

Minutes of the Hurricane City Council meeting held on September 6, 2018, in the Council Chambers at 147 North 870 West, Hurricane, Utah at 5 p.m.

Members Present: Mayor John Bramall and **Council Members:** Pam Humphries, Kevin Tervort, Kevin Thomas, Cheryl Reeve and Darin Larson.

Also Present: City Manager Clark Fawcett, Assistant City Manager/Recorder Kaden DeMille, City Attorney Fay Reber, Police Chief Lynn Excell, Power Superintendent Dave Imlay, Public Works Director Mike Vercimak, Planning Director Toni Foran, City Engineer Arthur LeBaron, GIS Specialist Joe Rhodes, Ash Creek Sewer District Superintendent Mike Chandler and Fire Inspector Kevin Gildea.

AGENDA

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

Kevin Gildea stated that Peach Days went well. This year was much more improved in regards to safety then in previous years. The Fire District will be fully staffed in two weeks, with exception of their three available paramedic positions.

Mike Chandler explained that the Sewer District has received a 4.2 million dollar loan from the CIB board to expand the sewer system from Dixie Springs to Bench Lake. This expansion will service the Copper Rock and Cordero developments, as well as several other pending developments. With regards to the two zone change requests from Mr. Wyler on the Agenda, these two proposed developments will have an impact on the Sewer District. They will have to plan for another expansion of services in that area. Mr. Chandler stated that there is a significant amount of growth happening in the community that impact the sewer system.

Chief Excell reported that there were many vehicle burglaries this past weekend that occurred because the vehicles were unlocked with valuables in them. He added that Vacation Rental crimes are also on the rise. They are working on a way to track these specific crimes and will report back to Council at a later date. Chief Excell also added that out of the eleven potential new officers that were tested, three are currently undergoing the background investigations.

Dave Imlay said that this summer has been brutal for the Power Department with July having the highest power costs since 2007. Luckily, running the generators helped save upwards of \$191,000 in just July alone. The first full week in October will be Public Power Week. They will be hosting many different events for the Community during that week. Mr. Imlay added that cords to a couple power pedestals were stolen during Peach Days. It will be about \$800 to replace those cords.

Mike Vercimak stated that Public Works remains busy with the different developments. The Water Department has started to build the pad for the Stratton Well re-drill project and the 300 North Project is actually ahead of schedule.

Toni Foran inadvertently omitted the Purpose Statement for the Recreation Resort zone change on the Agenda. The Developers told Ms. Foran that they wanted owners to live in their homes and have the option to rent a portion of the home. However, the language of the Purpose Statement says that “residential dwelling units may be occupied by the owners or they can rent the units on a short term basis by owners who reside elsewhere.” Ms. Foran clarified that the Purpose Statement doesn’t allow for Residential Hosting and if approved, this development would be 96 acres of potential vacation rentals. The Planning Commission recommended denial of this zone change with the concern of this is

too much too fast. The Silver Leaf Townhome development was recommended for approval by the Planning Commission. Ms. Foran explained that the Developer is seeking a zone change to RM-2 without a Development Agreement. The original Development Agreement included payment for future improvements to 100 North, which are now completed, the architecture of the buildings (requiring stucco and concrete tile roofs), the construction of two park areas, payment of road impact fees in lump sums and improvements to 300 West and 200 North accessing the property. Ms. Foran added that if the approval for the zone change is granted without a Development Agreement, the Developer will not be required to install any of these items. The new plan that was submitted does include one park, but without a Development Agreement, he is not required to put the park in.

