COUNCIL WORK MINUTES
APRIL 6, 2022

The City Council held a meeting on Wednesday, April 6, 2022, at 5:30 p.m. in the City Council Chambers, 10 North Main Street, Cedar City, Utah.

MEMBERS PRESENT: Mayor Garth O. Green; Councilmembers: Terri Hartley; Craig Isom; W. Tyler Melling; Scott Phillips; Ronald Riddle.

STAFF PRESENT: City Manager Paul Bittmenn; City Attorney Tyler Romeril; City Recorder Renon Savage; Finance Director Jason Norris; City Engineer Jonathan Stathis; Police Chief Darin Adams; Economic Development Director Danny Stewart; Public Works Director Ryan Marshall; Wastewater Superintendent Eric Bonzo; Senior Plant Operator Jeff Lennert; Fire Marshal Mike Shurtz; Water Superintendent Robbie Mitchell.

OTHERS PRESENT: Ann Clark, Jan McIntyre, Nancy Clark, Mike Clark, Stephanie Hill, Chris Sorenson, John Hill, Dvar Bulloch, Mark Mumford, Teri Kenney, Heidi Miller, Scott Stubbs, Alysha Lundgren, Tiffany Marchant, Wendy Green, Craig Laub, Kimball Holt, Dave Clarke, Paul Monroe, Dallas Buckner, Phil Schmidt, Kohen Romeril.

CALL TO ORDER: Tyler Romeril gave the invocation; the pledge was led by Councilmember Terri Hartley.

AGENDA ORDER APPROVAL: Councilmember Hartley moved to approve the agenda order for the Council and RDA work meetings; second by Councilmember Phillips; vote unanimous.

ADMINISTRATION AGENDA – MAYOR AND COUNCIL BUSINESS: STAFF COMMENTS: ■Mayor – I am looking at May 12th and 13th for council budget meetings, please check your calendar. Hartley – I am out of town on the 13th. Riddle – I have obligations on the 13th. Mayor how about the 11th before Council and on the 12th. Melling – there is a water district meeting at noon that day, but we can move it. Mayor – we will go from 1:00 – 5:00 p.m. on the 11th. And 9:00 a.m. to 5:00 p.m. on the 12th. We will deliver the budget to you on May 4th. ■Phillips – I would like thank whoever is responsible for the art on Bulldog and Kitty Hawk. We want to thank the artist and acknowledge who they are. Paul – it is a remnant of the roundabout. The idea was to have them around the roundabout to acknowledge agriculture. When we moved away from that, UDOT said the art was in the grant to Federal Highways and they had it built, they had to put it up to be in compliance with the grant. Jonathan – I will find out who the artist is. Phillips – if people look at it, we want them to understand why we have it. Hartley – was the County not going to donate the property for a truck lane? Paul – there is a power post there, the turn lane will go behind that. ■Phillips – I will be gone the next 2 weeks, April 13th and 20th. ■Melling – Hartley and I serve on Water Conservancy District Board, we went on a road trip to Colorado to look at water infrastructure projects, they were larger scale and bigger budget, but it caused me to appreciate the less red tape in Utah than other states. It was boggling to see the efforts they had to go to for a small public good. It was very informative, and we will go into depth at the Coordinating meeting. Hartley – it was a good trip. Melling – they had to do a tunnel 80 feet deep to go under wetland areas and a freeway and railroad track, for a mile. ■Southwest
Education Academy Art Exhibit. Isom – we want to recognize the Southwest Education Academy. Tiffany Marchant – I am the art instructor for SEA. If you have been to Sherwin Williams to the north is a cluster of classrooms, I have traveled that area for 10-15 years and didn’t know it is a high school for kids that are credit deficient, if they don’t go there, they may not graduate from high school. It is smaller classrooms and class sizes. I started my job in August and there is not a viable place for an art show. I wanted to do an art show for these kids, I got a grant from the Cedar City Arts Council. It was eye opening. I love the kids and the school. We will add a few more watercolors. This is art we did in school. It is good art for good prices.

