



Ferron City Council Meeting Minutes 07/13/2022
Council Chambers – Ferron City Hall
20 East Main Street, Ferron, UT
Phone (435) 384-2350 FAX (435) 384 2557 ferroncity.org

Present: Mayor Adele Justice, Council Member Brad Richman, Council Member Chris Winn, Council Member Gerry Stotler, Council Member Troy Winter, Council Member Dell Mead

Also Present: Barbara Bowles, City Recorder Jacqueline Wilde, City Treasurer Lane Justice
Grant Nelson Rayola Pfnister Ellen Wingate Darrell Brotherson Trenton Bennett
Tyrell Bennett LeeAnn Bennett Robert Bennett Calvin Bennett Tami Bennett
Liz Nielson Mistie Bennett Carlie Bennett Darrell C Brotherson

1. CALL TO ORDER, ROLL CALL, WELCOME & PLEDGE OF ALLEGIANCE

Mayor Justice called the meeting to order at 7:00 pm, July 13, 2022. Council Member Troy Winter lead the Pledge of Allegiance.

CONSENT AGENDA

2. APPROVAL OF MINUTES AS WRITTEN DATED MAY 11, 2022

Council Member Winter motioned to approve the minutes dated May 11, 2022, approved as written. Council Member Mead seconded the motion. Motion carried.

3. APPROVAL OF MINUTES AS WRITTEN DATED JUNE 8, 2022

Council Member Winter motioned to approve the minutes dated June 8, 2022, approved as written. Council Member Mead seconded the motion. Motion carried.

4. BOARD OF EQUALIZATION REQUESTS

Council Member Chris Winn abstained. Chris Winn requested a credit of \$13.70. He explained that he had a leak and it had been repaired.

Council Member Winter motioned to approve credit of \$13.70. Council Member Mead seconded the motion. Vote Needed. Richman Aye. Stotler Aye. Winter Aye. Mead Aye. Motion carried.

GENERAL BUSINESS/DISCUSSION ITEMS

5. CASTLE COUNTRY JACKPOT – TISHA THORNLEY

Several of the young contestants that participated in the Castle Country Jackpot Stock Show were in attendance and wanted to thank the city for helping with the stock show.

6. GREATLIFE RENTAL AGREEMENT

Currently the representative was not in attendance at the council meeting. Council Member Winter motioned to postpone the agenda item until later in the meeting. Council Member Mead seconded the motion. Agenda item is postponed until later the agenda.

PUBLIC HEARING

Council Member Winter motioned to open the public hearing. Council Member Winn seconded the motion.

7. A RATE INCREASE FOR A TYPICAL INSTALLATION CONNECTION. THE FEE IS FOR CVSSD. CULINARY, SECONDARY AND SEWER CONNECTIONS.

Type of Service	Inside CVSSD Boundary Proposed Fee Schedule	City Portion	Water Shares
¾" Culinary	\$1,750.00	\$50.00	1 Water Share
1" Culinary	\$2,200.00	\$50.00	1 Water Share
1 ½" Culinary	\$4,450.00	\$50.00	2 Water Shares
2" Culinary	\$5,150.00	\$50.00	4 Water Shares
Typical 4" Sewer	\$1,350.00	\$50.00	
Typical 6" Sewer	\$1,550.00	\$50.00	
Typical 1 ½" Secondary w/Meter	\$2,950.00	\$50.00	1 Water Share 0-1 Acre 2 Water Shares 1-1.5 Acres 3 Water Shares 1.6-2.25 Acres 4 Water Shares 2.26-3 Acres 5 Water Shares 3.04 – 4 acres
Typical 1" Secondary w/Meter	\$2,450.00	\$50.00	Same as ABOVE
Typical 2" Secondary w/Meter	\$3,650.00	\$50.00	Same as ABOVE
Typical 3/4" Water, Sewer and 1 ½ "Secondary Total	\$5,550.00	\$150.00	3 Water Shares

**For outside City Limit Connections, there is no secondary. There will be a typical fee if there are sewer and water services nearby, but would be evaluated on a case by case basis.

The Mayor explained that the fee schedule.

The Mayor asked if there was any questions concerning the rate increase.

8. REMOVE COMMERCIAL WATER BILLING AND REPLACE WITH METER SIZE BILLING

Council Member Stotler explained that currently the commercial water accounts were paying the same as residents. Council Member Stotler had done some research and now is suggesting that commercial water billing base be \$25.00.

Council Member Winter motioned to end the public hearing. Council Member Mead seconded the motion.

RESOLUTIONS

9. RESOLUTION 2022-5: A RESOLUTION TO AMEND AND BALANCE THE BUDGET 2021-2022

Council Member Richman motioned to amend and balance the 2021-2022 budget. Council Member Stotler seconded the motion. Mayor Justice asked for a roll call vote. Richman Aye. Winn Aye. Stotler Aye. Winter Aye. Mead Aye.

10. RESOLUTION 2022-6: A RESOLUTION TO INCREASE A TYPICAL INSTALLATION CONNECTION; CULINARY, SECONDARY AND SEWER CONNECTIONS.

Council Member Winter motioned to approve and adopt RESOLUTION 2022-6 to increase a typical installation connection; culinary, secondary and sewer connections. Council Member Winn seconded the motion. Mayor Justice asked for a roll call vote. Richman Aye. Winn Aye. Stotler Aye. Winter Aye. Mead Aye.

REPORTS

11. MAYOR AND COUNCIL REPORTS

Council Member Richman

Just wanted to verify what time the horse races were for Peach Days. 2 pm to 6 pm? Council Member Winter stated that it would be 12 – 4.

Council Member Winn

Nothing to report at this time.

Council Member Stotler

Pioneer Day Celebration at the Mayors Park, everything is going as planned. There hasn't been any water updates from CVSSD.

Council Member Winter

Parade will be a day parade this year for Peach Days.

State Street Route.

Paperwork currently filed with U.D.O.T.

Horse Races this year with Rach Rodeo. Mini Buck Bulls, Council Member Richman may have some ideas for steer roping.

The restrooms worked out well for the stock show. There was some vandalism. The restrooms still need to have doors installed.

