

## Hurricane City Council Minutes – August 5, 2021

Minutes of the Hurricane City Council meeting held on August 5, 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, Police Chief Lynn Excell, Power Superintendent Dave Imlay, Planning Director Stephen Nelson, City Engineer Arthur LeBaron, GIS Specialist Joe Rhodes, City Recorder Cindy Beteag, Street Superintendent Weston Walker, Recreation Director Kole Staheli, Ash Creek Superintendent Mike Chandler, and Fire Chief Tom Kuhlman

### AGENDA

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

Beccie Williams introduced Scott Hughes as the new Power Superintendent and went over the open positions. Interviews for the Assistant Planner/Code Enforcement will be tomorrow.

Johnathan Hunt with Sand Hollow Reservoir passed out a flier outlining their upcoming events. He stated they try to stay open during the events, but they have to close for some of them. Their numbers are back to normal last month. They are the only park that had over a million visitors. They will be doing a big construction project this fall to add more campsites and bathrooms.

Mike Chandler commented there is a lot of development pressure on the southeast corner of Sand Hollow Reservoir. A pump station will be needed there. Most pressing issue right now is replacing pipelines from SR-9 to their lagoons. Prices have doubled on PVC, so they are looking at a different product to use. They will check prices on PVC pipe first of September and go from there. They might have to do blasting along Sand Hollow Road so it might have to close at some times for safety.

Kole Staheli thanked the Council for recognizing the baseball teams tonight. Tarzan kicked off last weekend. It is getting good reviews. They are working to accommodate the Utah Symphony with their concert being canceled at the OC Tanner Amphitheater. Removal of the pump track will take place tomorrow morning. It will be stored temporarily at the Water Department. Based on some concerns it will have to be discussed in the future of where and if it should be relocated. A more permanent structure would be better. Peach Days meetings will continue next week. Things are coming together for the David Archuleta concert.

Tom Kuhlmann reported there are still fire restrictions in the area. No campfires or open flames. They have three crews out helping surrounding areas. They sent two crews to help with the flooding in Enoch. They are at 2506 calls, and they continue to rise. They are working with architects to design future buildings.

Chief Excell stated there are a lot of events coming up and they are shorthanded. A lot of the officers have volunteered to help with Peach Days. They have everything in place for the Symphony concert. He has contacted a security company to help with the David Archuleta concert. They are also working with Iron Man to get everything in place. They have multiple jobs open that they are working on filling. Calls are up more than last year. They are getting frivolous complaints from sovereign citizens that are taking a lot of their time to deal with. They sent officers over yesterday to cover for the St. George Police during the officer's funeral. School starts in a week. Crossing guards will be back out there. There are a lot of COVID cases again. Encouraging people to sanitize and social distance. They are happy to hold a

vaccination clinic if people want it. They purchased additional sandbags and now have about thirteen thousand.

Arthur LeBaron is proposing to put a proposed road abandonment for 2800 West on a future agenda. He is working with the property owners to swap land to align the road. There was a meeting with the Water Department and all the developers in the Bench Lake area. 6537 units were mentioned in the meeting, but numbers continue to rise. There was a design meeting with our Power Department and Dominion Energy today to discuss getting a masterplan transmission line down the east side of the Southern Parkway. They are still working on the town bell project. David Isom is leading the project and doing a great job. It will be in the Peach Days parade and on display during the celebration.

Weston Walker reported they are working on a lot of projects. They have received a lot of complaints on low hanging trees and shrubs. They have put a lot of fliers out to owners to take care of them, but they can help if they are not able to. They did some tree trimming and striping by Hurricane Elementary today to help with kids crossing the road. They filled some sandbags to have for emergency needs. The Beautification Committee would like to designate a weekend in September for community clean up. Nanette Billings suggested two different weekends, one on each end of town. The Street Department has purchased a sidewalk grinder and has a list of sidewalks that they will be working on.

Dave Imlay stated they can't sign more construction drawings until more power lines have been installed. They had a broken pole on 600 North, but it has been fixed. He handed out price comparisons for tonight's agenda item.

