

Kanab City Council Meeting
July 9, 2019
Kanab City Library 374 North Main
6:30 PM

In Attendance: Mayor Robert Houston, Council Members Arlon Chamberlain, Celeste Meyeres, Michael East, Jeff Yates, Byard Kershaw, Recorder Joe Decker, Attorney Jeff Stott and Treasurer Katherine Ohlwiler.

Mayor Houston called the meeting to order and roll call was taken. Scott Colson offered the prayer and the pledge was led by Byard Kershaw.

Approval of Agenda: A motion was made by Byard Kershaw and 2nd by Michael East to approve the agenda for July 9, 2019. Motion passed.

Approval of Minutes: A motion was made by Jeff Yates and 2nd by Byard Kershaw to approve the minutes of June 25, 2019. Motion passed.

Approval of Accounts Payable Vouchers and Check Register: A motion was made by Jeff Yates and 2nd by Michael East to approve the accounts payable vouchers and check register dated July 9, 2019 in the amount of \$327,015.83. Motion passed.

Public Comment Period:

Doug Dewitz explained he is a newcomer here for 44 years. He would like the City to explain better on how much water he is using per month because he gets an email saying the amount of money that was taken out to pay his bill. He doesn't know how much water he is using. Years ago, he explained they were told with new growth on the water and sewer systems, the water tanks have capacity for 30,000 people here and this was before the hotel city that we have become. Water Conservancy District asked that they have a rate increase. The only rate increase that Kanab City would ever be asked to sustain. He would like to know what hotels are paying for their water and what industrial development will pay for water. He expressed all of us need to know where our water is, what we're paying for and what we're sustaining.

Michelle Galaria wanted to address the prayer at the beginning and ask that the City consider changing to a more welcoming and less uninviting manner if it's a moment of silence and not invoking a certain deity so that everyone feels welcome.

Appoint Dave Owens to the Arts Board with a term ending 12/31/2022: Celeste Meyeres expressed that she is the liaison for the Arts Board and Dave has been consistently volunteering for the Arts Board for a year now serving as treasurer, grant writer and helper. She strongly suggests appointing Dave to the Arts Board. A motion was made by Celeste Meyeres and 2nd by Michael East to appoint Dave Owens to the Arts Board with a term ending 12/31/2022. Motion passed.

Various Presentations related to the Application of Water Service from Southern Red Sands:

Chad Staheli the CEO for Southern Red Sands (SRS) presented the project overview for the frack sand project. He explained that they have been involved in this project about 18 months and have been in negotiations with the City for the sale of water for about 8 months. The water purchase from the City is the reason why he was presenting. Mr. Staheli showed the map of claims held by SRS in the Red Knoll area for mineral extraction of silica sands. It is roughly 13,000 acres, including Peekaboo and close to Best Friends. The SITLA section, which is State Trust Lands, is located within the BLM section making up 640 acres including the Red Knoll. 100 acres of that is where the frack sand mine operation will be. Mr. Staheli explained the process as the first step is the extraction of sand, it will be scooped and taken to the wet plant where the sand is washed. To get to the specification of sand needed, after it is washed the sand then goes out a conveyer to the sand piles where it decants. After it is dried to a certain degree, the sand then goes out to another conveyer to the dry plant. Large industrial dryers dry the sand then it is stored in silos and shipped off. There is also a water treatment facility on site where the water is reclaimed and reused. The chemical used in treatment is a flocculent which is used in all water treatment facilities. Its purpose is to remove the sand left in the water to be used again. The reclamation process of the land is recontouring as sand has been taken out and replanting of native vegetation. Mr. Staheli showed pictures of what the sand plant will look like including the wet and dry plant, silos and trucks taking the sand. The sand will be in completely enclosed trailers for travel. The use for this sand will be primarily for a proppant. Mr. Staheli went over some FAQ's explaining they acquired 13,000 acres of claims to protect their project and company from other companies coming in and mining sand as well. They wanted to control as much as they can so that to keep others out. He explained that they could mine all of that area, but they won't as they are good guys and the further they get away from the plant the more money they lose as they would have to bring the sand to it instead of it being on site. Some questions on visual impact and light, the biggest visual impact would be the silos. They are not required to do anything special with lighting, but they have chosen to have their engineers make the plant as night sky compatible as they can. They are a brand-new start up so trying to decide the exact size and scale of the project is constantly changing as they get more engineering information. Currently the plan is to have the plant produce 700,000 tons of sand per year. The Uintah Basin uses about 1.2 million tons of sand per year and they don't want to do a plant larger than that as it wouldn't make economic sense. Air quality is a big issue and he explained that this sand is heavy and stays down and it can't be breathed in. The number one cause of these emissions is unpaved roads which is why they will pave their roads to cut down on that. The amount of jobs this plant will take is at least 40+. This will be shiftwork and the plant will also take 100+ jobs for trucking and running equipment. They will hire independent contractors with most of those jobs. Traffic is a big question and is a simple calculation. At 700,000 tons per year a truck can carry 42 tons which would make it 46 trucks per day added to the highway. It would be a 1.6% increase in traffic. This type of project is heavily regulated by the state. They follow all of the regulations by either meeting or exceeding them. The volume of water required is dependent on a lot of factors with one of them being the cleanliness of the

sand. The volume required for the current operation is 400-acre feet total. The question has been, why would they talk to the City about purchasing water if they already have a contract that gives them 600-acre feet and that is because they would like to have the City participate although they do not need the City's water. They view the City as stakeholders in the process, they are not within City boundaries and the City gets no tax base from this project. Early on they decided they wanted to work with the Water Conservancy District and with Kanab City so that everyone is able to take advantage of this. The plant is a closed-loop system and they understand we are in a water shortage and want to do everything they can to preserve the water they will use. There has been some suggestion that this is a sweetheart deal with the City and Mr. Staheli explained that this is the most expensive water he will ever have to pay for in his life at \$2.00 per 1,000 gallons. They will drill and maintain the water well on their own and pay each entity for water. They have spent a lot of time and money working with different hydrologists trying to get to the right answer. They won't put a plant somewhere if there isn't have sufficient water to maintain it.

