

Minutes of the Hurricane City Council meeting held on January 19th, 2023, in the Council Chambers at 147 North 870 West, Hurricane, Utah, at 4:00 p.m.

Members Present: Mayor Nanette Billings and **Council Members:** Joseph Prete, Dave Sanders, David Hirschi, and Doug Heideman. Kevin Thomas excused.

Also Present: City Manager Kaden DeMille, City Attorney Dayton Hall, Police Chief Lynn Excell, Power Superintendent Scott Hughes, Public Works Director Mike Vercimack, Planning Director Stephen Nelson, Street Superintendent Weston Walker, Recreation Director Tiffani Wright, City Engineer Arthur LeBaron, City Recorder Cindy Beteag, and Fire Chief Tom Kuhlman.

AGENDA

4:00 p.m. Work Meeting with Washington County Water Conservancy District

Members Present: Mayor Nanette Billings and **Council Members:** Joseph Prete, Dave Sanders, David Hirschi, and Doug Heideman.

Also Present: City Manager Kaden DeMille, City Attorney Dayton Hall, Power Superintendent Scott Hughes, Water Superintendent Ken Richins, Police Chief Lynn Excell, Street Superintendent Weston Walker, Planning Director Stephen Nelson, Assistant Planner Fred Resch III, and City Recorder Cindy Beteag.

Planning Commission Members Present: Paul Farthing, Mark Sampson, and Rebecca Bronemann,

Washington County Conservancy District Members Present: General Manager Zach Renstrom and Karry Rathje

Zach Renstrom presented data showing the average daily stream flow of the Virgin River. He reported that the past twenty years have been the second driest period in one thousand years. Washington County is having rapid growth and will eventually be one of the fastest-growing communities in the western United States. The State of Utah states that 0.89 acre-feet of water are necessary for each new connection. The State of Utah's conservation goal is 0.59 acre-feet of water per connection. Mr. Renstrom explained that the combined wet water within Washington County is 63,000 acre-feet. The primary concern is that eventually, the demand will outreach supply. To find a solution to meet the conservation goal, the Conservancy District would like to incentivize developers to build to the 0.59 acre-feet with an impact fee reduction. Mr. Renstrom presented the Water Conservancy's goals to maintain water for the community until 2028. They are actively conducting a feasibility study on water reuse and working on the Lake Powell pipeline.

The purpose of the excess water use surcharge is to incentivize high-end users to reduce their flow. The money collected with the excess use surcharge will go directly back to conservation. He is advocating for the surcharge money to stay in Washington County. Mr. Renstrom presented the monthly demand thresholds by meter size and discussed the changes that community members can make to decrease their water usage. The average water user can reduce their usage by 2,500 gallons if they follow the Water District's guidelines.

Rebecca Broneman asked if it would come to the point where it is necessary to stop issuing building permits. Mr. Renstrom reported that without active conservation efforts, it would be necessary to stop issuing build permits. Councilman Prete explained that developers are currently seeking development agreements declaring that they will only build once water is developed to the property. He asked if District sees a trend of Cities denying plats based on water availability. Mr. Renstrom reported that Cedar City requires developers to acquire water rights. He noted other communities in Arizona that are denying developments.

5:00 p.m. Pre-meeting - Discussion of Agenda Items, Department Reports

Weston Walker reported that the Street Department is experiencing minor drainage callouts. Mayor Billings asked Mr. Walker to ensure that each City building has salt before the upcoming storm.

Chief Lynn Excell provided the statistics from December 2022 Statistics. The department is seeing an influx of mental health problems among the youth. He reported that the department is working with Ironman and the Utah Department of Utah (UDOT) for the event in May. The half marathon will be on the same route as last year. He reported that SR-9 is classified as one of Utah's most heavily traveled roads. UDOT is working on a plan to prohibit events on SR-9. He noted that different routes are necessary to create better access to subdivisions and businesses. The department is working with Utah Local Governments Insurance Trust to train officers in the Active Bystanders for Law Enforcement program. K-9 Rico is on light duty and still in the care of veterinaries. All other employees involved in the incident are back to work. Mayor Billings commended Officer Raditz for the work he does on social media.

