

COUNCIL WORK MINUTES
MARCH 2, 2016

The City Council held a meeting on Wednesday, March 2, 2016, at 5:30 p.m., in the Council Chambers, 10 North Main Street, Cedar City, Utah.

MEMBERS PRESENT: Mayor Maile Wilson; Councilmembers: Ron Adams; Paul Cozzens; Terri Hartley; Craig Isom; Fred Rowley.

STAFF PRESENT: City Manager Rick Holman; City Attorney Paul Bittmenn; City Engineer Kit Wareham; City Recorder, Renon Savage; Finance Director Jason Norris; Police Chief Robert D. Allinson; Fire Chief Mike Phillips; Economic Development Director Danny Stewart; Public Works Director Ryan Marshall; Aquatics Supervisor Chris Hudson; Water Superintendent Robbie Mitchell; Street Superintendent Jeff Hunter; Project Engineer Jonathan Stathis; Project Engineer Trevor McDonald; Sports coordinator Jennifer Weaver.

OTHERS PRESENT: Blaine Nay, Dave Jacobson, Heidi Baxley, Corey Baumgartner, Pastor Curt Stackpole, Bree Burkitt, Kevin Davis, Tom Jett, Brian Kunk, Bob Platt, Phil Schmidt, Ashley Whiting, Shane Eversten.

CALL TO ORDER: Pastor Stackpole of the First Baptist Church gave the invocation; the pledge was led by City Manager Rick Holman.

AGENDA ORDER APPROVAL: Councilmember Adams moved to approve the agenda order; second by Councilmember Hartley; vote unanimous.

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS; STAFF COMMENTS: ■Rowley – I was talking with Mr. Bittmenn about a hypothetical situation if we need a Mayor Pro Tem. Some cities have a permanent Mayor Pro Tem, consider that possibility. ■Mayor – if you have not driven past the South Interchange Sign it is looking prenominal. Legislative session concludes next Thursday. We will figure out what has passed and the impacts. ■Rick – I apologize I was not at the meeting when the request for Summer Games banners at the Main Street Park. We need direction on how the requests are addressed. The sign ordinance says the Parks Director gives that permission, Austin is anxious about that responsibility because if we grant one group then we set a precedent for any worthwhile group. Jen Weaver has used other locations to notify the community of recreation programs coming up. We just need direction on which body hears the requests. The P&R Board has asked that there be no advertising at the Main Street Park because they felt it was for purposes other than advertising. Do we need to work on recommendations? Mayor – the Mayor's Park people submit requests to me before they put anything up. Rowley – I thought the case the other evening, Summer Games has used it for a week and North Elementary will be under construction so they want it up for two weeks. These signs are on the fence. On a big festival I don't see a problem, it adds to the community on saying we have something big going on and we want people to know. Rick – that makes sense with Summer Games, but we have had

requests for National Cancer Awareness, does that fit in the category. Rowley – the Summer Games signs would not fit at Mayor’s Park but Cancer Awareness would fit. Rick – if we have requests we will direct people to the Mayor’s Park. Mayor – what about the length of time for signs to stay up. The Mayor’s Park I have it limited to a week. Rowley – what do you do about Summer Games, they bring in more money than Christmas, so do you only let them be there a week or for the two weeks they are active. Where you have people coming from all over for two weeks straight the advertisers want people to know they are supporting. The volleyball players come on the second week. Cozzens – I would think that Hughes Construction will have the fence up the entire time anyway. Rowley – it came to the fact also that it is a lot of work to take them up and down. Mayor – is this a onetime thing or every year. Shakespeare Festival could have the same argument. Rowley – Shakespeare has a program that the sponsors are listed. Mayor – they are in the athlete’s bags and on the web site. Adams – what do we do when the Parks Director has the decision but the Council goes against ordinance? Paul – staff doesn’t want to approve something and have the Council mad. Adams – maybe that should be considered in relationship to the ordinance. Mayor – we have banners down Main Street, there is a fee associated with those. A group could come in and want their signs on the park with the same type of advertising and it would go against the banner policy. Adams – does Summer Games have banners? Yes. Danny Stewart, Economic Development – the banner policy addresses the 82 banners on the light poles. The policy is they can advertise and 20% can recognize sponsors. They pay to purchase the banners and then pay City staff to hang the banners. Rick – we will treat monthly events at the Mayor’s Park, large events we will have them come in and ask your permission. ■Kit – in last year’s budget you passed the street light project from Monterey Dr. to South interchange. You approved \$75,000 from UDOT, they had not approved that yet. I have been talking with them, they will give us \$75,000 but it will be in their next year budget that starts in July. We won’t start the project until June.