They asked Tom Avant to look at all of the hydrology studies done to provide an honest assessment towards the water availability. Mr. Avant explained most of the water studies have been done on our specific aquifer by Utah Geological Survey with other entities as well. The brief overview is that there are several different types of sources of recharge that go into the aquifer. Precipitation that lands on the outcropping of the rock finds cracks and cervices and gets down into the aquifer. Also, precipitation that falls into the sand which then holds it against the sandstone and goes in the aquifer from there and leakage from groundwater from overlying formations, the white and pink cliffs, the water will trickle down and go into the two parts of the Navajo Aquifer. The Upper part of the aquifer and the Lower Lambs Point Tongue. The Kanab Creek gets water from the Lower Lambs Point Tongue. The streams will seep water into the aquifer and as it lowers it will seep back out in some places. The recharge into the aquifer is about 60,000 acre-feet per year. The aquifer is large as it goes from about Kolob Canyon on the other side of Zion to about Church Wells. And then from Vermillion Cliffs to up past Panguitch. The aquifer holds water in it, but there is flow as it moves. Mr. Avant showed a drawdown table showing that there is ten feet of drawdown, in a smaller storage there is about 75 feet of drawdown. In the Lamb's Point Tongue there is more water produced and less drawdown. The Navajo aquifer is harder to pass through but there is more water going through it as it is pressured from above. The City wells are producing hundreds of gallons per minute currently in this same area. The City spaced their wells out so that as they pump, they aren't drawing the water from the other well down. They don't think there will be any detrimental effect on the springs nearby as they will drill a well that will draw from the Lamb's Point Tongue. The proposed water amount for the frack sand mine is 280 gallons per minute which is 450 acre-feet per year. Or 146 million gallons a year. They are looking to buy 140 gallons per minute which won't necessarily be 24/7. Equaling 225 acre-feet per year from the City which is 73 million gallons per year. When the City was supplying water to the golf course, it was using 61 million gallons per year. The City currently has 9,850 acre-feet of water that can be used per year per their water rights. Currently the city is using just under 1,150-acre feet per year which is less than 12% of their water rights that they are using. In the City Master Plan for their 20-year projections there will be a 8.5% increase from

what they are using now. SRS will be using 2.28% of the City's water rights. Mr. Avant expressed with all of the information they have found and all of the reports they have gone through they believe the water is there it is just a matter of finding those fractures and getting good water.

Chad Staheli wanted to finish with explaining their mission and commitment to sustainability. There was no obligation for SRS to participate in this meeting, but they wanted to address concerns from the public and explain their sustainability.

Hugh Hurlow and Paul Inkerbrant from UGS explained they are hydrogeologists and apart of the State Department of Natural Resources. Their mission is to provide scientific data at a highest level as possible to help resource managers do their work. Not long ago the City described basic elements of potential effects on the City's existing wells in this area to them to help equate the values of drawdown. Mr. Inkerbrant emphasized this was not a study done but just a simple equation and basic pumping rates modeled. This didn't take into consideration the recharge rate, fractures or the Sevier fault. More would have to be done if you wanted to get accurate numbers, he wouldn't use that chart to make decisions. Mr. Inkerbrant explained they would be happy to interpret other studies that have been done and work with the other hydrologists to give the best information to the City.

Rick Hafen the water attorney from St. George who has helped prepare the agreement between the City and SRS, went over the agreement and the Change Application.

Jeff Yates asked if the City decided not to sell the water and SRS got all of it from the Conservancy District and we notice a decline in our wells what would the recourse be and Rick Hafen explained the recourse would be first consult with the state engineer to find out exactly what the reason for decline would be. Then the City could file a lawsuit against SRS and the Water District for impairment of the City's water rights. If the decline is a result in the inability for the City to provide surplus water or to supply its residents with the water rights, then they would terminate the agreement as if there is not surplus water the City can't fulfill the terms of the agreement. The process of the Change Application that would be filed with the State Engineers office and details of water rights. That application is then posted in the paper for two weeks and also a protest period for the Change Application based upon the impairment of the water rights. This does not sell water rights only provides water service.

Public Comment Period on Application for water service from Southern Red Sands:

Tom Dillon a resident of Kanab wanted to talk about the 640 acres vs 13,000 acres. We obtain our water in the aquifer that is fed by rain and snow over that 13,000 that SRS has filed claims to mine. While the current discussions focus on the processing plant than the initial mining on the SITLA lands, a real risk looms of expansion of the project to larger scale sand removal on surrounding BLM lands. That changes the impact to Kanab. The removal of surface sands may erratically change how water is captured, transported and retained. We currently benefit from a huge sand filter capturing water and feeding it into the fracture zones that our City wells are tapped into. The recharge zones that our wells are tapped into is the specific area that SRS has filed mining claims on. Mr. Dillon expressed that it is his understanding that SRS states they don't intend to mine the BLM lands but feel compelled to have mining claims to prevent competitors

from moving in next to them and going after their clients. The BLM managers have the authority to withdraw those mining claims if they determine that land has a superior purpose. He thinks the whole perspective of the project changes if you clarify what the intent is over 13,000 acres. Given the breath of the mining that could occur, he argues that Kanab's interest doesn't align with SRS's interest, if they take all the sand over 13,000 acres it will change how water flows into the aquifers they depend on. He asked the City to take actions to protect their interests and also consider whether they can clarify formally the intent and rights on the 13,000 acres the BLM mine claims that surround the 640 acres that we are currently talking about.

Katherine Greenhalgh had a question on the legal part, "With the water rights will the Red Sands be able to sell it to someone else? Will it be specified for sand mining rather than having the rights? Will they have it revert back?"

It was explained that the city is not selling water rights just the water itself.

Marlene Israel read an excerpt from an email, last year for the first time, Kanab earned over 1 million dollars in sales tax, do we really need the trouble that comes from revenue over this water deal we have a booming economy thanks to the uniqueness of our landscape? Does it make sense to industrialize our homes? Is this a gamble worth taking? We have been told that the first population to lose water in the event of a shortage would be the agriculture then irrigation rights owners, why are we prioritizing the needs of the extractive industry over our agriculture and tourism industries? Let's keep in mind that agriculture founded this town. Should we support a business scheme that uses resources for fracking which damages the environment? Shouldn't we table this SRS water sale until we have gathered legitimate facts on the impact of our water, health, safety and economy? Do we know enough about the risks? Shouldn't the City authorize a more thorough study of the water sale before it is too late? Your decision tonight might focus on water, but it will open flood gates that affect every single facet here in Kanab. Our property values, our peace and quiet, our remarkable landscape. Shouldn't we be sure that the students and staff of Kanab Elementary are not in harm's way with the transportation of silica dust past their school? They would like to know more information about the closed cargos that were talked about. Ms. Israel continued by stating that we live in a growing community and as such have seen growing pains. We are becoming more diverse with more conflicts, but she has learned something valuable as she has watched the community respond to this water sale. Though the people that grew up in Kanab and those that chose to move here share a fundamental common value. They love all things outdoors and we all feast our eyes on the Coral Pink Sands that welcome us home from our travels up north. We don't want those sands to be flung at us from heavy trucks. Will this scare our landscape beyond repair? Will Diana's Throne deservedly remain in its serene setting? Please do not provide water services to SRS.

