COUNCIL MINUTES
JANUARY 26, 2022

The City Council held a meeting on Wednesday, January 26, 2022, at 5:30 p.m. in the City Council Chambers, 10 North Main Street, Cedar City, Utah.

MEMBERS PRESENT: Mayor Garth O. Green; Councilmembers: Terri Hartley; W. Tyler Melling; Scott Phillips; Ronald Riddle.

EXCUSED: Councilmember Craig Isom.

STAFF PRESENT: City Manager Paul Bittmenn; City Attorney Tyler Romeril; City Recorder Renon Savage; Finance Director Jason Norris; City Engineer Jonathan Stathis; Police Chief Darin Adams; Fire Chief Mike Phillips; Fire Marshal Mike Shurtz; Leisure Services Director Ken Neilson; Economic Development Director Danny Stewart; Public Works Director Ryan Marshall.

OTHERS PRESENT: Kalub Spendlove, Teri Kenney, Ann Clark, Gerald Van Iwaarden, Jeff Hooper, Brooke Twitchell, Dexter Twitchell, Rob O’Brien, Erick Kjellgren, Mike Platt, Tom Jett, Brad Green, Wendy Green, Dalla Buckner, Ben Lamoreaux, Joe Phillips, Jeff Richards, Alex Engstom, Caleb Rees, Brittany Westwood, Chad Westwood, Nathan Westwood, Amber Westwood, Dave Nakken, Ben Lamoreaux.

CALL TO ORDER: Pastor Gerald Van Iwaarden of Westview Christian Church gave the invocation; the pledge was led by Teri Kenney.

AGENDA ORDER APPROVAL: Jonathan asked that item #6 be moved to the action agenda.

Councilmember Hartley moved to approve the agenda order moving #6 to action; second by Councilmember Phillips; vote unanimous.

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS; STAFF COMMENTS: Mayor Green – Introduce Brooke Twitchell, the new Events Director - Brooke has a son Dexter and a 4-year-old Davey. She has been here since 2005. She has been involved in events for a while she will be replacing Brad Abrams in the Economic Development Department with Danny Stewart. Brooke – if there was a cap on excitement, I hit it Monday at 8:04 a.m. I love living and working here, I want to bring people to come and see what we are all about. My son Dexter is 9 years old is here with me tonight. He attends North Elementary. I have a 4-year-old Davey a red head and when he got kicked off his 4-wheeler to come to the meeting tonight he threw a fit, so my husband Brady stayed home with him. You will see my husband around; he is my greatest supporter and my muscle. Mayor – we had the Coal Creek bridge opening, hurray. It is amazing. Ryan Marshall, Public Works Director – updates on issues you have been asking over several months. First Airport directional signs, we are pleased Nick has been working with Maria
Twitchell and they have procured 3 directional signs, Aviation Way, Kitty Hawk and one for terminal parking. There have been issues with general aviation and the main terminal, this will give direction. We appreciate Maria and her help finding funding. Jonathan – one of the signs will go on Aviation Way in the median by Gem Engineering, we didn’t have the property on either side of the road to put it. It will be at least 7 feet tall, so it won’t intrude on site lines. Phillips – that is a great improvement, I appreciate you, Nick and Maria. Ryan – a light at Jolley’s leaning, the acorn shell was broken, that has been fixed. A few others tipping have been fixed. One hit by Ace Hardware, the entire base will have to be replaced, we have a pole in place. It is secured so it won’t fall over. We think on the truck today are 7 decorative streetlights, they will be coming in soon, they were ordered in August and that will allow us to replace some on 100 West. Some had transformer boxes that had been tripped.

