

Minutes of the Hurricane City Council and Planning Commission joint meeting held on June 10, 2021, in the Council Chambers at 147 North 870 West, Hurricane, Utah at 5 p.m.

Members Present:

Council Members: Nanette Billings, Darrin Larson, Dave Sanders, and Kevin Tervort.

Planning Commissioners Present: Mark Sampson, Michelle Cloud, Paul Farthing, Penny James-Garcia, Ralph Ballard, and Dayton Hall

Also Present: City Manager Kaden DeMille, City Planning Director Stephen Nelson, City Engineer Arthur LeBaron, City Attorney Fay Reber, and Planning Technician Brienna Spencer

AGENDA

Joint Workshop: A Presentation and Discussion regarding takings and exactions lead by the Utah Ombudsman.

Stephen Nelson introduced Jordan Cullimore, Utah Ombudsman Lead Attorney. Mr. Cullimore handed out a packet that goes over the presentation presented. They generally deal with typical and common land use issues. One of the reasons they do these presentations is to help communities make good land use decisions.

- 1) What is a good land use decision?
 - a) Serves the public interest and protects property rights.
 - b) Although they are Government funded, they don't represent the government or property owners. They are mediators. They provide info and tools to both parties to hopefully reach a solution and agreement both are happy with.
- 2) Advisory opinions on how a court would view a dispute. Questions about laws and rights.
 - a) A little over 200 advisory opinions since 2006. The majority have been on exactions. The reason is because the law sounds really good on paper but the problem is that in practice, it's been hard to imply.
- 3) What is an exaction?
 - a) According to Utah case law "exactions are conditions imposed by governmental entities on developers for the issuance of a building permit or subdivision plat approval."
 - b) Finding the right balance. Should it be financed by the public at a whole or one individual/developer?
 - i) The requirements need to be reasonable.

Arthur LeBaron shared that it has been discussed one lot being developed. We have an ordinance that speaks to how to go about those development. Is requiring someone to build a sidewalk in front of a property, is it fair when the sidewalk will be used by all the public? When subdivisions come in, it seems fair but when it's a single or few lots, it doesn't seem that way. Our ordinance doesn't give any advice on how to handle a single lot with a thousand feet of frontage.

4) What are we going to provide to the community?

- a) In his experience, the code doesn't fit all development. Technically under the law, it would be a lawful exaction. You can't pick and choose who you're going to apply it to, but you can with zones.

Ralph Ballard shared that as a planning commission is trying to rewrite our code to distinguish how much frontage is required in a specific area with a master planned road.

Mr. Cullimore went over how Morgan County has their code with the exception to policy. We're trying to carve out standards for an exception within our code.

Wasatch County just adopted a new ordinance and Mr. Cullimore suggested the city reach out to them for ideas on how to handle certain scenarios.

Just because it's a big lot does not mean it's an unlawful exaction.

Unless there is an ordinance written, it still comes back to the council. You need the mechanisms in place to make the right choice. Right now, the City Council is granting exceptions because there isn't the language within the code to help them make those.

The impact fee law states you have to use them by 6 years or you're reimbursing.

Standard with predictability.