Cemetery update. Current seasonal worker will be leaving. They will be looking for someone for just end of season. Council Member Richman advised that he had some people that were looking to work off community service that could possibly help. Mr. Winter wanted to put together a Cemetery Community Committee. Mr. Nelson asked the council about possibly using inmates to help with the cemetery. They are planting sod and seeds in the fall.

Council Member Mead

Peach Day Mud Bog – possible motorcycles. Concerned about sound system and the seating issues.

Fire Department had a BBQ up at Millsite last Thursday with their families. The Fire Department is still helping with Emery City.

12. GOLF COURSE AND MAINTENANCE REPORTS AND WORK ORDER REVIEW

No Golf Reports at this time.

Sid Swasey, Maintenance report that they are clean up still from stock show. He felt it went well.

There are some items that he will be bringing me a list of that may be able to be sold on a surplus sale.

- 13.** (IF NEEDED) CONSIDERATION TO ENTER CLOSED SESSION TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL, PENDING OR REASONABLE IMMINENT LITIGATION, AND THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY, PURSUANT TO UTAH CODE SECTION 52-4-205

14. APPROVAL AND PAYMENT OF WARRANTS

No motion.

15. CONCERNS FOR PROCEDURES OF ZONING ISSUES.

Tami Bennett - Mrs. Bennett handed out to the City Council a packet which held her statement.
(This statement will be included in the written minutes.)

Mayor Justice – Mayor Justice handed out to the City Council a packet which held her statement.
(This statement will be included in the written minutes.)

Council Member Dell Mead Left the meeting at 8:45 p.m.

6. GREATLIFE RENTAL AGREEMENT

Representatives from Greatlife, Jeff Harbertsen and Matt arrived at City Hall.

Both parties have invested great amounts of money and work.

The Metal Building did need some work to bring it to “code” per Council Member Winter.

Greatlife has invested in work that will not leave the building when they do.

What is fair rental value?

Should credit be given for GreatLife for they have invested?

Ferron City has invested close to \$78,000 plus.

Council Member Mead stated that he agreed that this was a win win situation. That we could start out with a lower rent. Then revisit the rent amount. Council Member Winter agreed.

Council Member Winn asked if there was a way to see what an average rental would be for a building comparable would be. Unfortunately, there is nothing like that around here. Matt

stated he would investigate what a finished warehouse would be. Council Member Mead stated that this is all new to Ferron City. Council Members would like to see comparable rentals; Richfield, Price etc. Greatlife stated that they are here to stay. Discussed the insurance needed. Greatlife will get the information the Council requested.

Council Member Dell Mead Left the meeting at 8:45 p.m.

17. ADJOURNMENT:

Council Member Stotler motioned to adjourn Ferron City Council Meeting at 8:51 p.m. Council Member Richman seconded the motion. Mayor Justice asked for a roll call vote. Richman Aye. Winn Aye. Stotler Aye. Winter Aye.

Attest:

Mayor Adele Justice

Barbara Bowles
Ferron City Recorder



13,709 records



Cunnsford

Aragon

Pitchfork

Jensen

Hootex



Effective 5/5/2021

57-1-13 Form of quitclaim deed -- Effect.

(1) A conveyance of land may also be substantially in the following form:

"QUITCLAIM DEED

_____ (here insert name), grantor, of _____ (insert place of residence), hereby quitclaims to _____ (insert name), grantee, of _____ (here insert place of residence), for the sum of _____ dollars, the following described tract _____ of land in _____ County, Utah, to wit: (here describe the premises).

Witness the hand of said grantor this _____ (month\day\year).

A quitclaim deed when executed as required by law shall have the effect of a conveyance of all right, title, interest, and estate of the grantor in and to the premises therein described and all rights, privileges, and appurtenances thereunto belonging, at the date of the conveyance."

(2) A boundary line agreement operating as a quitclaim deed shall meet the requirements described in Section 10-9a-524 or 17-27a-523, as applicable.

Amended by Chapter 385, 2021 General Session

Undivided interest is defined as an identical fractional or percentage interest or share in each right, benefit, and obligation with respect to the subject matter of a contract. In real property law, an undivided interest refers to the interest in property owned by tenants in common whereby each tenant has an equal right to enjoy the entire property. For example, if two tenants in common own an undivided interest in the property, so if there are two tenants in common in an apartment, each owns a one-half interest in the apartment. In finance law, an undivided interest is a complete or partial ownership of all parts of a whole. For example, an undivided interest in a pool of loans means the ownership or rights to 10 percent of each and every loan in the pool.

What Do You Need to Know About Easements? Why You Must Have to Share Your Property By Cathie Ericson Jun 25,
 easementWhat is an easement? Sure, it has the word “ease” in it, but most home
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 the term often crops up after buyers have made an offer on a home that’s been
 eases up the easement—which is essentially the legal right for someone else to
 y what? You bend over backward to buy a home and now you have to share?
 et’s unpack exactly what it means. Right of way easement

“An easement may be created by Property A’s shared driveway. If the owner of Property A grants Property A still maintains ownership of the land itself,” says Realtor® **Kelly Hurley** with Re/Max Advantage Plus in Dallas, TX.

- **Exclusive** means that a number of different parties can use the easement. Non-exclusive can also mean that additional parties can acquire the right to use that same easement in the future. A common example of a non-exclusive easement is a roadway easement in a shopping center.

exclusive easement is a type of referring to a property easement, which gives anyone access rights to a property as long as the property owner's rights are respected. An easement does not include ownership rights, but a general use of the land through a right of way or a deed.

perpetual and temporary access rights. A perpetual nonexclusive easement is always accessible unless there is change in rights usage. A temporary easement is granted for a limited time. Temporary easements may be used by the

er example, how a neighbor's easement works is in the usage of roadways. For instance, a road located on the property is open to public use, because the landowner allows it for general transportation. Since the owner allows this, the landowner has no right to object to someone blocking the road for another use.

Another example of an easement is a portion of a property as off-limits to anyone who doesn't have access rights. This can be a restriction placed by a property owner or acquired by the actions of specific persons. An example of this is a property that is closed to certain times of the year.

can I have my property easement removed? Answer: If you have an easement on your property that allows

s to _____ If you wish to have it removed, what options do you have? Property _____

ment is a portion of the property, often refer to a portion of the property that is dedicated to allowing access to the property that does not have road access to it, or that is otherwise

different ways to have an easement removed, and all of them are available in file a document to expressly release the easement, meaning you authorize

senior property holder. You may also terminate the easement by express terms, meaning

pre-termination of the easement. Filing for cessation of the purpose for which the easement was

Abandonment – if a railroad track created an easement on your property, and then the railroad ceases to use the track for its intended purpose ended. Abandonment is another way to release an easement, when

the easement has definitively ceased to use or have interest in it.

