

Hurricane City Council Minutes – March 18, 2021

Minutes of the Hurricane City Council meeting held on March 18, 2021, in the Council Chambers at 147 North 870 West, Hurricane, Utah at 5 p.m.

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

Also Present: City Manager Kaden DeMille, City Attorney Fay Reber, Police Chief Lynn Excell, Power Superintendent Dave Imlay, Public Works Director Mike Vercimak, Planning Director Stephen Nelson, City Engineer Arthur LeBaron, Parks Superintendent Darren Barney, City Recorder Cindy Beteag and Fire Chief Tom Kuhlman

AGENDA

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

Darren Barney reported the landscape trees are lifting the sidewalk on State Street. They had to remove some of them because of the damage they had caused. Some of them are also blocking businesses. They are researching different ideas of how to address it in the future. His department has been very short handed over the last year. They can't find part time help. He is worried about staff burning out with all the weekend and overtime work. Council suggested hiring full time instead of part time. There has been an increase of recreation activities and it is the Park Department doing the extra work.

Chief Kuhlman stated they are wanting to combine policies with the Police Department for false alarm calls. They have no teeth to enforce so they are asking the City's help to not renew business licenses until their fees have been paid with the fire district. They are getting thirty false calls a year on some businesses and residents. He is looking for direction tonight and then will come back with something for the Council to review. A lot of the calls stem from vacation rentals and the wind. The Police Department has received over 350 false alarm calls in a year. They have never done fines before. They are proposing to waive fees if they correct the problem.

Chief Excell reported Southwest Public Health Department released 3000 doses of vaccine to Hurricane City. There will be a drive through vaccination clinic tomorrow held at the Cinema from 8 a.m.-1 p.m. They are hoping to get at least 500 vaccines done tomorrow. Right now residents 50 and older can get the shot. Monday morning anyone 18 years and older will be able to receive it. They could possibly hold a clinic once a week. Paramedics will be there to watch for side effects. They will do a reverse 911 call next week but this week it will be advertised on social media, message boards, and possibly the St. George News. Calls for service are at 1578; which is above last year's calls. They are shorthanded as well. He spoke to an Ironman representative yesterday and asked them to announce that no bicycles are allowed on SR-7. They will be enforcing vehicles, bicycles and people cutting the fence on SR-7 during construction. They are getting ready for the events that will be in the near future. There have been a lot of vehicle burglaries last week. There were four people involved and three of them are in custody. Eight percent of the stolen items were recovered. They will be updating the dog licensing report shortly. He gave a report of what happened on Telegraph last week. There will be two or three officers here tonight to answer any questions regarding Fox Theatre.

Dave Imlay stated we have approval on the land swap with Toquerville Enterprises but the agreement needs to be updated. He passed around a static line that has fiber optics in it that they are currently installing along 600 North.

Mike Vercimak commented that the Street Department put up sixteen stop signs last week. Three pre-construction meetings were held this week. There will be a new car wash in town. There weren't any issues with the snow storms but it did cause a lot of potholes.

Arthur LeBaron explained the items on the agenda were requested by the property owners abutting the police station.

Stephen Nelson said the Planning Commission was canceled last week because there wasn't a quorum. The Cordero development agreement still has two items that haven't been corrected so it needs to be tabled until they are ready.

6:00 p.m. - Call to Order –

Pledge: Valorie Myers

Prayer: Nanette Billings

6:15 p.m. – Public Forum – Comments From Public

Marni Barranco has attended several events at Fox Theatre. She has played the harp at the open mike night. It has always been fun. She has also attended karaoke night. All ages were in attendance. She thinks it is important that this family owned business can hold these wholesome events.

Gary Castillo commented Fox Theatre provides a great place for people to go enjoy themselves. He thinks it is detrimental to the community to make them leave. He commented it is poor zoning to have residential next to commercial. It is bad for the community to revoke this business. It would send the wrong message.