PUBLIC COMMENTS: ■ Ann Clark – two weeks ago I brought concerns about the townhomes across from the ball fields that were nightly rentals. I thought about that a long time, a lot of problems are caused by zoning. I was knocking on doors, some are owners and some long-term rentals, no one knew there was a nightly rental. If you go to Instagram, it shows nightly rentals, but CC&Rs say daily or weekly rentals are prohibited. How can you market one way but if it doesn’t work out you can market it another way? I called the realtor. I asked how it can be for those that bought originally. On the website it doesn’t say anything about nightly rentals. The HOA development team has majority vote until 75% of townhomes are sold. They asked for a vote, and some were not for it, but since they have 75% of the vote they will win until they are all sold. I asked who was on the development team, it is the Leavitt’s. They can’t lose, if they have to get a license from the city. The Developers can’t lose, his investment is protected, if it doesn’t work one way it will work the other way because the city zoned it that way. One person bought 4 units, one to live in, 2 long term rentals and 1 short-term rentals, but they said they will clean it after each use. So really, we have a mini motel, and it will be big hotel because of the way the city zoned it. Because of what happened in Draper on Sunday the City needs to look at Air BNB’s, you should get the whole street to sign off. My sister lives in St. George and got her window shot out by a visitor. Everywhere you go you see high density and it will be replicated next week. We need a fair understanding for those that were first there. Phillips – you should look at our short-term rental ordinance and then come back with suggestions. ■ Nancy Clark – I am a farmer and rancher in the valley, my family settled 150 years ago and have been involved in farming and livestock. My family offered land to the city for sewer plant in exchange for the property the Clarks got for the pivot. Part of the deal we entered into a 50-year lease for the effluent water. The City entered into a good faith contract; it was signed December 1995. We used the water to irrigate and graze animals since. The water with overflow on the winter months is run onto another Clark family property. We haven’t made a fuss knowing it will be in the aquifer. The sewer plant has failed for different reasons, and we ended up with sewer. Garth Green promised water to another without ever talking to the Clarks or looking at the agreement. He texted me to talk before this meeting. Garth wants to break the contract and the City attorney thinks he is legal to do so. We have had 3 attorneys look at it and they say only the Clarks can exit the agreement. How does the mayor think he can end the contract? How does the mayor think another party can enter a contract when one is in place, it will cause lawsuits for the City. What happened to the word of the City, why would anyone want to enter into a contract if they break their promises. How is this different than eminent domain? Even if the mayor thinks the City can end the contract, but we believe, after talking with attorney’s, they cannot. This is reckless and dangerous for the city. Don’t we deserve some respect. My father spent, 4th of July, Thanksgiving and Christmas working his butt off
with shovel in hand and irrigating. That is the only thing I know and if you take the water away, we can negotiate something, but it is the only thing I know. Mayor – there may be negotiations, we will discuss #9 tonight. I talked with Nancy yesterday.

Chris Sorenson, this is not personal. I have read this contract and I have concerns. In Section 2 #3, the tax purpose the water is equal, or it is not, for tax purposes it is not, but it is a two for one, how is it equal but someone will get more. Section 2 #4, the Farm agrees to two pipelines, I asked you who will pay for that, and Garth said Bobby Holt. He will get 2 times the effluent water from the City, pipe it and he will pay for the infrastructure for $17 or $20 million and he can pump it from the ground. The memorandum says he may pay, not shall pay. Section 4 Farm will consider cost sharing, the farm will consider it. Who will pay for the infrastructure when it says I may, the City will pay the bill. Bobby Holt is a good businessman, the City will give year round water and he only gives water back at certain time of the year. Hartley – we are not familiar with the terms, and it will be discussed at item 9. We haven’t asked the questions. Chris – it says the 2 for1 do some math on the $17 to $20 million, why two, why not one. I asked Garth why, and I asked Tyler why. The actual contract in 2.1 9 years with 4 ten-year terms. 2.2 January 1, 1996, termination January 1, 2005, Clark’s renew 10 years to 2005, the next 10 years in 2015 and it is now 2022, they don’t give notice until 2025. Mayor read the agenda item; it is to explore. I sent the response to you either last night or this morning. I would like to discuss at that point on the agenda. It is a proposal that came to the City and we consider it serious. It is only the beginning; I hope there are many proposals and studied careful. Chris – look at the contract, city after city hangs on a premonition. We can go to court, the loser pays attorney fees, this goes on for 10 years and you don’t get the water and then there is a breach of contract. The City uses social media during the campaign and then you called Nancy Monday. Are you going to try and breach the contract? All the city needed to do is contact the Clark’s. Mayor – the problem with text messages and email is that it is a record. Chris – did you not call out Nancy Clark during the campaign. Mayor – I did after she called me out and I responded to her on Facebook, what you said is not correct. Chris – during a campaign Nancy had no obligation to talk to you. You the council are the 5 votes, all he had to do is say Nancy or Mike can we talk. In November we will take the effluent water and on April 1st, you can have it back another date. That is a lot of time to store water and for $17 million.

CONSIDER ENTERING A SUBCONTRACTOR AGREEMENT WITH THE CEDAR CITY HOUSING AUTHORITY, PAUL BITTMEN: Paul – we have entered with Cedar City Housing Authority before and also with Turn Corporation and Youth Futures, they are groups that have services that help the less fortunate. They have capital needs and can go through the CDBG grant program to meet the needs. This year Turn, Youth Futures and the Housing Authority all applied, Turn and Youth Futures did not make it through. The State contracts with a local municipality for the group. We take the money, Housing Authority has the project as spelled out, this is for property purchase for housing offerings, they take the CDBG money from Cedar City and they document how they spend it, and we are held harmless, it is pass through agreement. Phillips – we have had success with this before, we are fortunate to get the funds. Hartley – how much were they awarded? Phillips $175,000. Hartley – is there a plan? Heidi – we don’t have anything specific now.
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SECOND PUBLIC HEARING: 6:09 p.m. Mayor Green - This hearing was called to allow all citizens to provide input concerning the project that was awarded under the 2022 Community Development Block Grant Program. Cedar City has amended its capital investment plan, which is available for interested persons to review, and has decided to apply for funds on behalf of the Low to Moderate Income Housing project in Cedar City. Heidi Miller, with The Cedar City Housing Authority will be the project manager for this project.

