

City of La Verkin

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La Verkin City Council Meeting Minutes

Wednesday, November 4, 2020, 6:00 p.m.

Council Chambers, 111 S. Main, La Verkin, Utah

Present: Mayor Richard Hirschi, Council Members: Ray Justice, Chuck Hardy, Micah Gubler, and Kelly Wilson; Staff: Christy Ballard, Chief Ben Lee, Kevin Bennett, Derek Imlay, Tiffany Mower, and Kyle Gubler; Public: Brian Stewart, Diana & John Hoonakker, Mr. & Mrs. Robert Harris, Stephen & DoraLee Bird, Reese Poulson, Jeff Thornberry, Wendy & David Anderson, Denise Poulsen, Jay Rice, Karen Bennett, Curtis Barlow, and Rigo Gutierrez

Councilwoman Patricia Wise participated electronically

A. Called to Order –The invocation/thought and the Pledge of Allegiance were given by Micah Gubler at 6:00 pm.

B. Consent Agenda: (Items on the consent agenda may not require discussion. These items will be a single motion unless removed at the request of the Mayor or City Council.)

1. Declarations of conflict of interest
2. Agenda

Mayor Hirschi requested business item 6 be moved to business item 2, moving the remaining items down one spot.

The motion was made by Councilman Ray Justice to approve the consent agenda with the following changes, move business item number 6 to the number 2 spot, moving business items 2,3,4, and 5 down one spot, second by Councilman Chuck Hardy. Hardy-yes, Justice-yes, Wise-yes, Wilson-yes, Gubler-yes. The motion carried unanimously.

C. Citizen Comment & Request for Future Agenda Items:

No comments were made.

D. Public Hearing:

1. 2020 Water Conservation Plan

Derek explained the State of Utah requires cities to have a water conservation plan and that they update it every five years to avoid a penalty. The plan needs to be submitted by the end of 2020.

Derek briefly highlighted the 2020 Water Conservation Plan. The plan addresses both the culinary and irrigation water systems.

Table 3 on page 4 lists all La Verkin's water sources and water rights.

Cottam Well is one of the sources the City watches very closely. This tank services the northeast side of La Verkin (hotels, Silver Acres, and Zion View Estates). We get 4.45 million gallons a month, and anything over that we must pay extra for. In the summertime, we use the entire amount.

Toquerville Springs is split between La Verkin and Hurricane. When we are unable to get enough water from that source, we pull the rest of our water from Ash Creek Springs which costs the City additional money so we only use it when we have to. Ash Creek Springs is in a ravine, so the water needs to be pumped into the City and that is where the extra charge comes from.

La Verkin may need to purchase additional water in the future to meet the needs of Cottonwood Hollow.

Table 6 on page 5 has the culinary average usage per connection for residential and commercial. Those numbers have decreased over the last four years.

Page 6 talks about the City's per capita usage which is 107.5 gallons per capita per day. The State average is 164.0, so we are significantly lower.

Page 6 & 7 also talk about the average usage per irrigation connection. We are getting closer to our water rights usage. The per capita usage is much higher than the state average. We are an agriculture area, but we still need to work on this and get the numbers down.

Table 13 on page 8 lists the leakage rate. The City has lowered that number significantly over the last 4 years. The State considers a system with 10% and under a healthy system and in 2019 we were at about 6%.

Pages 13 & 14 lists La Verkin City's water challenges and goals. Derek read through those goals. On page 15 the Plan states the City needs to complete an irrigation system master water plan. The last one was completed in 2010.

Page 21 has a culinary water right chart. The culinary water system is in good shape. The yellow line represents the current available water rights. If we continue trending the way we are currently, we hit our water right usage capacity in 2039. Hopefully, by then we have implemented a lot of the processes to decrease water usage and that should push us out to 2044 before we hit capacity.

Page 23 has an irrigation water rights chart. The yellow line represents the City's water rights and the green line represents when the City will break past the available water rights we have, which is about 2030. This is based on a population increase of 1.25% each year. Cottonwood Hollow is currently working on phase 3 & 4 of that development which could skew these numbers because those lots will all have the capability of an irrigation connection.

Councilman Gubler pointed out once some of the fields get developed the usage will go down.