PUBLIC COMMENTS: Ann Clark – I have not been here since before COVID. I may be totally wrong but was disturbed when talking about developments on Lund Highway, I know Mr. Phillips said be kind to citizens. And then said hopefully storage units don’t go in. Do developers run the city or the council and mayor. People spend a lot of money on houses, we could have a CBD store. We the people voted you the people to protect us. It is passing the buck to say we can’t do it. Now for the real reason I am here, the weeds and the way the City property looks. Why don’t they take the exposed black plastic, it looks terrible? Last May I was so furious; I pick my grandkids up there every day. After 3 years I got out and ripped out the dead plants, there are masks, condoms, trash and garbage Mr. Bittrmenn said he said he would send the street sweeper up, I haven’t seen it. Whether City parks, I haven’t had the courage to go to Discovery Park, what about the weeds and swings. The schools and university seem to take care of grass and landscaping. I weeded every day from May to October other than when I had covid. People would come out of the pool and say you work here, and I said no, the City doesn’t care. The Discovery Park sign is covered in weeds, the school sign looks nice. It is not working, what you do, I used my own weed spray, I picked up garbage. I see people never working. Where are the workers, it is nice out right now. I want to go with my hedge trimmer and trim the bushes. I am asking, doesn’t anyone care about the city. This is the face of the city. At Christmas parties people said the City used to look really nice. There are weeds everywhere. The weeds are dead from the fall laying there dead. Where are the workers, we have ground crews, Mr. Bittrmenn should say they are here on Monday, there on Tuesday. I do see people working occasionally at the ball fields. I took family around to see the Memorial Park. When you have a city, you should have landscaping crews the clean up and move on. It is totally mismanaged; I can do it if you want. I have seen a young college there twice. I see high school kids empty trash, did no one say drive around the Aquatic Center and pick up the garbage. Something must be done. I will come and report how it is working, this is the face of the city, I feel sad to say since my kids went to SUU it looks terrible. Phillips – we get the comment about developers running the City. Within City structure there are ordinances passed with zones and within that there are parameters, and you can build something in each zone. We don’t tell them what it will look like, or architecturally design it for them. I get frustrated also, but we don’t all have the same aesthetic. We can’t control everything. We control what goes in within a zone. This property was rezone to commercial; you can see what is allowed in that zone, you can look at that on the city website. It lists what can be there. Ann – you need to have a plan. I hope I get
answers about how the parks are being taken care of. Mayor – every year spring cleanup is very big; it blows a lot of garbage. Kalub Spendlove – a shout out to Councilman Phillips and Melling, we did walks in the neighborhoods. I encourage everyone, tomorrow at 3:00 a.m. James Jetten and Care and Share are doing a pit count and seeing those not seen in the city, we will give them something and provide a count to care for those in need. PIT is Point in Time, we interview those experiencing homelessness and fill out a survey from Federal Government, people can choose not to participate. This happens annually and helps give them resources they need. If you want to help, meet at 3:00 a.m. at the Care and Share building. Phil Schmidt – this week I had an opportunity to visit with Mr. Bittmenn at the City office for 20-40 minutes and discussed items discussed at the last meeting, I also visited with Jonathan. I want to thank everyone for moving the projects quickly. There are 4-5 projects to submit to Sunrise to get the work done. I want to thank Mr. Bittmenn for the time to go over questions I had and thank you all for moving this forward. Sometimes we chew on you sometimes we love you. Thank you for taking the flood control items seriously. Rob O’Brien – can I ask Chief Adams to join me. My wife and I joined VIPs and have been doing training and taken ride alongs, our perspective of Cedar City is outstanding. There is a little not to shine, there are challenges we were not aware of, to the fellow resident there is a gem here, we have a wonderful city. We need to support police, emergency services. Shout out to Chief Adams, he has a great crew; they put their lives on the line every day. We all go home; these guys don’t know that. There will be challenges that will come here that we don’t want to deal with, but we will have to deal with. I ask the City Council to work with community members, they need help, resources, equipment, and facilities to do their job and live in the greatest place to live. I don’t want to diminish the equipment they are using. I was surprised with the equipment in the vehicles. I have zero law enforcement experience, but there will be a time I come to City Council to ask to get them tools. It is clear they have antiquated equipment and I think it is important to give them the equipment and resources to continue to protect the community and keep it the place we came to. You have support from us, and I ask the Council to have a similar pledge. The economy and politics are changing, it needs to be sharpened, the Police Department need resources. Let’s stand behind them and step up and write the checks. Audit Presentation. Caleb Rees – I did the audit. I appreciate your staff, this is the earliest we have got through the audit, December 10th, your staff put in a lot of hours, and I appreciate their efforts. The purpose is to see if you follow state laws, the financial being presented to the public is accurate. The report is pages 1-2. The highest opinion is unqualified, they are complete and accurate. A qualified opinion is everything is correct but this. You received the highest, unqualified opinion. I also look at internal controls to ensure there are checks, balances and segregations of duties. Your job as Council is a role in the internal control structure, you received no deficiencies, you have good checks and balances. People are always trying to find ways to improve. Melling – what does it mean if we qualify for a low-risk auditee? Caleb – it depends on the federal programs involved; how new they are. The COVID 19 funds were very new, as a result we have to evaluate how it affects everyone and with the laws changing I wouldn’t be concerned. We look at control structure which is good, and the federal government and they cannot be considered low risk. We look for compliance with each major program. Because you receive federal money, mostly for the Airport, but also COVID, you have to be in compliance with the laws and your internal structure is wonderful. You see you are in compliance with State laws, the state auditor sets things to look at, some are on a rotating basis, tested every 3 years.
Things such as are you having open and public meetings, putting out the agenda in the appropriate manner, posting the minutes and posting a budget, there were no findings on the state compliance. High marks across the board, congratulations to your staff. I try to touch base on something different each year. Page 41, footnote 5 & 6 shows in great detail the capital assets and long-term debt and it is wonderful to see the money going back into infrastructure. Government entities, you are showing $30 million going into improvements. For the water and sewer funds, you are looking at another $10 million dollars. Long term liabilities dropped from 8 digits to 7 digits, your debt is being managed. Foot note 8, classification that money you receive what can be paid. Impact fees can only be spent on certain things, that is greater detail. If people ask questions I want you to be aware and understand. Overall, I applaud the City for getting high marks. There was not anything that caused concern of mismanagement of any moneys or funds. Phillips – we appreciate all your work and getting it done in good timing.

