

**SANTA CLARA CITY COUNCIL MEETING  
WEDNESDAY, AUGUST 11, 2021  
MINUTES**

THE CITY COUNCIL FOR THE CITY OF SANTA CLARA, WASHINGTON COUNTY, UTAH, met for a Regular Meeting on Wednesday, August 11, 2021 at 5:00 p.m. in the City Council Chambers of the Town Hall at 2603 Santa Clara Drive, Santa Clara, Utah. Notice of the time, place and agenda of the meeting was provided to the Spectrum and to each member of the governing body by emailing a copy of the Notice and Agenda to the Spectrum and also, along with any packet information, to the mayor and each council member, at least two days before the meeting. **The Meeting will be available to view live on the YouTube link:** [https://www.youtube.com/channel/UCxLBLm30\\_XLqM1AEmhpcMA](https://www.youtube.com/channel/UCxLBLm30_XLqM1AEmhpcMA). Council Chambers will be available to residents, but we will have limited availability and follow Covid-19 guidelines.

Present: Mayor Rick Rosenberg  
Council Members: Jarett Waite, Ben Shakespeare, Wendell Gubler, Leina Mathis and Denny Drake  
City Manager: Brock Jacobsen  
City Recorder: Chris Shelley

Others Present: Scott Bannon, Asst. City Manager; Dustin Mouritsen, Public Works Director; Brad Hayes, Parks & Trails Director; Gary Hall, