COUNCIL WORK MINUTES
MAY 4, 2022

The City Council held a meeting on Wednesday, May 4, 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; Public Works Director Ryan Marshall; City Planner Don Boudreau.


CALL TO ORDER: Renon Savage gave the invocation; the pledge was led by Don Boudreau.

AGENDA ORDER APPROVAL: Mayor – Steve Armbrust join the meeting via Zoom, we will put him on the screen at 6:00 p.m.

Councilmember Phillips moved to approve the agenda order; second by Councilmember Hartley; vote unanimous.

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS; STAFF COMMENTS: ■ Mayor - the budget is on the agenda tonight; we will have the department presentations from noon to 5:00 on May 11th and a full day on May 12th for review with the staff. ■ Phillips – the spring fiesta and slow roll is Friday from 6:00 – 9:00 p.m. Center will be closed, there will be vendors, slow roll and a mariachi band. It should be a good time for the entire family. ■ Swear in Code Enforcement Officer Frank Vasquez: Chief Adams – after 1.5 years we have found a Code Enforcement Officer. His is one week into his training. Frank Vasquez – I came from American Fork as Code Enforcement, but I was raised in California. I am glad to be here and serve you. My wife Faith is here with me, I met her at SUU. Renon Savage administered the Oath of Office. Faith pinned his badge on him. ■ Tyler – for the last several weeks we have been in negotiations with SITLA for an easement with SITLA for lines under I-15. One term is that the easement needs to run along the City’s master planned road adjacent to I-15, SITLA is concerned that the road will stay there. If there is a time in the future that you amend the master plan to amend the road then we will say it is in violation of the easement. It is on the west side of I-15. Melling – is there a requirement to build a road? Tyler – no, the requirements will be assigned to Mr. Thomas to take care of.
PUBLIC COMMENTS: ▪ Ann Clark – my daughter lives in Fruita, Colorado, a small town, the City Council there, the citizens want small, controlled growth, so that is what they have done. They built a new elementary before they approved a subdivision. They have a saying “don’t Boulder our Fruita”. I was in Salt Lake and all the high-rise apartments with for lease. I met a teacher from Eagle Mountain, and she said that the high density has ruined the schools. I told her that was happening in Cedar City. She invited you all to Eagle Mountain to see the schools. Instruction time is limited, extra cost for busing, lunch will start early. There are 600 units on Fiddlers Canyon and there won’t be room at Fiddlers Elementary. My solution is no more building permits allowed until all the ones permitted are done. Limit it to a lottery, and the City can help the schools build new schools. You have the power. I don’t see high density in Enoch or Kanarraville. The reason is property rights, if you have land, you can build on it, but it infringes on quality education by over running our schools. In hunting season, they regulate it, you have to have a tag from lottery. We citizens voted for you. Please don’t Salt Lake, St. George or Sandy our Cedar City. Phillips – have you addressed these concerns with the School Board? Ann – yes, and Dave Staheli got up and did a presentation. Instead of a bond to rebuild East, they want to fix east and build a school to the South. However, 3 of the 4 members voted against that so they are rebuilding East. Part of the bond said if they saw growth, they could rethink their decision. You have no idea what is coming, Dave Staheli showed maps and decisions. You control the entire community. I have heard a lot will be retired people are moving here, they don’t want two story properties. Let’s build out and see the impact of the schools. I taught school in California, and it is terrible for kids. You can say in 10 years it will be fixed but look at all the kids through school in the 10 years. Melling – I asked the School District a year ago, the data last year indicated 7% more taxpayers for students than a year ago. There is plenty of money. I want to know what happened. Ann – they went with the bond; they start those projects. Melling – they get $90 to $100 million from property taxes each year. Ann – it is a lot of money to build a school. We really need to think of the impact on the schools. ▪ Tom Jett – Mrs. Clark is correct a lot of town homes, it is what people can afford. I was in Fruita, CO a few weeks ago. I love small businesses and like to shop in the boutiques. Where there I asked the business owners what the biggest concern is, and it is labor. They say people are moving 45-50 miles away because they can’t afford Fruita because of the constraints on the building that the City Council put on. The small business owners can’t work 12-14 hours a day, and so they say they will close. ▪ Steve Armburst - Mike and I appreciate you taking the time to do this remotely. Over time the City Council, and staff turnover and we realize so much about the Armburst property on Cross Hollow Road is sometimes secondhand memos that might not truly reflect history. Since we are going to be working together over the next 4 years, we felt this is the best way to share history of our fathers property and what we are now managing. Fifty years ago, my father bought 430 acres of property in Cedar City. In 1981 my family donated 5 acres to Southern Utah University for the observatory. In 1998 my father was approached and agreed to donate 20 acres to Cedar City for the construction of the Arena. On February 9, 1999, the City received an engineering report form Bowen Collins in it was a recommendation to move green lake detention in the Wal-Mart area to east of Cross Hollow Road, this is where the natural flow of water went which is the Jones’ property on the east side of Cross Hollow, we are on the west side of Cross Hollow. Within a month, on April 19th, a contract had been signed with Tom Pugh’s group and $600,000
placed in escrow with an agreement allowing for the site preparation for Wal Mart in that area, and in that contract, it was noted that moving green lake 5 was crucial to the project. Special details specific excavating a detention and moving it to the Wal-Mart site were included. No additional impact fees for off-site storage were associated to the developer nor was the developer responsible for any city roads. Again, by putting the retention pond on our property the developer was able to avoid impact fees and off-site storage and avoided paying for any city roads. At some point within the next two weeks, Mr. Jones who owned the property where Bowen & Collins wanted to put the detention basin, didn’t want it, and the city quickly turned to our father. They avoided off site storage because of the property. The Jones’ property didn’t work out and they turned to our father. In early May, 1999, about a month, Art was informed by the City Manager that to develop his property he would need to construct a detention pond, but the city was willing to do this for him at no charge, but time was of the essence. May 25, 1999, Art donated 20 acres for the arena and then 10 acres for the retention pond. On June 1st, within a week, Tom Pugh and his group closed the deal with Cedar City for the construction of Wal-Mart and Providence Center. In 2002 Cedar City began construction of Cross Hollow Road at no cost to any of the landowners, it is a pathway for the community forever. In 2005 Joe Burgess bought Jones property and began developing Sunset Canyon. In 2006 Mr. Burgess requested a change in the flood plain, and we were never made aware of that request. My dad died June 25, 2009; he had battled cancer for several years preceding his death. Six months after he died on December 14, 2009, the flood plain requested by Mr. Burgess was moved to Armbrust property by FEMA. 2010 the City discovered that they had never recorded the easement to the retention pond. At that time we were in the process of reviewing boxes and boxes of records trying to understand what had happened. Our dad had a lot of respect and love in your community. When we started asking around, what we heard was a little unsettling. So, city Officials and the Armbrust family met around the table in 2010, it wasn’t a comfortable meeting, we all sensed things were not quite right. We began by asking about the flood plain and the agreement between the City and Tom Pugh, but we never received anything. Our attorney heard from Craig Call in Salt Lake City, the Property Right Ombudsman of inverse condemnation In 2013 we filed a freedom of information act about the Wal-Mart agreement, and the flood assurance map from FEMA. After several months we received boxes of information but nothing we asked for. We received Rotary Club info with telephone numbers redacted but nothing we asked for. In Utah there is a 4 year of statute of limitations expire which was December 14, 2014. We weren’t getting anywhere, we were concerned the city was aware of the date so we filed a complaint, we didn’t serve it but it gave us a few months to get the documents we were requesting. We eventually asked Senator Rawson and Senator Mike Lee for assistance and the following week we received documents we requested, information we had literally waited three years for. In 2015 we came to an agreement the city where they agreed to make the necessary engineering changes to remove us from the flood plain, they had created, we had to wait and additional two years to get official word from FEMA. To Mayor Burgess credit he flew to Wheaton Illinois to meet with my mother and my seven siblings and offered his apologies regarding our family donation, which there has been question over the years. I do want to clarify, my father did donate five acres for the observatory and at the 40th reunion last year we did donate the mount that allows them to flip a switch to look at the stars instead of having to manually move the scope in hopes of finding something. The City did asked my dad to move the sheep trail off Cross Hollow Road and move it onto our property. My dad
did agree and received a nominal fee for a 50’ path a mile long, basically running down the middle of your front yard. When my dad donated the arena 20 acres, he asked the City to extend the 1,000 foot road past the arena and an additional 66’ beyond the arena costing a sliver of his donation. For the retention pond we were going to get Cross Hollow Road, that was never the intention, we knew Cross Hollow was already part of the City road plan, even though it wasn’t asphalted, it had been there for years. Our retention pond was meant for storm water retention, and yet Tom Pugh’s group got the credit and the impact fee for storm water. Jonathan, I am hoping we will get that for our property. In 2002 we received a letter that the Cross Hollow Road was being constructed, the city was paving the road, not Joe Burgess, not the Jones’, but only the Armbrust family gave the 10 acres for the retention pond. Was it the truth, was it spirit of good will, we obviously know you have a Rotary Club. We have stayed true to our word, we have lowered the number of homes by 1,500, we have reserved the ridge line and maintained green space by 75% of our development, most developments are 25% green. We just want to see our dad’s vision come true. So, when we get approached on the issue of the retention pond and flooding, we feel we are fixing the fix ripping off a band aid something that took us a decade to uncover. We respect staff, but often we would hear stuff like budgeted, approval, plan to, words that don’t stick, we need something that sticks. We obviously have never said no to something we know the City needs fixed. We asked for liability, a completion date or the flood plain being fixed, things that don’t put us back into a flood plain. Bowen Collins mentioned that. We realized we would not get the message to you as individuals, all the documents we have are your documents. I will be in town May 17 & 18 and am happy to share the documents and answer any questions. The story makes a great 30/30 or 60 minutes, it is almost hard for my family to believe, all we know is at the end of the day we want to help you, but we want to make sure the story is straight. My phone number is (630)450-05. I am willing to meet with council at that time. I appreciate the mayor spending 3.5 hours with us. We appreciate staff, Paul, Tyler, Rick Holman, we feel like we are family.