If the tree on your property is able to be removed, and to get help going through the court to actually remove it, you should strongly consider speaking with a lawyer in your local area.

First of all let us tell the Mayor that we appreciate the opportunity to speak tonight. There is always two sides of an issue and we are grateful for the chance to tell our side tonight. With everything that has happened over the past four months, we have seen some corrective measures taken by the Planning Commission to make it more in line with Utah State law. Thank you. We understand the laws and the procedures and we have tried to follow them. We appreciate the mayor allowing us to make this statement on record so that maybe someone else will have the correct, unbiased "written" proof of the facts that we have been denied. This statement has nothing to do with Mrs. Aragon. We would just like to know WHY! We would like to discuss the process we have been forced to follow. Let's take a minute to talk about the way that I was trained to handle problems that came up at City Hall a few months after I started working here.

Mr. -----, let's pretend that your wife asked you to take a check to city hall to pay the water bill. You say sure, but you decided to go to Main Street Market to get a drink first. When you get out of your truck, the check slips under your seat without you noticing. You see some friends in the store and visit for a minute. You get back in your truck and decide to pick up the mail while you're down town and then you head home.

The next month your wife gets the water bill and it is for two months with a late penalty on it. She is mad. She asks if you took the check to city hall and you say yes you took it right down. She comes to city hall to let me know that the water bill had been paid, that I must have made a mistake.

At this point, if I handled it the way that I had been trained by the City Recorder at the time, I would have just told your wife to "prove it". Bring in the receipt that I gave you and then I would correct the problem, but until you brought in the proof, it's your problem. That is the way the law says we can handle it. I couldn't do that. I was told several times that the problem wasn't mine to worry about, it was the citizens, and it was their burden of "proof". In the UAPT trainings, we were strongly cautioned against handling it this way.

This is the way I handled it. With the person standing at the counter, I would go to their account and look at their history. I would print it out for them. I would go to the accounts receivable book and look for the date they thought the payment was made. I did everything in my power to help them figure it out, even suggesting that they go to their bank and look at their statements to see if the check had cleared. Most of the time, people would come back to me with an apology. There were a few times that I found that I had made the error. I had given credit to someone else by mistake. It was then up to me to make a big apology to the person as soon as the error was found. Not only to the person that didn't get the credit on their bill, but also to the person that received the credit by mistake. That wasn't easy for me. It was embarrassing. But I was taught as a child that when you make a mistake you fess up and do what you can to make it better. In coming forward with my mistake, it helped me retain a good relationship with the people instead of making an enemy for life. The way things have turned

out for us is like the bottom of the receipt had been torn off and, even though all the proof was there, it wasn't good enough because it had been torn.

I hope you see a parallel in this scenario. In our effort to "prove it" I listened to a meeting from the training that you just had in St. George. I was pleasantly surprised that the law has changed some of its position on the burden of "proof". That it is not all on the citizen but that burden of proof is on both parties. They should work together, not holding back information that the city has, but being more forthcoming with help. I'm not sure if I understand it all correctly, but it sure was refreshing to hear especially with all the grief that we have been through for the past four months.

That being said, I don't know how much the council has been told about the history of this parcel of ground. The mayor has told the council that this is a planning commission's issue and that you don't need to worry about it. She is correct that it should have been handled in planning commission, but when Em Aragon was told by the City to sue the Bennett's, we feel that this gave the Bennett's the right to defend our honor and good name. This is why we have asked to be here before you tonight.

The parcel in 1954 was approximately 2.3 acres of land. Between 1954 and 1964 Highway 10 was moved and reduced it to 1.07 acres. The only problem was that .17 acres was on the west side of the highway and .90 was on the east. For some reason the parcel number remained the same even though it was split and reduced in size by more than an acre by the highway. When discussing this issue with the Utah State Property Rights Ombudsman, I asked her why this would happen. She said that it was highly unusual and that it muddled the cities stance that the Bennett's split the property when it was already split by another property owner, the State of Utah.

In 1965 a legal undivided interest easement was established, giving the property owner legal access to the .90 acres so that he could have the enjoyment of using his own property. (We have presented original documents to the Planning Commission that are insured by Stewart Title and a recorded warranty deed for an undivided interest easement for the east side property. That 183 pages of documents was not just quit-claim deeds.) According to Utah State law, this easement can only be taken away if all interested parties' sale it to another interested party. This easement stays with the property regardless of who the property owner is. This is the law! We know for a fact that this easement has never been sold to anyone. It is still on all deeds. Mrs. Aragon has not sold this easement. It's crazy that the Planning Commission is unwilling to accept Johansen and Tuttle's survey and Professional Title "proof" and is now seeking for someone else to verify the easement in an effort to "disprove" Calvin and me. Using the money that Mrs. Aragon has paid for the re-zone in an effort to deny the re-zone! The Planning Commission is not just mistrusting Professional Title, but Emery County Abstract and Title, and Stewart Title that still holds the insurance on it today. We presented a letter of "proof" from Professional Title, but that was not good enough. This easement was reviewed in

2006 when Don and Bonnie Keele attempted to purchase the easement, but Mr. Nelson would not sale it to them. Instead of them continuing the fight that they could not win, they put up a fence 16.5 feet to the west of their property line and called it good. Bringing more questions as to "Why" there is all this distrust in the professionals that the commission told us to get the "proof" from and then the commission not accepting it.

In 1975 the property was annexed into the city and was zoned R1-7000 which this property complied with. In 1978 the City re-zoned it to H1-Highway Commercial requiring 1 acre that neither side of the parcel could comply with. This made this parcel a pre-existing, non-conforming lot. A discussion took place after we left the meeting on April 5 about the Jensen property being too small for the zone and that it was "grandfathered" in. If that is true for the Jensen property, why is it not true for Mrs. Aragon's property? The commission say that you can't go back that far, but in that statement, they went back that far.

