COUNCIL MINUTES
FEBRUARY 9, 2022

The City Council held a meeting on Wednesday, February 9, 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; Craig Isom; W. Tyler Melling; Scott Phillips; Ronald Riddle.

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; Leisure Services Director Ken Nielson; Economic Development Director Danny Stewart; Public Works Director Ryan Marshall.


CALL TO ORDER: Rajan Zed, President of Residential Society of Hinduism gave the invocation; the pledge was led by Councilmember Melling.

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

ADMINISTRATION AGENDA - MAYOR AND COUNCIL BUSINESS: STAFF COMMENTS: Mayor - I want to recognize the American Packaging Company who had their groundbreaking, it was wonderful to meet with the owners, it is their first venture of the west coast, but they are strong in the east coast. They are at Port 15. I want to recognize Danny Stewart, Mayor Wilson Edwards and Megan Anderson and all those in the City that helped. Mayor- A letter was sent to the Council from Dane Leavitt. Hartley – I talked with Dane and was ok with the email being entered in the record. A copy of the email is attached as Exhibit “A”. Mayor - I will read my answer “Dane, Thank you for your thoughts. This may be one of the most difficult decisions the council will make in my term.

I respect your analyses and I have a bit different take on it. Please allow me to share.

The City has about 10,000 water meters. Developers, including Leavitt’s, are developing nearly 10,000 new lots. The state is mandating destruction of nearly 90% of the city water. There are 20,000-acre feet of water owned privately, primarily agriculture. We only need about 30% of this water to supply water to the 10,000 new lots when developed. There are many water owners who are older, have no children interested in farming, and unable to continue. Selling water will be a great blessing. They are confused about taxes, inheritance, and life security into old age. Developers only need water when they need water. They don’t have to buy 100% of the private water right now. Developers, like Yourself, can easily see
ways to help water owners achieve their goals and supply you the water you need. I explained one-way last Wednesday to you.

The City needs to supply residences a “thumb” sized water pipe with consistent water for hundreds of years. As development happens, we need to get the rights to keep supplying that water. I have already began exploring for new water. I am very confident that “not all water flows to Quitchipa”. I believe that we can develop new sources and rest Quitchipa. If we get 30% of the water from private users, AND find new sources to supply residences, the aquifer can take a breather. I am also looking to capture the 2+ cfs of coal creek for city water. This alone could be up to 2,000 afy. Add to all this Pine valley, and the effluent of 3200 afy, we have many options. I think there is too much fear out there. I think there is much to be hopeful for and all will bring down the price of water. I want to sow doubt in the private owners of water, that now might be a good time to sell.

I want the City to get out of the way and let private markets take over. I think the 40% fee will do just that. You and all the developers are great businessmen and can do what you do best and the city should not be meddling in the market. Obviously if a developer brings money for water, we should make that money available to purchase the water we supplied. We don’t have a slush fund of money from selling water. The City should use its money to develop new sources of water, and developing Coal Creek water and the effluent. Developers should make deals as they need to and bring the water for current developments. Thence “optimism” and “doubt”. Optimism in the community and doubt by water owners.”

Mayor - there will be a retreat on the 22nd of February to discuss items to help me prepare the budget for next year. It is a public meeting and people are involved, we don’t hear from the community, the council discusses matters. It will be in the Council Chambers at 9:00 a.m. there will be a public field trip a week from Friday at 1:00 p.m. by the freeway where the apartments are, the field trip will be all about flooding, Cody Drive, Cross Hollows and Fiddlers Canyon. The first hour of the retreat will be to discuss those topics. Phillips – I want everyone to know Historic Preservation has been working on the Jolley’s Ranch Ware building, it is a private building, we are trying to get it on the national registry, they are working with us, the National Historical Society and State Historical Society. They owner is restoring the inside of the building to the original where possible. It is a wonderful building to have saved. Hartley – the commercial or upstairs? Phillips – both, he hopes to have the bottom for special events. He wants to create the front like the Old Cedar Hotel and will restore the flagpole at the top of the building, the top floor will be professional offices. Also, I have been a part of Presidential Search for SUU, and I am fortunate to set on that committee, they have had one public meeting, there will be two more, one in March and April, they want the community involved. Melling read the following: “I left council last week feeling weighed down because of the light in which many of our residents were painted. I received the following from a member of the public who watched the meeting and had similar feelings: “When they knocked down the old houses across the street from my house a couple years ago and put in new apartments that blocked part of our view, we were not as excited about it, but we have since gotten to know some of the families who live in those apartments and what a blessing that has been. Human beings, with real lives and needs. Not just some obstacles to my own sense of selfish entitlement.”
This message reminded me of the reason why we're all here. Not long ago, I was told in these chambers that making the issues about the people is cruel. But I think sometimes we forget that our city's job is to assess the human impact of our decisions.

I originally ran for this office because of my concerns about the human impacts of our building policies on small business. In this seat, I've been able to mitigate some of those adverse impacts while also learning to appreciate the humans that we employ to review and enforce those policies.

I appreciate the diverse perspectives of those who reach out and who attend these meetings, but last week's message reminded me to consider the perspectives of those sometimes most significantly impacted by our decisions but who lack the resources to make their voices heard. Our job is to represent all of our city's people, and not just those who profit from change or those who crusade against it. I'm recommitting to represent everyone, especially those whose voices need that representation the most.”