The proposed changes to the Land Use Ordinance, the State has been recommending an Appeals Board because there have been many decisions made by fellow citizens on the Board of Adjustment that do not meet the standards of the law. These decisions are then appealed to the District Court. Ms. Foran stated that removing the Board of Adjustments and replacing it with an Appeals Board will hopefully make the City less liable and gain decisions that are more defensible in District Court. Her original proposal to the Planning Commission consisted of an Appeals person. This one person would be professionally trained in land use, law or public administration, and does not reside within the City. Ms. Foran added that most communities in Utah have gone to an Appeals person rather than a Board. Mr. Reber stated that members of the Board of Adjustment are the least trained of any of the other advisory boards, and they make binding decisions. Mr. Reber stated that some of the previous decisions that were made would be difficult to defend in District Court. He also recommends moving to an Appeals Board. Ms. Foran also explained the proposed Chapter 13 changes. In Subsection 4, the current pool setback is five feet from the property line, and this was causing hardships for many people. After talking with other communities and Building Officials, it was decided to change it to three feet. However, the Building Official could require special engineering to ensure structural integrity for any adjoining buildings or walls as well as the pool. Additionally, language was added to Subsection 7 to confirm that a Conditional Use Permit is in accordance with the Standards and this will make it easier for people to find within our Code. Also, Planning Commission felt it is not an absolute requirement that every multifamily project be fenced in with a six foot wall. Therefore, language was added to give them leeway in requiring a wall or some kind of barrier.

Arthur LeBaron stated that curb and gutter on the 300 North project is almost completed. Interstate Rock is doing a great job and they are ahead of schedule. Work on the new rodeo grounds will be beginning soon now that a right-of-way has been given by BLM. Mr. LeBaron will be attending different meetings in the near future regarding the road construction on the BLM property. This construction will need to be completed by January 2019. UDOT is funding a feasibility study jointly with Dixie MPO for a potential highway ramp by milepost 18 on Interstate 15. Mr. LeBaron also mentioned that new speed limit signs were installed on 100 North. These speed limit signs were a big concern for the public.

6:00 p.m. - Call to Order

Pledge: Chris Shamo Prayer: Steve McCleery

Dave Imlay presented Chris Shamo with a 10 year service award.

Approval of Council Minutes:

Pam Humphries requested changes to the 08/02/2018 minutes. Line 13 the word “with” needs to be changed to “their” and changing “costs” to “usage” in the Council Reports section. Additionally, in the 08/16/2018 minutes, changing line 59 to read “Kevin Thomas and his wife”.

Pam Humphries made a motion to approve the 08/02/2018 and the 08/16/2018 minutes with the proposed changes. Seconded by Kevin Thomas. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

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

Russell Knudsen who resides at 410 West 100 North, wanted to share his concerns regarding the proposed Silver Leaf Town Home development. Mr. Knudsen stated that with an increase of 40 units this will have an impact on traffic, parking and drainage. He has concerns regarding the school aged children going to and from school, and those children being dropped off at the middle school. Mr. Knudsen stated that the Planning Commission was very attentive to his concerns, and he hopes Council will be as well.

NEW BUSINESS

- 1. Consideration and possible approval of a zone change request from RA-1, Residential Agricultural one acre, to R-1-8, Single Family Residential 8,000 sq. ft. and to R-1-10, Single Family Residential 10,000 sq. ft. – Cox and Blake Properties, Chris Wyler applicant**

Mayor Bramall stated that the Planning Commission recommended approval of this zone change to R-1-10 on all of this property. Steve McCleary and Chris Wyler are partners on this project. Mr. McCleary stated that this project was under development over a year ago. Since then, many meetings have been had and they have the support from the community, the Blake Family, SITLA and the LDS Church. Mayor Bramall added that Dixie Power and Ash Creek Special Service District are willing to service the proposed area. Darin Larson added that along with the Planning Commission approval, this project coincides with our General Plan.

Pam Humphries made a motion to approve the zone change request from RA-1, Residential Agricultural one acre, to R-1-8, Single Family Residential 8,000 sq. ft. and to R-1-10, Single Family Residential 10,000 sq. ft. Seconded by Darin Larson. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

- 2. Consideration and possible approval of a zone change request from RA-1, Residential Agricultural one acre and A-5, Agricultural 5 acre, to Recreation Resort with approximately 270 single dwelling unit lots and a small amenity area on 96 acres according to the preliminary site plan presented – Chris Wyler and GY property owners**

