

**COUNCIL MINUTES**  
**MAY 22, 2019**

The City Council held a meeting on Wednesday, May 22, 2019, at 5:30 p.m., in the Council Chambers, 10 North Main Street, Cedar City, Utah.

**MEMBERS PRESENT:** Mayor Maile Wilson-Edwards; Councilmembers: Ron Adams; Paul Cozzens; Terri Hartley; Craig Isom; Scott Phillips.

**STAFF PRESENT:** City Manager Paul Bittmenn; City Engineer Kit Wareham; City Attorney Tyler Romeril; City Recorder Renon Savage; Finance Director Jason Norris; Police Lieutenant David Evans; Fire Chief Mike Phillips; Public Works Director Ryan Marshall; Leisure Services Director Ken Nielson.

**OTHERS PRESENT:** Melodie Jett, Tom Jett, Teri Kenney, Carter Wilkey, Brent Drew, Randy Cosby, Robert Chamberlain, Ben Barlow, Dallas Buckner.

**CALL TO ORDER:** Fire Chief Mike Phillips gave the invocation; the pledge was led by Leisure Services Director Ken Nielson.

**AGENDA ORDER APPROVAL:** Mayor – the minutes of May 13 & 14 needs to be pulled.

Councilmember Phillips moved to approve the agenda order, pulling the minutes from May 14 & 15; second by Councilmember Hartley; vote unanimous.

**ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS; STAFF COMMENTS:** ■Cozzens – follow up on the discussion on the fiber optic issue, Trevor emailed me this week. I think moving forward in the City, when I built my home they paved the road, I moved in and they cut the road and put in a TV Cable. I would like to see that we require a conduit that are segregated, if there is a fiber optic in the cable if the pull one may be damaged. We could do a segregated conduit with 7 or 8, even if the City has to participate then they wouldn't have to dig up the roads and we could charge enough to recoup our costs. Paul – we asked Don to draw up a proposal. We do have conduit we put in with the storm drain project and some in the Northfield area that no one has used. We would have work to let people know it is there. Phillips – I would love to have that option. Paul – from the presentation last week, the fiber companies will probably use over head since it is cheaper. Cozzens – but in new subdivisions it would be better. ■Cozzens – the yellow water tank on Leigh Hill with the Redman. In the 70's it looked bad with graffiti and one of the classes at CHS volunteered to paint and put the namesake on it and my understanding is that we haven't had problems since then. I asked Tyler to write a simple resolution that in honor of the past 70 years of tradition and honor of last 50 years alumnus to vote up or down to deem it a historical site and never be changed. It can be redone, but it needs to stay as a symbol. Paul – we may buy some paint, but we don't do it. The kids do it. Phillips – if we see an issue can we suggest that the High School do it. Mayor – I am not sure if it is left the Redmen the school would do

it. Cozzens – there are plenty of people that would help. Hartley – I was not in favor of it changing, but it did and what if the kids at the school now want to change it. I also would not like to get sideways with another elected body where it is still being disputed. I have a hesitation with a resolution at this time. Mayor – do you want Tyler to prepare one? Phillips – I want time to digest this, it has been volatile issue in the community. I want to make sure if we don't create other issues that we are trying to heal. Cozzens – we would have 3 weeks before we have to vote on it. I think it is the least we can do to keep one emblem as a historic site. I understand there are other places another could be painted. Adams – have there been any requests to remove it? No. Phillips – we have a Canyon View, if we have another high school do we have another water tower? Yes. I want to reach out to some people before I vote. Mayor – either way it needs a new coat of paint. ■Mayor – there is no City Council next week, it is a 5<sup>th</sup> Wednesday. ■Renon Savage – the filing period for City Council is June 3-7, 8:00 a.m. to 5:00 p.m. other than during the lunch hour. ■Mayor – we have a new Executive Assistant, it is Oni. ■Paul – last week we talked about closing 45 North, the gentleman that wanted it couldn't be here today, so we will have it on the next action agenda. ■Ken Nielson, Leisure Services Director – we put out in social media that Friday morning is hands on deck at the Cemetery, we are starting at 6:00 a.m. we will attack that early and hopefully be done by 9:00 a.m. we are not closing the Cemetery, but there will be a lot of people working in the Cemetery. We know Thursday through Saturday is really busy. Phillips – what is the date the decorations need to be removed? Ken – it is 5 days after Memorial Day unless they are in the monument areas. Cozzens – my wife was there was last night and said it looks great.

**PUBLIC COMMENTS:** ■there were no public comments.

**CONSENT AGENDA: (1) APPROVAL OF MINUTES DATED MAY 1 & 8, 2019; (2) APPROVAL OF BILLS DATED MAY 15, 2019 ; (3) APPROVE SINGLE EVENT ALCOHOL PERMIT FOR CEDAR CITY ELKS HORSESHOE TOURNAMENT ON JUNE 8, 2019. CANDACE HOWES/CHIEF ADAMS; (4) APPROVE A LOCAL CONSENT FOR LJK HOSPITALITY LLC (RAMADA CEDAR CITY). DARSHAN KANSAGRA; (5) APPROVE A LOCAL CONSENT FOR CEDAR CITY SHELL LOCATED AT 1355 SOUTH MAIN STREET. VISHNU PATEL/CHIEF ADAMS; (6) APPROVE VICINITY PLAN FOR SYCAMORE TRAILS PHASE 4 LOCATED AT APPROXIMATELY 1775 N. LUND HIGHWAY. GO CIVIL/DON BOUDREAU:** Councilmember Hartley moved to approve the consent agenda as written above; second by Councilmember Isom; vote unanimous.

**CONSIDER A RESOLUTION ENTERING A FIBER-OPTIC TELECOMMUNICATIONS FRANCHISE AGREEMENT WITH GOFIBER (INFOWEST). INFOWEST/TYLER ROMERIL:** Phillips – in light of the comments Cozzens made will that affect this? No.

Councilmember Hartley moved to approve the resolution with GoFiber for a fiber-optic telecommunications franchise agreement; second by Councilmember Cozzens; vote as follows:

AYE: 5  
NAY: 0  
ABSTAINED: 0

**CONSIDER TRAFFIC OPTIONS AT THE INTERSECTION OF 700 SOUTH 1850 WEST. REX N. DUNGAN, CHECK WITH KIT:** Hartley – are we doing a new traffic study, or are we relying on the 2016 study. Kit – it is a lot higher to warrant a four-way stop. Hartley – will you explain. Kit – the chart is just showing the north/south/east/west legs of the traffic count and the average daily traffic going through the intersection. Hartley – what are the benchmarks, how close? Phillips – with 1700 cars now, where does it hit the warrant? Kit – I can get you the number, but this is well below the number. Phillips – I can see some vegetation, I am sure it depends on the time of day. There were cars, but don't see the warrant. Hartley – the vegetation does block it, but that is about 50% of the intersections. I don't stop at stop signs, I stop at the intersection. I don't know about the speed; can we do signage or patrol in the mornings. I didn't see a traffic issue. Kit -- it was suggested to put the speed trailer up there. Phillips – 700 South is a busy street, we should do counts occasionally, but I don't see changing it now. Hartley – Kit had suggested a cross walk. Kit – that would be across 1850, if people see pedestrian traffic they may tend to slow down. You can't put one on 700 without a stop sign.

Councilmember Phillips recommended to have the Police Department watch it and revisit it if needed; second by Councilmember Hartley; vote unanimous.

**CONSIDER AN ORDINANCE CHANGING THE ZONE FROM R-3-M TO SHD FOR PROPERTY LOCATED AT 236 SOUTH THROUGH 266 SOUTH ON 450 WEST. 3 PEAKS ENGINEERING/TYLER ROMERIL:** Brent Drew, Leavitt Land & Investment – they are zoned R-3, everything behind is the University parking. We want to change it to single student rooms. Phillips - you know where I stand on the SHD zone. I can't support it, you did a great project with Founders Hall. Cozzens – I need to disclose that I have historically worked for this developer and could work on this project.