Derek agreed but mentioned the City does need to start putting money aside to purchase additional water rights as they become available. Increasing our water rights and implementing the goals in this plan should hopefully aid us in extending the life of our water rights.

Kyle asked if Ash Creek Sewer Districts' treatment facility would help with the City's irrigation system.

Derek replied it should, but it has not been included in this Plan since the timeframe fluctuates. The Confluence Park water usage has not been included either.

There is a lot of information in the Water Conservation Plan, he just highlighted the main points he wanted the Council to be aware of.

The public hearing opened at 6:24 pm

No comments were made.

The public hearing closed at 6:25 pm

E. Business:

1. Discussion and possible action to approve Proclamation 2020-04, a proclamation designating October as Domestic Violence Awareness month.

Tiffany Mower is the Victim Service Advocate for our area. She thanked the Council for recognizing October as Domestic Violence Awareness month. In 2019, 32 homicides were domestic violence-related. The numbers have not decreased so far in 2020.

She is a Victim Service Coordinator for this program, but she is also a first responding advocate. That means when law enforcement goes out and comes in contact with individuals who have been involved in domestic violence situations, she can come on scene to do a crisis intervention with the victims. At times she will transfer them to the Dove Center which is Washington County's main shelter.

The Dove Center has served 1240 women and children county-wide, received 1973 hotline calls, 246 individuals were provided with safe shelter and transitional housing and they offer therapy. We do utilize them. Her role as a law enforcement advocate is crises. She does crisis intervention, court orders, and court advocacy but when it comes to therapy, the Dove Center is the first line to get people immediate help. They are a great asset to our community. Our program area has covered 374 family fights year to date. La Verkin City had 62 of those fights. That number doesn't sound like a lot, but it takes a lot of police manhours to handle each incident and leaves victims in a bad situation.

Councilman Hardy asked if there was anything as a city we could do to help and asked if those numbers included repeat offenders.

Tiffany replied she feels La Verkin City is a very supportive city for victims. Anyone that has gone to the city office has received help promptly. The citizens are very helpful, and the City has amazing support systems, whether that is in the

religious sector or just community groups that are involved. La Verkin City is very on point with helping individuals that need it.

A lot of people think why don't they just leave but it is not that simple, it is a process and often the children are used as a tool.

These numbers do include repeat offenders.

The motion was made by Councilman Ray Justice to approve Proclamation 2020-04, a proclamation designating October as Domestic Violence Awareness month, second by Councilman Kelly Wilson. Wilson-yes, Wise-yes, Justice-yes, Gubler-yes, Hardy-yes. The motion carried unanimously.

Tiffany briefly reported on the forensic soft room La Verkin City was able to furnish from grant funding. It is a massive asset to our community.

2. Presentation and possible discussion regarding several homes in the Overlook Subdivision.

The Mayor turned the time over to John Hoonakker to represent the individuals from the Overlook Subdivision.

John Hoonakker thanked the Council for their time. He lives at 265 North 560 West in the Overlook Subdivision and has had a lot of issues. He asked Bob Harris who lives at 275 North 560 West and Steve Bird who lives at 280 North 560 West to join him.

Mr. Hoonakker explained they are at the meeting to discuss the landslide issue. He has met with John and Derek to discuss the water situation he has on his property. It is like a stream coming out of the hill. They also talked about the irrigation overwatering issue that is coming down 560 West. John explained to them that people have the right to water their land, which he understands. John also showed them a plat of when the City first mapped out the Overlook Subdivision. On that plat, there were two circles, one of which was on his property. It had a graph that indicated the two lots were bad and kept sluffing. He has also heard there are springs on the land. If there are springs on that land, why did the City allow it to be built on? Now the homeowners are having to pay the price.

He wanted to save his home, so he spoke with a local contractor, Derek Hall to fix the back patio that was dropping. There were no cracks in his home at the time.

Three different engineers from his insurance company did an analysis. He gave John a copy of that analysis for future reference. They wanted to save the land and home, so they spent \$15,000 to put blocks in.

He met with John again and asked for a copy of the plat to show Mr. Hall to see if the home could be saved. He was told the plat was missing. Steve and John both said they saw the copy and Bob said he heard about it on the phone during the first meeting with John Postert.

Mr. Hoonakker stated he understands there is an irrigation problem and that there is spring water coming up.