Ken Nielson, Leisure Services Director – I want to make you aware that the Parks Division will be taking the sweeper through the parking garage on February 23rd, and 24th and will tackle 2 levels each day. We did it last year and will do it again. Two levels will be blocked off, they will start at 6:00 a.m., we want to spread the word to the businesses. There will be parking, maybe not in your favorite spot. They will start with the top 2 on the 23rd. Phillips – can we get it on the website? Ken – we have already told Gabby. Jonathan – last week Councilman Riddle brought up a concern on Bulldog Road. In July last year the Engineering Department did a speed study at the request of property owners to reduce the speed. We put the counters out and looked at 85% speed, that is the standard procedure, 85% of drivers go at that speed, it was found it could be reduced to 45 mph, and the Council voted to reduce it to that based on the study. They are still having problems; we could put driver feedback signs or acceleration and deceleration lanes and enforcement of the speed limit. Arbitrarily lowering we can have liability; I will defer to legal on that. The driver feedback sign flashes your speed. Phillips – the one on Main Street, people do slow down. I like the acceleration and deceleration lanes, that allows the slower vehicles room to do that. There will not be less traffic on that road. Jonathan – we looked at the lanes, typical 500 foot from driveways of Western Rock and Sunroc, Sunroc is on the east side, if they make a left turn it doesn’t help. As the road is widened there may be an opportunity for a center turn lane. That is a longer-term solution. We may want to contact property owners and see if they want to participate, but the signs are a solution. Riddle – with the trucks, about 110 feet, it takes a long way to get out there, anything would be helpful. They block the road when they turn out. It is a great way to start. Jonathan – the driver feedback signs cost about $2,500 each, there is a cost involved, we will have to look at that in the budget. Melling - $2,500, how much officer time is that. Also, I went out with officers on Friday night, 9:00 pm to midnight, and right after midnight we pulled over a DUI and I got home around 4:00 a.m. It highlighted traffic stops, our officers go one at a time and they don’t always have backup, they do call to let them know they are on a stop. I appreciate the service they provide. I encourage anyone who doesn’t know what it is like to look into those opportunities.
PUBLIC COMMENTS: Scott Stubbs, Iron County Farm Bureau – I have been hearing about eminent domain on water. My job is to keep farmers in Iron County in farming, I am opposed to any water going to housing, but I respect their private property right. Eminent domain takes their choice to sell away from them. One of the distinguishing features of a free society is the right of private property as every individual has the right to his life necessary to sustain life, private ownership of property and the ability to keep the fruits of his labor. Those rights not only assure the individual to enjoy the life and liberty promised him by a free society but also assured continued and dependance and security for all. I highly recommend staying away from eminent domain of water, it will bring agriculture altogether against this, it has not been done in Utah. In a conversation earlier today, it was pointed out that 75% of water does go to agriculture, and I realize that is a lot, in turn we produce 100% of the food, 2% of the people feed 100% of the people. We provide safe and secure food supply. In some parts of the world, it takes 90% of their labor to feed their selves. Last I heard it was less than 9% of income to feed ourselves. I urge that we don’t get into eminent domain. Tyler – I have never had one city councilmember even joke about eminent domain to get water rights. Riddle – as I grew up if you swore my mother washed my mouth with soap or tobasco, I think that is a word that should wash your mouth out with soap, that isn’t an option. Hartley – do we need to read the email from Dane to enter in the record? Tyler – no, it can be summarized. See Exhibit “A”. Craig Jones – I appreciate the great service you people do for the community. I am concerned about growth, water and our quality of life. Craig read the attached Exhibit “B”. I am concerned that we manage our growth. I am sure there are many farmers that would sell so they don’t have to work. I asked my son if he would want the money or the work, he said the work. Verl Prestwich – see attached Exhibit “C”. The graph came from Water Conservancy District, you can see the significance of time, the city is not prepared. If you are purchasing water for developers, what is your concern for purchasing for current residents. If it is so easy to get water, why are the developers willing to pay 40% more. The other chart shows the senior water rights owned by the irrigation companies, there are only a few, there is a fair amount of senior water that is attached to Coal Creek and are supplemental. You must have surface water connected to it. It is very possible to find all the water with prior 1934 dates and to identify that water available for you to use and assess how significant it is and how hard to find water. I doubt you will be able to get this water and transfer it to underground. Ray Vance – I love Cedar and I am seeking permission to fill my scuba tank at the fire station, there is nowhere else to fill the tank. If there is a way to do this on a one-time basis then maybe a procedure put in place where a few others in Cedar City can fill their tank for about $7. I talked with the Fire Department, they said to come to you. Isom – from legal perspective I don’t know if I want the Fire Department doing that. I have used the dive shops in St. George, I think it is out of the realm of the fire department. Tyler – I don’t even know what a scuba tank is. Mr. Vance – it is an air tank. Phillips – what is the liability? Isom – a tank has to be recertified so it dispenses the air properly. Tyler – there is a place in St. George? Mr. Vance – you can rent their tanks. Tyler – I have similar concerns with your sole supply of air for underwater, that gives me pause. Isom – training is teaching you how to survive. Phillips – maybe you become a volunteer fire fighter and certify. Terry Hanks – high density zone and water use. You have a simple landscape plan with no more than 50% gravel in high density, why not the entire thing in rock? Paul – there are those that think it is ugly. Terry – trees and shrubs don’t use much water, you can line those. Paul – I am telling you why the ordinance was written,
people like living plants and green stuff. Terry – you are trying to save water, sprinklers waste water, if they say you have to have a line to each bush, shrub, you save 99% of the water. Phillips – correct. We are looking at conservation in our ordinance now. Melling – there is a state bill not allowing cities to require grass, so we may need to look at our ordinances. Terry – we should tell them to leave it well alone.

CONSENT AGENDA: (1) APPROVAL OF MINUTES DATED JANUARY 19 & 26, 2022; (2) APPROVE BILLS DATED JANUARY 25, AND FEBRUARY 4, 2022; (3) APPROVE THE FINAL PLAT FOR MOUNTAIN VISTA PUD PHASE 3, PLATT & PLATT/TYLER ROMERIL; (4) APPROVE A ROAD DEDICATION AT 1700 WEST 400 NORTH, PLATT & PLATT/JONATHAN STATHIS; (5) APPROVE AN AGREEMENT WITH CLAYTON CHENEY FOR DEFERRAL OF FRONTAGE IMPROVEMENTS ON PROPERTY LOCATED AT 2209 WEST AND 2211 WEST 580 NORTH (HORSE ALLEY). CLAYTON CHENEY/JONATHAN STATHIS: Councilmember Phillips moved to approve the consent agenda items 1 through 5 as written above; second by Councilmember Melling; vote unanimous.

APPROVE CONTRACT AMOUNTS WITH ENGINEERING FIRMS FOR THE DESIGN OF CITY CAPITAL PROJECTS. JONATHAN STATHIS: Jonathan – this was before you last week. A couple of changes since last week, at the end I added a cost for a parking study by Horrocks Engineers, we have had a developer approach the city to change the parking ordinance, we want to get a study. We received a proposal of part of the engineering pool, it was $5,500. Phillips – is this for the use of others? Is this for the reduction? Why are we paying for it? Melling – I don’t know this project, but parking has come up in the housing committee multiple times, in smaller developments you can’t risk people having not enough parking, and on larger projects too much parking. It has come up to have the city have a better basis on why. A parking study has been recommended. It would help the city in general. Paul – there is a private developer with his own numbers that want us to reduce the numbers. This is a 3rd party opinion.

Jonathan – this would focus on multi-family with central parking, not PUD’s with parking contained at the units, it is a limited study, it will not cover every situation. Isom – would it encompass developments with a mix of multifamily and commercial? Jonathan – no, the Council proposed a change in the mixed use and so we think we are covered. Melling – the residential is the main driver. Jonathan – it would apply if the number were reduced in the mixed use. Hartley – what is the remaining budget of the $78,000? Jonathan – that is the total budget, most is remaining. We thought we may need more money for the general plan and transportation plan and those are wrapping up.

Jonathan – one thing not in your packets, on the water master plan, I talked with the consultant, we wanted more work on the water model, so that number in red changed, but it is still in budget.

Councilmember Isom moved to approve the contract amounts with Engineering Firms for the design of capital projects; second by Councilmember Hartley; vote unanimous.
AN ORDINANCE AMENDING THE ZONE FROM DWELLING MULTIPLE UNIT (R-3-M) TO SUU HOUSING DISTRICT (SHD) FOR PROPERTY LOCATED AT 356 SOUTH 450 WEST. PLATT & PLATT/TYLER ROMERIL: this item was tabled.

AN ORDINANCE INCREASING WATER USER RATES. JONATHAN STATHIS:
Jonathan – this was presented last week with the tiered rate structure and the phased in approach through 2025 and for commercial to 2026 with the first-rate increase going into effect on July 1st this year. Melling – to touch on a note, other than the increases, the increases are for the existing residents shortage. I don’t think it will dig us out entirely, but to have an earmarked fund for water acquisition, not for general maintenance. Jonathan – there is a portion of the commercial to get up to $2. You are correct on residential, but commercial O&M will be phased in. Phillips – we also want to charge for over usage. Melling – that is a byproduct, I don’t think we can charge a fee for conservation. Phillips – I know but people can pay to water their lawn more if they choose. Riddle – I am new at this; I took out my water bill last year and calculated this in and talked with people in Washington County and Page Arizona area and our rates are still pretty low. My mother chewed me out, she has a large yard with a lot of grass, but our rates even with the increase, are still very low, close to low or very reasonable. Melling – the average household at the end was about $20 a month. In the winter most users will not see an increase. We have spent a lot of time going back and forth with staff, and we feel they are much overdue. Tyler – as reviewing the water rate ordinance, Councilman Melling came over language that we have the have a reasonable basis, it cannot be that they live outside the city boundaries. We have been charging an increased rate if they live outside the city, that involves 22 users, we will bring an ordinance change in March. I am seeking that we don’t bill that rate this month, just charge what state law states. It is not on the books tonight. Paul – tonight’s ordinance will stand on its own. Tyler is asking for us to go to our billing department and change the rates now and correct that ordinance next month. Tyler – the properties are up the canyon and on Horse Alley. Hartley – does it just go forward, or do we need to go back? Tyler – I would say moving forward.

