

Kanab City Council Meeting
July 23, 2019
City Council Chambers
26 North 100 East
6:30 PM

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

Michael East and Arlon Chamberlain excused. Mayor Houston called the meeting to order and roll call was taken. The pledge was led by Celeste Meyeres and Jeff Stott offered the prayer.

Approval of Agenda: Mayor Houston explained the last item on the agenda was listed in closed session and will be discussed in open session. A motion was made by Jeff Yates and 2nd by Byard Kershaw to approve the agenda for July 23, 2019 with the amendment that the vote on the Interlocal Cooperation Agreement for the Establishment and Operation of the Kane County Major Crimes and Drug Task Force be moved to open meeting agenda. Motion passed.

Approval of Minutes: A motion was made by Byard Kershaw and 2nd by Jeff Yates to approve the meeting minutes of July 9, 2019. Motion passed.

Approval of Accounts Payable Vouchers and Check Register: A motion was made by Celeste Meyeres and 2nd by Jeff Yates to approve the accounts payable vouchers and check register dated July 23, 2019 in the amount of \$166,570.43. Motion passed.

Public Comment Period:

Jo Ann Rando Moon explained she is a twenty-year resident of Kanab and is concerned about the sale of water to Southern Red Sands. Twenty years ago, when she worked at Best Friends, one of their wells went dry there and they had to truck water in from Fredonia every day for at least a week. If that could happen then, it could happen with any wells there at this point. There was discussion about the golf course using almost as much water as SRS will need however, the City decided not to continue the contract with the golf course six years ago for water and that is why the golf course is closed because they had no access to water anymore. The City didn't want to use water for the golf course; however, they're going to send water up to the SRS project. It actually makes more sense to have a golf course in town. Ms. Moon doesn't think it is wise to take a chance of running out of water.

Laura Klina explained to the Council as elected representatives they represent not just who voted for them but all of Kanab City. There are many different people that make up Kanab and not all of the same type of person is opposed to the SRS frack sand mine. Not all of those against the contract are against SRS and the industry of frack sand mining, but they do have concerns about the impact of their water and the City's water.

The Keep Kanab Unspoiled citizen group was named to reflect the importance of the virgin beauty of our surroundings. They came together to better educate themselves and others on the risks that frack sand mining imposes on our community. Many have joined their group after doing independent research and coming to the same conclusion – this is a risky business proposition for their health, welfare and safety. It is also economically risky and environmentally reckless. Mrs. Klina expressed she is proud to be a part of that group and was present on behalf of those who were unable to attend to repeat this in their statements to the Council: Outraged Kanab residents are not going away. They care deeply and will work to protect their town and their people. The lawyers present at the City Council and County Planning and Zoning meetings were not there to “threaten” anyone. They offered their expertise in municipal and environmental law to meet with, educate, and warn the Council of critical concerns with this type of business and damage to Kanab’s water source. They too are trying to protect the City of Kanab. She asked if the City Attorney overlooked a clause that made SRS free from any liability. What if the Council had signed that? What about their word that they would make a decision based on the recommendations of the UGS report? They said their report was insufficient to make such a decision. If this was their recommendation, she asked why doesn’t the Council keep their word and follow it? As noted, the City Attorney was not in the discussion for the contract, but how many Council members were present for the numerous changes made in the contract over the months? Did they actually see the final copy? And she also asked, why didn’t you make the final contract public? What else is in there that leaves the City vulnerable to lawsuits from SRS? Who will take responsibility if we run out of water? Where is the Council at with reviewing the contract? Many have asked the Council to rescind the contract. The sooner that is done, the less likely the City of Kanab could face serious damages by SRS. Mrs. Klina finished by saying this is not a stable business transaction for the City, and the risks to our water and respiratory health far outweigh the benefits.

Mayor Houston explained the SRS contract was published with the agenda for that meeting on the Utah Public Notice Website.

