

COUNCIL WORK MINUTES
MAY 15, 2013

The City Council held a work meeting on Wednesday, May 15, 2013, at 5:30 p.m., in the Council Chambers, 10 North Main Street, Cedar City, Utah.

MEMBERS PRESENT: Mayor Joe Burgess; Councilmembers: Ron Adams; John Black; Paul Cozzens; Don Marchant.

EXCUSED: Councilmember Nina Barnes.

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; Fire Chief Paul Irons; Fire Marshal Mike Phillips; HR Specialist Natasha Hirschi; Airport Manager Russ Volk; Public Works Director Ryan Marshall; Leisure Services Director Dan Rodgerson; Parks Superintendent Wally Davis; Street Superintendent Jeff Hunter; CATS Manager Tammy Nay; Wastewater Superintendent Darrell Olmsted.

OTHERS PRESENT: Tom Jett, Shaun Warby, Bev Burgess, Spencer Grant, Halle Miller, Chevelle Foster, Heidi Miller, Josh Huntsman, Nathan Dittmer, Paige Gunn, Doug Hall, Kristen Daniel.

CALL TO ORDER: Mayor Burgess gave the opening prayer; the pledge of allegiance was led by Councilmember Marchant.

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

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS; STAFF COMMENTS: ■Cozzens – where are we on the street light bases? Kit – the sub-contractor will be up this week to meet with us. We are still within the warranty period, until September. Cozzens – it is probably where the salt gets it, but it is deep. ■Marchant – the equipment at the park is great, the use has been more than in 3 years at the park. It was a great move, kudos to Dan and Wally. Mayor – and to the Council for approving it. ■Adams – the Soapbox Derby was great. Mayor – Byron felt good about the turn-out. We had a few qualify for the finals. ■Mayor – I spent 3 or 4 hours in prairie dog meetings with public officials, it was invitation only, County Commissioners, Mayors, Senator Vickers and Representative Westwood and BLM, US Fish & Wildlife, we had a good meeting. The big thing talked about was they committed if we would get a list of priorities with the cities they would do what they could to get the areas in perpetuity and not use them as the take. Try and come up with areas you think would really benefit the community. One place I feel is the cemetery/ball fields and the Golf Course. Also in the industrial area by the Airport, people have wanted to expand but could not. If you have other areas get that to me, we need the information to them by the middle of next week. Places that would impact our community, commercial development

and public areas. Cozzens – why the progress? Mayor – probably the pressure, they hired a mediator to keep things going in a positive direction. I think they want to try to do something. The lawsuit may have something to do with it. We feel we need to present them with the material they asked for quickly. If you have questions get a hold of Dave.

PUBLIC COMMENTS: ■ There were no comments.

SECOND PUBLIC HEARING FOR THE CDBG SMALL CITIES PROGRAM FOR PROGRAM YEAR 2013: Mayor Burgess opened the second public hearing for the CDBG program. Mayor Burgess stated that this hearing was called to allow all citizens to provide input concerning the project that was awarded under the 2013 Community Development Block Grant Program. The city has amended its capital investment plan and decided to apply for funds on behalf of the Housing Authority. Mayor Burgess introduced Heidi Miller from the Cedar City Housing Authority. We have submitted the pre application for property for low income housing. It is Federal funds and we cannot identify the property until after the project is awarded. Most of the larger lots that we might think about purchasing we can do an environmental review of the areas, if it within so many feet of the freeway and the airport because of noise ordinance these properties do not qualify. We don't buy anything big. A CDBG grant can be for up to two years. Marchant – is it to purchase property? Heidi – it can be extended further as long as you don't change the numbers. If our mission is met for the end result of recipients, the difference can be used for architectural services. The Mayor explained that the application was successful in the regional rating and ranking process and Land Acquisition application in the amount of \$300,000. The Mayor explained the project to those in attendance. The Mayor then asked for any comments, questions and concerns from the audience.

There were not any comments.

The Mayor stated that copies of the capital investment plan are available if anyone would like a copy. There were no more comments; Mayor Burgess closed the hearing at 5:45 PM.

PUBLIC HEARING TO DISCUSS A LOW INCOME LOAN FROM THE PERMANENT COMMUNITY IMPACT FUND BOARD TO PURCHASE AND AERIAL PLATFORM AND A PUMPER FOR CEDAR CITY CORPORATION/ CEDAR CITY FIRE DEPARTMENT: Chief Irons – I understand this cannot be done if the budget is not approved. It does not commit us, but the application is due. Cedar City Corporation and the Cedar City Fire Department are applying for funding through the CIB, to purchase a 100 foot aerial platform and a Type 1 1500 gpm pumper. The total budget for the project is \$1,700,000. The city has \$480,000 in applicant cash to put towards the purchase; therefore we are applying for a low interest loan for \$1,220,000 at 1.5% for 15 years, with no early pay off penalty. Mayor – we know it is jumping the gun, but they only meet on a quarterly basis. Chief – we could wait but the increase in the trucks has been a lot and if it happens we cannot afford the truck. We need the

application in by May 24th. We can choose the first payment date. Rick – if you meet their guideline they review the applications in June, July and August and when they meet in Sept/Oct they make the decision and the first payment would be made June 2014. Chief Irons – our 1974 truck would go away. We have 4 pumpers that will not change.