Arthur LeBaron reported that he is mobilizing the City crews to get the new gym building. The building needs to be under construction by September. The current occupant has vacated the home, but the business will remain until March. Mr. LeBaron reported that the Utah Mountain Bike race has been forced out of the venues they have used in the past, and they are looking at a site by the Frog Hollow Dam. The Bureau of Land Management (BLM) will allow trails to be constructed if the City will allow the use of City property. He explained that this is a big event. It does not need power or water, and the event provides port-a-potties. The Dixie Transportation Expo is on February 7th at the Dixie Event Center. Councilman Prete asked about the status of a bus route through Hurricane. Mr. LeBaron reported that St. George City is taking the lead. They will purchase clean diesel buses and anticipate that the bus line will be operational by 2024.

Fred Resch III has been compiling building permit and Planning Commission approval data to present at the next City Council meeting.

Stephen Nelson reported that the General Plan open house is on January 8th from 5:00 p.m. to 7:00 p.m. A special session for staff and elected officials will be held from 1:00 p.m. to 3:00 p.m. A targeted session for business and property owners in the downtown area will be held on January 7th. The 1515 West Gate and Transportation Master Plan were held this week. The consensus is that citizens want something that will prohibit pedestrian traffic.

Ken Richins reported that the Dixie Spring Well wasn't plumb, but they have continued to move forward.

Scott Hughes stated the rain makes it difficult to work on the substation. The drilling on 600 North will start next week.

Selwin Lovell commented he completed OSHA training. There are still open positions for a Journey lineman, Golf Maintenance, and Building Official. There are interviews set for next week on the building official.

Mike Vercimack reported that the Public Works Department is still very busy.

Darren Barney reported that the department is fully staffed. They are utilizing RAP tax funds to replace lights at the parks. The department is exceedingly busy with Baseball Tournaments.

6:00 p.m. - Call to Order –

Mayor Nanette Billings welcomed everyone to the meeting.

Prayer, Thought, and Pledge led by Councilman David Hirschi

Mayor Billings noted that two residents have reached out to report that they appreciate how professionally Stephen Nelson handled the meetings this week.

Declaration of any conflicts of interest

Councilman Hirschi reported that his brother is representing New Business item 3, but he still plans on voting.

Councilman Prete declared a conflict on New Business item 11, and he will abstain from voting.

Mayor Billings moved New Business item 3 to after New Business item 13.

**Public Forum – Comments From Public
Consent Agenda**

1. Consideration and possible approval of **Ordinance 2023-02 amending 8-4-2 number of power board members**
2. Consideration and possible approval of **Resolution 2023-07 confirming the Power Board Member terms**
3. Consideration and possible approval of **Resolution 2023-06 reappointing John Slack to the Water Board**
4. Minutes of the Regular City Council Meeting for **January 5, 2023**

Joseph Prete motioned to approve the consent agenda. Seconded by Doug Heideman. Joseph Prete, Dave Sanders, Doug Heideman, and David Hirschi - aye. Motion carried unanimously.

OLD BUSINESS

1. Consideration and possible approval of **Resolution 2023-05 adopting the Washington County Water Conservancy excess water surcharge and a monthly standby fee, administrative fee, and extension fee**

Mayor Billings explained that the landscape ordinance was continued at the Planning Commission meeting and is not up for City Council to review.

Councilman Prete explained that the Washington County Water Conservancy District voted in favor of conservation resolutions to penalize excess water use and set water limits on new construction. He understands that citizens may not be excited about it, but the data shows that something needs to be done. Councilman Hirschi is concerned about penalizing existing homeowners. Ken Richins stated that the excess water surcharge fee will apply to residents that exceed the existing allotment. New construction will incur the excess water surcharge if they exceed the States new allotment.

