

Minutes of the Hurricane City Council meeting held on July 15, 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, Dave Sanders and Kevin Tervort. Joseph Prete and Darin Larson excused.

Also Present: City Manager Kaden DeMille, City Attorney Fay Reber, Police Chief Lynn Excell, Power Superintendent Dave Imlay, Public Works Director Mike Vercimak, City Engineer Arthur LeBaron, GIS Specialist Joe Rhodes, City Recorder Cindy Beteag, Water Superintendent Ken Richins, HR Director Beccie Williams, and Fire Chief Tom Kuhlman

AGENDA

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

Beccie Williams reported there are six full time positions open and a couple part time positions.

Ken Richins explained the west well is on Dixie Power. Lynn and Kaden have found a grant to partially fund a backup generator. It will be a good addition that they have wanted for a long time. It should be delivered on September 30th. Item 1 on the agenda is adopting design standards. With the lack of water and amount of growth we are getting, they feel this is needed now. This will make culinary water go twice as far. They are currently doing an impact fee study for secondary water. When it is implemented, it won't be an added impact fee.

Tom Kuhlman thanked residents for complying with the no firework restrictions. The only fire was in LaVerkin with a vacation rental. They are continuing to support surrounding entities. They have done their preliminary review on Glamper's Inn, and they didn't have any concerns. They have not approved the deed restriction for Pecan Valley. Turning a house into a clubhouse takes a separate set of rules. Secondary egress has to be approved before they can proceed.

Chief Excell commented they are moving forward with the generator for the water department. He thanked Ken and Kaden for their help. We were out of sandbags but have 10,000 on order. They are monitoring storms and there is a chance of thunderstorms next week. The flood trailer is back and ready to go. The light trailer has some items that need to be repaired. Animal Control is running into a cost problem dealing with skunks and raccoons. Other Cities tell residents to contact DWR since they are wild animals, but Hurricane has always helped residents by trapping and euthanizing them. They had eleven calls on them this year. They don't want to stop helping completely but they found out they have to have a permit from DWR to catch them. He suggested charging a fee to euthanize the animals. He will get a cost to present to the Council. He lost another officer this week. Officers are working three overtime shifts a weekend. It is stretching them thin. Dean Cox's funeral is on Saturday. Procession will come through Hurricane on the way to Kolob. It will go through seven stoplights. Communities are working together to cover the intersections so escort and procession can go straight through. They have been introducing officers and fun videos on their Facebook page. They are getting a lot of comments. They will be doing special event training.

Arthur LeBaron reported the City's 4th of July event was held on July 3rd. He is happy with the turnout. They used the City's light plan and it worked great. They used it to light up intersections that are dark during an event. It would be very beneficial if the City could purchase more. It is concerning with the number of out of state people that are at the lakes. There will be a parade next weekend for the 24th of

July. There will be a float for each of the LDS wards but no other denominations have turned in an application. He would like to get others involved. He is working with the Dixie NPO to get Purgatory Road installed. He has applied for the grant. They are making progress on the bell project. It will not be completed for Peach Days. The bell will be on display and information will be available for the public. On July 28th there will be an active transportation open house.

Mike Vercimak thanked Council for the increase on employees paychecks. The City is still receiving a lot of applications each week for development and building permits. After a chip seal has been swept twice, then our street sweeper can start doing them. Our sweeper is a vacuum sweeper so they can't operate right away.

Dave Imlay commented they have been working with other communities that need help. April will be sending out hotel accommodations for the UAMPS conference.

Fay Reber reported he had a meeting last Friday with Perry Homes. The agreement has been signed. He had a conversation with Hurricane Garden Homes attorney, they are hoping to get a counteroffer back. It can be discussed in a closed session when everyone is present.

6:00 p.m. - Call to Order –

Pledge: Kevin Tervort Prayer: Kaden DeMille

Presentation of the Wellbeing Project- Dr. Courtney Flint professor at Utah State stated they have partnered with Hurricane for the last few years. There are thirty-one cities that participate within the state. She gave the results for the 2021 survey. There were 271 surveys returned.