One of the homeowners had their driveway lifted and there was so much water it could be squeezed out. Mayor Hirschi was there and witnessed it along with several other people. This is a serious problem. They have lost their home and the value of the land, no one's going to buy the land.

He asked if he could donate the property to the City and was told "we are not interested in the land and we don't want to take the liability". He is the one that has taken the liability and is burdened with the cost.

He just wants the City to find the water source. There is a major leak. He doesn't know where the water is coming from but above 560 West, they are watering 24 hours a day and it's all coming down between two homes. One of the homeowners dug a test hole and 35 feet down and found water.

He would like the Council to please help them.

He had a choice to make, he could let the property go to weeds and quit paying taxes on it, but they love the City and decided to spend additional money to beautify the land.

There is a water situation that the City needs to get control of.

Bob Harris stated his issues didn't start until March when the irrigation water went back into the system. Once the water came on their back deck started shifting. It settled about a foot in the first 3 months and now it's about 2 feet.

They have not had any issues for the last 8 years. The insurance company said they can't do anything for earth movement, but the earth movement was caused by water. That was denied so he is taking the full brunt of it. He owns the lot next door that is worthless now. He also owns a lot down the street, but he can't sell it because there is such stigma to all of the property.

Earlier this year they asked the City to put dye in the water to make sure it isn't irrigation water, and they were told they didn't know where to put the dye in at. He feels like it doesn't matter where the dye is introduced, if dyed water comes out the bottom then we know that is the source of the issue.

Mr. Harris has taken an \$800,000 loss with no recourse until we get this solved and possibly salvage one of his lots. They need the City to come in and do something.

Steve Bird said there are concerns even on his side. The map that the Mayor gave him shows a slide area that goes out into the street in front of his house and Dave Anderson's house. He does have some future concerns about the area. He is afraid he will lose his house or that it will be devalued if he tries to sell it.

Reese Poulson lives at 295 N 560 W. He is about 30 yards away from the two homes that have been destroyed. In 18 months, his house has slid 3 inches between the driveway and the garage because of the water coming through. It is not settling; it is slippage on his property. He is faced with the same situation of devaluing his home and the circumstances that this water problem is making happen.

The sign says a proud past. He and his wife have been in La Verkin since 2015. He wants a proud past with a promising future. The other property owners have had a dent placed in their future.

He would like to know if there is some form of city protection or an outreach program similar to FEMA that can help citizens in disastrous situations. He would like to stay in his home and have the water problem solved.

Jay Rice lives at 330 N 560 W. He is on the east side of the street. Mr. Rice said he has complained several times to the City about water running across his sidewalk constantly. It gets slimy and slippery and he is afraid someone is going to fall. The people above him turn the irrigation water on at 7 am and it is still running at 7 am the next morning. He has a video of water pouring out of his hill and coming into his yard. He has a French drain in his backyard, and he has water coming out of that constantly. The hill behind him is sopping wet right now. Losing his house is a scary thought, he is on social security.

There is a spot in his driveway that is gravel with a black pipe that is supposed to be a drain but no water comes out of it, it all comes out of the ground just like a spring. The water goes across his sidewalk making it slippery. He is afraid someone is going to get hurt and sue him.

Another problem he has and has had for the nine years he has lived in the house is that the gutter has the wrong slope. The water stays right in the center where his house is. It turns green and nasty and is not good for his yard.

His biggest concern is the people above him and the amount of irrigation water they use. Is there a way to control the amount of watering they do? The water doesn't need to run 24, 36, or 48 hours.

Everyone on that street is afraid they are going to lose their land. He is afraid the hill is going to come down on his house. Several years ago, there was a water line break that almost flooded his house and washed out a bunch of land. Luckily, he had the French drain and the City responded quickly to shut the water off.

He would like somebody to let them know what can be done about all the water.

Jeff Thornberry lives at 270 N 560 W. He lives directly across from the Hoonakker's lot. It is deeply distressing to look out your window and watch your neighbors' home being dismantled because of a problem that may well be contributed to our neighbors, unknowingly.