This is where it gets crazy. I hadn't started working for the city yet. Joe Trenery was on the City Council, the Planning Commission, and Appeals Authority/Board of Adjustments. It wasn't clear to me about the seriousness of these assignments that the City Council and Mayor had given Mr. Trenery at that time until I talked with the Utah State Property Rights Ombudsman and I was explaining it to her. She said. "That's illegal!" When I begin trying to make excuses for why he served as all possessions, I realized the gravity of the situation. We were working on our subdivision at the time and we talked to Mr. Trenery about this parcel. He, using his common sense and seeing the true situation of the parcel, gave us a verbal approval for it to be used as a legal building lot/variance. Pre-existing non-conforming lot, AKA "Grandfathered". Sounds like all is good, right? Nope, the City Recorder knew that for Mr. Trenery to do all 4 responsibilities was not legal. Calvin and I had no idea about that. We was just trying to buy some property. We thought all was well. After I started working for the city, the Recorder told me that the approval that Mr. Trenery had given us was illegal. She said that she wouldn't record it because he didn't have the right to give it. My thought at the time was that if what she said was true, why did the Mayor and Council approve him doing all 4 things? They are the ones that make the rules and we should follow them; I'm not the one to question what they do. We have found that the city causing this parcel to be a totally unusable property by changing it to a zone that it cannot comply with could be considered as a "constitutional taking". (Stating in the minutes that that is what we want is simply untrue. We stated that it "could" be considered. Please do not put words in my mouth and twice neglect to put the statement that the Planning Commission has never granted a variance when it says in the 4-6-2010 planning commission minutes that they did and Mrs. Nielson voted aye on that motion. **State the truth!** Important decisions are made from written minutes. We are learning this tonight.)

Back to the history. So now who was at fault in all this? The Mayor and City Council at the time had the same knowledge that the Recorder had. She called it to their attention once that I recall, telling them that they needed to get an Appeals Authority, but they ignored her. In fact, it wasn't a big deal to them because Mr. Trenery was around all the time and was available to anyone that needed help, so they were good with it. Two years later in 2008 the city was sued

by a Mrs. Williams over a group home that the city denied, costing the city about \$35,000 in a discrimination lawsuit. This loss was blamed on bad advice from the city attorney. Maybe it was all just a misunderstanding; a mistranslation of what the attorney was telling the City. At that time, Mr. Trenery made a request for more people to be on the Board of Adjustments and a more knowledgeable person to be the Appeals Authority. That request was ignored until 3 years later in 2011 when the council appointed Gil Conover as the Appeals Authority. I wish that we would have had a crystal ball and could have seen the things that are happening today. We have talked to Mr. Conover and he has told us that he would have approved this in a minute. He can see that this property is being treated unfairly and he doesn't understand, "What is Ferron city thinking. Anyone with any common sense can see what happened with this property?" Maybe Mr. Trenery had more common sense than some people want to give him credit for.

We have been told that the city got rid of the Board of Adjustments, but in 2019 I found in the Planning Commission minutes that someone was sent to the Board of Adjustments so my questions are, at what point did that Board become obsolete. In the code it says that this Board is the one to do variances. If the Mayor and Council were doing an illegal act having Mr. Trenery do everything, why did it take 6 years to make it right. At what point should we stop listening to the Mayor and Council and start listening to the city recorder? Now we know that we needed to listen to the one that has the paper and the pen. How does it make the Bennett's responsible for the illegal actions of the City? Why did the city tell Mrs. Aragon to sue the Bennett's when we were following a person of authority, a Council Member's, directions? At what point do we quit following the City code and follow some unwritten rules?

So, in my opinion, this property has had 3 times that it has been abused by circumstances that have nothing to do with the Bennett's, the Benson's, or the Aragon's. When it was split by the State of Utah in 1954, when the city assigned a zone in 1978 that it could not comply with and when the city knowingly committed illegal acts from 2005 to 2011. There is one property in 2010 that was approved as a legal non-conforming lot by the Planning Commission. I think that means a variance was given. What made a non-conforming lot at .30 acres in the H-1 Highway Commercial zone a legal non-conforming lot? We have been told that the Planning Commission can't do variances and have never done one. This is not true! (See 4-6-10 planning commission minutes.) Was this an illegal act? Is it the Bennett's fault? Does that take away the variance or recognition of the "grandfathered" status given to us just because there is no house there while another property that was handled under the same criteria in 2010 has a house on it and is still allowed to exist today? Should that variance be taken away and the house be taken down? On their zoning clearance the word "Approved" is written but there is nothing in the file proving that the 5 points for a variance were required or met. The planning commission has said that Mrs. Aragon's property would have never had a house built there, but I strongly disagree with that. All of the questions that have been thrown at us to "prove it" and "where's your proof" would not have happened. Mr. Trenery would have been there to give "approval" for the

Benson's, as the planning commission was there for Mr. Bowden's, in the same manner shown in the minutes for the Bowden's property. Legal or not is the question on both.

So here we are now. I don't know if I want to go into our horrific experience with the planning commission. Council Member Richman can vouch for us that it has not been pleasant.

Admittedly some of it was of our own making. Examples of craziness range from:

1. The verbal permission to speak is okay even though we were told that the attorney was contacted before that meeting, to; now it's not okay and we have to go back because it wasn't a proper meeting.
2. Being told twice that the Planning Commission does nothing with variances, has never done one and can't do anything with them (you'll have to listen to the recording, there is nothing in the minutes about this), to; having to almost force them to act so that we could legally go to the Appeals Authority.
3. The instructions from the Planning Commission to contact the Appeals Authority (again you'll have to listen to the recording, there is nothing in the minutes about this either), to; "it's breaking the rules" to contact the Appeals Authority.
4. In an effort to prove the easement, we presented to city hall the day after the April 5th meeting a copy of the deed and easement asked about in the meeting, to; "we have that, that's in our files". What?!?
5. We asked in a GRAMA request for the recording of the April 5th meeting. We were told that it couldn't be given out until the minutes were approved. The Recorder had just been to a training and assured us that that was the law, to; two months later, after asking for it 2 more times, Calvin and I, showing the Recorder the law about needing to have it available in 3 days, she made excuses why she couldn't give it to us for 3 more days. Then we had to ask for "permission" to access the recording.
6. All the proof that we presented in the 183 pages that we gave for you to review, to; none of it is good enough. (It wasn't all quit-claim deeds! To see the law on Quit-Claim deeds, I would refer you to 57-1-13 in the Utah State Code.)
7. Included in the GRAMA request presented to us on April 29, there was a re-zone application. This was the first time we had heard of this option (we have email proof), to; in Planning Commission on July 5th, the commission discussed that we had been given the application before the April 5th meeting. That simply is not true.
8. Being prepared to speak at the May 5th Planning Commission, to; nope, the meeting is cancelled with no notification to us even after we had confirmed that we were on the agenda the Friday before. There was no mention to us about having to have the Power of Attorney to city hall before the meeting. The commission has changed the rules as of the July 5 meeting. One more point, can the commission change code?
9. Being told we could go to the City Council on April 13th and May 11th, to; you can't go without legal notarized Power of Attorney and "it's a planning commission/ land use issue" and the being told twice that the commission does nothing with variances.

