

Minutes of the Hurricane City Council meeting held on July 20, 2023, in the Council Chambers at 147 North 870 West, Hurricane, Utah, at 2:30 p.m.

Members Present: Mayor Nanette Billings and **Council Members:** Joseph Prete, Dave Sanders, Kevin Thomas, and David Hirschi (online). Doug Heideman excused.

Also Present: City Manager Kaden DeMille, City Attorney Dayton Hall, Police Chief Lynn Excell, Power Superintendent Scott Hughes, Public Works Director Mike Vercimak, Planning Assistant Fred Resch III, Street Superintendent Weston Walker, Recreation Director Tiffani Wright, City Engineer Arthur LeBaron, City Recorder Cindy Beteag, Water Superintendent Ken Richins, Building Official Larry Palmer, and Human Resource Director Sel Levell.

AGENDA

2:30 p.m. Eminent Domain Training

Dayton Hall provided a slideshow presentation explaining eminent domain and the process for eminent domain. Eminent domain is the inherent power of the government to take property with the caveat that reasonable compensation must be made for the taking. The U.S. Constitution states that private property will not be taken for public use without just compensation. Mr. Hall reviewed the types of uses authorized by law for eminent domain. The following three things are considered when calculating just compensation: the value of the land plus the value of improvements, adding severance damages. After adding the severance damages, any increased value due to the City improvement is subtracted. Mr. Hall explained that the value is based on fair market value and provided examples of calculating compensation. The City is statutorily required to make a reasonable effort to negotiate. If reasonable negotiations are unsuccessful, the City has to provide written disclosures explaining the property owner's rights; thirty days after the disclosure is made, the City can file a court action to initiate the process. After the lawsuit is filed, the City is entitled to seek an order permitting the City to occupy the property and begin construction. Mr. Hall summarized by stating that constitutionally eminent domain is a recognized power of the government to benefit the public while making the property owner whole.

Councilman Prete appreciates the information from this training. It was enlightening for him to recognize why eminent domain is necessary. Utilities and roadways must cross private property from point A to B. Without this power reserved to the government, the system could not function.

3:00 p.m. Work Meeting regarding 1150 West and 1100 West corridors.

Glen Carnahan and Brent Gardner with Alpha Engineering are present. Mayor Billings reported that the City Council asked Alpha Engineer to examine the difference between the 1150 West

and 1100 West corridors. She explained that several corridors were analyzed to determine the best route for the power line. Glen Carnahan reviewed the exhibit Alpha Engineering prepared. There are two sections dedicated to 1150 West. There are several scattered dedicated pieces from 650 South to 900 South. From 900 South to Mulberry Fields, thirty-two feet are dedicated on the road's east side. He reported that per city standards, the power line should be on the west side of the right of way, and it would be necessary to acquire property on the west side.

Mayor Billings mentioned Mr. Heaton suggested property on 1400 West. Scott Hughes reported that the substation is designed for the power going to the west side. He provided a map detailing the analyzed routes and a spreadsheet with estimated costs for each route. 1400 West is less impactful to the current homes but is the second highest cost. His recommendation is the straight line down 1150 West. This route impacts more people but is a straight route and is the least expensive route. Paul Fathering commented that property owners are paying for this because it will destroy their neighborhood. Mr. Hughes explained that impact fees pay for transmission lines, and developers pay for distribution lines. Impact fees would be increased to cover the cost of the more expensive route. Kaden DeMille reported that the inflation cost of the substation drained the Power Department's impact fees and reserves, and the department does not have any bonding capacity at this time. Mayor Billings reported that development has stopped in this area, and the City has only received a quarter of the estimated impact fees.

Kenneth Heaton asked what the current impact fees are. Mr. Hughes reported for the average-size home, the impact fee is \$2600. Mr. Heaton thinks developers need to take some responsibility for transmission. If the road comes through his property, it will narrow his property and limit his future options.

3:30 p.m. Closed Meeting regarding purchases of real property

Joseph Prete motioned to go into closed session to discuss the purchase of real property at 3:40 p.m. Seconded by Dave Sanders. The motion carried unanimously.

Kevin Thomas motioned to go out of a closed session at 5:00 p.m. Seconded by Joseph Prete. The motion carried unanimously.

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

Fred Resch III reported that the open house on the downtown property was on July 7th. He received an updated rendering for the Downtown Master Plan and provided the concept staff is recommending. Mayor Billings is not in favor of this plan. There was no plan for commercial buildings on the property. Mr. Resch III reported that this drawing represents the community's preference. Councilman Prete's recollection of the public feedback from that meeting was that the community wants to keep the Family History Center, not affect Peach Days, and have new Pickle Ball courts. Mayor Billing explained that the City bought the buildings and property for

parking. Mr. Resch III reported that the Utah League of Cities and Towns Conference is in September. The deadline for registration is in August. The Beautification Committee is revamping the welcome sign by the fairgrounds. The Appeals Board denied an applicant's variance request to encroach on their front setback. Two lawsuits were filed on unlicensed short-term rentals. The Planning Commission is working on updating the Subdivision Ordinance to comply with State Law.

