

Kanab City Council Meeting
April 26, 2022
City Council Chambers
26 North 100 East
6:30 PM

Work Meeting: Arlon Chamberlain explained Planning Commission had two items at their previous meeting and they will both be discussed at the Council meeting. Michael East expressed the Parks and Recreation had their first meeting which was very productive. They are in the process of searching for new members for the Beautification Board. Chris Heaton explained that the Heritage Board had their first couple meetings and everything is going well so far. Scott Colson explained that some of the projects are done as far as roads the 1100 South road realignment has been finished and he is still meeting with some public regarding the Airport as well. Celeste Meyeres expressed there are losing an Arts Board member, so they are now looking for a replacement. The meetings for Arts and Library Board will be next week.

Mayor Johnson summarized the status of the City Manager hiring process. He received the top picks from the Council and have narrowed it down to whom they will interview as of now. The interviews will take place next week with Council Members Michael East and Celeste Meyeres present. With the consent of the applicants the Zoom meetings will be recorded for future viewing. There will be eight applicants interviewed and Katherine will contact them and let the Council know the plan.

The prayer was offered by Arlon Chamberlain and Chris Heaton led the pledge. Mayor Johnson called the meeting to order and roll call was taken.

In Attendance: Mayor Colten Johnson, Council Members Arlon Chamberlain, Michael East, Chris Heaton and Scott Colson. Council Member Celeste Meyeres joined by phone. Treasurer Katherine Ohlwiler and Interim City Manager/Attorney Kent Burggraaf also in attendance.

2.Approval of Minutes: Katherine Ohlwiler explained the updates she made to the minutes after they had been sent out regarding a misspelled word and what Celeste Meyeres explained in the beginning about Jana Beebe, an employee of the library who was retiring but also still making herself available to work part-time there.

A motion was made by Arlon Chamberlain and 2nd by Chris Heaton to approve the April 12, 2022 Kanab City Council meeting minutes as amended. Motion passed unanimously.

3.Approval of Accounts Payable Vouchers and Check Registers: A motion was made by Michael East and 2nd by Chris Heaton to approve the accounts payable vouchers and check registers dated April 15, 2022 in the amount of \$1,344.33; April 19, 2022 in the amount of \$151,769.57; April 26, 2022 in the amount of \$360,317.40. Motion passed unanimously.

4.Public Comment: Talmage Daley with Garkane, explained that is has been brought to his attention that the city is planning on vacating streets near Powell Drive near the north entrance

of the Ranchos neighborhood. There is major electric infrastructure that Garkane is concerned about as there is a franchise agreement between Garkane and Kanab City for access to that infrastructure.

Vince Vincent wondered if there will still be the Wave Lottery. If there is not a Lottery anymore then the signs should be taken down. He also asked about Trail Fest rumor that the city isn't wanting them in Kanab. Mayor Johnson explained that is false they are just moving them from the baseball fields and have met with them to find solutions.

Sherene McClellan, President of the Kanab Area Vacation Rental Association read a letter that was read in public comment period. (See attached.)

Ben Clarkson wanted a little clarification on the SITLA Zoning issue, the vote resulted in a 4-3 vote at Planning Commission. His concern was that Kanab City is the applicant for property they don't own or having an applicant that isn't going through the same process as others isn't showing a fair process. He knows it's difficult to give feedback on what is best but for those involved they had little notice to what was all involved and as a citizen his personal sense of fairness that every applicant should go through the same process.

Rob Van Dyke explained he is the Kane County Attorney and the Attorney for the Water Conservancy District and wanted to make it clear that he is not speaking on behalf of either of those entities. He spoke about the SITLA zone assignment parcel saying that SITLA is tricky, and they try to do things that are outside of what is required by law. They are supposed to submit a plan for their development. The zone doesn't really apply as zoning doesn't apply to state owned land property. The subdivision ordinance does apply but he hopes the city is taking significant time and hopes they have adequate information before deciding. They may do some high-density low-income housing and he explained he wouldn't take their word for it; they are required to get the highest and best use and by State Statute it would be difficult for them to do so. You won't get low-income housing out there. It is all open space recreational lots out there and the area should be kept that way. Should hold SITLA to what they are supposed to do and that is to give out more information than they have.

Tom Forsythe runs Center Street Center and is here to express his concerns to the road abandonments as it pertains to 300 West which he uses daily. He is prepared to speak during the Public Hearing and may have to leave earlier.

As a point of disclosure, Chris Heaton explained items five, six and seven are represented by Iron Rock and he will be recusing himself off any vote on items five and six. Item seven is unique as SITLA had approached Iron Rock to do some soil analysis of the property and Mr. Heaton didn't participate much with that but Iron Rock will represent them after that as well. He has decided to also recuse himself from voting on item seven but may participate in discussion as they have not entered a contract yet.

Mayor Johnson explained there is a lot of items on the agenda this evening and need more information on items nine and ten. Mayor entertained a motion to table items nine and ten to the next meeting.