CONSENT AGENDA: (1) APPROVAL OF MINUTES DATED JANUARY 5 & 12, 2022; (2) APPROVE BILLS DATED JANUARY 21, 2022; (3) APPROVE VICINITY PLAN FOR THE GREENS LAKE PUD LOCATED AT APPROXIMATELY 615 WEST GREENS LAKE DRIVE, PLATT & PLATT/DON BOUDREAU; (4) APPROVE THE FINAL PLAT FOR OLD SORREL RANCH SUBDIVISION PHASE 4, WATSON ENG./TYLER ROMERIL; (5) APPROVE THE FINAL PLAT FOR OLD SORREL RANCH SUBDIVISION PHASE 5, WATSON ENG./TYLER ROMERIL; (6) APPROVE A FUNDING AGREEMENT WITH THE NRC FOR THE COAL CREEK STREAMBANK AND SHORELINE PROTECTION PROJECT AS PART OF THE EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM. JONATHAN STATHIS; (7) APPROVE CONTRACT AMOUNTS WITH ENGINEERING FIRMS FOR THE DESIGN OF CITY CAPITAL PROJECTS. JONATHAN STATHIS; (8) APPROVE COMMITTEE APPOINTMENTS - RON RIDDLE TO: TRAILS COMMISSION, CROSS HOLLOW EVENT CENTER, RAP TAX PARKS & RECREATION, CEDAR DISABILITY ACTION AWARENESS TEAM AND THE PARKS & RECREATION ADVISORY BOARD; MAYOR GREEN; Councilmember Phillips moved to approve consent agenda items 1 through 5 and 7 through 8 as written above; second by Councilmember Hartley; vote unanimous.

CONSIDER APPROVAL OF THE FINAL PLAT FOR FIDDLERS COVE PUD. PLATT & PLATT/TYLER ROMERIL: Tyler – the City has received all the fees, we are still waiting for the bond and CC&R’s, if the council is ok I would suggest you approve with the staff getting this information. Phillips – with the storm drain, does this connect to the other improvements? Jonathan – I don’t think so. Mike Platt, Platt & Platt – there is a gap. Jonathan – we have had internal discussions on getting this complete. Melling – is it a private owner? Yes. Jonathan – if we do that the city would have to pay. Phillips – could we get reimbursed on development? Jonathan – if we do a reimbursement agreement.

Councilmember Phillips moved to approve the final plat for Fiddlers Cove PUD subject to the bonding and CC&R’s being provided; second by Councilmember Hartley; vote unanimous.
CONSIDER A RESOLUTION ENTERING A DEVELOPMENT AGREEMENT WITH DEANNE TIPPETTS FOR THE DEVELOPMENT OF 6.25 ACRES OF PROPERTY LOCATED AT 2100 NORTH CLARK PARKWAY, GO CIVIL.

ENG./TYLER ROMERIL: Dallas Buckner, Go Civil – the development agreement with the general plan and zone change, are there additional questions? Phillips – I appreciate moving this to the front to be done before the land use and zoning and the fact your client is willing to do a development agreement on this odd piece. For me I am trying to have things done the right way and also being sensitive to the people in Gemini Meadows. The density with 11 units per acre, I was looking at units, not parcels, what would it be if the agreement is changed to 9 units per acre instead of 11. Dallas – it is 6.25 acres, that would take it down to 56, 12-unit difference. We have duplexes and space between, if we lay it out with max it is 10 units per acre, I rounded up. You have detention, utilities that need to be tied into Gemini as well as guest parking and open space. There are a lot of inefficiencies in how it is laid out in the cookie cutter, but until we get to vicinity plan it is hard to say. The way it is roughly laid out there are 10 units per acre, but I rounded up. We would like to go with 11, but realistically we are looking at 10 we would be ok, and we may be under 10. Phillips – the rear setback is what is allowed in R-3-M. Dallas – the rear setback is the street side. Melling – which way does the front face? Dallas – it is going to be multi-phased. If we get R-3-zoning the frontage would be off Clark Parkway, the lot width gives strange sizes. The backs would go back-to-back with Gemini, but that is a side setback in the ordinance because the project as a whole fronts on Clark Parkway. The side setback would be 10 feet. With the Airport approach zone, from property line to airport approach is 60 feet, if you back off 10 feet from the side it is 50-foot depth, townhomes are normally in the 40 foot range. By the zoning ordinance I think it will be the side. We have restrictions in the development agreement for two story as well.

Brad Green – Scott asked if you change from 11 to 9 units it is 18% fewer units and it is a higher cost, so the rental is now $950 versus $850. Why would you like 9 instead of 11? Phillips – rent is profitability. I am concerned with the surrounding neighborhood. We already approved the Man Cave PUD. We don’t want to impact the neighborhood to heavily. I just wonder if it works for the developer. Brad – you are talking zone change not development agreement. Brad – by making rules they have less density and drive-up housing prices.

Melling – we denied a blanket approval 6 months ago because it wasn’t planned for that, it was planned residential and zoned industrial. When we as the community general plan something they look at 8 units per acre, you can’t get to that in R-2-1, if you are doing something with planning to it like an RDO we allow up to 12 units in a medium zone. You are between R-2 and industrial and it takes mitigating steps from the neighbors, a lot nicer than 3 stories, and nicer than industrial. If this were to fail, the way I see it, if we don’t allow this, there is not flexibility in zoning, I think this is a thoughtful approach, then I would like to zone it industrial and continue the Man Cave. I want to see housing, we talk blending density, if that is the goal, you intensify as you move and it is modest at 9.5 units per acre, this allow you about 10. I appreciate the effort on this. Dallas – we want it to continue from Gemini, 24 units per acre is a scary number, this is a way to work through it, but develop at R-3. Hartley – I agree where Tyler was coming from. It is not if it is going to be developed,
but how. I see it going industrial if we don’t do this. More housing that is not much denser than the east or south from Gemini Meadows. I also appreciate the effort you have done to work with the neighborhood, it is a good transition. Phillips – I am not opposed to this development, it is a strange piece of property, my only question is the density. I would like it developed other than a mechanic shop.