Arthur LeBaron reported that the project on 700 West is moving forward. The intersection will be open when school starts. Sandy Porter told him that he has permission to access his property through City property. Mr. LeBaron advised Mr. Porter that this may change as the City develops the property. Mr. LeBaron applied for corridor preservation funds, and that applicant will be on the next Council of Governments agenda. There was a meeting with the School District regarding the campus in Dixie Springs. He is confident that the district is progressing with the project, and access could be an issue. He and Mayor Billings met with the Utah Department of Transportation (UDOT) to discuss issues on SR-9 and SR-59. The northbound left turn queue on SR-59 is causing traffic to back up through the intersection. UDOT is discussing installing a dual left turn there. However, this will impact the parking on that block. Hurricane City and UDOT are discussing a development solution study on widening SR-9 to three lanes. This addition will affect existing homes and businesses from 300 West to 800 North. UDOT has asked the City to contribute \$5000 to the study. The 24th of July parade starts at 8:30 a.m. He reported that the 4th of July events went smoothly. Staff will meet to discuss ways to improve the fireworks show. The safety chalk line for the parade was helpful but could be improved.

Weston Walker explained that the loose gravel on 3400 West is due to the chip seal. The increased temperature is causing the oil to rise to the roadways. He reported that many sidewalks are buckling from the heat. The paving to repair the sewer and storm drain work area on 650 South will take place on Tuesday. Signage and striping on the 700 West corridor will be completed before the start of the school year.

Mike Vercimack reported that the department is making provisions to open 2800 West. There will be falling rocks signs and a six-foot fence to catch debris.

Tiffani Wright reported that the Newsies opens on August 4th. The shows for next spring and summer have been approved. The spring show is Joseph and the Amazing Technicolor Dreamcoat, and the summer show is Peter Pan. The back-to-school bash will be combined with the neon run.

Sel Lovell reported that there is an open position for a Police Officer. The new Planning Director will start August 1st.

Scott Hughes reported that one generator failed and will be sent out to be rewound. Natural gas prices are down compared to the winter season. The substation is on schedule for completion within 1-3 months.

Larry Palmer reviewed the approved permits within the past month.

Chief Excell provided a picture of the new flood trailer and reported that it is ready for the monsoon season. Two cooling tents will be onsite for Peach Days, and several cooling fans to help with the heat wave. The front and back car cameras have been installed and can be watched live. The safety fair held in conjunction with Walmart went well. Mr. Excell reported that The Drug Task Force and SWAT Team served a warrant this morning as part of an ongoing investigation. One officer is at the Police Academy, and one officer is in the hiring process. The department has two positions to fill between now and January.

Mayor Billings reported that the meet the candidates is being held on July 26th at the Chamber of Commerce, August 1st at Sky Mountain Clubhouse, and August 8th at the Community Center.

6:00 p.m. - Call to Order –

Mayor Nanette Billings welcomed everyone and called the meeting order.

Prayer, Thought, and Pledge: Willie Billings

Declaration of any conflicts of interest

Councilman Prete spoke with Mayor Billings to confirm that he has no conflict with Old Business item 1 because 1400 West merges further south from his home.

Minutes of the Regular City Council Meeting for June 1, 2023, June 15, 2023, and Special City Council Meeting June 6, 2023

Joseph Prete motioned to approve the minutes with changing the wording on the June 1, 2023, minutes to clarify that Joseph Prete is concerned about the catalyst project but is not against the project. Seconded by Dave Sanders. The motion carried unanimously.

Recognition of Life Saving Awards

Councilman Sanders reported that St. George Communications Center received a 911 on 4/19/23 at 14:04. Mrs. Druding lives in Hurricane City and called 911 to report that her husband had collapsed and was not breathing. Dispatcher Savanna Bird, who is currently in training, answered the call, obtained the address, and forwarded the information to dispatch within sixteen seconds. With the cooperation and determination of Mrs. Druding, Ms. Bird was able to give direct and concise CPR instructions while responders were en route. Officer Todd O'Bray

was the first on the scene with his AED and delivered one shock to the patient. Hurricane Valley Fire District EMTs arrived on the scene and delivered a second shock resulting in the patient regaining a pulse. The patient was transported to St. George Regional Medical Center and was awake and talking to the transporting crew before arrival at the hospital. Today, Mr. Druding is alive and present in the City Council meeting.

The community is grateful to have well-trained Dispatchers and Police Officers. He awarded the Life Saving Medal to Savanna Bird and Officer Todd O'Bray.

