

**Kanab City Council Special Meeting**  
**August 17, 2022**  
**City Council Chambers**  
**26 North 100 East**  
**6:30 PM**

**Work Meeting**

Mayor Pro Tem Arlon Chamberlain explained the Mayor will be at the meeting shortly. Scott Colson explained that Public Works is working on the Kanab Creek Drive project and they have been working on the concerns and helping with that. Chris Heaton had nothing new to report. Michael East explained that the Parks and Rec board meeting went well and they are in the process of developing a community survey to get out to the community. Celeste Meyeres explained the Arts Board is planning Red Rocktober Fest for October 15<sup>th</sup> at the Kanab Center. Leading up to it there will also be a sidewalk chalk art festival as well. The event will have live music and entertainment and she hoped everyone would join. Mrs. Meyeres continued with the new Library Director Jana Lee Peay has been doing well and she just had her first Library Board meeting. Work has begun again on the Marriott Hotel and Planning Commission has been working on Ordinance clean-up and careful planning.

1. Kyler Ludwig offered the prayer and the pledge was led by Celeste Meyeres. Mayor Pro Tem Arlon Chamberlain called the meeting to order and roll call was taken.

**In Attendance:** Mayor Pro Tem Arlon Chamberlain, Council Members Celeste Meyeres, Michael East, Chris Heaton and Scott Colson, Treasurer Katherine Ohlwiler, City Manager Kyler Ludwig, Attorney Kent Burggraaf and Building Inspector/Land Use Coordinator Janae Chatterley. Mayor Colten Johnson was also in attendance.

**2. Approval of Minutes of the Previous Meeting:**

A motion was made by Celeste Meyeres and seconded by Chris Heaton to approve the City Council Meeting Minutes of July 26, 2022. Motion passed unanimously.

**3. Approval of Accounts Payable Vouchers and Check Registers:**

A motion was made by Scott Colson and seconded by Michael East to approve the accounts payable vouchers and check registers dated July 29, 2022 in the amount of \$68,790.58; August 4, 2022 in the amount of \$156,287.37 and for August 9, 2022 in the amount of \$51,404.21. Motion passed unanimously.

**4. Public Comment:**

Mary Poe wondered if the Council has looked at drought problems and expressed that they should be planning in case there are serious problems.

Merilyn Oblad lives on Kanab Creek Drive and explained her concerns with the current project. Her driveway which now makes water go towards her house. A drain would help mitigate that problem. She hasn't seen that happen before since she's lived there and before this project. She mentioned safety

concerns with pedestrians and believes that the widening of the road will increase speeding and decrease safety.

**5. Public Hearing, discussion and consideration of Ordinance 8-1-22 O, An Ordinance Amending Kanab City Land Use Ordinance 4-35, Archery Range:**

Kyler Ludwig explained that this proposed ordinance has been reviewed by the Planning Commission and they did add a few sections to it. This is an ordinance to allow for archery ranges within the city limits. The way that they are governed, any zone that is listed as a park would be a permitted use. An archery range could be put into that zone as a conditional use. There were a few restrictions placed on archery ranges: 1. Individuals must be accompanied by an adult if they want to use an outdoor archery range. 2. Alcohol would be prohibited. 3. Broadheads and Blunts would be prohibited. 4. Crossbows would be prohibited. And use would be during daylight hours only unless light would be provided. There were some amendments requiring a site plan, as this ordinance would govern the city and also a private person wanting to put in an archery range. Mr. Ludwig showed examples in Utah of sites that have archery ranges. Staff reached out to URMA regarding the risks of archery ranges, they felt that it would be a minimal risk to the city and that most risk would be third-party related.

