

City of La Verkin

435 North Main St., La Verkin Utah, 84745
(435) 635-2581 Fax (435) 635-2104
www.laverkin.org

La Verkin City Council Meeting Minutes

Wednesday, December 1, 2021, 6:00 p.m.

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

Present: Mayor Richard Hirschi, Council Members: Kelly Wilson, Patricia Wise, Ray Justice, and Chuck Hardy; Staff: Kyle Gubler, Derek Imlay, Chief Ben Lee, Christy Ballard, and Kevin Bennett, Public: Blair Gubler, Phillip & Peggy Gonzales, Caleb Rees, Bill & Pat Smith, and Ryan Cunningham.

Councilman Micah Gubler was excused.

A. Called to Order –The invocation/thought and Pledge of Allegiance were given by Richard Hirschi at 6:00 pm. Mayor Hirschi said the City is participating in Wreaths Across America this year. There are 99 veterans in our cemetery who will receive a wreath on Saturday, December 18th. The community is invited to attend a short ceremony.

B. Presentation:

1. Fiscal year ending June 30, 2021, Financial Audit-Rees CPA

Caleb passed out a copy of the Annual Financial Report and thanked the Council for the opportunity to perform the audit for La Verkin City.

The audit is a requirement imposed by the State Auditor. The main purpose is to issue an opinion on the City's financial information.

Pages 1 and 2 are the opinion letter on the financial statements. The highest opinion that can be received is an unqualified opinion which is what La Verkin City has been given.

The last six pages of the packet are the other reports he issues.

Page 57 deals with internal controls. These are important because they ensure that the financial information has not been corrupted. This includes segregation of duties and checks & balances. It is his opinion that the City has complete segregation of duties which helps insure if there was fraud, it would be caught in a timely manner.

Page 19 is the income statement for the governmental funds. The General Fund picks up everything not covered by a specific fund such as a water fund. He is pleased to report the City has done a great job with handling the pandemic.

Page 23 is the secure income statement for the Water Fund and Irrigation Fund. When Caleb began performing the audit, the Drainage Fund always seemed to run a deficit. The City did a rate increase to bring that fund back in balance. When you look at the fund now, it is coming out positive. The Drainage Fund is getting more healthy and able to cover repairs, maintenance, and administration of that fund.

The Funds are all looking healthy. When he first started the City had a couple of findings on internal controls. The Drainage Fund was in some trouble and that has turned around as well.

La Verkin City has a clean bill of health. This is the 3rd year with no findings. He thanked the Councilmembers for their role in achieving that as well as the staff.

C. 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
3. Minutes: October 20, 2021, regular meeting
4. Checks and Invoices: \$13,683.16

The motion was made by Councilman Ray Justice to approve the consent agenda as written, including the minutes of the October 20, 2021, regular meeting and checks and invoices in the amount of \$13, 683.16, second by Councilman Chuck Hardy. Roll Call Vote: Wilson-yes, Wise-yes, Justice-yes, Hardy-yes. The motion carried unanimously.

D. Citizen Comment & Request for Future Agenda Items:

Maridee Johnson went over the upcoming Winterfest schedule for the Councilmembers.

E. Public Hearing:

1. The issuance of the Parity Water Revenue Bonds of La Verkin City and any potential impact to the private sector from the construction of the 100 South Project.

Kyle reported the total estimated project cost is \$1,211,000.00. The project will be funded with a loan from the Drinking Water Board for \$1,151,000. The City will be contributing \$60,000 to the project. Ash Creek Special Service District will be contributing a portion as well.

The interest rate is 1.57% paid over 35 years. The annual payment will be about \$43,000 with a total bond cost of \$2,322,000.

Part of the requirements are to have one payment in reserve within 10 years so the City will need to put \$4,300 each year, for the next 10 years, in reserve for the final bond payment. The City will not be allowed to increase the water rate because of this project.

The notice for this public hearing was sent to every resident in La Verkin City. There were five responses sent back to the City. Morning Dove Nelson-in favor, Lisa Koller-in favor, Michele Myers-in favor, Willyne Beecher-in favor, and one anonymous-in favor.

The public hearing opened at 6:20 p.m.

No comments were made.

The public hearing closed at 6:20 p.m.

F. Business:

1. Discussion and possible action to accept the fiscal year ending June 30, 2021, Financial Audit.

The motion was made by Councilman Kelly Wilson to accept the fiscal year ending June 30, 2021, Financial Audit, second by Councilman Chuck Hardy. Roll Call Vote: Hardy-yes, Justice-yes, Wise-yes, Wilson-yes. Motion carried unanimously.

2. Discussion and possible action to approve Proclamation No. 2021-05; a proclamation designating January 23-29, 2022, as School Choice Week.

Councilwoman Wise mentioned the Councilmembers did not receive any background information on this item and wondered what it would be approving.