Presentation from Washington County School District regarding a tax initiative

Steven Dunham and Brent Bills with Washington County School District are present. Mr. Dunham reported that the School District wants to level out its property taxes. As the area experiences growth, the district has to raise taxes and take out bonds to accommodate that growth. As the bonds are paid off, the property taxes go down. He reported that a significant amount of debt was repaid this year, and the goal is to recapture that through leveling the property taxes. The amount will remain unchanged over the next ten years to let the funds grow. Kaden DeMille asked what assurance the residents have that the funds will go to projects, not operation costs. Mr. Dunham reported that money put into a capital fund can only be used for capital expenses by law. Mayor Billings asked if this has to go through a constitutional change. Mr. Bills explained that the School District Board sets the levies. Mr. Dunham explained that the district is trying to eliminate the need to bond.

Mr. DeMille asked if any new schools would be in Hurricane City. Mr. Bills reported that the next project is an elementary school in Hurricane City. Mr. DeMille asked if the district anticipates bonding in the future if the costs increase. Mr. Dunham stated that the district does not anticipate bonding ever again. Mayor Billings asked if the district could function without Federal Funding. Mr. Bills reported that the largest amount of federal dollars goes to the school lunch program. Mr. Dunham asked the City to consider writing a letter of support.

Public Forum – Comments From Public

OLD BUSINESS

1. Discussion and decision regarding the alignment and width of real property to purchase along the 1150 West and 1100 West corridors. - Mayor Billings

Seth Needs is an attorney representing Richard Call. Mr. Call's property will be affected by the powerlines going down 1100 West. He is more than willing to dedicate property but asks the City to build the powerline along the west side of the property.

Paul Fathering thinks separating the power line and the roadway is fundamentally wrong. He questions why 1150 West and 1400 West are so close together. Moving the line to 1400 West eliminates 1150 West and the expense of the road.

Howard Woods is disappointed because he only gets information from the Power Department. The person who met with him has not followed up regarding his property. Mr. Woods explained that he bought his property because of the property's isolation. He wants someone to meet with him and give him direction on what he is expected to do.

Gene Morris feels the previous meeting was very disappointing. Eminent domain creates significant problems. He has built miles of telecommunications, and the cheapest route is not always the best. It is a mistake to take traffic and funnel it through subdivisions. He encouraged the Council to consider that.

Mayor Billings explained that this decision is challenging and understands that every route will affect a property owner. She reminded those in attendance that their homes have utility services because the services came across someone's property. The 1150 West is a corridor that has been planned for many years, and the roadway will be built regardless of the power. The City Council must determine the alignment and the width of the route. Mayor Billings met with the Utah Department of Transportation and Alpha Engineering to review every option.

Councilman Thomas stated that the City Council does not take these decisions lightly. This is one of the most challenging decisions he has had to make, and it will affect the City for years to come. He reviewed the Master Plan. 1150 West is the only road that goes from 600 N to 3000 South and has been on the Master Plan for many years. The Power Department planned and bought property based on this Master Plan. Councilman Thomas provided drone images of the proposed routes. He explained that every bend in infrastructure costs money. The previous City Council approved subdivisions in the southern area without proper capacity, and now the City is taxed to get power to that location. 1150 West is the only straight shot, and moving the line would show favoritism to specific community members. How is this fair to the community as a whole? The roadway on 1400 West is not built, and the City has no money to build it.

Councilman Hirschi agrees with Councilman Thomas in many ways. This is a difficult decision. He acknowledges that 1150 West is a straight shot that will link 600 North to 3000 South, and he recognizes the money it saves. However, moving the power lines west of the homes is a viable solution.

Councilman Prete reiterated that this is a challenging issue and greatly affects him. He loves many people along 1100 West, but he is an elected official and is tasked to do what is best for the City as a whole. He is passionate that his duty to taxpayers trumps his feelings about friends and family. The City desperately needs a transmission line out south. There are approved developments expecting services, and the City has to provide the infrastructure. He believes

that not all costs are financial and wants harmony within the community. The cheapest and easiest way is not always the correct answer, but doubling the cost is not the best solution either. He does not see an overwhelming cause to justify moving the Master Planned road.

Councilman Sanders stated that the primary issue is getting power to the south of town. If community members want to pay the difference to go a different route, he would consider it; otherwise, stick to the master plan.

Mayor Billings reported that they did evaluate 1100 West. Scott Hughes provided the cost estimates for the proposed routes. Councilman Thomas explained that the most significant impact of his decision is that 1150 West is a Master Planned road and will not change even if they move the power line.

Kevin Thomas motioned to approve the 1150 West alignment and pursue the entire ninety-foot easement from 1500 South to 3000 South Master Planned cross-section. Motion died for lack of a second.

Councilman Sanders stated that many owners in this area purchased their property before this Master Planned roadway.