Mayor – we spent time together, he laid out his plan and I laid out ours. We agreed to a recreation amenity. The storm basin did not work because the grate got plugged up and the water went across Cody Drive. We need a grate now because the culvert drops into a round culvert, it will work if the grate doesn’t get plugged. We can’t leave the grate off. We want to do as a city, finish it with a square culvert and make a walking path through that. Item #1 is bids for the box culvert, 8’ wide, 10’ high and then we can take the grate off and use it as a walking path. We would like to hook the trail through the tunnel and go up and around. We can raise and lower a gate when storms come. If we don’t do that the trail will have to go across the road, it is a busy road. In addition to that and a way to make it better and more attractive and benefit the community and developers. We have talked about building a city owned and maintained park. Originally the size was equal to or close to the road by the arena, about 1.5 acres, we thought it would benefit the Armbrust. I envision creating a bike arena on this property, build and maintain with restrooms, mini park, mini track on the top for trikes and scooters for the small kids and a mini and maxi track in the pit. I like the walking trail going through it, we would need lights in the culvert. I saw the one in St. George, they built it to work without destroying during flooding. A flood will fill it up and we will have to go down and clean it out. We plan some grass on the top by the pavilion with some shrubs and a paved parking lot, possibly a mini playground. The Active
Transportation Committee and Parks & Recreation are in on it. We have some money. This pipe is already budgeted and out of flood mitigation. We envision building the parking lot, restrooms pavilions, setting areas, I put it in the budget. There will be money in the trails. It can be built and be a nice place. Phillips – I have had the pleasure of talking with you a few times and I knew your father; he approached the Shakespeare Festival. I have great respect for your father and his vision for Cross Hollows for many years. The hundreds of roof tops, we owe it for a recreation area there. We want to respect what your father envisioned and when you are here on the 17 & 18th. I would like to visit with you, I want to make it right with the Armbrust family. We want to enhance your project and benefit Cedar City. The flood mitigation and issues and the bike park, I have seen the trails Committee recommendations and the trail in Old Sorrel will be beautiful. I am excited to brings the project to fruition.

Mayor – we would like not to just fix the pit but build a park, we need a right of way to take a line to the water tank and they have said there is not a problem. They also want some things.

Steve – we realize it has to happen, our initial push back is giving us something and we didn’t get it. I want to protect our liability and make sure it doesn’t create more flooding. They have not maintained the basin, the mound on the north end is our property. The mayor came up will good diverse parks. We are not sure you go west on Cross Hollow; you could see a restaurant gathering area, the south could be a school, creativity, people have donated, and we will continue to donate. We just want to think outside the box and that is why we want to come out on the 17th and 18th. I don’t know if the team has reached engineering to see if this is any way to go back into a flood plain situation, I hope it doesn’t. The SITLA property south will need their own retention. It is not clear to me that we get the same concession for impact fees for storm water, I don’t think so, it was given to Quantum. We will make it work for you. I hope 2 weeks won’t delay things. Meeting two at a time doesn’t always work. Everyone knows the lay of the land. We are excited about the trail. We know we need to fix the problem; we are not sure the park at the south is the best area, we thought the detention basin would be grass. Mayor – there will be some grass, but it would be difficult to have it destroyed with the floods. I envision cutting the channel to the north end and build little bridges across that. Steve – we love your vision; we know Utah has downhill bike races. Experienced riders can take off from Cross Hollows to Westview. We want people to use the trail, we just don’t want the liability from Cross Hollow to Westview and if the City can do that. Creativity is our issue; we don’t want misperceptions. I look forward to sharing the information and see if we can make it better, if it includes the south end. Phillips – we need to set down on the 17 & 18, I like the commercial, Silver Silo has done extremely well. I think this is a starting point, but we need to tie down loose ends. Steve – we will work with the staff and get documents that say budgeted, pending approval, but that is not a legal document. We want something that will stick. City Councils, Mayors, Engineers and City Managers leave, we want something with teeth. Mayor – we will table this for 2 weeks and will meet with you on the 17th and 18th and you can join us in Council if you want. Phillips – we will communicate and work this through. Steve – we know you will.
CONSIDER MATERIAL QUOTES FOR THE STORM DRAIN IMPROVEMENTS PROJECT 2022 – CROSS HOLLOW BOX CULVERT MATERIALS. JONATHAN STATHIS: Mayor – we will table for 2 weeks.

CONSIDER MATERIAL QUOTES FOR THE STORM DRAIN IMPROVEMENTS PROJECT 2022 – STORM DRAIN PIPE MATERIALS (FROM CENTER STREET TO HARDING AVE. CONFLUENCE). JONATHAN STATHIS: Jonathan – This is part of the flood control projects we have been working on for several months. This is 60-inch storm drain pipe that will be installed running north from Center Street to Harding Ave confluence. Hartley – we only had one bid on the other also. I had a call from a supplier about the process. Is it because everyone is so busy? Jonathan – those go out for advertising 5 days before the bid opening. We advertise 2 separate days in the spectrum, we also email to a list of suppliers that we have. I don’t know if that person is on the list, this is a courtesy, and it was done for both projects. Phillips – if the supplier is not on the list, add them. Does this go on the east side? Jonathan – east side of the parking lot. Melling – west of the freeway? Yes. Jonathan – we will run that along the freeway fence. We have an existing 48” pipe under the parking lot, this will be in addition. Mayor – is this the recommendation of the engineers? Jonathan – yes, they have ran the numbers. Mayor – two will run that? Yes. Phillips – will we have to remove any asphalt of the parking lot? Jonathan – there may be a little, but we are trying to stay off the parking lot. There is a pipe that comes under I-15. Paul – tell them the plan from the confluence to the car wash. Jonathan – currently this is an open ditch, we will either pipe or put a box culvert and the existing pipe will probably have to be upsized and it will run to Tagg n Go. Mayor – will it be a box culvert? Jonathan – either a culvert of a pipe. Phillips – this is just for materials? Yes. Isom – this and the first item we still have $2.5 million to go on these projects? Yes. Jonathan - We received one quote from Southwest Plumbing Supply in the amount of $136,150. Consent.

CONSIDER BIDS FOR THE EMERGENCY STORM DRAIN PROJECTS – CENTER STREET CONCRETE INLET AND OUTLET STRUCTURES. JONATHAN STATHIS: Jonathan – The bids will be presented at action meeting.

CONSIDER BIDS FOR THE EMERGENCY STORM DRAIN PROJECTS – CODY DRIVE DRAINAGE IMPROVEMENTS. JONATHAN STATHIS: Jonathan –We will present them at the action meeting.

PUBLIC HEARING TO CONSIDER AMENDING CITY ORDINANCE CHAPTER 26 ARTICLE III REGARDING RECREATIONAL VEHICLE SALES IN COMMERCIAL ZONES. DONALD BOUDREAU: Don Boudreau – a few weeks ago we had a gentleman that wanted to sell small RV’s and it is only allowed in I&M-1 zone. I think this is just clean up, it is ok uses for commercial zones. Isom – we have some on Main Street. Don – we do have temporary ones that come into town.

Phillips – why did we take the general commercial away? Paul – we consolidated the two, we looked at GC and CC and they were very similar with few differences. We looked at what we had zoned, and it didn’t make sense to have two.
Phillips – can you define downtown commercial? 200 North to 200 South, 100 East and jogs down Center Street. Auto sales can still be in the Downtown zone. Phillips – can they sell RV’s? Don – it is two uses that are not specifically stated. Phillips – if approved can recreation vehicles be sold at Lunt Motor and Tri State Motors? Don – I would say no. Melling – I don’t think it is the greatest use in the downtown, I also say if we permit and see a bunch in downtown commercial it speaks to a deficiency. If recreation vehicle sales which is a low yield per acre find a home in the downtown it is a lack of flexibility in the downtown commercial area, then we have other issues. I don’t have any opposition to the proposal. Don – the downtown zone does allow small recreation vehicles and it is more narrowly defined.