Stephen Nelson reported a Hallmark movie called, Sweet Pecan Summer, was filmed here and will be aired on August 28<sup>th</sup>. The Building and Planning department has signed a contract with IWorks and they will be moving to an online system. The Planning Commission made a positive recommendation on the Master Transportation Plan with a few changes. It will be updated and will come to the next meeting. They will start interviewing applicants tomorrow for the Planning Assistant position. He will be doing a Peach Days booth so he can do some outreach regarding our moderate housing income plan. He has been working with the Washington County Water District looking at ways to update our water policy to make our policy more water efficient. The Disc Golf Course has been redesigned and installation will be on August 22<sup>nd</sup>. There is a volunteer group that will help with installation. The Planning Commission recommended the Silver Flats applicant bring in a utility plan. The applicant doesn't have it ready, so they asked to be continued.

**6:00 p.m. - Call to Order –**

Plledge: Paula Hirschi                      Prayer: Lance Hutchings

Recognition of outstanding performance by Hurricane Red Sox 5-6<sup>th</sup> grade and 3-4<sup>th</sup> grade teams

Kole Staheli announced all the players and coaches for both teams and had them come forward. The Council congratulated the players and coaches and offered hi fives. Pictures were taken.

Approval of minutes: April 1, 2021, and April 15, 2021

Nanette Billings motioned to approve both sets of minutes subject to some grammar corrections. Seconded by Joseph Prete. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

**Public Forum – Comments From Public**

**OLD BUSINESS**

1. 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 sent Council a letter outlining the criteria. Hurricane Ready Mix has met all requirements under the statute for this protection. The Planning Commission has also recommended approval. Council has granted multiple agriculture protections in the area. They are not asking for special treatment. They want equal treatment. In his letter he pointed out Utah doesn't require a reclamation plan for sand, gravel, or rock aggregate. There is a complaint from Mr. Cloud, an adjoining property owner, regarding the steep wall; however, they feel it complies with regulations. It has looked the same since 2001. The Legislature changed in 2018 granting protection for existing sand, gravel, and aggregate zones. If this is granted it will give them more protection. Plats that are approved around this property are required to list the protected area on their plat.

Nanette Billings commented it meets all requirements. It is a viable business that has been here for over fifty years. Every surrounding property will be noticed that they are there. She is in favor of granting it. Mr. Elegante explained if it is approved it puts up speed bumps for government entities changing regulations. The State can't through eminent domain unless there is a hearing. Municipality can't pass ordinances declaring the operation is a nuisance. Joseph Prete asked what the driving force is for wanting this. Mr. Elegante explained the adjoining property owners want to rezone to denser and put homes right up to this property. They want this protection so they can protect the gravel pit from nuisance complaints. Mr. Prete stated it was off putting to him that there was push back on a reclamation plan. They are asking the City for a favor but they aren't willing to address the City's concerns. Mr. Elegante commented it is a daunting task. It would be an enormous task to come up with a plan. He likes that people in this area tend to cooperate. The City needs to trust the owners will do the right thing. Lewis Reese stated there is no immediate plans to cease the pit. They will operate for fifty more years so a reclamation plan at this point is a moot issue. The statute already requires new plats to have a note that they are there, but the City failed to do it on Mr. Stratton's property.

Fay Reber mentioned he sent an email to Council today indicating it may be a good idea to approve the protection area. Even though they have met all requirements the Council still has the option to not approve it. Darin Larson stated this is an important business in our community. Citizens should be notified they are there. His concern is this gives additional protection. He doesn't want it to be a detriment to the City in the future. Mr. Elegant pointed out the statute requires the City to review these every twenty years. Dave Sanders commented they need to maintain air quality. He asked if there was a way to secure the north end of the pit so there isn't an accident? Mr. Reese stated they are happy to put a fence up around the property.