Joseph Prete motioned to approve the alignment along the 1150 West corridor with the flexibility to work with property owners regarding potential power line diversion if there is no added cost to the City and the neighboring property is amicable. The motion includes a thirty-day timeline. Dayton Hall clarified that the property owner has thirty days to propose different options that would not add cost to the City. Dayton Hall confirmed that the whole cross-section of the Master Plan should be sought in the acquisitions.

Howard Woods appreciates what Joseph Prete is saying, but it is incorrect, and a decision must be made. He is frustrated because he was never provided a map detailing the location of the roadway. Seconded by Dave Sanders. David Hirschi reiterated that these two homes existed before they were annexed into the City. David Hirschi, Dave Sanders, and Joseph Prete – aye. Kevin Thomas – nay. Motion carries.

Gene Morris feels the City's willingness to compromise is admirable.

Councilman Thomas asked if this will be extended if a decision is not made in thirty days and if this option applies to all property owners.

2. Consideration and possible approval of updates to lease templates for leasing City hangar pads at the City Airport. - Dave Houston

Dave Houston reported that the airport got high marks on the annual Federal Aviation Association inspection. He reviewed the previous hanger lease revisions and discussion. The Airport Board recommends approval of the lease on the agenda. Mr. Houston feels there should be more specific language in the lease that will allow the owner to move the hangar at the end of the lease. Dayton Hall explained that tenants are given the first right of refusal after the lease ends. However, if the City decides to discontinue the lease, the City would assume the hangar. Councilman Prete thought this was a ground lease and nothing could be moved in a ground lease. Dayton Hall reported that this was on the previous version of the lease. The City Council did not adopt that lease, and per his understanding that the lease presented represents the City Council's direction. Councilman Prete reported that technologies are rapidly changing and questioned whether the City is limiting itself. Mr. Hall reported that the first draft gave more flexibility to the City. However, the airport tenants were not in agreeance with that draft. He thought he was adhering to the City Council's direction, noting that this is not his first proposed variation.

Kevin Thomas motioned to approve updates to lease templates for leasing City hangar pads at the City Airport. Seconded by Dave Sanders. David Hirschi, Dave Sanders, and Kevin Thomas – aye. Joseph Prete – nay. Motion carries.

3. Resolution 2023-30: Consideration and possible approval of a General Plan Amendment to adopt a Downtown Master Plan.

Fred Resch III reported that he is waiting for updates from the consultant.

Joseph Prete motioned to continue the consideration and possible approval of a General Plan Amendment to adopt a Downtown Master Plan. Seconded by Dave Sanders. Kevin Thomas, David Hirschi, Joseph Prete, and Dave Sanders – aye. The motion carried unanimously.

4. Consideration and possible approval of Ordinance 2023-APA-01 approving an agriculture protection zone for parcels H-3-2-3-44, H-3-1-4-21011, H-3-1-10-4471, and H-3-2-3-3315. - Kenneth Heaton

Mayor Billing reported that the land is currently being used for agriculture, and approving the agricultural protection is consistent with the current expectation. The Planning Commission recommended approval, and Staff recommended approval excluding the Master Planned roadways.

Kevin Thomas motioned to approve ordinance 2023-APA-01 approving an agriculture protection zone for parcels H-3-2-3-44, H-3-1-4-21011, H-3-1-10-4471, and H-3-2-3-3315 excluding the Master Planned roadways as they may be amended. Seconded by David Hirschi. David Sanders, Doug Heideman, Joseph Prete, Kevin Thomas, and David Hirschi – aye. The motion carried unanimously.

NEW BUSINESS

1. Consideration and possible approval of amending the airport noise policies and procedures.

Mayor Billings reported that the addition restricts aircraft from landing at night. Mayor Billings would like to change the wording to state that no planned landings are allowed. Dave Houston reported that the Airport Board recommended denial. Councilman Prete agrees that excluding that the City should not encourage flying in and out of the airport in the dark. Councilman Prete suggests that the section reads, "Due to the absence of airport lighting systems, it is the City's policy for safety considerations that no landing shall occur in the nighttime hours except in the case of an emergency." Mr. Houston explained that the Federal Aviation Association requires night flying in flight schools. He explained that the airport is officially named the General Dick Stout Field Airport. He recommended changing the policy to reflect that. The City Council agreed to eliminate the first sentence and change the name to General Dick Stout Field Airport.

Joseph Prete motioned to approve amending the airport noise policies and procedures as revised. Seconded by Dave Sanders. David Hirschi, Doug Heideman, Kevin Thomas, Joseph Prete, and Dave Sanders – aye. The motion carried unanimously.

2. Ordinance ZC23-14: Consideration and possible approval of a Zone Change Amendment request located at 800 W 100 N from H.C., highway commercial, to P.C., planned commercial. Parcel number H-3-1-34-31401. Aaron Beard Applicant. Mike Beard Agent.