A motion was made by Scott Colson and 2nd by Chris Heaton to discuss item ten, the discussion regarding Police Station, Recreation Center, Budget and Property Taxes. Motion passed unanimously.

A motion was made by Chris Heaton and 2nd by Scott Colson to table item number nine the discussion and decision regarding Resolution 4-2-22 R, A resolution approving short-term consultation arrangement with Joe Decker. Motion passed unanimously.

Mayor Johnson also wanted to take item six and seven out of order.

5. Continued Public Hearing, discussion, and decision regarding the vacation of the following City roads, all of 400 West from 100 North to approximately 450 South, all of 300 West from Center Street to approximately 450 South, all of 200 West from 250 South to approximately 325 South, all of Center Street from 450 West to 300 West, all of 100 South from 450 West to 300 West, all of 200 South from 450 West to 300 West, all of 300 South from 450 West to 200 West, all of 400 South from 450 West to 275 West all areas are approximate:

Kent Burggraaf explained what staff is asking is to finish the continued public hearing. Additional notices were sent out to make sure all property owners were notified. Decision needs to be made at the same meeting at which they consider the preliminary plat. As it pertains to Garkane, this vacation doesn't take away the right of easements as far as their transmission lines. Regarding Mr. Forsythe's access to 300 West, there was a lease in place and the lease is not valid now. He has tendered a check for lease payment that has not been deposited and will be returned to him. Previous administration has talked about a land swap with Catori Canyon, which will be a separate issue that the Council could approve. Staff recommends they move forward to what has been negotiated and then allow Mr. Forsythe and Catori Canyon to work out their issues. Mr. Burggraaf explained the road vacation and the two deeds that will be exchanged all go together. He showed on the map the area being discussed. In 2007, the City and Mr. Forsythe entered into a lease agreement that covered ten years of using the road. After 2017, there wasn't another payment made therefore the lease was null. Mayor Johnson went into public hearing.

Tom Forsythe agrees the lease was problematic, but the lease isn't as important as the fact that the lease express his long-term use of the property. Both the retail access and deliveries use the Center Street access. The Little Hollywood is accessed by the side gate off 300 West. This has been used for many years as a community event, he has donated this for film shoots, breakfast with the stars during Western Legends, the Little Hollywood Shootout etc. They can't use Center Street to do these types of events. Mr. Forsythe is for vacating roads that can't be developed but it doesn't make sense to vacate a road that is beneficial to a business. Michael East wondered if there was a reason they needed to vacate 300 West as the development is on the other side of the creek. Kent Burggraaf showed the Quit-Claim Deed as to why that road was included as well. The property being deeded to the City covers Kanab Creek and mostly the slopes. Next to Little Hollywood, the parcel is being maintained by Catori Canyon and has value to them. Michael East thinks this has more practical value to Mr. Forsythe then to Catori Canyon that is on the other side of the creek. Should be mindful to the people that are

currently using it than to people that are not. Arlon Chamberlain wondered if there was ever any consideration relating to the property and Mr. Forsythe. Mr. Burggraaf explained that he hadn't been aware if Mr. Forsythe had been involved before.

Tom Avant explained that the City can't give property, it must be purchased or a fair exchange. Jeremy Chamberlain representing the developer, explained he could work with Mr. Forsythe to negotiate a solution and that they had even talked about Mr. Forsythe having access to the center line along with them.

Talmage Daley explained that if the current franchise agreement doesn't cover it then Garkane wants a written agreement with the developer to protect their interests across that area.

Tom Avant explained they have been working with Bryant at Garkane on the Garkane easements.

Out of public hearing.

A motion was made by Michael East and 2nd by Scott Colson to table the decision regarding the vacation of the mentioned city roads. Motion passed unanimously.

7. Discussion and decision regarding the Planning Commission's recommendation to City Council for a zone assignment for the annexed parcel K-13-UTAH-ANNEX (SITLA property; approximately 101.11 acres), located in the approximate area of 725 East Kaneplex Drive:

Kent Burggraaf explained this zoning assignment came up because the City realized it was an unzoned parcel and wanted to assign one and wanted to make sure the City Council had the opportunity to weigh in on what Land Use Ordinances would apply when an application is ultimately submitted. If it is left as is, State law says it would assume the zones that are around it. City's everywhere zone parcels at any point. The city has no application from SITLA they have just expressed interest. The R-1-8 fits the Future Land Use Map designation as well. The Planning Commission was at a tie vote and the Chairman was the tie breaker. Aaron Langston with SITLA spoke a little about SITLA and what they are trying to do there. Those lands are held in trust by the School Trust Lands which means they do not try to actively develop or sell those lands. The developer came to them for a golf course which made them begin their process and advertise that they have received the offer to see if there is anyone else who wanted to participate. These lands are not taxed so as they move forward it would be a private ownership. They love the thought of tying it to a PD overlay. Mr. Langston explained they could take some areas and make them dense housing areas to be more affordable. Devin Anderson with Mountain West Development explained that they are really interested in doing affordable housing if they were to get the density that would allow for more affordable housing.

