COUNCIL MINUTES
JUNE 8, 2022

The City Council held a meeting on Wednesday, June 8, 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.


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

AGENDA ORDER APPROVAL: Councilmember Phillips moved to approve the agenda order for all three meetings; second by Councilmember Hartley; vote unanimous.

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS: STAFF COMMENTS: □ Mayor – last week I brought a tuna can and Councilman Isom took it home. Isom – it is a wonderful way to monitor the watering. I put it on my lawn, checked Thursday and made minor adjustment it works wonderful. It was a great way to monitor. Mayor – I brought two more cans; one is slightly deeper than the other. A lawn should be watered 1-1.5 inches a week, 20 inches of water on an entire lawn is what it takes to keep a lawn green. I brought a few more cans, a tuna and salmon can. It is interesting, a cubic foot of water, we talk about that all the time. Apartments uses .3 a cubic foot. Jonathan – it is .3-acre foot per unit. Melling – yes, about .3-acre feet per unit. Mayor – a framer without a pivot uses 4-acre feet per acre, if they use a pivot, it is less. We need to look at this, and if we use from the WWTP it is more. I hope we will use conservation measures and use every drop wisely. I appreciate Pastor praying for gentle rain. Phillips – a few things, I was impressed by Pastor Jerry for his enthusiasm, we are blessed to have people from each religious denominations pray for us, and we are lucky to have that in our community, it helps all of us. Also, I want to ask how we are going to celebrate the Juneteenth observance. Paul – we close our offices for holidays listed in our personnel policy and it is not listed. Phillips – I don’t know how the federal law is written. Paul – if a holiday falls on a Sunday it is celebrated on the Monday. Tyler – is it something the council wants in the policy? Phillips – it is something we should consider; the Federal and State leaders have added it. Riddle – in saving water, I had the weeds sprayed in my yard, at the shop and my mother’s yard, and they are doing great without water. I have noticed that we have a lot of weeds personally,
maybe we should get them cleaned up, so we don’t have a large fire danger. I would suggest we visit with our city residents; we are in extreme fire danger. Chief Phillips – we have fire restrictions in place. The State of Utah put fire restrictions for SW Utah, Brian Head has also done that. Phillips – does that change anything for the 4th of July with fireworks and designated places. Phillips – the designated places work great. If we want to restrict them in the city it has to be done by next week. Phillips – my understanding is we can’t do that in conflict with state law. Mike – we can restrict in the wildland area and restrict it to the designated areas, but not ban them. Melling – I was at a meeting last week and an issue of transparency was raised that I want to raise here to have on the record. One had to do with the YouTube broadcast, it is live and, on the channel, comments are disabled during the meeting. If we permitted comments live, they would have to be entered as official comments during the meeting, why are they disabled? Tyler – we want the public to come and be involved and see the context in the chambers and ask questions back and forth rather than a directive comment. We did allow comments when we are in Heritage during COVID, at that time there were not comments of substans, they were congratulating a volunteer from the Fire Department. Melling – if they have health issues, they cannot comment that way but can send someone. Tyler – they can send an email and we will read it into the record. Melling – also a comment about how council meeting went and the lack of comments, a standard meeting. A couple residents approached and said the meeting is illegal, not transparent that elected officials should not comment on a meeting in a social setting. Three of us had a meeting today at a ribbon cutting, that is social setting, not interactive, where is the line between when we post and council responsibility. Tyler – public meetings are open, posted with an agenda and the public can be present and comment on a public hearing. If it is not a quorum, the second is if there is a quorum, are we taking care of the people’s business, you shouldn’t have been talking about the meeting during the ribbon cutting, as long as you don’t talk about what is being voted on. Melling – the people’s business, things coming up for a vote, we need to be cautious if there is a quorum present, but if they are it shouldn’t be advertised as a public meeting. But we as a council can meet individually or with two, we can meet with people and be careful about how we discuss things. Phillips – everyone of us has meetings every week with constituents in the community, come look at the weeds, etc. we represent the citizens that elected us, and people need to understand that is what we do, but not have a quorum. Melling – I appreciate when true transparency issues have come up staff and council has been willing to work on the item. I brought up council minutes not being searchable and that was done within a few months. Hartley – I have had a lot of people in my neighborhood talk about the parking situation by Mo’Betthas angle parking, asking if something is going to be done? Adams – I called the manager, and she took it seriously and took care of it, but I haven’t been up there since. Hartley – they are ok to park in the right of way, but not angle and out in the asphalt. It is an accident waiting to happen. Chief Adams – I will follow up on that. Phillips – I received a text from President Benson to have us all at Utah Summer Games to march in the opening ceremonies. Ken Nielson, Leisure Services – they are doing some tree work along with the lights on Main Street, there will be cones and trucks, they are taking the lights off, we will trim the trees and then put the lights back up. Phillips – they are cleaning up after themselves? Ken – I hope, they are shooting to be done by the 17th.
PUBLIC COMMENTS: ■ Dixon Tiffany – I don’t know what has transpired in other meetings, can we talk to UDOT about putting turning signals on the north interchange. Jonathan – I can relate that to UDOT, I know they are concerned about the traffic at that interchange, I will pass that along. Phillips – the on and off ramps or what? Turning onto the freeway from the highway across. Turing left onto the freeway you set a long time to turn. Phillips – they put the two left turns, but it doesn’t help if you can’t turn. ■ Vickie Christian – Dixon are you talking about toward Enoch going to the south onramp, you can set 2-3 lights. I am also concerned about coming east on 200 North and want to turn left onto Main Street, the middle lane get used, rarely, the left lane has a lot of cars, I wondered if we can put a double turn lane there so two lanes can turn left there, I don’t know what it would take, but it would alleviate a problem. Phillips – it would have to be an option double turn or go straight. Chief Adams – we would support that. ■ Rose Clements – the bridge by Shurtz Canyon, I had a call about 9 months ago, there was a foot deep missing concrete going northbound. I called UDOT but nothing has been done about it, it is a large hole. Jonathan – that may be our responsibility, but we will look into that, I will contact UDOT. Rose – last week’s meeting, when you give up something here and then there, I was going to say don’t start that. Phillips – that is a state law. Melling – they are not elected, so we as a council because there is a routine recycling and renewal of council over time, if we have a problem with staff, we can vote to remove them. Rose – not an elected official, that was my concern? No. Tyler – the change is we can be removed at any time if the city council votes to do so.

