

**Mayor**

**Robert Houston**

**City Manager**

**Joseph Decker**

**Treasurer**

**RaeLene Johnson**



**KANAB**  
— UTAH —

**City Council**

**Brent Chamberlain**

**Joe B. Wright**

**Jeff Yates**

**Michael East**

**Byard Kershaw**

**KANAB CITY COUNCIL**

January 26th, 2016

76 NORTH MAIN, KANAB, UTAH

**NOTICE** is hereby given that the Kanab City Council will hold its regular council meeting on the 26th day of January, 2016, in the Commission Chambers at the Kane County Courthouse, 76 North Main, Kanab, Utah. The Council Meeting will convene at 6:30 p.m., and the agenda will be as follows:

**6:30 P.M. Work Meeting**

- Annual open and public meeting training

**Business Meeting**

1. Call to Order and Roll Call
2. Approval of Agenda
3. Approval of minutes of previous meeting
4. Approval of Accounts payable vouchers
5. Public Comment Period – Members of the public are invited to address the Council. Participants are asked keep their comments to 3 minutes and follow rules of civility outlined in Kanab Ordinance 3-601
6. City Council Assignments
7. Appoint Melvin Watson to the Planning Commission with a term ending 12/31/2020
8. Discuss concerns with the Tom's Canyon flood control project
9. Closed Session:
  - Discuss pending or reasonably imminent litigation.
  - Discuss the purchase, exchange, or lease of real property
  - Discuss the character, professional competence, or physical or mental health of an individual.

Times listed for each item on the agenda may be accelerated as time permits. If you are planning to attend this public meeting and due to a disability need assistance in understanding or participating in the meeting, please notify the City eight or more hours in advance of the meeting, and we will try to provide whatever assistance may be required. Please contact RaeLene Johnson at the Kanab City offices.

— A Western Classic —

**KANAB CITY COUNCIL MEETING**  
**JANUARY 12, 2016**  
**KANE COUNTY COMMISSION CHAMBER**

**PRESENT:** Mayor Robert D. Houston, Council Members Michael East, Jeff Yates, Brent Chamberlain, and Joe B. Wright, Recorder Joe Decker, Attorney Jeff Stott and Treasurer RaeLene Johnson.

**WORK MEETING:** Mayor Houston welcomed newly elected Council Members Michael East and Jeff Yates, and expressed appreciation to Cheryl Brown and Kirt Carpenter for their years of service on the City Council, and presented them with a wonderstone plaque.

Russ Funk with Sunrise Engineering addressed the Council. He informed the Council of the challenges with the Tom Canyon project. He said there were challenges with the soil, and the box culverts not being delivered on time. The City pushed the construction project from August 31 into September. The boxes were not delivered until December. The completion date of the project was November 14<sup>th</sup>. Council Member Chamberlain asked if the costs for the delays could be recouped from the supplier. Tony Jackson from Jackson Excavation said that the supplier said they were over budget, and they wouldn't come up with any discounted price. Weather also caused delays and a change order, but the manufacturer delay was the primary reason for delays. Mr. Funk said they needed direction and a decision from the Council on where to go from here. He presented a budget work sheet. It was reviewed by the Council. He said it would be helpful to know which direction the Council was leaning. Mr. Jackson said that Dam Safety would only reduce the moisture content 1%. The detention pond has been difficult to compact with that much moisture. They are hoping to finish the 2<sup>nd</sup> week in February. They were concerned with the \$1,000 a day penalty after the November 14<sup>th</sup> completion date. Russ Funk vouched for Jackson Excavation doing everything in their power to complete the project. Josh Beazer with TC Engineering addressed the Council. He said that Jackson Excavation has done everything in their control. He didn't feel they should be penalized. He suggested giving them a date now to finish the project, and penalize them if they go over. Council Member Chamberlain recommended not charging a penalty unless the City's money goes over budget. Council Member Wright said there is a reason there are contracts. He felt the penalty fee could be negotiated, but the contract should be followed. Since this was a work meeting, it was determined that the City Manager, Engineers, Mayor and Jackson Excavation meet together to work out a solution then bring it back to the Council.