Mayor Billings reviewed the summary provided in the packet. The Planning Commission recommended approval. She noted that the access would be off 100 North, not State Street. Councilman Prete stated that the City Council has opposed dense zoning and three-story buildings. Fred Resch III reported that the applicant is not asking for a density bonus. Mayor Billings struggles with losing commercial zoning. Mr. Resch III reported that they are showing a commercial building along SR-9, and that the building at its tallest point is thirty-seven feet.

Dave Sanders motioned to approve ordinance ZC23-14 a Zone Change Amendment request located at 800 W 100 N from H.C., highway commercial, to P.C., planned commercial, subject to staff and JUC comments. Dayton Hall noted that if the zone is changed, the applicant can do what is permitted in the zone. Mr. Hall would be less concerned about this scenario if the applicant provided a development agreement. He suggested changing the allowed height within the ordinance. David Hirschi noted that many City Council members are against three stories buildings. David Hirschi expressed concern about the density. Motion died for lack of a second.

Kevin Thomas motioned to deny ordinance ZC23-14 a Zone Change Amendment request located at 800 W 100 N from H.C., highway commercial, to P.C., planned commercial, based on it is not an appropriate fit with surrounding property owners. Seconded by David Hirschi. Joseph Prete clarified that Planning Commission and Staff recommended approval. Kevin Thomas and David Hirschi – aye. Dave Sanders and Joseph Prete – nay. Mayor Billing – aye. Motion carried.

3. Ordinance ZC23-16: Consideration and possible approval of a Zone Change Amendment request located at 2095 S 700 W from R1-6, residential one unit per 6,000 square feet, to M-1, light industrial. Parcel number H-3-2-10-232. Julie Iverson Trust Applicant. Karl Rasmussen Agent.

Mayor Billing reviewed the summary provided in the packet and explained that this is across the street from Animal Control and the Airport. The developer does not want to build residential because of the collapsible soil. The Planning Commission recommended denial because of surrounding properties. Councilman Prete spoke to attendees who are now in favor of the zone change during the break. Colton Iverson thinks the Planning Commission recommended denial due to the neighboring property owner's feedback. However, after learning the developer would build manufactured homes, they have decided they would prefer storage units.

Kevin Thomas motioned to approve Ordinance ZC23-16 a Zone Change Amendment request located at 2095 S 700 W from R1-6, residential one unit per 6,000 square feet, to M-1, light industrial. Seconded by David Hirschi. Joseph Prete is concerned about the additional uses allowed in M-1 zoning and thinks the City should require tall block walls between residential and commercial developments. Julie Iverson reported they plan to do vinyl fencing because block walls will settle. Eight-foot vinyl fencing is a stipulation of the sale. Dave Sanders, Doug Heideman, Kevin Thomas, and David Hirschi – aye. Joseph Prete – nay. Joseph Prete would like a development agreement that limits the use. The motion carried.

4. Ordinance ZC23-17: Consideration and possible approval of a Zone Change Amendment request located at 2250 S 5140 W from R1-10, residential one unit per 10,000 square feet, to P.F., public facility. Parcel number H-4-2-11-320112. Russ Condie Applicant. Alliance Consulting Agent.

Mayor Billings explained that Dixie Power is building a substation east of Pecan Valley. Craig Cotes representing Dixie Power reported that the plan is to build the site and block the wall now and the substation in the future.

Dave Sanders motioned to approve Ordinance ZC23-17 a Zone Change Amendment request located at 2250 S 5140 W from R1-10, residential one unit per 10,000 square feet, to P.F., public

facility, subject to Staff and JUC comments. Seconded by Kevin Thomas. Joseph Prete, David Hirschi, Dave Sander, and Kevin Thomas – aye. The motion carried unanimously.

5. Consideration and possible approval on an amended final plat for Pecan Valley Resort Phase 1 located at 5210 W 2400 S. Chris Wyler Applicant.

Mayor Billings summarized the application. She explained that plans had been submitted for two units, and the Planning Commission recommended approval. She asked why the application decreased the size of the clubhouse and amenities. Chris Wyler reported that they reduced the size to add backyards to the townhomes around the clubhouse.

Kevin Thomas motioned to approve the amended final plat for Pecan Valley Resort Phase 1, located at 5210 W 2400 S, subject to staff and JUC comments. Seconded by David Hirschi. Joseph Prete, Dave Sanders, Kevin Thomas, and David Hirschi – aye. The motion carried unanimously.

6. Consideration and possible approval on an amended final plat for Dixie Springs Phase E Lots 92 & 93 located at 3640 W and Dixie Springs Drive. Brett Kee Applicant. Brandee Walker-Civil Science Agent.

Mayor Billing reported that the applicant is combining two lots. The Planning Commission recommended approval, and the utilities will only be to one lot.

Kevin Thomas motioned to approve the amended final plat for Dixie Springs Phase E Lots 92 & 93 located at 3640 W and Dixie Springs Drive, subject to Staff and JUC comments. Seconded by Dave Sanders. Joseph Prete, David Hirschi, Kevin Thomas, and Dave Sanders – aye. The motion carried unanimously.

