

Minutes of the Hurricane City Council meeting held on December 16, 2021, in the Council Chambers at 147 North 870 West, Hurricane, Utah, at 5 p.m.

Members Present: Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort. Mayor John Bramall excused.

Also Present: City Manager Kaden DeMille, City Attorney Fay Reber, Power Superintendent Scott Hughes, Public Works Director Mike Vercimak, Planning Director Stephen Nelson, Street Superintendent Weston Walker, City Engineer Arthur LeBaron, Fire Chief Tom Kuhlman, Lieutenant Jerod Brisk, Water Superintendent Ken Richins, and City Recorder Cindy Beteag.

## **AGENDA**

### **5:00 p.m. Pre-meeting - Discussion of Agenda Items, Department Reports**

Nick with the Chamber of Commerce thanked the City Council for their support and partnership.

Scott Hughes attended the UAMPS conference. He will be the Chairman of the Natural Gas Board. The department is still shorthanded, but everyone is pitching in. The lines are all repaired from the tree limbs that fell.

Ken Richins is here for agenda item #2, the agreement for the acquisition of the water tank site and pipeline easement. The City Council agreed to it at the last meeting, but it needs to be formally approved. He is working on getting road dedication for 2100 West to install a new water line that will loop tanks together.

Tom Kuhlman hired a new Deputy Chief. Fire Academy will start on January 24<sup>th</sup>.

Jerod Brisk - The Police Department held Shop with a Cop last weekend. There was a good turnout, and each child got \$200.

Weston Walker stated that the department is getting ready to start road maintenance. They are focusing on 600 North and to the north. Crack sealing can begin now that the weather is cooling off.

Arthur LeBaron thanked the City Council members finishing their service positions tonight. Mr. Walker is working on pricing for the crosswalk on 870 West. It will be around \$7,500 to get the flashing lights. He is working on getting approval from the Utah Department of Transportation. (UDOT) The traffic signal on 4400 west has received some complaints. He is working with UDOT on making adjustments. The 2800 West project is ready for advertisement at the beginning of the year. There is some

controversy on Hurricane Views subdivision due to the fill placed there. There was a meeting with the contractor today, and hopefully, they came to a resolution of installing a retaining wall.

Stephen Nelson filed for a grant for the Downtown Master Plan, and he obtained a letter of support from the Chamber of Commerce. Mr. Nelson discussed the Planning Commission terms, and he will bring the updated terms to the City Council. There are two open seats.

**Council Reports:**

Mayor Bramall	Airport, Administration, Police, Animal Control, School Crossing Guards, Victim Services, Public Works, Engineering -
Nanette Billings	Parks & Cemetery, Appeals Board, Airport, Historical Preservation, Solid Waste District and Youth Council – Solid Waste is increasing residential connections. They will continue not charging a fee to haul to the dump, and they want to fix the access road to the scale.
Darin Larson	Planning Commission, Economic Development, Planning Department, Power and Swimming Pool – Darin expressed gratitude for serving on the City Council.
Joseph Prete	Court, Water, Recreation, Tree Board and Beautification Committee
Dave Sanders	Emergency Management, Streets & Drainage, Prosecutor’s Office, Code Enforcement and Building and Inspections
Kevin Tervort	Ash Creek Special Service District, Golf Course, Industrial Park, Mosquito Abatement, Fire District – He went to the Colorado River Conference. Last year our snow pact was 90% the runoff was 30%. He expressed gratitude for being able to serve on the City Council.
Kaden DeMille	City Administration -

**6:00 p.m. - Call to Order –**

**Pledge:** Dave Sanders

**Prayer:** Kelby Iverson

Thank you from Fred Hernandez – Wreaths Across America

Fred Hernandez is part of an organization that honors veterans with Wreaths Across America. He thanked the Council for their financial support in making this happen. He invited the Council to attend the ceremony honoring veterans held at the cemetery on Saturday at 9:30 a.m. The ROTC is doing the color guard and flag presentation.

**Public Forum – Comments from Public**

Kelby Iverson is here to talk about the Horseman's Edge agenda item. He wished the zoning never changed. This is a twenty-five-acre subdivision. He feels that the applicant has put together a nice subdivision and is trying to cater to agriculture. The neighbors appreciate that. There is a need for people who want a place to stay when they board their horses. He does not see the manure being a problem.