Approval of minutes: May 21, 2020

Nanette Billings motioned to the May 21, 2020, minutes. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

Public Forum – Comments From Public

Thomas Pitcher is here to comment on the Dratter property. He is concerned it will put more homes in the area. This area is taking the brunt of development. Traffic is high in this area. Why go to third acres when there is one acre and half acre surrounding it. The roads need to be improved if development keeps coming. There are power poles on the edge of the roads that need to be moved.

Garth Packard is just completing their home in Hardcastle. They are in favor of what the Planning Commissioners recommended as half acre for the Dratter application.

Derrick Capps lives across from the Dratter property. He also supports the Planning Commissioner's recommendation. If it keeps the current zoning it would only be five lots. If they do third acres, it will be three more lots. Drainage issues need to be addressed. He asked Council to not set a precedent of smaller lots in the area. Other people have approached Mr. Dratter to purchase this property. He doesn't think it meets the General Plan either. Half acre is a good compromise for everyone.

Brandon Terry has lived here for five years. He is currently living in Hardcastle. He also agreed with the Planning Commissioner's recommendation. The main reason they moved to town was for the larger lots.

Rachel Lisonbee bought a lot from Sean Reddish. She was attracted to this area for the larger lots. She encouraged the Council to keep the larger lots to keep the feel. Making them smaller takes away the

agricultural feel. She has a vested interest in having infrastructure that supports growth. The big picture needs to support the growth not the other way around.

David Lisonbee commented four of the six concerns shared in the wellbeing report are in play tonight. This gives the City an option for one acre lots. There are other options throughout the community

Kevin Reber bought the old Hardcastle home. He lives in the country and wants to keep that aspect. He is concerned about the construction vehicles and for the children walking in this neighborhood. They don't want smaller lots in the neighborhood.

Ladd Gilbert is here opposing item 4. Jeff Thompson is his partner who submitted comments. They do not understand why protection is needed. What deems it to be critical. Why can't it continue in operation like it has been? At some point this use will be extinguished. Do all the aggregates have the same protection? What is the gain that the City or the property owner gets by approving this? This operation is a nuisance. He asked Council to let it run its natural path for how long it is in operation. The operation illuminates noise and air pollution. He asked for it to be rejected.

Annie Reeve is concerned about the Dratter property. They have had problems with Pete for the last six years. Her tail water goes in through his ditch. He won't use her wastewater. With the homes he wants to put in, she will have no way to water her property. Someone helped her design where her water could go but Mr. Dratter didn't like it, so she went to Mac Hall for advice. He told her to keep the ditch clean. It will be a headache with cars and wastewater. Something needs to be figured out before development starts.

Todd Davis has been with Hurricane Ready Mix for thirty-five years. He will speak if the attorney representing them needs help.

Darren Clow owns property to the north of the Ready Mix property. He submitted plans for a storage facility that had to be put on hold because of the soil. The pit made cuts in their property that made some of his property unusable. The properties around the pit are the ones that need protection. Todd was willing to make a deal with him before his death, but he hasn't heard anything since. Vertical cuts are a safety issue. It could take his own property if it fails.

NEW BUSINESS

- 1. Discussion and possible consideration of adopting the updated City Design Standards for the requirement of installation of secondary water systems in all new developments-Ken Richins**

Ken Richins stated they have been working on this for a while. St. George and Washington City have already adopted it. They have concerns about extending the water we do have. If we put irrigation in new developments, it would extend culinary water by half. The Water Board recommended approval. This is not for single family homes, and it won't affect existing developments. Ash Creek Sewer District thinks they will be able to build a plant within five years and then we would be able to use reclaim water. When reclaim water is available, they would like to connect right away.

Dave Sanders motioned to approve the ordinance adopting the updated City Design Standards. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

2. Consideration and possible approval of a proposed **zone change amendment request located at approx. 840 West and 650 South from RA-1, residential agriculture one unit per acre, to R1-15, residential one unit per 15,000 square feet. Parcel numbers H-3-2-3-4220-A and H-3-2-3-4220-B. Peter J Dratter Applicant, Colt D Stratton Agent**