Councilman Prete noted the excess water surcharge for residents that live in Las Vegas, and he feels this penalty is reasonable. Mayor Billings reported that there are some exemptions for farming and livestock. Councilman Hirschi reported that he is on Sewer Board and is not entirely in favor of water reuse; however, he understands that demand will eventually exceed the supply. Councilman Prete voiced concern about opening the door to penalties.

Dave Sanders motioned to approve Resolution 2023-05. Motion dies for lack of a second.

David Hirschi motioned to continue until the February 2nd meeting. Seconded by Doug Heideman. Joseph Prete, Dave Sanders, Doug Heideman, and David Hirschi - aye. Motion carried unanimously.

NEW BUSINESS

1. Consideration and possible approval of access improvements to the historic Will Hinton Cistern - Arthur LeBaron

Arthur LeBaron explained there is a trailhead on the south end of 60 East for people to access the canal trail and the three falls connector trail. There is a historic cistern by the Hinton house, and the historical committee is working to create access to the cistern. Mr. LeBaron presented the Historical Committee's proposal. The drawing shows a grate on top of the cistern, a dirt trail leading to the cistern, and lining the slope with basalt. They want to keep the paved turnaround intact. Mr. LeBaron stated that the proposal addresses his concerns. Mayor Billings explained that the Hinton family wants to ensure that the parking is designated and does not infringe on their property.

Samantha Hinton reviewed her father's comments. He is concerned about the lack of fencing on the steep slope and whether there is enough space for four parking spaces. Mr. LeBaron reported that this approval is contingent upon adequate parking, and he noted that this proposal does not include fencing.

David Hirschi motioned to approve access improvements to the historic Will Hinton Cistern contingent on the number of parking spaces based on space available. Seconded by Doug Heideman. Joseph Prete, Dave Sanders, Doug Heideman, and David Hirschi -aye. Motion carried unanimously.

2. Consideration and possible approval of awarding a contract for the construction of the 700 West Project: 100 North to 400 North - Arthur LeBaron

Arthur LeBaron reviewed the proposed road alignment. There was a lot of interest in the project, and he received seven bids. Mr. LeBaron provided the bid tabulation and the engineer's estimated cost. He explained that the City requires a statement of qualifications from each bidder. The recommendation from the group that reviewed the bids is to award the bid to Interstate Rock. Interstate Rock is not the lowest bid but is the most responsible based on the selection criteria. Mayor Billings stated that Interstate Rock has a lot of experience in this type of construction.

Dayton Hall explained that the City is not required to award to the lowest bidder; however, if the bid is not awarded to the lowest bidder, the City Council needs to state the reasons.

Councilman Prete noted that the lowest bid was barely below two million, and the highest bid was slightly higher than three million. He reported that Interstate Rock was only ½ point higher than Sunroc. Mr. LeBaron reported that the two lowest bidders did not provide enough information. Interstate Rock was the most qualified bidder and provided all the requested information.

Doug Heideman motioned to award the bid for the construction of the 700 West Project: 100 North to 400 North bid to Interstate Rock for \$2,604,591.05. Based on their qualifications, approach to the project, and the information they provided. Seconded by David Hirschi. Joseph Prete, Dave Sanders, Doug Heideman, and David Hirschi – aye. Roll call vote. Motion carried unanimously.

Mr. LeBaron reported that there are some opportunities to save money through engineering. He explained that the road was shifted to avoid impacting the developed property. The roundabout is meant to prevent the need for a traffic signal at this intersection and provide a safer pedestrian route. He anticipates that the road will be completed by this time next year.

3. Consideration and possible approval of bringing back two preliminary plats previously denied based on inadequate power and water infrastructure and capacity

Mayor Billings explained that developers have voiced concern that they will need more time to work on drawings after the preliminary plat is approved. Stephen Nelson explained that the preliminary plats were denied; however, they can be invited to reapply. Mayor Billings asked the Council to waive the time frame, so this can go before the Planning Commission next week and waive the fee. Dayton Hall noted that the preliminary plats were denied not only due to the lack of power capacity, but for other reasons as well. The reasons for denial will need to be addressed.