Nanette Billings motioned to approve the critical infrastructure protection area based on the following reasons: 1. The Planning Commission recommended approval 2. It is a critical infrastructure operation 3. The air quality is already monitored by msha 4. It's a vested mining right for critical infrastructure 5. Reclamation is not required. 6. Landowner won't have nuisance complaints 7. We want aggregate close

to our area. Seconded by Darin Larson. 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 updated **Preliminary Plat and Sensitive Land application for Hillside Estates located at approx. 725 S and 1400 W, containing 16 lots.** – Chris Wyler applicant, Civil Science Agent

They will move the irrigation line and remove lot 14. It is a better layout with this design.

Darin Larson motioned to approve the preliminary plat and sensitive land for Hillside Estates subject to staff and JUC comments. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

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

Chris Wyler explained they have preliminary approvals for the clubhouse. He is trying to get going on his house and he is okay with the deed restriction, but two concerns have come up. It states the permanent clubhouse has to be completed before he can get a certificate of occupancy on the second half of the lots. The Fire District is requiring a fire system for a commercial building. It would be very costly. He is asking the Council to amend those two items. He offered to put a bond up in case the clubhouse isn't built.

Nanette Billings pointed out he received recreation resort zoning because a clubhouse was shown. Mr. Wyler stated the ordinance doesn't state when the clubhouse has to be built. He would like to bond instead. He is already doing a fire system, but it doesn't meet fire code for commercial use. Chief Tom Kuhlman explained the occupancy restrictions require different systems. A clubhouse is an assembly occupancy not residential.

When the clubhouse is required is what needs to be determined. Stephen Nelson read the code and pointed out the City has always required the amenities in the first phase. The Planning Commission is looking at updating the code to make it clear. He explained the original plan showed the clubhouse in the first phase. It changed and now the clubhouse is in the second phase and that's why the deed restriction was put in place. He doesn't think it will ever be used as a clubhouse, but we need to maintain that onsite management is there. If Council approves this, then he thinks some adjustments need to be made. Mr. Wyler agreed to Stephen Nelson's recommendations on his email. The deed must say office not clubhouse for the fire to sign off on. A completion date needs to be added to the agreement.

Nanette Billings motioned to approve the amendment to the deed restriction for Pecan Valley subject to: 1. On-site management and office space are maintained on lot 60 so that someone is available and can respond to problems that may arise within the resort. 2. That the clubhouse and pool that the developer promised are developed in the next phase. 3. That the property must be maintained either by Mr. Wyler or the HOA, and whoever occupies the home that they serve as on-site management. 4. That no short-term rental use takes place in the home while it is serving as the main office space. 5. That the City's attorney has a chance to review any document before it is signed. Approval is based on it will be

completed at the beginning of phase 2 and no occupancy will be granted for phase 2 until the clubhouse is completed. It is an office not a clubhouse. Seconded by Dave Sanders. Motion carried with Nanette Billings, Dave Sanders and Kevin Tervort voting aye. Darin Larson and Joseph Prete voted nay.

4. Consideration and possible approval of a **Resolution approving a Power Rate Increase**-Dave Imlay

They have been experiencing high power prices. There was an 11% increase in one year. We are buying it for .19 and selling it for .09. We buy a lot of power off the unplanned pool but with the coal plants coming offline, and being replaced by renewables, the capacity is becoming limited. The industry is changing so fast which is causing prices to spike. We are having to use our reserve fund to make up the price. Operating revenues have also spiked due to growth. He had to come in with a budget amendment of 1.7 million last year because of this problem. The Power Board is recommending a 4% increase to help get them ahead. Darin Larson commented this would give us the ability to look at it in a year and see what the trend is. We have been at the current rate for the last three years. We are still competitive with St. George with the rate increase. Four percent will help judge where they need to be over the next year. Mr. Larson stated we have saved a lot of money using our generators. We need to look at this as an incremental increase. Mr. Imlay explained as the loads grow, we bring in more revenue. Materials are increasing. Impact fees are only paying for 75% of new construction.