He is struck with this situation now where he is looking at his investment in this community and wondering whether this is where he should be. This piece of property that is part of his future is clearly in jeopardy and he is looking around to see what our City is going to do to try and ensure that everything is being done to mitigate, or at least reduce the risk of this continuing to spread. He wants to make sure the City understands that this is our community, and it is suffering here on this street because of something that the property owners can't control. They need to have some kind of support to try and figure out what they can do to stop it and try and help their neighbors that have been harmed by this.

He would also like to commend those homeowners for beautifying the lot even after losing their homes.

If he does decide to sell his property, he must disclose this problem and that will impact home values in the area. It has ramifications that go beyond the sad tragedy of a couple of homes. It could expand and take more.

City, please do your due diligence and see what can be done. Especially hearing that plans are being made for irrigation conservation. Maybe we can find ways to get our other neighbors in the community more aware of what is happening and see what we can do to only use the amount of irrigation water necessary to achieve the goal of feeding livestock and not have it be unnecessarily used or wasted.

Karen Bennett lives at 320 N 560 W and has had the water problem for 15 years. It was not disclosed to them when they purchased the property. The rock wall behind her home is saturated with water. When you walk across the back it's like walking across a mattress, soft. Her husband is 100% disabled. She would like to resolve the water problem for not only just herself but the entire street.

Mayor Hirschi thanked the citizens for coming to the meeting and told them the last thing he wants to see is for someone to lose their home for any reason.

When this issue first began Derek, and his crew began investigating it by taking water samples to try and find the source. The samples did not match our culinary or irrigation water. That's not to say it may be from people overwatering, he is not sure. The line has broken in the past and the City took care of it.

No one that is working for the City now was working for the City back then so as far as we all know the development was done properly.

Mr. Hoonakker reported when James Blackmore installed water lines for Bob Harris the water was pouring out in several places once the digging began. Since then, there is a 4-inch deep crack with water in it. There is nothing the homeowners can do if the City doesn't find the water source.

Derek explained the Overlook Subdivision has three or four different issues going on. The water issues first began in 2005 with Mr. Harris's property and one other location. At that time Mr. Harris put vertical and horizontal piers in his backyard. The water dried up and hasn't been an issue until March of this year. In 2005 the water dried up before the irrigation water was out of the system. This year, we won't know if Mr. Harris' issue is irrigation water until we take the water out of the system.

The irrigation water numbers for 2020 have only slightly increased and with the amount of water coming out on 560 West it would affect the monthly water reads, so he is confident that the problem is not an irrigation line break. However, it may be from other users overwatering.

We have been working with Sunrise Engineering to figure out this issue. The City has taken multiple water samples from 560 West to see if the water properties match either the irrigation or culinary water. They have some thoughts on what may be affecting the properties. It may be overwatering, but he truly believes it is not a break in the City's irrigation line.

The map mentioned is a map the City had done when Mr. Harris began having issues. The company put together a history on the area and at that point, we could see there were some potential problems there, but it was an already existing subdivision with existing homes.

When the soils investigation was done for the houses on the east side of 560 West, they verified that there was water and felt there could be springs on that side. That was why the French drains were put in to draw the water from the backyard to the curb and gutter.

The City has dug test holes on the two large fields above the east side of the subdivision and they have found nothing that brings up the large amount of water that is coming out of the hillside.

The City has done a tremendous amount of testing and we still don't know what is causing the water issue.

Mr. Harris reported his irrigation water has been shut off for 12 years but his irrigation box is wet. He thinks the water is leaking out of the irrigation line, seeping down and coming out the bottom.

In 2005 he spent \$170,000 to shore up the house. It worked and looked very nice until March of this year. In 45 minutes, the back end of his property had started settling down and it has just continued to get worse.

Councilman Gubler mentioned this year has been one of the driest we have had so this being spring water doesn't make sense. It has to be overwatering or a line break.

Derek reported the irrigation water was turned off in that area for a week and there was not a decrease in the amount of water coming out on 560 West.

Councilman Gubler stated he used to live close to the area and when he was putting in a swimming pool, they hit beach sand when they were about 5 feet down. At the time he was told that sand runs all the way to the edge. Perhaps water is hitting that sand and creating a river flow.

Derek said that is the point, we don't know "the where". We don't believe it's in the line but overwatering and saturating could be causing or contributing to the issue.

The City has had several culinary breaks on 560 West over the last month and has not run into anything that has been overly saturated from anything other than the leak they were repairing. There has also not been any street or curb and gutter cracking that would show the road has been impacted by any of this.