The application was successful in the regional rating and ranking process and the Low to Moderate Income Housing Project has been awarded $175,000. The Cedar City Housing Authority is proposing to purchase housing in Cedar City that will be used for low to moderate income families. This project is on the Capital Improvements List, which is available at the Cedar City office.

Will anyone with questions, comments or suggestions during the hearing please identify themselves by name before they speak. The clerk will include your names in the minutes, we would like to specifically respond to your questions and suggestions during this hearing. If anyone would like to contact Alyssa Gamble at Five County Association of Governments, I have a phone number.

Mayor Green opened the public hearing. There were no comments. The hearing closed at 6:12 p.m.

CONSIDER A RESOLUTION FOR THE MUNICIPAL WASTEWATER PLANNING PROGRAM ANNUAL REPORT. ERIC BONZO: Eric – it is good to be back. We are required to do this survey each year. This year they only asked for collections and some financial. The EPA will do one for the facility later, but I will educate you on all of this.

SUMMARY OF MUNICIPAL WASTEWATER PLANNING PROGRAM REPORT DWQ 2021

WASTEWATER COLLECTIONS SYSTEM (Serving Cedar City & Iron County)
- There were 0 sanitary sewer backup overflows for 2021
- Maintained over 255 miles of sewer line and over 4050 manholes
- 60.5 miles of sewer lines were cleaned
- 60.0 miles of sewer lines were videoed
- 2 Major sewer line repairs were completed along with 13 manhole rehab & spray lining, including (1) one lift station wet well spray lined.
- Maintain and operate 5 Active Sewer Lift Stations
- 347 new residential sewer connections (Cedar City & Iron County) 49 County
- 15 new commercial connections
- 1,215 new people served
- 8,264 effective residential connections (Cedar City & Iron County) 722 County
- 1,865 commercial connections (Cedar City & Iron County) 4 County
- Total Sewer Connections 10,127
WASTEWATER TREATMENT PLANT: (Serving Cedar City, Enoch, Iron County)
- Approximate Total Population Served: 45,150
- There were 0 bypasses or overflows for 2021
- There were 0 exceedances for permit effluent requirements
- Average Influent flow for 2021, 3.0 MGD
- Average Influent BOD 290 mg/L, Average Effluent BOD 9.9 mg/L
- Average BOD loading in pounds per day, 7,454 lbs.
- Average Influent TSS 329 mg/L, Effluent TSS 7.6 mg/L
- Average TSS loading in pounds per day, 8,100 lbs. (Flooding Events dirt & silt)
- Average Total Effluent Inorganic Nitrogen 2.9 mg/L
- Produced 1299 dry metric tons of unclassified biosolids in 2021 (Estimated that 500 dry metric tons was mud & silt that took over 4 months to get out of system)
- Pretreatment

The annual site audit and inspection from Utah DWQ permit writer Jeff Studenka was on 02/18/2022. Report from DWQ found NO deficiencies or NO corrective actions needed.

The TSS was miscued because of the flooding in July and August, we took 500 dry metric tons out of the plant, and it has taken 4 to 4.5 months to get it out.

Permitted industries are visited twice a year and are sampled. We have been busy.

Isom – I have seen trucks in my neighborhood recently, are they cleaning or inspecting or both? Eric – we clean and inspected every 4 years; we are required every 7 years. Our sewer backups have gone to zero since we started this. We have the city divided into four areas, they are in your area this year, they will clean and then video and inspection follows. Isom – there are superstars and then there are superstars, I am grateful for how you run the operation, thank you. Eric – it is not just me; I have a great crew and it is evident. Isom – I have toured the plant, and the tour out there was exceptional.

Phillips – with all of the dry metric matter, what damage does it do to machinery? Eric – we were concerned with the biological end of it, it didn’t affect us. That is because of the new ditches. It is very abrasive. The treatment process was in the headworks. When we get 26 million gallons it was crazy. The event that hit Enoch, we have 4 guys there, you are only moving water, not treating. It is abrasive on pumps, but normal operation it can pull the organic matter out.

Phillips – when Ms. Clark talked earlier, she said we had illegal dumps out there? Eric – in 1999 and possibly 2004 we lost total power to the plant, and it shut the auto down. It pops the manhole; the untreated sewage can’t get there. I have asked why we don’t have redundancy; the water will go somewhere if the plant goes down, it is expensive to build a big lagoon, this runs down the sagebrush. That was many years ago.

Melling – that was inflow or outflow? Eric – outflow. Melling - that is up a little from last year. Eric – with the growth and building happening, the plant was designed to not be touched until 2035. We were at 2.8 in 2019 and 2020, 3.0 in 2021. Flow of 1.7 million
gallons it took 20 years to get a million gallons more. I think the plant can go further than 2035. We don’t have the bod’s that they think we should have. There is a safety factor the Division of Water Quality requires me to notify them, that is 3.8 million gallons, we are a ways out.

Hartley – when we had Enoch flooding does it not report in the collections? Eric – we are not responsible for Enoch collection; they do their own. Hartley – the last master plan was in 2017, do we have a new one? Jonathan – there is one in process, it should be done by the end of the year.

CONSIDER AN AMENDMENT TO THE LITTLE LEAGUE FIELDS CELL TOWER LEASE. PAUL BITTMENN: Paul – we lease property to American Tower by the Little League Park, it is a 50-year lease, $850 a month and with more carriers they up that and also a 2.5% escalation clause every year. They would like to renegotiate, pay us $156,825 to terminate the lease and give them a perpetual lease. They would like the onetime payment to suit our cash flow needs, that is their offer. I did a spread sheet to see the lease revenue over the life of the lease and by 2034 we will be making more on yearly lease than the onetime payment. Phillips – why would they want to do that? Paul – I asked, she said our file was selected, I asked why we would do that, she said they could move it. Phillips – they wanted a location in the downtown area and there was not another location available. Paul – I reminded her of that. Hartley – there is also limitations in closeness to other entities and they didn’t have a lot of options. Paul – I told her I would bring it to you. Phillips – I don’t know why we would do that. Mayor – I owned a tower in Page, Arizona, this is very common and very unique I have one in Arizona, and during the recession I presented that for sale on the market and it was about 5 years old, and I sold the contract and I could get 14.5 times the earnings on the contract. I still own the property for the tower in Page, I have to provide it forever and when you get an easement, your contract is you end up owning the tower and they keep putting more blades on that tower. They keep finding a way to load it up. The calculation for 30 years, we should just collect the rent. I did it because I needed cash at the time. Paul – if you have any direction on a willingness to sell at a different cost let me know.

CONSIDER A MEMORANDUM OF UNDERSTANDING WITH IRON COUNTY DEALING WITH LIFT STATION UPGRADE FEES. PAUL BITTMENN: Paul – we maintain the sewer collection system for Cedar City and the unincorporated portion of Iron County. We have a contract we entered in 2002 or 2004 that spells out maintenance responsibility. We maintain the same as we do our system. They have a clause any capital maintenance on the County system is on them, anything over $5,000 for a single thing. There has been a lot of turnover in County offices. Last summer there was an issue with a lift station, sewer gases were eroding concrete. We see it in the City, we contract with a company to do a coating. We told the County they had an issue and they wanted us to do it under the maintenance agreement and we told them we would not do it. We met with them, they said they have been paying an upgrade system fee, we shouldn’t have collected that. That was just for Cedar City, you pay if you live in a subdivision that has a lift station, so when they need to be upgraded, we do that. The County has never put that on their citizens. This says we will stop collecting that fee, we quit that in January. Jason figured out what we have collected, Dan said he thought the number is reasonable and fair. The proposal is to refund $67,205.30; we won’t collect that for them anymore. They also know they are
CONSIDER BIDS FOR THE FIRE TRAINING CENTER UPGRADE. MIKE PHILLIPS: Mike Shurtz- Chief Phillips is in training in Northern Utah. We are seeking approval to enter an agreement with KLW Customs, this is a multiyear upgrade. We want a taller training facility to train for the taller buildings. Phillips - was the plan to be multi-year project? Paul - Mike pitched this to us 4 or 5 years ago, and we suggested small bites. He did the first phase, then got the shipping containers. We accelerated this last year and then steel prices went through the roof and the containers went very high. Mike - this is to complete the facility, the foundation is in place, containers are in place, this is to install landings, stairways, railings, windows and doors on the facility. Phillips - is this the final phase? Mike - there will be small things to do after this. Paul - there may be some requests in the tentative budget. The Fire Department purchased the steel, the contract is for a fabricator to do installations.

CONSIDER A RESOLUTION ADOPTING A VOLUNTARY WATER RESTRICTION SCHEDULE. ROBBIE MITCHELL: Robbie - last year we did the resolution in the middle of the summer, I would like it at the beginning of the summer before they program their systems. We want people to be mindful. If it is the same as last year it will be a tough year. We want them to think conservation. Phillips - they talked about the Weber Basin on the news, and they are starting the restrictions now. I think it is good. I have had several citizens call me and want it changed from 8:00 a.m. - 6:00 p.m. to 9:00 a.m. - 7:00 p.m. Robbie - the elderly people want to start at 6:00, they say they don’t have time to water their lawns. Phillips - that is who has contacted me. Rob - we can look at this. Melling - water rates will go up the first of July. It is non-binding resolution; it is a great thought. You will hit people in the wallet or send the cops after them. Hopefully the billing adjustment will help. Rob - we get calls from neighbors, and we hand out warnings the first time, the second time we shut the water off. If you restrict later, people use more water, the flood everything. Mayor - there are a lot of ways to be wise, there are clocks you set the date. 3 days a week are good, an inch of water 3 times a week they will have a beautiful lawn. Rob - I was going to change to no watering on Wednesday, but the least amount of water we use is on Sunday, so that is the day if no one waters we can fill the tanks and be prepared for Monday. Mayor - from a sprinkler system guy it is a good policy. Phillips - we need to promote it on our website and in the newsletter. Paul - if you approve it, we will work with Gabrielle to do this. Mayor - I had a call from Utah County who said I used twice the water from the year before. So, I called my maintenance people, and they were watering every day. They did call me on the phone. Phillips - is there a huge shift in someone’s water do we notify people? Rob - yes, if it comes through, we do a manual reread and then we contact the people. Phillips - we need to educate on the secondary water. Tyler - we have two exceptions, the secondary water and a new lawn. Rob - we give people with a new lawn 2 weeks and then we look at it and if needed give them an extra week. Paul - we have two water conservation systems, first don’t water during the day, the second is the voluntary odd/even watering days. Rob - we ticket on daytime watering.
Ann Clark – for lower income people I was told that the rate they pay is less, but then I heard it is a tiered level. Correct. I came from a city for a tiered system, the whole place is dead, they put such heavy restrictions that everyone let their lawns die. My husband will water, he doesn’t mind paying a $400 water bill, but low-income people will chose food over water, low income families can’t afford higher water. We need to look at citizens. Melling – there are multiple tiers, their increase only kicks in at 20,000 a month, if you are watering properly 12,000 gallons will get you 3,000 square feet of turf, so that has changed very little. Beyond that you are beyond the water rights you were given when a house was built, it is a huge subsidy that is why the rates were adjusted up. There is very little change for reasonable consumption. If you use under the 20,000 gallons a month there is not a change.

CONSIDER AN ORDINANCE AMENDING CHAPTER 38 OF THE CITY’S ORDINANCES CONCERNING RETENTION BASINS. JONATHAN STATHIS:
Jonathan – this is going along with the recent changes to drainage. We had request to modify the retention basins, the maximum depth, eliminate a fencing requirement and indicate they need to be privately owned. These are good for development. Legal they are comfortable with this because it is under private ownership. Melling – more flexibility under private ownership, but we will get after them if they are filled up. Jonathan – it can be regular subdivisions if they have an HOA. Melling – this offsets the storm drain fees? Correct. Phillips – any liability to injury? Tyler – it is private ownership, so it is clear cut that it is private. Paul – the largest, deepest, widest opened to the public are owned by Cedar City, the Greens Lake dikes on the east side they have provided fun with four-wheelers, dirt bikes, etc. the large detention basin in Cross Hollow, series of detention basins on the east side, and people recreate in them. As far as liability for large basins with no fencing, we already have it.

CONSIDER A MEMORANDUM OF UNDERSTANDING WITH HOLT FARMS LLC EXPLORING THE POSSIBILITY OF TRADING EFFLUENT WATER FOR GROUNDWATER FROM THE ESCALANTE VALLEY. TYLER ROMERIL:
Mayor – we heard about our treatment plan, we have spent millions of dollars, it puts out type 2 effluent that can be used for agriculture, and I think there are only two facilities south of Utah County. I did say in the campaign I would look at other ways to use that water. We received interest 1.5 months ago by Kimball Holt and he presented something to us, we examined and talked about it and want the Council to hear it. It is not a contract; it is a proposal. I also asked for people to coordinate about the depletion of the water, and I asked Tyler Melling, Tyler Romeril, Kimball Holt, Nate Moses and Jonathan Stathis to bring us numbers. I want to utilize the wastewater and open the discussion. I think this will happen over many weeks.

Kimball Holt – your hours to restrict water, from a farmer, we bail hay until 10 a.m., the dew is still there, it is more efficient to water at 8, 9 and 10 a.m. than at 6:00 p.m.

Melling – give us the vision, the big picture. Kimball – from State Engineer point of view, once it is pumped it is fully depleted and you don’t get any credit, this is to get credit for the water. Melling – we would be looking at a proposal, you are in a different drainage basin and there would be two pipelines, water conveyance systems, one is taking water from our basin into Beryl/Escalante and the other is taking well water from your basin to our basin.
Two times go toward your basin than you bring to us. We have diversion and depletion, diversion takes it from natural flow, divert it somewhere, most agriculture rights you pump up to 325,000-acre feet a year, but you don’t fully deplete, it is 60% of the diversion right, every 10 units out of the system you can only complete 60% of that, 40% is returning to the aquifer. When the City pumps water out of the wells, 10,000-acre feet a year +/-, if we use diversion rights, we have to show 40% is returning to the aquifer. If we have 10,000 of depletion. We have excess rights on the books from water rights standpoint. Going forward there are cuts with the Ground Water Management Plan. The City in 2050, unless we acquire new water rights, will have a diminishment and restriction on the wastewater. We will have to pump less or show recharge. Once the City water is depleted, we can do whatever we want with the wastewater. We need to crunch some numbers; it impacts the value. The 2 to 1 exchange on the pipeline needs to be looked at, we need some other value, we have water rights in this basin, we have to figure the breakeven point, what quantities, the water quality. I am open to discussions with stake holders. We create a transportation system, we get some water back, there is also a value in a transportation system.

Tyler – I can go through the terms of the MOU and the terms with the Clarks. Phillips – the way it is written, there is clearly a difference on their interpretation of the contract. I want clarity that it was not renewed. Melling – there is the legal side, the can we, can we not, but also if we approach this, how do we do it. Even if we can terminate, do we want to. If the Clarks’ have a 50-year option, something with how we treat wastewater has to change, how we do it and the stake holders. Phillips – if we don’t know what we have to do with the pipes, there are right-of-way issues, how long of a pipeline? Kimball – 20 – 30 miles. Phillips – what can we do with $20 million.