Councilmember Phillips moved to approve increasing the water user rates; second by Councilmember Melling; roll call vote as follows:

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CONSIDER PRIORITIZED LIST OF PROPOSED STORM DRAIN IMPROVEMENT PROJECTS. SUNRISE ENGINEERING/JONATHAN STATHIS: Jonathan – last week Sunrise came back with proposed emergency projects, we started with a list of $4 million in projects, with the short time frame we talked with Sunrise to whittle to the most urgent and those that could be designed. We discussed work at Cross Hollow box culvert, berm on the east side, take off the trash rack and remove the end section on the west side with an open ditch to the detention pond and we feel could be done by the City crews.
and there would not be much design work. We still need to work with the property owner on the south side and they seem amenable. That will help the flows on Cross Hollows make it to the box culvert and get into the detention pond.

Cody Drive we looked at reconstructing the borrow ditches on Cody Drive that were damaged during the flooding, upsizing on the north side and installing French drains and cross cutters at two locations, and also fix the berm on the south side. We decided not to do a new storm drain on the south side, because it may not be used in the long-term projects.

I-15 corridor we discussed boring a pipe under the Center Street overpass to allow excess drainage to flow under the overpass without backing up, and then going in and removing all the debris and fix the open channel west toward Tagg n Go. Mayor – you will have to rebuild the collector box when the pipe is in, the collector box was only feeding one pipe and will need design work. Jonathan – where the culvert comes in on the south side of Center Street it ties directly into the culvert, we talked about removing the box and enlarging the opening so all the drainage can get through the two culverts. Mayor – two huge pipes under the road and collect the water and make sure it is going where it needs to go. Phillips – also fixing the erosion. Jonathan – that is part of reinforcing the channel.

Rich Wilson – I am very sensitive to the fact as we move forward to the needed improvements, start on the north end and work our way up to the overpass so if we have floods the ability to move the water is taken care of in the channel. Are we going to use piping or enlargement and encroachment of property on the channel? Jonathan – for short term we will fix, clean and widen the channel if we can. Long time I don’t know the encroachment yet. We will know more when we get into the design. For now, we will reinforce and clean to get it functioning properly. Rich – the volume of water coming under the overpass, your insite will be appreciated going forward. Phillips – these are short-term emergency fixes before we get to the long term. Mayor – but we hope they are part of the finished result.

Dave Nakken – thank you for your efforts. The size of holes, they can’t be temporary, they have to be a finished product. Can you speak to the sizing? Jonathan – Sunrise initially brought forward was a 24” pipe, we feel it would be better to upsize for 48 or 54” pipe so it doesn’t get debris clogged and it would be a factor of safety. That is the only way for the drainage to pass through. Mayor – an existing 48” and additional 48 or 54”, that is why we need the box. Jonathan – a recommendation is to improve the drive approaches on 1400 West, a lot of that turns the corner and goes into parking lots. Mayor – two of those are really low and it is like a funnel, and it doesn’t get to the two-foot pipe. We want to get everything we can into the 24” pipe on 1400 West and then have an overflow capacity to take to the big box culvert.

Jonathan – we have talked cost of design with Sunrise, it is a compressed time frame to bid by the end of March. They are proposing for emergency $102,400 for design and $23,00 for bidding and construction management. The Engineering Department typically does the bidding and construction management. The emergency fixes all help in the long run, they are part of the long-term solution.
Next is the Cody Drive area for long term solutions, we talked about a detention pond on Cody Drive or to get the water to the detention pond. And to complete I-15 Corridor would be $130,000. We want some direction tonight. Phillips – what additional load does it put on the engineering department; you are already backed up. Jonathan – it would help if Sunrise can help with construction management, it is a critical project, and we want to give it the attention needed. Riddle – that is a lot for construction management, typically that is 15%. Mayor – this is all engineering, around $330,000. Hartley – the percentage is the design cost, not the construction cost. Paul – the point of this exercise was to do the emergency repairs and get them in before the monsoon that is the top line. While they are doing that, they are under contract to finish the storm water master plan with recommendations for a list of projects not just on Cody Drive and I-15. Once that is completed the City would then put a burden on the Public Works and Engineering to prioritize and ask for funding to get them through the system to get the funded and built. I am suggesting not looking at long term alternatives, we are already doing that. Finish the immediate need and then get the storm water master plan done and prioritize and knock them off the list. Riddle – maybe I am speaking wrong, they are fantastic. I am saying the burden on the engineering department is huge, but the construction management is a lot. Paul – I think you are taking it off the design that may be different after you get the cost to do the job. Riddle – maybe it is not as much as I feel. Jonathan – it is a not to exceed amount, they may not charge that much.

Jonathan – Cross Hollow Box emergency cost, $147,200 box culvert I think can be done with City crews, Cody $331,600 and I-15 $1,165,900 we will use ARPA money for this.

Paul – we have sufficient funds for the storm drain master plan for the next two weeks. We will be amending the budget in the next round of meeting to fund the projects.

Phillips – time is of the essence.

Councilmember Phillips moved to approve the prioritized list of proposed storm drain improvement projects; seconded by Councilmember Isom; vote unanimous.

**A RESOLUTION REVISING TO THE CITY ENGINEERING STANDARDS REGARDING DRAINAGE SYSTEM DESIGN. SUNRISE ENGINEERING/JONATHAN STATHIS:** Jonathan – this was presented last week. We have one small change, instead of the detention and retention from 100 year 72 hour storm it would be 100 year 24 hour storm, it is better not to take up so much property in a development. The other thing was the drainage control plan being required as part of development.

Councilmember Isom moved to approve the resolution revising the City Engineering Standards regarding drainage system design; second by Councilmember Hartley; vote as follows:

AYE: _____ 5 _____
NAY: _____ 0 _____
ABSTAINED:0 _____
AN ORDINANCE AMENDING CHAPTER 38 OF THE CITY'S ORDINANCES REGARDING DRAINAGE IMPROVEMENT DESIGN AND INSTALLATION STANDARDS, SUNRISE ENGINEERING/JONATHAN STATHIS: Jonathan – this goes along with the previous item with changes to the standards, the same change for detention from a 72-hour storm to 24-hour storm. Phillips – by changing the intensity of the storm and period, how does that change the size of the basin, the same size, or twice as big, or deep? Jonathan – it will be larger and deeper, it depends on the size of the storm, the depth, the asphalt. Melling – what is the shift in rainfall from 72-hour to 24-hour storm? Jonathan – I don’t know, I would guess 2-3 inches. Melling – at 30% difference. Jonathan – about 40%

Joel Hansen – specifically I would like to look at changes to the drainage, I don’t want my developments flooding. However, I have a master planned storm drain system through my development 12 or 16 feet wide 8 feet deep that is rip rap, I would like to know, we are making change on 72 or 24 hours, I would like to know what the difference is in what I have master planned on my property versus what I have to change and the cost. I have probably ¾ of a mile of storm drain that is rip rap to put in, that is not peanuts. I would like hard numbers and what proof of insurance we have from doing that, that it will protect us. We had a bad year last year, I have taken it on myself to change some of my design to protect me and the city, but at the end of the day I want to see the real costs.

