

Minutes of the Hurricane City Council meeting held on April 20, 2023, in the Council Chambers at 147 North 870 West, Hurricane, Utah, at 3:30 p.m.

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

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

## **AGENDA**

**3:30 p.m.** Discussion regarding the 2023-2024 budget

The City Council and Staff discussed the proposed 2023-2024 budget.

**6:00 p.m. - Call to Order –**

Mayor Nanette Billings welcomed everyone and called the meeting to order.

Prayer, Thought, and Pledge: Bill Welsch

Declaration of any conflicts of interest  
None declared.

Minutes of the Regular City Council Meeting for April 6, 2023

Doug Heideman motioned to approve the Minutes of the Regular City Council Meeting for April 6, 2023. Seconded by David Hirschi. Motion carried unanimously.

Presentation of the new plan for the Solid Waste 3 stage construction project

Mayor Billings reviewed the three stages of the Solid Waste District construction project. The permitting process and bidding are scheduled for May, and construction will start in August.

Recognition of retiring officers

Councilman Sanders reported that working with Officer Jason Despain and Officer Ken Thompson was an honor. Mayor Billings expressed gratitude on behalf of the City Council and Hurricane City for their service in protecting and defending the community.

## Public Forum – Comments From Public

### NEW BUSINESS

1. Consideration and possible approval of **Resolution 2023-20 Proclaiming April 2023 as Child Abuse Prevention Month in Hurricane, Utah** - Kristi Pike

Mayor Billings read Resolution 2023-20. Kristi Pike with the Washington County Children's Justice Center reported this is the first proclamation of this kind made with Hurricane City. She thanked Hurricane City Police Department for their support and service on the Justice Center's multidisciplinary team. Ms. Pike explained the screening process for children coming into the program. She invited the City Council to attend the groundbreaking of the Children's Justice Center expansion.

David Hirschi motioned to approve Resolution 2023-20. Seconded by Kevin Thomas. Motion carried unanimously.

2. Discussion and decision regarding **Interlocal Cooperation Agreement Regarding Election Services with Washington County.**

Mayor Billings reported that Washington County is holding an election tour on April 24, 2023. She read an Election Integrity statement. She noted that the Interlocal Agreement was signed in 2021 and explained that the agreement automatically renews unless written notice is given to terminate the agreement.

Mary Kay Welch, a founding member of Southern Utah for Transparency, is speaking on behalf of Hurricane City and Washington County residents. She reported that citizens have lost faith in the election process. She thanked Hurricane City Council for being a role model for other cities in Utah. On April 4<sup>th</sup>, Southern Utah for Transparency turned in one thousand petitions to the County, which included over one hundred petitions from Hurricane City Residents. They are turning in the petitions from Hurricane City residents to support the Council's efforts to restore trust in the elections process. Ms. Welch read item one of the bipartisan petition. She stated that State Law mandates the County to provide the Board of Canvassers access to all the ballots, and hand counts are allowed by state law.

Bruce Miklautsch reported that election integrity is a concern for most voters. Fraudulent voting has evolved in the last fifty years, and correcting the trend will take a long time. He feels any legal worries should be addressed now rather than later.

Mayor Billings read State Code 20A-4-303, which states that the Elections Officer shall count the ballots and prepare a certified summary of the count, and the Board of Canvassers shall canvass the election returns publicly. Based on State Code, the Council can review every ballot.

State Code 20A-201 addressed the time frame of the elections. She explained that the City Council must canvass at their regular meeting place by a specific date. Councilman Thomas reported that he was present at the audit in July. He feels that the definition of an audit is skewed and that the audit did nothing to verify the count. There is no way to verify the vote tally in any batch of ballots in a random audit. He wants the ability to do a complete hand count as long as it is allowed in the agreement.