10. When looking for who we needed to go before for the “grandfathered” or re-zone, I found a training that said the City Council handles that. In presenting that information to the City, I was told that the training was from 2016 and made to feel that it wasn’t valid information and made fun of because I brought it up. But guess what, it’s still the law.
11. In an effort to inform the City Council about what was going on, we have found that the Council has been told that “this is totally a planning commission issue and you don’t need to worry about it”. We were told that we were not following the rules. Looks like an effort to silence our voice.
12. Going to the City Code to try and figure out the rules, to; being told that the rules in the code are obsolete and we can’t follow them.
13. Trying to find a current application to present our case to the Appeals Authority, to; being given an application that was from the 1970’s with the heading “Ferron City Corporation” and the “Community Development Department”. Didn’t know the city had a Community Development Department! (We can’t go back to the 70’s though?!?)
14. Arriving at city hall at 6:20 and finding the front doors locked and watching as 4 of the commissioners entered the side door and us not being allowed to enter until 6:50.
Meeting before the meeting anyone!
15. Being told by the Planning Commission that “we can’t go back”, but; Mrs. Aragon being told to go back 16 years to when the Bennett’s purchased the property and sue them.
16. We were required a written, notarized Power of Attorney to speak for Em, but; the city telling us that we was dismissed from the case having no written, notarized authority to dismiss us. We had not even received a phone call from Mrs. Aragon!
17. We were told by the Planning Commission that they have full time jobs and it is voluntary for them. They don’t have time to do all the research that we had done making excuses for their lack of knowledge. That is true, I have more time now, but if Mrs. Aragon’s excuse for moving to California to get help in taking care of her husband with Alzheimer’s disease makes it a self-imposed problem, (kind of sounds like discrimination to me,) I guess we could say the same for the planning commission.
18. The admission of speaking to “others” from the appeals authority, but we were not given a public hearing to tell our side of the story or answer any questions. Maybe we needed to request a hearing, we weren’t told about that. We were told the Board of Adjustments was obsolete so we didn’t know the rules because they are not written anywhere. We didn’t know that anyone would be discussing this. To quote Meg Ryan, or David Church, (sorry, he is retired now so I guess his words don’t matter anymore) “Public business is to be done in the public!” I think there is also something written about “equal representation under the law” as well.
19. After presenting numerous documents for the easement to the property, (surveys, title company letter, deeds, and history of ownership of easement from Emery County) even going to the Title company as suggested to us by the city, to; nope, that title company is not right. We will use the \$300 that Mrs. Aragon paid for the re-zone and get a second opinion from

another title company. Money that is to be used for Public Notices, redoing the maps, etc. I think that you will find that the documents and facts don't change even by using a different title company. Maybe you will hear the same thing we heard from two different workers at two different title companies, "What is wrong with Ferron City!" and "Ferron City used to be the easiest city to work with, but not anymore." And from two land use professionals, "There has to be more to this story, it just doesn't make any sense." "It seems like it would have been a no brainer to give a variance when the city is the one that made the lot too small".

Oh what a tangled web we weave.....

I wasn't going to tell this story, but I think it gets my point across for our experience.

I had my grandkids at my house a few weeks ago and my young grandson, while using the bathroom, used too much toilet paper and plugged the toilet. He is very independent and tried to fix the problem himself. The only problem was that I didn't have a plunger in the bathroom and he used a toilet brush to try to unplug it. My bad! Needless to say, it didn't work and he made quite a mess. There is a plunger in that bathroom now!

We feel that this whole experience has been a bit like that. The issues have been plugged by bias and the attitude of "prove it" (using way too much paper and money in an effort to "prove" things that the city already had in their files for them to find their own proof. As well as surveys, UDOT documents, title company letter, Real Estate agent letter, information from the Emery County courthouse, using other professional's time and effort, etc. and still not enough "proof"). Making a big mess instead of giving us the correct tools to come to a conclusion. To quote the Planning Commission training book, they shouldn't be telling people "no", but helping them see "how". Not being stuck on their own opinion and solutions, but helping property owners use their property as they see fit within in law.

Did we come to the commission with a pretty big attitude about this, yes! I'm sure you would too if the city told someone to sue you.

Does this mean that we think we did everything correct, no.

Does it mean that we have to be right, no.

Does it mean that we need to look at the past to make a proper analysis for the whole picture, I believe so.

The city has decided that we need to just start with today and go forward. Well, I guess that's kind of crappy for us especially when Mrs. Aragon was advised by the city to look back 16 years at the actions of the Bennett's and sue us. This problem started in 1954 when the State of Utah split the property and in 1978 with the City's assignment of the H1 Highway Commercial zone to this property which it could not comply with. Maybe we should look back 68 years to get the

true picture for this small, rocky parcel of ground on the hill with a great view. Hind-sight is 20-20 vision. Sometimes you have to look back for the clear facts.

I have been taught that you shouldn't complain without giving a way to help solve the problem. So one suggestion that I gave in an email in May would be for you to look at Huntington's code on Appeals Authority. It sure would have been a lot better plunger, oh sorry, tool, for us to use instead of giving us a toilet brush. It has been like trying to play a board game and every time it was our turn, we found that a new set of rules had been made, or the goal post just kept moving. Another suggestion would be to make sure you have all the facts, looking back to understand an issue before you suggest for someone to sue someone else. Also maybe get that second opinion before putting people through all this crap, make sure you have your facts right first, not after the fact when you don't agree with the first opinion. That first opinion seemed to be sufficient until it didn't agree with someone else's opinion.