Jonathan – if there is downstream capacity a detention pond is not required. If a developer wants to get drainage impact fees waived, they can put in a detention pond. It is not necessarily every development, but a lot of time they choose to or if there is no downstream capacity. Melling – the low impact capacity? Jonathan – that is an option, it reduces the flow leaving the site. Paul – Sunrise said it is a lot of the same concept as water acquisition, lower impact versus impermeable landscaping to soak in the water, this is what the city has encouraged in xeroscape and low water development. Phillips – if Sunrise is making the recommendations there should be models, because we don’t know. I think this is the right direction, but in my mind, we don’t have all the information. Tyler – do you have certain areas you want to look, a parking lot for 100 cars versus 20 makes a lot of difference. Paul – the model is not one cost for everyone, the answer depends on what they are developing.

Melling – in the report for Fiddlers, volume 100 year even a 3 day is 2.61 inches of rainfall, a 24 hour 3.01, only a 20% increase in capacity. Do you have to get this all downstream in 24 hours? Jonathan – there is a controlled release with an orifice plate to restrict .2cfs per acre, it isn’t a time period, it is a rate of flow, it has to restrict the flow to that amount. 2.89 to 3.36 on Cody Drive. Joel – I am happy to let you use my project as an example, I am happy to work with Jonathan, Staff and Sunrise to show this type of development. Today there are a lot of questions, the drainage I have runs into Westview Drive, that is where the master plan drainage goes, I don’t own the west side of Westview Drive, does that mean I build a 5-acre detention basin, or do I run it across to Westview Drive and into the desert as it has always done. I really have a problem with making changes to ordinances and standards until we understand the entire impact. When I come to build this years down the road, this can have a massive impact on my project and we don’t know what it is.
Tyler – the reason the City got an independent engineering company because they don’t care about the city standards or the developers bottom dollars, and they recommend increasing, that is their recommendation. Paul – each developer works with an engineer, and they can plan that out. Tyler – legally if we want to study each property fine, but if we have an independent study, I will say follow the recommendations. If we get sued it is a problem for the city if you don’t follow the recommendation. Phillips – I just don’t understand the impact. Melling – if we can take a week or two, is that in realm of the risk for economic impacts? Tyler – I don’t think there is a risk tonight but going down the road that is what we are looking at. Melling – I want you to be frank, if it undue burden on Mr. Hansen’s project, let’s just get some general data and bring it back. Riddle – shouldn’t they already have some of these numbers, they can show how they got to these recommendations. Jonathan – I will reach out to Sunrise.

Joel – my concern is not the economic impact on me, I have the exact same concern for what I develop as Mr. Romeril does. If I get into a lawsuit, I lose everything. I would rather build to a standard designed by them. I would just like to have a rough idea on the impact. I am happy to build to the standard necessary to keep us out of trouble.

Councilmember Phillips moved to table this item; second by Councilmember Melling; roll call vote as follows:

- Terri Hartley - NAY
- Craig Isom - AYE
- Tyler Melling - AYE
- Scott Phillips - AYE
- Ron Riddle - AYE

Melling – I was off on the numbers I read on the rainfall; I was reading it wrong.

**AN ORDINANCE AMENDING CHAPTER 37 OF THE CITY’S ORDINANCES REGARDING WATER ACQUISITION. CITY COUNCIL:** Isom – we have all thought about this. 14-15 years ago, we instituted a water acquisition fee. I worry about doing this and have it become effective tonight and not phase it in and I am also concerned with the fees and the 40% fee for changes in markets, adding to that the depletion, we are amping up the fees. I don’t want the city to be the market maker, but I am aware we need to make up some ground in purchasing water for our residents. I would like reductions in the rights, conservation opportunities that a developer brings to the table and make it more palatable. We have to acquire the water; I don’t know that I want to do it in one swoop. Thank you to Hartley and Melling and staff for all the work on this.

Hartley – I tried to summarize, I talked to a lot of people, and I want everyone to know the process I went through and then give my recommendation. We need to recognize the problem wasn’t created last year, the ground water master plan went into place last year, it is a community problem, not a developer problem. They say a 21,000-acre feet of water from our aquifer, that is how they got to the 1934 cut off until we get to a 2100 acre foot yield.
With the State over appropriation, we would be drawing 50,000-acre feet out of the aquifer if we used all our rights. Unless the climate changes and the aquifer does not change, there isn’t enough water with all ag water to supply our city in 2070. No matter where you put the well, it is the same aquifer. With what we proposed, I believe we may be trying to solve the problem in one swoop, and it may be too much. The existing citizens and homes have caused this problem, not just new development. As you see on the chart Mr. Prestwich provided, 2060 or 2070 the City loses 70% of our water rights. It is not just a development issue. I think the citizens can bear some of that burden. We recognize the value of development and construction in our local economy, and we need to find a way through that to continue development and be equitable to the taxpayers. There has been a lot of discussion on conservation, we can’t conserve our way out of this problem. The DNR has given the area 28% conservation by 2070, but they have not given us direction. We will see education and conservation with the Water District. You can have people come consult with how you water. April 6 and 7 there is a water scape class on landscaping, we don’t want everyone to tear out their lawn, it helps with run off and cools the area, we want xeri scape, not zero scape. Walking through these things I would say immediately adopt the $14,000 appraised value with a new appraisal every 6 months, leave the surcharge at 15% and give 120 days’ effective date to require the diversion to depletion and also recommend that we have Dane Leavitt’s letter added to the minutes, so it is available to everyone, attached as Exhibit “A”.

Melling – we hear a lot about growth and free growth and managed growth and that makes me shutter a little, I don’t think everyone is smarter than the combination of everyone. If we manage growth, we will screw it up. There are natural things that manage growth, access to amenities and utilities and the price. The council’s charge is not to manipulate the market, but make sure our charges for our services are fair and match market rates and actual costs. In looking at that we had 1.5 years ago a bad system that did not match cost. 1.5-acre feet per acre, discount at annexation, that is not what the residents use, they use 3-4.5-acre feet of water per acre +/- not one particular kind of development. In general, our residents use more water per acre than the farms and has not always been the narrative. As we charge fair rates by water use and if we build in incentives for developers maybe that trend will shift and that will be great. In running the number, we made adjustments but are still not charging the cost of water. We have anew appraisal, $14,000 per acre foot of water and we do need to assess that market value and we owe to the taxpayers to assess fairly. The administrative cost, it takes staff time, but the cost to the taxpayer when we receive funds or don’t have enough money to purchase water. The last 6 months the cost went up 40%, we hope the next will be negative 10%. Farmers will sell if they think Pine Valley will happen. One of my concerns with the administrative fee, I think it needs to be fair, but we don’t have the data to determine what fair is. It is appropriate to leave it as is today, but over the next few months we need to look at first in first out analysis to see the time in accepting funds and what the shift tends to be, if over a 3-month period the risk to taxpayer is low, if the shift is 9-18 months or more before we acquire water from a private seller then the risk is higher. We don’t have that information and I don’t believe we will adjust that today, but in the future. The other issue is the diversion to depletion, when we buy agriculture, it is not apples to apples, and it makes the final adjustment to make sure when we ask to bring water to the table it make the same as it will to pump and purchase. Because that is a larger adjustment we go 120 days, if we go 180 there is another appraisal. 120 days is appropriate. I throw it out that Mr. Leavitt
brought up a good point, the conservation options don’t incentivize conservation and they are cumbersome. We are looking at some of them. For a single family dwelling we assess .91-acre foot duty, 200,000 gallons a year to that home. Ideally if that home is using conservation measures, 1,000 square feet of turf and normal indoor use it goes down to .37, a huge reduction. How do we protect the city and is it fair for the lot buyer? If we make an adjustment. If we require the developer to record a limitation of 1,000 feet of turf, then the disclosure includes that the lot is on a conservation billing rate then the city without measuring lawns assesses a rate higher if over 12,000 a month and they pay an acquisition fee over the life of the home at the meter. If they use twice as much water as plan they spend extra $60 to $70 a month, that gives developers more conservation measures. The buyer can buy a home with a lot or water or not and the city is made whole. That is something we could do quick, before the 120 days. We have to make the adjustment at some point. If we put another option on the table that will ease the burden. I think tonight we update the appraisal and the depletion on a timeline but like to see a simpler conservation tool added in the next month or two.