Councilman Prete agrees that following State Code and contractual agreements is vital. He understands that the County feels inspection of the ballot is different from hand count, and he is concerned that attempting a hand count could create a legal mess. Dayton Hall reported that per the current contract, the City agrees that the County will count the ballots. The contract does not address a hand recount by the City. Mr. Hall noted that State Code states that the Election Officer shall make all ballots, registered books, and forms related to the election available to the Board of Canvassers for inspection after signature verification is complete. He explained that Staff Comments included in the Council's packet were based on a conversation between himself, the City Recorder, Councilman Heideman, and a County representative after the facility tour. The County has informally taken the position that hand counting the ballots is beyond the scope of an inspection of the ballots. The agreement could be amended to state that the City can take custody of the ballots for a hand count after the County collects and verify signatures, if the County agrees to an amendment. If the Council wants to pursue these changes, they must inform the County tomorrow. Mayor Billings feels it is best to keep the same contract and do a total recount at the election facility.

Councilman Hirschi feels there is potential for a conflict if there is a discrepancy after the County has completed the count. He feels a change to the agreement to allow the City to count the ballots is a better solution. Councilman Prete feels there are several ways that the hand count can cause conflict. Election integrity is a concern, and he would like the County to allow a hand count to reassure residents periodically.

Councilman Thomas asked if the County could choose not to accept the modified agreement. Mr. Hall reported that the County has indicated they are willing to modify the agreement to allow the City to take custody of the ballots after signature verification. The County has advised that there will be strong indemnification provisions in the agreement. Councilman Thomas clarified that he would like the modification to allow the City to hand count the ballots while they are in the custody of the County. Councilman Hirschi asked how discrepancies are handled and questioned the purpose of the recount. Hand counting from the start is the best way to provide transparency.

Councilman Heideman reported that after touring the election facility, he was impressed with the security measures. Councilman Thomas explained that an audit of the voting machines only verifies that the machine took an accurate picture of the ballot. It does not verify that the machine counted the vote marked on the ballot. It is not an audit, and it does not verify the

vote. The only way to verify the election is to hand count the ballots. Mayor Billings reported that the machines are programmed by the company that owns the machines, not the County. It is a selection, not an election.

Councilman Hirschi asked Mr. Hall if the Council can change the agreement to state that the election is a hand count. Mr. Hall reported that the City Council can make that motion and direct Staff to negotiate with the County. Councilman Prete feels the Council has four options. The first option is to keep the agreement as it is. The second option is to keep the agreement and insist on a hand count. The third and fourth options are to negotiate an amendment to the agreement. He suggests that any motion made is broad enough to explore all the options. Councilman Thomas prefers eliminating the machines and completing a hand count in the election office.

David Hirschi motioned to direct the City Attorney to attempt to negotiate the existing contract to allow the City to hand count the ballots in the County building after signature verification or take possession of the ballots for a hand count at the City building. Seconded by Kevin Thomas. Mayor Billings reported that if the County does not agree to negotiate the contract, the existing contract will remain in place. Dave Sanders, Joseph Prete, David Hirschi, and Kevin Thomas – aye. Doug Heideman – nay. Motion carried.

3. Ordinance 2023-ZC-08: Discussion and consideration of a **Zone Change Amendment request located Foothills Canyon Drive and Coral Canyon Blvd to amend the current PDO**, planned development overlay, to allow for a 50' site sign and 24' width interior one-way roads in the RV resort for Coral Junction Commercial. Parcel numbers H-4-2-5-125-CJ1, H-4-2-5-126-CJ1, and H-4-2-5-127-CJ1. Derek Rowley Applicant.

Mayor Billings provided a summary of the application, noting that the Planning Commission made a positive recommendation. Derek Rowley reported that they are seeking an amendment from the existing PDO to provide signage for the commercial portion of the project. Stephen Nelson reported that the Fire Department needs the roads to bulb out and no parking signs listed on the roadway.