Mary Beth Kuntz wanted to reference the Rules of Civility in Kanab Ordinance 3-601 that statement is on every agenda and number 7 of that ordinance states, “Those making comments shall not make personal references or attacks on the reputation of the public.” Ms. Kuntz read a paragraph: “During the July 9, 2019 City Council meeting one City Council Member publicly chastised the Kanab City Attorney. The Mayor slammed the gavel down several times. A past State Representative was escorted out by the Kanab Police as was a Kanab citizen. And the same councilmember claimed that the signs are stupid.” She explained she has a stupid sign in front of her home in Cedar Heights. She is somewhat disenchanted and dismayed by the previously mentioned behaviors of the City Council member. She asked where the rules of civility are for the City Council members as they are the trusted servants. Mr. Hurlow and Mr. Inkerbrant, hydro-geologists from the UGS stated, “I would not use this information to make decisions.” The Kanab City Council ignored that statement and decided to go ahead with the contract. She feels that science and subsequent experts were ignored. Now she is even more confused because between the City Council meeting and the

County Planning and Zoning meeting that was held as the number of silos increased and if one well will be drilled or two. SRS is a startup company without past documented results, where is the business plan? Between the information provided at both meetings she feels that SRS has not been forthright. She wondered why the contract hasn't been made public but heard what the Mayor said and will go to the Utah.gov website to see it. She is among the Utah's minority and feels excluded by the dominant culture. She encouraged the Council to be truthful and direct with all Kanab citizens. She requests that decisions be made in the light of day. She feels like there is too much secrecy and vagueness in the town which feeds legitimate concerns with transparency as has been mentioned before. The Kanab City government needs full sunshine. She requests that the Council rescind the SRS contract and reminded the Council that they are trusted servants, elected and appointed officials with responsibility to represent all of them. She finished by saying she knows their service is time consuming and thanked the Council for that.

Emilie Martin explained she also feels rather ignored as the Council's constituents. They elected and trusted them to listen to them and when looking at the last edition of the newspaper a large percentage of their constituents feel ignored. She asked that they review the SRS contract and seriously look at every part of it. She expressed the Council pulled the wool over their eyes. The number of wells changed and so did the number of silos. The Council needs to be open with the public. And they need to think about the well-being of the resources as water is a very finite resource. She lived in an area with limited water that was sold, and everyone got greedy needing more. This contract leaves the City vulnerable, really hopes the contract is rescinded.

Lattimer Smith explained he shares the same concerns that everyone has mentioned, where his mind goes is the bigger picture. The bigger picture is a rapidly changing global climate that is fueled by our reliance on fossil fuels. And he sees the frack sands as something that continues business as usual and it is an undeniable fact if you read the executive summary of the climate report that came out last year to see that if we continue down the path of promoting fossil fuel development that we're really doomed. We have a responsibility not just on a national level but in our local government as well. His question to the Council, considering what we're facing on a global scale, why is the town of Kanab getting behind something that just continues business as usual with something that helps fossil fuel development. Why aren't we looking forward instead of staying in what is soon to be the past.

Jim Walls explained he is a loyal proud citizen of Kanab but also concerned. Remarks were designed to ask the Council to reconsider the contract entered in with SRS. He asked the Council to rescind the contract on the basis that it needs to be carefully reviewed and more facts be made available to both the Council and to the citizens of Kanab. Most comments in the past meetings explored the consequences of using a huge portion of Kanab City's water extending out to fifty years but his concern, as he didn't know the contract was available to read online, is addressed to the other end of the question as there seems to be no part defining the annual minimum payment to the City through the contract. And yet, he understands that another clause in the contract

indemnifies the SRS Corporation. He read a sentence defining indemnify, “to indemnify someone is to assert the losses caused by that party or to compensate that party if something you do or fail to do causes them to experience loss, damages or to be the object of a lawsuit from a third party.” It seems like Kanab is selling SRS a five-gallon bucket of water for a penny and they’re getting exemption of any kind of damage in return. He thinks this is a necessary point that should be reviewed and corrected. Mr. Walls feels like vilifying the rogue group of concerned citizens for stupidly engaging in the constitutional purgative of free speech by exhibiting signs on public property as the law allows is not a particularly acceptable behavior from any public official. He thinks the original ground rules were to analyze this contract or opportunity with reports and analysis. Without calling for another redundant review of another bureaucratic go-around he thinks that they need some actual factual studies that can be analyzed and weighed on the balance. Mr. Walls thanked the Council for the time to speak.