Councilmember Melling moved to approve the Resolution entering a development agreement with DeAnne Tippetts for the development of 6.25 acres of property at 2100 North Clark Parkway; seconded by Councilmember Hartley; vote as follow:

AYE: 4
NAY: 0
ABSTAINED: 0

AN ORDINANCE AMENDING THE GENERAL LAND USE PLAN FROM BUSINESS AND LIGHT MANUFACTURING TO HIGH DENSITY RESIDENTIAL FOR PROPERTY LOCATED AT 2100 NORTH CLARK PARKWAY. GO CIVIL ENG./TYLER ROMERIL: Councilmember Phillips moved to approve the ordinance amending the General Land Use Plan from business & light manufacturing to high density residential for property located at 2100 North Clark Parkway; seconded by Councilmember Melling; roll call vote as follow:

Terri Hartley - AYE
Tyler Melling - AYE
Scott Phillips - AYE
Ronald Riddle - AYE

AN ORDINANCE CHANGING THE ZONE FROM RESIDENTIAL TWO UNIT (R-2-2) TO RESIDENTIAL MULTIPLE UNIT (R-3-M) FOR PROPERTY LOCATED AT 2100 NORTH CLARK PARKWAY. GO CIVIL ENG./TYLER ROMERIL: Councilmember Hartley moved to approve the ordinance amending the zone from R-2-2 to R-3-M for property located at 2100 North Clark Parkway; seconded by Councilmember Melling; roll call vote as follow:

Terri Hartley - AYE
Tyler Melling - AYE
Scott Phillips - AYE
Ronald Riddle - AYE

AN ORDINANCE CHANGING THE ZONE FROM RESIDENTIAL MULTIPLE UNIT (R-3-M) TO STUDENT HOUSING DISTRICT (SHD) FOR PROPERTY LOCATED AT 127 NORTH & 129 NORTH 400 WEST. PLATT & PLATT/TYLER ROMERIL: Mike Platt, Platt & Platt – is that the correct address? Yes.

Tyler – last week you asked to check if noticing went out, and it did happen.
Phillips – I never liked this ordinance, it has not been a good thing for our city. It is unfortunate, what we have done in the past few months is not the intent of the SHD zone and they are looking to make modifications. I am opposed to this change. Melling – Councilman Phillips and I talked about this yesterday. I differ with him on this some and agree some. If we look at lot requirements, if the message is we want SHD to be for large projects then we need to own that. Phillips – that is how it was sold to us. Melling – if that was the intention, we need to treat it as such. We also need to couple that with better options in R-3 with weird old lots so we have the ability for people to do something without having the property become blighted. We have what we have on the books today.

Councilmember Melling moved to approve the ordinance amending the zone from R-3-M to SHD for property located at 127 & 129 North 400 West; seconded by Councilmember Riddle; roll call vote as follow:

- Terri Hartley - AYE
- Tyler Melling - AYE
- Scott Phillips - NAY
- Ronald Riddle - AYE

**CONSIDER LIFE SAFETY INSPECTION VAULT (LIV) IMPLEMENTATION.**

**MIKE SHRUTZ:** Mike Shurtz – are there any additional questions. No cost to the city. Phillips – your staff feels good about it? Yes. Melling – I am comfortable.

Councilmember Phillips moved to approve the Life Safety Inspection Vault implementation; second by Councilmember Hartley; vote unanimous.