PUBLIC COMMENTS: ■There were no comments.

CONSIDER VICINITY PLAN AMENDMENT FOR THE FOX RUN ESTATES PHASE 1 SUBDIVISION. DICK MILLER/KIT WAREHAM: Bob Platt – it is not an amendment. It is from Lund Highway and 700 North. Kit – I sent the wrong from to Renon. Bob - this is 18 lots, the front two lots are not in the subdivision, they are commercial lots. West is Hunter Glen. Hartley – it is already R-1, but some were industrial. Kit – the front part is industrial and it is zoned that now. These are large R-1 lots over 10,000 square feet. Rowley – is there sewer and water? Kit – no, they will have to put most utilities in. There is sewer and water lines in Hunter Glen that will be extended. Mayor – this is a path ULA often flies over so there is helicopter noise. I still get complaints, so this is a new residential subdivision that will have helicopter noise. Kit – it is across the street from the Airport so they should expect that. Consent.

CONSIDER A LAND LEASE TO M&C SANITATION AND HERO PLUMBING ON CITY PROPERTY LOCATED AT THE SOUTHWEST CORNER OF KITTYHAWK DRIVE AND BULLDOG ROAD INTERSECTION. M&C SANITATION, HERO PLUMBING/KIT WAREHAM: Kit – part of our three phase

Coal Creek Road project we are in the process of purchasing all the right-of-way. For phase 3 we had to purchase a 2 acre piece of property on the west side of the freeway. Coal Creek Road will cut through that property and will go toward the Airport. There were two businesses leasing the property and they want to continue their lease. We won't be putting the road through for 4 or 5 years. So we will get \$500 from one and \$300 from the other, so it is \$800 a month. The leases are month to month. Consent.

DISCUSSION ON SOUTHVIEW TRAILHEAD. DAVE JACOBSEN OF THE

BLM: Dave Jacobsen – over the past year we have been working on mountain bike trails in the area. We have 50 miles identified out of the trail head. We have built 5 and plan to build another 5. We need a place for people to park. We have a few options. Option 1 would be to have people park at the end of the pavement and stripe the parking to accommodate 25 vehicles. This is the cheapest option and safer option because of the drainage to the south; it is 20 feet deep with sheer walls that continue to collapse. Option 2 would be to extend the parking lot to the south on the dirt which is BLM, the drainage on one side is stable. We are open to both options. We have been working with the Intermountain Mountain Biking Association, they have advised us to plan for 40 parking spots. This will capture people traveling to the south to St. George. The other issue is eventually Shurtz Canyon Drive will continue south and we will have to redo the parking. This would accommodate us for now. Cozzens – it is not wide enough for angle parking on both sides? Kit – no it is not. It is a dead end street so that may be why they are proposing this. Hartley – is it in the Master Plan for a road to be there? Kit – yes. Mayor – I have a concern even if the road does dead end it is not wide enough to angle park on both sides of the street, so that brings you to 10 spaces. Rowley – your option 2 would it be like you have at Thunderbird Gardens? Dave – yes, we would have to be between two drainages. Kit – the drainage comes down the channel and then drains off the face of the mountain and goes to this area. Dave – surface flow off the subdivision is causing the drainage problem. Rowley – you could make a gravel lot until the road goes through. Kit – it is a pretty big channel. Rowley – how has Thunderbird Garden parking been working out? Dave – it has worked well. We have not noticed any shooters, we have had a little vandalism on the fence, but it is working well.

Dave – we are looking at putting a restroom on the corner on BLM and closer to a sewer main. We have a grant for \$40,000 to install a toilet, we are considering a flush toilet so they neighborhood doesn't have to smell a vault toilet. The water is 30 feet away. We are wondering if the City would partner and install the sewer line to the toilet, and if the city would be willing to waive the impact fees. Paul – the City boundary is before this so we wouldn't have impact fees, but there are connection fees and usage fees on the water if the city allows them to tie into their system. Rick – the cost to run a sewer line would be what? Phil Schmitd – I don't know how deep the manhole is, what is the distance is 200 feet, you could lose a little curb and asphalt. I would put in \$50-\$60 to put it in per foot. Rowley – this falls into the same line as the Ice Rink and Southwest Wildlife, for a minimal investment and a few accommodations we get a great return, the partnerships are the ticket. Mayor – the others come out of RAP Tax. Dave – we would maintain the trailhead and facilities. The trails are BLM and we will maintain them to the grade. The City Trails Master Plan comes down and we are planning to put a permanent bridge and