Mayor Green opened the public hearing. There were no comments. The hearing closed.

**CONSIDER ENTERING A RIGHT OF ENTRY AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT WITH JAMES BOUD FOR THE CONSTRUCTION OF STORM DRAIN IMPROVEMENTS ON PROPERTY LOCATED AT 1480 WEST CENTER STREET, TYLER ROMERIL:** Tyler – Mr. Boud along with business associates own Stadium Way apartments. It is important to the City to engineer and enlarge the storm drain from the south to north side of I-15. They have asked that the City compensate by putting some improvements on their property, a trench drain and then run into a pipe from west to east. If engineering numbers require a larger inlet box, we will do it. It is a one-year period with work from May 1 to August 25th. Phillips – will we have to do a similar agreement with Mr. Nakken and Mr. Wilson? Tyler – I think they will be permanent easement. Paul – Mr. Nakken has the easement we are waiting for him to sign. There is also an owner north of Mr. Wilson, we will get those easements. Most of those easements don’t come to you. This is an agreement causing us to do other stuff, that is why it is coming to you. Consent.

**CONSIDER ENTERING AN AGREEMENT WITH CHELSEY PARTNERS LLC AND MJb CONCERNING WATER RIGHTS, TYLER ROMERIL:** Tyler – we have been talking about in closed session several times. Early 2000 there was 206 acres of property annexed into the City, the owner brought in 164.656-acre feet of water. The old city ordinance didn’t require a declaration of beneficial use, so the water set there. Fast forward 15 years, the original owner got a declaration of beneficial use, and their expert said the 164.656 was not there, it would be 49 and some change. We have been negotiating how the city will get the 115-acre feet of water. The Developer will pay the $16,100 for the 115-acre feet of water $1.85+ million. That is conditioned on the potential buyer closing on the property. If the sale goes through, they will come to the city and pay the water acquisition fee and the city is made whole. The declaration of beneficial (dbu) use is not complete, so the 49-acre feet the city may be short changed. When approved if we get more than 49-acre feet, the excess we will refund the developer that amount. Phillips – do we know when the dbu will be complete? Tyler – no, but at least 6 months. Hartley – do we fix the price; we don’t know what the cost of water rights will be. And is the 1.2 come from the developer? Tyler – yes. The reason they want to come in now is they want to pay the $16,100. Melling – we have found that is not sufficient for development, but it was the policy at the time. We have corrected that. Going forward we are in good shape. Hartley – is that now up for negotiation, their part of the agreement was not fulfilled either. Melling – do make this agreement and
agree to the payment of the deficiency or do we push for the rights instead of a fee, and what kind of timeline we are looking at. Hartley – I wondered if we could require them to bring the water. Phillips – if the deficiency is closer to 70 then we say we will only pay you this because water rights cost this much now. Tyler – if we go to litigation the city could walk away with nothing. This is before the property ombudsman; we are waiting on his decision. Melling – when are we next due for a water rights appraisal, is it July. So is the fee fixed.

Paul – in a perfect world we get 116-acre feet of sole supply good clean untouched water. This is between 3 parties with different interests. Everyone is not getting the perfect world. The new developer had expectation that he was buying and didn’t need to worry about water. MJB feels they are done and they aren’t getting what they want either. If every party walks away with we gave a little and got a little. I don’t think anyone will get what the wanted. Tyler – the only way we get water rights is through a judge’s order, it may be worth it, it is a lot of water. Phillips – we can think on it a week, this is the closest we have gotten.

CONSIDER A MEMORANDUM OF UNDERSTANDING WITH HOLT FARMS LLC EXPLORING THE POSSIBILITY OF TRADING EFFLUENT WATER FOR GROUNDWATER FROM THE ESCALANTE VALLEY. TYLER ROMERIL: Mayor – we have interested parties from various groups, Clarks and Mr. Holt and there may be others that have ideas.

Melling – I had a chance to discuss this with different parties with different interests and I appreciate different interests. We have the hat of representing Cedar City and its interest. We have a few factors to consider, an agreement with the Clark family on usage and how it is being done now and in the future. We need to look at other agriculture users, that side of the basin the water is higher, it also indicates a higher evaporation rate, we want to reduce that. There are costs of transporting water and a looming cloud that in 30-50 years the water is not ours to lease to anyone unless we acquire more rights, or pump less from the ground or we are able to work out deals with agriculture and have them use it in exchange for water rights or work out with the State to clean and recharge with that water. We also have the basin wide issue, what is the impact with ground water, exporting it into another basin, can we import water and what is the cost. The issue today is narrow, the MOU with the Holt family. We need to look at all options, we had a study done 4 years ago on wastewater reuse and I think the council would like to hear more proposals and suggestions where we can keep wastewater in AG and use it in the most efficient way and shore that up and make the agreement reflect the modern data and make sure the aquifer is better and keep it in AG as long as we can and permitted with the ground water management plan. This is a broader issue than one MOU and whether we do a formal RFP, we are looking for crazy ideas. We want to hear those and do our best to represent Cedar City in the most sustainable and appropriate way possible. Hartley – I agree.