Dave Sanders motioned to approve bringing the applications back subject to no fee charged, and the applications have to be in by Monday. Seconded by Doug Heideman. Dave Sanders, David Hirschi, and Doug Heideman - aye. Joseph Prete - nay. Motion carried.

Mr. Hall clarified the direction from the Council is for the Planning Department to invite the applicants to submit a new application for preliminary plat approval. Councilman Prete asked why this was on the agenda. Mr. Hall explained that this is on the agenda by request from Mayor Billings. Mayor Billings acknowledged that there is not adequate water or power; however, if approved, they can proceed with construction drawings. Councilman Prete noted that by ordinance, inadequate infrastructure is a basis to deny preliminary plats and zone changes. Councilman Prete feels the current problems have been caused by approving developments without adequate infrastructure.

4. Consideration and possible approval of the annual **State Fraud Risk Assessment** - Paige Chapman

Paige Chapman reviewed the annual State Fraud Risk Assessment findings and explained the current mitigating controls. The City ranked low on the Fraud Risk Assessment. She noted that she is in the process of becoming a certified government finance manager. Kaden DeMille and Mrs. Chapman are preparing an annual ethical statement. Mayor Billings thanked Kaden DeMille for his leadership and how he controls the budget.

Doug Heideman motioned to approve the annual State Fraud Risk Assessment. Seconded by Dave Sanders. Joseph Prete, Dave Sanders, Doug Heideman, and David Hirschi - aye. Motion carried unanimously.

5. Discussion to **advertise and receive donations** for the New Veterans Park

Darren Barney stated three engineering firms have donated their time to draw up plans for the Veteran's Park. The plans have gone through the JUC redline process. Mr. Barney reported that the cost estimate is slightly under \$540,000. The Veterans Park will be located east of the cemetery entrance. Mayor Billings reported that a resident has requested a two-hundred-foot flagpole, and the resident has committed to replacing the flag for ten years. Mayor Billings explained that the item for discussion tonight is to notify the City Council that the City is advertising for donations to the Veterans Park.

6. Consideration and possible approval of a **time and material contract with Jviation for services at the airport** in an amount not to exceed \$14,000 - Mike Vercimack

Dave Houston reported that the Airport Board voted to continue the proposal to add insurance to the leases to the next meeting to give the hangar owners time to review the provisions. He provided the revised noise abatement plan. The plan will be mounted on signs along the taxiway. Mr. Houston reported that there have been two complaints in the last six weeks. Both complaints pertain to the same aircraft. Based on the software data, the plane was not flying too low. He feels the airport is doing an excellent job of informing the pilots. Mr. Houston noted there was one no-vote from the airport board on the agenda item. The board member is concerned that more growth will increase the noise concerns.

Mike Vercimack reported the City entered into an agreement with Steve Lemmon to build a hangar between an existing row hangar. Mr. Lemmon has retained Pratt Engineering for the site work. Mr. Vercimack met with Mr. Lemmon to discuss his concerns about grading. They determined that additional planning needs to go into this area. They want to ensure that when Mr. Lemmon builds his hangar, the property to the north will still work for the taxiway. Mr. Vercimack contacted the aviation consultant to determine the necessary materials and estimated cost. Their recommendation is to do this on a time-material basis. Mayor Billings

reported that the money is already in the budget. She noted a four-foot difference between Mr. Lemmon's proposed hanger and the runway.

Doug Heideman motioned to approve the time and material contract with Jviation for services at the airport not to exceed \$14,000 to improve the grade. Seconded by Joseph Prete. David Hirschi, Dave Sanders, Doug Heideman, and Joseph Prete – aye. Roll call vote. Motion carried unanimously.