Valorie Myers commenting she represents a group of actresses. They were excited to do work here. It is a good chance for people to do original work. She can't afford to put shows in the Community Center. She writes plays for senior actresses. Fox Theatre is the only place to perform in Washington County. They want to make Hurricane a place on the map for people to come enjoy entertainment. They have shows scheduled through May and have invested a lot of money in it already.

OLD BUSINESS

1. 1. Consideration and possible approval for a single event beer license local consent for First Friday @ Legacy Park an ongoing event from April-October 2021-Ed Tracey

Ed Tracey stated they had the first event on March 5th. They had a good turnout with no problems. They would like to continue holding the event as scheduled. Nanette Billings commented she attended the event and she felt it was a good event. She talked to Victor Iverson with Washington County and he stated they have given a license until October. The County has applied for a liquor license so each vendor doesn't have to apply.

Nanette Billings motioned to approve the local consent for the remaining months; however, if an issue arises, the license will be revoked. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Dave Sanders and Kevin Tervort voting aye. Joseph Prete voted nay.

2. Consideration and possible approval of an amendment to the development agreement with Cordero-Garth Day

Dave Sanders motioned to table the Cordero development agreement until the applicant has completed all the required items. Seconded by Nanette Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

NEW BUSINESS

1. Consideration and possible **approval of new cemetery rules**-Darren Barney

Darren Barney explained most of these rules are already existing but a lot of them haven't been enforced. Due to growth, enforcement is now needed because it is becoming a safety issue for employees. They get so many decorations that they can't get around the cemetery. Owners get mad if the plots are not maintained but others get mad if their stuff is moved. They are asking that decorations are put on the raised portion of the headstone and only one Shepard hook per headstone. If this is approved they will put signs up, include it in the newsletter, and put it on the City website. They will give it a few months before they start enforcement. Office staff is getting a lot of calls as well so this will help them too. He mentioned they will try to find contact information before they remove anything from the headstones. More will be allowed for Memorial Day but after one week they have to start cleaning it up. They put signs up two weeks in advance showing the rules for Memorial Day.

Dave Sanders motioned to approve the cemetery rules. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

2. Introduction of the **2021 Hurricane Royalty**-Tacy Wright

Miss Hurricane Isabelle Hodge, 1st Attendant Kaylie Yates, 2nd Attendant Drew Dunlop and Miss Congeniality Kimber Cox each introduced themselves. Council congratulated them and welcomed them as the Hurricane City Royalty.

3. Consideration and possible approval of a **revocation of business license for The Fox Theatre**-Cindy Beteag

Glen Fox, owner and manager of Fox Theatre, apologized for the rentals that have caused problems. He gave a brief history of the business which started in October of 2019. They have held fundraisers, blood drives, events, and a pancake breakfast. The first time there was an underage drinker he shut it down. He has warned renters about excessive noise. The last event didn't have a beer license. His contract doesn't specify sound restrictions. He stated he has never had a chance to address the violations. He questioned why they are responsible for everyone that rents the building. There are multiple events scheduled over the next few months. They will work to repair relations with neighboring businesses.

Cindy Beteag read in a list of violations including people living in or on the property, multiple excessive noise complaints, underage drinking, flea markets being held without proper licensing, food trucks parking in required parking, littering, and drug use on the property. Nanette Billings commented the leaser needs to be responsible for the events they hold. She wants a place people can go to enjoy entertainment. Mr. Fox commented all the issues have been from the one rental. He won't rent to them anymore. He understands the frustration and sees the extent of the damage. He stated none of the surrounding property owners would do a written parking agreement. They have allowed them to park in their parking lots but now they will no longer let them. He stated they have held two concerts since the last problem and it hasn't caused any problems. He mentioned they were living in their RV on the property for a time and they did live in the theatre but they moved out the next day after they received the notice.

Dave Sanders asked why his leases were able to go past the 10 p.m. that was listed on his license. Mr. Fox explained his hours are 10 a.m. to 10 p.m. but he didn't realize he had to control his renters. Ms. Billings stated if a temporary license is granted then there needs to be an agreement of what he can and can't do. Mr. Fox mentioned they have received an eviction notice stating he has to be out of the building by May so he just wants to finish the events he has scheduled. Mayor Bramall commented he likes all of the positive performances but the negative things come back on the community. He would like to see the positive things continue. There is some public parking available.

