

City of Naples

Naples City Council Meeting Agenda
August 25, 2022 - 7:30 p.m.
1420 East 2850 South
Naples, UT 84078

Opening Ceremonies

Swearing in Ceremony for New Officer

1. Approval of Agenda
2. Approval of Minutes - July 28, 2022 and August 11, 2022 Regular Council Meeting
3. Any Follow Up Matters from August 11, 2022
4. Approval of Bills
5. Business License Approval - H & M Custom Inc. - 2794 E 1500 S
6. Requirements for NIMS Training and Upcoming MGT-312 Workshop - Heidi Lundberg
7. Friends Against Family Violence - Request for Support - Alicia Gowen
8. Review and Award Bid for Sidewalk Replacement - Szeth Simmons
9. Review and Award Bid for Sidewalk Trip Hazard Repairs - Szeth Simmons
10. Review Dominion Franchise Agreement
11. Department or Special Service District Updates
12. Other Matters/Future Council Matters
13. Motion to Adjourn

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the Naples City offices at 789-9090, 1420 East 2850 South, Naples, UT 84078 at least 48 hours in advance of the meeting. Meetings are held at 1420 East 2850 South, Naples, UT.

The undersigned, duly appointed City Recorder, does hereby certify that the above agenda was faxed or emailed to the Vernal Express.

The agenda was also posted on the City's website www.naplescityut.gov, and on the State Public Meeting Notice website <https://pmn.utah.gov>. Nikki W. Kay

Naples City Council

July 28, 2022

Minutes

The regularly scheduled meeting of the Naples City Council was held July 28, 2022, 7:30 p.m., at the Naples City Office, 1420 East 2850 South, Naples, Uintah County, Utah.

Council members attending were Dean Baker, Robert Hall, Gordon Kitchen, Dennis Long, Dan Olsen, and Kenneth Reynolds.

Others attending were Brooks Jones, Bret Reynolds, Brad Walker, Scott Majors, Nate Zilles, Micheal Davis, and Nikki Kay.

Mayor Dean Baker welcomed everyone and called the meeting to order at 7:30 p.m. Mayor Baker opened the meeting with the pledge of allegiance. Councilman Dan Olsen offered the invocation.

Mayor Baker asked for approval of the agenda. Dennis Long **moved** to approve the agenda. Dan Olsen **seconded** the motion. The motion passed with all in attendance voting aye.

The minutes of the regular city council meeting of July 14, 2022 were presented for approval. Kenneth Reynolds **moved** to approve the minutes. Robert Hall **seconded** the motion. The motion passed with all in attendance voting in the affirmative.

Mayor Baker asked if anyone had anything they wanted to follow up on from the previous meeting. Nothing was brought forward.

Nikki Kay presented the bills for payment in the amount of \$46,945.71. Dennis Long **moved** to approve the amount presented. Dan Olsen **seconded** the motion. The motion passed with the following roll call vote:

Gordon Kitchen	Aye
Kenneth Reynolds	Aye
Dennis Long	Aye
Dan Olsen	Aye

DATE, TIME & PLACE OF MEETING

COUNCIL MEMBERS ATTENDING

OTHERS ATTENDING

OPENING CEREMONY

AGENDA APPROVED

MINUTES APPROVED

FOLLOW UP ITEMS FROM PREVIOUS MEETING

APPROVAL OF THE BILLS

DRAFT

Brad Walker came before the Council to discuss his options for three lots he wants to develop on 1750 South. Mr. Walker handed out a plat map for the Silver Wings Subdivision. He told the Council that the concern is for lot three because there is not 100' of frontage. Mr. Walker explained that he met with the County about the parcel owned by them that is in front of these lots on 1750 S. He was told that the County can't give the property back to the City and it would take a very long time to try and purchase it. He was told the County could make the whole piece a public right-of-way and that would give enough frontage for the two parcels. Mr. Walker said he was looking for some feedback from the City so he knew what he could take back to the County. He also said there would be the question of maintenance. Mr. Walker said he thought the County was taking care of the weeds and the City was maintaining it in the winter. Councilman Reynolds wanted to know what the City could legally do. Micheal Davis said he did talk with Mr. Judd and if the County were to designate it all as a public right-of-way it would allow the City a little flexibility there. Micheal said his heart burn was the property between the road and the new owners property and who would do the maintenance. Mayor Baker wanted to know if the County would still own the property and if it would just be classified as a public right-of-way. Mr. Walker said that is correct. Councilman Hall said the City would have to grant an exemption for the frontage of lot two and three. Mr. Walker said he could adjust the line for lot two so there would be the 100' frontage for it. Mayor Baker thought Mr. Judd would be okay with it if was a dedicated right-of-way. Councilman Kitchen said normally, when they talk about frontage, the property owner owns that and this would be owned by someone else. Mayor Baker said the whole lot, to their property would be the right-of-way. He said some people have their property line to the middle of the road and some just go to the right-of-way line. Micheal and Councilman Kitchen both said, in those cases, the property owner owns that where in this case someone else will own that property. Mayor Baker said he thought they were kind of nit picking at it. Councilman Kitchen said they might be but questioned if the next person that comes will expect the same exceptions. Councilman Hall said he would feel better if both parties were owned by the government and they do have to worry about setting a precedent. Councilman Kitchen said he would be interested in how the County is going to

***DISCUSSION REGARDING
SUBDIVISION ON 1750
SOUTH***

DRAFT

legally do this and would like to see how it is recorded. Councilman Olsen said once the County has taken action and recorded the right-of-way then they can see what the City can do. Micheal said he would also make sure Mr. Judd is fine with it once it is recorded. No action was taken on the matter.