Hartley – why do we need to enter into an agreement to look into the possibility, and if we do does it prohibit other options, we have been exploring other uses. Tyler – it is to show two parties are coming together with a vision of where we want to go. We agree to the vision, we can look at costs, timelines, etc. some MOUs are very tight, some are very loose, this is very loose, any party can terminate at its sole discretion. Because of the unknowns we want to go down this road to see if it moves on or not. Melling – when we talked about section 4.1 there is a lot of good faith and that does include other proposals. This effort is only if other parties are engaged in the MOU, but either party can terminate. Tyler – applications to the State of Utah must happen, the ground water meets a substantial quality, it is the beginning factors. Hartley – can we look at other options, we are looking at a pipeline, a well, does it stop us from looking at these things? Tyler – I would say no. Kimball – we just think Cedar City should do what is best for Cedar City. We are not tied to a date. You are watering 640 acres with 320 acres and change, it is more than anyone uses. Even with what you are doing there is excess water. You are getting zero credit for the recharge even though we know there is recharge. So, I said why not put all the water at recharge. I said that there may be opportunity on getting you water back. Why 2 to 1, effluent is not as good as fresh water. Melling – 1 to 1 would only make sense is if we pay for everything. Kimball – 1 to 1 would never work. Phillips – why not 1.5? Kimball – my family said it should be 3 to 1. Phillips – we have 1.58 million gallons coming out, why not some instead of all of it. I don’t want us to be tied to the numbers. Kimball – that is why it is non-binding. Melling – we have a water table where the plant is and some is converting to crop yield, which is evaporation. Kimball – it is still below the root table. Melling – in 30 years we are in trouble if we
haven’t figure it out. Do we build and change everything this year? We have paid a lot of money in studies on options, moving ag operations, move the water back into town, etc. I like out of the box ideas, but I think we need to run numbers and see what makes sense and give other parties an opportunity. Kimball – everyone is aware of Pine Valley and Wha Wha Valley water, what if it doesn’t happen, there needs to be an option B. Phillips – is your water guaranteed? Kimball – Escalante Valley was the first Ground Water Management Plan, we are in it 5 years, there is enough water to secure 1,600.

Tyler – I said there was not good faith language, but there is, we will use good faith efforts to enter a lease. Kimball – if you have a better plan or idea, we are ok. Melling – the most compelling is diversifying our water market, there are projects in the works already. If we have a mechanism from bringing water from your basin to ours, do you know the safe yield? Kimball – I think it is 45,000-acre feet. Melling – for the good of everybody it would be good to increase the water in this basin as long as it is good.

Phillips – the contractual issues I have issues with. The Holt family has been a good family and so has the Clark family.

Tyler – the current lease agreement with Clark Brothers 12/18/1995. Article II outlines the terms; it shall be 9 years with four 10-year options to renew. Further down it says the initial term expires the first day of January 2005 unless they exercise the option to renew. They can exercise the option with 6 months before it expires, they provide notice. We don’t have a record of that being renewed. If the Clarks’ are still using the water, it goes to a year-to-year lease. It then outlines how you can terminate, the city after providing written notice within 30 days of the annual payment date, which I think is December 31st. Melling – how does the fee structure worked the past 27 years; do we have an adjustment system? Tyler – I don’t know. Phillips – has there been any discussion with the Clarks relative to this doesn’t happen, it is a year-to-year lease. Tyler – not that I am aware of. Melling – did we have that discussion when we talked about bringing the water back into the city? Tyler – not that I am aware of. Paul – I had discussion with both Bob and Dick when Mayor Sherratt was in office, I can’t tell you the specifics. I have talked with both since then. Melling – in 07 or 08 there was a proposal from someone in Chicago to do a recreational reclamation water system, it may be an MOU, one of the Clarks signed and said yes let’s work on the deal where the City takes the water rights, and we get the increase of growth and use from the wastewater. It was not in fruition; we don’t have 80%. Paul – Mayor Sherratt had a gentleman from Chicago come and say the amount of water on earth is the same as always, it is recycled either through a buffalo or a human.

Phillips – I am not a farmer or rancher, but God bless you, you mentioned numbers, is there an ability to take over saturation without taking the water away from the current lease, can it happen. Paul – we ramped up the WWTP, it was over a million gallons a day, 1.6 or 1.7 and now we are at 3, so the output has increased substantially. There may be room to do more than one thing. Phillips – we are pumping more, so is there room for both.

Tyler – do you want it on the agenda next week to approve, deny, table? Melling – I would like some time; I would like it off for at least 2 meeting cycles. Phillips – I would like staff to set down with the Clarks and Holts and look at the numbers to bring something back.
Scott Stubbs, Iron County Farm Bureau – I want to address lawn watering, the hours would be better to go until 10 a.m. 3” a month, is a lot, we need to teach people to conserve. As far as the MOU I appreciate with the Holt’s coming up with something, we need creative things. One thing that concerns me is the underground water, the Beryl Valley, Cedar Valley and Parowan Valley. You are taking twice amount of water to Beryl. It would be wise to spend the money on recharge. Scipio put their water in a pipe, and it dried up their well. As far as Nancy said raw sewage, it was not an accusation, it was an explanation, if they don’t get the water, they may not allow the overflow on their property.