Prayer was offered by Jeff Yates and the pledge was led by Joe B. Wright. Mayor Houston called the meeting to order and roll call was taken.

**APPROVAL OF AGENDA:** A motion was made by Council Member East and 2<sup>nd</sup> by Council Member Wright to approve the agenda of January 12 with moving the appointments to the top of the agenda. Motion passed unanimously.

**APPROVAL OF MINUTES:** A motion was made by Council Member Wright and 2<sup>nd</sup> by Council Member Chamberlain to approve the minutes of December 15, 2015. Motion passed unanimously.

**APPROVAL OF ACCOUNTS PAYABLE:** A motion was made by Council Member Chamberlain and 2<sup>nd</sup> by Council Member Wright to approve the vouchers and check register dated January 12<sup>th</sup> in the amount of \$136,029.72 and check register dated December 2<sup>nd</sup> in the amount of \$207,478.07. Motion passed unanimously.

**PUBLIC COMMENTS:** Mr. Kelly Stowell reminded the Council about the Raising Kane Business gathering which will be held Friday, January 15<sup>th</sup> from 8 am to 1 pm at the Stampin' Up building. The keynote speaker will be Jared Hess director of Napoleon Dynamite, Nacho Libre, Don Verdean and upcoming Masterminds. The name of the gathering this year is "Start Something Stupid". Be the one who crushes fear, makes a dream happen and lives without regret.

**APPOINTMENTS TO THE PLANNING COMMISSION:** A motion was made by Council Member Wright and 2<sup>nd</sup> by Council Member Chamberlain to ratify the Mayor's appointment of Curtis Cutler to serve on the Planning Commission with a term ending 12/31/2018. Motion passed unanimously.

A motion was made by Council Member Wright and 2<sup>nd</sup> by Council Member Chamberlain to ratify the re-appointment of Joan Thacher to serve on the Planning Commission with a term ending 12/31/2019. Motion passed unanimously.

A motion was made by Council Member Chamberlain and 2<sup>nd</sup> by Council Member East to ratify the Mayor's appointment of Martin Ott to serve on the Planning Commission with a term ending 12/31/2018. Motion passed unanimously.

**INTERVIEWS OF APPLICANTS FOR THE VACATED CITY COUNCIL POSITION:** Numbers were drawn on who would be interviewed first. Patty Hegwood addressed the Council. She said she has lived in Kanab for 10 years, and she loves Kanab. She moved here from New Orleans, and she believes in giving back to the community. She said she made a very successful business out of little capital. She said she is a bridge builder. She wants what is right for the community as a whole. She would be committed. Byard Kershaw said he has lived in Kanab 11 years. He has served on the County Planning Commission and the City Planning Commission.

He was on the committee to help get the new jail. He worked in the oil fields and retired as a geologist with the BLM. He was a private consultant for Kane County North Rim Consulting. Raven Chong said she has lived in Kanab for 7 years. She wants to serve. She said the community has given so much to her, she wants to give back. She served on the Library Board and the Friends of the Library. She helped raise money for the children's reading program. Before she came to Kanab, she spent 25 years in the education field. She was a coach for cross-country racing.

The Council voted and because of the community service that was rendered by Mr. Kershaw and Ms Chong it was narrowed down to those two. After another vote, Byard Kershaw was chosen to serve the reaming term of Kent Burggraaf on the City Council. Mr. Kershaw was sworn in by Joe Decker, and he took his place at the Council table.

**APPROVAL OF THE 2016 MEETING SCHEDULE:** The City Council will continue to meet on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of 2016 except for November and December. There will only be one meeting on those months, and it will be the 3<sup>rd</sup> Tuesday. The Planning Commission will also only meet once during those months, and it will be on the 1<sup>st</sup> Tuesday. A motion was made by Council Member Wright and 2<sup>nd</sup> by Council Member Chamberlain to approve the 2016 meeting schedule. Motion passed unanimously.

A motion to adjourn was made by Council Member Wright and 2<sup>nd</sup> by Council Member Chamberlain. Motion passed unanimously.