CONSENT AGENDA: (1) APPROVAL OF MINUTES DATED MAY 18 & 25, 2022; (2) RATIFY BILLS DATED MAY 26, 2022; (3) APPROVE THE APPOINTMENT OF SAVANNAH NELSON TO THE ACTIVE TRANSPORTATION COMMITTEE. MAYOR GREEN; (4) APPROVE BID FROM MEL CLARK IN THE AMOUNT OF $409,042.16 FOR THE 1100 WEST FROM 200 NORTH TO 400 NORTH REBUILD. SHANE JOHNSON; (5) APPROVE DISPOSING OF CITY PROPERTY LOCATED AT 3900 WEST 1600 NORTH. CLARK BRATEN/TYLER ROMERIL; (6) APPROVE VICINITY PLAN FOR THE FORT CEDAR COMMERCE CENTER PUD PHASE 4 LOCATED AT 1195 W. INDUSTRIAL ROAD. GO CIVIL/DON BOUDREAU; (7) APPROVE ACCEPTING THE ROAD DEDICATION FOR 375 NORTH 4375 WEST IN THE IRON WEST SUBDIVISION. GO CIVIL/TYLER ROMERIL; (8) APPROVE VICINITY PLAN FOR TRAILSIDE TOWNHOMES PUD PHASE 3 LOCATED AT 170 WEST-75 EAST 1050 SOUTH, PLATT & PLATT/DON BOUDREAU; (9) APPROVE VICINITY PLAN FOR SOUTH RIM TOWNHOMES PUD PHASES 1-3 LOCATED AT APPROXIMATELY 175 WEST 1150 SOUTH, PLATT & PLATT/ DON BOUDREAU: Councilmember Phillips moved to approve the consent agenda items 1 through 9 as written above; second by Councilmember Melling; vote unanimous.

CONSIDER REQUEST TO CLOSE 100 WEST FROM CENTER STREET TO SHAKESPEARE LANE ON SATURDAYS FROM 8:00 A.M. TO 2:00 P.M. FOR THE FARMERS MARKET. HEATHER CARTER: Phillips – any updates from Shakespeare apartment building or Century Link? Steve Nelson – I talked with Mindy Benson, and she was supportive. Phillips – will they have a way out? Steve – yes. Century Link there is no way to contact them. Phillips – it is a great idea. Paul – we need insurance documentation. Heather – I have that.
Councilmember Hartley moved to approve closing 100 West from Center to Shakespeare Lane on Saturdays from 8:00 a.m. to 2:00 p.m. for the farmers market; second by Councilmember Isom; vote unanimous.

**CONSIDER A RESOLUTION AMENDING CHAPTERS 4 AND 8 OF THE CITY’S PERSONNEL POLICY, NATASHA HIRSCHI:** Tyler – no changes from last week.
Updaiting it how the State of Utah would like it to read. Melling – the same with 12, 13 and 14? Yes, changing it to gender neutral.

Councilmember Phillips moved to approve the resolution amending Chapters 4 & 8 of the City’s Personnel Policy; second by Councilmember Hartley; vote as follows:

- **AYE:** 5
- **NAY:** 0
- **ABSTAINED:** 0

**CONSIDER AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY’S ORDINANCES REGARDING THE CITY RECORDER, TYLER ROMERIL:** Tyler – one change is I struck the bond language.