Derek's crew took a backhoe and dug down 15 feet on one of the properties and hit a clay layer. He wondered if the water wasn't hitting that layer and coming through. They dug the entire length of the property over to the neighbors and didn't encounter any water.

He has no idea where the water is coming from. He is still working on it, they are continuing to take samples, and the City is still paying Sunrise Engineering to research it.

Kyle mentioned he spoke to the person that owned the property in the '50s and '60s and was told there was water that came off the hill back then. That was well before there was an irrigation system.

Councilman Hardy reported as a teenager he remembers getting his truck stuck in that area on the road below the hill (Confluence Park) because there was always water from that draw. There was never running water but that particular spot on the road was always wet.

Mr. Harris asked why the subdivision was even allowed without recommendations from the engineers on which lots homes could be built on.

He had no idea his home was in a ravine that was filled in with fill dirt.

Derek reported there was no information kept on subdivisions until he was hired and began keeping it.

He explained the subdivision process.

When a building permit is pulled, a soils engineer must verify the soils and the things that must be done to build on the property. If the water is a seasonal thing or in Mr. Harris' case, there were no issues from 2005-2020, the recommendations could be different. The soils engineer tells the city what can and cannot be done on the property. It also is given to the structural engineer and they incorporate the information on how the foundation of the home needs to be built. We don't control that process; we just go by the soils engineer's recommendation. The city takes it from the foundation, up.

The soils engineer paperwork for each home is supposed to be on record so potential home buyers can do their due diligence and find out that information.

While he doesn't know what was or wasn't done when approving the Overlook Subdivision, he can say he has never had a lot labeled as unbuildable as long as the soils engineer recommendations are met.

Mr. Harris said that's one scenario, the other scenario is when they did the subdivision, he knows the City had an engineer verify that the situation should have been acceptable for building lots. If you look at the old maps and pictorials you would see that his lot is in a ravine. He knows there is paperwork on that subdivision and will get Derek a copy of it.

Derek agreed that the lot is in a ravine, he is the one that gave the homeowners the map, but at that point, the homes were already built. He would like to see the subdivision paperwork because the City doesn't have anything.

Kevin mentioned he was a city attorney in Utah County and at that time they had a situation where a developer wanted to develop a property that historically was known to have a high-water table. The city told him the property had a high-water table but the developer had paperwork from a hydrologist and soils engineer completed over several years stating the property was dry. He told the city they either let him move forward with the development or he would sue them for impacting his constitutional right to develop his property.

The subdivision gets developed and two years after the houses are built, they went into a wet cycle and every home had water in the basement.

Water comes and goes, especially in a desert. Several years ago, Death Valley was covered in purple flowers that hadn't been seen in 50 years because they hit the wet cycle.

Once the developer realized the city was right and there was a potential for water issues, the plats for the phases moving forward stated the situation, but until then the city had no right to deny the development.

He doesn't know if that was the situation with the Overlook Subdivision, he was not here when the subdivision was developed, but it could explain why something that happened in 2005 didn't happen again until 2020.

Mr. Hoonakker pointed out they have lost a lot of money and are still trying to do the right thing. It is hard to lose that kind of money and just move on. He appreciates the City employees but the residents on 560 West need help, please do what you can to help them.

Derek said he has been working with the residents and has from the beginning. The City wants to resolve this issue and is doing all we can within our financial abilities. We are relying on the City's engineers to give us some direction. He will keep Mr. Hoonakker and Mr. Harris involved moving forward. At this point, he honestly doesn't even know where to start looking for the problem. Shutting off the irrigation water isn't going to tell us if the issue is from overwatering or a break in the line.

Denise Poulson lives on 560 West. She asked that after tonight, this issue isn't forgotten. The damage is continuing. She doesn't want her home damaged any further. She is willing to come to city council meetings monthly for an update if necessary, so they are not forgotten.

Derek said he cannot guarantee a monthly update. We are currently waiting on the engineers.

Councilman Justice stated he is not an engineer or hydrologist, but he is familiar with artesian wells and springs that come and go. He is from Indiana and they have them all the time.