**REVIEW PRELIMINARY FINDINGS OF THE STORM DRAIN MASTER PLAN STUDY, JONATHAN STATTHIS:** Joe Phillips, Sunrise Engineering – we have been before you. We completed on the essential areas, Fiddlers, Cody Drive and I-15 crossing. We put in package projects. Fiddlers Canyon portion the developer will work with staff on some of the concerns and they are lower on the list. The I-15 upsize from Tagg and Go south to Center Street crossing on I-15 and consist of a concrete lined channel and convert to 48” pipe through the Center Street crossing. The 24” pipe to possibly upsize to help with flooding at the apartment. Melling – the 24” line will only help as long as we have a way to separate water coming from elsewhere, is that included? Joe – it is included in the project; the design is not complete. We will look to see how to build during the design. Melling – some type or partition? Yes, ideally, we mitigate all those problems. Melling – there was an option on the 48” line, where does the water come from that goes in the 48” line and what type of difference? Joe – the 48” line, all of the community from the south drains to the one point. There are a number of different challenges, we are focusing on the biggest bang for your buck. Melling – where does the water go in? Joe – under the freeway, we will take one piece and move it up, it will be a ditch. The pipeline is more expensive, concrete pipe is hard to get, Jonathan reached out, HTP is easier to get right now, we try and get the material easiest to get and keep the cost down. Melling – would it be more economical to have a larger ditch? Joe – we will look at all options. Typically, you look at what takes up the area, we will look at the ditch and pipe. Phillips – the pipeline portion from the interchange, what
else does that include, there is erosion there, will it fix that? Joe - yes, lay a pipe in the ditch, we are in the master plan level and there will be adjustments. We will lay in the flow line and make sure the offsite water will flow in and carry it away, the pipe would be buried, and the property cleaned up. Dave Nakken – you have a 24” pipe, possibly upsizing, the current culvert, the other 46” do they all go into the 48” on the other side? Joe - the plan now is to leave the box culvert. We have to look at it all, it has to have the carrying capacity. Dave – additional opportunity. Ben Lamoreaux - there –s a 24” culvert that comes through and drains most of Ridge Road, turns the corner into a ditch and a 24” that drains under and goes toward the apartment, that 24” needs to make it over there. Discussion on 24” for the apartment complexes and then a 48”, a 24, and another 24 going into a 48” that doesn’t make sense. It could be a vertical channel with slope sides, a box culvert but open and some rip rap. Are the design criteria the right ones? We are designing a 100-year storm and we know we had a 900 year, and it will never occur again, but we talk prioritizing, 100 year we carry in the street or culvert storm drain under the street, the purpose is so we cannot have flooding to damage property. If we go above that it slopes to the home 10% and provides another foot between the curb and home. The IRC ups our foundation line by 1.5 foot. There is opportunity to allow the water to flow better without flooding homes. The design criteria should not be straight, if a high-risk area, nothing is perfect, if high risk for significant damage for 110-year storm, we evaluate adjusting the criteria when it comes to the channel. Near Tagg and Go it is oversized, we have a lot of excess capacity. If it overflows it goes across the street, not into 300 homes. I am suggesting for arteries in town we should consider sizing above a 100-year storm. Before finalized I ask, penny wise, pound foolish, don’t use a broad brush. There is a detention pond planned at the bottom of Cody Drive. I talked to a property owner east of the stake center. They found 30-40 feet they had ground water, the drainage is coming down, it is in a drainage area, introducing more ground water to the stake center and other homes, maybe line the pond to protect that area. Melling – what about a municipal well there, would it help or hurt? Ben – it would draw down the water elevation. It would help. Mayor – from Center Street all be a channel? Ben – you have 3 culverts that dump in and the existing box, those 4 stuffing into a 48” may not be the best, maybe a vertical channel fenced and put some rip rap and slope it up. It is wide enough to get skid steer to clean it. Provide access into the channel with some equipment. Mayor – you get more capacity in a square channel than round. Mayor – 6’ square with rip rap. We get damage to the inlet, if open it is less damage. Ben – they are great improvements, but the drainage basins in the area where the flood study was put in, so everyone knows what feeds it.

Joe – adjustment in improvements, we are in a preliminary level, I appreciate points and information. We need to look at design criteria on that item. We could look to incorporate that concept in an ordinance. Jonathan – my thought is 48” pipe was in addition to the open channel. Joe – I miss spoke, that is correct. Phillips – the scope of the work takes the property owners back to whole on the erosion. Joe – we have a good idea what type of flows and we need to design for that. Phillips – we are looking to prioritize the projects funding, not the design.

Cody Drive – Joe – the improvements are 18-foot detention basin, include improvement on the rip rap channel on Cody Drive, ditch to route water away from the subdivision, some
collection on the south side of Cody Drive. We will look at the ground water. We have talked to the geotechnical engineers; we will bring that up. Paul – as far as the projects go in the Cody Drive area, we talked on I-15 pipe availability timing may be difficult. Over here it is a land acquisition, we need willing sellers to get property, that is the biggest factor in the Cody Drive area. The engineers can have something engineered by when? Joe – we have in our proposal as August for the construction deadlines, Jonathan is a great whip cracker, we talked to have it by the end of March to bid. We are talking $4 million project designed by March and we would be irresponsible to say that could happen. I think to be reasonable is June 30th. Melling – as we are waiting for that, Mr. Bittmenn talked logistics, what flexibility does the city have in that process to get property to offset some of their drainage requirements since we have it there, is it something we have an option to do rather than add it to the monetary budget to allocate resources elsewhere. Paul – you could delay the projects until the area develops. Melling – I am talking more line an agreement with the property owner if they give us the land for drainage that would satisfy their drainage when they develop. Paul – that would be difficult to know what they develop, that would be challenging. Mayor – there are stub out for water and sewer lines there, the price would be lost, it is also dirt. Could dirt be moved while we wait to do what we want. Jonathan – that has happened to some extent. Ben Lamoreaux – I left sandbags where the channel comes through to keep overflow from coming and I put a berm in without asking. I understand that the property comes up to the point, the City has put a channel through, it pinches down, if it washed out it wouldn’t do anything. In one area it would spill into the street, work with one property owner to let us divert it to the south, it will come back around, if the property owner will allow the berm to stay, but people on the other side won’t be happy. If we deepened it, we could make something temporary, a dirt hole, it would help. We designed a wall, 27” masonry wall with concrete in front of the stake center, we will make the crest of the drive for a 500-year storm. We will get a little spillage; the back has an oversided pipe we think it would hold the overflow. Half the flow came from one area, it is probably a higher priority than the detention pond and remove the grate, the flows came from the channel if the grate is removed it will take debris into the pond. There could be some type of detention would help.