Mayor Baker wanted to add a discussion to the agenda for the zoning on Hwy 40. Mayor Baker said the Planning Commission discussed the matter at the last meeting and he was there and felt like the Planning Commission was open to listening and discussing this. Councilman Hall wanted to know if there was discussion on looking at areas where there is existing commercial and the properties adjacent to those. Mayor Baker said they didn't get into real detail. Micheal said they brought it up because he didn't want the Planning Commission to think they were going over their heads by discussing it in Council meeting first. Micheal brought up a picture of the existing zones along the highway. Mayor Baker said no decisions were made because he wanted to know if the Council wanted the Planning Commission to take a look at it. He said if there was any direction the Council wanted to give he thought they would be open to it. Mayor Baker said there were a couple of comments about the need for more commercial along the highway. Micheal said there were also some that were worried because the west side of the highway has a lot of industry on it already and there are buildings there that would be more in line with an industrial use. Mayor Baker said he wasn't trying to direct it to that but just thought they should take a look at it because if someone pulled up a map of the City and was looking for somewhere to build, they sometimes see Industrial and they look somewhere else. Micheal said there needs to be a purpose for rezoning the property. He said the City could state they want to rezone to commercial, in order to bring in sales tax base. Councilman Olsen asked if they have dual zoning. Scott Majors stated it already exists along there because light industrial allows commercial. He said you can do light industrial in commercial but can't do light industrial in a commercial zone. Mr. Majors said it would restrict light industrial from coming into that zone. Mayor Baker said it would only be new development, nothing existing. Councilman Kitchen said his concern would be for someone that is no longer in business but still owns an industrial building along the highway, would that property owner be able to sell his building for the purpose it was built for if the zone was changed. Micheal said the time frame is a year, if

***DISCUSSION REGARDING
HWY 40 ZONING***

DRAFT

there was no use, the building or property use would change to the new zone. Councilman Kitchen said that would be a concern for him because the building has been built for industrial and not commercial. Councilman Kitchen said he didn't have as much concern with changing the use on the east side. Mayor Baker said they could look at maybe extending the time frame. Micheal stated he would like to look into that because he thought the County recently ran into trouble when they tried to do something similar. Councilman Hall said to turn it over to Planning & Zoning and see what the options are. Micheal asked if they wanted to give any guidance. Mayor Bake said they could just leave it open for Planning & Zoning. Councilman Kitchen didn't feel like there was much on the west side open but they could look at the east side. Councilman Olsen said they can let Planning & Zoning do their job. Councilman Hall said the purpose would be to open up areas for commercial development so we can stay a viable City.

DRAFT

Micheal Davis gave the Council an update on the 2000 East project. He said they are in the process of acquiring the land along the gulches and he wanted them to see what has been expended so far. Micheal stated that UDOT went through the process of appraisals, land offers, and negotiations. He said there was one property owner that wouldn't sell so they shifted the road a bit and compensated on the other side. Micheal said not all of the expenditures are for land, some are for removal of trees and replacement of some fencing. Councilman Hall asked if these payments were outside of the contract. Micheal said they are not. He said they have met with the property owners about removing the trees and they will have to move part of the fence in order to remove those trees. Micheal said as soon as this is complete they hope to be able to start with the bid process. Bret Reynolds said they will meet with the City and with UDOT to really narrow down things for the contractor. Micheal stated this was information only. Bret Reynolds said they hope to be able to start next Spring.

***UPDATE ON 2000 EAST
PROJECT***

Council members received a printout of the financial statement in order to stay compliant with audit requirements. Councilman Long questioned the 134% for charges for services. Micheal stated that was good, it meant more was received than budgeted.

FINANCIAL UPDATE

Chief Simper reported they have just completed the hiring of a new officer, Robert J McGaha. He stated Officer McGaha

***DEPARTMENT OR
SPECIAL SERVICE***

has three years of police experience with twenty years of military experience. He said they would like to swear him in on August 25th. Chief Simper said Officer Beatty will be finished with the academy on September 8th and finished with the training process in October.

Micheal Davis said things with the Summerfest went really well. He said the paper picked it up and posted some photos. Micheal said they had a little problem with the firecrackers burning some of the lawn at the park and they also had to patch some of the asphalt on the walking path where the crane truck damaged it. He said they did get that repaired already. Micheal said the Recreation District was wonderful to work with and great help.

There was a discussion on maybe closing 1900 South for such events but Chief Simper didn't think it would be a good idea for emergency matters. Chief Simper said he also received compliments on the help given by the Recreation District workers for the event.

Nate Zilles from the Vernal Area Chamber of Commerce was at the meeting. Mayor Baker recognized him and Mr. Zilles thanked them for giving him a little time. Mr. Zilles said they are starting a new project called a "Chamber Drive-by." He said they took pictures and put together a video and posted it on their FaceBook page. Mr. Zilles said he is currently working with a couple of businesses in the City for a ribbon cutting. A-1 Empire Towing and Cozy Minky. He said they will also do one with Papa Dinos when the owner returns and he will let them know when those are scheduled. Mr. Zilles said the focus is to help build businesses and give them the resources to help them grow.

Nothing was brought forward.

With no other business before the Council, Gordon Kitchen **moved** to adjourn the meeting at 8:30. Dennis Long **seconded** the motion. The meeting was adjourned by all voting in favor of the motion.

APPROVED BY COUNCIL ON THE 25th DAY OF AUGUST 2022

BY: _____

ATTEST: _____

DISTRICT UPDATES

DRAFT

COMMENTS FROM NEW CHAMBER OF COMMERCE DIRECTOR

OTHER MATTERS OR FUTURE COUNCIL MATTERS

MOTION TO ADJOURN

Naples City Council

August 11, 2022

Minutes

The regularly scheduled meeting of the Naples City Council was held August 11, 2022, 7:30 p.m., at the Naples City Office, 1420 East 2850 South, Naples, Uintah County, Utah.

Council members attending were Dean Baker, Robert Hall, Gordon Kitchen, Dennis Long, and Kenneth Reynolds. Dan Olsen was absent.

Others attending were Brooks Jones, Stephanie Adams, Micheal Davis, and Nikki Kay.

Mayor Dean Baker welcomed everyone and called the meeting to order at 7:30 p.m. Mayor Baker opened the meeting with the pledge of allegiance. Councilman Dennis Long offered the invocation.