Phillips has anything changed. Kimball Holt– no. Melling – I was speaking with Tyler Romeril yesterday, if we were to move forward with a MOU in this fashion, and I am not sure, if we were to move forward, my request is that some of the language would be modified to reflect further that this is an open-ended process, we are looking for other outcomes. Also,
looking at the existing wastewater arrangement and see how the numbers would affect that. Look at options and what is the most sustainable option. Those are the edits I would suggest. Phillips — we had our director of Wastewater here on other matters on the usage and how it has grown. One thing I asked, is there an opportunity to do multiple things, what you are wanting and what the Clarks are doing. Kimball — what is needed on the 640 acres being farmed and the rest you find another purpose, whether it is recharge or other options. At one point I suggested you draw water and reduce the aquifer there. There are a lot of opportunities to balance the aquifer. The challenge is the Hwy-56 line. The line used to exist in the Escalante Valley, it was taken out to have more flexibility. Melling — there were a number of parties opposed to removing the line, now that the water rights are about the same price it may have more options. Hartley — I don’t see a reason for an MOU, but continue to explore it. I don’t understand why an MOU when we are all in favor of exploring options. Melling — I would rather not have an MOU, we may be saying it is a good way for staff to explore more options. We are all in agreement generally that we want to look at our options more. There is data I would appreciate, how much is water rights going for in your basin, you have twice the depletable supply as we do, but what does that look like in costs. Knowing water table is 15-30 feet below the surface near the Treatment Plant, how much is evaporation and how much we could conserve would be helpful. Maybe a formal RFP and allow people to bid. We all want to look at solutions. Kimball — the unique opportunity is to use large quantities of water and large quantities in return. We are talking 1500-acre feet of secure water. You have several hats on what is for the better good of Cedar City Corporation. What is the better allocation of your money, you are using more than you are bringing?

Kevin Woods, Beryl - I am way against the water deal, Cedar City has a problem and it should be if water to be traded it should go to the farmers here before the thought of it going out of our valley. Our water should not be deleted to help them, it should come out of their own.

Kimball — the question is not if it is hurting Escalante Valley or not, it would help. This is helping the ground water in Escalante. Is it Cedar City Corporation issue or the Cedar Valley? We are recharging Escalante Valley with effluent from Cedar City. Mr. Wood — pulling fresh water out and putting sewer water in the valley, we already have the dairy. I don’t know about the dairy, but they pump the water there, you can’t even stand to drive through New Castle and now you are bringing human waste. Mayor — it is different, it has been treated up to type 2 effluent. Some said it is better water than coming from? there are not many WWTP in the State and the water is good. It would be treated to type 1. Mr. Woods — is there constant study? Paul — we have to test it annually to make sure we are going what we are supposed to do.

Tyler — if not inclined to move forward with the MOU I will let it be. If you want edits.

Hank Wood — if the water is as good as said, better than Enterprise Reservoir, why would you consider trading 2 to 1 for fresh water? Melling — in order to get it to a use for culinary it is tens of millions in upgrades, type 2 can be used for agriculture. Right now, it is cheaper to buy water rights than treat. Whether it is the best decision is yet to be seen.
Phillips – I don’t see a need for an MOU. Hartley agreed. Melling – I want to make sure it is at the top of the list and keep moving forward. Could we set a date to have another discussion on how best to move forward, MOU, RFP, or invitation for crazy ideas. Maybe a month from today. Phillips – only if there is something to bring. I don’t want to keep having Mr. Holt come back. Melling – we have a regional water meeting once a month, maybe we invite parties to that, I just don’t want it to set on a shelf. I would also, if it is not a good arrangement, then we need to look at shoring up our agreement with the existing users, adding language to it or putting it to bid and what is appropriate. I want there to be some notice or assurance so they can plan accordingly as well. If we are looking at 6 months out that gives them time.

Hank Wood – there are a few things, if it benefits Escalante Valley, what will it do to agriculture here, Clarks are an established family here. How does it benefit anyone but the Holts, they get 2 gallons to every gallon, then they farm more, not more water in the aquifer, is that more wells pulling from our aquifer. What deficit does it do to the agriculture here?

Melling – my understanding is that for your basin it would be water neutral, shipping water that would be depletion, and more water coming your way for farming. For our basin it is a net deficit for half the value of our effluent. We would have some offset from the culinary from your basin. The depletion would be about 1500-acre feet a year. The question is what it would cost to make that up by purchasing water from your basin or buying farms here, or upgrading our treatment facility or work with ag here in our basin and the city can see what option. They are factors we want to look at. We had a study done, I think in 2019, but the study did not delve into the depletion versus diversion or the value to the city water rights portfolio with the groundwater management plan. That is what we want to look at. Hank – Cedar City is an agriculture town, you buy out farmers, that ruins the history of Cedar City and I love Cedar City and we would get double the water to the valley. The plant uses a fair amount of the water, the left-over water evaporates. You should look at what is going on with the people of Cedar and the history of the city. Melling – right now system wide, what we pump versus what we ship it is roughly 30%. We have a new conservation tier for homes, it may approach 65% over time. As we get closer to that, it is a lot of water to go to agriculture. We would be in dire straits if we lost agriculture.

Marilyn Wood – I wanted to talk about Clark’s, they have taken the water for many years, it has been a pain for them in many ways, but they have profited also. In the winter I am sure it is not easy. I feel they should be compensated for the water and the work they have done. I am partial to agriculture, and it is very important, if we can use it for agriculture we should. The challenges you face in making the decisions, it is a hard thing, I also understand the water table is higher on that side of the valley and we need to balance that. I think the Clarks should be compensated as well for some of that.

Hilton Butler – everyone is in agreement it should be used for agriculture but should be used in Cedar City not Escalante Valley, if not used sufficiently now, you can open proposals to manage it better and use it for more things.
Max Woods – I think the only thing the Holts will do is get twice the water from you, move it to New Castle and then drill more wells by me and draw our water. Good for Bob to find a way to make it up. I don’t know how you think it is better for Escalante Valley, Bob is getting 2 to 1 and Bob will move it to Beryl and Modena and drill more and that puts me and my family out. Why wouldn’t the farmers trade 2/1 in Cedar City. Phillips – it could, but no one has approached us. Riddle – Clarks are using the water, but Kimball Holt is the only one that has come to us. Max – who would pay for the pipeline? Phillips – that still would have to be worked out, it is the elephant in the room.

Kimball Holt – from my perspective the way I see the city position, you are taking a 40% depletion rate, we know it is more than that. You are taking a 40% cut; 3200 you are down 40%. The remaining is 60% and we are saying we will bring you 50%, so the only difference is from the 50% to 60%, about 200-acre feet. Melling – that is the way the math works if the WW is treated as its own right. After the cuts we don’t have excess. We are not taking a haircut shipping it trans-basin. Kimball – then the math gets better for Cedar City. Melling – that is the analysis we need to look at, and the yield per gallon of water and how it is being used and how to make it more efficient. Kimball – what happens when the water gets to 6 feet?