Riddle – I know a few of the big concerns, strain on people that have lived here and talking about slowing development. I am probably one of the people that would be affected by increasing water prices. If you know what I do, I am in the construction business, I do cabinets and interior finishes, I would be affected if we keep adding on to this. I don’t do many homes, my set up and the way my employees think is for commercial. The problem I have as I listened to people for 10-12 years, I don’t think we can keep kicking it down the road, 120 days is acceptable, and we can’t do it all at once. Have we measured twice and cut once; I think we are close to that. That was in the letter shared. This isn’t something that happened in the last 3-4 months, this has been worked on for 1.5 years. I don’t want to kill construction, it will affect 70% of the people that work in Iron County, but we can’t keep kicking it down the road.

Melling – I think in addition to conservation, one other important thing is better incentives to have the developers find the water and bring it to the table instead of the City doing that. We can do it with an administrative fee. There are also other ways to do that.

Phillips – I was very moved from comments by Mr. Jones and Mr. Stubbs, we are here to represent all the citizens, not just one group. All people need to be heard and listened to. We are making to blunt, to quick. We are charged to try and find a solution to the problem that has been made over decades. This is too fast. I concur with Hartley and work toward that, with one exception, look to agriculture and conservation, there is nothing in the ordinance on conservation. We can make the right steps if we bring all the voices to the table.

Tyler – if the council is inclined to go with 120 days depletion, that is June 10th. I suggest say June 1st or June 15th, pick a date that makes it more clear for all parties.

Councilmember Melling moved to adopt amending Chapter 37 regarding water acquisition striking language adjusting the administrative fee conversion for now and making the language about the depletion adjustment effective on June 15th this year; second by Councilmember Hartley; roll call vote as follows:
Terri Hartley - AYE
Craig Isom - AYE
Tyler Melling - AYE
Scott Phillips - AYE
Ron Riddle - AYE

A RESOLUTION AMENDING THE CITY’S CONSOLIDATED FEE SCHEDULE CONCERNING WATER ACQUISITION & GOLF COURSE FEES. TYLER ROMERIL: Carter Wilkey – when they bring in depletion value, they won’t pay more, they will just bring more. The value stays the same at $14,000 plus the 15%. Melling – the appraised value of ag right or diversion right at $14,000 an acre foot and we add 15%, if the water right is brought to the table or a fee paid it adjusts to the 1.667 it is an increase to adjust that to a diversion right. Carter – so if they bring water, they have to bring 60% more water or buy 60% more water right? Melling – when you buy a depletion rate it is only 60%, they are bringing more rights or paying for the diversion value of the rights. Either way it is a 67% increase and that is why we are pushing that out 120 days.

Councilmember Melling moved to approve the resolution amending the City’s consolidated fee schedule concerning water acquisition & Golf Course fees with the new appraisal with the 15% admin fee; second by Councilmember Hartley; vote as follows:

AYE: 5
NAY: 0
ABSTAINED: 0

AN ORDINANCE AMENDING CHAPTER 26 ARTICLE 3 REGARDING PARKING IN THE MIXED-USE ZONE. DON BOUDREAU: Councilmember Phillips moved to approve amending Chapter 26 Article 3 regarding parking in the mixed-use zone; second by Councilmember Melling; roll call vote as follows:

Terri Hartley - AYE
Craig Isom - AYE
Tyler Melling - AYE
Scott Phillips - AYE
Ron Riddle - AYE

CONSIDER LOCATION FOR PICKLE BALL COURTS. PAUL BITTMENN: Paul – last week we talked about moving the pickle ball courts to the softball park. Melling – is this similar to the design already worked on. Jonathan – the full design fee would be $30,300 which includes work necessary to move to the new site. We talked about things that could be removed and it would get us to $20,000. We have $5,430 remaining in the current contract that could go to the redesign of the contract. In talking to the consultant, there is a cost to redesign, but there could be savings in the construction costs. Original size we didn’t have much room with a closure strip which does not allow post tension bars as easily. By redesigning they can allow the contractor to work more easily and get a lay out the works and
save money in construction. Items removed would be shifted to the engineering department. Landscaping, irrigation design, the Parks Department can do that. Survey work we could do in house. Electrical design would come in to play if we put the lights in. Phillips – I think we need to plan for the electrical design. Hartley – can we do all 8 courts with the RAP tax budget? Jonathan – I don’t know the answer to that. Paul – we have approximately $1/2 million, we have already spent $30,000 for the original design location. The consultant was apologizing, and I told them that was us that changed the location, they have done the work and earned the money. If you approve the move with the $30,000, we will have $440,000 for pickle ball courts and we will get as much as we can. We are getting rid of parking spots which can save money, and if we save on concrete work that will help also. Melling – I am trying to remember the figure when we originally looked at this, I think it was south of $300,000. Phillips – that was approved by the Council, it will have to come to this body. Let’s do it right. We were told if we don’t have 8 courts, we cannot host a tournament. Let’s get the full design before we chop our heads off. Melling – I think this is to get the engineering done, but I think your comments weren’t out of line with $1/2 million. Riddle – there are only certain companies that will do something like this, you can’t get someone that does curb and gutter. Paul – they have to do post tension concrete. Phillips – I support this move; I think it is the best location.

Councilmember Phillips moved to relocate the Pickle Ball Courts to Bicentennial Park between the ballfields and the skate park and move the design fees forward; second by Councilmember Melling; vote unanimous.

**ADJOURN:** Councilmember Isom moved to adjourn and go into RDA meeting at 7:55 p.m.; second by Councilmember Hartley; vote unanimous.

[Signature]

Renon Savage, MMC
Cedar City Recorder
Comments Inviting Unity on the Difficult Issues Associated with Depletion of the Cedar City Aquifer

To: Cedar City Leaders
   Via email to Mayor Green, Council Members, and Paul, Tyler, and Jonathan

From: Dane Leavitt

Date: 7 February 2022

Dear City Leaders:

Introduction

Thank you for the opportunities to comment on the City’s water issues ancillary to the historic problem of deepening aquifer depletion.

While I want to help, and am willing to work, I cannot participate in this Wednesday’s meeting (9 February) due to a paramount commitment to avoid anger, controversy, and enmity. I worry that all three seem likely at Wednesday’s public discussion of the Council’s anticipated changes to the water right acquisition ordinance.

Instead, I share my thoughts in this form, and in advance of the meeting, hoping they might help. I have chosen to not share my thoughts publicly by copying others this letter.

Encourage Builders to be Conservation Exemplars

Attached as Appendix A are some concepts that could be productively incorporated into your present course to better engage the development community in leading conservation efforts – an adjustment that would mitigate some of the challenges with your present course.

Concerns About Current Course

As I have often expressed, I am grateful for the resolve of City Leaders to address the problems of the aquifer’s depletion and Cedar City Corporation’s dearth of senior underground water rights.