Colt and Chase Stratton representing Pete Dratter were present. When they looked at this, the General Map does show residential. They felt R1-15 would be the most compatible with what is there and the future development. They are planning on eight to twelve lots. He knows there are concerns with traffic and safety, but the street impact fees collected on these lots would help the roads in the area. Ten versus eight homes isn't going to be a large impact. If the General Plan is going this direction, where does it start. Nanette Billings read comments she received from Darin Larson. "The Planning Commission voted five to one in favor of half acre zoning. He agrees with them. It fits the neighborhood." Ms. Billings stated there is not third acre lots anywhere around them. Third acre lots do match the General Plan but that is at a minimum. Larger lots can be approved too. Mayor Bramall asked if the applicant was in favor of half acre lots? That would still allow animals and be harmonious with the surrounding properties. Colt Stratton stated they can accept half acre lot but as a developer they are concerned the Council is varying from the General Plan. RA zoning isn't allowed in this area according to the General Plan. Council can approve it with changes so they wouldn't have to wait.

Nanette Billings motioned to approve the zone change request to half acre lots based on it is harmonious with surrounding properties, there is infrastructure in the area, and the Master Plan allows half acre lots. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

3. Public Hearing to take comments on the following:

Dave Sanders motioned to move into a public hearing. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

- a. A proposal to create a **Critical Infrastructure Materials Protection Area located at 3125 S 1100 West**, parcel number H-3395-B-P-SA

James Elegante with Gallian Welker & Beckstrom is representing the applicant. The law that provides protection areas is the same law that this Council has used many times to protect agriculture areas. The legislature anticipated the growth. This business is a benefit for people that want sidewalks and driveways. St. George moved their airport and now are getting a lot of complaints because of the noise. Gravel pits are needed for development. Sand, gravel, and rock aggregate are critical infrastructure materials. We need to give it protection. This act is a speed bump for entities to slow down. The business was out of town when it first started but now development is around them. If development comes within so many feet, they have to put a legend on the plat notifying people purchasing in that area that this is there. They feel they meet all the criteria for this protection. There is still a lot of material there. It will continue for many years. Protection lasts for twenty years and then it is reviewed.

Scott Stratton owns property on two sides of the pit. He has a plat approved by the Planning Commission and is tabled with Council. He questioned if this would affect him? Fay Reber stated it will apply to him, but he may not have to put language on the plat since it was approved before. He doesn't think anyone purchasing in his future subdivision would be able to file a nuisance complaint against the pit. Mr. Stratton is more worried about his larger lots that will have complaints about the pit. He is

against what they are trying to do. They have been working on their soils and they are saying the slope will fail when it is saturated. It will take 150 feet of his property when that happens.

Ladd Gilbert stated his main thought is why they can't continue as they have been. Why do they need this? He questioned how long they can continue. This isn't the only pit. There are others that are in better locations. He is not asking them to stop but in the future this area will be residential. He doesn't think it needs to be a permanent thing.

John Bramall, speaking as a resident, has always supported the pit. If they approve the protection zone, the City can require a reclamation plan. He would like to see how it will be reclaimed. If it goes below grade it needs a reclamation plan.

Darren Clow is not saying they need to shut down the mine. They told him they would build the property back up. He has no legal recourse if this is approved and then the slope fails. It needs to be on record that if this is approved it is taking away his legal right for recourse. Fay Reber explained this is a limited protection. If they do something that goes outside of the scope, and something fails then he would have recourse. Mr. Clow stated the vertical cut is already not to standard. They are being restricted before they even start. They don't abate the cut.

Todd Davis stated it is not a vertical cut. It is a slope. As long as it is fenced, it is in compliance. It is msha approved. They are only responsible for what is on the inside of the fence. A grandfather clause has been in place for a long time. They are zoned for this.

Attorney Elegante pointed out that when there is approval of critical lands the City gives notice to the County Recorder. Preexisting plats don't have to be redone. He pointed out they meet all the qualifications to get this protection.

- b. A Sensitive Land application for **Hillside Estates located at approx. 725 S and 1400 W**, containing 13 lots

Chris Wyler stated they didn't have comments last time. There were issues with the layout, so they redesigned it.

Mac Hall mentioned there is a Canal Company easement that needs to be addressed. There is a 24" water main that can't be built over.