Paul – if we can’t have the engineering done before the monsoon, please propose measures we can do now while you design. Joe – another issue we have now is a labor shortage. Paul – we can’t wait a year without doing something. Joe – we were here, we saw the news, we mucked out basements in Enoch, we are aware of the pressures on the Council and management. We are committed to expedite what we can to get this out the door as fast as possible. We will have weekly progress meetings. We have already talked with Geotech to move as soon as we had approval. The City will chip in. There is a high level of commitment, but I don’t want to tell you something that is not true. The Master Plan was a quick turnaround, you have done a lot for your citizens. Jonathan – we had commitments from other staff saying they can get it done. We are willing to do everything we can to expedite this, so it is frustrating. Joe – I understand, but I must be honest. If you feel like you have to find a different solution we understand. Jonathan – there are critical pieces that need to be done, getting the pipe under Center Street, if that is the only thing it would be wonderful, if we can’t get the property, we can run a pipe to Cross Hollow Road to help protect Sunset Canyon. There are a few things that could be done short term to alleviate problems. Joe – we had that discussion also, especially about Center Street. Riddle – some
of these things we can’t do, is there any way to do any in-kind to get things taken care of so we don’t fill 70,000 sandbags on June 15th. Can the engineering office do anything to prepare? Jonathan – I am committed to help. Paul – we hired outside engineers because of the backlog of projects in the engineering department that are 2-3 pages long. We went outside to speed things up. We can help. Melling – I see Jonathan leaving at 9:50 pm on nights with no public meetings. We need to see what band aid solutions we can get done. Phillips – it needs to be engineered the right way before we do anything in-kind.

Mayor – Ben, it is good what you are doing for the church, I think the same for the apartments, the entrance is quite a drop, if they were higher, it would send the water to the drainage. Ben – maybe get some UDOT resources there, they have right of way, part of the flow is coming from them. Construction or design, maybe they can do some of that. Joe – we know there are permits with UDOT. They may have emergency contracts and you can develop and design while they do it.

Brad Green – I am not an engineer, I have been a pipe supplier for a long time, there are things that have to be done, the channel will require an 8-foot channel to put the pipe in, so maybe those things can happen and be ready when it is available. We did that, the plumbers took what was available. Center Street needs to be done, do the bare minimum, but 500 volunteers cannot put in 48” pipe, that requires machinery. If there is a 500-year storm at least we have a hole in the ground.

Riddle – in the Cody area, the NE side of the church, does that not drain off, does the church need to do a larger pipe? Ben – a few years ago there was a flood, the entrance flow line of the curb and gutter didn’t go up, it sloped into the parking lot it is really steep, there is one parking stall 15%, when the first flood came in it was raised. One of the apartments has the same arrangement, that is one minor repair that would help a lot. I know a bunch of pinch points and I would like to go show you. There is a culvert in the parking lot, I think it is oversized, we were going to raise the driveways up 1.4 foot for a 500-year storm and I have a weir to flow 6-7 inches, so maybe take it to the pipe and to the street. David has a step and a gate, and it flows to his basement. The block wall is a little detention basin. I am hoping to have it done before June. I have to put 60 feet of retaining wall in the parking lot to redo the entrances. The property owner to the east has the water 40’ down. There are high ground water levels on that street. To push the water to the south will help. Focus on critical ones and reduce catastrophic issues. Put ditches in and then bring to grade when needed. What we do will not help much unless the east property owner doesn’t put in a wall to do the same. this would also help the property below.

Brittney Westwood – we were one of the houses that flooded with 7’ of water in our basement at the end of the church parking lot. I have 5 kids scared of the rain. I appreciate what you are doing. Expediting the process would be very appreciated.

Phillips – what does staff want us to do with the proposal, we are not in the process of designing what needs to be. Are these the right priorities to do with the money we have available? I assume the answer is yes. Short of trying to design this tonight, what is our role in the approval of funding?
Jonathan – these are the priorities we feel are the best from Sunrise, and residents and staff. The detention basin is a wild card because we don’t have the property secured to move forward. Phillips – how specific do we need to be from legal standpoint to have the funding to these projects. Paul – the funding is a budget adjustment, not tonight, it is commitment to get the projects designed and out to bid before the rains. It sounds like we are not getting that. I am asking Sunrise to come back next week so we have some emergency measures in place before June. Hartley – when we put this out to bid, did we not have a time factor? Mayor – this was an estimate. Paul – they are doing an excellent job on the master plan and have met deadlines on that, and they are saying they cannot meet the deadlines we want, so we want emergency measurers so the Westwood’s, Nakken’s and Wilsons can get some sleep. Joe – we are committed to the City, there are always things that come up you don’t expect and I want to be honest. Mayor – we have some priorities, I think we move it so we get money in place, if the city does some on our own we have the money. If you are looking at pipe and it is out 6 months, that is almost in time. Joe – Jonathan has talked about that and ready to get the pipe. We all knew the areas and problems and you have given us ideas. I am sure the citizens are glad we are not sitting on our hands, and we have figured some money out. Joe – we agree. This process started in November, so it has happened in a short amount of time. Melling – it’s not urgent in a sense that we may have serious property damage, but a sense of urgency to keep it from happening in the future. What is the process of reassessing standards for new projects? Jonathan – Sunrise has provided recommendations; we will try and have it at the next meeting. Trevor has been working on that this week. Mayor – anything anyone wants to do on their own, get after it. Dave Nakken – I feel the same as Westwood’s, to see people swimming out of apartments was not good, it was scary. Mayor – that is very low. Julie Westwood – I don’t know if this has been answered. I didn’t know there were 4 flows into the neighborhood, we were 11 feet under. Did they address all the water off Cedar Mountain to go into the pit, what is the plan for that waterway, 50% of the water came from Cedar Mountain. Paul – it is to extend the trail under the road and pop it out by the detention basin. Julie – was it covered in debris? Paul – when it is designed the grate will come off and it won’t catch rocks and trees. Ben – there is a restriction on this one side, it just needs to be extended, it should be added to the priority project and has a short time window for design. Paul – how far in design is that project? Jonathan – we have had conceptual; the problem is the city doesn’t own the property where the box culvert ends. Ben – at least reach an agreement to dig a hole. Julie – there is so much building going on, all that needs to be protected as well. Ben – there is a temporary measure, Silver Silo built a berm and that will do a great deal of help, it will push it across the road, but then it goes up hill, there is a channel next to the road it will wash down. That would mitigate that problem. Jonathan and the guys have done a ton of work, they just went and did it. It is a multi-level defense, some of those can be done and give Sunrise time to design. Paul – a vote is not necessary tonight. Joe – we will try and get to bid before the monsoon, and we will carry forward with rest of the project. Jonathan – we take the priority list and tighten it down to the highest priority in this list.

