drain Masterplan Update - Arthur LeBaron**

Summary:

The City budgeted funds for updating the Storm Drain Masterplan. The Engineering Department was authorized to advertise a Request for Qualifications for this project. Professional services for this work are procured using Qualifications Based Selection (QBS). The City received statements of qualifications from 3 consultant teams. A selection team comprising Arthur LeBaron, Mike Vercimak, Weston Walker, Kevin Thomas, and Drew Ellerman evaluated the submittals and has made a recommendation to the City Council. -Arthur LeBaron

The City received statements of qualifications from the following consultant teams:  
Bowen Collins & Associates JUB Engineers  
Sunrise Engineering

The selection committee reviewed each submittal and each individual on the committee submitted a scoring sheet.

The scores are as follows:

JUB Engineers 91.50

Bowen Collins & Associates 85.75 Sunrise Engineering 77.75

Having earned the most points, JUB Engineers is the consultant that is being recommended by the selection committee for this project. We are requesting approval to select JUB as the most qualified consultant that responded to the City's advertisement, and enter into negotiations for scope and fee.

A few items that led to JUB being selected are as follows:

- Extensive qualifying experience.
- Outstanding project approach, including public engagement.
- Including Zions Bank Public Finance as a member of the team to help with the financial aspect of the project (impact fee analysis).
- Including Paul Taylor on the team. Paul is considered by many the foremost expert in Utah on the Clean Water Act and MS4 requirements.

The Engineering Department recommends approving JUB Engineers as the consultant to prepare Hurricane City's Storm Drain Master Plan Update.

End of summary.

Arthur LeBaron stated that JUB Engineers was the highest rank, and Staff recommends awarding the contract to JUB. Neil Frasier and Colton Smith introduced themselves. Mr. Frasier reported that JUB is celebrating its 70<sup>th</sup> year in business, and is opening an office in Southern Utah. The scope and fees will be brought back to the Council for review.

Kevin Thomas motioned to approve JUB Engineering as the consultant for the storm drain master plan. Seconded by Drew Ellerman. Joseph Prete, David Hirschi, Clark Fawcett, Kevin Thomas, and Drew Ellerman – aye. Motion carried unanimously.

**9.** Consideration and possible approval of ZC24-03 a **Zone Change Amendment Request located at approximately 2544 S 3700 W from PF, public facility, to R1-10, residential one unit per 10,000 square feet.** Parcel numbers H-4-2-13-1402-GS3, H-4-2-13-1403-GS3, H-4-2-13-1404-GS3, H-4-2-13-1406-GS3, and H-4-2-13-1408-GS3. Western Mortgage and Realty Co, Applicant. Karl Rasmussen, Agent.

Mayor Billings read the following summary:

The applicant is seeking a zone change to facilitate a land swap between Western Mortgage and Realty Co. and the Washington County Water Conservancy District (WCWCD). The District owns approximately 38 acres adjacent to the Dixie Springs subdivision which is currently undeveloped besides two well sites and some of the road improvements for 3700 W. Western Mortgage will swap this land for property north of planned 2300 S which the Water Conservancy District will use for a larger water facility while the District's original property will be developed as residences. The former WCWCD property will be rezoned from Public Facility to Single Family Residential R1-10; the former Western Mortgage property will not be rezoned at this time. The Planning Commission heard this item on March 14, 2024 and unanimously recommended approval by the City Council. -Gary Cupp

End of summary.

Karl Rasmussen explained the property will be used as a water treatment campus. Dayton Hall noted that this zone amendment request pertains to the southern property. Gary Cupp reported that parcel H-4-2-13-1406-GS3 needs to be removed from the motion.

Kevin Thomas motioned to approve the Zone Change Amendment Request located at approximately 2544 S 3700 W from PF, public facility, to R1-10, residential one unit per 10,000 square feet, with the exception that the parcel above is not changed. Seconded by Drew Ellerman. Clark Fawcett, David Hirschi, Kevin Thomas, and Drew Ellerman – aye. Joseph Prete – abstained. Motion carried.

**10.** Mayor, Council, and Staff reports

Councilman Hirschi reported that the turf strip at the driving range has been installed. Mayor Billings, Councilman Hirschi, and Kent Abegglen are brainstorming ways to increase the golf course's revenue.

Mayor Billings mentioned the Water Conservancy District sent a letter voicing concern regarding the approved development activity near the Quail Creek Hydro Plant. The hydro plant produces loud noises for extended durations; they are concerned about its negative impact on potential homeowners. They are adamantly opposed to development in this area. Dayton Hall explained Perry Homes was approved for a zone change to a single family in 2021. The approval was given with the condition that the north portion of the property was retained as light industrial to serve as a buffer for the residential homes. Council would like to research how the zone change was approved. They discussed having a "noise

notice” on future plats if the development is near something like this so residents are notified of the surrounding uses.

Mayor Billings reported that the Sheep Bridge Road improvements were approved. As of 2026, no oversized vehicles will be allowed through the Park. Zion National Park is in the public comment period for the roadway redesign for the Park's south entrance to the visitor center. She encourages everyone to complete the online survey. Mayor Billings mentioned Safe Streets 4 All is conducting a study to implement public safety awareness programs.

**11.** Closed Meeting held pursuant to Utah Code section 52-4-205, upon request

No closed meeting was held.

**Adjournment: 8:52 p.m.**