Mayor Baker asked for approval of the agenda. Robert Hall **moved** to approve the agenda. Kenneth Reynolds **seconded** the motion. The motion passed with all in attendance voting aye.

The minutes of the regular city council meeting of July 28, 2022 were presented for approval. It was noted that two of the pages were missing from the minutes given to Council members. Dennis Long **moved** to table approval of the minutes of July 28, 2022. Kenneth Reynolds **seconded** the motion. The motion passed with all in attendance voting in the affirmative.

Mayor Baker asked if anyone had anything they wanted to follow up on from the previous meeting. Nothing was brought forward.

Nikki Kay presented the bills for payment in the amount of \$14,768.27. Dennis Long **moved** to approve payment of the bills in the amount of \$14,768.27. Kenneth Reynolds **seconded** the motion. The motion passed with the following roll call vote:

Gordon Kitchen Aye

DATE, TIME & PLACE OF MEETING

COUNCIL MEMBERS ATTENDING

OTHERS ATTENDING

OPENING CEREMONY

AGENDA APPROVED

MINUTES APPROVED

FOLLOW UP ITEMS FROM PREVIOUS MEETING

APPROVAL OF THE BILLS



Kenneth Reynolds	Aye
Dennis Long	Aye
Dan Olsen	Absent
Robert Hall	Aye

Micheal Davis handed out an information sheet and wanted to update the Council on the 2000 East project. He stated they met with the UDOT representatives to review the cost estimates so far. Micheal said the estimated cost of the project is 1.9 million. He stated of that 1.9 mil., \$241,000 has been spent for engineering design and \$53,000 for right-of-ways. Micheal reviewed the revenues listed and stated that in order to get to 1700 South the City would need to add \$196,000 on top of the \$250,000. He said if they only go to 1500 South it would save \$270,000 and he pointed out the contingency of \$125,000. Micheal said they are just going off of the Engineer's estimate. Councilman Kitchen stated he was hesitant to mess with the contingency because he's never seen a project not go over budget and \$125,000 is not very much for an almost 2 million dollar project. Micheal said he is still checking to see if the City has to go to 1700 South or if they can cut it back to 1500 South. Councilman Hall wanted to know what the chances of that were. Micheal said he didn't know because they have already scaled it back once. He said Mr. Montoya with UDOT said the only thing that might factor into being able to scale back is inflation. Councilman Kitchen wanted to know where the City would come up with the money if they decide to go to 1700 South. Micheal said there are funds available in the capital projects road fund. Councilman Kitchen felt the City was better off spending \$269,000 than have it sit in the bank where it's not earning anything. Mayor Baker said the City is looking at continuing the project and if we ever need a match in order to apply for more funds, that money might be needed. Councilman Kitchen asked how much money was available in capital projects. Micheal stated there might be around 4 million. Councilman Kitchen said he would like to see the figures, he said in times of inflation you are better off buying product than sitting on money. Councilman Hall said if the money is there and the City is not using all of the reserve then he would move in that direction also. Micheal said if they try and go to 1700 South and the bids are too high the City might have a better fight because we did try. Councilman Hall wanted to know what the chances were of getting any good bids. Micheal said a lot of the companies are finishing up projects right now and might be really

***UPDATE ON COSTS FOR
2000 EAST PROJECT***

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interested in having something after the first of the year. He asked if the Council wants to try and get to 1700 South. Councilman Kitchen asked how Micheal feels about it. Micheal said he would like to use the money available. Gordon Kitchen **moved** to bid the project to 1700 South and use the \$269,000 to get there. Robert Hall **seconded** the motion. The motion passed with the following roll call vote:

Robert Hall	Aye
Dan Olsen	Absent
Dennis Long	Aye
Kenneth Reynolds	Aye
Gordon Kitchen	Aye

There were no department updates. Councilman Hall did share that the Fire Control SSD was fighting two fires right now, one on Blue Mtn. and the other on the Monument.

Nothing was brought forward under other matters or future council matters.

With no other business before the Council, Robert Hall **moved** to adjourn the meeting at 7:46. Dennis Long **seconded** the motion. The meeting was adjourned by all voting in favor of the motion.

APPROVED BY COUNCIL ON THE 25th DAY OF AUGUST 2022

BY: _____

ATTEST: _____

***DEPARTMENT OR
SPECIAL SERVICE
DISTRICT UPDATES***

***OTHER MATTERS OR
FUTURE COUNCIL
MATTERS***

MOTION TO ADJOURN

DRAFT

Report Criteria:

Invoices with totals above \$0.00 included.

Only unpaid invoices included.