7. Public Hearing to take comments on the following:

A. Petition to Disconnect parcels H-3403-C-2, H-3403-B-2, and adjacent roads 1200 W and 4500 South

No comments.

B. ~~Ag protection overlay on parcels H-3-2-3-440 and H-3-2-3-345~~ This public hearing has been moved to the August 3, 2023, agenda.

8. Consideration and possible approval of a disconnection request for parcels H-3403-C-2, H-3403-B-2, and adjacent roads-Sky Ranch Ph 6 L.C. applicant, Doug Durbano agent

Mayor Billings reviewed the summary provided in the packet. Staff recommended denial of the petition for the reasons listed in the staff comments. Dayton Hall reported that Washington County did not address this specific property. However, in 2022 the County passed a resolution requesting the City to annex the entire area. Mr. Hall drafted a proposed recommendation for the City Council to consider.

Doug Durbano reported that these twenty acres are part of the City. It is not served by any infrastructure, and they are asking to have the property placed out of the peninsula. Mr. Durbano read a letter from the property owner Sallee Orr. She hoped that the annexation of her property into Hurricane Valley would provide her with better services, although it has not. Mr. Durbano reported that the Supreme Court issued a statement of dissociation of a property. If a City has not provided services, the Supreme Court has declared that the City only annexing the property for revenue purposes is not allowed. He can not see how disconnecting the property is a hardship to Hurricane City. This disconnection would favor the surrounding properties because they are already in the County, and it strongly recommends the Council approves the disconnect.

Councilman Hirschi asked if the staff comments have been resolved. Dayton Hall reported that State Code does not allow a disconnect that creates or leaves a peninsula of unincorporated area, and disconnecting this property will leave a peninsula. The City is close to finalizing an agreement with Rocky Mountain to purchase the assets in this area, allowing Hurricane City to service power to the area. Washington County Water Conservancy District services water in this area. However, the district does not have enough water to service the area. Therefore, Hurricane City sells water to the district to support that supply. Mr. Hall reported that the property owner and Washington County can challenge the City Council's decision. Washington County has stated through a resolution that they want the City to annex everything in this area. Utah State code asks if the disconnection is viable, and Staff does not think it would be viable based on the services. The County has also raised concerns about its capacity to provide services. Mr. Durbano has a preliminary will-serve letter from Washington County Water Conservancy District for phase 6-B. He agrees that the whole section should be in the City, but it is not, and until it is let, Sky Ranch develop its subdivision in this area. He also has a contract from Rocky Mountain Power stating they will provide power to this development. There would be no impact on the City to disconnect this parcel.

Councilman Sanders reported that twenty years ago, the property owners voted down the offer to annex into the City. Mr. Durbano reported that the annexation offer affected the residents financially, so they voted down the offer. Councilman Prete would like to confirm the County's position on this request. Mr. Hall reported that the City Council has forty-five days from the hearing date to make a decision. They can direct Staff to contact the County to explore options. Councilman Prete does not think this will accomplish what the developers want; he is not set either way on what side of the line the property is annexed into. However, he does not want lawsuits due to the City's decision. Mayor Billings reported that this would impact Hurricane

City roads. Mr. Hall explained that the contract to purchase assets from Rocky Mountain Power is on the next Council agenda. Scott Hughes reported that annexing this property will harm the City because it requires the Power Department to provide additional capacity to Rocky Mountain Power that it does not have.

Dave Sanders motioned to continue the possible approval of a disconnection request for parcels H-3403-C-2, H-3403-B-2, and adjacent roads-Sky Ranch Ph 6 L.C. Seconded by Joseph Prete. David Hirschi, Dave Sanders, and Joseph Prete – aye. Kevin Thomas – nay. Motion carried.

9. Consideration and possible approval of Resolution 2023-32 adopting a policy governing commercial electric vehicle charging stations. -Scott Hughes

Scott Hughes apologized for the last-minute changes. This resolution has been before the Power Board in a rushed manner, and they are okay with continuing the item. However, two customers are waiting for this resolution. Councilman Thomas reported that he did not have time to read the resolution.

Kevin Thomas motioned to continue the consideration and possible approval of Resolution 2023-32 adopting a policy governing commercial electric vehicle charging stations. Seconded by Dave Sanders. Joseph Prete, David Hirschi, Kevin Thomas, and Dave Sanders – aye. The motion carried unanimously.

10. Consideration and possible approval of Resolution 2023-33 adopting a new rate for commercial electric vehicle charging stations. -Scott Hughes

Kevin Thomas motioned to continue the consideration and possible approval of Resolution 2023-33 adopting a new rate for commercial electric vehicle charging stations. Seconded by Dave Sanders. David Hirschi, Kevin Thomas, and Dave Sanders – aye. Joseph Prete – nay. The motion carried.

11. Consideration and possible approval of awarding a contract for the 600 North Trail-Arthur LeBaron

Mayor Billing reviewed the bids received. Arthur LeBaron reported that this is for the segment of the trail that goes from the Gould's Wash to the ball fields.

Joseph Prete motioned to approve awarding a contract for the 600 North Trail to Royal T Enterprises for \$484,179.10. Seconded by David Hirschi. Roll call vote. David Hirschi, Joseph Prete, Dave Sanders, and Kevin Thomas – aye. The motion carried unanimously.

12. Consideration and possible approval on cost adjustments for the 2800 West project- Arthur LeBaron

Joseph Prete motioned to continue the consideration and possible approval of cost adjustments for the 2800 West project. Seconded by Kevin Thomas. Dave Sanders, David Hirschi, Joseph Prete, and Kevin Thomas – aye. The motion carried unanimously.

13. Discussion and decision on 300 West improvements for the Lone Pine subdivision – Brent Nelson and Brad Winder

Mayor Billings read the summary provided in the packet. Brent Nelson believes the 300 West exaction is illegal. The Ombudsman Office has found that similar cases are unjust. No development exists in this area, and it directly violates the Hurricane City code. They recognize that 400 West meets the requirements and is a legal exaction. The property owner's attorney sent a letter to Dayton Hall informing him that the exaction violated Utah State law and requested a response within ten days. They did not get a response from City Attorney other than acknowledgment confirming receipt of the letter. Mayor Billings confirmed receipt of the letter on May 9th. However, their attorney cannot require a response within ten days because it is not a state requirement.

Dayton Hall referenced the minutes of the May 19th, 2022, City Council meeting in which the City Council awarded the zone change. The zoning was approved because of the road improvements, and the City Council approved a preliminary plat in October, subject to Staff and JUC comments which included the improvements on 300 West. Mr. Hall reported that he responded to the letter on May 12th, 2023. After several hours of review, Mr. Hall strongly disagrees with the position of the applicant's attorney. Ash Creek plans to install a sewer line down 300 West this year on an existing easement. Mike Chandler shared with him that developments are planned in this area, and this is not a tenuous development. The City spoke to the Property Rights Ombudsman, who does not think the exaction is illegal and encouraged them to continue working with the property owners.

Councilman Hirschi asked if the preliminary plat approval vote was unanimous. Mayor Billings read minutes from the October 22, 2022, meeting, including the Staff and JUC comments, noting that the motion passed unanimously. Councilman Hirschi asked what the Master Plan Road is for 300 West. Mayor Billing reported 300 West goes from 100 N to 1300 South and confirmed it crosses over behind two property owners' homes. Mr. Hall reported that Ash Creek plans to install the sewer line from 650 South to approximately 1000 South. They believe that development will start after the sewer line is complete. Councilman Prete feels the motion and Staff and JUC comments were very clear, and the applicant had no objections. Mayor Billings reported that Ron Campbell asked if 300 West could be excluded after the motion was made, and Councilman Prete stated no. Councilman Prete pointed out the plat was approved

because of the conditions. The City has been willing to make concessions on the required improvements.

Mr. Nelson stated that it is unlawful for the City to require an owner to dedicate property that is not part of the subdivision. Mayor Billings reported that the City is not taking the land; they require the developer to dedicate the portion of 300 West to offset the development's impact on the community. Brad Winders asked how many properties were purchased as part of County of Government (COG) funds. Arthur LeBaron reported COG funds were used to purchase a portion of 1400 West. Councilman Prete asked if it is possible to change the conditions of the preliminary plat approval. Mr. Hall reported that the applicant is asking for a reconsideration of the previous approval, which is permissible. If the applicants do not agree to the conditions of the plat, the City will not process the final plat application.

Mr. Winder referenced section 10-2-3, which states that the official City map shall not unconstitutionally prohibit the development of property designated for eventual use as a public street. Mr. Hall referenced subsection 10-2-3 subsection C-2, which states that this section shall not prohibit the City from requiring the dedication and improvement of a street if the street is found necessary by the City because of a proposed development. Mr. Hall believes the City's requirement is lawful and constitutional. Councilman Prete reiterated that approval was given based on the conditions and he is open to denying the preliminary plat. Mr. Winders is willing to dedicate the property but not do the curb gutter and sidewalk. Mr. Hall explained that the Hurricane City Code states that the developer will bare the cost of the curb, gutter, sidewalk, and asphalt, and Staff has backed off on requiring asphalt. Councilman Thomas was the one that initiated the vote to approve the zoning based on the conditions that the applicant would dedicate the property and install a curb gutter, sidewalk, and road. He is willing to back off the curb, gutter, and sidewalk if the applicant is willing to place the money in reserve for when the time comes to put it in. Mayor Billings reported that if this is not done now, then it will not get done until the City does it, and then all the taxpayers will pay for it. Mr. Hall reported that the City has required a cash bond equal to an engineer estimate in the past. Mr. Nelson stated they are willing to sign an agreement to pay for the improvements when the road is built. Mr. Hall explained that this is already governed by City ordinance. He verifies that all the improvements are constructed and accepted by the City or that subdivider has provided cash or bonding to ensure that the improvements will be completed before the plat is recorded.