Fay Reber commented the purpose of this meeting tonight is to determine if this business has violated the ordinance. If it has, does the Council want to revoke the license or allow them to stay in business with regulations? Joseph Prete commented the Council supports the arts and performing venue. It is good for the community but that is not the issue tonight. The violations are the problems. He wants businesses to succeed but if there is an attitude that they aren't responsible then it doesn't work. All of the violations suggest there is more of a problem than what he said. He likes the idea of continuing the license until May with strict restrictions. Mr. Sanders commented this is not a zoning issue. The neighbors were there first. Neighbors have asked them to keep it down and they were told you shouldn't have moved here. If this business is to succeed, they need to be a good neighbor.

Chief Excell stated his concern is his department gets all the calls. They have seen all the violations. The comments Mr. Fox voiced tonight about the police department are not correct. They have tried to resolve the problems but the owner won't comply. He agrees with small businesses and them succeeding but as a business they have a stewardship of the community. His concern moving forward is protecting the community. The people doing plays and programs are phenomenal for the community. He pointed out all the ordinances are online. He has a duty as a business owner to make sure all rules are followed. There is a problem and it needs to be fixed.

Teresa Nuber stated she is the one that complained about the noise. She talked to Mr. Fox on February 20th and he said he already talked to Spencer about turning it down. The Senior Center has told them they can't park in their parking lot. These are two examples of lies that Mr. Fox has told today. William Fox, Glen's dad, stated he is not a liar. He has never caught him in a lie. They have been heavily involved in getting this theatre ready. He mentioned Glen's family has moved in with him so they are no longer living there.

Brenda Haas is the chairman of the home school that is held at the Fox Theatre and she is also Spencer with Down Under Dixie's mother. He has been told no more events can be held there. She would like to be able to stay there until their school year has ended. Jameson Crowl works for Down Under Dixie. Their top priority is to make sure no illegal activities happen at their events. They won't be hosting anymore events at this location.

Ms. Billings commented that if they can follow what the business license says she would like them to continue but Mr. Fox needs to be responsible to make sure rules are followed. She motioned to not revoke the business license if all ordinances are followed. Mr. Prete stated it needs to be stricter. Mr. Fox is responsible for everything that happens at that location. Kevin Tervort suggested continuing this discussion until June and then review it at that time. The current food truck is licensed. The concern is that the theatre has a parking agreement because they don't have enough parking for the business. The

food truck is taking up parking spaces. Mr. Fox commented the truck isn't there when an event is taking place.

Kevin Tervort motioned there is sufficient evidence that there are violations of the ordinance however the Council is not going to exercise their right to revoke the business license at the present time. Fox Theatre is placed on probation at this time until the end of June at which time the Council will review. Approval is subject to if additional violations happen between now and June the license will be reviewed again by Council. Seconded by Nanette Billings. Motion carried with Nanette Billings, Joseph Prete, Dave Sanders and Kevin Tervort voting aye. Darin Larson voted nay.

4. Consideration and possible approval of a cross access agreement with PM Dev Corp-Arthur LeBaron

Arthur LeBaron explained the City owns the parcel where the police station is located. PM Dev Corp owns property to the west and they requested a cross access agreement. Staff and legal counsel have reviewed the agreement. Hurricane City does use the south portion of PM Dev's property to park and store items. It has always been a gentleman's agreement to allow that use but this agreement. Joseph Prete stated the location of the access should be specified, language needs to be added to protect the City, and the term non-exclusive access should be added.

Joseph Prete motioned to approve the cross access agreement subject to review by legal counsel. Seconded by Nanette Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

5. Consideration and possible approval of a cross access agreement with Kenneth Heaton-Arthur LeBaron

Kenneth Heaton owns the property to the north of the police station. The City bought their property from Kenneth Heaton. Part of the agreement was to have an easement for Mr. Heaton to access his property to the north. Mr. Heaton wants it to be an actual recorded easement so Arthur LeBaron asked if it could be continued so they can come back with an agreement.