Melling - bring it back on May 4th. Phillips – I would like staff to get some information. Melling – there may be other interest parties, the trans version of wastewater to culinary. Phillips – also how much water is there, is there enough water for both the Clarks and Holts. Tyler – the city could put together an RFP and see what out of the box ideas come about. Phillips – let us not forget the people we have and agreement and the person that came to us with an idea. Melling – Mr. Stubbs may know others that have another solution. If there is a way to acquire a farm that still wants to farm and sell the water in exchange for the wastewater.

Scott Stubbs – I would like to see, back in the day a word was enough. Tyler – all I can do is research the scanned documents and I couldn’t find anything. Scott – it would be nice to get there without a lawsuit. Tyler – both parties are put in the position of what they can prove. Melling – no one is jumping at the opportunity to go down that route. What is the best way to use the water in a way that doesn’t impair those using it. We need information on is there enough water. Mayor – we need to do the math. Nate Moses said he is happy to do calculations, he works for the State and is very neutral.

Kimball Holt – we want to make it clear; we are not trying to put anyone out of business, we want to put out an option. If there is an opportunity, then great. It is an opportunity for Cedar City, and I have crazy ideas flowing. Mayor – a pipeline that people in the Escalante Valley sell water to Cedar City.

Procedural motion was made by Isom to postpone this item until the May 4th meeting and then maybe put out an RFP; second Melling; unanimous.

CONSIDER APPOINTMENT OF MARK MUMFORD TO THE BOARD OF ADJUSTMENTS, MAYOR GREEN: Mark Mumford – Mayor Green contacted me to see if I would set on the Board of Adjustments, I went to the meeting Monday and was fascinated. I will follow the guidelines and limits placed on the Board. It is a wonderful opportunity for people to meet their goals. It looks very interesting.

CONSIDER VICINITY PLAN FOR MOUNTAINVIEW INDUSTRIAL PARK SUBDIVISION PHASES 1 AND 2 LOCATED AT APPROXIMATELY 2600 WEST 850 NORTH, GO CIVIL/DON BOUDREAU: Dallas Buckner, Go Civil – this is west of Airport Road. There are two parcels. We are taking two parcels and putting a road and cul-de-sac, this is adjacent to the IFA. With the road dedications it was cleaned to do a subdivision than a minor lot.
CONSIDER APPROVING THE FINAL PLAT OF 4-B RANCH SUBDIVISION
PHASE 3 LOCATED IN THE VICINITY OF 4450 WEST 1525 SOUTH. Go
CIVIL/TYLER ROMERIL: Dallas Buckner, Go Civil – this is phase 3, will connect to
Westview. Phase 1 was the NW Corner and phase 2 was east of that, this will have a hard
surfaced road to Westview. This is the 75’ road. This will not be adjacent to Westview; the
roads are 45 feet.

Jonathan – the road widths running north/south do not meet city standards. But to tie into the
existing roads it was best to keep the existing widths. It will come through with the final plat
for the variance.

Tyler – the City has received everything but the bond. The subdivision will not be recorded
until the bond is in place.

CONSIDER APPROVING THE FINAL PLAT OF CEDAR RESERVE PUD UNIT C
TOWNHOMES LOCATED IN THE VICINITY OF 1600 NORTH LUND HIGHWAY.
PLATT & PLATT/TYLER ROMERIL: Dave Clarke, Platt & Platt – this is the final
phase, vicinity came a few months ago with the zone change, this was the mixed-use change
to R-3. The only change from vicinity is we added guest parking and took a few units off.
We took off one set of units and added guest parking.

Jonathan – this meets the new standards. Phillips – what about the pre-plat penalty? Tyler –
any grading prior to final plat is $500 per lot. There is an exception if the developer asks
permission by Jonathan. It is a $1,500 penalty. Jonathan did not get an email.

Dave – we all know the storms that happened last summer, the bonds were not finished, it
filled up and ran over, there was not any homes there. There were 6 basements north of us if
we had not done the grading, we would have had a problem, probably flooded 6 homes. A
neighbor drained his yard into the pond and cut it down.

Melling – we talked last summer about unrelated issues with Mr. Schmidt, you were dealing
with some flooding, was this it? Phil Schmidt – we didn’t help with this project. Dave –
because we built up the pads it created a dam for the property. I understand the ordinance.
My request for the waiver is when you look at on overall project, grading and drainage, we
are responsible for what runs off our property. We had to run a sewer line through the
project, we have storm drainpipes, we had to do some grading. We presented construction
plans showing the grades on the project, they are not finished, but some work was done. The
owner said a neighbor called him repeatedly because she was getting dusted. When doing
mass grading it makes sense to grade out the project, so we don’t have to deal with that.
Phillips – we don’t argue that, but the point is the developer should have got the permit.
Dave – we had approved plans. Phillips – you changed the plans. This project has been
difficult from the beginning. Melling – is it all compacted? Dave – most of the grading was
completed. The pads are not to grade, but the over excavation was done. It hasn’t been a
problem on other projects. We have a responsibility to maintain storm water, we did that.
Hartley – what is the purpose of getting the grading permit. Jonathan – prior to the grading
permit in the ordinance, no grading was allowed prior to final plat. Based on discussion from
contractors they wanted to start grading prior to final plat, this was last year. Before that it was not allowed. Hartley – the purpose of getting permission, can we eliminate the permit.

Paul – there was a time when we didn’t have pre-plat construction anything, and they said it’s private property they can do what they want. Then Council said why do we do final plats when they have already done the work, we aren’t going to have them take out improvements. The other is the property developed north of Fiddlers Canyon by Dave Smith with complete infrastructure that has been in for years doing nothing. He developed thinking he would be included in Ashdown Forest, and he wasn’t and now he wants the City to say he doesn’t need a second access for 80 lots. If we accept the infrastructure, we have to be careful on the condition it is in. That is how we got to that. Tyler – political winds change and for now that is how it reads. Melling – I don’t want a message on storm water mitigation, but also if we are not supposed to over ex. Paul – over excavation and diverting storm water is a lot different. Melling – I am not opposed to say there is detention lets waive a quarter of the fee. Do we want to set a precedence, that is a lot of dirt work for drainage? Dave – you are right, it wasn’t just for drainage, it was convenience, they were there. We had an approved grading plan. They went off what they had. I understand Mr. Bittmenns one extreme. I also understand that maybe not just this project, but winds have changed, maybe some grading allowed, but no infrastructure, that is how it has been interpreted. Because we broke the rules, or bent them a little, it saved a lot more money than it costs. Tyler – it happens routinely with one developer; they move forward and pay a $30,000 penalty and don’t say a word.

Phil Schmidt – I imagine you are talking about the Leavitt Development; they won’t be doing that anymore. We have been informed, I told Ron to make sure he sends a grading permit request on every project. We heard from Tom that they will not pay any more grading penalties. This is new to me, this is the first time in 25 years, I have never been assessed a penalty or had penalty exposure until last week. We talked to Jonathan on a project, out by the old racetrack there is a project on the right and left, both different owners, the right a PUD in discussion with City staff and the Mayor, everyone knew what was going on. Dave told me you have to get a grading and clearing permit, I have never got one in 25 years. I went to Jonathan, took the plans, had Jeff Middleton run a grinder on the sage brush, we cleared the site. We are trying to get it done before the water runs through the trails property into Rogers property. We have only cleared the site. I went to Jonathan, emailed him, the permit is free, he said you already started. All we did was clear off the brush which I don’t think I should be penalized $50,000 for. On the east side there is potential for a flood, we want to continue with a 20–25-foot swell and channel it to the old Hwy 91 under the freeway, it protects both parties. There is a retention basin on the north end we would like to put in. We have not done any over ex, only cleared the brush, you can then fly with a drone and get actual elevations and fine tune the dirt work. This will help 120 acres not get flooded. We will dig after we get the plan. Phillips – grubbing the brush is a very different. Melling – maybe we integrate into that. Grubbing brush can be a problem with run off. Phil – that is why I want to do the swell. Paul – the issue with grubbing is dust, the wind blows, and we are the ones that get all the complaints from the neighbors. We routinely go out and work with the contractors. If you grub a huge acreage and walk away, then we have a dust problem. Phil – we bladed it and watered it and they stayed off it, so it has a crust. These two projects have millions of dollars already been spent in materials. We can’t do a flood
structure if you don't grub it. There was a dust storm the other day, Monday 60 mile an hour winds, every place was a dust bowl. We are doing a good job. Monday hit us hard. Today it was fairly windy, and we had very little dust. I would ask for a variance for clearing. I know Dave Smith thing was a problem. I have never done anything without talking to Jonathan, the city, or inspectors, I don't lay a stick of pipe without the City knowing. Dave didn't talk to anyone; I don't think we should be penalized for that. I talk to everyone. I talked to Jonathan 3 days after we started, I went in and said here is the plan and he said send me an email. I don't think I should be penalized for 3 days. On a project if you red flag a job you have to stop, if you don't fix the problem, I don't mind enforcement, tell us if it is wrong and red flag and then give time to fix and then penalize if it isn't fixed. If you proceed after the notice, you are 100% liable.

CONSIDER APPROVING THE FINAL PLAT OF TRAILSIDE TOWNHOMES PUD PHASE 2 LOCATED IN THE VICINITY OF 25 EAST 1000 SOUTH, PLATT & PLATT/TYLER ROMERIL: Dave Clarke, Platt & Platt – the vicinity has been approved. Tyler – the city has received everything but the bond. It won't be recorded until the bond is in place. Phillips – where is this in relation to the existing Trailside? Dave – it is right behind it. We are also working on phase 3.

CONSIDER VICINITY PLAN FOR SUGAR PLUM SUBDIVISION LOCATED AT APPROXIMATELY 3900 WEST AND 800 NORTH, PLATT & PLATT/DON BOUDREAU: Dave Clarke, Platt & Platt – 3900 West connects Equestrian with Highway 56, there are two subdivisions to the north. 20-acre R-2-2 twin homes with 57 lots. 3700 is to the east, a County subdivision to the south. Phillips – does the drainage flow to the southwest? Dave – yes, it is very flat, but this does flow southwest. Melling – why does the property jog? Dave – it follows the road master plan. It is how Monte Vista was platted. There is a big irrigation ditch that ends. Hartley – does the project have a fence? Dave – yes. That could change if Joel Hansen gets the change he is requesting.

Jonathan – there is an item on sketch to eliminate that requirement.

ADJOURN: Councilmember Isom moved to adjourn at 8:33 p.m.; second by Councilmember Melling; vote unanimous.