Joseph Prete motioned to approve the resolution approving a power rate increase. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

**NEW BUSINESS**

1. Consideration and possible **denial of a business license for EV B&B**-Cindy Beteag

EV B&B received a license for two room residential hosting in 2020. They failed to renew in 2021 and had to reapply. Between the time they failed to renew and the time they applied, several complaints were received from neighbors regarding noise and no one living in the home. The applicants were told the concerns when they applied again. When payment was paid over the phone, the billing zip was for Taylorsville and the mailing address on the County is Taylorsville. A certified letter was sent to them regarding this hearing, but they have not contacted the City. A residential hosting license requires the owners to live on site, but it appears they are not living there.

Nanette Billings motioned to deny the business license for EV B&B. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

2. Appeal of an **administrative decision on a building permit**-Harmony Vanderhorst

Harmony Vanderhorst explained the Council had recommended her to check with St. George on other cities to see what they do. She called Jay Sandberg with St. George to see how they handle a LOMR when they receive it. He stated they just let people build because at that point they feel the liability is moot. They have never had an issue. Ms. Vanderhorst is asking to get building permits now instead of waiting until October. They will have to overex four feet and bring the property up four feet. The City only acknowledges the LOMR changes. They don't vote on it. They have already waited a 90-day period to remove these lots from the floodplain. This change made the two lots to the east more buildable too.

They have not received any complaints during the waiting period. It is a second mitigation period, but this property has been here for years. She can't foresee any issues with buildings.

Arthur LeBaron stated the question is what the affected floodway is. Until it is changed, he doesn't think we can give a permit to build in the floodway. He has contacted FEMA and their response is included in the packet. If a LOMR is less restricted, then we can't implement the changes for ninety days. The letter from FEMA states any request must be based on scientific data. The State is currently updating the flood map for Gould's Wash. They have given a warning there will be more restrictive data in the future. The letter is only effective after the ninety-day appeal period and any appeals are resolved. The first advertisement was only for the surrounding property owners. This 90-day period is for everyone. If there are no appeals, then FEMA will approve it and then the City adopts it.

Ms. Vanderhorst stated the State changes are not going to be more restrictive, they will be more positive. She has lived on Gloud's Wash for ten years and has never seen flooding. Rosenberg are the experts in Southern Utah on flooding. He took on the project because he knew it would be adopted. She is willing to sign something that they will not hold the City liable if something happens. The benefit of starting now is they will hopefully break ground in October and get the funding started. Mr. LeBaron read a statement from LOMR regarding the minimum requirements. The City doesn't have the ability to differ from the State's regulations. He stated the problem is she was told one thing and he was told something else.

Our rating with the National Flood Program is at risk if we don't follow the regulations. When FEMA audits they will give us a lower rating if we divert away from the law. That would increase everyone else's flood insurance rates. He is striving to keep the community rating as high as possible and protect lives. Nanette Billings thinks it needs to be adopted before they can approve a building permit. Ms. Vanderhorst stated the person she talked to told her the Council could approve a building permit. Mr. LeBaron explained the process for a grading permit in the floodway. Kevin Tervort agrees with Ms. Vanderhorst but the Council's job is to look at the community as a whole.

Nanette Billings motioned to approve the building permits for Harmony Vanderhorst based on the FEMA rep stated the City could authorize it, notice has been sent, the City will adopt the LOMR in October and that Ms. Vanderhorst will sign release of liability. Mr. LeBaron mentioned any variances are required to be reported to FEMA. Seconded by Darin Larson. Motion carried with Nanette Billings, Darin Larson, Dave Sanders and Kevin Tervort voting aye. Joseph Prete voted nay.

**3. Consideration and possible approval of a road name change in Copper Rock**

Mike Bradshaw explained in April they revised the master plans for Copper Rock. Their goal is to call the new road Copper Rock Parkway but in doing that they need to rename the existing Copper Rock Parkway. They will bring in a new dedication plat. The clubhouse is the only one currently on the road.

Dave Sanders motioned to approve the road name change in Copper Rock. Seconded by Nanette Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

**4. Consideration and possible approval of a proposed zone change amendment request on 327 acres from RA-1, residential agriculture one unit per acre, to R1-10, residential one unit per**

**10,000 square feet. Parcel ID's H-3402 and H-3401-A.** Silver Flats LLC/ Duane Fielding Applicant, Jon Jensen Agent.

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

5. Consideration and possible approval of a proposed **zone change amendment and preliminary site plan request on 101.25 acres located at approx. 2800 West and 150 N to contain a PDO, planned development overlay with the underlying zoning R1-8, residential one unit per 8,000 square feet and a portion to be reserved for commercial.** Plumb Holdings, LLC and Walter Plumb Applicants, Craig Hopkinson Agent.

Rosenberg did a new survey and they divided it into four different parcels. Parcels 2, 3, 4 is what the subdivision is laid out on, and they will keep parcel 1. Some utility services are in the vicinity and others are currently being installed. The Planning Commission recommended approval with a density bonus. The Planning Commission wanted to see the amenities and who they were maintained by. The City doesn't take ownership of parks if they are under five acres. Darin Larson commented park space is valuable to the community even if it is less than five acres. Stephen Nelson agreed. He thinks the park space and trail system they are proposing should be rewarded for the density bonus. Applicant stated they will leave the lava areas natural. Patio homes would require an HOA. Council discussed different parks in the area. A bathroom would need to be built if the park is dedicated to the City.

Kevin Tervort motioned to approve the zone change and preliminary site plan located at approximately 2800 West and 150 North subject to staff and JUC notes, and a restroom is provided for the park. Seconded by Darin Sanders. Motion carried with Nanette Billings, Darin Larson, Dave Sanders and Kevin Tervort voting aye. Joseph Prete voted nay.

6. Consideration and possible approval on an **amended final plat application for Hurricane Storage Units Partial Amendment A (Lot 4), a 17 lot subdivision located at 130 N Old Highway 91.** Jeff Andrus/Jasco Ind. Park, Ryan Scholes Agent

Rhett Beazer with Alpha Engineering pointed out where the utility easements were located on the property. They have located all easements and labeled them on the map. They can move the buildings to stay out of Rocky Mountain Power's easement. Arthur LeBaron commented after looking at this, staff suggested putting the road on the north side. Mr. Beazer stated they looked at that, but they wouldn't meet the roadway distance requirement on Old Hwy 91. Stephen Nelson stated staff has some latitude on that requirement. Some sort of access will have to be on the north side anyway. They would have more space for backyards if the road is changed. The Planning Commission discussed this, and they recommended approval because the easements are already there.

Darin Larson motioned to continue this item so the applicant can redesign the layout with the road on the north side. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

7. Consideration and possible approval of a **preliminary plat, Sandstone Fields Subdivision, located on Dixie Spring Drive and approx. 4300 W, with a proposed 22 lots.** Seth Foster Applicant, Alpha Engineering Agent

Dixie Springs surrounds this property. The property to the west is neighborhood commercial. The property to the east will be a church. The proposed lots are similar in size to Dixie Springs.

Dave Sanders motioned to approve the preliminary plat for Sandstone Fields subject to staff and JUC comments. Seconded by Nanette Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

8. Consideration and possible approval of an **amended final plat application for Dixie Springs Subdivision Amendment and Extension Plat “D” Partial Amendment A (Lots 196 & 197),** located at 3259 W 2490 S. Square D Builders LLC Applicant, Darren Dryer Agent

The Planning Commission recommended approval and staff has no concerns. They will have to remove one of the utility connections. They plan to just build one home on a larger lot.

Kevin Tervort motioned to approve the amended final plat for Dixie Springs Plat D. Seconded by Joseph Prete. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort voting aye.

**9. 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 – Utah League is next month. It will be at the Salt Palace. Let him know if anyone can go

Council agreed to hold a work meeting on August 19<sup>th</sup> at 4:00 p.m. to discuss Scott Stratton’s property.

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

**Adjournment: 10:35 p.m.**