Councilmember Isom moved to approve the zone change from R-3-M to SHD for property located at 236-266 South 450 West; second by Councilmember Adams; roll call vote as follows:

Ron Adams - AYE  
Paul Cozzens - AYE  
Terri Hartley - AYE  
Crain Isom - AYE  
Scott Phillips - NAY

**CONSIDER A RESOLUTION AMENDING THE CITY'S PERSONNEL POLICY PERTAINING TO HEALTH AND VISION INSURANCE. PAUL BITTMENN/ NATASHA HIRSCHI:** Paul – there are two amendments to the policy, one talks about

how we measure a work day, if you go back we all worked the same shifts, over the past number of years we have moved away from that, the Police Department has 12-hour shifts, Fire 24 hour shifts, Streets and Water 10 hour days the majority of the year. Holiday pay would be an 8-hour block. If they are on another shift and want to use leave time to make up the difference, they can. We have been doing that. A few years ago we made that change, but we missed the holiday. The other proposal deals with the opt out provision on health care, if you have existing coverage you show the city proof and we will provide an incentive to opt out of that coverage, family \$8,000, double \$6,000, single \$3,000 and it is paid out with the pay check. It leaves Administration a little flexibility, if we choose to go with PEHP, if we hit 29 opt out they won't do anything, if we get 30 they could rerate us. The flexibility allows us to work with the insurance policy. As long as we are in budget with rates going up or down a little we can still proceed as long as we are in budget. We won't go over budget.

Isom – first come, first serve? Paul – yes and it is the wild west. Mayor – the employee or spouse can bring it in, but one person can't bring everyone's. Phillips – we won't get in trouble with the IRS. Paul – they must give us proof of credible coverage. Hartley – what does the dollar amount, how did we come to that? Paul – took the amount paying for the premium and divided it by percentages. We had a spread sheet that went from 60% to 20% of the premium and the taxes on the premium we would have to pay. We calculated on each what our savings would be. Mayor – we also knew what others in the State were paying. Paul – we looked at others, particularly Iron County. For family and two-party coverage, we rounded down and single we rounded up. Phillips – the bottom line is it won't cost the City more. Paul – if it works right the city could see some savings in the health care premiums. If we get rerated and it still is in our favor, there is a possibility of savings.

Hartley – are the amounts listed in the fee schedule, or is it a budget item? Paul – not in the fee schedule, we publish administratively. Isom – and part of the resolution.

Councilmember Isom moved to approve the resolution amending the City's Personnel Policy pertaining to health and vision insurance; second by Councilmember Hartley; vote as follows:

AYE: 5  
NAY: 0  
ABSTAINED: 0

**AWARD HEALTH AND VISION BIDS TO PEHP AND AUTHORIZE MAYOR TO SIGN AGREEMENTS. PAUL BITTMENN;** Councilmember Cozzens moved to approve the agreement with PEHP for Health and Vision insurance and authorize the Mayor to sign the agreements; second by Councilmember Isom; vote unanimous.

**CONSIDER ADOPTION OF THE FY 2019-2020 TENTATIVE BUDGET. JASON NORRIS;** Jason – we made a few adjustments based on the public meetings with department heads. Increased dispatch services by \$3,000; miscommunication on water

meters, we increased it on last year's base budget, they wanted it increased on the meters this past year, so it went up to \$350,000, paid with water user fees. Engineering we increased public notices by \$300; Council suggested Heritage Center hourly wages to \$8,000 instead of \$3,000, they have revenue to off-set that; Mayor had further discussion on community promotions for the Children's Justice Center and Canyon Creek Services, we view them as an extension of public safety, we increased those from \$6,000 to \$10,000 each. That is all the changes to the tentative budget. Phillips – can we make minor changes before the final budget? Jason – yes, we will have the public hearing on June 5<sup>th</sup> and can make adjustment then.