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MAYOR

ROBERT D. HOUSTON

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RECORDER

JOE DECKER

**Mayor**  
Robert D. Houston  
**City Manager**  
Joseph M. Decker  
**Treasurer**  
RaeLene Johnson



**City Council**  
Brent Chamberlain  
Joe B. Wright  
Jeff Yates  
Michael East  
Byard Kershaw

January 25, 2016

**RE: Staff recommendation on Tom's Canyon**

**To:** City Council

**From:** Joe Decker

After close review of the documents provided, history of the project and speaking with colleagues for some time, it is my recommendation to try and negotiate with Jackson Excavation on moving the Final completion date to February 13<sup>th</sup>, after that date penalties of One Thousand Dollars (1000.00) per day will begin. In concurrence with the above we will also need to negotiate with Jackson to absorb all additional cost that they have shown in their letter in exchange for eliminating current penalties accrued. If the later cannot be negotiated than we do not need to worry about changing the date and stay with the original contract.

Yes there has been some increase in the cost of engineering and administration of the project, but we have also had a decrease in staking and on site work from the engineers. This will still leave us with an amount that we can do reimbursements for costs that the general fund has absorbed on the storm drain part of the project.

Attached are letters with estimates on additional costs from Jackson Excavation and a progress report from Sunrise engineering.

– A Western Classic –

# PROGRESS REPORT



**PROJECT NAME:** KANAB CITY – TOM'S CANYON FLOOD CONTROL PROJECT

**PROJECT NUMBER:** 05049

**TO:** MAYOR HOUSTON & CITY COUNCIL

**FROM:** RUSSELL FUNK

**DATE:** 1/21/2016

Mayor Houston & Council,

Per your request, I have prepared this progress report to provide some of the key details you have requested as you make some important decisions relating to the Tom's Canyon Flood Control Project. The following points summarize some of the key dates and occurrences so far on the project.

- The original construction period was 75 calendar days commencing on August 31<sup>st</sup> and running through November 14<sup>th</sup>.
- Jackson Excavation started the project on time and progress was on schedule until they were notified about the delay from Dura-Crete. Because there was not much work to do until the box culverts were ready, during a progress meeting on September 22<sup>nd</sup>, they proposed pulling off the job until the boxes were completed.
- They resumed work on October 26<sup>th</sup> to install some standard boxes that had been delivered by Dura-Crete. The pressure rated boxes were not available at this time.
- Based on several commitments from Dura-Crete with regard to delivery of the boxes, a revised schedule was established targeting December 19<sup>th</sup> as an updated completion date. Jackson Excavation committed to working 6 days a week and maintaining a larger work force to meet this schedule.
- Unfortunately, Dura-Crete was not able to keep their commitment due to manufacturing problems. Jackson Excavation made every effort to be productive and demonstrate their commitment to the project, but without the pressure rated boxes, there was only so much work that could be completed.
- We held a meeting on November 12<sup>th</sup> with Jackson Excavation and Dura-Crete. During this meeting Dura-Crete informed us that they would not be able to provide the gasketed boxes as specified. We discussed the options, including using another manufacturer, and considering a variance or alternate to the box requirements. Ultimately, following negotiations, performance testing verification, and coordination with Dam Safety, an alternate proposal was accepted.
- Following the final approval from Dam Safety for the change which took place on December 1<sup>st</sup>, manufacturing and delivery of the boxes was expedited and the boxes were all installed. The final box was installed on Monday, December 14<sup>th</sup>. Construction of the shot-crete batter required on the outside of the boxes was completed on Friday, December 18<sup>th</sup>.
- A Dam Safety inspection was completed on the box culvert outlet on Tuesday, December 22<sup>nd</sup>. Fill work on the dam resumed on Monday, December 28<sup>th</sup> after providing time for the concrete to cure and due to the Christmas Holiday. A revised schedule was requested from Jackson Excavation which projected a completion date of January 30<sup>th</sup>.
- After 3 days of fill work around the box culverts, Sunrise was notified about the extreme pumping conditions. Almost two weeks of time was lost in experimenting with the soil and coordination between Sunrise Engineering, Kanab City, Jackson Excavation, and Dam Safety. All material that had been placed during this time needed to be removed.
- After determining the cause of the challenges with the soil, effective fill work on the embankment was able to resume beginning on Thursday, January 7<sup>th</sup>. However, in order to avoid overworking of the soil which would lead to pumping concerns, Jackson Excavation resumed work using Dozers to push and spread the soil rather than hauling loads out on to the embankment. This method requires more time for construction. Considering this loss of time and the more time consuming construction techniques, a revised estimate for completion of Saturday, February 13<sup>th</sup> has been established.