*Into Public Hearing:*

Russell Wulfenstein talked about discharge distance laws within the country which defines how far you can legally discharge a dangerous weapon from a home or other property. In the State of Utah, it is 600 feet. This provides the city an opportunity and an obligation, that the property owners surrounding have a right to say what happens near their homes. Mr. Wulfenstein explained that the County Attorney Rob Van Dyke has recently prosecuted cases regarding this law. Not a make-or-break deal but an opportunity to negotiate. The insurance company would be happier if it were a supervised range. He would love to see the city acknowledge State Law. Written permission of the surrounding property owners is also needed. Mr. Wulfenstein expressed his appreciation to the Council and hoped that they would respect their small-town life in this community.

Josh Warburton expressed he is a homeowner adjacent to one of the proposed archery range sites. He has concerns with the proximity of the range to homes, pets and people. He hopes all involved would want public safety to be the number one concern. State law prohibits the discharge of a dangerous weapon without the property owner's permission within six hundred feet of a house. The ordinance drafted by Kanab City ought to include the same. A barrier or net wouldn't keep an arrow from coming into someone's property since those barriers are not impenetrable. Kanab City has a limited budget and there are already numerous unfinished projects and a list of approved projects yet to be started. Mr. Warburton continued by saying he is not sure that any contribution to an archery range would be a good use of the limited tax payer dollars.

Amber Thompson wanted to echo what has been said and add that their backyard is right up against where the proposed archery range would go. Her house has been the gathering place for all of the neighbor kids to come over. She wouldn't feel comfortable with putting her kids outside if there is an archery range in their backyard.

Nyle Willis, another property owner in the area, wanted to explain he has no bias against archery ranges he does have a bias against dangerous weapons close to his backyard especially if they are not supervised. He suggested another location for the archery range that is surrounded by hills and not homes.

Carl Taylor thanked the Council for what they do. He is a part of an archery organization and would like to work together with the city and coexist to figure out an outcome.

*Out of Public Hearing.*

The discussion with the council continued with Celeste Meyeres expressing that they should go ahead with drafting the ordinance. She also knows there are more parks than needed in the city and the plans are done over again every several years by the city engineers. They have found for the number of people Kanab has, there are more parks than necessary. All of those parks are a liability and burden on the system. Mrs. Meyeres would like to see that they abandon pursuing the grant for the archery range. Eventually, the total cost of this project would be \$750,000 and that money could be better spent in other ways. Kyler Ludwig added that the \$750,000 figure would include parking adjacent to the baseball fields and a bathroom facility. The grant is a 25% cash match with 25% in kind match grant. Mrs. Meyeres continued by saying even if the range was free, it would still cost the city to maintain as with all of the other parks. Scott Colson asked for clarification as far as the discharge distance. Kent Burggraaf explained the discharge distance law statute refers to the property owner and explained the origin of the statute. Neighbors practice shooting in their backyard, can't be prosecuted. There may be other criminal liabilities but not this statute. The Council discussed this topic in length. Mayor Johnson doesn't want the council to limit the possibility of an archery range whether it's now or in the future. Scott Colson suggested adding "point of impact" in section two of the proposed ordinance and to clarify that section. Chris Heaton also added wanting a distance barrier from the lane to the target. If alcohol at the range is prohibited, then intoxication should also be prohibited as well. Mr. Colson also suggested striking broadheads and blunts from the ordinance as well.

A motion was made by Scott Colson and seconded by Michael East to approve Ordinance 8-1-22 O, An Ordinance Amending Kanab City Land Use Ordinance 4-35, Archery Range with the proposed changes and striking the language "broadheads and blunts shall be prohibited", and the language that has been changed by the Attorney. Motion passed by roll call vote with Scott Colson voting aye, Chris Heaton voting nay, Michael East voting aye, Celeste Meyeres voting aye and Arlon Chamberlain voting aye.