Sandy Katz commented about the timeframe of 18 months has been thrown around about how long SRS has been talking with the City. She looked at her water bill and noticed that it has gone from a volume of 10,000 gallons per month to 7,000 per month last July. Last year there was an increase in the water bill. She wondered if it’s been 24 months ago that SRS was having conversations with the City and that is why the volume allotment increased. As far as the signs go, it is short sited that the tourists will see the signs and that is the only way they will hear about this.

Bart Battista commented about the indemnity clause, during the previous Council session Mr. Stott said he was concerned about the clause and asked the water rights lawyer if it was an issue and he said it wasn’t. So now we are going to send a re-worked indemnity clause to the same person to see if it is alright and he hopes the City does take into account the concerns.

Mayor Houston explained he tried to say this in the last meeting but maybe didn’t do a well enough job. Kanab City can withdraw the contract with SRS right now, but that is not going to stop the project from continuing. The Water Conservancy District has provided them with enough water that they need. He has gone over all of the reports and it shows there is enough water. This will go to the State Water Engineer for approval not to be decided by Kanab City. Kanab City has the possibility of losing \$300,000 per year if they pump at the maximum amount. The City could withdraw but the project will still continue, and the City would lose that much money a year.

Discuss – Vote on Zone Change from RA to C2 on Lot 1 and 2 of Johnson Hills Minor Subdivision Parcel K-14-6-Annex. Applicant Victor and Paul Patel: Mike Reynolds explained this zone change is actually located in the C3 zone. The C3 allows the same thing they wanted to do in the C2 zone, but the C3 is more appropriate. This was part of the Johnson Ranch and was subdivided into three sections. The Patel’s bought two properties on the south side of the highway and they are planning on putting two hotels and some cabins. Not like the cabins across the street. This qualifies for the zone change and follows along with the plan. Further east on Chinle Drive, they are working on entrances along the highway and also looking at moving 900 East to provide

better access and more separation. Traffic studies are happening there. There will be additional businesses in the area. Mr. Reynolds is in discussions with a developer to put in a RV park near Amerigas. They discussed requiring a traffic impact study for that area as well to show at what level the road may need improved. Celeste Meyeres explained the discussion was pretty cut and dry, at such a time Chinle would be improved who would bear that cost? It was explained the developer would bear that cost. Local citizens would not be responsible for implementing the needed infrastructure in that area. Maintenance would be the City's responsibility; improvements would be by the developer. Mayor Houston explained the City needs to have an idea on how much the road would need improved and how that would be paid for by the people causing the impact. Developers are only required to improve to the end of their property and each person would be responsible for their property. Jeff Stott explained that the condition the Planning Commission recommended was that they must do and fulfill the requirements of any traffic study before getting a building permit.

A motion was made by Jeff Yates and 2nd by Celeste Meyeres to approve the zone change from RA to C3 on Lot 1 and 2 of Johnson Hills Minor Subdivision Parcel K-14-6-Annex with the conditions recommended by Planning Commission. Motion passed.