GL Acct No	Vendor	Vendor Name	Description	Invoice Number	Invoice Date	Invoice Amount
10-22500 HEALTH INSURANCE	410	HealthEquity, Inc.	HSA Payments	37SXJ14	08/10/2022	18.00
10-22500 HEALTH INSURANCE	740	Public Employees Health Prog	Health & Dental Insurance	0123825992	08/20/2022	18,352.32
Total :						18,370.32
10-43-240 OFFICE SUPPLIES A	283	Davis Food & Drug	Lunch meeting	256613	08/11/2022	43.10
Total CITY ADMINISTRATOR:						43.10
10-50-270 UTILITIES - SHOP	1099	Rocky Mountain Power	Monthly Electric Service 6119018	0186-0822SH	08/18/2022	247.14
10-50-271 UTILITIES - CITY HAL	1099	Rocky Mountain Power	Monthly Electric Service 6115959	9596-0822OF	08/18/2022	532.58
10-50-271 UTILITIES - CITY HAL	1107	Utah Department of Technology	Email accounts	2301R2150000	07/31/2022	154.28
10-50-271 UTILITIES - CITY HAL	1168	West End Cleaners, Inc.	Traffic rug for offices	53842	08/01/2022	61.60
10-50-275 FLAGS	1211	Zion's First National Bank	Flag Thank You	125737	06/28/2022	36.61
10-50-611 CLEANING SUPPLIE	1153	Walmart - Capital One	Trash bags, aire freshener, carpet	082234731583	08/22/2022	26.42
Total GENERAL GOVERNMENT BUILDINGS:						1,058.63
10-54-230 TRAVEL & PER DIEM	1210	Zion's First National Bank	Hotel N. Simper	2494300	08/13/2022	383.70
10-54-230 TRAVEL & PER DIEM	1212	Zion's First National Bank	A. Beaty POST Meals	0722-ABMEAL	07/28/2022	190.14
10-54-230 TRAVEL & PER DIEM	1212	Zion's First National Bank	Hotel S. Gray	60GFHK8	07/27/2022	89.57
10-54-240 OFFICE SUPPLIES &	1212	Zion's First National Bank	Supplies	2469216	08/04/2022	26.32
Total POLICE DEPARTMENT:						689.73
10-55-801 ARPA EXPENDITURE	19	AM Computers	Computer towers, monitors, nas,	4598	08/22/2022	7,874.00
Total EMERGENCY PREPARDNESS:						7,874.00
10-59-223 COMMUNITY EVENT	1211	Zion's First National Bank	Summerfest food	023320	07/23/2022	94.13
Total COMMUNITY MARKETING:						94.13
10-60-230 TRAVEL	777	Redmond Minerals, Inc.	Training	348740	08/22/2022	40.00
10-60-245 COMPUTER SUPPLI	1211	Zion's First National Bank	Pavement lunch meeting	016633	08/16/2022	28.21
10-60-250 EQUIPMENT REPAIR	223	Codale Electric Supply	Light fixture	S7851332	08/10/2022	137.99

GL Acct No	Vendor	Vendor Name	Description	Invoice Number	Invoice Date	Invoice Amount
10-60-250 EQUIPMENT REPAIR	1138	Vernal Fire Extinguisher	Fire extinguisher inspections	19427	08/16/2022	81.00
10-60-262 "C" ROAD MAINTENA	448	Intermountain Farmers Assoc.	Fire hose nozzle, teflon tape	1017677953	08/10/2022	12.57
10-60-262 "C" ROAD MAINTENA	487	Jones Paint & Glass, Inc.	White road paint	VNI0094660	08/17/2022	467.37
10-60-262 "C" ROAD MAINTENA	555	Lowe's Commercial Services	Calking tar	10897	08/15/2022	21.87
10-60-262 "C" ROAD MAINTENA	555	Lowe's Commercial Services	Calking tar	10943	08/15/2022	29.16
10-60-262 "C" ROAD MAINTENA	979	Turner Lumber, Inc.	Tar Paper	50005-1	08/08/2022	27.76
10-60-262 "C" ROAD MAINTENA	1147	Vernal Winnelson Company	Hose fitting, dust blower	504032-01	08/12/2022	419.52
10-60-330 EDUCATION AND TR	777	Redmond Minerals, Inc.	Training	348032	08/11/2022	40.00
Total STREETS:						1,305.45
10-70-282 ROADSIDE PARK MA	1147	Vernal Winnelson Company	Sprinkler valve	503903-01	08/09/2022	60.88
Total BUILDING & GROUNDS:						60.88
Grand Totals:						29,496.24

Report Criteria:

Invoices with totals above \$0.00 included.

Only unpaid invoices included.



Item No. _____

MEMO TO: City Council, City Manager
FROM: Dale Peterson

Building Official

Subject: Business License for:

H & M Custom IMC.
2794 East 1500 South
Naples, Utah 84078

Recommendation:

Approve the Business License for.

H & M Custom INC.
To have an office under the home occupation to run
their construction business.

The Bells are purchasing the property at 2794 E 1500
South Serial number 05:135:0007, they are presently
building a garage with plans to build their home after
the garage is finished.

H & M Custom Inc. are licensed by the State license
number 1286588-5501 as a licensed Contractor.
There business is Remodeling homes.

Date:

Nov 23, 2022

Zone: Residential-Agricultural RA-1

02-22-002 USE REQUIREMENTS
Permitted Uses #9 Home Occupation, in accordance
with Chapter 13 of this ordinance.

Attachments:

- Pictures



MGT-312 Senior Officials Workshop for All Hazard Preparedness

Tuesday October 4th, 2022

9:00 AM – 3:30 PM

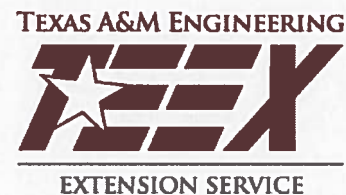
At the Uintah County EOC located at 641 E 300 S #375, Vernal UT 84078

This workshop provides a forum for senior officials to understand strategic and executive-level issues related to all-hazard disaster preparedness, to share proven strategies and best practices, and to enhance coordination among whole of community officials responsible for emergency preparedness, response, and recovery. The workshop emphasizes planning, operational coordination and public information and warning through extensive group discussions and a table-top exercise.

****This course will be put on by Texas A&M Engineering Extension Service (TEEX)****

Participants:

- Elected Officials
- Senior Appointed Officials
- Emergency Management Directors
- Educational Institution Administration
- Public and Private Sector Executives
- Chiefs/Department Head
- Non-Governmental Organizations (NGOs)
- State/Federal Agency Representatives
- Public Information Officer



To REGISTER:

**UTrain course ID 1069465 (train.org/Utah) using code MGT312HLUC
AND**

TEEX website:

<https://my.teex.org/TeexPortal/Default.aspx?MO=mCourseCatalog&D=FP&C=MGT312&S=519>



Item No. _____

MEMO TO: <i>City Council, City Manager</i> FROM: Building and Grounds Szeth Simmons		Subject: Damaged sidewalk replacement on 1900 South	
Recommendation: We received two bids for replacing the sidewalks on 1900 South I Recommend Maverick Contractors to do the work.		Date: 8/22/22	
		Fiscal Impact: 57,560	
		Funding Source: 40-40-401 and 40-40-400	
Background: This will replace the badly chipped and broken sidewalks down 1900 S. The scope of the project is from 1500 E. to the end of the street going east.			
Attachments: •			