## **OLD BUSINESS**

1. Consideration and possible approval of a preliminary plat for Crocker Enterprises, a 9 lot industrial subdivision located at approx. on Old Hwy 91 and 492 N. Crocker Enterprises Applicant. Brady Shakespear Agent.

Chad Sondray reported that the conditions for approving this were providing access trails to the City water tank and putting the pipeline in the dedicated right of way. Arthur LeBaron is working with other property owners to continue the access. The applicant proposed a road on the south end of their property that goes up to the water tank. They will provide the City with an easement for the waterline. Stephen Nelson reviewed the current water standard 3.6.8.1. Staff recommends that this should be in a public right of way. Mr. Sondray stated that this is an existing line that never has had an easement. The line has been there since 1993. They do not want to ruin the bottom acre of their property. They feel it meets the ordinance. It has a prescriptive easement. They would be willing to do a bigger easement. Ken Richins stated that they might have trouble accessing the waterline if this is an easement. It is a prescriptive easement, but it was not recorded correctly.

Mr. LeBaron stated that the Gateway Plat shows the easement, but it wasn't listed as a dedicated easement. The easement must be between thirty to forty feet to be able to serve the line. When lines break, they cause a lot of damage. Curb and gutter with a drain line will help alleviate problems if that happens. Mr. Sondray stated that Built Trailers is buying this lot to store trailers. They will work with the City on the width of the easement. If it is gated, they will provide the City with a key to the gate. City Attorney, Fay Reber, asked how an easement makes the bottom parcel better than a roadway. Mr. Sondray reported that a roadway creates a separate parcel. Councilman Larson feels this is an undue burden on the property owner. Mr. Reber stated that typically a plat contains all the dedication. This needs to be reviewed further.

Councilman Larson likes the compromise of doing a wider easement. He thinks it is justified because it was not done right in the first place. A roadway separates the property creating a burden on the property owner. Councilman Prete stated that an easement is not as good as a public right of way for the City. Mr. Crocker joined the meeting via phone. He reported that they have signed an agreement with the buyer. The buyer is willing to buy it knowing about the water. They could amend the purchase agreement to state that no permanent structure can be on the easement. They are

trying to be a good partner and work with the City. The buyer needs this as an open space and is aware they cannot build on it.

Nanette Billings motioned to approve the preliminary plat for Crocker Enterprises subject to a forty-foot easement for utilities and access along the west and east side. Including a clause stating that the grantor would retain the right to use the property as long as it doesn't interfere with the City's intended use that is recorded on the plat as a note. Seconded by Darin Larson. Motion carried unanimously with Nanette Billings, Darin Larson, Joseph Prete, and Kevin Tervort voting aye.

## **NEW BUSINESS**

1. Consideration and possible approval of **local consent for a beer & liquor wholesaling license for Birrell Bottling Southern Utah**

Birrell Bottling receives bulk items and sales to companies throughout the City.

Darin Larson motioned to approve a local consent for a beer & liquor wholesaling license. Seconded by Dave Sanders. Motion carried unanimously with Nanette Billings, Darin Larson, Joseph Prete, and Kevin Tervort voting aye.

2. Consideration and possible approval of an **agreement for Acquisition of Water Tank Site, Well Site, and Pipeline Easements**-Ken Richins

Ken Richins stated that this was presented in the previous City Council meeting. All of the paperwork is signed. Mr. Richins expressed gratitude to the family for donating this property.

Dave Sanders motioned to approve the agreement for \$67,000. Seconded by Nanette Billings. Motion carried unanimously with Nanette Billings, Darin Larson, Joseph Prete, and Kevin Tervort voting aye.

3. Consideration and possible approval of an **amended final plat for Dixie Springs Plat C Amendment A** located at 2622 S 3480 W. Michael Brassannini Applicant

Stephen Nelson reported that the applicant is out of town and asked him to summarize. The applicant owns two lots and wants to build a home on both parcels. They are applying to eliminate the lot line and join the properties. The Planning Department requests that they eliminate the water and sewer connection. The public utility easement along the south end of the property can be eliminated.