Kevin Thomas motioned to approve Ordinance 2023-ZC-08 regarding the zone change amendment request at Foothills Canyon Drive and Coral Canyon Blvd, subject to Staff and JUC comments, based on the fact that it does not change the standard factors for a zone change. Seconded by Dave Sanders. Joseph Prete, Doug Heideman, David Hirschi, Kevin Thomas, and Dave Sanders – aye. Motion carried unanimously.

4. Ordinance 2023-ZC-10: Discussion and consideration of a **Zone Change Amendment request located at approx. 2174 West 3000 South to contain an extraction overly with the existing underlying zone remaining, RA-1, residential one unit per acre**. Parcel

numbers H-3376-A and H-3375. Washington County Water Conservancy District Applicant.

Mayor Billings reported that the Washington County Water Conservancy District (WCWCD) has used this pit to mine clay for several existing dams. They plan to use the pit to mine clay for the Toquer Reservoir and Warner Valley Reservoir. The Planning Commission recommends approval after the City and WCWCD agree to terms of the zone change and the future use. Dayton Hall reported that the District requested the City to amend its drainage manual. The amendment will require future development to retain stormwater for anything up to a ten-year storm. Arthur LeBaron reported that the City does not require stormwater retention. If the City requires retention of a ten-year storm, it will significantly reduce the infrastructure needs for drainage. However, this will be a significant shift in the drainage policy. Dayton Hall stated that, because the terms of the proposed zone change contemplate amending the City's drainage manual and other commitments, the Council should wait to act on the zone change application until those issues are resolved.

David Hirschi motioned to continue Ordinance 2023-ZC-10. Seconded by Joseph Prete. Doug Heideman, Kevin Thomas, Dave Sanders, David Hirschi, and Joseph Prete – aye. Motion carried unanimously.

5. Discussion and consideration of a **preliminary plat for Black Ridge Phase 2**, a 35 lot single family subdivision located at 840 W Rlington Parkway. WPP Hurricane Land LLC Applicant. Austin Overman Agent

Mayor Billings reviewed the agenda item summary, noting that the Planning Commission made a positive recommendation. Austin Overman reported that the Development Agreement allows six units per acre, and they are proposing less than what is allowed.

Kevin Thomas motioned to approve the preliminary plat for Black Ridge Phase 2, subject to Staff and JUC comments. Seconded by Dave Sanders. Joseph Prete, David Hirschi, Doug Heideman, Kevin Thomas, and Dave Sanders – aye. Motion carried unanimously.

6. Discussion and consideration of a **preliminary plat for Grassy Meadows Sky Ranch Phase 6B**, an 18-lot single-family subdivision located at approximately 4500 S 1200 W, Sky Ranch Phs 6 LC Applicant.

Mayor Billings reviewed the agenda item summary, noting that lots 1-4 are not within the Hurricane City Boundary and should not be included in the application. The Planning Commission recommended denial based on the findings of inadequate facilities and the lack of will serve letters. They noted that they would have recommended approval if the area had adequate services.

Mark Hudgens reported that he is excited about and supports this project. He explained that the City Council had rejected projects in this area based on an issue of compatible use or lack of infrastructure. Sky Ranch has raised concerns regarding compatible use due to high density, traffic concerns, and developers building homes under the traffic pattern. This project is compatible and advantageous for Sky Ranch, and he would like to see this project through.

Doug Durbano is representing the developer and is a resident of Sky Ranch. He reported that the property was acquired ten years ago to protect Sky Ranch. They then met with Staff to disconnect from the City due to the lack of infrastructure. They are proposing a taxiway from the runway to the hangars, which will cross over the county road of 1200 West. He is suggesting de-annexations of lots 5-18. Mayor Billings reported that there will be challenges with the power regardless of the annexation. The County might not accept the annexation request because they cannot maintain the facilities.