Tom Carter explained years ago he moved here because of the wonderful environment and he remembers driving 89 passed the proposed site of the mill and he looked over and saw trees and dunes and wild flowers in the cliffs and thought this should be a

national park. Thinking about this proposal he is reminded of the Trojan Horse, they have their facts in line sounding reasonable saying it's about money and jobs, but it's a Trojan Horse. They'll be removing the aquifer that they want the water to wash the sands comes from, there's mining claims all over the sand dune complex, is the expensive viable millionaire sand going to stay there? They'll sell it and people will get rich. The sand is the sponge that takes the water down to the wells and once that is removed there will be less recharge. Mr. Carter continued with next year there will be nothing, and in the years to come you will notice that the water will become more expensive as there will be less of it and it won't be recharging. This is a Trojan Horse and we will lose one of the world class wonderful areas, don't sell the water.

Tracy Hiscock expressed her opposition to selling water to SRS, she has lived here for 23 years and it has become clear to her that the City has not adequately assessed whether or not there is surplus water available. No decision to enter into a contract should be made without facts. The Council has a fiduciary duty to constituents which includes duties of care, loyalty, impartiality, accountability and a duty to maintain public trust in government. It requires each public official to manage assets competently. The proposed contract contains an indemnity provision which shifts liability; "indemnify and hold SRS harmless from any claims arising as a result of the parties entering into this agreement" to enter into this contract is to take on a huge liability if any claims arise from this project. Liability should properly be taken on by SRS. Good stewardship by the public treasury and competent asset management is not served by this risk shifting provision. Additionally, the contract provides SRS will pay two dollars for 1,000 gallons of water. This is less than half of what Kanab residents are currently charged. Please reflect on your fiduciary duties as public officials. She requested the Council to delay until full hydrologist analysis is done and made public and to remove this dangerous risk shifting clause from the contract.

Bart Battista is the facilities director at Best Friends and doesn't believe we should sell the water to SRS. Any decision should go into with eyes wide open not shut. SRS says they just want to do the 115 of acreage for sand mining. Why do they have 15 years of water rights? Why is this contract for 20 years? Why do they have three ten-year options? Magazine articles explain that 12,000 acres of sand will supply fifty years of frack sand. Mr. Battista explained that we shouldn't go into this thinking they will only mine the one spot. SRS will go there and set up a mine or a processing facility then go to the BLM land and do the same. This issue is just about the City selling water. At the meeting last night, the hydrologist is not just a hydrologist Best Friends hired he is also part of a team that created ground water modeling. From what he says now there isn't enough info on how drawdown will affect our wells. This vote should be delayed until further information is received.

Dean Baker with Keep Kanab Unspoiled wanted to talk about two items the first being about the jobs that are expected to be created. As an economist he knows that they are not going to see 40 jobs. The average number of jobs in Wisconsin on a frack sand mine is 30. Furthermore, these jobs are highly specialized and are not going to hire people from Kanab. If this reduces tourism by 2%, we're not losers here. And it will of

course reduce the tourism industry by much more than that. The other point is that this is a boom and bust industry. When the price of oil plummeted, one county in Wisconsin lost 2/3 of their jobs. Keep Kanab Unspoiled has arranged to get attorneys to represent them and their 25 members. He introduced Heath Snow from St George and Tim Jacobsen from Wisconsin. Mr. Baker expressed without objection he would like their lawyers to speak for an extended period of time to discuss some of the legal issues that they see in this matter.

Mayor Houston explained that they will continue down the line to take public comment and if there would be time at the end, they would let the two attorneys speak but only for three minutes.

Diana Zimmer explained she lives out in Vermillion Cliffs and has only lived in Kanab for two years as she came from California and the politics of Utah are new to her. She expressed the fact that this project has been going for 18 months and only having the public input the past week or two is appalling. She's not convinced the processing of the sand will have no chemicals in it. The first phase was just water, the second phase was not specified. If this is a closed and recycled system, why are we giving them water every year that they won't use? Why have we not been given the route of transportation the sand trucks will be using? They don't know what will be affected. Andy Gant who is the GM at SRS is also the Kane County Commissioner and she believes that is a conflict of interest.

Melodie Hinote explained they bought their land back in 1980 and at that time they were not able to get building permits or do anything with their land because of the water moratorium that they were aware of. They could not build because of the moratorium. They were not allowed to build because of that. She read a letter from her realtor at that time stating the check they wrote for their water meter will be brought to the City once the moratorium is lifted. In 1983 they were awarded their water meter. Another letter she had from Kanab City dated October 17, 1983, talking about the agreements made regarding the moratorium in the Ranchos Subdivision. The agreements were written for a ten-year period to expire at the end of that year and the City had been attempting to renew their agreement. The water that they were going to get was only going to be surplus and they felt they needed to hire an attorney to represent them.

Walt Thirion a business owner and passionate environmentalist knows he's always a pragmatist who understands business. He explained someone swore at him because they thought he was for this project. When he hears these presentations, he would kick someone out if they brought a proposal like this. No way in hell a private investor would invest in this business without knowing a lot more than what has been shared. This is a much bigger project with much bigger ramifications. Mr. Thirion grew up where land was reclaimed, and this is so fuzzy he doesn't know how they can make a decision. He heard a rumor that a county commissioner is involved, wonders how many people are involved that we don't know about. The City has been asked to make a 50-year decision with very little data. 1.6% of heavy trucks that destroy the roads. Not against

this project but wish it was tabled until there was all the data to make a decision. When you disturb the Earth, things blow away.