Joseph Prete motioned to approve the amended final plat for Dixie Springs Plat C subject to the provision of abandoning the easement on the south edge of the property.

Seconded by Nanette Billings. Motion carried unanimously with Nanette Billings, Darin Larson, Joseph Prete, and Kevin Tervort voting aye.

**4. Consideration and possible approval of the renewal of beer licenses-Cindy Beteag**

Cindy Beteag reported three violations, but it was their first incident. The City Council discussed the violations.

Nanette Billings motioned to approve the renewal of beer licenses. Seconded by Joseph Prete. Motion carried unanimously with Nanette Billings, Darin Larson, Joseph Prete, and Kevin Tervort voting aye.

**5. Consideration and possible approval of a Development Agreement with Southern Shores- Stephen Nelson**

Stephen Nelson reported that the preliminary plat is approved, and the zoning is approved under the Cordero zoning. Utah Dam Guidelines require drainage attached. When reviewing the construction drawings, staff felt an agreement needs to be in place in case they need to drain the lake. Mr. Nelson read over the agreement, and the owner is in agreeance.

Councilman Prete is concerned about who will be responsible when developer isn't there anymore. The owner stated they proposed a drainage plan utilizing natural and historic drainage ways. The development agreement states that they cover any damage. He agreed that the developer would not be around forever, but the Homeowner's Association will be. (HOA) He proposed that the HOA should assume the agreement. Mr. Nelson stated that the intent was not to cover the City if a natural disaster occurred. Fay Reber noted that this clause only covers intentional drainage. The agreement should protect against unintentional discharge. There should be some protection for natural disasters too. The owner reports that this is designed according to State Dam regulations. It will not be an earth dam, so it doesn't leak. There is a small chance that they would have to drain it. Mr. Reber suggested expanding the agreement to cover natural and intentional drainage. It should also include a clause that includes any successor of the property. The City Council wants to review this before they vote.

Joseph Prete motioned to continue the item. Seconded by Nanette Billings. Motion carried with Nanette Billings, Joseph Prete, and Kevin Tervort voting aye. Darin Larson voted nay. Councilman Prete wants to see principals listing who is responsible.

**6. Consideration and possible approval of a proposed zone change located at 1100 W 3000 S from RA-0.5, residential agricultural, one unit per half acre, to RA-0.5 with a PDO, Planned Development Overlay. Diamond Edge Construction, Applicant. Scott Stratton, Agent**

Scott Stratton reported that the larger lots are up front. There is a buffer between the pits. They put in a trail with public parking dedicated to the City. He left access for future development to the north. The applicant is proposing an easement with access out. Mr. Stratton will stub all utilities to the end of the roads on the north side. The backline is already cut, so they will have to reshape it in phase 3. Councilwoman Billings is concerned because the zone was changed to half acre lots, but these lots are not half an acre. She thinks this is a good project if the lots are half-acre. When the zoning was changed the surrounding property owners were frustrated. It is difficult for the Council to agree to go to less than a half-acre. She thinks it should stay as half an acre. She wants to make sure there is a statue saying there will be corrals and that this property is used for horses. Councilman Larson stated that the size of the lot does not dictate if an animal can be on a property. The zoning does.

Stephen Nelson reported that to house an animal, you must have half-acre zoning. Some smaller lots in that zone are grandfathered in. The code regarding animals doesn't specify lot size unless it is a nuisance. Councilwoman Billings stated that the applicant asked for quarter acres and was denied, so he got half acres approved. Now he is again proposing quarter acres. Mr. Nelson stated that short-term rental units have been allowed in PDO's in the past, but they have to meet the recreational resort requirements. He has concerns because this doesn't address that. He likes the idea of short-term rentals with horse stalls, but he has problems with where it is located in the development.

Doug Heidman was at the Planning Commission meeting last night. He asked how far this was from the new rodeo grounds. If no services have been provided, then the Council is opening a can of worms. He agrees that there is a need for rentals where owners can stay with their horses, and this would be a good opportunity for that use.