**6. Public Hearing, discussion and consideration of Resolution 8-1-22 R, A Resolution establishing parcel #K-17-28A-ANNEX as surplus property, authorizing staff to establish a market price for the property:**

Kyler Ludwig explained this surplus property was purchased for the 1100 South realignment project. It is roughly half an acre that staff is looking to turn into surplus property. The council would be authorizing staff to sell the property at market value as there is no purpose for the city to have this property any longer. Michael East wondered how fair market value would be defined, he wants to make sure it is a formalized process that is fair. Kyler explained it would be a closed bid process with a minimum set based on similar properties sold in the area. Kent Burggraaf explained if there were any agreements such as a First Right of Refusal, that has been brought up as an individual having by an owner, there will be due diligence in order to see if there is one. In that scenario, it wouldn't be a closed bid situation but fair market value still would need to be determined by a formal appraisal or going to realtors and getting an assessment.

*Into public hearing. No comments. Out of public hearing.*

A motion was made by Celeste Meyeres and seconded by Chris Heaton to adopt Resolution 8-1-22 R, A Resolution establishing parcel K-17-28A-ANNEX as surplus property, authorizing staff to establish a market price for the property. Motion passed unanimously by roll call vote.

**7. Public Hearing, discussion and consideration of Resolution 8-2-22 R, A Resolution Approving the Development Agreement with Rocky Canyon Properties, LLC, Plumb Investment, LC, and Plumb Land Investments, LLC, pertaining to the Catori Canyon Development:**

Chris Heaton recused himself from agenda items 7, 8, 9, 10 and 11 all pertain to the same project and has worked on them through his employer. Kyler Ludwig explained this was discussed at the last meeting. He talked about a few points of the development agreement. Longer cul-de-sac's, road vacation and easement along the creek for stormwater. The area with the "Man Caves" townhomes, will have automatic sprinklers in for fire protection in that location. All of the streets will be public streets. One of the concerns brought up by citizens was if there was going to be additional trails within the development.

*Into public hearing:*

Kelly Stowell, a Cedar Heights resident and Chair of the Trails Committee, wanted to have the ability to develop the trails into the creek.

Jeremy Chamberlain thanked the Council for their work on this as it has taken a long time, there is a lot of development happening throughout the county and Kanab City and the Council has a huge job and it takes a lot of time and thanked the council again.

MaryBeth Kuntz is a resident of Cedar Heights and explained that people are living in the creek.

*Out of public hearing.*

A motion was made by Scott Colson and seconded by Michael East to approve Resolution 8-2-22R, A Resolution approving the development agreement with Rocky Canyon Properties, LLC, Plumb Investment, LC, and Plumb Land Investments, LLC, pertaining to the Catori Canyon Development. Motion passed unanimously by roll call vote.

**8. Public Hearing, discussion and consideration of Ordinance 8-2-22 O, An Ordinance Vacating Public Streets, related to the Catori Canyon Development and surrounding area:**

Kyler Ludwig explained that this has been discussed and nothing new to add.

*Into Public Hearing. No comment. Out of Public Hearing.*

A motion was made by Scott Colson and seconded by Celeste Meyeres to approve ordinance 8-2-22 O, An Ordinance Vacating Public Streets, related to the Catori Canyon Development and surrounding area. Motion passed unanimously by roll call vote.

**9. Public Hearing, discussion and consideration of Resolution 8-3-22 R, A Resolution Designating Certain Vacated Public Streets and Underlying City Property as Surplus, Approving the Exchange of a Deed and Grant of Easement with Rocky Canyon Properties, LLC, Plumb Investment LC, and Plumb Land Investments, LLC, related to the Catori Canyon Development:**

Nothing else to add to this either.

*Into Public Hearing. No comment. Out of Public Hearing.*

A motion was made by Scott Colson and seconded by Michael East to approve Resolution 8-3-22 R, A Resolution Designating Certain Vacated Public Streets and Underlying City Property as Surplus, Approving the Exchange of a Deed and Grant of Easement with Rocky Canyon Properties, LLC, Plumb Investment LC, and Plumb Land Investments, LLC, related to the Catori Canyon Development. Celeste Meyeres asked if the council was certain, it is surplus property. They have determined there is no need for the property.