Mayor – I want to use the optimum use of the wastewater. There may be options and ways and I think it is valid to pump where it is high, but I don’t want to lose any water to evaporation, we want to utilize it. We pay a lot of money to maintain the plant and treat the water. I can see ways that there could be multiple ways. We need to look at the best way for Cedar City.

Paul – it will be on for a vote next week. In the long run we need to do something, then we need to search for other avenues if this is not what you want to do. Melling – the council can put together questions and the people here tonight can as well and then reach out to Farm Bureau to get more general feedback and bring it back in a month or so. Hartley – also make sure Clarks are kept in the mix.

Wendy Green – I propose you consider having a committee like you did with the housing committee and then bring it to the Council. Melling – a short term with more formal discussion. Wendy – and take time without bringing it to this meeting. Mayor – are there people in the room that would be willing to meet weekly? Paul – it is a great idea, but Cedar City is an entity that has worked on the way to dispose of the water for beneficial use. We recently have been studying it and have engineers look at this for at least 5-6 years. When you do the committee, you may want to structure more than 4 weeks, it is a very big conversation. Melling – if we did once a week for 8 weeks. Mayor – also State Water and engineers need to be involved. I want the committee to be small enough it is nimble, and we need professionals involved as well.

PRESENTATION OF FY 2022-2023 TENTATIVE BUDGET. JASON NORRIS: Jason Norris – this is a draft budget. It will be on the city website tomorrow. A few comments and highlights. The initial draft is in accordance with Utah law, it is balanced, the general fund is stable. We are projecting taxes to increase $1.9 million. Proposing 2.5% cola and 2.5%
merit for full-time and regular-fulltime employees. This will also move all wages to $12.00 per hour or higher. Riddle – do you get applications for $12 per hour? Paul – a few that like to be at the Golf Course. A few lifeguards. Our volunteer fire fighters, the way they calculate takes a doctoral degree in statistics, they are in the $12 to $15 neighborhood.

Riddle – you are not even close. Paul – in Street and Parks we cannot get people. Jason – many parks are seasonal; lifeguards are high school and college students. But janitorial and night people want at least $12 per hour. Proposing several new positions, school resource officer, 2 patrol officers; street equipment operator lead, street equipment operator, airport operations specialist and storm drain equipment operator. We are proposing fee changes in solid waste and storm drain, we have a number of capital needs, and we need to gear up to add another solid waste route. We have ambitious infrastructure proposal $8 million. We are not proposing any new debt. We will meet on May 11 and 12 in public meetings to go through all budgets in detail and discuss any items.

Isom – procedurally we won’t vote on this? Paul – no, we have a deadline to submit the tentative budget, we will adopt the tentative at the end of May and a deadline at the end of June for the final budget.

Phillips - I recognize we have several enterprise funds, it would be helpful the aggregate number, we know we are doing well. Where does it leave us with general fund dollars? Melling – I would like the big number, but also, we have some very versed in financial records, but if you can dumb it down a little. A question I have, to what extent is the enterprise self-sustaining or being supplemented from the general funds. In my mind, if we have to supplement those then we need to look at how it is structured. Phillips – I look at the State budget and they show all resources from Federal, State, and know they have $12.2 revenue, and they build a budget and build a rainy-day fund. We don’t know where Cedar City stands with total financially. Mayor – on the 11th we will start with Mr. Norris to answer these questions. Riddle – are you asking how much comes in and how much saving and spending. Phillips – I trust staff. Do we have the ability to make any adjustments? Jason – the Mayor and I had a big discussion on that.

**CONSIDER A REQUEST TO WAIVE $250 HYDRANT METER PENALTY.**

**SAMUEL MORRIS/ROBBIE MITCHELL:** Samuel Morris – I was charged a $250 fine, I am from St. George, we have 2 children. We met at SUU and hope to move back. I rented a hydrant meter; I was told when rented I would get instructions on how to get the meter read and I would get it in the mail. I got that on a Friday evening and the date to have the meter read was the previous Tuesday and Wednesday. I called Public Works about bringing the meter in, he said to bring it in next month. I asked if I would still get a fine and he said yes. He said to bring it up with Paul Bittmen and he said it would have to come to you. Today I received the bill, and the meter was read the water usage was $64.90 for one unit which is the smallest and a late fee of $250. Melling – the meter has been returned? Yes. The note said you called the date you received it. We don’t have any voice mail records. Do you have a call log? Sam – I received instructions on the 22nd, on April 25th I called Public Works at 10:10, 9:51, 9:45 a.m. I actually called on April 20th because I knew the date was approaching and I had not received the instructions. I called at 4:14 p.m. and April 18th at 1:47 p.m. Phillips – when you received the letter what was the date of the postmark? Sam –
postmarked on the 11th. Phillips – why can’t we send email, it is instantaneously. Sam – or send the instructions with the meter. I understand big construction companies use a lot of water through the meters. I probably used 100 gallons. The billing cycle didn’t skip a beat. I got a bill for last month and this month. They were able to read it. Phillips – is this ordinance or policy, the letter going out? Ryan Marshall, Public Works Director – this is a policy within public works. When they get the meter, they come down here and pay, they bring us a receipt, we give the meter, and tell them about the instructions. We have used email, but people say they don’t get those also. Melling – the system is appropriate for professionals. Ryan – occasionally we have some forget. I have asked for them to start giving a calendar when they check the hydrant meter out. Melling – any time we waive a fee, we open it up and we don’t want a lot to come. Ryan – the ones that use it the most are the ones that are usually late.

Sam – I went into the Building Department and told them I was having a geo tech come and they suggested a hydrant meter for $15.25 and I didn’t realize it was $1,525, the cost of the meter is going to stop people like myself from getting those.