The Mayor opened the public hearing. There were no comments. The hearing closed.

PUBLIC HEARING TO CONSIDER CO-SPONSORING THE PAIUTE RESTORATION GATHERING & POW WOW – MAYOR BURGESS:

Mayor Burgess – we visited last week, the Pow Wow Committee is asking for the City to be a co-sponsor. Their numbers are going down they feel because they don't have the resources to pay prizes. The cost is \$2,500. We identified money from the Community Promotions fund; we have \$11,800 in that fund. Mayor opened the public hearing. There were no comments. The hearing closed. Consent.

CONSIDER A T-HANGAR LEASE REQUEST – SPHERE ONE/RUSS VOLK:

Russ – Sphere One would like to lease an open vacancy in the City T- hangars. Brenda is in need of hangar space, she is moving forward providing Upper Limit Aviation some of her hangar space. Marchant – we heard this proposal at Airport Board, they recommend it happen. Consent.

CONSIDER THROUGH THE FENCE AGREEMENT WITH MSC AEROSPACE - RUSS VOLK/MSC AEROSPACE - SHAUN WARBY:

Russ – when an entity chooses to access a federally regulated airport from off airport property it needs this agreement. It outlines the access, governing fees, terms of the agreement, etc. They are rare because the FAA prefers that you are on the airport to use it. They do see that there are times that external access is warranted. This happens to be one of those cases, because where MSC Aerospace is located, this only covers the access point. This has gone through a series of versions, working with myself, Paul Bittmenn and FAA in Denver. They say to take the existing raw land lease agreement that an on premise would have and lay it side-by-side with through the fence agreement. You cannot allow things that are not allowed in a raw-land lease agreement. This ensures that the airport can stay in compliance with FAA regulations and other provisions the FAA requires an airport to run under, which is the foundation of the agreement. The FAA Compliance Office did review this several times and gave guidance. It was presented to Airport Board on April 30th, and they recommended it be forwarded to the City Council for consideration.

Shaun Warby – I am excited we are at the point to bring documentation forward. The Through the Fence Agreement has been an issue we have had to deal with going through several drafts. We need to be covered in this agreement if we are going to invest \$400 million. One is to have an appointment to the Airport Board; we are excited to be at this point with a few tweaks. That is a major item. The Through the Fence Agreement as is my board will not sign. Black – why is it on the agenda tonight if it cannot be approved as it is? Shaun – we anticipate an additional agreement. Marchant – why would that make a difference, the meeting is open to the public. Shaun – it would allow us to have a say and give us additional language of the agreements that may come down the road.

Marchant – how would that change, you have as much input as a board member, you can lobby the board, I don't think it is necessary. Any other tenant could request the same thing. Shaun – we want additional language to protect our interest or put someone on the board. Marchant – Brenda Blackburn had a substantial investment also and she is there to every Airport Board meeting. Shaun – it is a critical component to the project, we have to protect our interest. Marchant – you want control. Shaun – it is proactive, it is a major sticking point with our organization. They want to be protected. Marchant – what don't you agree with? Shaun – there is a clause to unilaterally terminate the agreement. Marchant – how real do you think this is? Paul – the city could not terminate for no reason, it is if MSC does something that could cause us to lose our grant assurances. Marchant – you can violate the agreement but we can't lock you out. Shaun – we don't want a change that would lock us out. Marchant - we follow the FAA guidelines. Mayor – we need to talk with the Airport Board about additional appointments.

Cozzens – I am under contract with MSC Aerospace and I am doing some remodeling right now and want to disclose that.

Mayor – will we be ready next week? I don't know if this is the place to make those recommendations. Black – we have a process to appoint board members and I don't want to change that process.

Russ – I want to use the example of the snow removal building, under the terms and conditions of that grant we must comply with the FAA regulations for the next 20 years. We have a 20 year commitment with the FAA for that time. Cozzens – so they have control. Russ – the way I like to put this, Cedar City owns the Airport, the FAA runs it, and we comply with all their requirements. In acceptance for their money we agree to do that for the next 20 years. Paul – that rolls every time we get a new grant. Russ – the commitment is already there. The language in the Through the Fence is identical to on Airport tenants. FAA rules and regulations, all public laws, no different than every federally regulated airport in the country, it doesn't matter if it is Parowan who receives \$150,000 or Cedar City for \$1 million. The FAA looks at it like a large investment. The owner cannot put itself in a situation where it cannot meet federal law and where an entity overrides the obligations and requirements. Black – the language says SyberJet would have to be in violation. Paul – look at 4 and 7, Subordination of Airport Tenant rights, taken out of language we have for hangar tenants. It says if you don't follow the rules in paragraph 4 we can terminate the lease. For this case it would mean we close the gate. Black – there has to be a violation first. Paul – correct, we would have a lawsuit. Russ – FAA was very clear that the terminology cannot grant a special provision such as a no termination clause unless it is for everyone on the Airport and future tenants, then the City is liable for economic discrimination claim, that is why the wording is as it is. We are not asking for anything we don't ask from everyone other than to meet the FAA regulations. Action.