Councilmember Melling moved to approve the ordinance amending Chapter 4 of the City’s Ordinances regarding the City Recorder; second by Councilmember Hartley; roll call vote as follows:

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

**CONSIDER AN ORDINANCE AMENDING CHAPTER 5 OF THE CITY’S ORDINANCES REGARDING THE CITY TREASURER, TYLER ROMERIL:**
Councilmember Melling moved to approve the ordinance amending Chapter 5 of the City’s Ordinances regarding the City Treasurer; second by Councilmember Phillips; roll call vote as follows:

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

**CONSIDER AN ORDINANCE AMENDING CHAPTER 7 OF THE CITY’S ORDINANCES REGARDING THE CITY ATTORNEY, TYLER ROMERIL:**
Councilmember Melling moved to approve the ordinance amending Chapter 7 of the City’s
Ordinances regarding the City Attorney; second by Councilmember Hartley; roll call vote as follows:

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

**CONSIDER BIDS FOR THE EMERGENCY STORM DRAIN PROJECTS — CENTER STREET CONCRETE INLET AND OUTLET STRUCTURES.**

**JONATHAN STATHIS:** Jonathan – we got one bid from Blackburn and Associates $345,500 for the concrete boxes installed on both sides of Center Street. Once the pips are bored, we will install the concrete structures to allow the water to go in and exit the pipes. Melling – what is the budget? Jonathan – this comes from ARFA funds. Phillips – is it within the expectations? Jonathan - $395,000 was the engineers estimate. We have a summary of all the projects going on, we started at $4.1 million we are now with this project down to $1.5 million. Melling – it will balance out with the projects. Jonathan – the next priority is to improve the drainage north from the apartments. Melling – is this where we can dig a trench if we have to? Jonathan – yes to divert the water into the I-15 right of way and back into the channel, we have talked with UDOT about that. Mayor – do they repair the inlet after the boring, they will put the concrete channel back on, all the water will collect through the box and then we will only have the piping on the north side to get to the channel? Jonathan – yes.

Councilmember Phillips moved to approve the bid from Blackburn and Associates in the amount of $345,500 for the Center Street concrete inlet and outlet structures; second by Councilmember Hartley; vote unanimous

**CONSIDER A STORM WATER MAINTENANCE AGREEMENT WITH UDOT FOR THE SUU STORM DRAIN PROJECT.**

**JONATHAN STATHIS:** Jonathan – no changes since last week. You had questions about the timing of the project. SUU is planning to do a project on 200 South from 450-800 West and then go north up 800 West. It won’t be done before the resurfacing so they will leave that portion out of the surfacing now. Phillips – is UDOT ok to hold the funds and do that at a later time? Jonathan – I didn’t ask that.

Councilmember Melling moved to approve the storm water maintenance agreement with UDOT for the SUU storm drain project; second by Councilmember Phillips; vote unanimous

**CONSIDER BIDS FOR THE 895 SOUTH JOE THURSTON WAY INTERSECTION IMPROVEMENTS.**

**SHANE JOHNSON:** Jonathan – we had discussion on this project to tie in the intersection south of Wells Fargo Bank. We looked at a few options as far as funding. We were short on funds for what we presented last week. We are proposing, by combining the projects since they are both street budget, we would be able to do both projects. 1100 West had $475,000, there is $32,000 plus $23,000 budgeted in the upcoming year and $28,000 from Maintenance on sidewalk and $39,320 from water impact fees. We
will run a sewer line through the intersection, there is not a development needing the sewer at this time. Phillips – will it run north/south or east/west? Jonathan – North to south. Phillips – this is a good plan; the neighbors have been waiting a long time and they are driving through Wells Fargo illegally. This is a good solution; the funds are there that we can use. I know there are timing issues. Jonathan – we have had discussion from the contractor, and they will move quickly and get the money spent by the end of the month, hopefully.

Councilmember Isom moved to approve the bid from Mel Clark in the amount of $142,546 for the Joe Thurston Way intersection improvements; second by Councilmember Hartley; vote unanimous