Item No. _____

MEMO TO: <i>City Council, City Manager</i>		Subject: Trip hazard sidewalk grinding.	
FROM: Building and Grounds Szeth Simmons			
Recommendation: I recommend we go with Precision Concrete Cutting. With an option to renew for up to 5 years.		Date: 8-22-22	
		Fiscal Impact: 44.00 per inch foot	
		Funding Source: 10-60-268	
Background: We received one bid on the sidewalk grinding. The scope of the work will be on highway 40. Starting at 1900 south heading south. Depending on how many hazards there are. We should be close to getting everything south of 1900 south and possibly 2850 south and the city offices also.			
Attachments: •			

Exhibit "A"

Inch-feet shall be calculated by multiplying the average depth of the cut by the width of the cut. Example Only: If a joint is cut 1" on one side and tapered to 0" on the other, a full 4-foot width of the sidewalk, it shall be calculated as follows:

$$\frac{1" + 0"}{2} \times 4' = 2 \text{ inch-feet}$$

All invoices must show the cut depth, size, length, width, address location (or distance from reference point) and inch-feet calculations. *Cost per inch foot is \$44.00 for fiscal year 2023.*

Precision Concrete Cutting removal of trip hazards to the specifications of this contract are protected by the patent numbers listed below by the US Patent and Trademark office. Precision Concrete Cutting is the sole-sourced provider of this type of work.

U.S. Pat. No. 6,827,074
U.S. Pat. No. 6,896,604
U.S. Pat. No. 7,000,606
U.S. Pat. No. 7,143,760
U.S. Pat. No. 7,201,644
U.S. Pat. No. 7,402,095
U.S. Pat. No. 9,759,559
U.S. Pat. No. 9,494,407
U.S. Application Pat. No. 16/670,737

ORDINANCE NO. 22-246

AN ORDINANCE GRANTING TO QUESTAR GAS COMPANY, dba DOMINION ENERGY UTAH A FRANCHISE FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A GAS DISTRIBUTION SYSTEM IN NAPLES CITY.

WHEREAS, Questar Gas Company, dba Dominion Energy Utah, a Utah corporation (Dominion Energy) desires to construct, maintain, and operate a gas distribution system within Naples City, a Utah municipal corporation (City); and

WHEREAS, the City is authorized to regulate the use of its public rights-of-way pursuant to the City's police power and to establish procedures and standards for the safe use of its rights-of-way, including, but not limited to provisions set forth in Title 10, Chapter 8 of the Utah Code, as amended, and

WHEREAS, the City is willing to grant Dominion Energy a nonexclusive franchise to operate a gas distribution system within the City and to use the roads and streets within the City for such purposes subject to the terms and conditions set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF NAPLES CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Grant of Franchise. Subject to the terms and conditions set forth herein, the City grants to Dominion Energy a nonexclusive franchise (Franchise) to construct, maintain, and operate in the present and future public roads, streets, alleys, highways, and other public rights-of-way within the City's jurisdiction, (collectively, "Streets") a distribution system for furnishing natural gas to the City and its inhabitants and businesses for heating and other purposes, Dominion Energy shall have the right to erect, construction, equip, and maintain in, along, and under the Streets a system of underground mains, pipes, laterals, and related equipment (collectively,

“Facilities”) as are reasonably necessary for supplying natural gas service in accordance with this Franchise.

Section 2. Term. This Franchise is granted for an initial term of ten (10) years commencing on the date of acceptance by Dominion Energy as set forth in Section 3 (Initial Term). At the expiration of the Initial Term, the Franchise shall continue in effect upon the same terms and conditions for up to two additional terms (each of which is a Renewal Period) of five (5) years each. The City may terminate the Franchise at the end of the Initial Term, or at the end of any Renewal Period, by giving Dominion Energy written notice of the City’s intent to so terminate not less than ninety (90) calendar days before the expiration of the Initial Term or any Renewal Period. The City may also terminate this Franchise for cause in accordance with and subject to the provisions of Section 22.

Section 3. Acceptance. Within thirty (30) days after the passage of this Ordinance, Dominion Energy shall submit the required \$500 application fee to the City and file with the City Recorder an unconditional written acceptance of the Franchise declaring its acceptance of the Franchise and agreeing to be bound by the terms and conditions of the Franchise. If Dominion Energy fails to submit the \$500 application fee or written acceptance of the Franchise within the required time frame, the Ordinance and all rights granted herein shall be null and void.

Section 4. Construction and Maintenance of Facilities. All Facilities shall be constructed, installed and maintained in accordance with applicable federal, state and city laws, codes and regulations. All Facilities shall be constructed, installed and maintained so as to interfere as little as possible with traffic over and public use of the Streets and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Streets. All Facilities shall be constructed in accordance with established gas distribution

construction practices and in a manner which protects the Facilities from all traffic loads and public use. Without reasonable additional cost to Dominion Energy, all Facilities that are installed (either as new or relocated installations) during the term of the Franchise shall be sited to be visually unobtrusive and to preserve the natural beauty and neighborhood aesthetics within the City limits.

Section 5. Repair to Streets. Dominion Energy shall repair or replace, at its own expense, any and all Streets, rights of way, pavements, sidewalks, street improvements, excavations, facilities, landscaping, or other improvements, public or private, that it damages in the Franchise operations, including, but not limited to, construction, installation, maintenance, removal or relocation of Facilities. Such property or improvements shall be repaired or replaced by Dominion Energy to a safe and satisfactory condition as good as reasonably possible to that existing prior to the disturbance or damage thereof.

Section 6. Compliance with Ordinances – Conflict. Dominion Energy shall obtain all necessary permits, pay all required fees, and comply with all applicable City ordinances, regulations and requirements that are or may be prescribed by the City with respect to the construction, maintenance and operation of all Facilities. However, these obligations shall apply only as long as such ordinances, regulations, requirements, or fees are not preempted by or otherwise in conflict with any applicable statutory or constitutional law, rule, or regulation, or the tariffs approved by regulatory bodies having jurisdiction over Dominion Energy, including this Franchise and any lawful revision made and accepted by Dominion Energy during the term of the Franchise. Nothing in this Franchise limits Dominion Energy's right to oppose any ordinance, whether existing, proposed, or adopted, from and after the effective date of this Franchise.