**CONSIDER SINGLE EVENT ALCOHOL PERMITS FOR JULY JAMBOREE PRE PARTY & JULY JAMBOREE, JULY 8TH AND 9TH; WAREHOUSE BAR & KITCHEN/CHIEF ADAMS:** Payten Crawford - the Rotary Club has asked us to do a beer garden for the July Jamboree pre party and July jamboree? Phillips – why not beer and wine? Payten – they will have wine for the actual July Jamboree. Chief Adams – we have done a background and are recommending approval.

**CONSIDER VICINITY PLAN FOR THE NORTH KNOLL PUD AT APPROXIMATELY 1490 N. MAIN, PLATT & PLATT/DON BOUDREAU:** Bob Platt, Platt & Platt – this is 1600 North, 72 town home units on 6.5 acres. This is below the maximum of 159 units. It has been reviewed by engineering. Phillips – behind Jones Paint & Glass. Melling – it was a different owner for zoning, Entrada is not the same? Bob – it was Entrada. Jonathan – we have reviewed, and all is in place. It will move to Engineering Standards and then final plat. Bob – it is in accordance with the new PUD ordinance. Consent.

**REQUEST A LIMITED OR NO LONG VEHICLE (SEMI) PARKING AT 1383 SOUTH MAIN, GARY LISTER & JOHN WORD OF SOUTHERN UTAH CAR & TRAILER SALES:** Gary Lister & John Word – you can’t see our business with the semi’s parked there. There is plenty of parking in Maverik and the Hotel. Gary – they were there until about 11:00 a.m. today. John – cars are fine. It is a hazard to our business, and it is hazard in general. Phillips – we will have to put up signage there. Have we seen an increase of traffic with Maverik and MoBeta? Chief – we have in South Main area. Melling – it is a funky area. We have a parking provision by Home Depot. Paul – it was no long vehicles, to get semi’s not to park there. Phillips – across from Lupita’s there are still trucks parking. John – there is plenty of parking for trucks at the businesses. Phillips – with all the traffic, do we want cars parked along there at all? Hartley – I think cars are ok.
CONSIDER A VARIANCE TO CITY ENGINEERING STANDARD 3.4.2 TO ALLOW FOR AN ADDITIONAL BUILDING TO CONNECT INTO A PRIVATE SEWER LINE. TYSON NELSON/JONATHAN STATHIS: Tyson Nelson – there is a private sewer line from Gem Awards and on the road 4" line to the manhole in front of Staheli West. In 2007 Bruce Thompson was under the impression that other people could tie into it and not have several lines. It would cost me about $10,000. Based on the size of the line, it is pressurized, and the occupant load we wouldn’t exceed limits, rather than run a line to my lot, I would tie into 580 North with a 3,000 square foot building. Hartley – what are you building? Tyson – a welding shop. I bought the property from my grandma.

Tom Jett – about 2 months ago I was looking at a project, I own ¾ acre to the west and north across the street. I approached Jonathan and the building official regarding some options I would have, I knew Gem Awards had put a private sewer line in. They didn’t have a problem, but I would have to pay. I have a septic system, but I am going to add additional buildings on my property. I can expand by septic tank. Jonathan called Randy and he said you cannot put more than one customer to a private line, there are a lot of lots, and under Utah State Law and under ½ acre you can’t have a septic tank. We have water, hydrants, gas and electricity. There are so many people that want to utilize their property. I said we should do an SID and Paul said the Legislature have said you can’t force people into SID’s anymore, the people that don’t want to be a part can’t be forced to pay.

Mayor – it is a pressurized line, where does the pressure come from? Tyson – Gem Awards, but I will have to put my own pressure pump in also. There is in the plan to extend from 850 North to 580 North with a city line. Tom – that is development driven. People with ½ acre are in bad situation. Tyson – with the line and the load we can add 6.8 lines before it exceeds the line. There could be 5.8 lines added without exceeding. Tom – the problem is there are other lots on septic or less than the ½ acre, when you exceed 5.8 then the next guy will need to run a line and there will be several 2-, 4-, or 6-inch lines up Horse Alley. I am hoping the city with the owners come up with a solution and run a sewer line, not do a regular connection fee, but a surcharge to hook on to it. The rate could go up if you want to hook on. Phillips – what is the city’s responsibility for maintenance? Jonathan – none. Tyler – none, it is a private line. Paul – we don’t have liability until Airport Road. Melling – I don’t see an issue other than long term. It is better to wait until there is enough public interest. Tyson – there is a max to the line, at that time it is up to the current buyers, owners or the city to come up with options. With the layout of Horse Alley. The frontage requirement is 40 feet with the current master plan the property is 150 feet. My building will have welders on one side and a trolley to take it from one end to the other. Phillips – it is a variance on the ordinance? Jonathan – to the Engineering standards.

Tom – we do variances with the sidewalks, but agree once the city does the road, we accept that. It should be the same with the sewer agreement.

CONSIDER ENTERING A BUILDING PERMIT AGREEMENT WITH TYSON NELSON FOR DEFERRAL OF FRONTAGE IMPROVEMENTS ON PROPERTY LOCATED AT 2149 WEST 580 NORTH (HORSE ALLEY). TYSON NELSON/ JONATHAN STATHIS: Tyler – we have done others; it is not to grade. If they don’t do it
when the city is ready, they have 180 days from design and 30 days from grading to put the frontage improvements in. Hartley – if we do put a sewer line in, we require them to add on to that also. Tyson – I think that would be great. Tyson – I was told the parking variance would be in there also. We redesigned the parking spot. Tyler – that is done at Board of Adjustments.

**PUBLIC HEARING TO CONSIDER A ZONE CHANGE FROM RESIDENTIAL/AGRICULTURAL (RA) TO RESIDENTIAL ESTATES (RE) FOR PROPERTY LOCATED IN POD 5 OF THE IRON HORSE RDO (APPROXIMATELY 1750 SOUTH 2400 WEST), LEAVITT LAND/TYLER ROMERIL:** Tyler – this is Pod 5 they want from RA to RE.

Mayor Green opened the public hearing. There were no comments. The hearing closed.