CONSIDER A RESOLUTION FOR THE REVISION OF THE 2021-2022 FISCAL YEAR BUDGET. JASON NORRIS: Jason – we haven’t made any changes from what was presented last week. We will be discussing the pickleball courts, do you want to defer this discussion until after that item. Isom – we have some budgeting? Jason – we have what is approved in the current budget. Paul - We want to bring them up with this budget, the amount budgeted is insufficient to build the courts. Jonathan – we have been working to get the project out to bid, it is out to contractors now. We have cost estimates, but not bids, the estimates are showing it would come in over budget. In the packet I laid out a few options, option 1 is the current design with 8 courts with fences, wind screen, center shade, landscaping and benches for $645,000. Melling – what is the current budget? Jonathan $539,000. As part of that we have encumbered $63,000 for engineering costs. The second option is similar to option 1, except the wind screen, shade structure landscaping and park benches are removed, we still get 8 courts. Options 3 & 4 include lights, that is the big item not included in the design, that is estimated to be $250,000, two courts is $185,000. Hartley – I reached out to someone heavily involved in pickleball, the option she gave me is the courts, windscreen and then lighting and a pavilion later. She said grants are available, I don’t know if we have looked into that. Benches and pavilions could be naming rights. I think we should finish the project the way we want it to be. As far as cost effective to do all of it including the lighting, that is the best option and come back with grant funding and sponsorships and not use all the money. Riddle – finish the project with the lighting. Yes.

Melling – I love working on water, infrastructure and I really hate dealing with rec funding. There are so many different opinions, and it is hard to do anything to satisfy parties. We went into this with an expectation on what it would cost, and it is quite a bit more. I am of the opinion if there are advocates and they want to see the difference should be made up by the advocates and I don’t see anyone willing to do that fundraising. Hartley – I think there would be. Melling – I was told there is a lot of money in this, a lot of able donors, I would like to see contributions, but the minute we approve the full funding it isn’t there. We have other RAP cycles coming up and there could be allocation there. All things considered, I am not in love with the amount of money being allocated, but I don’t fault other councilmembers. Will I vote down the entire budget over this, no. Phillips – I, like you, have certain things I have passion for, I am glad you are passionate with water. I think recreation is very important to the quality of life. Completing projects is something we don’t do well, we start and because of money we don’t finish and then the add on is three times the amount, so I would like to find a way to do the entire project. I am happy to work with people to raise
money. If we don’t have wind screens that is a problem. Lighting, I am not a pickleball player yet, but lighting I have to rely on experts, it doesn’t get dark until 9:30 p.m. You have given us great options; I think we need to complete as much as we can. Jonathan – some of the landscaping work will be done in house. Riddle – I am over recreation, and I love recreation, but it is hard for me when I listen to how much money we are spending on it. I side a lot with Melling. I was given counsel about December 20th is do not die on the pickleball courts, do not put your political career on the pickleball courts. Hartley – for or against? Riddle – both, mostly against. I have a hard time going over budget, $539,700 was allocated and not that I don’t think it is something we need in the city, I do a lot of work in St. George, and I have driven to a job by the pickleball courts and all I heard is they are full all the time, I dove by that all winter and paid attention, and they were vacant all winter. Maybe during the day when it is warmer. I drive by SUU courts a lot and they are empty. Phillips – I see them full. Riddle – I heard people from Cedar City drove to St. George and no one was there. I am cautious about spending city money. I won’t shoot the budget down, but I am leery of spending another $330,000. I tried for years to get lights on little league parks, fundraising and going with the city and it took a long time to do that. I know what it means to get finished, but also keeping in budget is important. Mayor – it is for the revision of the budget we are in. Isom – I believe we need to do full option 1 and at a minimum light 2 courts and go find the funding to get it done right. Budgets are made to be met, but I would like to do a project in that part of town in the top way. Melling – is there something specific where we could say we have a certain thing we felt should be in but with other sources. Phillips – currently there is RAP Tax fund balance of $380,000 for projects that were awarded and didn’t complete or left over from other years, it does not affect anything coming up in this year’s allocation. Jason – specifically about RAP tax it is a publicly voted on tax for recreation, arts and parks, the initial fund came from RAP tax, and they wanted to offer the amenity and as we looked into it we needed more than was allocated, so we added more. Now formally bid out we have other options; we have the ability to decide with RAP tax if we want to provide any of the 4 options for the pickleball courts. If we don’t want to offer that and have a group fund raise, we may or may not be able to award a contract. Melling – that is why I suggest if there is a particular item, court lighting, a pavilion, or an item we could withhold from funding but say it can be added later, do it with private funds. Phillips – in my opinion, fundraising you will have an easier possibility of raising for benches or a shade structure, a hard time with lighting and wind structures? Ken Nielson – correct, we got the shade structures through Iron County, shade structures are costly, but not enough. We can landscape in house, but lighting after the courts in, is a necessity, I say it is a priority over shade structures. Lights are an amenity, SUU does not have lights, as Phillips says, the wind blows, when the sun goes down the wind doesn’t blow, that is a reason lights are good for pickleball. Phillips – 8 courts were desirable to accommodate locals and to have tournaments. Ken – 8 is a minimum to have tournaments. Hartley – we aren’t going over budget, we have x amount of RAP tax dollars not allocated, it shows how far we can go with the money allocated. I agree that until we disallow the RAP tax and impact fees for recreation, that is what the funds are there for. We need to spend them responsibility, but public recreation has been voted by the public and collected for public recreation. On the lighting, these are estimates, 2 courts are $185,000 all $350,000, it is more prudent to not do shade structures, pavilions and benches but put the lighting in. Melling – I am a big fan of open and free to the public, and I like that aspect. I echo we did allocate last year’s RAP
funding in the ballpark of $270,000 plus accumulated funding for parks and recreation. Of the fund balance in RAP, other than this revision have we allocated any of that to this project? Jason – no we repurposed existing RAP funds from the daycare at the Aquatic Center that didn’t happen. There is $380,000 accumulated in RAP Tax funds for P&R because other projects have come under budget, or we collected more than estimated. It is also an interest-bearing account so there is $380,000 that can be allocated for this project or other P&R. Riddle – so we are not over budget. Jason – we are saying there is fund balance for RAP legally required to go to P&R, so do you want them for pickleball or do you want it for another project in the future. Melling – on the arts side there is accumulating balance and we decided there were urgent needs with Heritage equipment. Do we have anything like that on the horizon that would cause a concern on P&R side? Paul – three new huge parks, we are arguing over a relatively small amount compared to the three parks we are discussing. Melling – what would the figures look like if we did full lighting, wind screen and all courts, but not the shade structure, you could put names on benches. There are a lot of ways to privately raise funds for those items. Ken – some of the folks like USG and pickle ball clubs would be interested. Shade structures and benches don’t concern me a lot, they are not enough to frighten me. We do that with our own benches sometimes. Phillips – there are other funding options. Melling – how much would need to come out of the fund balance to reach that figure? Jonathan – without shade structure, landscaping and benches it would be $950,000. Jason – RAP tax for FY 23 in July will be $700,000, you will also be considering projects and can readdress this with FY 23.