La Verkin had a section of street on 200 North that was perfect and then suddenly it sunk. There is possibly a well or spring in that area, just like on the Overlook. The ebb and flow of the water has to have some kind of impact on this situation. The water could be coming from 200 yards away and making its way to the Overlook through the sand and clay. Until we know exactly where the water is coming from, we can't determine if there is anything the City can even do.

Derek stated the City will continue to move forward with finding a solution to the situation and will keep the men up to date on the project.

Councilman Gubler mentioned to Derek he understands how it is a shot in the dark to try and locate the problem, but we know where it's manifesting. Could we find a spot before the homes, collect it and run it through a pipe out to the cliff? That may be the easiest fix.

Problems in 2005 make sense because that is the year the Virgin River flooded but this year it doesn't make any sense.

Derek agreed that we do know where it's manifesting. He thinks that is a great idea and will have the engineers work on that.

The testing we have done on the water matches more with water further east, not water from the area up to 300 West.

Councilman Hardy wanted Derek to know the Council appreciates him and his crew and feels they are doing a great job.

Councilman Justice asked if there are any records from the previous inspector for the subdivision.

Derek replied he has no paperwork for the Overlook Subdivision. He even went to the County website to review the mylar and there are no specific notations for lot restrictions listed.

Requirements are constantly changing and becoming more and more restrictive. Over the last 21 years that he has been with the City he has seen major jumps in building requirements.

John has spent a lot of time with these two gentlemen this year. We have done water testing and taken the backhoe out and dug. We have shown that the City is trying to figure out what is going on.

The irrigation water numbers are only 15-20-acre feet higher than last year, which makes sense for a dry year. The amount of water coming out on 560 West does not match with the amount of water going through the system if there was a line break.

The City has turned it over to Sunrise Engineering. He will keep the Council updated on what they find.

3. Discussion and possible action to approve the final plat for the Terrana Subdivision, a 3-lot subdivision located at approximately 100 E 270 N.

Kyle reported the Planning Commission approved the final plat unanimously. They do meet all the requirements for a subdivision.

The motion was made by Councilman Micah Gubler to approve the final plat for the Terrana Subdivision, a 3-lot subdivision located at approximately 100 East 270 North, second by Councilman Kelly Wilson. Hardy-yes, Gubler-yes, Justice-yes, Wilson-yes, Wise-yes. Motion carried unanimously.

4. Discussion and possible action to approve Resolution No. R-2020-18; a resolution adopting the La Verkin City Water Conservation Plan, an update to the La Verkin City Water Management and Conservation Plan. Christy asked that the resolution number be changed to No. 2020-19 when approved.

Councilman Hardy pointed out on page 2, the paragraph under Table 1 states the growth rate for the last 20 years is 1.5% and that the expected growth rate will continue to be consistent with the last 10 years which is 1.25%. Why is the growth rate reduced? Will the lowered growth rate skew the charts and graphs listed in the plan? We know La Verkin City is going to continue to grow. Derek mentioned earlier the new subdivision, Cottonwood Hollow.

Kevin mentioned the last 10 years includes the great recession.

Councilman Wilson pointed out when you start with small numbers the rate is going to be higher. Once you get a higher population, the growth rate starts to go down. For instance, 1% of 100,000 is different than 1% of 5,000.

Councilman Hardy said he understands that and knows the plan is just a projection, but he is afraid with such a low growth rate La Verkin will hit the limits earlier.

Kyle reminded the Council this plan is updated every 5 years.

Kevin pointed out that growth isn't continuous, especially in an area like La Verkin that is based so much on tourism.

Councilwoman Wise mentioned she feels the growth in La Verkin has been more retirement people which would lower the numbers. She feels with the current trend, within 5 years the growth will lean more towards families.

Councilman Hardy stated he has reviewed the plan quite extensively and is very impressed with it, especially after the answers he received regarding the growth rate.

The motion was made by Councilman Kelly Wilson to approve Resolution No. R-2020-19; a resolution adopting the La Verkin City Water Conservation Plan, an update to the La Verkin City Water Management and Conservation Plan, second by Councilman Ray Justice. Wilson-yes, Wise-yes, Justice-yes, Gubler-yes, Hardy-yes. Motion carried unanimously.

Councilman Hardy said goal #4 talks about metering the irrigation system. He thought the City was trying to get away from doing that.