Councilman Tervort asked if there was any reason that this use can't be allowed with half-acre zoning. Councilwoman Billings stated that lots have to be big enough to park trailers and have their horses on. Councilman Prete noted that this is an interesting development. Horse boarding near the rodeo grounds seems to fit. Agriculture use in higher density is interesting. The Council has a track record of granting PDO zoning. He is not sure if they should be as willing to give them as they have been. This is not consistent with the General Plan. He voted against reducing this to a half-acre. Mr. Stratton stated that to get the density bonus, they are providing amenities of rail fencing, landscaping, higher insulation, donating trails, and leaving open space. He feels that he has gone above and beyond to make this into an agricultural feel. Councilwoman Billings stated that the owner said he would keep this an agriculture feel during his past three zone change applications.

This property was master-planned for R1-10 to R1-8, and it was changed to rural residential in the General Plan. Councilman Prete feels this is not consistent with the

General Plan. It is a great concept, but this might not be the place for it. Councilman Tervort thinks this is a good concept, and he thinks the other property owners want something like this. People that come to the rodeo need a place to stay.

Kelby Iverson noted that if this is approved, he hopes it is clear that Horseman's Edge can have whatever the RA.05 zone allows.

Councilman Prete pointed out that the Planning Commission vote was six to one to deny. He thinks it would have been different if this had been continued. There are three unprecedented issues, boarding animals on quarter-acre lots, short-term rentals in a PDO with no clubhouse or pool, and a higher density than the General Plan allows. Another issue is whether boarding a horse on a quarter acre lot is viable considering how close they are together. Councilman Larson thinks this is new territory, and there are some compromises to consider.

Nanette Billings motioned to approve subject to half-acre lots with horse stalls on all the recreational resorts. Seconded by Joseph Prete.

Mr. Nelson clarified that the RA.5 zone has a minimum lot size of .4 acres with an average of .5. Mr. Stratton confirmed that the Recreation Resort is in Phase three. Councilwoman Billings clarified that the applicant offered the parking and trails, and it was not based on getting a PDO.

Councilwoman Billings called for the motion. The discussion continued. Mr. Stratton suggested doing half-acre zoning. There are forty lots, keeping the fifteen lots in phase three and having horse stalls, fencing, and country houses. Karl Rasmussen stated that the road has to stay where it is, which might cause a few lots to be .38 acres.

Nanette Billings motioned to approve the zone change located at 1100 W 3000 S PDO, with phase three having fifteen lots with horse stalls on all lots and ranch-style fencing. The development will not include more than forty lots with an average half-acre size, and the open space stays. Seconded by Dave Sanders. Motion carried unanimously with Nanette Billings, Darin Larson, Joseph Prete, and Kevin Tervort voting aye.

7. Consideration and possible approval of a **zone change located at 1766 W and 400 N from R1-10, residential one unit per 10,000 sq ft to R1-6, residential one unit per 6,000 sq ft, all to contain a PDO**, Planned Development Overlay. ARS Divitaes LLC Applicant. Grace Hayes Agent.

Karl Rasmussen stated that there are three developable acres above Gould's Wash based on the new calculation. They have reduced to twenty units. The Planning Commission was favorable if the density could be agreed upon. The City needs this type of housing. They have proposed a trail, a park, and parking. Part of the park will be a City park in Gould's Wash. Councilwoman Billings stated that there is a challenge with

the access. Mr. Rasmussen stated they would solve that with Fire Rock. They are drawing up a plan to determine the cost. If the cost is too high, they will have to buy a lot from Fire Rock for an access road. He doesn't know how Fire Rock was approved without providing access to this property. Stephen Nelson noted that this could potentially go up to a fifteen percent bonus with the trail and park. Dark sky lighting is another way to meet the bonus. He believes it is possible to reach the twenty-unit mark with density bonuses.

Rick Sandal stated that there is a sewer line along the entire length of the property. People walk down into the ravine, and there is no access to get down there without going through private property.

Darin Larson motioned to approve the zone change located at 1776 W and 400 N to contain a PDO, including a density bonus based on extra parking, trails, and dark sky lighting. This is in harmony with the General Plan, and there is a need for this in the City. Recognizing that utilities and access will have to be determined in the future. Seconded by Kevin Tervort. Motion carried unanimously with Nanette Billings, Darin Larson, Joseph Prete, and Kevin Tervort voting aye.

Mr. Rasmussen thanked the City Council and stated that Councilman Larson and Tervort will be missed.

**Adjournment: 9:29 p.m.**