John Hiscock a 23-year resident of Kanab and 30 years in the area. One observation he has is that the whole process seems a little slanted, his original perception was this meeting would give an opportunity to give UGS to explain their analysis. At first there was no talk of SRS presenting especially the amount of time they have been given. He asked the council to reject the SRS request for city water. With the district the public was not provided the same opportunity that the City has and maybe something can be done about that. The info provided by SRS has been all over and keeps changing. You can't rely on info given as it has been constantly changing. Mr. Hiscock has some serious questions about the legality about the agreement that has been drafted, which is a duplicate of the district's agreement. He urged the Council to take a hard look at the Utah state constitution. And Kanab ordinances a close reading of those will reveal that this proposition to sell water not water rights outside of boundaries of the municipality is in contradiction of some of those provisions. Mr. Hiscock would like to hear from the attorneys for Keep Kanab Unspoiled.

Bruce Davis explained he came to Kanab not to change or take advantage but came because it was attractive and conservative. What he has found is the info that has been given is water is already at low enough levels that the Conservancy District has taken action in the past year to address that issue, the base allowance for his cost reduction of water and base rate increased. 12.5% increase in base cost. To ensure his use is reduced there is a penalty for excessive use. \$4 per 1,000 used to be 2.33 for 1,000 the groundwater that the city relies on for residential use should not be considered for any other use. Are the businesses paying penalty for unlimited use? What is the rate that SRS will pay \$2 / thousand? Believes they will pay much less. Why is city willing to sell water to outside company at a lower rate that comes from the same source? If water is lowered where does the City turn to? Who would pay for pipeline and treatment of that water, why doesn't Red Sands build their own pipeline to start with? Mr. Davis finished by saying to indemnify the company that's buying water from us is not right.

Dale Lock a property owner in Kanab, heard something alarming that there would be no impact fee on huge commercial operation that will generate a lot of money per day. This has a huge impact on our City every time trucks driving down the street, waking up every guest, tearing up the streets, no mention of the fact they will be bringing LPG gas or propane which is highly dangerous. What happens when trucks crash and kill people downtown? What happens when a truck goes down a heavily touristed area with 1,000 people pulling things can't stop going down those hills and will be running off the road hurting people. This will be a huge impact to our safety and to our city. Ms. Lock finds it outrageous for the City to allow this without paying impact fee they will be making millions of dollars destroying the area, but the City doesn't see fit to charge impact fee.

Francis Battista a board chair of Best Friends Animal Society and one of the founders, explained back in the early 80's and 90's he worked with the Kanab Area Water Users Association, the Kanab Irrigation Company and a coalition of ranchers to stop another

operation and they prevailed. There is only one reason there is such a place as Kanab and one reason Native Americans came and the pioneers came and that is water. We are living in a world of unpredictable climate changes and one thing we should be looking after is the water as it is the most important thing we have. Mr. Battista explained water is the lifeblood of this community and to play games with it is just crazy. You can put one bullet into a revolver spin it, the odds are pretty good you won't blow your brains out, but would you do it? He doesn't think so and he doesn't think we should do this either.

Heath Snow an attorney in St. George for 19 years and a municipal attorney representative also represents special service districts and various clients. Mr. Snow explained he is an environmentalist at heart and would like the council to think twice about signing this agreement. It was implied that this agreement was prepared by the City and he is very familiar with the agreement and knows that it was prepared by the SRS legal counsel. Then given to the City and Conservancy District and asked to sign. Mr. Snow has noticed many deficiencies and draw backs and if he was our City attorney, he would not allow the City to sign. The indemnification provision in the agreement that sites Utah code that says you can only sell surplus water, at the current moment there is a surplus on paper, but we don't know what's in the ground. In a water lease agreement as substantial as this, 600-acre feet of water over a period of time that could be as long as 50 years, there is not a single call back provision on that. What happens if you no longer have surplus? Providing water service outside of the municipal boundaries would be in violation of Utah code at that time there is no surplus.

Michelle Galaria would like to let Mr. Snow have her three minutes.

Mayor Houston expressed that would not happen as this was set up at three minutes per person.

Tim Jacobsen an attorney from Wisconsin which is the center of frack sand universe brought a power point presentation with info. He asked for more than three minutes because he traveled across the country on behalf of the people to provide more information. He has heard a wonderful presentation from SRS and has heard concerns from citizens with a lot of hypotheticals on both sides. There is 130 frack sand facilities where he lives and sees the reality of those every day. He also represents people that live next to frack sand mines. He sees what they experience. This agreement is not simply a frack sand transaction, it is a long-term marriage with an industry that has a record of devastating communities. Some effects are depletion of water aquifers, water pollution, air pollution, pollution reclamation that fails to live up to promises. Frack sand mines failed to bring in prosperity to Western Wisconsin mines as they are closing all the time. Recently an expert was quoted by saying; "there are still frack sand companies trying to get mines permitted these people are either stupid or they don't watch the news because the industry is on a down turn." Mr. Jacobsen is concerned what the citizens will face if this is approved there is local citizens that will lawsuit. He ended by quoting Theodore Roosevelt, "There is nothing more practical in the end than the preservation of beauty and the preservation of anything that appeals to the higher

emotions of mankind. I believe we are past the stage of national existence when we can look on complacently at the individual who skimmed the land and was perfectly content for the sake of three years profit from sale will leave a desert from the children of those who were to inherit the soil” and by saying on behalf of the Keep Kanab Unspoiled group, he asked the Council to either table this proposal or turn it down.

Michelle Galaria thanked the Council and expressed hope the vote is delayed. She wishes the Council would vote no, but she would like to see the vote delayed until everyone is fully informed without people feeling unsure. As it pertains to water agreement, in letter D City contract is providing up to 600-acre feet, but Chad said they don't need any. Then he said that they only need 280 and of that they only want 140 from the City, so why the 600? Why any at all if they don't need it? Why does that number vary? Ms. Galaria would like to see a provision for natural recharge that there is a guaranteed amount of water that goes to natural sources first. Kanab City has no business to get into this as Chad said they don't need it.

Caralee Woods the vice chair of Kane County Democratic Party and also chair of the State Democratic Rural Caucus, expressed the Kane County Democratic Party is against this. In March of this year, the federal court halted fracking on public lands in Wyoming because the Department of Interior had not disclosed the cumulative climate change effects of this fracking. On May 29th, they extended the same ruling to cover Colorado and Utah public lands. This tells her that it will be sometime before fracking on public lands can occur in a three-state area. For now we know for a fact, the fossil fuel extraction industry currently accounts for 25% of air pollution. That is the elephant in the room, and this is supportive of fracking. Before this meeting Ms. Woods was talking to the Mayor saying fracking is a nasty business and what he said was “but that won't affect Kanab City.” That was breathtaking and short sided to her and everyone needs more information. Wait to find out what the hydrologists tell them. The nearest fracking that this sand will go to is New Mexico meaning these trucks will go straight through our town.