Councilmember Phillips moved to approve the adoption of the FY 2019-2020 Tentative Budget; second by Councilmember Hartley; vote unanimous.

**ETHICS TRAINING. TYLER ROMERIL:** Tyler – we do this once a year as required by our insurance. Open & public meeting act, the purpose is to make sure public business is done in front of the public, do things open, everyone has a chance to participate and see government work and promote stability and confidence in municipal and state law. A meeting is a gathering of a quorum of a body for discussion of what they have jurisdiction over. Anything of running city business is to be held with a proper meeting with a quorum. A chance or social meeting such as a community event, you can talk together but cannot talk shop, but if two of you talk shop that is ok. That applies as well to electronic devices, the law is not 100% clear, but the training I have received is to avoid that. When we have a meeting, it should be open to the public, opened and recorded we have it posted on Monday, which is above the required 24-hour notice. There is an exception for a closed meeting, employee, property negotiations, pending litigation, and collective bargaining. To hold a closed session a vote in open meeting needs to be taken with 2/3 agreeing. To end that we vote and go back and close the open meeting. There are penalties, if unintentional we could revote, if intentional it is a class B misdemeanor.

Establish standards of conduct, promote fairness and disclose open and honest. To strengthen faith and confidence, making it fairly and not for personal gain. There are three conflicts that can come up, they fall in two categories, disclose and you cannot vote, the other category is disclose and you can continue to vote. The category not be cured, using any information received because of your elected position cannot use that for personal benefit. Second is you cannot use your position to benefit yourself or others for special privileges. The third is gifts, you cannot receive a gift given to you to vote a certain way or if a reasonable person feels it is for a vote. The ordinance has an exception of nonpecuniary for a value less than \$50, this must be infrequent. Also, if you get a loan, an award for public service or political contribution, all of those are ok.

When a conflict comes up and can be cured, using compensation for assisting in a transaction for the city. If someone was helping with a contract, Utah State Law says you can do it, but write a disclosure statement and before the contract comes up you disclose before the discussion comes up. If you have an interest that is regulated by the municipality, that is 10% by you, your spouse or minor children. We talked about

taxicabs, your spouse owns, before the vote you make sure it is written on the disclosure form and you disclose it before discussion.

Interest in a business entity with a business within the municipality. That is the 10% marker, if it is not doing business but you anticipate it happening you disclose on the statement and before discussion in City Council. If the conflict is \$2,000 or less, it is not necessary.

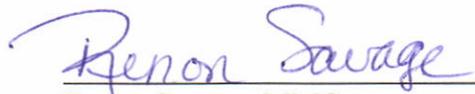
Next is if you have a conflict of interest, if there is a situation where your personal or social views and a conflict with ways you are pulled with relationships you need to disclose beforehand.

The City passed a resolution in 2011 that says “the City recognizes that the members of the Council and the Planning Commission have personal interests that may conflict with the public duties. The nature of these personal conflicts is set forth in the Municipal Officers’ and Employees’ Ethics Act. In an effort to protect the integrity of the public process, prior to a discussion or vote on an item where the members of the body have a conflict between their public duties and their personal interests, said members are encouraged to disclose a conflict of interest on the record of the meeting and recuse themselves from the chambers while the item is discussed or the vote is taken”

There are penalties for the violation and it is based on the gain, 2<sup>nd</sup> degree felony if compensation over \$1,000 3<sup>rd</sup> degree felony for \$250 – \$1,000; and below \$250 is a class B misdemeanor.

Phillips – where will we find the resolution? Tyler – it is on the website. Paul – it is also on the bottom of the agenda slots outside this room.

**ADJOURN:** Councilmember Isom moved to adjourn at 6:27 p.m.; second by Councilmember Adams; vote unanimous.

  
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Renon Savage, MMC  
City Recorder