Motion passed unanimously by roll call vote.

**10. Discussion and consideration of the preliminary plat for the Catori Canyon Development:**

Kyler Ludwig explained that the preliminary plat was brought back to the Planning Commission in April. There were a few things that were set as conditions for it to get full approval. The developers have worked on getting those conditions satisfied. Janae Chatterley went over the staff report and some of the concerns from the public. Some of the concerns will be mitigated with the construction drawings. The increased traffic was mitigated with a traffic impact study and the archeological sites will be kept as open space with public access and public parking. There will be no parking in the cul-de-sacs. And not other conditions needed to be added.

A motion was made by Michael East and seconded by Scott Colson to approve the preliminary plat for Catori Canyon Development for file number 2022008 and adopting the findings therein. Motion passed unanimously by roll call vote.

**11. Discussion and consideration of preliminary site plan for the Catori Canyon Development:**

Janae Chatterley explained this is the preliminary site plan for the Planned Development Overlay. The adjacent land around this development is rural residential. All concerns will be addressed with the construction drawings. No conditions of approval.

A motion was made by Scott Colson and seconded by Michael East to approve the preliminary site plan for the Catori Canyon Development for file number 2022010 and adopting the findings of the staff report. Motion passed unanimously by roll call vote.

**12. Discussion and consideration of Resolution 8-4-22 R, A Resolution approving a mediated agreement between Don Cox and the City of Kanab:**

Kyler Ludwig explained that Mr. Cox had a fire that took place on his property and destroyed the mobile home that was there. He then brought in a new, older mobile home that he placed on the property and wanted to be grandfathered in based on the rules of when he placed his first home there. During the building permit process, a mediated agreement was asked to take place between Mr. Cox and the City as he wanted the City to determine if this process could be grandfathered so he didn't have to put a foundation on that property for the mobile home. During the mediation, the City and Mr. Cox came to some terms of agreement. First that he would clean up that property prior to a building permit being issued. He also agreed to have the soil tested to ensure that the foundation would be protected. Also, to do a survey on the septic. The City agreed, conditioned on the Council's approval, that we would look at his property as grandfathered based on when it was put in in the first place. Needs to be approved by the Council to take full effect. Janae Chatterley explained in length as well the process of the situation. Michael East wondered if the City was setting a precedence that people could follow building

regulations of when the house was built versus if it were to burn down later years. Janae Chatterley explained that it is based off of the design standards rather than building code. They are required to allow a grandfathering of those rules. Applications were never received that is why they had to go this route.

A motion was made by Chris Heaton and seconded by Celeste Meyers to adopt a Resolution 8-4-22 R, ratifying a Memorandum of Understanding signed after a Mediation Agreement with Don Cox regarding a building permit application and nuisance enforcement at the property located at 697 Navajo Drive. Motion passed unanimously by roll call vote.

**13. Discussion and consideration of Resolution 8-5-22 R, A Resolution approving the Development Agreement with James and Becky Sargent (K-336-3):**

Kyler Ludwig explained City Council discussed this item during the last meeting. This is a development agreement with the Sargent's. Some of the concern with that was how much they would have to maintain a pressurized sewer system. Jake Dutton, Public Works Director has expressed some concerns and the Sargent's have expressed they would be able to address those concerns.

A motion was made by Scott Colson and seconded by Arlon Chamberlain to approve Resolution 8-5-22 R, A Resolution approving the Development Agreement with James and Becky Sargent (K-336-3). Motion passed unanimously by roll call vote.

**14. Discussion and consideration of the purchase of a replacement water pump:**

Kyler Ludwig expressed they are waiting on bids as part of the City's purchasing policy. Will be on the agenda for next meeting. Replacement of a pump and some piping that have rusted out and will probably be \$23,000 or \$24,000 worth of equipment that was budgeted for as they knew this pump and a few others will be replaced.

A motion was made by Chris Heaton to adjourn the meeting. Motion passed unanimously.