Mayor Johnson spoke of his concerns with more affordable housing and people that would turn their places into vacation rentals and then there not being more affordable housing. The PD overlay is a great idea, and the underlying zone still matters for density. Tom Avant appreciated what the mayor's concerns are and encouraged the Council to assign the zone change with the PD overlay because they want to eliminate areas that could be nightly rentals.

After lengthy discussion between the Council, Michael East made a motion to zone the property RA. Motion died for lack of 2nd.

A motion was made by Scott Colson and 2nd by Celeste Meyeres to approve the zone assignment of R-1-8 to parcel K-13-UTAH-ANNEX with the condition to place a Planned

Development Overlay if the construction of this project does not start within a three-year time frame the zone would revert to RA zoning. Kent Burggraaf advised as part of the motion to adopt the ordinance to make it more easily trackable adopting ordinance 4-3-22 O.

Scott Colson amended his motion to approve a zone assignment of R-1-8 to parcel K-13-UTAH-ANNEX with the condition with the Planned Development Overlay and with the condition that after the developer has received approval for the preliminary plat and preliminary site plan that they begin construction within eighteen months, or the zone will revert to RA. Celeste Meyeres 2nd as amended.

Motion passed by roll call vote with Arlon Chamberlain voting aye, Michael East voting nay, Scott Colson voting aye, Celeste Meyeres voting aye. Chris Heaton recused himself.

6. Discussion and decision regarding the Planning Commission's recommendation to City Council for a PD Overlay zoning assignment for K-38-1-Annex, K-6-1, K-B-7-1 and K-47-1, the Catori Canyon development area, located between the Kanab Creek Ranchos Subdivision and the Cedar Heights Subdivision:

Kent Burggraaf explained at the Planning Commission meeting the Catori Canyon development area between the Ranchos and Cedar Heights subdivisions, three issues were brought to the Planning Commission. They looked at the PD overlay designation, preliminary site plan and preliminary plat. The recommendations for the preliminary plat and site plan had conditions added to it and staff is working with the developer on that. This is a legislative decision and goes along with what is anticipated. The Council will be making a zoning decision and deciding if they want this area to be a planned development.

Tom Avant explained spoke about the road vacations they had already discussed along with the Garkane easement areas and their upgrades. This is a mixed development; there is commercial, multi-family residential and mixed density areas. The higher density is in the middle and along the edges will match the existing densities of the area. Josh Beazer explained when they first met with the city when they started with the development, the city requested the open space to trade for the area in the creek and talked about a trail system or something from Levi Stewart to the park in the development. Jeremy Chamberlain with the developer talked about they are going to bring sewer to that development and was something they volunteered to do without the city asking for it.

A motion was made by Michael East and 2nd by Arlon Chamberlain to approve the planned development overlay for Catori Canyon based on the findings and conditions of approval as outlined in the staff report for file #2022010. Motion passed unanimously by roll call vote.

8. Discussion and decision regarding Ordinance 4-2-22 O, "An Ordinance amending Kanab City Land Use Ordinance, Chapter 4-18, Supplementary Regulations, pertaining to the Curb, Gutter, and Sidewalks," pursuant to the recommendation made by the Kanab City Planning Commission:

Mayor Johnson wanted to postpone this item to the next meeting. A motion was made by Arlon Chamberlain and 2nd by Scott Colson to postpone this item to the next meeting. Motion passed unanimously.

9. Discussion and decision regarding Resolution 4-2-22 R, "A Resolution approving Short-Term Consultation Arrangement with Joe Decker.": *Tabled.*

10. Discussion regarding Police Station, Recreation Center, Budget, and Property Taxes:

Tabled.

11. Use of City Property Right-of-Ways: Kent Burggraaf explained there is a piece of city owned property that was the old shooting range by the park. There has been discussion on how or what that property should be used for. There was a proposal that had outside funding to make it a dog park. There is currently a proposal on the table to do an archery range that has received a grant from the State. With Trail Fest coming, they thought about using that area for camping instead of using the ball fields. There has been concerns raised from the local residents that Kent forwarded out in email. They voiced some concerns and one hang up has always been that it was an old shooting range so there is concern for lead poisoning in that area that might need some reclamation. The City Engineer is currently contacting multiple firms who address environmental impacts who will visit the site and let us know what if anything needs to be addressed in that area. There will be a closed session about this as litigation has been mentioned.

A motion was made by Chris Heaton and 2nd by Arlon Chamberlain to go into closed session to discuss potential litigation. Motion passed unanimously.

A motion was made by Chris Heaton and 2nd by Celeste Meyeres to go out of closed session. Motion passed unanimously.

A motion was made by Michael East and 2nd by Chris Heaton to adjourn the meeting. Motion passed unanimously.