then the city can connect with their paved trail system. Mayor – what is the time frame for funding? Dave – as soon as it is dry people will start parking there. The Cross Country team was running their today. We hope June or July; the toilet doesn't have to be immediate. Mayor – if we do RAP Tax it is not until after the budget. Rowley – I am talking hooking on to our water and sewer, it doesn't cost anything. Do you have a leach line if this doesn't work? Dave – no, we only put in vault toilets that are pumped regularly. Rowley – I think we should do what we can to make this work, it is too nice of a facility to let it go by. Phil – if you moved the toilet to the other side of the property you could put a leach field in. Paul – I don't think the city or BLM owns the property. Jeff Hunter – I don't think the soils would handle a leach field. Isom – how much to estimate the cost? Kit – Phil is pretty close, but we could put together an estimate. Cozzens – do we have precedence on waiving impact fees? Kit – Paul indicated there would not be impact fees because they are not in the City limits. Paul – there is connection fees and monthly use fees. Dave – we would prefer not to pay the fees since it is a benefit to the City. Rick – we can bring back Kit's estimate. Hartley – I would like more discussion. Rick – not parking on the asphalt. Mayor – last week we just passed a resolution to not waive fees. Brandon – engineer for the BLM – we have a layout with bumpers. We have surveyed the drainage area. I don't know if the slopes are safe to make parking that close. We will need to do more investigation before we proceed. Isom – that is gravel parking with parking bumps? Brandon – yes. Rick – would they need to over excavate for a restroom facility. Rowley – the fee waiver I think was for facilities, this is like getting a free park, in a visitor's mind there is no difference than a park in the City and we can get that for a water and sewer bill. Jason – the enterprise funds are not as easy as the general fund to waive fees, they are independent businesses, and it is a lot trickier. Mayor – work with that on the restrooms and the soil and if we have the information we will bring it back in 2 weeks.

CONSIDER THE PURCHASE OF A WATER TRUCK FOR THE STREET

DIVISION. JEFF HUNTER : Jeff Hunter – I sent to you in the packet. Hartley – is this in the budget? Jeff – yes. Adams – is this the truck you have been looking for? Jeff – yes. I got another 11 quotes today. When I originally did the budget they were coming in around \$85,000 and the truck I recommend was originally \$85,000 and I told them to sharpen their pencil and they came back at \$72,000. The ones that came in today were from 2004 to 2009 and they were around \$90,000. We went and looked at some in Salt Lake and they were in good shape. This is a nice truck. Consent.

CONSIDER BIDS FOR THE KITTY HAWK DRIVE WATERLINE

REPLACEMENT PROJECT. JONATHAN STATHIS: Jonathan – this is a project that is currently budgeted to replace the water line on Kitty Hawk east of Airport Road. Over the past few years there have been projects to upsize the water line. The fire flow is very low. There are also issues with the pipe, it is fairly old. We received 6 bids, Valley Underground was low, Schmidt Construction is within 5% we gave them the option to use the local preference and match the bid, we received a letter today that they would match the bid. The bid is \$80,093.00. We have notified Valley Underground of the local preference and they understand. Rowley – do we ever use plastic pipe like we

manufacture here? Jonathan – in some situations, but our standard is ductile Iron, it is a higher pressure rating. Consent.

REVIEW BIDS FOR THE 1600 NORTH SEWER PROJECT. TREVOR

MCDONALD: Trevor – We received bids last Friday. There is an existing lift station on 1600 North that will be eliminated and connected to an outfall line on 4500 West. That one has caused us more problems than the others. Schmidt Construction was the low bid for \$524,200.00. Consent.