Helene Hedrear a small business owner in Kanab struggled with what she was going to say tonight. Up until Chad's presentation, she wasn't able to get information on the contract making it hard to prepare to make comments. She is glad she has been able to clarify it is a water lease up to 50 years as well as the price of the water being sold. She expressed she is not the only person in this town who feels they are being left in the dark about this water sale. Between June 22-June 28 she polled businesses along Highway 89 and asked business people whether they wanted City to sell drinking water. 73% businesses said they did not want SRS and City to sell water. Comments from survey were “our natural beauty of our landscape provides more jobs than SRS” and “ridiculous idea don't do it” “do not sell our water”. The common response that the owners didn't know or didn't have enough info to form opinion. She asked why the City is not waiting until studies are done. She submitted petition signed by 177 Kanab residents asking Mayor and City Council to obtain a comprehensive study before making decision. Any risk to aquifer will be impacted over time want to protest any diversion of water in that case.

Jim Walls thanked the Council for providing the opportunity, he was not sure he can do this effectively this evening as 3 minutes is restricting. The bottom line is to feverishly implore the Council to reject this proposal outright or postpone until more info is available. Ignorance is bliss. There is a difference between ignorance and stupidity. He acknowledged and thanked BF for hydrology review last evening and thanked the Chamber for providing info. One point which stands out is the preliminary model of the drawdown zones from the wells from which SRS obtaining water. The USG people provided diagram of drawdown, he thinks that this is preliminary depictions and isn't sure that scientific analysis models will reveal different picture. Fracture going directly from SRS well to our five water wells in that area. The model with circles could be depicted as a sponge so the whole thing is homogenous and if you suck water out of a place it is concentric water comes from fracture zone from aquifer. Mr. Walls explained if you take a basin and fill it with water and put sponges and pump water out it will drain first from the channel and the sponges will slowly deplete the water.

Emily Martin expressed she has lived here for three years now. She explained to the council that they are elected to represent the town and that includes planning for future. It looks pretty precarious when you hear all of this. This room is full of people who are here to protest the agreement with SRS and so many of them are here to sound the alarm. Hearing person after person saying to not go through with this agreement. Water is the most critical resource that we have here as the west is very arid and water is critical. We are learning that the aquifer is smaller, or sand dunes is best recharge if you take sand away what happens to recharge? A truck hauling sand could wreck and contaminate water that we use every day. Some people talking about dollars that might bring to local schools and her rebuttal to that is all schools in the State of Utah will get money from this. She asked how would that money be divided? 2.1 million will go into state treasury divided by the whole state is that little worth destroying the hills above Kanab? Ms. Martin asked that an overwhelming alarm being sounded and demanded they protect the country side. She urged the Council to not vote or table it, but do not pass it.

Shane Stotlar a Kanab resident rancher expressed he is not against this. As everyone keeps talking about trucks there's already 850-950 trucks going down the road what's 50 more trucks? The trucks they're talking about using are air tight they won't have things escape. As a rancher he is an environmentalist and cares about water and quality, every study we have seen shows we have water. If we have water and it's there and we can benefit from it lets use it. On top of that the 50 trucks and everything he has heard are going north and Kanab won't be affected, and they will be going towards the Uintah basin as that is their market. He wanted to say that his wife is dependent on tourism for her business and they are not against this and hopes they vote yes.

Zuzu Fader has been a part time Kanab resident for a few years and will make Kanab her permanent home. She was born and raised in Montana where a long history of people like this that raped the land and left the sites. She is a teacher in research and writing and in her role as training the next generation, above all else she impressed

upon the need for her students to make informed decisions. The City Council would have to do the most research and the City has responsibility to proceed with decision tonight without a full long-term study on the effects of tourism it is irresponsible and ill-informed. You owe it to the City for a full study to be done and know the full affects. Ms. Fader finished by saying to not wait for a full study is terribly poor research practice by any measure.

Noel Poe explained he and his wife life in the Ranchos, and he had a long speech prepared, but deleted most of it. He heard some things in the last couple of days he wanted to echo. The first comes from the meeting last night has he hears all of the time "we don't want to be like Moab" and talked some about the problems Moab is having with their water system. He is afraid that with approving the agreement to sell water, Kanab is headed in the same direction as Moab. He doesn't want to be like Moab and thinks no one else does either. Chad mentioned that they don't need the City water and if this is postponed or tabled, it can always come back later to be decided once the data shows that it's alright to move ahead. The UGS representatives said they would not use the information they provided to make a decision and he thinks that is important. The second thing he picked up from their talk is that they said they were happy to work with the City on a study and thinks the City should take advantage of that. He urged the City Council to take time with this decision and wait until the hydrologists finish with their second and third phase to really see what the best science says the situation is like around Red Knoll. We can wait a few months and make a decision after that comes out.

Joe Stewart explained she is not a descendent from Levi Stewart, but she is a direct descendent from three pioneer founding fathers of Kanab. Pedigree is obviously very important in Kanab and she wanted to explain hers. She has her grandparents copy of the first edition of *The History of Kane County* and in the chapter titled *Water: Lifeblood of the Community* she read, "The history of water conservation and diversion in Kanab is a dramatic story of continuous struggle and fluctuating periods of hope and despair. Few if any other communities have experienced such discouragements in providing the all essential water for irrigation and culinary purposes. The original source of supply of water was Kanab Creek with a flow entirely insufficient for large scale agriculture. From the beginning of her history, Kanab was faced with a problem of obtaining water from supplemental sources or curtailing her growth." She continued with given what our forefathers fought for to get this town established, they went through bloody hell trying to keep the landscape watered, her question was "how could you even consider selling water?"

Melissa Silvey a resident and homeowner expressed she heard the gentleman say we aren't going to expand beyond this because they are good guys. She has never met a good guy when money is involved. She wants more guarantees that they are good guys because usually when she hears that there is one hand shaking her hand and one in her pocket. They said they don't need water then why are we considering this? Who really benefits from this as it doesn't appear to be the City of Kanab.