**AN ORDINANCE AMENDING CHAPTER 32 SECTION 6 OF THE CITY’S ORDINANCES REGARDING THE MINOR LOT SUBDIVISION APPROVAL PROCESS, DON BOUDREAU: Jonathan – this was presented last week, it is clean up in the subdivision ordinance regarding minor lots. One small change, it talks about widths need**
to be 200 feet, we will change to primary lots more than 200 feet, we may have a flag lot less than that. At least one of the lots need to be 200 feet of frontage.

Councilmember Melling moved to approve the ordinance amending Chapter 32 Section 6 of the City’s Ordinances regarding minor lot subdivision approval process; seconded by Councilmember Hartley; roll call vote as follow:

- Terri Hartley - AYE
- Tyler Melling - AYE
- Scott Phillips - AYE
- Ronald Riddle - AYE

APPROVE A FUNDING AGREEMENT WITH THE NRCS FOR THE COAL CREEK STREAMBANK AND SHORELINE PROTECTION PROJECT AS PART OF THE EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM.

JONATHAN STATHIS: Jonathan – a few items came up since last week. Part of the funding NRCS identified a certain portion to go toward engineering design, we talked to Bowen Collins, part of our pool, they have done work with NRCS before, their fee is a little less than allowable by NRCS for design. They added construction management costs that would push over that amount, we propose the City Engineering Department do the construction management. If the Army Corp of Engineers require permitting that will add $13,000 if it needs to happen, we could pay in professional and technical services account. Also, NRCS wants improvements to the structure behind the Visitor Center, $10,000 to $15,000 and we feel there would be enough funding to accomplish that in this project. We are asking to engage Bowen Collins to do design work so it can begin immediately and fit in the timeframe of NRCS and get it done before monsoon.

Phillips – Bowen Collins will do construction management for additional $25,972, what does that do to your department, what is the cost in house to do that. What is not getting done? Jonathan – it would be added to the round of inspections, it is another stop each day. Also, it will be handling payments and weekly meetings. I don’t see it as a huge burden when we are out doing inspections. I would like to get all the projects designed and out to bid so our summer months are done doing construction management. I think we could handle it. Request is to approve NRCS and Bowen Collins.

Councilmember Phillips moved to approve the agreement with NRCS for the Coal Creek Streambank and shoreline protection project as part of the emergency watershed protection program and engage Bowen Collins to do the design work; second by Councilmember Hartley; vote unanimous.

MUNICIPAL OFFICERS ETHICS & OPEN & PUBLIC MEETING TRAINING.

TYLER ROMERIL: Tyler Romeril presented the open and public meeting training. See attached Exhibit "A"
CLOSED SESSION – PROPERTY NEGOTIATIONS: Councilmember Melling moved to go into closed session at 8:07 p.m.; second by Councilmember Hartley; roll call vote as follows:

Terri Hartley - AYE
Tyler Melling - AYE
Scott Phillips - AYE
Ronald Riddle - AYE

ADJOURN: Councilmember Phillips moved to adjourn at 8:30 p.m.; second by Councilmember Melling; vote unanimous.

Renon Savage, MMC
Cedar City Recorder
MUNICIPAL OFFICERS' AND EMPLOYEES' ETHICS ACT
10-3-1301 through 10-3-1311

- Purpose (10-3-1303) - to establish standards of conduct for municipal officers and employees and to require those persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.
- Intent - to promote the public interest and strengthen the faith and confidence of the people of Utah in the integrity of their Government.

DEFINITIONS 10-3-1303

- Conflict of Interest - defined as actions or situations in which an officer’s or employee’s judgment may be compromised by an officer’s or employee’s private business or economic interests.
1. INFORMATION

18-5-1264(b)(vi)

Disclose or improperly use private, confidential, or protected information acquired by reason of the officer's or employee's official position in the course of official duties in order to further substantially the officer's or employee’s personal economic interest or to secure special privileges or exemptions for the officer or employee or for others.