7. Consideration and possible approval of a **renewed contract with Pacific Corp** regarding the sale and purchase of power - Scott Hughes

Scott Hughes explained that the City has been in a contract with PacificCorp Corp for many years. The Power Department has been working with Pacific Corp in an effort to take over the Sky Ranch area, and PacificCorp needs more time to investigate what they need in the area. They have asked to extend the current contract for another year. The renewed contract changes the price to \$194 per megawatt. Mr. Hughes reported that the Power Department matches the price per megawatt for power sold to PacificCorp. Dayton Hall feels this is a net benefit to the City, the amendment extends the contract for one year, and he recommends approval.

Joseph Prete motioned to approve the renewed contract with Pacific Corp as written. Seconded by Dave Sanders. David Hirschi, Doug Heideman, Joseph Prete, and Dave Sanders – aye. Motion carried unanimously.

8. Consideration and possible approval of an **updated Resolution regarding interruptible power rate** - Scott Hughes

Scott Hughes reported that an interruptible power rate was passed in 2021. The rate was created for a specific customer; however, there are some issues with the resolution. It is vague in how it was written and could be interpreted differently. The customer agrees with the updated resolution. Councilman Prete is concerned about the definition of peak hours. He explained that the resolution limits the customer to use full power for twelve hours; however, most of that usage occurs during half of the peak period. Mr. Hughes agrees with Councilman Prete. He reported that peak hours are 10:00 a.m. to 11:00 p.m. The super peak hours are 2:00 p.m. to 7:00 p.m. Mr. Hughes feels this resolution is better than the previous resolution.

Joseph Prete motioned to approve an updated Resolution regarding the interruptible power rate. Seconded by Dave Sanders. Doug Heideman, David Hirschi, Dave Sanders, and Joseph Prete – aye. Motion carried unanimously.

9. Consideration and possible approval of an amended **final plat for Coral Springs Phase 2 Amended and Extended located at 204 N Cliff Side Dr.** SU Commercial Construction, LLC Applicant. Drake Howell Agent.

Adam Allen with American Land Consulting reported that the original plat was approved and recorded in 2005; however, only a small portion of the buildings were completed. Kole West needs to amend the plat to match their current building. Stephen Nelson explained that buildings were approved but never built. They have approved the preliminary plat and final site plan. The final plat will establish the uses within the development. Arthur LeBaron explains a convertible area is part of a condominium plat which allows an area to be taken out of the common area and used elsewhere.

Dave Sanders motioned to approve the amended final plat for Coral Springs Phase 2 subject to staff and JUC comments. Seconded by Joseph Prete. David Hirschi, Doug Heideman, Dave Sanders, and Joseph Prete – aye. Motion carried unanimously.

- 10. Consideration and possible approval of a preliminary plat for Gateway at Sand Hollow Resort Phase 1-3, a 219 unit resort condominium development,** located south of Sand Hollow Road and West of 3700 W. Western Mortgage and Realty Co-Applicant. Brent Moser Agent.

Stephen Nelson sent an email with the updated parking letter, water acknowledgment, and preliminary plat. Mayor Billings reported that the Planning Commission made a positive recommendation. Karl Rasmussen reported that the preconstruction meeting is on January 31st, and the construction drawings have been signed.

Dave Sanders motioned to approve the preliminary plat for Gateway at Sand Hollow Resort Phase 1-3 subject to staff and JUC comments. Seconded by Doug Heideman. Dave Sanders, David Hirschi, and Doug Heideman - aye. Joseph Prete – abstained. Motion carried.

- 11. Consideration and possible approval of an amended final plat for Hurricane Industrial Park Lot 24, located at 2430 W 350 N.** Darryl Zitting Applicant. Ryan Scholes Agent.

Stephen Nelson explained that this is in an existing industrial lot in an older industrial subdivision. The current plat has a utility easement that is not being utilized, and this plat abandons that easement so the property owner can build closer to the lot line.