If any of you can see the bias in the way things went for us, please consider that you, the City Council are the legislative branch of the city. You are the ones that can acknowledge the "grandfathered" status for this property and/or the rezone that Mrs. Aragon has been forced to submit and pay \$300 for something that was city caused. Please consider all of these facts. If you would like "proof" of the things I've said, we will be happy to provide the "written" copies. We would also encourage each of you to listen to the recordings from both the April 5th and June 7th Planning Commission meetings to determine the truthfulness of our statements for yourself.

The strange thing is, no one has ever said that Mr. Trenery didn't give us the approval, legal non-conforming lot or pre-existing non-conforming lot, AKA "Grandfathered" or variance, whatever you want to call it. We have just been repeatedly told to "prove it", "where's your written proof". This brings us back to the first part of my statement about the unpaid water bill. Maybe this "approval" isn't ours to "prove". Maybe it's a wrong that needs to be fixed. You are the body that can fix it. Sometimes a culture that is so imbedded into an organization really needs to be looked at.

We'll leave the discussion of broken contracts and one-sided, miss-quoted statements and inserting personal opinion into minutes for another day. One more thought, your code says that in the RA-1 zone you have to "reside on the premises" to have animals there. Be careful. Just because the Mayor has asked the Commission to look at the city and see what is going on in the zones, you might find things that are best left alone. How many property owners could loss the right to have animals on a piece of property that they don't "reside on the premises"? We have found that the "grandfathered" idea doesn't work for Ferron City Planning Commission.

Thank you for your time. /

GOING THROUGH "HELL" IN THE CITY OF "NO"

(Oh sorry, the City of Ferron)

Do you expect City officials to serve you, themselves or their own agenda; to be helpful or to just say **NO**?

While other Cities try to serve their citizens, Ferron City officials seem to insult, intimidate, hold private meetings behind locked doors and hide proof in their files. When you seek information through GRAMA request, they make you pay for it, then in the meeting when giving the "proof" they insistently ask for, they declare, "We have that! That's from our files!" If the City "has it" then why do we need to pay money to "prove it"?

An 87 year old woman asked for our help because she was told by the City to sue us because the property she owned had been owned by us 16 years ago and was an unbuildable lot because it was; 1. too small for the zone 2. didn't have legal access and 3. the culinary water meter that the CVSSD installed, the City says, for horses.

History of Property

1964 - Highway 10 split property

1965 - Legal access for property recorded at Emery County Courthouse

1975 - Annexed into Ferron City, zoned R1-7,000 – complying lot

1978 - Re-zoned to H-1 Highway Commercial Zone requiring 1 acre – cannot comply, **City created problem**. Should make the lot a **pre-existing non-conforming lot (Grandfathered)**

2006 - We bought property, 2008 Property sold again, 2011 Property sold again

2022 – We were asked to help

April 5, 2022, attended Planning meeting. Commissioners entered building at 6:30 pm, we entered at 7:00 pm as requested. We were told to contact appeals authority. Then we were told we were not following the rules after following the Commissions instructions. **April 13**, denied meeting with City Council. We were told it was a Planning Commission issue and we would have to talk to them. (We had just been there?!?) **May 3**, Planning meeting counseled even though we were on the agenda. We received no notification even though we had approval to speak at the meeting. **May 11**, denied meeting with City Council. **June 7**, Planning Commission entered through back door at 6:20 – 6:38, front doors locked until 6:50 when we were allow to enter. The variance was denied and sent to the appeals authority, **again**.

Results:

The variance was **denied again** because the owners hardship was self-imposed because she had to move to California to receive help in caring for her sick, aged husband so the hardships was deemed "self-imposed" and trying to get her affairs in order was deemed "economical". We have contacted our State Legislature to see what can be done about this. This woman, who is now fighting COVID, has to try to go through the rezoning of her property because The City of "NO", in my opinion, have no honor and are not willing to be helpful and do not have any common decency or sense. To quote an honorable previous mayor and appeals authority of Ferron City, **"Anyone with any common sense would have okayed this a long time ago."**

Here are **three examples** that show, in my opinion, there is not much honor or common sense or common decency in a city that will:

1. Deny an 87 year old woman her constitutional property rights by not acknowledging the **"Grandfather"** rules,
2. Deny a widowed woman to **conduct a business** that has been there for decades the right to continue, and
3. Ask for a **DNA sample**, from the current owner, to receive a water and sewer connection to a parcel that a woman in her 80's gave up property to the City in exchange to widen a city street.
Oh, do not mention the dump on the river!???

Therefore:

"We have learned again by sad experience that it is the nature and disposition of almost all men, as soon as they get a little authority as they suppose, they will immediately begin to exercise Unrighteous Dominion"! Calvin W Bennett (and I approve this message!)

This statement is made part of the public record at the request of those making a public attack against myself and Ferron City officials on social media and by posting damaging statements throughout the community at post offices and businesses. I offered to meet with the individuals involved and they refused, claiming they have been mistreated in private. So, it is at their request that I speak in public to their remarks. I have personally been "called out" as one whom has abused my authority, stole water, and caused hardship for elderly citizens. It has been posted that there are "Mayor issues" within the city in which I am "neither handling or not handling things and breaking laws." I have been called out for not having the courage to stand up for what is right, that we/I am acting without honor, common sense or common decency. This council has been accused of making decisions outside of what is Ferron City Law. Since those initiating the complaints against the city state the only way to fight what they believe to be an injustice is to take the matter to the court of public opinion, I will make a stand on behalf of Ferron City as a whole, the Council, the appeal authority, the planning commission and myself. I will not make statements pertaining to this on social media, conduct the business of the city on social media or defend my position on social media. As recently it was put to me, "Social Media is for posting pictures of fishing not for downgrading and trashing other people regardless of what how wronged we feel."