Nanette Billings motioned to move out of a public hearing. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

- 4. Consideration and possible approval of a **proposed Critical Infrastructure Materials Protection Area, Parcel Idea H-3395-B-P-SA, 3125 S 1100 W. The Todd C Stratton Revocable Trust and Hurricane Ready-Mix Inc Applicants, James M Elegante with Gallian Welker, & Beckstrom, L.C. Agent**

James Elegante stated excavation started in 1967. He is estimating they will be operating about twenty - five additional years. Nanette Billings questioned what they can do regarding the reclamation process. Kevin Tervort agreed they have the right to apply for this, but it seems to be open ended. Fay Reber stated they already have protection as legal non-conforming use. It is broad protection. With this type of mining use, they can expand. They are asking for additional protections that the City won't pass any ordinances that would make their use a nuisance, they want to protect their zoning, and make it so the City can't claim eminent domain. They meet all the criteria but the City doesn't have to grant them the protection. Dave Sanders commented they have been a local business for many years. This was a long way out of town when it started. He questioned if there was a way for them to work together with neighbors so everyone can function the way they want. The trustee commented they are still working through Todd's death and will work with the neighbors, but they are just trying to protect themselves from future growth. The slope and reclamation are something that needs to be decided in the future. They meet the criteria for the protection. Ladd Gilbert stated again they don't need more protection. It will negatively affect the neighbors. Mayor Bramall commented the City has the right to require a slope, mitigation, and a reclamation plan before it is decided. The trustee stated it will be reviewed again in twenty years and if it is still up and going then it can be changed at that time. Ms. Billings mentioned there are four gravel pits in the area and she is not in favor of closing a business. She stated this protection makes it so they can't be closed.

Fay Reber explained they already have vested mining rights. They are asking for more protection for nuisances, eminent domain, and zoning. Mr. Elegante stated the difference is that if it is granted the public gets notice that there is a nuisance in the area. It protects them from future lawsuits.

Nanette Billings motioned to approve the critical infrastructure materials protection area based on the land is being used as aggregate, the land is zoned for mining, the land is in critical infrastructure material operation, they did not ask for protection beyond their property, and the City just gave Interstate Rock the same protection. Motion died for lack of a second.

Nanette Billings motioned to continue this item until the next meeting. Kevin Tervort commented he has no issues with the protection, but he would like to see the applicants come forward to help the neighbors. He would like to see that be part of the approval. It is affecting the neighbors. The trustee stated this isn't the place to address the other issues. They are just trying to protect against future nuisance complaints. The neighbor's issues aren't part of the protection area. Seconded by Dave Sanders. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

5. Consideration and possible approval of a **preliminary plat for Terra at Coral Canyon, a 144 Unit Condominium Development, located at the Intersection of 200 N and Chaparral Drive.** Drake Howell, VP Cole West Development Applicant

The Planning Commission recommended approval. This is a continuation of Coral Springs. Applicant has no concerns with staff recommendations.

Dave Sanders motioned to approve the preliminary plat for Terra at Coral Canyon subject to staff recommendations. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

6. Discussion and possible approval to stay at Hurricane’s current entitlement of the CFPP or increase/decrease Hurricane’s Entitlement – Dave Imlay

Dave Imlay went over the entitlement. We are currently at 14,122 kw which puts us at 14% of the total project. We are starting a new budget plan of finance and that gives each participant the chance to increase or decrease their share. No money is being spent right now. We are incurring debt in our name. We are protected if there is a failure of the price. The Power Board felt we should stay at our current entitlement share. UAMPS feels now is the time to increase. Once the project has fully subscribed our percentage will decrease. Solar, wind, and renewables are replacing coal-based plants. Other coal power plants will come available. St. George just approved 20,000 kw. Mac Hall stated he thinks the Power Board would recommend the increase if it was presented the same way. Nanette Billings doesn’t think natural gas will go away. The City can increase at any time but not decrease. This doesn’t count any construction costs. Our price is guaranteed until we go to construction. If we pull out of the contract, we will have to pay back our debt.

Kevin Tervort motioned to approve the Resolution approving increase of Hurricane’s Entitlement up to 20,000 kw hours not to exceed the 25% total project cost. Seconded by Dave Sanders. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

7. Discussion and possible approval of a Resolution Approving an Increase in the Participant’s Entitlement Share under the Carbon Free Power Project Power Sales Contract-Dave Imlay

This item was addressed with the previous item.