Doug Heideman motioned to approve the amended final plat for Hurricane Industrial Park lot 24. Seconded by Joseph Prete. Dave Sanders, David Hirschi, Doug Heideman, and Joseph Prete – aye. Motion carried unanimously.

- 12. Ordinance 2023-ZC-02: Consideration and possible approval of a Zone Change Amendment request located at approximately 2445 W 2890 S** to readjust the underlying zones within the existing PDO, planned development overlay, to allow housing to fit better within the PDO, which would result in moving the M-1, light

industrial, zone boundary to the West and expanding the R1-10, residential one unit per 10,000 square feet, zone. Molly View LLC-Richard Wedig Applicant. Pro Value Engineering-Karl Rasmussen Agent.

Karl Rasmussen explained that this request adjusts parcel one to match the original plan. The applicant is working with all departments to obtain approvals for this project. Mr. Rasmussen reviewed the extraction overlay plan. Stephen Nelson reported that the Planning Commission recommended approval subject to a development agreement, which has been signed.

Dave Sanders motioned to approve the zone change request at approximately 2445 W 2890 S subject to the Development Agreement. Seconded by David Hirschi. Joseph Prete, Doug Heidemen, Dave Sanders, and David Hirschi – aye. Motion carried unanimously.

3. Consideration and possible approval of waiving the fees for field rentals or hosting the softball tournament - Matt Hirschi/Tiffani Wright

Matt Hirschi explained that they are trying to find an amicable agreement to use the fields. He reported that there are sixty girls signed up for the softball tournament. He has met with Councilman Heideman and Darren Barney. Councilman Heideman proposed going before the City Council to waive the fee. Mr. Hirschi explained that only Hurricane residents are allowed to participate in the program. He reviewed his proposal and the economic impact to the City. He is asking for the City to host the softball tournament. He has some volunteers that will help, and he does not think the tournament will burden City Staff heavily. Mayor Billings is concerned that the City would have to hire someone to oversee the program. Mr. Hirschi asked the City Council to host one tournament and revisit the proposal for a future tournament. Councilman Heideman explained that waiving the fee will affect the Recreation and Parks Department. He noted that this could open the door for more requests from other tournaments. Darren Barney agrees with Councilman Heideman's comments. He feels that this expansion will impact the current staff, and he will need to hire more employees if this grows.

Doug Heideman motioned to approve waiving the fee for the field rental and the City hosting the tournament on April 21-22 as a trial for future tournaments. Seconded by Dave Sanders. Joseph Prete, David Hirschi, Doug Heideman, and Dave Sanders – aye. Motion carried unanimously.

Open and Public Meeting Training

Stephen Nelson explained that the state's public bodies must attend a yearly public meeting training. Mr. Nelson played the training video for the City Council.

Kaden DeMille provided a summary of the Bench Lake PID update. They are requesting an amendment regarding the two four-million-gallon water tanks. Due to the economy, they are

requesting one of the tanks to be reprioritized based on growth. Mr. DeMille reported that Staff feels one tank would be sufficient at the beginning of the project. If both tanks are built right now, and one sits empty, it might deteriorate. Mr. DeMille provided a list of pros and cons. Staff is looking for direction from the City Council.

Arthur LeBaron thinks some flexibility in the water tanks could be beneficial to the City. Councilman Prete pointed out the other tank might not be built if the developer runs out of money. Kaden DeMille agreed that reprioritizing the water tanks increases the risk for the City. Eventually, the PID board will be made up of only residents, and they will be hesitant to increase their taxes to put in another tank. Mr. DeMille asked if City Council is in favor of looking at it further. Councilman Sanders feels they need more information before they can make a decision. Councilman Prete's suggestion is for the City to hold fast to the current agreement. Mayor Billings explained that the developer could request to bring this item before the City Council if they chose.

14. Closed Meeting held pursuant to Utah Code section 52-4-205 upon request

Joseph Prete motioned to go into a closed session to discuss the purchase of land. Seconded by Dave Sanders. Motion carried unanimously.

Adjournment: 9:53 p.m.