Kevin explained La Verkin City got a reprieve until a meter is developed that can function with the quality of water we have. At some point, we will have to do it.

Kyle said the City is working toward that by requiring new construction to install a yoke. The City is technically metering the irrigation water when it comes into our system.

5. Discussion and possible direction regarding the Memorandum of Understanding between La Verkin City and Gail G. Earl.

Kyle read through the changes requested by the Earl Family.

They did let Kyle know if the City doesn't make the changes they are requesting, they have the option to sue. He responded that he understands that, but they need to realize if there is a pending lawsuit this portion of the 100 South project would have to be removed to qualify for a loan for the project.

The family thought when the Council agreed to work toward a resolution that they committed to doing it. Kyle told them he felt he was very specific at that meeting that there was no timeline. The City doesn't plan to bid on the 100 South project for a year. They also wanted to add that the City would cover any damage or personal injury that occurred on their personal property until the project is completed.

Councilman Wilson mentioned homeowner's insurance covers damage and personal property.

Kyle explained any changes would require a new Memorandum of Understanding (MOU).

Councilman Wilson is fine with the original MOU and does not want to add anything additional.

Councilman Justice pointed out if the MOU isn't signed before the City begins the 100 South project the Earl portion will be left out and it will be even longer before this issue gets resolved.

Councilman Gubler said he is comfortable with the MOU as written.

Councilman Justice mentioned he doesn't think a judge would side with them after everything the City has done to appease the situation.

Kyle reported the City has just verbally agreed to include the Earl property in the 100 South project. We could decide to do it later. It just makes sense to include it with another project for cost purposes. Final engineering still needs to be completed for the project. The drawings in the MOU are just preliminary.

Councilman Hardy said if we have another deluge come down the property will get flooded. Could we put sandbags out for them?

Kyle reported water flooding their property was an issue way before the road was ever re-done. He would be careful assisting someone with their personal property issues because then everyone in town will expect help.

Kevin pointed out sandbags will just divert the water somewhere else and possibly cause issues for someone else. There are several people on that street that have had flooding issues.

Councilman Wilson said he remembers as a kid that if it rained really hard the water almost got into his house and that was with the canal stopping a lot of the water.

Councilwoman Wise stated there were several work sessions for this issue. She feels that the Council, Mayor, and City staff worked really hard to find a good resolution for the City and for the Earl's. She stands by what was decided back then. She thinks it's important for the family to understand it's the City's intent to treat them well and that we are doing all we can to move the road project forward.

Kevin mentioned this is a memorandum of understanding, not a contract. An MOU is like a letter of intent. It's a memorandum capturing what we understand we would like to accomplish together.

Kyle will tell the Earls the Council would like to leave the MOU as it is. We intend to get the situation resolved and that we are planning to include it in the 100 South Project. He will also let them know an MOU is not a contract but something we are trying to accomplish together. He will remind them that any pending litigation would stop their portion of the project, not because we are threatening them, but because the City would be unable to get funding. There will also be no timeline for the project.

6. Discussion and direction on the annual La Verkin City Christmas Eve Program.

Kyle explained this program has been happening since 1904 but he can't see how we can move forward with it with the State Covid restrictions.

There were several different ideas on ways to keep social distancing and still have the program.

The Council determined there was no way to keep "Santa" safe as well as our citizens.
The annual La Verkin City Christmas Eve Program was canceled.

F. Mayor & Council Reports:

Wilson-Nothing to report.

Wise-The ZRC is working to get the environmental study for the multi-use trail started.
She thanked the Mayor, Kyle, and Chief for making her electronic participation possible.
She feels that traditions are really important, but the lives of people are more important.

Justice-Nothing to report.

Gubler-He asked Derek to tell the people on the Overlook Subdivision that the Councilmembers are fellow citizens and that they are on their side. They did hear them and will do what they can.
He also thanked the Chief for his report.

Hardy-Mosquito Abatement is slow right now, but they are treating mosquitoes when they find them.

G. Adjourn:

The motion was made by Councilman Ray Justice to adjourn, second by Councilman Kelly Wilson. The motion was carried unanimously at 8:17 pm.

Minutes were done by Christy Ballard.

December 16, 2020

Date Approved



Mayor Richard M. Hirschi

ATTEST:

Christy Ballard
Christy Ballard
City Recorder