Councilman Thomas stated there was a lot of opposition to approving this subdivision. He never anticipated they would return, stating this is an illegal exaction. He feels it would be a mistake to change the approval now.

Kevin Thomas motioned to maintain the previous approval of the preliminary plat, except that no asphalt bond is required. David Hirschi agrees with Kevin Thomas. Seconded by David Hirschi. Joseph Prete, Dave Sanders, Kevin Thomas, and David Hirschi – aye. The motion carried unanimously.

14. Ordinance ZC23-15: Consideration and possible approval of a Zone Change Amendment request located at 1300 W 3000 S from RA-1, residential agriculture one unit per acre, to P.F., public facility. This change will affect a portion of parcel number H-3394-B-1. John Bramall Applicant. JJ Allred/Lance Hutchings Agent

Mayor Billings reviewed the summary provided in the packet. JJ Allred is not opposed to Public Facility zoning. Councilman Thomas asked if they would be willing to sign a development agreement. Mr. Allred reported that the applicant would sign a development agreement. Mayor Billings reviewed Public Facility zoning uses. Councilman Prete feels this is a great project. Mr. Allred reported that the facility will be operated as a nonprofit.

Kevin Thomas motioned to approve Ordinance ZC23-15 a Zone Change Amendment request located at 1300 W 3000 S from RA-1, residential agriculture one unit per acre, to P.F., public facility. Seconded by Dave Sanders. David Hirschi, Kevin Thomas, and Dave Sanders – aye. Joseph Prete – nay. Motion carried.

15. Ordinance ZC23-18: Consideration and possible approval of a Zone Change Amendment request located at 1147 W 400 S from RA-1, residential agricultural one unit per acre, to RA-0.5, residential agricultural one unit per half acre. Parcel number H-3-2-3-4443. Ellen and Matthew Bentley Applicant. Buy Sell Build STG Construction Agent.

Mayor Billings reviewed the summary provided in the packet, noting that the Planning Commission recommended approval. Ellen Bentley explained that they are seeking a zone change and lot split to allow them to build a larger family home. They intend to keep the current home they are living in as a long-term rental.

Kevin Thomas motioned to approve Ordinance ZC23-18 a Zone Change Amendment request located at 1147 W 400 S from RA-1, residential agricultural one unit per acre, to RA-0.5, residential agricultural one unit per half acre, stipulating that the lots are split into .5 acres. Seconded by Dave Sanders. Joseph Prete, David Hirschi, Kevin Thomas, and Dave Sanders – aye. The motion carried unanimously.

16. Ordinance ZC23-19: Consideration and possible approval of a Zone Change Amendment request located at approximately 1000 W 3100 S from RA-0.5, residential agriculture, one unit per half acre, to M-1, light industrial. Parcel number H-3396-E. Scott Stratton Applicant. Karl Rasmussen Agent.

Mayor Billings reviewed the summary provided in the packet. Scott Stratton stated that this piece was on their original application, but the legal description was incorrect. Fred Resch III confirmed that the legal description did not match their map.

Dave Sanders motioned to approve the Zone Change Amendment request located at approximately 1000 W 3100 S from RA-0.5, residential agriculture, one unit per half acre, to M-1, light industrial. Seconded by Kevin Thomas. Joseph Prete, David Hirschi, Dave Sanders, and Kevin Thomas – aye. The motion carried unanimously.

17. Resolution 2023-34: Consideration and possible approval of A General Plan Amendment to amend the 2022 Moderate-Income Housing Plan

Fred Resch III explained that the State requires the City to adopt a Moderate Income Housing Plan. The State rejected two of the options the City chose because the City was already doing those options. He reviewed the changes made to the plan and reported that the deadline is August 1, 2023.

Kevin Thomas motioned to approve the General Plan Amendment to amend the 2022 Moderate-Income Housing Plan. Joseph Prete wants to make it abundantly clear that he does not support two ADUs on property smaller than .8 acres. He does not favor allowing a nightly rental on every ADU in the City and feels it undermines the concept of single-family residents. Mr. Resch III reported that the agenda item only proposes to reevaluate the policy, not make changes to the policy. Seconded by Dave Sanders. Joseph Prete and David Hirschi – nay. Nanette Billings, Dave Sanders, and Kevin Thomas – aye. Motion carried.

18. Closed Meeting held pursuant to Utah Code section 52-4-205, upon request.

Joseph Prete motioned to go into closed for the purchase of property and litigation. Seconded by Kevin Thomas. The motion carried unanimously.

Adjournment: 11:53 p.m.