Comparing the projected completion date of February 13<sup>th</sup> to the original completion date of November 14<sup>th</sup> indicates a difference of 91 calendar days. However, there are numerous reasons why consideration should be given to crediting some of this time back to the Contractor. These include the following:

- 2 days to account for the large rainstorm which occurred on September 14<sup>th</sup> and flooded the excavation.

- 7 days to account for the addition of a collar filter, drain, and manhole system to the project.
- 4 estimated weather days when no work was occurring on site while waiting on the pressurized boxes.
- 3 days for weather prior to shot-crete placement (colder than recommended for placement).
- 10 days to account for time lost due to pumping soil conditions.
- 7 days to account for slower construction methods moving forward to avoid further pumping.
- It is possible that they still may finish earlier than February 13<sup>th</sup>.

Assuming they do complete the project on February 13, approximately 33 of the overage days may be justified. This would leave approximately 58 days to be attributed to the delay with the box culverts, etc.

The council has also requested to know what additional engineering construction expenses the delay may have cost the City. Assuming a completion date of February 13<sup>th</sup>, I have projected that due to extended construction timeline, the Construction Administration budget will be exceeded by approximately \$12,000. This is partially due to the delay with the boxes and partially due to the reasons listed above for justified delays. I don't think breaking this amount up proportionally based on days would be completely accurate because of the variance in work required for a solution to the soil pumping issue vs. when no work was occurring on site, etc.

I don't believe that the delay has caused a significant increase to the material testing costs for the project because when no work was occurring on site, no testing was required. In addition, we originally intended the testing on the dam to coincide with the testing on the City storm drain project. However, very little testing was requested during the City project, so the fact that the projects weren't completed at the same time has had very little impact on the testing budget.

Jackson Excavation reported in the last Council work meeting that they estimate that the work and time required to determine the solution for the soil pumping challenges cost them somewhere between \$35,000 and \$40,000. I understand that they have based this estimate on equipment and man-hours during the applicable time period.

As a means of comparing this cost, I have also estimated the yardage of material placed and removed during this time period. Based on a length of 165 ft, a width of 30 ft, and a depth of 8 ft, a rough volume of 1,467 cubic yards was calculated. They placed and removed this volume of material twice during that time period. Based on their bid prices of \$6/cy for embankment construction and \$4/cy for excavation, the total cost for this work would be \$29,300. They also constructed a small test pad to experiment with construction methods during this time which wouldn't be included in these calculations.

I want to be clear that I have provided this information just as a means of comparison, and not to indicate that I agree that the cost is justified. Jackson Excavation did much of this work on their own without direction. However, their efforts were very helpful in determining how to proceed.

Another clarification is that this estimated cost does not include the potential claim for additional time due to the construction methods they used to construct the embankment. It is estimated that this method would have taken approximately another week, if they had not increased their labor and equipment force as they have. Again, I am not confirming that this claim is justified, just that there is the potential for another change order request that could potentially close the gap on the difference between the charges for the delay vs. the change order claims.

Jackson Excavation has indicated that they would not pursue the claims for additional work if the City would waive the potential penalty for liquidated damages. This also seemed to be the general direction the Council was leaning during our discussion during the work meeting held on January 12<sup>th</sup>.

It is my opinion that pursuing this course would be the cleanest and best approach for all parties involved. I also feel that the proposal is fair based on the extra effort expended by Jackson Excavation. Consequently, I have prepared a change order outlining the details of this proposal. It is my recommendation that the Council move forward with approval of the change order.