3. GENERAL CATEGORIES OF VIOLATING THE ETHICS ACT:

Disclosure doesn’t cure
2. POSITION

10-3-1264.5(b)
Use or attempt to use the officer’s or employee’s official position to:
- further substantially the officer’s or employee’s personal economic interest, or
- secure special privileges for the officer or employee in relation

3. GIFTS

10-3-1264.5(c)
Knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the officer or employee or for another, a gift of substantial value, or a substantial economic benefit, tenuously or in a gift that:
1) would unduly improperly influence a reasonable person in the person’s position or department, and impact discharge of the person’s public duties, or
2) the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

4 CATEGORIES WHEN DISCLOSURE IS REQUIRED BY LAW:

- EXCEPTION: an occasional nonpecuniary gift having a value of less than $50.00; an award given to public in recognition of public service, a bona fide loan made in the ordinary course of business, or a political campaign contribution.
1. COMPENSATION FOR ASSISTANCE IN A TRANSACTION INVOLVING MUNICIPALITY (§10-3-1305)

It is an offense for a member of the public body to receive or agree to receive compensation for assisting any person or business entity in any transaction involving the municipality in which the member is an officer or employee.

1. File a written disclosure statement with the Mayor's office at least 10 days prior to contracting with the concern.
2. Disclose the information in an open meeting to the members of the body of which the officer is a member immediately before the discussion; and
3. For a staff member, they need to also disclose to their supervisor and any other staff member making a decision based on the information.

2. INTEREST IN BUSINESS ENTITY REGULATED BY THE MUNICIPALITY (§10-3-1306)

Every officer, elected official, or municipal employee who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to the regulations of the municipality in which he is an elected or appointed officer or employee or municipal employee shall disclose the position held and the nature and value of his interest in the business entity which he is an officer, director, agent, or employee or owner of, or the interest of the municipality, and agree at any time thereon if the elected or appointed officer's or employee's position in the business has changed significantly or if the value of his interest in the entity has increased significantly since the last disclosure.
Disclosure filed with the Mayor. The Mayor discloses to the City Council.

Not applicable to insurance where the value of the interest does not exceed $5,000. Life insurance policies and annuities may not be considered in determining the value of any such interest.

3. INTEREST IN BUSINESS ENTITY DOING BUSINESS WITH THE MUNICIPALITY (§10-3-1307)

Every appointed or elected officer or municipal employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the municipality at which he is an appointed or elected officer or municipal employee, shall publicly disclose to the members of the body of which he is a member or by which he is employed immediately prior to any discussion by such body concerning matters relating to such business entity, the nature of his interest in that business entity.

Disclosure satisfied if done in writing as per the preceding sections.

4. INVESTMENT CREATING CONFLICT OF INTEREST WITH DUTIES (§10-3-1308).
C. If a transaction is entered into where there is a violation of a disclosure requirement, the municipality may assess or void any contract for sub-contract, and shall dismiss or remove the appointed or elected officer in municipal official ion-office.

2017 Legislative Session S.B. 181.

This bill establishes, on the state level, an ethics complaint review commission dedicated to resolving ethics complaints brought against local government officers and employees. The commission is appointed by the governor and funded by the legislature. The commission operates as a quasi-judicial hearing board and conducts formal hearings with subpoena power, counsels power, a governor by the open meetings act and the data privacy act. The commission is empowered to the local government when the commission has reason to believe a crime has been committed. The local government may create its own commission to handle local ethics complaints in the criminal ethics commission.

UTAH'S OPEN AND PUBLIC MEETINGS ACT
§52-4-102

- Purpose: to aid in the conduct of the people's business
- Intent: to take actions openly and to conduct deliberations openly.

It is Utah's policy that all meetings of official bodies of government, with limited exceptions, are to be open to the public when they deliberate and take action.
WHAT IS NOT A MEETING?
- A chance meeting
- A social meeting
- Still can't talk shop

WHAT IS A QUORUM?
- A simple majority of the membership of a public body
WHAT DO YOU HAVE TO DO WHEN YOU HAVE A MEETING?
1. Open to the Public
2. Notice
3. Keep Minutes and Record

CAN AN OPEN MEETING BE CLOSED?

WHAT IS A PROPER PURPOSE FOR A CLOSED SESSION?
1. To discuss the character, professional competence, or physical or mental health of an individual.
2. Strategy sessions to discuss collective bargaining
3. Strategy sessions to discuss pending or reasonably imminent litigation
WHAT IS FORBIDDEN DURING A CLOSED MEETING?

1. Approve an ordinance, resolution, rule, regulation, contract or appointment.
2. Interview a person to fill an elected position or
3. Take final action—final votes must be open and on the record.

COMMON VIOLATIONS:

- Closing a meeting without first voting to do so
- Conducting a closed meeting for persons other than those invited
- Having officials or field officials in a closed meeting
- Failing to give proper notice
- Failing to give adequate notice

WHAT COULD HAPPEN IF THE OPEN AND PUBLIC MEETINGS ACT IS VIOLATED?

- Revocation of public meeting
- May have to pay court costs and attorney fees
- An intentional violation could result in the conviction of a class B misdemeanor