Phillips – with these numbers how does this play into the revision? Paul – if you want to add more money than do it now, otherwise you will come back in FY 23. Phillips – I don’t think we want to delay the courts. Melling – were there other revisions included in this motion. Jason – what I presented last week plus the additional amount for pickleball.

Isom – there is a 15% contingency, is that normal? Jonathan – yes. Mayor – isn’t there an add on for additional engineering for the lighting. Jonathan – we need another $500,000 to add the wind screen and the lighting. Phillips – can we use impact fees? Jason – yes. There is money in the P&R impact fee? Jason – we proposed using that for the 3 parks. The impact fee for P&R can only be used for that.

Councilmember Phillips moved to approve the resolution revising the 2021-2022 fiscal year budget, proceeding as designed with courts, windscreen and lighting up to the remaining RAP Tax fund balance available;

Question on the motion - Jonathan – we need an additional $300,000 if you only light 2 courts. Phillips – can we get the underground infrastructure in place to add the other lights later? Jonathan – yes, the conduit is included.

Phillips – motion amended to do the 8 courts, wind screen and have lights on two courts adding $380,000 to the revised budget of 2021-22; second by Councilmember Hartley;
Question on the motion - Riddle – the $380,000 is not earmarked for anything else today and we can use it for pickleball courts or whatever for parks and recreation and it doesn’t affect the parks for the next FY. I am having real heartburn with this.

vote as follows:

AYE: 4
NAY: 1 - Melling
ABSTAINED: 0

Tom Jett – Go Civil and I will donate $1,000 for additional improvements to the Pickleball Court amenities.

CONSIDER A RESOLUTION FOR THE ADOPTION OF THE 2022-2023 FISCAL YEAR BUDGET. JASON NORRIS: Jason – this is the final budget proposal; we adopted the tentative and went over it last week and had the public hearing. We have not made any adjustments from last week. Isom – we have $1.5 million for 3 possible parks, whatever we do to proceed on those three I would like them to come to the council for input. Hartley – as we just have been talking, $1.5 million on 3 parks won’t go far, I want to see a plan before we do anything. I know we had some money budgeted for planning on 2 of the 3 parks, I don’t think we have spent any of that. I want planning done before we start those. Riddle – I have been raked over the coals about the budget the past two weeks, I don’t agree with the entire budget, I was told and have had to defend myself, there is no transparency and I said as I have gone through this process, Mayor Green in February emailed us and said if you have budget items let me know. I have felt that one thing that got me into this, we had more people to talk about goats in city council than about the budget. If you want to be a part, complain, whine and cry, come to city council. This has been going on since February. We had 2 days in February I missed work to be here to go over the budget. If people want to be a part of the city and know how much we are giving the various departments, come and show up, the public meetings are out there. I am tired of people saying they didn’t know. Show up and find out what is in the city budget. I am concerned about the budget and the money bringing in, are we overtaxed I think yes, but the city is responsible. Mayor – when I first started talking about Parks & Recreation I met with Steve Armbrust, are we going to get anything done and he has concerns and he wants to change some things, but his concern is because of his doubt that the city will do what they say. Next is Joe Burgess, I met with him, and he is serious about deeding the property to the city, his concern is we talk it to death and not get it done. He is uncomfortable giving the city 33 acres plus 33-acre feet of water. I also met with 7 ladies in Fiddlers Canyon, we have talked about this a long time about a park in Fiddlers Canyon and we don’t get it done. We have 3 parks totally undecided, none of the property is ours to build a park on. If we don’t put some money in the parks fund, we will be setting here saying golly we have 3 parks and haven’t done anything. My concern is not where we spend the money, but that we do spend the money on a project. I would like to see us develop at least one of those parks. I have no reservation in opening the budget and allocating money. We haven’t built a park in a long time. We have three beautiful locations and three donors, and we need to move fast. I am concerned about getting one such as Burgess and then SITLA and Armbrust coming in. You can bring it back and discuss it, but we need to do something
and move quickly, we have 2 to 2.5 month to put sprinklers in for the fall. That is why I did the budget the way I did, we should not put all eggs in one basket and shun the other two areas. We have great opportunities and dilemmas. Hartley – I hope you see our support, but we want to have it planned and done appropriately. Mayor - how much engineering on the pickleball court $63,000.