I want to reiterate that other than the difficulty with the box culverts, my experience with Jackson Excavation has been very positive. I feel that they have done everything within their power to get the project back on track in spite of the delays caused by their supplier.

It is anticipated that construction of the project will be completed by February 13<sup>th</sup>, and that the City will be happy with the final result. Overall, I think the City will consider the project to be a great success.

We want you to know that we appreciate the opportunity to have joined with the City on this Project and hope that our experience has been positive for you. Please let me know if you have any questions or concerns and I will do my best to address them.

## Jackson Excavation Inc.



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Bicknell, UT 84715  
Phone: 435-425-3354 / Fax: 435-425-3631  
[jacksone@iwebconn.com](mailto:jacksone@iwebconn.com)

January 21, 2016

Here is a brief explanation of some of the extra costs that have been incurred by Jackson Excavation:

Jackson Excavation began to put in soil lifts at the dam on Monday, 12/28/2015 and had placed 8'-9' of soil through Wednesday. All lifts met the requirements for compaction and moisture, however the soil was pumping. After discussion with Russ Funk and the City, the decision was made to stop building the dam and remove some of the pumping soil until we could get to a stable lift where the soil was not pumping. Jackson Excavation ended up removing approximately 7'-8' of soil.

After a discussion with Russ Funk, we determined to try to put soil in at a moisture content of 9%–10% instead of the 12% that we were previously directed to do. Jackson Excavation and Sunrise were interested to see if it would eliminate the pumping conditions. We mixed the wet soil with dry material and put about 7' of the soil back in. The process of getting approval from Dam Safety and the engineers on the lower moisture content took several days. Dam Safety ultimately said they could not accept the dryer moisture.

After talking to Russ Funk, Dam Safety had decided to meet with us on-site to look at different methods of placing the material. Dam Safety later decided that they did not want to meet with us on-site and their decision was that we were over-compacting the material. Several ideas were discussed, but it was up to us to decide how to place the material. So we, Jackson Excavation, did some experimenting on our own to determine how to place the material. We decided that we could not travel on the material with any equipment with rubber tires to keep the material from pumping. We again removed the 7' of soil previously placed and replaced it with the higher moisture content of 12%. This method has worked, but we have had to build the entire Dam by pushing the material out there with dozers instead of hauling it out there and placing it with Loaders.

The time and cost for equipment to remove and replace soil process:

921 Loader	45 hrs x 150.00=\$6,750.00
744 Loader	45 hrs x 150.00=\$6,750.00
644 Loader	45 hrs x 140.00=\$6,300.00
320 Excavator	45 hrs x 150.00=\$6,750.00
700 Dozer	45 hrs x 140.00=\$6,300.00
Compactor	25 hrs x 100.00=\$2,500.00
<u>Mobilization &amp; Labor</u>	<u>\$200 x 6 men x 5 days=\$6,000.00</u>
Total:	\$41,350.00

Extra costs incurred to push material onto Dam:

D-7 Dozer	100 hrs x 140.00=\$14,000.00
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Also, Dura Crete could not make to boxes to the engineers specifications. They tried many different times. They had acquired extra costs because of not understanding the difficulty of the design to build these boxes. Their original quote went up by \$22,451.32

Total of these 3 lines: \$77,801.32

Another unexpected cost is for the air vents that go on the boxes. We did not understand from the plans or bid schedule that there are 3 vents required, and only planned on 1 vent. Our total bid on this item is \$3,500.00. The cost of materials alone for these vents, labor not included is \$7,950.00. This is a difference of \$4,450.00, that we will have to come up with.

The total unexpected cost that Jackson Excavation has incurred on the project is \$82,251.32.

We hope the city will look closely at this and realize that Jackson Excavation has already encountered many unanticipated costs associated with this project. We have also been working 5-6 days a week with 6-8 men trying to get this project completed. This many men and overtime hours also adds expenses that we were not anticipating. We appreciate your willingness to read this and to consider all the facts that there are to consider. We hope to be able to work things out without this costing anybody additional money.

Tony Jackson  
President / Owner