Discuss – Vote on Ordinance 7-1-19 O “An Ordinance amending Kanab City Land Use Ordinance concerning Chapter 13 Recreational Vehicle Park with Extended Stay Option”: Mike Reynolds explained this is to allow an extended stay RV park as most are 30 days or less. They wanted to make sure the RV parks don't turn into low income housing. Celeste Meyeres made recommendations for changes. She talked to Carl Zander the developer about the ordinance and in section 13-4 #6 he didn't think clay would be compatible with hard surfaced roadways. Mr. Decker explained international fire code and it does have to be hard surfaced. This section can't be changed. #3 in that section it mentions open spaces and then requires developed recreational areas and doesn't leave wiggle room for open space or habitat for wildlife. Can this area just be open space and not developed, Mrs. Meyeres also suggested leaving that up to the developer. Section 13-3, B. “The remaining land not contained in individual trailer spaces, roads or parking, shall be set aside as park, playground, or service areas for the common use and enjoyment of occupants of the development and of visitors thereto.” Another change she requested was to delete section 13-2 letter B. Too difficult to define what adequate shopping facilities are. And add #1 in with B. The third change was also in section 13-2 letter F #3 letter i, changing the *and* to *or* in “..buildings, walls, hedges and other landscaping...”.

A motion was made by Jeff Yates and 2nd by Byard Kershaw to approve ordinance 7-1-19 O “An Ordinance amending Kanab City Land Use Ordinance concerning Chapter 13 Recreational Vehicle Park with Extended Stay Option” with the amendments that were discussed and recorded. Motion passed by roll call vote.

Discuss – Vote on Ordinance 7-2-19 O “An Ordinance amending Kanab City Land Use Ordinance concerning Chapter 19 Kanab Creek Ranchos KCR-720 Zone”: Mike Reynolds explained they are looking at the design standards for a two family

dwelling chapter. There are sewers on Escalante Drive that people are wanting to build duplexes and connect to. The new homes that have been put in in the same area have also connected to the sewer system. Due to the shortage of housing and people wanting to build duplexes, the Planning Commission thought they could do that in the KCR zone, but they need to be connected to sewer. In section 19-5 all of letter J was deleted. Jeff Yates asked about in section 19-7 #4 it talks about the minimum lot size for a two-family dwelling is 10,000 with (13,000) also. The Planning Commission also asked the Council to consider chapter 14 of the General Ordinances as it talks about being unlawful for people to not be on the sewer if they are within 300 feet. As they haven't noticed it for this meeting, they can't talk about it here yet. Jeff Stott explained they are supposed to think about that ordinance as well or address it in the future.

A motion was made by Jeff Yates and 2nd by Byard Kershaw to approve ordinance 7-2-19 O "An ordinance amending Kanab City Land Use Ordinance concerning Chapter 19 Kanab Creek Ranchos KCR-720 Zone with keeping the minimum lot size 10,000 square feet to be consistent with the other single family lot zones and striking letter J in its entirety. Motion passed by roll call vote.

Discuss – Vote on Ordinance 7-3-19 O “An Ordinance amending Kanab City Land Use Ordinance concerning Chapter 22 Outdoor Lighting”: Jeff Stott explained Janae from the City was asked to create a flier to give out to new developers about the lighting and found some confusing points in that flier based on the ordinance. They went through and cleaned those up and found some more to clarify. The idea was just to make changes to clean it up not any substantive changes.

A motion was made by Celeste Meyeres and 2nd by Byard Kershaw to approve the ordinance 7-3-19 O “An Ordinance amending Kanab city Land Use Ordinance concerning Chapter 22 Outdoor Lighting”. Motion passed by roll call vote.

Discuss – Vote on Interlocal Cooperation Agreement for the Establishment and Operation of the Kane County Major Crimes and Drug Task Force: Joe Decker explained the last agreement was passed in 1990 between Kanab City and Kane County. And this is the creation of what used to be the Drug Task Force that morphed into the Major Crimes between KC and KCSO. The agreement has been back and forth between the County and City attorneys as well as Police Chief Tom Cram and the Sheriff. The only change Mr. Decker explained is that it talks about one payment annually and right now it is paid quarterly every three months. If the whole organization is dissolved everything will be distributed between everyone.

A motion was made by Jeff Yates and 2nd by Byard Kershaw to authorize the Mayor to enter into an inter-local cooperation agreement for the establishment and operation of the Kane County Major Crimes and Drug Task Force with the change that the payments will be made quarterly not annually. Motion passed by roll call vote.

The meeting was adjourned by Jeff Yates.

Mayor

Recorder