Kevin Tervort motioned to continue item 5. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

6. Consideration and possible approval of an Agreement with Toquerville Enterprises regarding property for a substation-Dave Imlay

Toquerville Enterprises will do the landscape strip if the City moves the property seventy feet to the east to accommodate the road. There was an agreement with this property when it was purchased. The new agreement updates the legal description and it shows the landscaping and wall moved. The property was purchased through trade.

Darin Larson motioned to approve the agreement with Toquerville Enterprises. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

7. Consideration and possible approval of an Interlocal Cooperation Agreement regarding Election Services-Cindy Beteag

The County requires we enter into a contract with them to use their services for Elections. We have used them in the past with good results.

Kevin Tervort motioned to approve the Interlocal Cooperation Agreement regarding Election Services. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

8. Consideration and possible approval of a reimbursement agreement for Quail Creek Ph 4-Doug Dennett

The Dennett's upsized the water lines in Quail Creek Ph 4 based on regional needs so in return the City is offering to compensate them with water vouchers.

Dave Sanders declared a potential conflict of interest and motioned to approve the reimbursement agreement for Quail Creek Ph 4. Seconded by Nanette Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

9. Consideration and possible approval of a Resolution supporting a public safety false alarm policy-Tom Kuhlman and Lynn Excell

Chief Tom Kuhlman stated the Fire District is asking the municipality they serve to help with their false alarm policy. The policy allows four false alarms in a twelve month period after that there is a fee charged. The purpose of this policy is for residents and businesses to keep their alarm systems upgraded and working. Nearly ¼ of the fire calls they go on are false alarms. This will keep resources available for actual emergencies. The resolution asks the City to not renew a business license unless their fees are current with the Fire District. The Police Department has the same issue. They would like to have one policy that covers fire and police. If the Council supports combining it, they will come back with a new policy.

Dave Sanders motioned to continue item 9. Seconded by Joseph Prete. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

10. Consideration and possible approval of an Interlocal Cooperation Agreement for Transfer of Capital Facilities and Property-Tom Kuhlman

The Fire District operates out of two fire stations that Hurricane City holds the deeds for. They were paid for with a mix of funds from the City and the Fire District. The funds were received by the same taxpayers so in order to simplify the Fire District's ability to maintain the facilities they are asking for the deeds to be transferred to them. If the facilities are no longer utilized by the Fire District then the City has the right of first refusal. If they don't want them then the profit is split between the two entities. If they sell to rebuild another facility then funds would be used for the new facility. This simplifies their operational process and costs.

Kevin Tervort motioned to approve the Interlocal Cooperation Agreement for Transfer of Capital Facilities and Property subject to legal review. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

11. Discussion regarding PID's-Kaden DeMille

The Council passed a resolution to allow public infrastructure districts (PID). Staff has been spending a lot of time reviewing these. Kaden DeMille would like Council's input on what mill levy they are comfortable with. The more it is kicked around the more concerns are brought up about what effects it will have in the future. He has concerns with using this financing tool for an entire project. Nanette Billings commented it should only be used for major items not the infrastructure within the development. Council agreed this is not a financing tool to fund an entire subdivision. There was an article from Colorado included in the packet that talks about the problems they are encountering. Utah has different laws than Colorado but we still don't see those problems here. Joseph Prete commented these should be used for unique situations. He thinks the City needs to be cautious and not grant multiple PID's at the beginning. Stephen Nelson voiced hesitation of approving a PID with residential and commercial uses. Mr. DeMille gave some examples of what the taxes would be for people within a PID District. The bond is in place for forty years.