Section 7. Excavations. All excavations within the Streets shall comply with the City Excavation Permit Ordinance including permit fees established by ordinance or resolution.

Pursuant to City Ordinances and construction standards, excavations must be conducted by boring, unless otherwise approved by the City as part of the excavation permit. If Dominion Energy is the applicant for the Excavation Permit, a surety bond shall not be required. If the Excavation Permit is in the name of an agent or subcontractor on behalf of Dominion Energy, such agent or subcontractor shall be required to provide a surety bond and certificate of insurance in accordance with applicable ordinances and permit requirements. Dominion Energy and its agents or subcontractors shall be required to comply with all terms and conditions of this Franchise.

Section 8. Inspection. The City shall have the right to inspect the construction, and maintenance of the Facilities to ensure proper compliance with applicable City ordinances, regulations, and requirements. In the event Dominion Energy should fail to comply with the terms of any City ordinance, regulation, or requirement, the City shall give Dominion Energy written notice of such non-compliance and the time for correction provided by ordinance or a reasonable time for correction if there is no time frame provided by the applicable ordinance, regulation, or requirement.

Section 9. Leak Detection. To assure that discernable leaks and other defects (Leaks) are corrected in the Facilities before the City incurs costs in improving or maintaining the Streets above or proximate to such Leaks, Dominion Energy shall, at its sole cost and expense, within ten (10) business days after the City's request, cause a trained "leak detection team" to survey for Leaks in any Facilities within the Streets then subject to repaving or other improvement or maintenance by the City. If any Leaks are detected, Dominion Energy shall repair the Leaks or ensure the safety of the Facilities consistent with accepted industry standards, and shall promptly restore the Streets and any public or private property affected by such repair in accordance with the provisions of Section 5. Dominion Energy shall use reasonably diligent efforts to complete all repair work and necessary

excavations within the Streets in connection with repair of Leaks in coordination with the City's proposed improvements.

Section 10. Interference and Non-Exclusive Grant. Dominion Energy shall perform and exercise its rights and obligations under this Franchise so as not to unreasonably interfere with the existence and operation of the Streets to the extent reasonably practicable and safe to do so. Dominion Energy's right to use and occupy the Streets for purposes set forth herein are not exclusive, and the City reserves the right to grant similar use of the Streets to any person or corporation at any time during the time period of this Franchise, subject to applicable laws and regulations. The City shall have the right to access Dominion Energy's Facilities within the Streets at any point necessary for use, maintenance, operation, construction, repair, relocation, and/or expansion of the Streets and related facilities and improvements.

Section 11. Information Exchange. Upon request by either the City or Dominion Energy, as reasonably necessary, Dominion Energy and the City shall meet for the purpose of exchanging information and documents regarding construction and other similar work within the City limits, with a view towards coordinating their respective activities in those areas where such coordination may prove mutually beneficial. Any information regarding future capital improvements that may involve land acquisition shall be treated with confidentiality upon request to the extent that the City may lawfully do so.

Section 12. Relocation. Upon written notice to Dominion Energy, the City may require Dominion Energy to remove, relocate, or reinstall (collectively, Relocation) any Facilities located in, on, along, over, across, through, or under, any of the Streets. Dominion Energy shall perform such Relocation within a reasonable time after receipt of written notice from the City requesting the Relocation, provided, the period of time available to Dominion Energy to effect such Relocation

shall be reasonably extended on account of cold weather, material delivery, or other circumstances that are beyond Dominion Energy's reasonable control. Dominion Energy shall diligently complete such Relocation of its Facilities as may be reasonably necessary to meet the City's requirements.

The Relocation of Facilities by Dominion Energy shall be at no cost to the City if: (i) such request is for the protection of the public health, safety, and welfare pursuant to lawful authority delegated to the City (which includes, without limitation, the placement, widening, or realignment of streets; the placement or realignment of curb, gutter or sidewalks; the placement, relocation, etc. of traffic signals, street lighting or storm drainage facilities; the construction, completion, repair or relocation of a City project or an area enhancement within the City; or its otherwise within the City's exercise of its lawful authority); (ii) the Facilities have not been installed pursuant to a property or other similar right, including, but not limited to, a right-of-way, grant, permit, or license from a state, federal, municipal or private entity, and (iii) the City provides a new location for the Facilities. Otherwise, a Relocation required by the City pursuant to such written notice shall be at the City's expense or other third party. Following Relocation of any Facilities, Dominion Energy may maintain and operate such Facilities in the new location without additional payment.

Notwithstanding the preceding paragraph, Dominion Energy shall not be responsible for any costs associated with an authorized City project not attributable to Dominion Energy's Facilities in the Streets. Further, all such costs shall be allocated among all utilities or other persons whose facilities or property are subject to Relocation due to an authorized City project.

Section 13. Reimbursement for Funded Projects. If a City project requiring Relocation of Facilities is funded by federal or state monies that specifically include an amount allocated to defray the expenses of Relocation of Facilities, then the City shall reimburse Dominion Energy up to the extent of such specified amount of any reasonable Relocation costs mandated by the project

and actually incurred by Dominion Energy to the extent that the City actually receives or is otherwise authorized to direct or approve payment of such federal or state funds. The City shall ensure that receipt of compensation from federal or state sources does not restrict or otherwise obligate Dominion Energy's ownership of the Facilities in any way.

Section 14. Removal of Abandoned Facilities. Dominion Energy shall remove at its own cost and expense any discontinued or abandoned Facilities from any Streets. Dominion Energy shall conduct such removal at its own initiative or upon written notice from the City. Dominion Energy shall perform such removal within ninety (90) days of receipt of the written notice from the City. This time period may be extended by the City as reasonably necessary to accommodate delays beyond Dominion Energy's reasonable control. Dominion Energy shall promptly restore the Streets and any public or private property affected by such removal in accordance with provisions of Section 5.