Darin Larson explained that this zone change request was recommended for denial by the Planning Commission. Their main concern was having 96 acres with approximately 270 units that are recreational zoned properties. Agricultural protection was also a concern but the biggest issue was the potential density of all vacation rental properties. Ms. Foran explained the difference between Residential Hosting and Vacation Rental zoned properties. His vision for the Recreation Resort zoning is for families

to be able to supplement their income by renting out these properties. He has many developers and investors who are interested in this vacation rental project. Ms. Humphries inquired about the less than 2 acres of designated clubhouse and recreation area within the project. Brandee Walker with Civil Science explained that these lots are intended for owners to have pools and BBQ's. Mr. McCleary added that the development will have separate noise ordinances, parking restrictions, housing occupancy limits and property management onsite. Ms. Humphries commented that adding 270 additional vacation rental units would have an impact on the City. Kevin Thomas feels that this might be an oversaturation to the vacation rental market. Mr. McCleary clarified that the 270 units is the maximum number of units they can have but they do not want to go any lower than 233 units.

Harmony Vanderhorst commented that from a residential standpoint the ordinances are not up to date in regards to Vacation Rental By Owner ("VRBO"). She suggested a city zoning that could give the property owner a choice of either residential or a VRBO zoning. Ms. Vanderhorst stated that she purchased her home five years ago and she is now surrounded by four vacation rentals which have decreased her home's value. Having a community that is exclusively made up of vacation rentals, the property owners would know what they are buying into.

Mr. Larson suggested having a multi-zoned development so that this is not solely a Recreation Resort zoned project. Ms. Walker and Mr. McCleary discussed the possibilities of changing certain areas of the development to R-1-15, R-1-10 as well as keeping a portion as Recreation Resort.

Pam Humphries made a motion to continue this item until the September 20, 2018 Council meeting to give Mr. Wyler and Mr. McCleary time to rezone and define the specific number of units/acres per zone. Seconded by Kevin Thomas. Motion approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

3. Consideration and possible approval of a zone change request on 5.18 acres located at approximately 200 North 400 West from RM-2, with a Development Agreement setting the density at 36 units to RM-2, Multi-family Residential 10 units per acre, without a Development Agreement – Silver Leaf applicant, Rick Bennion agent

Mayor Bramall stated that Planning Commission recommended approval of this zone change request. The original Development Agreement included payment for future improvements to 100 North, which are now completed, architecture of the buildings, the construction of two park areas, payment of road impact fees in lump sums and improvements to 300 West and 200 North accessing the property. Ms. Foran added that if the approval for the zone change is granted without a Development Agreement, the Developer will not be required to install any of these items.

Rick Bennion was representing the developer and Karl Rasmussen is the engineer of the project. Mr. Bennion stated they are requesting to develop this project without a Development Agreement as most of the items in the original agreement are obsolete. They would like to add four units making the total number of units 40, as well as construct at least one park on the east end of the property. The units would be in the 1500-1800 square feet range and the price point is anticipated to be in the mid \$200,000. Mr. Larson stated that a concern at the Planning Commission meeting was the privacy impact of a two story unit overlooking a one story backyard. Mr. Bennion explained that the deck space is designed to be in the front of the units, with the bedrooms facing the front or the sides of the units. Mr.

Larson stated that the impact of the zone change they are requesting is not greater than what was already approved. Mr. Thomas clarified that these units are for purchase and not rental units. Ms. Humphries suggested having CC&R's or an HOA that would limit the number of rentals in this community.

Kevin Thomas made a motion to approve the zone change request on 5.18 acres located approximately 200 North 400 West to RM-2, Multi-family Residential with a maximum of 40 units, including a park and without a Development Agreement. Seconded by Kevin Tervort. Motion approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

4. Consideration and possible approval of an ordinance amending Title 10, Land Use, Chapters 6, 13, and 37 pertaining to the Appeals Board, swimming pool fences and walls and distance from property line, and site buffering for multi-family housing projects– Hurricane City applicant

Mayor Bramall summarized the Chapter 13 subsection 4 proposed changes by stating swimming pools may require special engineering and the current five foot setback will change to a three foot setback, giving engineers, property owners and staff the ability to increase or decrease the setback as needed.

Mayor Bramall added that in regards to the Board of Appeals, the proposed change would change this body to a three member board. One member professionally trained in land use, law or public administration; one member who is not a City resident; and one member who is a City business owner. Cheryl Reeve expressed concern of the proposed change for the Appeals Board. She would like to continue this portion of the proposed ordinance so she can discuss this matter with other cities and legal counsel. Fay Reber stated that the Board of Appeals is the final step before an applicant can petition to District Court. Mr. Reber emphasized the importance of this body and the decisions that they make.

Darin Larson made a motion to approve B, C and D of the proposed ordinance and continue Title 10, Chapter 6, Subsection 5 Appeals Board until September 20, 2018. Seconded by Pam Humphries. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

5. Consideration and possible approval of an amended plat for Seville Subdivision and an ordinance vacating the original plat for Seville Subdivision

Toni Foran explained that in 2007 when the plat was recorded, lots 1-5 were shown to be located in the regulatory floodway based on the 2009 flood hazard map and therefore not buildable. Ms. Foran added that a map revision of the area became effective in 2017 and moved the floodway line enough that lot 5 became buildable and a portion of lot 1 became buildable. Lot 1 was so large that the property owner hired Rosenberg and Associates to submit a floodplain development permit for the buildable part of lot 1 showing 2 buildable pads that would not negatively affect adjoining property owners. They have now submitted for an amended plat showing lot 1 divided into 2 lots. This will result with two houses with minimal backyards.

Kevin Tervort made a motion to approve the amended plat for the Seville Subdivision and an ordinance vacating the original plat for the Seville Subdivision. Seconded by Cheryl Reeve. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

6. Consideration and possible approval giving the Mayor authority to execute FAA Grant for Hurricane Municipal Airport – Mike Vercimak

Kevin Thomas made a motion giving Mayor Bramall authority to execute the FAA Grant for the Hurricane Municipal Airport. Seconded by Kevin Tervort. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

7. Award of bid to Western Rock for Airport Improvements – Mike Vercimak

Mr. Vercimak said three bids were received for this project. Staker & Parson Companies, dba Western Rock Products was the low bidder. Their total bid came in at \$2,893,194.00 which was significantly lower than the other two bids received. Mr. Vercimak explained that the FAA required the bids now even though work will not start until March of 2019. This forced bidders to project future increases in fueling and other costs.

Pam Humphries made a motion to approve the bid to Staker & Parson Companies, dba Western Rock Products for Airport Improvements in the amount of \$2,893,194.00. Seconded by Kevin Tervort. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

8. Consideration and possible approval of the amended Zion Vista Improvements Agreement

Kevin Tervort made a motion to approve the amended Zion Vista Improvements Agreement with a cash bonding amount of \$152,509.00. Seconded by Darin Larson. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

9. Request for approval of a grading permit for remaining phases of the Sky Ridge Subdivision – Frank Lindhardt

Pam Humphries made a motion to approve the grading permit for the remaining phases of the Sky Ridge Subdivision. Seconded by Darin Larson. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

10. Discussion regarding the acquisition of property at approximately 117 West State

Mayor Bramall stated that he would like to discuss the possibility of acquiring the property at approximately 117 West State for future recreation or City needs. The current owner has expressed interest in selling the property. Mr. Larson agreed that this property would be an added value to the City and its future plans. Mayor Bramall explained that if Council is in agreement, the next step would be to order an appraisal of the property. Council was unanimously in support of moving forward towards the acquisition of this property.

11. Mayor, Council and Staff reports

Mayor Bramall	Airport, Administration, Police, Animal Control, School Crossing Guards, Victim Services, Public Works, Engineering-
Kevin Thomas	Emergency Management, Streets & Drainage, Youth City Council-
Pam Humphries	Court, Water, Power, Solid Waste-
Darin Larson	Planning Commission, Economic Development, Planning Department, Building and Inspection, Recreation-
Cheryl Reeve	Parks & Cemetery, Swimming Pool, Board of Adjustment, Historical Preservation, Tree Board, Beautification-
Kevin Tervort	Ash Creek Special Service District, Golf Course, Industrial Park, Mosquito Abatement, Fire District-
Clark Fawcett	City Administration-

12. Council will enter into a Closed Meeting to discuss a litigation matter.

Darin Larson made a motion to move into a Closed Meeting. Seconded by Pam Humphries. Motion unanimously approved with Pam Humphries, Darin Larson, Cheryl Reeve, Kevin Tervort and Kevin Thomas voting aye.

13. Adjournment: 8:20 p.m.