CONSIDER A LEASE WITH MR. & MRS. DITTMER TO GRAZE GOATS ON THE OLD WASTE WATER TREATMENT PLANT PROPERTY – MR. & MRS. DITTMER: Paul Bittmenn – the Dittmer own 100 goats and they like to eat stuff, we

have 30 acres that has quite a bit of weeds and brush. It is fenced in with a 6 foot high fence. They would bring the goats on for a period of time and then move them and when the weeds come back they would bring the goats back. We put provisions for any unknown substances that may be on the property. We may need to have waivers for physical hazards that may be on the property. When the pumper truck cleans the lines this is where they would dump the truck, it could be anything from dimes, wedding rings to needles. The risk is theirs; we are only providing the land. Adams – are they using any of the structures? Paul – if there are structures they want the animals out of they will fence the area. Consent.

CONSIDER A RESOLUTION AMENDING CHAPTER 8 (AFFORDABLE CARE ACT/WELLNESS PROGRAM) OF THE PERSONNEL POLICY – PAUL BITTMENN:

Paul - this is an amendment that will impact chapter 8, dealing with health insurance. There are two purposes, wellness and the affordable care act. At one point the City offered a wellness program, if you participate the City pays 100% of the premiums, if not then the employees pay a portion. We have not had a wellness program for a number of years; we just want that portion removed. Cozzens – how long was that used? Paul – there has been other programs, one if you hit goals the City would pay the employees up to \$400; the wellness program where you participate or pay it was in place for 3 years. The funding for that program got cut out a few years ago. Cozzens – if we are not using it then we want to get rid of it.

The second is the affordable care act; everyone has different opinions on this legislation, so I just want to look at a small ball. It is thousands of pages long. We are doing with the proposal working with the best information we have. It begins January 2014. It measures employee hours and then we classify them and determine if we have to offer health care. Under the new act, someone over 50 employees must offer health care. We have set up 4 categories, when we hire we know if they are full-time or not which is 30 hours a week, those will be offered health care. Part-time will not be offered health care, they are 28 hour a week to keep under the 30 hours. Third category is seasonal, no more than working 26 weeks a year. If you lay one off and rehire a month later, you look at the hours previously worked and they are variable employees, we are not sure if we will have to offer them health insurance. The measurement period would include the prior work period. Hours of service include benefits, sick leave, comp time, holiday, anything you pay them for is considered worked hours. There is another catch with Family Medical Leave and Military time. We have talked with department heads and division heads, you have 3 boxes, full-time, part-time and seasonal and you know what the costs will be. The variable hour employees, they have to track hours as does HR and Payroll. Cozzens – if you break the 30 hours once is there a problem? Paul – we measure over a 12 month period. So if you have one work extra on a project for a few weeks, you need to keep the average to less than 30 hours in the 12 month period. Black – what about part-time? Paul – if they go over the 30 hours we will kick them into the variable category. Cozzens – what if you decide to fire someone? Paul – they will close loop holes as they find them. Cozzens – who will watch them, the department head or Natasha? Paul – HR, payroll and department heads. When you approve a budget the department head has been told to monitor their budget. HR and Payroll will be there to help folks monitor the hours.

Rick – as we have talked with Department and Division Heads we have determined practices, they understand that if they get to a point of putting a seasonal employee to a variable it will be monitored carefully. Paul – one more brief idea, you have a part of the personnel policy, chapter 4, how we classify employees such as permanent part-time, hourly, temporary and seasonal. We may bring back to mesh chapter 4 with chapter 8. Action.

CONSIDER APPROVAL OF THE FY 2014 TENTATIVE BUDGET – JASON

NORRIS: Jason – a few changes, we added \$15,000 for hourly wages at the Airport. Reallocated the workers comp, we are able to use a third party insurance for workers comp so we apply the rates across the city and because we use a 3rd party we don't have to pay as much. Historically we allocated by departments that receive the most claims, the highest is the Police Department.

We looked into the Golf Pro situation, between vacation and comp time you are looking at \$9,700; I did not budget to address that. Rick – I would suggest that we consider when we get closer to the point look at the timing and as we get to the end of the year and look at the operating budget we can look at it then. Black – no, it is general fund budget, I think it needs to be clarified. Mayor – I hate to make an exception for this, we have this situation with everyone that quits. Black – we will have an opportunity to deal with that in our next budget meeting. Mayor – we will have a public hearing and vote on it next week.

Rick – we had suggested rate changes in the budget, the Airport has some additional changes.

ADJOURN: Councilmember Marchant moved to adjourn and move into the RDA meeting at 6:33 p.m.; second by Councilmember Adams; vote unanimous.



Rehon Savage, CMC
City Recorder