**CONSIDER APPROVING THE FINAL PLAT FOR MAGNOLIA FIELDS PHASE 1 LOCATED IN THE VICINITY OF 1025 NORTH 3900 WEST, WATSON ENGINEERING/TYLER ROMERIL:** Tim Watson, Watson Engineering – 17 & 18 are together. This is phase 1, 3900 West, SE corner across the street is Iron Crest. My client and Mike Adamson are working together to get the sewer line done. The flow of the land is the flat. A large portion is going to be pressurized sewer. We are requesting inside the street a sewer easement to maintain the pressurized sewer. We will request this easement at each phase. We have duplex lots along 3900 West and then transition into single family lots. We meet R-1 lots but meet the R-2 requirements. Phillips – how do you feel about the private sewer in public street. Jonathan – it would have to be 160 acres for a public lift station. Each individual lot will have a pump to the sewer. When it gets to gravity flow the line becomes the city. Paul – between 100-200 East they were on a private line for years. we try to get away from them. Mayor – I am flabbergasted that we are going to do an entire subdivision on a private pump system. Tim – it is not one pump, each home works together to push the sewer. It will be their responsibility. It will be the same in the Shurtz Canyon PUD. We would have had to raise the ground 8 feet to have it gravity flow. If the developer was developing 160 acres, then it could be a regional lift station owned by the city. Melling – I would rather this be a private system than a city one.

Ryan Marshall – the only concern I have is there will need to be a lot of coordination with the city. When doing maintenance, they will have to close a street. Also, we won’t monitor that system if we have a water break. We need language for that.

Tyler – I am still waiting on bond, bond agreement and title report.

**CONSIDER GRANTING A PRIVATE SEWER EASEMENT WITHIN MAGNOLIA FIELDS SUBDIVISION PHASE 1, WATSON ENGINEERING/JONATHAN STATTHIS:** Tim Watson, Watson Engineering – this was discussed with the above item. Jonathan – I have a boiler plate agreement I will send to Tyler, and you can add the additional language.
PUBLIC HEARING TO CONSIDER AN ORDINANCE CHANGING THE ZONE AT HIGHWAY 56 AND WESTVIEW DRIVE FROM GENERAL COMMERCIAL (GC) TO CENTRAL COMMERCIAL (CC). GO CIVIL/TYLER ROMERIL: Dallas Buckner, Go Civil – we are working on a commercial project on this piece.

Mayor Green opened the public hearing. There were no comments. The hearing closed.

CONSIDER APPROVING THE FINAL PLAT OF ARBOR PARK PHASE 2 SUBDIVISION LOCATED IN THE VICINITY OF 1250 NORTH 500 WEST. GO CIVIL/TYLER ROMERIL: Dallas Buckner, Go Civil – this is phase 2. We had original subdivision that expired at the beginning of 2020, we came back through, and the developer is wanting to move forward. Phillips – are we under the new PUD? I don’t see any green space. The last 5 units on the north, do we have problems with fire accessibility? Phillips – they meet code. Dallas – we redid the vicinity in early 2021. The construction drawing and final plat was worked out. I think we are in conformance from when vested.

Tyler – we didn’t amend the PUD ordinance until later in 2021, I will check but I think it is in compliance. I am waiting on the bond.

Dallas – each has a garage with surplus parking on the side.

PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING THE CITY’S WATER MASTER PLAN. GO CIVIL/JONATHAN STATHIS: Dallas Buckner, Go Civil – we brought this through Planning commission and got a positive recommendation. This is out through the Valley Subdivision on South Mountain. There is a tank on top of the ridge and transmission lines, and we are proposing to remove that and combine with the one on SITLA. We have met with Leavitt Land, the water there were no reservations, we are suggesting one larger tank and route transmission and distribution lines through the valley phase 2 and up through the SITLA project.

Phillips – this was talked about extensively. I want a confirmation that there is a potential cost savings if we combine tanks and the 24” versus 36” lines. Jonathan – there could be potential savings on the size of the tank, but more cost in the additional lines. I don’t know if the costs will offset.

Isom – I like the idea of combining tanks and having a concrete tank. Paul – I talked with Leavitt’s, and they would like to have it partially underground. Phillips – the beauty of the area on both projects is what we want to protect, but there will have to be access for maintenance.

Mayor Green opened the public hearing. There were no comments. The hearing closed.

PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING THE CITY’S STORM DRAIN MASTER PLAN. GO CIVIL/JONATHAN STATHIS: Dallas Buckner, Go Civil – there is an existing storm drain master plan running through the valley. 36” appears to be way oversized so we are requesting to remove it, the Developer has to pay up
to 24 inch and the city upsizes. The developer will pay that, that is the reason for requesting removal. We did discuss with Leavitt’s, for the water lines, there are master plan trail and storm drain, set a corridor so we can allow drainage, trail and water easement to tie through their development and ours. Isom – is it a formal agreement or just gentlemen talking. Joel Hansen – we have not formalized the agreement, but we have come to a good consensus how we will have storm drain in the entire area we will do it in conjunction with them. We can get an agreement formalized with them. We want easements from their place into our place. If you want an agreement, I am not sure we can’t. Isom – I believe it protects both parties. Joel – there is still some horse trading, but I think we can get an agreement.

Melling – when you did a peak flow, what event? Dallas - 100-year 24 hour event, it was under the previous storm drain stuff than was passed recently. It is about 110 acres, and there is not a clearly defined channel, so this tipped us off that it isn’t warranted. We have a good slope, so you can get by with a smaller pipe. We discussed with Leavitt’s putting in a detention basin and they were amenable.

Jonathan – we would like something in writing that they would put in the detention pond. Joel – I will get with Dane.

Mayor Green opened the public hearing. There were no comments. The hearing closed.

**CLOSED SESSION – PENDING LITIGATION:** Councilmember Isom moved to go into closed session at 8:55 p.m.; second by Councilmember Phillips; roll call vote as follows:

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

**ADJOURN:** Councilmember Isom moved to adjourn at 9:30 p.m.; second by Councilmember Phillips; vote unanimous.

[Signature]

Renon Savage, MMC
City Recorder