CONSIDER AN ORDINANCE IMPOSING A SIX MONTH MORATORIUM ON ISSUING BUSINESS LICENSES FOR TOBACCO SPECIALTY RETAIL

BUSINESSES. PAUL BITTMENN: Paul – this comes from the presentation of the community Coalition. They would like the City to adopt no more specialty tobacco retail specialty shops. We would not issue more licenses. We hope to get more from the Legislature. Kevin Davis, owner of D & D Smokes. I am not against the six month moratorium, you are affecting gas stations also because of the way the law is with the percentage of sales with the tobacco versus the inside sales. Paul – tobacco specialty retail shop is a shop that has 35% of its gross income in tobacco sales, percentage for gasoline. It was set up to not impact the convenience stores with a broader product line. Kevin Davis – we have brought the City attention to a few situations on audit and they said they don't have the resources to audit. I know there are at least 2 shops that are above that percentage. Rowley – do you know of any gas stations that would have more than 35% of their sales as tobacco? Kevin Davis – one is Ernies 2 the other is Big Hit Vapor, they have to be so far from churches, parks and public gathering places. Rowley – is that what you meant that the gasoline is calculated different. Kevin Davis – you adopted the law after the legislature gave the guideline. We work with Vickers on this to find out the deal. You adopted it as a City. Mayor – the auditing we have had conversations with the group from Southwest talking about what their group does to test different types like a secret shopper. When the legislature decides what they are doing. This is a six month let's figure out a solution. Because it is a new issue that cities are trying to figure out what to do as well as the State Legislature. Kevin Davis – there is not a lot of places a shop could go. Would it affect me if I found a lot to build a new store? Paul – yes. Cozzens – where he already has a business license could that not be transferred? Renon – I will transfer licenses if they meet all the zoning requirements. Mr. Davis – I could lose my business. Paul – if you meet all requirements for a new location the existing business license would transfer. You have to meet all the separation requirements and zoning. Rowley – if a new gas station came in they would have to limit their sales for tobacco. Mr. Davis – I sell 20 cartons of cigarettes a week, Maverick sells 100. Action.

CONSIDER AN ORDINANCE AMENDING PROVISIONS OF THE CITY ORDINANCE RELATED TO FIREARMS. PAUL COZZENS:

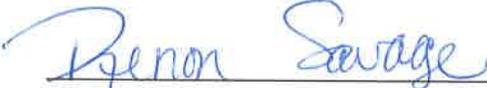
Cozzens – in our fire arm ordinance, we have been at odds with the State law, we restrict carrying firearms in the parks and that is against State laws.

Blaine Nay – the U.S. and State constitutions protect to keep and bear arms. We have uniform firearm laws throughout the State. We are restricted to carry firearms in the parks even if you have a concealed weapons permit. We are creating a dangerous situation. There is an ordinance in emergency situation where the Mayor can close the doors of businesses including firearms. It is conflicting with State law and needs to be remedied. We want to protect the right to bear arms. Adams – firearms were struck out of the ordinance, it was put in with businesses, a riot is mentioned, my thought was if we have rioting going on and if those businesses were open it would be a problem, why would we leave a firearms store open. Blaine – most stores have protection for theft. You can't buy without a background check and that would stop rioters from getting a gun. There is not a requirement to purchase gasoline. Adams – during hostile situation I don't think they will do a background check before they take over a store. Rowley – it is left up to the owner if they want the doors open or shut down. As written they have to shut down. Paul – there is a general grant of power to the Mayor or two council members. The Mayor or 2 council members can close any business in the City. It goes on to state the businesses include gas stations, etc. By striking firearms provision it doesn't prohibit the Mayor or 2 council members from closing the firearms store, but it doesn't target them. If we were having a riot I would close a business anyway. Mayor – there is still power to do that if necessary. Paul – the other ordinances, in the park if you are legally able to carry a fire arm in the state you can carry it in the park. We still don't want pointy sharp things in the park. Cozzens – to set off a gun, if they use it for self-defense they are covered by the new wording. Paul – with Thunderbird Gardens we moved the shooting range from the population. The amendment clarifies that the protection is there if you need to defend yourself. Action.

CONSIDER A RESOLUTION PRE-AUTHORIZING THE MAYOR AND STAFF TO ENTER INTO AGREEMENTS AND REFUND BONDS RELATED TO THE SALE OF MEADOW CREST PUD. PAUL BITTMENN:

Paul – Meadow Crest PUD north of Spirit Fitness. It was first subdivided in 2006 and they platted it for various configurations of town homes. The recession hit and the market went down. The developers that started it have a sales agreement with a new developer. The folks that started it had a cash bond, we have held that money. The sellers want to be released from their obligation and want their money. The buyers want to post a letter of credit from State Bank. We are asking the council to pre-approve the Mayor and Staff to work with the developers to get the new letter of credit and release the bond proceeds to the original developer and release his obligations. State Bank has produced a draft letter of credit but won't issue until the transaction closes and we won't release the bond money until that time also. Hartley – the new agreement would replace the old one? Paul – yes, it would be the same to say the new developer will finish the development. Action

ADJOURN: Councilmember Cozzens moved to adjourn at 6:45 p.m.; second by Councilmember Rowley; vote unanimous.


Renon Savage, MMC
City Recorder