Tony Zimmer explained there has been one person come up here after the presentation to support this, everyone else is against this, the voice of your people giving you the obvious angle that they want them to go with. It's obvious that nobody, but a few people want this.

Laura Klina started out with quote spoken at water meeting the day before by Chad "SRS totally agrees that study is inadequate". Mrs. Klina explained she moved to Kanab last May and is the proud owner of a bed and breakfast business at the Stewart Wooley house. She moved from Pennsylvania with a master's degree in mental health. She worked in Cedar and practiced as a mental health therapist for years and knows quite a bit about helplessness and accountability. What she has observed from the City Council is that they are expressing both helplessness and denial of responsibility in the responsibility of voting. They speak as though their hands are tied. They should pause and give themselves credit that their actions are under their control. Whether they vote for it or not that is their choice. As for their accountability they have received countless emails, letters and face to face meetings and have had time to examine research from both sides of the issue. They have had time to research the impact to the community. They say that they have done their due diligence, but there still isn't enough information. Their constituents elected them into office because they trust that they will make sound decisions and will examine their welfare before making decisions. They should feel proud that they are chosen to represent the people. She encouraged the Council to let someone else lease the rights to them and to not put blood on their hands when things are going to happen. When constituents ask them to vote no, please do their due diligence. "You are not obligated to be the person you were five minutes ago and neither does your vote."

Glen Parrent expressed his concern for the Council at the table that evening. He explained Mr. Staheli should never have come to the City months ago in the first place because he told them he didn't need the water, so what does he need? He wants the City's seal of approval on his strip mine. The Council is being used and they need to think about that. Being used to give a seal of approval on something nobody wants.

Josh Klina, Laura's husband explained tonight we have a unique opportunity to make a decision for not just us but for generations to come. We had a presentation by a hydrologist with familiarity in Moab who said their water table had dropped 20% due to simply climate change not to mention increase in growth. We have to conduct the same studies in phases. There needs to be time to get the information done correctly. The economy in Kanab is 40% tourism, if putting a mine in Kanab is going to affect this the stakes are very high. Review impact and hydrologist studies because if we are wrong then the whole town suffers.

Scott Colson began by apologizing to anyone who was offended by his prayer at the beginning he did not mean any offense to anyone's personal beliefs and he supports the right for anyone to believe what they want and hopes they allow the same to him. In no way did he mean to offend. Mr. Colson has had a lot of time to get to know the Council in the last two years most of them know he gets emotional but relies heavily on

objective information to find the answers needed. He thinks that is where the focus needs to be with this issue. They can get objective information to help provide them with the answers that they need. The Council has been provided a lot of information and he knows them and knows the engineers and if the Council felt that it is sufficient then he would trust their decisions. If they don't feel right or if there are questions on whether or not they have enough information, he would encourage them to seek more information that we don't have. Along with being objective, he thinks it is important for members of the community as well to measure all of the industries we deal with by the same standard of scrutiny. Our tourism industry is also a major player in our community and yet he sees it is going un-scrutinized in this conversation. Our tourism industry injects millions of vehicles a year into our community and thousands of tourists busses a year and they are responsible for what he believes is the destruction of some of our natural treasurers. If you've been to The Wave in the last year you would understand what he is talking about. Tourism is not a guilt free industry and we shouldn't just be putting all of our eggs in that basket saying that it is a guilt free industry. There are costs that are associated with all of the industries. Millions of gallons of year are soaked up by those who pass through our community, but we accept those losses because we are willing to see the benefits as greater than the losses. Best Friends is another example of that in there are a lot of negatives that Best Friends has they have done a lot of things that we are concerned about here. They have created a negative impact on the Sands, noise pollution and have created more traffic up there than was there before. But we agree that they are a benefit to the community more than a negative. So, everyone needs to step back and detach from the issue, look at the objective information and decide what is best for our community based on that information. One of the greatest things about our community is diversity but diversity isn't a benefit it's a penalty if it keeps us divided. If we can overcome that division our diversity is a strength. Mr. Colson finished by encouraging everyone to overcome the diversity division that faces our community.

Tim Clarke expressed he wrote a letter today that was sent to the Council and Mayor. For the record he walked into the line because that gentleman was being harassed and heard what happened. He would also request that the Council is open minded and come to this open minded as he has been to other meetings in the several years he has lived here and has got the impression that the decision had already been made. He hopes they are listening and hopes they won't give silent majority nonsense that he has heard before. He asked the Council to please be open minded and do the right research otherwise they are not making the right decision. He read his letter as follows, "He is alarmed at and totally opposed to the proposal to sell our drinking water for the proposed Red Knoll Sand Mine. First of all, may I respectfully remind you, and I have been a public elected official myself as a town councilor, planning and beautification serving communities in Southern Utah. May I respectfully remind you all of the duties all elected public officials is to protect and enhance the lives and futures of their residents. The proposal to sell our drinking water would achieve the very opposite of protecting our community. It will irrevocably harm us and would be a disastrous mistake or could be a disastrous mistake without seeing consequences. We don't know what the consequences are because we don't have the information apparently. Second of all, to

state the obvious water is gold in the south west. Furthermore, water rights and supplies are becoming more contentious as our climate keeps changing. To gamble with our drinking water for a percentage of short-term gain would be rash and foolish. We must do everything we can to protect and conserve our drinking water resources for current and future generations. Lastly, our leaders should be encouraging economic development that will protect and enhance our community and our quality of life. Not selling out our resources. The few positives of this proposal are vastly outweighed by the negatives, encourage you to get more information before you go into this blindly.”

Yermo Welch explained there was a man that came to town with a map that decided to go out digging for the gold. With that, what we're talking about doing now has a lot of consequences digging a hole looking for gold didn't have that many consequences. It's been said before that this has potential to affect generations to come, if the Council doesn't do something that is sustainable, you're not going to be able to continue as a community. He finished by saying Montezuma's Treasure the real gold is the water and everyone knows it. Please listen to us.