I worry you are so eager to be decisive that you will deeply harm your capacity to lead a community towards unity in solving issues that will require willing participation of all to achieve a full measure of success.

Being decisive is not a virtue if quick and damaging action leads to anger and division instead of unity. To give a sense of the divisions I fear are being unnecessarily created by the Council’s present course, I have attached Appendix B which lists arguments likely to be voiced or felt.

I recommend you choose a more deliberate course that allows time to bring all along and develop a more complete plan. Such a choice is also being decisive – but in a long-term productive way.
At last Wednesday’s work meeting, Mayor Green was kind to quote me as saying “measure twice, cut once.” Thank you, Mayor. (I wish the saying was original with me.) Upon reflection, a better analogy is that you are sculptors, not carpenters. The materials with which you work include the hearts and minds of many people with varying interests – all necessary to the health of the economy and community. Please bring us together in this worthy cause. Don’t pull us apart by pitting one sector against another in an unnecessary contest of survival.

Attached as Appendix C is a list of possible elements to the multiple-faceted solution that surely exists.

Closure

Your duties run to all citizens. I desire and pray for your success in finding fair and constructive steps which unify the minds and hearts of all the City’s people towards finding and together taking the path towards adequate water supplies from a healthy aquifer.

If each of you would do me the kindness of acknowledging receipt, that would be appreciated.

With thanks,

Dane Leavitt

Appendices

- A – Builders as Conservation Exemplars
- B – Issues likely to be felt and voiced as to your current course
- C – Possible elements of a solution
Appendix A
Builders as Conservation Exemplars

I believe we miss an opportunity that benefits all if we do not incent builders to design developments that use less water. The suggestion, below, was rapidly crafted, but I believe may illustrate the concept in a helpful way.

Section 37-32-7. Amount and type of water required – Exception.

A. Amount of water required.

1. For property located in the R-1, R-2-1, R-3-1, RA, RE, AT, or RNZ zones (single family housing zone designations) each unit shall be assessed the acre feet of water per lot as indicated under the chart, below, dependent upon the specified square feet of turf on the lot, and with the annual and average monthly maximum water uses which apply to the lot under the conditions of subsection A.2, and subject to adjustment under subsection A.3.

<table>
<thead>
<tr>
<th>Acre Feet of Water Assessed as to the Lot</th>
<th>Agreed Annual Maximum Water Use Under the Assessment (All Subject to applicable water rates)</th>
<th>Agreed Average Monthly Water Use Under the Assessment (All Subject to applicable water rates)</th>
<th>Agreed Maximum Square Feet of Turf on the Lot</th>
</tr>
</thead>
<tbody>
<tr>
<td>.9</td>
<td>Unlimited</td>
<td>Unlimited</td>
<td>Unlimited</td>
</tr>
<tr>
<td>.6</td>
<td>192,000</td>
<td>16,000</td>
<td>3,000</td>
</tr>
<tr>
<td>.5</td>
<td>162,000</td>
<td>13,500</td>
<td>1,500</td>
</tr>
<tr>
<td>.4</td>
<td>129,000</td>
<td>10,750</td>
<td>500</td>
</tr>
<tr>
<td>.3</td>
<td>96,000</td>
<td>8,000</td>
<td>None</td>
</tr>
</tbody>
</table>

2. The .9 Acre-foot assessment (unlimited) is the default assumption unless as to the particular lot the following have occurred which document, secure and justify use of a particular conservation assessment level outlined above (.6, .5, .4, or .3 acre feet):

   a. The expected annual use is set-forth in CC&Rs of the subdivision;

   b. Disclosures signed by the original buyer and the developer are submitted to the City, said disclosures being on forms provided by the City and which make clear that higher water rates apply if the agreed use is exceeded in a particular calendar year.

   c. The lawn square footage limitation and the annual maximum water use are both specified on the plat map recorded on the records of the Iron County Recorder.

   Note: It is impractical for the ordinance to assume that the developer can design the new owner’s lot. The above steps should be sufficient to assure notice and compliance.

3. The water right assessment applied to a particular development shall not exceed 4.0 acre feet per acre of depletion rights of development excluding common areas and public rights of ways.

4. [Would be a similar tiered structure as to per door multi-family assessments – again with the purpose of encouraging conservation. This would replace exiting subsection 2.]

   [I provide no comments on existing proposed subsections 3 and 4.]
Appendix B
Issues Likely to be Felt and Voiced
Concerning the Council's Amendment to
Section 37-32 to be Discussed Further on 9 February 2022

Issue 1:

Those building new lots or homes have been paying Water Right Acquisition Fees since 2008. Why does the City suddenly seek to shift to developers the duty to find and buy water rights? The City has the power of eminent domain. Why does it not use that power to keep water right acquisition prices paid by the City fair to all? The City has the money (acquisition fees collected), and the power (eminent domain) – yet won't act.

Issue 2:

The practical effect of the ordinance revision is to enrich (at the expense of all others) water right owners by creating a very unnatural negotiating environment for water rights: The City's appraisal is the floor; the price of the water right acquisition fee is the ceiling; the City has created MANY, MANY competing buyers by its ordinance. Why does not the City simply use its tools, including eminent domain, to keep the price of water rights more reasonable? What is motivating the City?

Failure by City officials to not use eminent domain to keep prices reasonable represents a Taking from developers, lot buyers, and landowners who do not have water rights. Some citizens are apparently loved more than others. There is an issue as to equal protection under the law.

Issue 3:

The State Engineer has spread the Water Management Plan over decades. The City Council seems intent to inject fear into a process that could work its way through across the various economic cycles using conservation as a key element. Why force developers to buy water rights when the price is inflamed. The City does not want to buy water rights now. Why should the City inflame the price and then force developers to buy now? A better course is to save water right acquisition fees and later use the water right acquisition fees when there is less price pressure – or use them in conjunction with eminent domain – in an environment of one governmental buyer.

Issue 4:

The ordinance will have disproportionate negative affect on the price of entry-level lots – and thus have the likely impact of reducing the availability of lots for starter homes. The $24,000 added per lot ($30,000 from $6,000) will price many potential homeowners out of the market. A $75,000 lot will now be close to $100,000 (33.33% increase). A $150,000 lot will now be $175,000 (16.67% increase).
Issue 5:

The ordinance is an employment insecurity act. The economic impacts of a 400% increase in water right acquisition fees will be a marked reduction in lot and home sales, and thus construction activity – with ripples through the whole economy. What is motivating the City Council?

Issue 6:

The positive conservation elements of raising rates is applauded. It hardly seems enough. The shortfall in the aquifer arose from overuse by past and existing citizens. Why are not water rates much higher to help fund needed water right acquisitions. The Council seems content with “baby steps” as to the general population – but quite willing to take existence-threatening steps with builders. Where is the balance?

Issue 7:

Developers need to pay their share – and have been and will – to the extent lots can still be sellable at the required prices. Why not arrange the Ordinance to deeply incent developers to be conservation exemplars? Multiple tiers of anticipated water use on lots could help keep down both the price of lots and water use.

Issue 8:

Mayor Green accurately said that the City could shut down its wells (all municipal uses), and the aquifer will still dry up due to over-appropriation and use by the agriculture industry. Why is the City not arguing to the state engineer and legislature that Junior agricultural rights need to be suspended earlier than contemplated in the water management plan?