Kevin said the proclamation states everything he received from the Mayor. It is basically stating there are a lot of different ways for children to receive an education other than the traditional public schools, although that is certainly one of them. The City would be stating they recognize the importance of education in whatever form it is presented, from public schools, charter schools, homeschooling, etcetera. And we celebrate that, and the impact of education in our community. There is no monetary donation or commitment other than recognizing education in its various forms.

Mayor Hirschi said he is in favor of educating children with any of the options stated.

Councilman Justice pointed out a correction in the second Whereas clause, La Verkin City needs to be added in place of Government Name.

Kevin read the letter Mayor Hirschi received from the president of the National School Choice Week regarding the proclamation.

Councilman Hardy stated, as a retired public-school teacher, it is a benefit to have different options available for our children because they respond differently. Some do well in a particular setting while others do better in a different setting.

The motion was made by Councilman Chuck Hardy to approve Proclamation No. 2021-05; a proclamation designating January 23-29, 2022, as School Choice Week, second by Councilman Kelly Wilson. Hardy-yes, Justice-yes, Wise-yes. Wilson-yes. Motion carried unanimously.

3. Discussion and possible action to approve Resolution No. R-2021-23; a resolution amending the City's culinary water fees and adjusting the base water rate for short-term rentals.

Derek explained this was discussed several meetings ago. Sunrise Engineering completed a study regarding the impact of the water usage between short-term rental homes and a regular residence.

The study showed short term rental homes use 33% more water than a residence does. There seems to be less concern with water conservation with a short-term rental.

Staff felt an additional base rate charge would give the City additional revenue to do more water conservation projects and would hopefully help the property owner realize they need to help in the water conservation efforts.

The proposal is to adjust the base rate for short-term rental houses only. It also establishes the commercial rate structure needed to move a home from residential use to commercial use. He feels this is needed and the proof was provided to show it is necessary.

Kevin explained there are two sections to this resolution. First, is the Washington County Water Conservancy District (WCWCD) \$.10-per thousand-gallon increase. This increase will begin January 1, 2022 and will continue to increase by \$.10 each January 1 for the next 10 years (per WCWCD schedule) unless changed by resolution. Second, is the short-term rental whole house only base rate increase.

Councilwoman Wise feels each item should have been its own resolution to make it less confusing down the road. Item 2 on page 2 states "Short-term rentals (whether or not properly licensed) shall be assessed and charged a commercial base rate (a rate increase of roughly \$11.50 per month)." If we know that somebody is operating illegally, we should stop the vacation rental from operating. To just charge them a base rate increase is pretty much saying it's okay to be illegal and not have a license.

Kevin responded that the resolution is a conservation measure. If the Council wants to separate the two items, we can but the Whereas clauses clearly separate the issues.

As far as the second comment, the "whether or not properly licensed" can be taken out but it isn't doing what you're saying it does. It protects the City. If we find out someone is running a vacation rental illegally, it takes a while to go through that process. This gives the City a hammer immediately, we will just raise the rate.

The whole concept of vacation rentals is an enforceability nightmare. This resolution has some teeth in trying to regulate them.

He said he included this in the resolution so the Council would have this discussion. There are several illegal vacation rentals in the City right now and regulating them is going to get even harder with the State allowing internal accessory dwelling units.

This will allow the City to increase the water rate once we realize they are operating without a license and charge them the \$50 fine for operating without a business license.

Derek reported Ash Creek SSD uses the City's water billing to determine who is operating a vacation rental and then charges an increased rate.

Blair stated they do it first by business license. The property owner is admitting with that license they are a business. If it comes to their attention a home is being used as a vacation rental, they will increase their rate as well. They should be paying for that extra 33%.

Derek confirmed that a legal battle over an illegal vacation rental could take months to resolve. Most property rights issue the City has gone to court over, the judges don't want to be dealing with them and put them on the bottom of the pile. This would help the City recoup some for what the property owner is doing illegally.

There is no clear-cut path, but something is better than nothing.

Kevin stated he is not in favor of this increase at all. The vacation rentals are already being charged for the water they are using. We are injecting another nightmare into the scenario. We are raising a rate on something we already know has problems with people doing them illegally.

We can see how many gallons people are using whether that is all residential, residential with a few guests, or residential with a few patrons, how do we split that up? It is his opinion to leave it the way it is right now with people getting charged for the gallons they are using.

This is another way to "ding someone who goes through the process". If the phrase is removed from the resolution the City is saying is, if you went through the business license process we have another fee for you. Meanwhile, the non-licensed vacation rentals are still not paying their share and getting rewarded by not having to pay the increased water rate.

Councilman Wilson stated short term rental are a commercial entity and need to pay.

Kyle pointed out if a legal vacation rental gets charged an increased water rate it may make them more willing to notify the City of people who are operating illegally. That would be the means for the City to police it.

Ryan Cunningham-Asked if this resolution would affect owner-occupied short-term rentals.

Kevin answered it was only for whole-house vacation rentals, not bed & breakfast facilities.

Kyle said he does not see the rate increase as a punishment. They are a commercial entity conducting business and will pass the increase on to the patrons.