8. Discussion and possible approval of a Power Rate Increase – Dave Imlay

Dave Sanders motioned to table the power rate increase. Seconded by Nanette Billings. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

9. Consideration and possible approval of a grading permit for Glampers Inn – Karl Rasmussen

Karl Rasmussen handed out a grading plan and bond estimate that he had given to staff. Mike Vercimak commented there are two sections in the code that state they can’t move forward without an approved final site plan. Mr. Rasmussen stated they have already approved the PID out there but because of the terrain and the PID process. They have been working on the roads and staff doesn’t want to move until the road notice to proceed is issued. They want to start grading so they can start development as soon as the roads are done. They will do a full reclamation bond. There is a hydrant for water. The applicant wants to get a jump start so all the blasting is done before they start the infrastructure. Nanette Billings mentioned the code does allow Council to make an exception. The applicant also has an application in with the State to drill a well. She feels this is a good example of when an exception should be allowed if a cash bond is presented. Mr. Vercimak feels a bond would be okay, but he thinks an agreement needs to be in place so that no infrastructure is started. Staff doesn’t have the authority to not follow the ordinance. This is the City’s first time dealing with a PID. Timing becomes crucial. The PID is paying for the infrastructure. Mr. Rasmussen this gives them time to work with staff to make sure everything lines up. Kevin Tervort asked if Brent Moser will ask for a grading permit if this is approved. Mr. Moser stated this puts him in a hard situation. He is worried everyone else will want to start grading if this is approved. Staff has agreed to have a weekly meeting on the PID. Mr. Moser stated they will try to wait before they ask for more grading.

Nanette motioned to approve the grading permit based on an agreement that no infrastructure will start before permit is received. They put up a cash bond for \$310,000 for reclamation and they meet with staff once a week. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

10. Consideration and possible approval of a Sensitive Land application for Hillside Estates located at approx. 725 S and 1400 W, containing 13 lots. – Chris Wyler applicant, Civil Science Agent

Chris Wyler stated they will work around the canal water line. Nanette Billings voiced concern with approving the plat showing the lots on the easement. Council agreed a field check is needed before anything is decided. Approval for preliminary plat should have been listed on the agenda in addition to the sensitive land application.

Dave Sanders motioned to continue this item until the next meeting so where the water line can be verified. Seconded by Nanette Billings. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

11. Consideration and possible approval of amending the deed restriction in Pecan Valley- Chris Wyler

Chris Wyler explained he adjusted verbiage since the last meeting. He would like to move forward. He plans on living in the home and having an office in the home to serve as the clubhouse. Fay Reber stated it mentions it gives three years to complete the clubhouse then the owner will make the necessary accommodations to convert the house to a clubhouse, but it doesn't give a timeframe for completion. Mr. Wyler stated they have preliminary plat approval for the clubhouse. Phase 3 is the only resort phase, and the rest is all single family. The townhouse phase has the clubhouse. He is proposing no c/o's on the townhomes will be issued until the clubhouse is completed. Nanette Billings suggested putting a date in there that they have to have it completed within six months. Kevin Tervort feels like it is not being done in the right order. Mr. Reber stated the Council already made an exemption, and they are asking for another exemption. Mr. Wyler stated they never planned to use the house as clubhouse; it is just a deed restriction in case the project failed. A clubhouse is required for recreational resort. Mr. Wyler pointed out the ordinance doesn't state when the amenities have to be completed. He could put in a small clubhouse and pool while he waits to build the big one. Mayor Bramall stated the City has seen a lot of projects that have failed, and they leave a scar. Mr. Wyler stated he can put up a bond. People will have to buy into the amenities or pay a higher HOA fee. Nanette Billings asked what the cost is to meet the fire requirements. Mr. Wyler isn't positive, but someone mentioned thirty to forty thousand.

Dave Sanders motioned to continue amending the deed restriction in Pecan Valley. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

12. Mayor, Council and Staff 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 -

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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 – The City has received the first allotment of ARP money.

Closed Session: Kevin Tervort motioned to move into a closed session. Seconded by Dave Sanders. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye.

Adjournment: 10:00 p.m.