Section 15. Police Power. The City expressly reserves the right and duty to adopt, from time to time, in addition to the provisions herein contained, such ordinances, rules or regulations as the City may deem necessary in the lawful exercise of its police power for the protection of the health, safety, and welfare of its citizens and their properties or to exercise any other rights, powers, or duties required or authorized under applicable federal, state or local laws, rules or regulations.

Section 16. Annexations. Upon the annexation of any territory to the City, the right and Franchise granted herein shall extend to the territory so annexed to the extent the City has authority. All Facilities owned, maintained or operated by Dominion Energy within under, or over such annexed Streets within the City's jurisdiction shall thereafter be subject to all the terms and conditions of this Franchise.

Section 17. Terms of Service. Dominion Energy shall furnish natural gas service without preference or discrimination among customers of the same service class at reasonable rates, in accordance with all applicable tariffs approved by and on file with regulatory bodies having jurisdiction over Dominion Energy, including revisions to such tariffs made during the term of the Franchise, and in conformity with all applicable tariffs approved by and on file with regulatory bodies having jurisdiction over Dominion Energy, including revisions to such tariffs made during the term of the Franchise, and in conformity with all applicable constitutional and statutory requirements.

Section 18. Indemnification. Except as otherwise specifically provided herein, the City shall not be liable or responsible for any loss or damage to property or any injury to, or death of, any person that may occur as a result of Dominion Energy's construction, maintenance or operation of the Facilities or Dominion Energy's other activities within the City pursuant to this Franchise. Dominion Energy shall indemnify, defend, and hold the City, its agents, officers and employees harmless from and against any and all claims, demands, liens, liabilities, damages, actions, and proceedings arising from or in connection with the exercise by Dominion Energy of its rights under this Franchise, including its operations within City limits, and Dominion Energy shall pay the reasonable cost of defense plus the City's reasonable attorney fees. Dominion Energy's obligation to so defend, indemnify and hold the City harmless shall include, without limitation, any such claims, etc., arising from Dominion Energy's negligent acts or omissions pursuant to the exercise of the Franchise, whether or not any such use, act or omission complained of it authorized, allowed or prohibited by the Franchise. Notwithstanding any provision to the contrary, Dominion Energy shall not be obligated to indemnify, defend or hold the City harmless to the extent that any underlying claim, demand, lien, liability, damage, action, and proceeding arises out of or in connection with

any act or omission of the City or any of its agents, officers or employees. This indemnification provision shall not be construed to prevent the City from raising and receiving the protections of any defense under the Utah Governmental Immunity Act.

Section 19. Insurance. Except as otherwise specifically provided herein, throughout the term of the Franchise, Dominion Energy shall maintain in full force and effect commercial general liability insurance in an amount of not less than five million dollars (\$5,000,000.00) per occurrence, insuring against claims for bodily injury, death, or property damage occurring as a result of the construction, maintenance or operation of the Facilities or Dominion Energy's other activities within the City pursuant to this Franchise. So long as Dominion Energy's net worth is at least twenty-five million dollars (\$25,000,000.00), Dominion Energy may assume its liabilities and risk of loss hereunder through a qualified self-insurance program sufficient to cover its obligations and liabilities as set forth in Section 18.

Section 20. Assignment. Dominion Energy may assign or transfer its rights and obligations under the Franchise to any parent, affiliate, or subsidiary of Dominion Energy, to any entity having fifty percent (50%) or more direct or indirect common ownership with Dominion Energy, or to any successor-in-interest or transferee of Dominion Energy having all necessary approvals, including those from the Utah Public Service Commission or its successor, to provide utility service within the City limits. Otherwise, Dominion Energy shall not transfer, assign, or delegate any of its rights or obligations under the Franchise to another entity without the City's prior written approval, which approval shall not be unreasonably withheld or delayed. Inclusion of the Franchise as an asset of Dominion Energy subject to the liens and mortgages of Dominion Energy shall not constitute a transfer or assignment requiring the City's prior written consent.

Section 21. Notification of Emergencies. As determined necessary and appropriate by Dominion Energy in the performance of its construction, maintenance and operation of the Facilities in accordance with established gas distribution practices and procedures, Dominion Energy shall immediately notify the City of any emergency situation (including, without limitation, damages to Dominion Energy's system or to pipes, lines or other underground apparatus of electrical, telephone, water or other utility service providers) caused by or resulting from Dominion Energy's activities in the Streets. Such notice shall be provided to the City's Public Works Director and/or the City Manager.

Section 22. Grounds for Termination. The City may terminate or revoke this Franchise and all rights and privileges provided herein if Dominion Energy, by act or omission, materially violates a material duty herein set forth in any particular within Dominion Energy's control, and with respect to which redress is not otherwise herein provided. Before terminating or revoking the Franchise as set forth in this paragraph (a), the City Council shall hold a hearing to determine if: (1) the violation actually occurred, and (2) if the violation is material. Dominion Energy shall be given at least ten (10) days' written notice of the hearing and an opportunity to be heard at the hearing. If the City Council determines that the violation occurred and that the violation was material, the City shall give Dominion Energy written notice of its determination and of its intent to terminate the Franchise if Dominion Energy does not correct the violation with thirty (30) days of receipt of the notice. If the violation is of such nature that it cannot be reasonably corrected within the thirty (30) day period, the City shall, upon receipt of supporting evidence from Dominion Energy, provide additional time as reasonably necessary to correct the violation. If Dominion Energy does not correct the violation within such thirty (30) days of receipt of the notice (or additional time specifically granted by the City), the City may declare the Franchise forfeited, and thereupon

Dominion Energy shall have no further rights or authority pursuant to this Franchise. Any declaration of forfeiture of this Franchise shall be by ordinance of the City Council.