Councilmember Isom moved to approve the resolution adopting the 2022-2023 fiscal year budget; second by Councilmember Phillips; vote as follows:

AYE: 5
NAY: 0
ABSTAINED: 0

CONSIDER APPROVAL OF THE CERTIFIED TAX RATE. JASON NORRIS: Jason certified tax rate has to be calculated by the County Auditor, I put in the City’s general obligation, the Aquatic Center and Library, I updated it, it has to be adopted by the County and State and I don’t think it will change. General Operation levy .001718 the debt .000166, the certified tax rate will be .001884. We are not increasing taxes; we are required by State law to do this every year.

Councilmember Isom moved to approve the certified tax rate of .001884; second by Councilmember Melling; vote unanimous.

CONSIDER AN ORDINANCE AMENDING LOTS 9 AND 10 IN THE FAIR VIEW SUBDIVISION. WATSON ENG/TYLER ROMERIL: Tim Watson, Watson Engineering – are there any questions since last week.

Councilmember Hartley moved to approve the ordinance amending lots 9 & 10 in the Fair View Subdivision; second by Councilmember Isom; roll call vote as follows:

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

CONSIDER A REQUEST FOR A VARIANCE TO THE CITY ENGINEERING STANDARDS REGARDING AN ASPHALT TAPER ON HIDDEN HILLS DRIVE FOR THE PITTMAN SUBDIVISION. WATSON ENGINEERING/JONATHAN STATHIS: Tim Watson, Watson Engineering - Phillips – I need clarification, the checked line at the top would normally be what we would do if we had neighbors cooperate? Tim – yes, or if a neighbor pulls a building permit, he would be required to do that. Phillips – the line requesting is the lower line? Tim – Mr. Pittman’s property ends at the dark line. We will give the centerline plus 12 feet, there is a little jog to accommodate as much as we can on Mr. Pittman’s property. Isom – 5 lots? Yes. Phillips – is the dark gray, are you asphaltng half of that? Tim – we will develop full standards to the property line. He still also deed the
sliver at the same time. Tim - we made the width transition but have the full width down. Hartley - when we eliminated the 66' road, is it not still planned to go all the way through for neighborhood connections? Tim - no, just the utilities. Jonathan - there is also a master planned trail. Melling - if 50 or 100 units I would exercise eminent domain, but with the volume of homes and not a through street I will not do that.

Councilmember Melling moved to approve the variance to the City Engineering Standards regarding an asphalt taper on Hidden Hills Drive for the Pittman Subdivision as outlined; second by Councilmember Isom; vote unanimous

CONSIDER APPROVING THE MOUNTAIN VIEW INDUSTRIAL PARK SUBDIVISION PHASE 1 FINAL PLAT LOCATED IN THE VICINITY OF 2475 W. 850 N. GO CIVIL/TYLER ROMERIL: Dallas Buckner, Go Civil - we are still waiting on the FAA clearance. We submitted April 15th, so we are close to the 45-day requirement. Tyler - you can approve final plat but not record until the FAA clearance is obtained. Melling - last week we had caution by Mr. Bittmenn. Paul - the property was once FAA for the Airport with deed restrictions. They say you will pledge to abide by FAA rules, or you pay us back and we will not fund the airport. Melling - is it clearer to do it contingent on the FAA approval.

Councilmember Isom moved to approve the final plat of the Mountain View Industrial Park Subdivision, Phase 1 subject to the pending FAA approval; second by Councilmember Phillips; vote unanimous.