Victor Cooper explained he owns Rocking V and has lived here for 20 years and has seen this movie before. The coal gasification plant was going to bring lots of jobs, and everyone was excited and when they got down to it, it wasn't much, and it didn't happen thankfully. There's no plan but there's talk that we will do this and that. A plan has detail and is written down and this is short of that. As a camera man they talked to everybody about the oil spill in Alaska. They asked the people in charge of the cleanup plan what happened, and they said there was a plan in place, but things didn't get done. He is leery of this that the plan is short on details that should be written down. This just doesn't sound like the homework was done. Kanab seems right for people to come in and target us and do something that benefits them. If they don't need water why are we doing this? If we don't have a final study why are we doing this, water is gold and is very important. He has heard at meetings over the years that our children and our grandchildren over and over how's this going to affect your children and grandchildren? What if we run out of water, how will this affect them? Decisions are only made short term and it's about money, greed and power. Mr. Cooper explained if care about your children take time to consider this there is no rush or deadline. You are in charge of your own decisions, is this the base of your actions? If you care about the future take time to do homework and get all info as possible.

Christie Bundrick moved here from Cedar, she's a psychologist and thinks that some of the people need to hear her mother as she would say your middle name if you were in trouble and "don't be ugly" or "I'm ashamed of you". She thinks what she would like to say is there is a bunch of good people here and doesn't like what happened, but people get pushed and she gets it. Ms. Bundrick continued with we all need to come together and you're never going to like the other persons beliefs. Some of you should take it down a notch and quit the eye rolling and nasty comments. And stay off Kanab Classifieds its forever and it's the internet. She finished by saying there is all good people here and all have one thing in common we all like living here. We all need to figure it out. Most of you are good people and should listen to the experts.

Gale Barigan a property owner in Kanab thanked the Council for the opportunity to speak. She also thanked Jeff Yates for actually asking question of presenters. She serves on planning commission herself and it's her job to interrogate the projects. She asks the questions to help community understand. There wasn't a site plan presented they have info the community doesn't have and thinks what we heard tonight if she was on the commission she would have had some questions about some of the protections the City might have for themselves i.e. water contamination rights, how would they hold the company accountable? She believes this is too simple and needs to be further interrogated. This water project decision on water has opportunity to use water for planning the kind of City to attract people to this area for the beauty. She expressed it doesn't take a genius to understand there will be harmful impacts. She encourages the Council to ask more questions. Ms. Barigan finished by saying she didn't hear a real considered evaluation with maybe the exception for one or two questions.

Robin Hendrick spoke as a private citizen who's interested in water rights. If Kanab City does not sign on to this agreement what are our rights as far as impairment of water goes? The answer to that was we could enter into litigation, what he didn't say is that if we do sign on this lease, if Best Friends sues it's not SRS that's responsible the City would be. At the same time, you are contractually obligated to provide 600-acre feet of water to Southern Red Sands.

Doug Dewitz wanted to commend two people, the gentleman in the hat and this one back here Scott, he's been to a couple of these meetings and Kanab is changing and this has been a divided community for many years and many reasons these two people came up and expressed a desire to represent their beliefs, this will be the future of Kanab. More people will come here no matter what we will work together on this. He would like to see the other major water users be here to express their opinion. HE expressed ranching is under threat throughout the southwest. We should get everyone in this room to sit down and figure out how to grow this community.

Joe Decker read a letter from Laura Clayson. "I am writing a quick note because I may not be able to attend the meeting this evening. I have been personally following the SRS water proposal and have also followed it as an employee of KCWCD. I would like you as my representatives to know that I am convinced this will be a beneficial addition to our community. I love this area and love that my child will have close to the same childhood here as I did. I believe this project is headed up by a team that has rural Utah values and that much of the calls against the project will prove to be false or are not issues within Kanab Cities jurisdiction. I would love to see added revenue so Kanab can continue to put money into water and waste improvements. We have lots of things that could use a little lift and extra money added in the budget seems like it would be very helpful. Even though the question of if this plant is worthy or positive is not the question of the evening, I would like to say I think it will be! 40 new jobs that are year-round and pay a good wage sound awesome to me! Businesses this size that give a micro boost here and there to our employment options are great because they don't come in and over run the town, but slowly strengthening it over time. In closing I am

personally in support of Kanab City providing SRS project water. Thank you for serving on the City Council.”

Mayor Houston thanked everyone for their comments. People got to say what they wanted to say, and he felt like everyone listened. As we went along, he wondered to himself how could you possibly be in favor of this. He realized he has two reports that no one even talked about that describe the recharge rates in this aquifer. The presentation made last night did not take into account the recharge rate. The information that was provided by Hugh and Paul did not take into account the very significant recharge rate. If you look at the Water Resource Investigation Report 90-4105 page 17 “Sources of Recharge to the Navajo Aquifer; Recharge by precipitation on the outcrop 5,500 acre-feet per year to 110,000 acre-feet per year.” The report ends by leaving a net increase of 18,000 acre-feet per year. He hopes they can understand where the Council is coming from with these reports which were reported by the USGS with the National Park Service and the Department of Natural Resources. The Councilmen has had the reports and has had time to go over them. Also, the comments submitted to the paper and emailed to the City have also been mailed out to the Council, so they have had time to go over them as well. Mayor Houston continued by saying regardless of what the Council does, the project will go forth. The ultimate decision will be made by the State Engineer. If the City does not join in now, they potentially leave as much as \$300,000 a year. Regardless of what the Council does it will go to the State Engineer. If the Water Conservancy District takes this and Kanab City steps out, they still will be pumping out Kanab City’s water.

Byard Kershaw explained he is a geologist and has worked on the oil fields as well. The energy and mining industries are fickle. He wondered how many more final reports do we need. Bureaucracy at its finest is needing one more report after report and in the meantime, nothing gets done. Talking about selling water to the City, everyone is sold water from the City. SRS won’t mine public lands overnight.