Around March of this year, ago I was approached by the planning commission chair about a conversation she had with a realtor and property owner. A parcel of land had been put up for sale and advertised as a legal building lot when in fact, the parcel was too small to be considered a building lot in the zone is located. The commissioner felt she had an obligation to notify the involved parties to protect potential buyers and to inform the owner in the case that she was not aware. Shortly after this, the owner of the property contacted the city office. The owner threatened to sue the city and she was told that it was not the city who sold her the lot and that the city had the liability to uphold the current zoning ordinance which, deems the lot as an unbuildable lot. Shortly after that, I received a phone call from a former owner of the property. This individual proceeded to tell me there was an issue with the lot and that "it was a buildable lot and that I should know that." I attempted to inform this person that the lot was not a conforming lot according to the zoning laws of the city. He kept insisting that it was a

conforming lot. He said it should have been rezoned when his subdivision was rezoned. I reminded him that the city had found an error on the zoning map at the time he created his subdivision and that and that the subdivision did not get rezoned and that the original rezone petition did not contain the property he is now referencing. He then told me it had been his intention to have this parcel rezoned. I reminded him that his intention may have been there but the information and map he provided to the city did not include the parcel he is now talking about. I suggested the property owner fill out a petition to rezone. He became very belligerent on the phone, swearing and telling me over and over again that the only thing I had ever done for the city was to quote "screw every person in this town" end quote. The offensive words continued and I ended the conversation by hanging up my phone. The matter was then placed on the planning commission agenda. The previous owners of the property attended a planning commission meeting in behalf of the current owner of the property. The conversation during that meeting was tense at times and there was a threat to sue the city. At that point, they were told that the meeting was over and they must direct their request to the city attorney or appeal to an appeal authority. This was an unintentional error on the side of the planning commission. Before a matter can go to appeal authority it must first be denied by the planning commission. There was not a formal denial on the record. The matter was taken to the appeal authority. The appeal authority said that the matter could not be reviewed without a formal denial from the planning commission. The former owners then asked to be placed on the city council agenda. They were told that the city council is not the land use authority and cannot act on any land use matters and it would need to be presented to the planning commission again. The Recorder and I had a conference call with our attorney, to see what we needed to do and if in fact we were able to speak to these individuals regarding a parcel they did not currently own. The attorney advised the city that they should not talk to a former owner of the property about the property unless they obtain a power of attorney to allow them to act in the current owner's behalf. The city informed the former owners that a power of attorney given to them to act on behalf of the owner would need to be sent to the attorney before the city could take any action. I will note that Planning Commission Agendas are posted as per Utah state law in a timely manner. Supporting documents for agenda items must be to the city office on Friday prior to the meeting. Yes, it's true that a planning

commission meeting was cancelled. Yes, the previous property owner had asked to be on the agenda but as the city had still not received the power of attorney giving the previous owners authority to discuss the matter with them, the meeting was cancelled for lack of business items. The matter was put back on the next scheduled planning commission agenda. During the month leading to the next meeting, several conversations with land use authorities and the city attorney took place. The attorney called attention to the fact that the Planning commission is the land use authority and that land use matters are not appropriate for city council meeting as the city council cannot make any decision on land use matters. The city was also informed that it had the obligation to uphold the land use law as it now stands. The attorney informed us that regardless of the mistakes of the past, the current law supersedes and that Grandfathering is not applicable in this case. The former property owners put in a gramina request for information to take to the planning commission meeting. They asked to take the matter again to city council and the request was denied again because the planning commission is a land use authority. They attended a planning commission meeting in which they were addressed on the agenda under a request to deem the lot buildable. The request was formally denied because it did not meet the current requirements. The previous owners, acting on behalf of the current owner refused to consider rezoning as was suggested again by the planning commission and demanded that a variance be granted. They were told in that same public planning commission meeting that due to the complexities of the law regarding variances, a variance is very rarely approved. Variances must meet 5 points of law and if not all 5 can be met, by law, the variance is denied. This is state law. The property owner and those acting in her behalf were again both told the simple solution would be to rezone the property rather than to seek a variance. The planning commission and city have been accused of secret meetings "becoming like gaddianton robbers and working secret combinations". At no time was a secret meeting held. The previous owners had presented the commission with a document almost 200 pages in length, to review prior to the meeting. There were commissioners who came to the city hall prior to the start of the meeting to review the information in their packets. This is common occurrence with both planning commission and city council, especially in times when there is a large amount of paperwork to review. At no time was a meeting held behind closed doors, nor was there ever a secret meeting held. To my

knowledge, doors are automatically set to open prior to the meeting. Some may have used the back entrance to enter the building because that is where the Commission room is located. Likewise, I and other council members often enter city hall 30 minutes prior to a meeting, I personally use that time to go into a back room and pray before conducting the meeting, or to review the items in my council packet. Council members upon arriving early, use the time to set their items in order and review warrants and agenda business. I can firmly attest that to my knowledge there have never been secret meetings of the city council or planning commission.

After the formal denial of the lot, the matter was taken back to the appeal authority. The appeal authority ruled that there was no evidence a variance should be granted. State Law dictates that the burden of proof lie upon the person or persons requesting the appeal. In order to prove their case to the appeal authority, a lengthy and ridiculous list of items was given to the city in the form of a grama request. Historically, Ferron city has waived the fees for small requests of 10 or less pages. This request took 6 hours of regular time and 4 hours of overtime for city officials in addition to myself and the planning commission chair. I have been accused of coaching the Recorder on what to say and how to respond. I will say with confidence that our newly appointed city recorder is not dumb. She researched as much as she was able to do on her own, contacting land use authorities, league officials and the city attorney for her guidance. My assistance was only sought for the grama request and as a sit in person when talking on the phone with the attorney. My involvement in this matter consisted of assisting in locating several files and old building permits as I am familiar with the filings system and could easily remember former owners of properties and permits that were part of the grama request. It took far more than the billed 10 hours to make copies to fulfil the request. So yes, Ferron City charged for the grama request services the same as has been done for other large requests.

The City Recorder and the planning commission chair have both been in contact with the current owner of the property who said that she was never informed by the previous owners representing her that she could apply for a rezoning. She told the city that she did not want the previous owners representing her and that she had revoked the power of attorney from them and that she wanted to deal with the city directly to resolve the matter. She informed the city of conversations she

had with the previous owners in which they accused myself, the Mayor, of illegally rezoning a property for my son to build a home, and that I could not be trusted. The allegations are absolutely false as no property was rezoned, in fact, a parcel was legally divided and building plans presented to the planning commission, in every aspect legally following the Ferron City Ordinance. It made me wonder where and why she would have received this erroneous information.