Dayton Hall noted that the item on the agenda is a preliminary plat, not a petition for disconnection from the City. Scott Hughes clarified that the developers need to develop infrastructure to the location. Mr. Durbano reiterated that they know there is a lack of infrastructure. They have had discussions with Dixie Power about getting power to the location. However, the option only exists if the area is within the County. Stephen Nelson reported that power is not the only issue; there are roadway concerns, and the Water Department and Ash Creek Sewer District still need to provide will serve letters. Mr. Durbano reported that these challenges have been addressed in the original seventeen acres. They can continue to progress through the challenges of phase 6 with county services. Mayor Billings recommended coming before the City Council after obtaining will serve letters from the County.

Kevin Thomas motioned to deny the preliminary plat for Grassy Meadows Sky Ranch Phase 6B based on the grounds that there are inadequate public facilities and a lack of will serve letters. Seconded by Doug Heideman. Joseph Prete, Dave Sanders, David Hirschi, Kevin Thomas, and Doug Heideman – aye. Motion carried unanimously.

**7. Consideration and possible approval of Ordinance 2023-06 amending 7-5-13 regarding cemetery markers.**

Darren Barney reported that the original part of the cemetery is very full, and they have to move headstones more often, noting that large headstones are harder to move. Benches with backs are difficult to move and significantly increase the possibility of damage to the bench. He supports the City Council's decision. However, the department needs more Staff, and he is considering hiring a full-time Cemetery Sexton. Mayor Billings understands that the City Council needs to support Staff when they change ordinances.

Councilman Thomas reported that his family placed a small bench on his son's grave. Their intent was to have a full-size bench. However, designing the bench has taken three years. He

reported that headstone heights were discussed last year, yet benches were briefly mentioned once. The main discussion in October pertained to matching the height of national monuments. He missed a line in the ordinance outlawing bench backs and reiterated that the meetings did not discuss benches. He put this item on the agenda to remove the line making bench backs illegal.

Councilman Prete asked if the bench could be grandfathered in. Councilman Thomas reported that it could not be grandfathered, explaining that the problem is the lag in time between designing and placing the headstone. He never intended to outlaw it in the first place, and he feels this will benefit all Hurricane City residents. Councilman Prete asked if the fee structure could be changed to reflect larger monuments or a waiver of indemnification removing liability from the City if a non-conforming monument is damaged.

Councilman Hirschi asked if a compromise can be made in this situation. Councilman Thomas reported that other families are already in the process of designing benches. Councilman Prete suggested making the ordinance effective at a future date. Mayor Billings feels benches are a good thing in the cemetery, which she feels is important to the community. Dayton Hall suggests continuing the item to allow Staff to write a proposed ordinance to allow benches with backs up to a specified date.

Joseph Prete motioned to modify the standard to allow backs on benches effective immediately with an expiration date of January 1, 2025. To qualify for the allowance, the bench must be under contract, or an application must be submitted to the City on or before January 1, 2025. Seconded by Dave Sanders. Doug Heideman, David Hirschi, Joseph Prete, and Dave Sanders – aye. Kevin Thomas – nay. Motion carried.

Councilman Thomas noted that he is voting nay because he feels everyone should be allowed to have a bench.

Councilman Prete recommends that Staff take action to notify monument companies of the expiration date.

Kaden DeMille reported they are still working on the property by the Community Center. Mayor Billings reported that Fire, Swat, and police will do training in the building when the utilities are disconnected. Mr. DeMille reported that the lack of engineering plans for the gym building presents a problem. This will increase the expense of erecting the building. However, it will still cost less than buying a new building. Mayor Billings reported that Interstate Rock has offered to pay for the concrete for the pad, and Intermountain Health Care, Zions Bank, and Sun Pro are considering donating \$50,000.

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

David Hirschi motioned to go into a closed session to discuss the purchase of real property. Seconded by Joseph Prete. Joseph Prete, Dave Sanders, David Hirschi, Kevin Thomas, and Doug Heideman – aye. Motion carried unanimously.

**Adjournment:** 9:20 p.m.