Jeff Yates asked Cody Howick, Kanab City’s Engineer, if he thinks we have sufficient water in our aquifer. Cody Howick explained he is neither for nor against this project, his job is to just provide accurate data he can so that a decision can be made. He also is the City Engineer for Moab and knows their problems. Kanab has done a great job of planning. They just recently completed master plans of every utility system in the City with 20-year projections of where the City will be with growth. One of those is water and they know the facts of what they have for water. Any development that comes into the City they can plug it into the equation and know the affects it will have. When you look at this development, it has no effect on the storage or distribution system, but it does have an effect on the water rights and the source. In the grand scheme of things, the City has the ability right now to pump 4,000 gallons per minute. Right now, we need about 1500 gallons per minute to keep the City running. We have a three-time surplus pumping capacity now. In the water master plan, there is \$13.4 million worth of improvements for the next 20 years. To be able to meet state requirements for the culinary water system and he wonders who will pay for all of that. They are seeking grant funding but typically that is a burden the City has to pay. Jeff Yates expressed he

struggles with the many hard things on either direction of this issue. No matter what you do you will upset large groups of people. He asked Jeff Stott if the indemnification clause is sufficient to protect the City. Jeff Stott answered no, and said he got a copy of the agreement last week from the outside attorney that prepared it. He thinks the indemnification clause should be taken out or reversed. He thinks the idea behind it was they wanted to make sure if the City was sued that SRS couldn't be dragged into it. The indemnification clause should be reversed so that SRS would be indemnifying and holding harmless the City. Or they could indemnify each other. His job as an attorney is to not get political his job is to protect the City's interests and that interest now is water. He also thinks of worst-case scenario and that would be because of the mine there could be a ten-year drought and that mine starts to take the City's water. From a legal perspective he would prefer the City has a contractual right to tell them to stop using the City's water. If the City is only going to rely on regular water law, it is complicated and difficult in court. It would be better to have a contractual right in the agreement to stop them from using the water. We can better protect half of the water they're using if there is a provision talking about how the City could stop them from using all of the City's water. Utah talks about only selling surplus water not any water the City is currently using. Jeff Yates asked what you do to protect the City's interest. They're going to get the water from the same aquifer. How do you protect the City to protect the ability to do that in the future also. The water attorney's opinion is that the agreement is sufficient. Jeff Stott would like the language to be stronger although the water attorney thinks it is okay. Jeff Yates doesn't want to be in the situation where your industry has an effect on the City giving you water service. For every water hookup that is done outside of City limits, do we need to have a public meeting and go through this process every time?

Michael East thought it was interesting is that the golf course used 61 million gallons of water every year. Golf courses don't water in the winter time but that amount of water was not over a 12-month period of time and during that time the City did not have a shortage of water. Mr. East thinks the City has sufficient water for 73 million gallons of water for SRS. This has nothing to do with fracking and he understands that many want it to be about fracking, but this is about water and whether or not the City has sufficient water to sell. He used an analogy, saying that if he is opposed to alcohol consumption. Does that mean that we shouldn't sell water to liquor stores or restaurants that serve alcohol because he might have a moral problem with alcohol? He thinks they would all agree the answer to that is no. He thinks they all know that would be extreme government overreach. Just because they agree or disagree with fracking doesn't mean they shouldn't sell water to SRS. They are not fracking in Kanab they are selling water. There are lots of reports that say the City has sufficient water. They don't know for sure but believe it based on reports, if he is wrong there is case laws that says they stop providing water. The water users now take priority over the water they will sell to SRS. Mike Noel mentioned at the meeting last night that there is prioritization that takes place. The aquifer is not recharged exclusively by this area. It is a big aquifer that covers a lot of ground. If you remove this sand, there still will be recharge. Rick Hafen who is the City's attorney who worked on the agreement and everyone red lined it collectively. It pisses him off beyond believe that Kanab City's attorney who was also

involved in the whole process is now saying that he wishes there was stronger language. He wondered where that comment was when they were drafting the agreement. In terms of Mr. Staheli saying he doesn't need Kanab City's water, because he has an agreement with the Conservancy District saying he can have 600-acre feet of water. He wants to use Kanab's water if they want to sell him the water. The question then becomes about money, they will get the water one way or another as it is on SITLA property. The \$2.1 will go into the school's trust fund. Most of that will remain on the Wasatch Front and there isn't a requirement for it to come back to the County it was earned. It will be a small amount per student, if Kanab will receive any benefit other than the 40 jobs it is to sell water to SRS. \$136,000 per year to the City that could be used to update and replenish our water system. The effects this will have on tourism is dependent upon all of us. If we continue to put stupid signs on the corner of town that talk about "no fracking" which tourists are going to see they are going to know what they have up there. So they have to understand if we continue to blow this up, then tourists will see it and stop coming. The sand mine is something people are going to readily see unless we draw attention to it. We will be our own worst enemy on this situation if we continue to blow it up.

Celeste Meyeres asked Jeff Stott what the process would be if they wanted to change the indemnification part, it wouldn't delay the vote, they could add it as a condition in the motion. If they put a motion forward to pass it pending a change in indemnification and SRS agreed if they did not agree what would happen? Jeff Stott said they would have to come back, and the new section would have to be negotiated. Celeste Meyeres explained that she sees a lot of people she cares about and it pains her to see them feeling like they're not heard and angry. It goes against her beliefs to play favorites on businesses.

Arlon Chamberlain explained he has gone back and forth and has researched it all he can to get the best grasp as far as the water sources and things like that. He hiked the proposed area and found more out about it. This will be on SITLA land and if they have to go on BLM land it will be a different process. When you calculate how much sand there is there and how long it will take to get through it it could be 15 or 20 years and once they applied and could mine on BLM land that would take about 60 years to get through. Who knows what could happen even in ten years. The matter of the fact is he thinks that there is plenty of water there to be used. The citizens do have priority on water use if it becomes a critical need. In talking with the engineers and in reading the studies there is a lot of water there. He is concerned about the trucks although the Navajo Plant will be closing down and so the trucks that go through here will cease to come through Kanab. When he was younger, Kaibab Industries had over 250 trucks that hauled lumber through Kanab. Arizona fuels also had about 150 fuel trucks that would go through every day. Growing up he didn't notice them as much and he doesn't think the trucking from SRS will be as big of an issue as they might think. Mr. Chamberlain doesn't think it will destroy the aquifer because as they mine, they will reclaim the land. He really thinks the project will benefit the community by supplying jobs.

Celeste Meyeres asked Melodie Hinote about her comment about not getting water in the Ranchos and talked to Arlon about that and the City was not incorporated at that time and didn't have the infrastructure. The City selling water outside of the City limits is not a new thing and she wanted everyone to know they aren't making a special exception for this project.

A motion was made by Jeff Yates and 2nd by Michael East to enter into a contract with Southern Red Sands with the condition that the indemnity clause meets the satisfaction of the City Attorney. Arlon Chamberlain voted aye, Celeste Meyeres voted aye, Michael East voted aye, Jeff Yates voted aye and Byard Kershaw voted aye. Motion was passed unanimously.

A motion was made by Jeff Yates and 2nd by Byard Kershaw to adjourn the meeting. Motion passed.

Mayor

Recorder