Councilwoman Wise mentioned if the City charges illegal vacation rentals the increased water rate, would that deter the legal vacation rental owners from turning those people in?

What we need is for licensed vacation rental owners to notify the City of illegally operating vacation rentals so we can close them down. She thinks charging the illegal rentals will bring in extra money each month but will not help us solve anything.

She does agree that they are businesses and should pay a business rate but thinks that charging the illegal rentals would set a precedence that the City is okay with it.

No one is going to admit to the City they are operating without a license and how would anyone prove they weren't. She also doesn't think \$11.50 is enough of an increase to do more than make them irritated.

Councilman Wilson said if we recognize they are illegal then we will start the process to shut them down. The fee needs to be big enough to deter someone from operating without a license and \$50 is not big enough.

Chief Lee stated as soon as an illegal vacation rental comes to our attention, they are very easy to enforce. We charge them with the state statute of doing business without a license, which is a class B misdemeanor offense and has a fine in the \$400-600 range. It is also a criminal offense which is another deterrent.

Councilwoman Wise mentioned the Chief has said that business owners must be served in person and if the owner is not living here, they cannot be served. Her understanding is that enforcement is very lacking.

Chief replied not for operating without a license. They have cited managers before for this offense.

Kevin reiterated he can split the two issues into separate resolutions, but they are both part of the conservation effort. If the Council wants to remove the phrase "whether properly licensed", that's fine but he feels this is the issue. That is what will get people to hopefully notify the City about the illegal rentals.

Councilwoman Wise would like the items separated into two resolutions and would like the phrase removed from the base rate increase.

Councilman Wilson is fine with keeping it one resolution if we identify the rate increase is the \$.10 per thousand gallons from the WCWCD.

He was fine if the other members wanted to remove the phrase from the short-term rental base increase.

Councilman Hardy was okay with either one or two resolutions, but he is not in favor of a base rate increase. They already have a business license and are charged for the water used.

He would like to see something that works for all the businesses, not just the short-term rentals.

Councilman Wilson said this increase would make it equal for all businesses. Commercial properties are already charged a business rate, these are homes operating as a business and need to be charged that rate instead of a residential rate. The question is to take out the language of "whether properly licensed" or not because we don't know if they are a business or not. That is when we go through law enforcement.

There was a discussion on water usage from a vacation rental versus water usage from a residence. The study showed the average usage was 33% higher than a regular home. Some use more than that.

Councilman Justice said he was okay with one or two resolutions. He is fine with removing the phrase “whether or not property licensed” if staff would be adding the appropriate rate to a property that is possibly operating as a business whether they have a license or not and letting the property owner prove they are not a business.

Kevin responded without the verbiage staff could not charge people. The Chief said he can shut down illegal short-term rentals.

There was a discussion on ways to identify those illegal vacation rentals versus homes with a large family or visitors. **The motion was made by Councilman Kelly Wilson to approve Resolution No. 2021-23; a resolution amending the City’s culinary water fees to include the Washington County Water Conservancy District’s annual \$.10-per 1,000 gallons increase and adjusting the base water rate for short-term rentals with the removal of the phrase “whether or not properly licensed” from item 2, second by Councilman Ray Justice. Roll Call Vote: Hardy-yes, Justice-yes, Wise-yes, Wilson-yes. Motion carried unanimously.**

G. Mayor & Council Reports:

Wilson- Kyle reported the Hot Springs representative is not able to come this month but is willing to present later.

Councilman Wilson reported the landslide has stopped moving and drilling has started. Once the test holes are drilled the engineers can make a better assessment of how to remedy the problem.

Kyle reported some of the neighbors were complaining about the drilling process. It is scheduled to be done drilling this week.

Mayor Hirschi reported there is still water running and the irrigation water has been shut off. The issue is not entirely irrigation water.

Councilman Wilson said the City is pursuing all angles for funding to take care of the problem. The State and County representative meeting didn’t look too promising, but we are still looking at other options. Dominion Energy has moved the gas line because it was compromised.

Wise: The Beautification/Trails Committee met today. The City is participating in Wreaths Across America. This is a national program that will be held on December 18th. Several surrounding communities participate in this program and put a lot of effort into honoring the veterans who are buried in their cemeteries.

The City Council approved a one-time \$1,500 donation for live wreaths to be placed at each of our 99 veteran’s graves. The Beautification/Trails Committee does not have a budget so it’s hard to find projects that the City can actually do to beautify the community.

Kyle asked the Committee how they felt about having a booth at the community events, and possibly Davis Market, to raise awareness and donations for Wreaths Across America so the City can continue to participate in the program.

Trails: nothing new to report.

Justice-The Washington County Solid Waste District meets on the 13th.

Hardy-Nothing new to report.

H. Adjourn:

The motion was made by Councilman Ray Justice to adjourn, second by Councilman Chuck Hardy. The motion was carried unanimously at 7:14 p.m.

January 5, 2022
Date Approved

ATTEST: Christy Ballard
Christy Ballard
City Recorder

Kelly B. Wilson
Mayor Kelly B. Wilson