Section 23. Failure to Enforce Not a Waiver. Dominion Energy shall not be excused from complying with any of the terms and conditions of this Franchise by any failure of the City to seek compliance or enforcement of such terms and conditions.

Section 24. Third Party Beneficiaries. The benefits and protection provided by this Franchise shall inure solely to the benefit of the City and Dominion Energy. This Franchise shall not be deemed to create any right of any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

Section 25. Relationship. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the Parties and neither party is authorized to act toward third parties or the public in a manner that would indicate any such relationship with each other.

Section 26. Agents and Subcontractors. The requirements imposed on Dominion Energy under the terms of this Franchise shall extend to any agent, subcontractor, or independent contractor that Dominion Energy might employ to perform the duties and obligations set forth herein.

Section 27. Notices. Unless otherwise specified herein, all notice from Dominion Energy to the City concerning this Franchise shall be delivered to the Naples City Offices, 1420 E. 2850 S., Naples, Utah 84078. Unless otherwise specified herein, all notices from the City to Dominion Energy shall be delivered to Dominion Energy, P.O. Box 45360, Salt Lake City, Utah 84145.

Section 28. Binding Obligations. The Parties represent that when executed by their respective officers or agents, this Franchise shall constitute legal and binding obligations of the Parties; and that each party has complied with all relevant statutes, ordinances, resolutions, by-laws

and other legal requirements applicable to their operation in entering into this Franchise. This Franchise shall be binding upon the heirs, successors, administrators and assigns of each of the Parties.

Section 29. Costs and Consideration. Prior to final acceptance of this Franchise, Dominion Energy agrees to pay the City a nonrefundable Franchise Application Fee in the amount of five hundred dollars (\$500.00) as more particularly provided in Section 3. In consideration of this Franchise, Dominion Energy shall provide gas service in accordance with the terms of this Franchise and shall pay all applicable municipal energy taxes in accordance with the Municipal Energy Sales and Use Tax Act, as currently exists and as may be amended from time to time, as more particularly set forth in Section 30.

Section 30. Municipal Energy Sales and Use Tax. Dominion Energy acknowledges that the City has levied a municipal energy sales and use tax (MET) of 6% in accordance with the Municipal Energy Sales and Use Tax Act, as set forth in *Utah Code Ann. §§ 10-1-301, et. seq.*, as amended. To the extent legally permitted, the City may adjust the amount of the MET. Nothings in this Franchise shall affect the City's right, under the MET, as provided by statute, or any other applicable law, to prospectively impose upon, charge, or collect any unlawful fee, tax, license fee, franchise fee, or similar charge, or any combination of any of the foregoing, provided the City is or becomes legally authorized to do so. In the event that the MET, or similar successor tax or fee is declared illegal, unconstitutional, or void for any reason by any court or other proper authority, or in the event Dominion Energy provides other services than natural gas, or receives other revenues for services or for the use of its Facilities in the Streets not covered by the MET, then Dominion Energy shall be contractually bound to pay the City as a franchise fee, on the same schedule for the maximum amount as is allowed as a franchise fee for such services under law. In addition, if the

franchise fee is determined invalid by a court or authority having jurisdiction, the City shall have the right to impose occupation and license fee and permit charges reasonably equivalent on an annual rate to said franchise fee as allowed by law.

Section 31. Effect of Invalidity. If any portion of this Franchise is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of any remaining portions of this Franchise.

Section 32. Amendment. This Franchise may be modified or amended only by written agreement executed by the Parties, including an ordinance adopted by the City. No oral modifications or amendments shall be effective.

Section 33. Utah Law. This Franchise shall be interpreted pursuant to Utah law.

Section 34. Time of Essence. Time shall be of the essence of this Franchise.

Section 35. Effective Date. This Franchise shall become effective upon this ____ day of _____, 2022 as established above.

{remainder of page intentionally left blank}

DATED THIS _____ DAY OF _____, 20____.

**QUESTAR GAS COMPANY, dba
DOMINION ENERGY UTAH**

By: Steven D. Ridge
Vice President and General Manager
Western Distribution

QUESTAR GAS COMPANY, dba DOMINION ENERGY UTAH ACKNOWLEDGMENT

STATE OF UTAH)
)
) ss
COUNTY OF SALT LAKE)

On the ____ day of _____, 20____, personally appeared before me, Steven D. Ridge, who being duly sworn, did say that he is the Vice President and General Manager of Western Distribution of **QUESTAR GAS COMPANY, dba DOMINION ENERGY UTAH**, a Utah corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of resolution of its Board of Directors, and he acknowledged to me that said corporation executed the same.

Notary Public

My Commission Expires:

Residing at:



Nikki Kay <nkay@naples.utah.gov>

Correction: UDOT to resurface US-40 between Naples and Green River

1 message

Geoff Dupaix <gdupaix@utah.gov>

Tue, Aug 23, 2022 at 11:57 AM

Bcc: nkay@naples.utah.gov

For Immediate Release**UDOT to resurface US-40 between Naples and Green River***Drivers should plan ahead for travel delays*

Naples, UT (August 23, 2022) – The Utah Department of Transportation (UDOT) advises drivers to plan for lane restrictions and travel delays on US Highway 40 **starting as early as Aug. 24** as part of a project to resurface a 10-mile section of the highway from Naples to just east of the Green River. In addition to the resurfacing work, crews will be repairing the bridges where US-40 crosses the Green River and Ashley Creek.

Drivers should expect travel delays associated with one-way traffic conditions Monday through Friday, between 7 a.m. and 7 p.m. Access to properties and businesses will be maintained as much as possible, at the same time, crews will need to temporarily restrict access to accommodate the construction work.

For questions regarding the project, please contact the project information team at 435-233-6646 or via email at udotregion3@utah.gov.

Construction activities are subject to change due to weather, equipment issues, or materials availability. For the latest information on traffic conditions across the state, visit the UDOT Traffic website (www.udottraffic.utah.gov) or download the UDOT Traffic app for iPhone or Android.

-UDOT-

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**Geoff Dupaix***Senior Communications Manager*

Utah Department of Transportation

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