CONSIDER APPROVING THE MOUNTAIN VIEW INDUSTRIAL PARK SUBDIVISION PHASE 2 FINAL PLAT LOCATED IN THE VICINITY OF 2475 W. 850 N. GO CIVIL/TYLER ROMERIL: Councilmember Isom moved to approve the final plat of the Mountain View Industrial Park Subdivision, Phase 2 subject to the pending FAA approval; second by Councilmember Hartley; vote unanimous.

CONSIDER AN ORDINANCE ADDING ADDRESSES TO THE CEDAR RESERVE PUD UNIT C LOCATED IN THE VICINITY OF 1600 NORTH LUND HIGHWAY. PLATT & PLATT/TYLER ROMERIL: Bob Platt, Platt & Platt - this is just to get addresses.

Councilmember Hartley moved to approve the ordinance adding addresses to the Cedar Reserve PUD Unit C in the vicinity of 1600 N. Lund Highway; second by Councilmember Phillips; roll call vote as follows:

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

Councilmember Phillips moved to approve the ordinance vacating and amending the final plat for the Cedar Ridge Estates PUD, in vicinity of 300 East Cedar Ridge Circle; second by Councilmember Melling; roll call vote as follows:

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

CONSIDER AN ORDINANCE CHANGING THE GENERAL PLAN FROM MIXED USE TO HIGH DENSITY RESIDENTIAL FOR PROPERTY LOCATED AT 300 W. 995 S. PLATT & PLATT/ TYLER ROMERIL: Bob Platt, Platt & Platt – as presented last week.

Councilmember Hartley moved to approve the ordinance amending the general plan from mixed use to high density residential for property located at 300 West 995 South; second by Councilmember Melling; roll call vote as follows:

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

CONSIDER AN ORDINANCE CHANGING THE ZONE FROM CENTRAL COMMERCIAL (CC) TO DWELLING MULTIPLE UNIT (R-3-M) FOR PROPERTY LOCATED AT 300 W. 995 S. PLATT & PLATT/ TYLER ROMERIL: Bob Platt, Platt & Platt – as presented last week. Phillips – with the location this is the right thing to do.

Councilmember Phillips moved to approve the ordinance amending the zone from central commercial to R-3-M for property located at 300 West 995 South; second by Councilmember Melling; roll call vote as follows:

Terri Hartley - AYE
Craig Isom - AYE
Tyler Melling - AYE
Scott Phillips - AYE
Ronald Riddle - AYE
CONSIDER GRANTING A VARIANCE AND ENTERING AN AGREEMENT WITH RSLES-I LLC FOR THE DEVELOPMENT OF PROPERTY LOCATED IN THE VICINITY NORTH OF THE ASHDOWN FOREST PUD. DAVID SMITH/MICHAEL CARTER/TYLER ROMERIL: Michael Carter – when we left last week there was a disagreement between myself and Mr. Romeril. I want to clarify; I understand that variances or issues to the 80-lot limit arise. This presents a unique circumstance. Reflecting on the minutes of November 5 and 19, 2008 there was a great deal of controversy in Ashdown Forest with Frank Nichols, and it generated a lawsuit and there were different rulings issued by the court that the City wasn’t comfortable pulling things out. That left Bridgewater an emergency access to the north and that stands as plat language and something the city could rely on for emergency access. The council at that time wrestled with the fact of misrepresentations made, the first that Mr. Smith paid for two properties, Cottontail which is an access to Canyon Gate and the second at Bridgewater with a box culvert paid for with an expectation it could be used as an access. At the time Mr. Smith and Mr. Nichols were in joint ventures. There were statements by Mr. Wareham that this should not be restricted and comments about how we got in the situation of one PUD accessing another. There were issues and discussions and extensive minutes and advise by Mr. Bittmenn who wore Mr. Romeril’s hat at that time. The council had two options and voted on a compromise. Mr. Wareham’s concern was it was an access, there were discussions between Rich Gillette who worked with Mr. Nichols and City Engineer, Mr. Gillette addressing some concerns said we don’t want to widen the road, we want to preserve aesthetics and move north of the channel at some time. The city can argue that the street leading up to Bridgewater could have been made a city street. By representation by Mr. Gillette his word was taken that it would be fine and the widening and dedication to be a city street. Then we get to the discussions about Mr. Smith being isolated. The council passed 3 to 2 vote option 2 it suggested Mr. Smith work with Ashdown to get an easement across Bridgewater, they won’t do that. Also, to be a phase of that PUD, that has been attempted, they have declined that. Also, we create a development plan which is now before you as a variance with the option that the city was willing to waive the 80-lot limit until a street was built to Main Street and accommodate that in the unique circumstance. I say it is unique by the nature of the history, council and minutes and I don’t think you will find that scenario too often. Georgia Beth Thompson asked if it was a precedence, and it was said we will work that out. We are coming back, discussions in the minutes said it could take time, with nothing to suggest what the council did in 2008 may not be recognized by a future council. I know that one council cannot bind another council. We are trying to come up with a compromise that was voted on by them. I don’t think they thought there would be a council that wouldn’t do that. Working with Mr. Romeril who has been fairly accommodating, we worked together on the language of the agreement, language with the 80 lots and limit to the 27 lots presently designed and existing on the property. This request is not out of the blue and not without serious consideration by the Council in 2008. Variances are granted, it may say it was made when Nichols Canyon was not widened to Bridgewater. Now another property owner is asking for a variance. You have heard me, and we would ask that you grant it under the unique and long standing circumstances.