I have been asked to respond to the call received from the Attorney Generals office. Ferron City did receive a call from the State Attorney General on this matter. We were told there was a complaint filed by the previous owners representing the property owner. The audio recordings of our meetings were not being posted to the public website and had been denied in the grama request, until the minutes had been approved. The recorder is new to her position and was not aware that they were to be posted to the public website. I personally thought that recordings only had to be posted to the city website which at the time was not working. The matter was immediately rectified, and the Attorney General Office told us that the city was not doing anything wrong, and that they understood the confusion. They asked us to make sure the recordings are posted following the meeting and noted that audio recordings can be given out before the formal written minutes are approved. Since that conversation, each recording has been uploaded as soon as the meeting is adjourned.

The recent attacks against myself and the city council have included the accusation that the city denied a widowed property owner the right to conduct a business on her property. A business that had been established long ago. It is true that a business license was denied by the planning commission to this property owner. The basis for that denial was that the ordinance states that a home based business cannot not employ people who do not reside on the property. At the time of the denial, the owner was wanting to give ownership or have the business license transferred to someone who does not live on her property. This then, would not be a home based business but a commercial business and is not allowed in a residential zone. The owner of the property/business attended a public meeting of the city council. I personally asked the planning commission at that time to see if there was something that could be done to amend an ordinance that would allow some leniency for these types of businesses. The planning commission was working on the matter when the property owner

decided to relocate to another state. The planning commission put this matter aside to handle the variance request that mentioned in this statement.

I have been accused of asking a DNA sample of a property owner for proof that she was related to a previous owner of the same property in which, a water and sewer connection had been promised. It is true that a former council member, acting on behalf of the council at that time, negotiated with a property owner for a sewer and water connection on her property in trade for a small portion of property to widen the road. The letter clearly states that connections would be installed if her immediate family were to build on it in the future. The letter also clearly states that the connections were void if the property were sold. This was done in about 2008. The new owner contacted me about the letters she had stating there were connections on the property for a "family member", voided if the property was sold. I simply asked her if she were related to the previous owner. She stated that her grandmother and the original owner were cousins. I had the matter placed on the city council agenda as a review of the agreement. It was of my opinion that the agreement should be honored however, I felt that it was not my sole decision and that it should be discussed in city council meeting. The council stated that the relationship between the owners of the property was not immediate, and that the phrase "void if property is sold" made the decision clear. Immediate family is defined as the smallest nuclear unit of family. Never at any time did anyone from the city ask for a DNA test!

I have been accused of cheating people out of their water. At no time during my tenure with Ferron City have I ever "cheated" anyone out of their water rights. Yes, I received a call from an individual about transferring a water connection from the county to the city. At the time I received the call I was in attendance at my son's wrestling tournament in Nephi. My phone connection was bad, and I was not able to make calls on my phone. I was at the tournament for 2 days. I forgot to return the call when I got back home. However, I was informed by the office that the matter had been taken care of. I will note that it is not in the cities discretion to grant approval to move or relocate connections from the city to the county or vice versa. Ferron City has a signed agreement with the Castle Valley Special Service District that defines our powers and duties as it relates to city and county water connections. I do not have the power, nor will I intentionally or purposefully violate that agreement. Should I have followed up on that phone

call, absolutely. I failed. I was told that the owner had been informed he needed to contact the Castle Valley Special Service District regarding the matter and that the owner had come in and paid for a new connection because the district had denied the relocation. I assumed, again my failure in assuming, that the matter had been resolved. I did not return that initial call regarding relocating services.

Government is not perfect. I am not perfect. At the end of each day, I do my personal best to act with integrity in upholding the ordinances of Ferron City. I have directed my council, commissioners and staff to do the same and I whole heartedly believe that they do. I have been accused of telling or coaching the Appeal Authority how to deny the request. I have had one brief conversation with the Appeal Authority. It did not involve any such coaching or conversation and was merely a conversation in which I asked if he was ready to review another case. The appeal authority has a very tough job to do. He must review each point given and must study the law and make a decision that complies with the law. I believe he is fair and honest and does his best to review the material and make the only decisions that can be made in the matters that are placed before him. He has no reason to do otherwise and to condemn him for honest, fair, law-abiding decisions is simply wrong. Planning commissioners and the appeal authority are volunteers. It is extremely hard to find people who will volunteer for committees such as these. They are trained in the best way possible for a small community. They serve because they love their community and want to make it a better place.

I have received texts that in essence have called me to repentance, telling me I need to remember to follow the example of King Benjamin or Joseph Smith so that I could still have the chance to become a good leader. I have been told I have lost the respect of those involved in this matter as well as members of the community. At the end of the day, what matters to me is being able to stand before my creator knowing I have done my best. I stand firm knowing that I have chose to follow the advice and direction of our City Attorney when upholding the law.

I invite anyone who feels the need to criticize and demean others for doing their best to honor their office, to step up and run for the positions they feel such a need to find fault with. Instead of turning to social media to ruin the reputation and integrity of others by telling only one side of the story, perhaps they should ask for a meeting to resolve the issues.

Whether or not the owner of the property in this matter is 87 or 24, black or white, married, single or widowed, male, female or neutral, Ferron City and the Ferron City Planning commission does not make decisions based on age, color, religion, sexual orientation or race. We do our very best at upholding the ordinances of Ferron City and the laws of this state. Making the accusation that the city is picking on an 87-year-old widow, or denying property right to another widow is simply absurd. The same decisions would be made regardless of who owns the property. When upholding, honoring or sustaining the law there is no room for discrimination.

Asking the city office staff to "keep the Mayor out of this, because you know how I feel about her" seems to me to be a clear attack on me and the basis for all of the nonsense that has been posted on social media. Perhaps this matter all along has been one of a way to make a personal attack rather than to solve an issue. In conclusion, I will reference the current status of the property that has been at the root of all discussions. The current owner has been in contact with Ferron City for several weeks and has filed a petition to rezone, a simple solution that has in fact been offered numerous times. The petition has been accepted and will be presented at a public hearing in the near future.

Anyone wishing to see documentation of any part of the supporting items in this statement is welcome to fill out a grama request. All social media posts, meeting minutes, emails and researched items are on file in the office of the city recorder. I will make no other comments nor will the council address any further comments regarding this matter.