Ted Fullerton commented we have learned from Colorado. We won't have the same issues. He stated with an eight mill levy it is only an additional \$165 each month. Prices vary depending on the location. This additional cost won't put them in the higher square foot cost. These will be view lots. He thought they had come to an agreement after the last meeting but he wasn't aware of only allowing the overpass and not infrastructure. They are behind schedule and he would like to come to an agreement for eight mill levy for only the offsite utilities and the overpass. They would also like to include the sewer lift station, the road that goes through the property, the trailhead and a fence around the perimeter. Ms. Billings would like to know percentages before they decide anything. Mr. DeMille stated the eight mill would produce 11 ½-12 million dollars in funding. Mr. Fullerton commented the underpass will benefit more than just this development so he doesn't think the burden of paying for all of it should fall on only his development. He would like to look at getting pioneering agreements. He is looking at the property below this development to do affordable housing.

Mr. DeMille pointed out this is only on the agenda to get guidance from Council on if they were thinking of funding the entire development or just a portion. Mr. Fullerton's will need to be voted on at a later time. The City is receiving incomplete applications and staff is spending a lot of time reviewing the applications. It is not fair for developers to turn in the application and then expect to be on the next agenda. Darin Larson asked if the intent was to have staff negotiate the governing document or if Council would review each item. Mr. DeMille explained Zion's Bank has helped get the mill levy where it needs to be. Now staff can review the governing document and work out the details. Dave Sanders voiced concern because the City listened to developers twenty years ago who promised they wouldn't leave it and that is what they did. He is worried it will happen again.

Council took a ten minute break.

12. Discussion and possible approval of the allocation of contingency funds-Kaden DeMille

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Council agreed to pay Granicus the entire bill out of the contingency fund in this budget year. A code enforcer is needed for all violations. Kaden DeMille mentioned they talked about doing a wage increase in March. They would do 2% increase now amounting to \$85,000 and a 3% merit increase in July. Council agreed we are behind on wages and we need to catch up to keep employees. Chief Excell commented everyone was very appreciative of the money received in December but now is an excellent time to increase wages. We have loyal employees and this would make up for the 3% wage increase that didn't happen last year. Mr. DeMille stated he and Beccie have been working hard to make sure wage scales are where they need to be. We want to be competitive with neighboring communities.

Dave Sanders motioned to approve the 2% wage increase and fund Granicus out of contingency funds. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Dave Sanders and Kevin Tervort voting aye. Joseph Prete voted nay.

13. Mayor and 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 -
Darin Larson	Planning Commission, Economic Development, Planning Department, Power and Swimming Pool -
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 -
Kaden DeMille	City Administration –Reported he recently had a lady call with concerns with the disks at the disk golf at Grandpa's Pond. She was hit in the back with a disc and she stated it broke a rib. Bryce did go observe the course and he agreed with the concerns. He suggested removing them temporarily. Joseph commented he has talked to staff about this issue. He had liability concerns when it was proposed. He thinks they should keep part of the course or if all of it is kept then signs should be posted. Consider regulating the time when they can play. Council agreed to keep the course but pull some of the problem holes until a solution can be made. Kaden will meet with Bryce and Darren and bring it back to the Council. He asked if everyone thought the airport MOU was good to send. Nanette stated the person of contact should be Kaden not Mr. Green and we should have the number for SUU's contact. Council agreed to move forward. A meeting set for April 15 th @ 3:00 p.m. for goal setting and May 5 th for an all-day budget meeting.
Cindy Beteag	She researched the ordinance that was adopted for vacation rental fees. It states the fee is \$300. Council agreed to start implanting the fee to reflect that amount at their next renewal. American Legal stated normal turnaround time is fifteen days but they were backlogged with the turnover. As of today's date, they still haven't codified last year's code. They did a demo with Municode and liked their program. She will bring back prices on them for the Council to decide.

David Stirland would like the Council's blessing to hold Peach Days. He wants to do larger events and items and use some of the money from last year. He is thinking of having a dinner and concert the Monday before Peach Days at no cost for people. Make it a week celebration instead of just the weekend. Council is in full support. The County Fair moved dates so they no longer have agriculture as part of it. He would like to bring it to Peach Days so it is more focused on agriculture and peaches. He suggested having a golf tournament that week.

14. Closed Session

Joseph Prete motioned to enter into a closed session. Seconded by Darin Larson. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

Adjournment: 10:03 p.m.