Melling – if it goes before the property ombudsman, approximately what timeline would we be looking at. Tyler – it is already before them. They said it may not be right, let’s have the
council vote on it. I am not planning to add additional arguments other than what the council decides. I would think we would have a decision within 3 months. Melling – what is our public noticing, could it just come to council? Tyler – yes, just council. Melling – there are a lot of hats one can put on their head. We all feel for Mr. Smith’s situation, my hat as an attorney, but as council our hats are different, we have other factors to balance. If we were a finder of fact, it would be another consideration. With my city council hat, I feel I need to oppose the variance unless the ombudsman’s office can provide additional third party perspective to steer us otherwise. Michael Carter – I had a conservation with Hartley, and she asked if we have talked with Ashdown Forest about buying an access, we have had such negative responses that we didn’t think it would go anywhere, I left a message with counsel for Ashdown Forest and Mr. Adams when he was here suggested going through Mr. Nelson’s property and we have met with him. As far as we can prosecute the cause, this would be relatively temporary. For purposes on our end and yours, we don’t want a mark on where things locate. The lots won’t sell tomorrow, it will take marketing and some improvements made, without optimism of a variance, investigating the improvements makes no sense. We are in the state or moratorium, and we would like to break free from that and move forward. Let’s bear in mind that moving this direction will take time and the idea is it would function only until there could be a secondary access built to Main Street or Wedgewood Lane. There are not people wanting to buy the lots, or a road being built, but we want optimism to move forward with improvements and to continue negotiations to try and access one way or another. Melling – I am optimistic that one of many options could be worked out, but at this time with the City Council hat we have to consider before us, in answering to the public my opinion would be swayed by a third-party opinion like the ombudsman’s office. Unless we have something solid and moving forward on one of the fronts I will vote to deny at that time.

Isom – the fact that you raised to the level of the ombudsman’s office, and it is pending gives me the same cause to pause, I would like to see that process move forward. Michael – it is pending because of the mediation, that is what brings us back before you. Hartley – there are too many unknowns, I don’t know if that is why the agreement wasn’t entered in 2008. How do you design an agreement on an unknown or without an amount, what property, etc., I am not comfortable doing a variance or an agreement at this time, I would like the ombudsman to give an opinion. It would create issues with other developers such as South Mountain, the road above the liquor store, others have spent millions. I don’t feel comfortable, I feel for Mr. Smith, but I am not comfortable. Phillips – you spoke about setting a precedence, my concern is blacker and whiter than others, if we grant this variance, we are setting a precedence we have been worried about for a long time. We understand Mr. Smith’s frustration, but we have to look out for the betterment of the entire community. We would do a disservice if we did this, I don’t know what happened in 2008, I wasn’t in the room, but they probably misjudged themselves, it was a 3/2 vote. I would have a difficult time granting it at this time. Work it out and get a road in. Michael – there has to be concessions made. Melling – because of the circumstance I don’t see the precedence, but I do see the unbalance without the 3rd party directive. I agree there are factors that I don’t think it would be a precedence issue. The City Attorney would take a far more conservative stance on exceptions, if we take exceptions they should be in the ordinance, we have more flexibility
with unfair, unjust circumstances. I don’t think I have enough to deviate at this time. Michael – with respect, might I ask that you make a motion.

Councilmember Phillips moved to deny the variance and development with RSLES-1 LLC for property located in the vicinity north of the Ashdown Forest PUD; second by Councilmember Isom; vote unanimous.

Tyler – in last week’s meeting, prior to Mr. Smith making an offhand threat of potential litigation, he made a statement that a staff member asked how much he was willing to pay, I made the comment, but it was in front of mediation, I asked SUU the same question, we require every developer to put in a road, I asked how much he was willing to pay to put in the road so it was not on the taxpayer. That morphed into the bond language in the agreement, that was the intent of saying that. Michael – that is how I remember that as well.

Dixon Tiffany – I was confused, I was wondering what would be achieved if the variance was approved? Phillips – they would be able to develop their property.

Councilmember Isom moved to go from this meeting to the RDA; second by Councilmember Hartley; vote unanimous.

**CLOSED SESSION - PENDING LITIGATION:** Councilmember Melling moved to go into closed session at 8:00 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 9:09 p.m.; second by Councilmember Phillips; vote unanimous.

\[Signature\]

Renon Savage, MMC
City Recorder