Issue 9:

Has the City examined legislative solutions to its water right priority problems? Municipal uses are generally viewed as the pinnacle as to beneficial uses.
Appendix C
Possible Elements of a Solution

Elements of the cooperative effort needed to wrestle this 100-year problem into submission across the next 20-30 years include:

- Market-consistent but not market-disabling Water Right Acquisition Fees.
- High water rates that encourage conservation.
- Robust education program.
- Regular and well-publicized reports as to average household use of water.
- Increasingly effective and confirmable recharge efforts.
- Regular and well-publicized reports as to aquifer levels at standardized reporting points. [People need to know how we are doing towards our goal.]
- Campaigns to encourage turf and water flow reductions [heightened xeriscaping].
- Efforts to better use Coal Creek Water, and to find new sources east of town. These efforts might include a secondary system.
- Success in bringing Wah Wah Valley water into productive use in the Cedar City area by a collective effort of Cedar City, CICWCD, Iron County, State and Federal leaders.
- Brilliant reconditioning and use of Sewage.
- Legislative and federal appropriations to assist with the early retirement of junior water rights.
- Wise selection of industries to incent into our community.
- Preservation of greenspace by native plants and public parks with lawn areas.
- Wise acquisitions of senior water rights using all available tools (including Eminent Domain) to fairly treat all involved. Hire a well-qualified, experienced negotiator to guide this effort under the Mayor and Council’s direction.
- Examine long-term financing options in discussion with the Board of Water Resources and the legislature.
Memo

To: City Leaders
From: Dane Leavitt
Re: Another set of Ideas, Water Right Acquisition
Date: 9 February 2022, Draft #2

Introduction

What follows weaves three concepts: Conservation tiers, Developers (and even others) wielding market forces to supply the City with needed senior water rights, and the City's Water Tier System.

Elements

An owner of acceptable water rights, be it a developer or farmer or investor, may contribute water rights to the City and receive "Water Right Acquisition Credits (WRAC)." The credits accrue upon the contribution transaction being concluded in ways acceptable to the City. The City maintains a ledger of such credits and the credits' owners. The credits are applied at the direction of the credit owner and for whatever consideration the credit owner can obtain.

Each 1.5 acre-feet of acceptable (pre-July 24, 1934) agricultural rights contributed to the City gives rise to 1 acre foot of "Water Right Acquisition Credit." The differential (1.5:1) is due to depletion in the conversion to municipal use. These "credits" may be sold to developers or to lot buyers to satisfy the responsibility of LOT BUYERS to either purchase sufficient "credits" for their lot, or to pay the City’s Water Right Acquisition Fee at lot closing.

The City’s Water Right Acquisition Fee equals 2.0 x the City's then-applicable appraised per acre foot value of agricultural water rights in the basin. The portion of an acre foot assessed as to each particular lot will range from .37 to .9 acre feet depending on the applicable CC&Rs, accepted Plat descriptions and signed disclosures (described below). The fee would be paid at lot closing by the LOT BUYER and conveyed by the seller or escrow agent to the City. Fee payment would be confirmed before a building permit would issue. At the current $14,000 acre foot appraised value, the Water Right Acquisition Fees and applicable water use and turf limitations for the four water rate tiers would be as follows:

<table>
<thead>
<tr>
<th>Tier</th>
<th>Monthly Ave. Tier Max (Gallons)</th>
<th>Annual Tier Max (Gallons)</th>
<th>Water Right Acquisition Fee at the Current $14,000 Appraised Value</th>
<th>Water Right Acquisition Credit (WRAC) to be Contributed</th>
<th>Applicable to New Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>THESE ARE ALTERNATIVE WAYS TO MEET THE REQUIREMENT TO OBTAIN A SUPPORTING WATER RIGHT UPON PURCHASING A LOT</td>
<td></td>
<td>Maximum SF of Turf</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Acre Feet Assessed Lot at Purchase</td>
</tr>
<tr>
<td>1</td>
<td>8,000</td>
<td>96,000</td>
<td>$10,360</td>
<td>.37</td>
<td>1,000</td>
</tr>
<tr>
<td>2</td>
<td>12,000</td>
<td>144,000</td>
<td>$12,320</td>
<td>.44</td>
<td>1,500</td>
</tr>
<tr>
<td>3</td>
<td>20,000</td>
<td>240,000</td>
<td>$16,800</td>
<td>.60</td>
<td>3,000</td>
</tr>
<tr>
<td>4</td>
<td>&gt;20,000</td>
<td>&gt;240,000</td>
<td>$25,200</td>
<td>.90</td>
<td>NA</td>
</tr>
</tbody>
</table>

The City’s Single Family Water Tiers are adapted as follows:

<table>
<thead>
<tr>
<th>Tier</th>
<th>Monthly Ave. Tier Max (Gallons)</th>
<th>Annual Tier Max (Gallons)</th>
<th>Monthly Base Fee</th>
<th>Cost/1000 Gal. below Tier Max</th>
<th>Cost/1000 Gal. above Tier Range*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8,000</td>
<td>96,000</td>
<td>$17</td>
<td>$1.00</td>
<td>NA</td>
</tr>
<tr>
<td>2</td>
<td>12,000</td>
<td>144,000</td>
<td>$17</td>
<td>$1.50</td>
<td>$2.93</td>
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<td>20,000</td>
<td>240,000</td>
<td>$17</td>
<td>$2.50</td>
<td>$6.08</td>
</tr>
<tr>
<td>4</td>
<td>&gt;20,000</td>
<td>&gt;240,000</td>
<td>$17</td>
<td>$3.00</td>
<td>$6.58</td>
</tr>
</tbody>
</table>

*These amounts represent an acquisition surcharge to help fund water right acquisitions and the development of new water sources. The per 1000 gallon amount increases in layers as the use busts through the tiers. This includes a surcharge dependent on the applicable AF of water right appraisal. This illustrates the $14,000 AF Appraisal. ($14,000 x .0002557 = $3.58) Tiers 3 and 4 at 100%, Tier 2 at 40%.
Each newly platted lot in the City will be presumed to be a “Tier 4” lot (.9 acre feet assessment) unless the CC&Rs of the subdivision specify turf and expected annual water use limitations consistent with one of the other Tiers. The applicable Tier will be on the Plat and will be part of the closing disclosure (see final page).

Lot owners may “buy-up” to a higher water use by paying to the City the incremental amount of then-applicable Water Right Acquisition Fee – or by acquiring and presenting sufficient water right acquisition credits to justify the higher Tier.

The appraised value would be adjusted every six months – but there would be water right value stability during each six-month period.

The “Disclosure of Water Tier Form” – with sample instructions – follows on the next page.

Closure

Thank you for considering this additional idea.
Cedar City Corporation (the City)
Disclosure of Water Tier Applicable to
Lot 823, Saddleback Ridge Subdivision,
Cedar City, Iron County, State of Utah

Background
The City is in a high desert. Its main municipal water source is an ancient but finite underground aquifer. Hence, the City's water rates must encourage conservation.

The buyers of lots platted within the City after [date] 2022 also pay for or contribute the water rights needed to support the new lots. The extent of the water rights required for a particular lot depends on the Water Use Tier chosen by the lot seller and outlined in the Lot's City-approved subdivision CC&Rs. The required acre feet of water right ranges from .37 to .9 – depending on the Tier.

The water rights supporting new lots are typically acquired from agricultural water users either by the City or by others (investors) who contribute the water rights to the city in exchange for a “Water Right Acquisition Credit” (WRAC). The contribution of 1.5 acre-feet of agricultural water rights to the City gives rise to a WRAC of 1.0 Acre-feet.

Purchasers of Lots may pay or contribute the needed supporting water right. Payment is made by paying a “Water Right Acquisition Fee” equal to their Tier assessment rate multiplied by 2, multiplied by the then current appraised value of qualified agricultural water rights. Alternatively, when available, Lot purchasers may purchase and contribute WRACs and apply them to meet their water right acquisition obligation to the City. The pricing of WRACs is determined by agreement of the Seller and Buyer of the WRAC.

Single Family Residential Water Use Tiers
Cedar City has four single family residential water use tiers. The sellers of new lots elect which Tier applies to their lots. The Tier election defines the available water (on an annual basis) to the lot which if exceeded gives rise to a significant surcharge (as to any excess) designed to be sufficient to help pay for additional water rights needed to support the excess use. Different turf square footage maximums apply to each Tier. The WRAC Contribution of Water Right Acquisition Fee required by the City varies by Tier

The Tiers, their characteristics, and the present Water Right Acquisition Fee and alternatively required WRAC are:

<table>
<thead>
<tr>
<th>Tier</th>
<th>Monthly Ave. Tier Max (Gallons)</th>
<th>Annual Tier Max (Gallons)</th>
<th>Water Right Acquisition Fee at the Current $14,000 appraised value</th>
<th>Water Right Acquisition Credit (WRAC) to be Contributed</th>
<th>Applicable to New Lots</th>
<th>Maximum SF of Turf</th>
<th>Acre Feet Assessed Lot at Purchase</th>
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<td>1</td>
<td>8,000</td>
<td>96,000</td>
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<td>144,000</td>
<td>$12,320</td>
<td>.44</td>
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<tr>
<td>3</td>
<td>20,000</td>
<td>240,000</td>
<td>$16,800</td>
<td>.60</td>
<td></td>
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<td>.60</td>
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<td>&gt;240,000</td>
<td>$25,200</td>
<td>.90</td>
<td></td>
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<td>.90</td>
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</table>

Disclosure of Tier Election and Payment Receipt
The undersigned, in purchasing the above-entitled lot, hereby acknowledges disclosure that Water Use Tier _____ applies to the lot purchased. This Water Use Tier applies to said lot unless and until this or subsequent owners elect another Water Use Tier by paying Cedar City Corporation any applicable incremental amount. The undersigned recognizes that this document is recorded with the Iron County Recorder and is notice to all of the governing Tier as to the above-entitled lot.

Mark applicable Box: [ ] The Water Right Acquisition Fee is $_______ and was paid to the Lot Seller for remittance to the City.
[ ] A Water Right Acquisition Credit of _____ was obtained and settled with the City.

For Buyer: Date Signed

For Seller: Date signed
EXHIBIT “B”
CITY COUNCIL – FEBRUARY 9, 2022

Remarks to the Cedar City, Utah, Council, by Craig Jones (long time resident of Cedar City, retired SUU professor and current livestock/farmer in Cedar Valley), February 9, 2022 on the topic of growth and water options

1. Water is undoubtedly the greatest resource restrain on the growth of Cedar City and Cedar Valley because it is both essential to growth and of a limited supply. As a result, City water policies will effect both the rate of growth (quantity) as well as the quality of growth. From my observation and experience, the rate of growth, directly and indirectly, effects the quality of growth because rapid or unmanaged growth reduces the quality of life by putting excessive demands on our streets and roads, schools, medical services, the cost and quality of our municipal services and, of growing concern, our safety and security. These are all quality of life issues. Cedar City and Cedar Valley are, and probably will be in the future, facing strong pressures to grow rapidly, thanks, in part, to the mismanagement of our major cities.

2. Our water options include: (1) water conservation (that will come with associated higher costs and a limited time frame), (2) recycling, (3) possible transfers of water from the north end of the valley to Cedar City because ground water levels are more stable there, (4) imported water (such as the Pine valley/Wah Wah Valley pipeline), and (5) the purchase and acquisition of agricultural water rights in Cedar Valley. I believe the best path going forward, is to explore and keep all of these options open, and meanwhile adopt policies that are most cost effective and consistent with “planned and managed growth” in order to maximize the qualities we choose to preserve. The day will likely come when all these options will be necessary to meet the needs of Cedar City and the growth that is likely to occur in Cedar Valley. I think we can best reach the necessary degree of consensus on this by a thoughtful discussions on the topic of a reasonable and desirable rate of growth and the qualities of life we seek to preserve. Our water policies will hold the key to successfully doing this. It will also require, on some water issues, such importing water and making transfers within the valley, cooperation and coordination between Cedar City, Iron County Planning and Zoning, the Water Conservancy District, Enoch City, Kanarraville, Irrigation Companies within the valley and state and federal agencies with related resources, authority and helpful expertise. New and creative types of cooperation, ingenuity and leadership will be required as we face the challenges of growth that lie ahead. Ironically, as we all know from last summer, flooding issues will also be a necessary part of a coordinated solution to our water issues.

3. Some will think that the easiest and quickest solution to facilitate growth is buying agricultural water rights from Cedar Valley farmers. As a livestock/farmer in Cedar Valley, may I share my present attitude and perspective that may well be reflective of several others that I know. For many of us, livestock and farming are a way of life that cannot be replaced with money, no matter the amount. Though many of us are getting along in years, most have us have sons or daughters that will take over our operations and may well want to preserve the life they know and love as long as possible. When it becomes undesirable to continue, we will have the option of selling our land and water rights to a developer or our water rights separately to the highest bidder which may or may not benefit the City. Our operations also include large investments of equipment, along with winter desert and summer mountain
grazing lands in addition to our valley farms. Selling out will not be an easy decision no matter the price. There well might be unused as well as currently used pre-1934 water rights available, from those who choose to end their farming days, to help fulfil the needs for growth in the short run. But due to the State’s Cedar Valley General Management Plan (GMP), the city, as well as the farmers, face the prospects of significant cuts in water usage starting in 2035 and more drastic cuts in the following decades which will have to be factored in to future planning needs unless weather patterns make a change.

4. It is my hope that we can all work together to find ways to preserve much of the quality of life that we cherish while also benefitting from the vitality, job opportunities for those who want to remain in the place the grew up and provide a wholesome environment for those who want to retire here. I think that most likely beneficial outcome will come from a reasonable but cautious and well managed rate of growth. In my view, neither a deference to total free and unregulated property rights or a governmental and centrally managed approach to growth, will produce the best results. From my experience on the Iron County Planning and Zoning Commission, I believe the best way to preserve the interests of the property owners, on the one hand, and the needs to preserve the desired qualities of the community on the other, is a balance within the two extremes. This will provide the best means of arriving at a desirable growth rate between rapid and unregulated growth and no growth.
EXHIBIT "C"
CITY COUNCIL – FEBRUARY 9, 2022

Figure 2.2
CICWCD and Key Stakeholders' Depletion Water Rights under Draft GWP

Figure 2.3
CICWCD 30-year 41% cut and 69% cut over the life of GWP

Cedar City 30-year 41% cut and 69% cut over the life of GWP

Municipalities will lose 75% of their water over the life of the GWP.
### WATER RIGHTS IN A GROUP LIST

**Group Number:** 834136

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<th>WR #</th>
<th>Appl #</th>
<th>Applicant</th>
<th>Type of Right</th>
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<th>Date Filed</th>
<th>Date Priority</th>
<th>Date Approved</th>
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**End of Data – Total Retrieved:** 8

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**Notes:**

- Cedar North Field: 2600 ac
- Coal Creek Supplied Water Rights: 5089 ac
- East Extension: 2070 ac
- Supplied: 160 ac
- Old Fort Field: 259 ac
- Supplied: 34 ac
- Union Field: 45 cfs
- Supplied: 127 ac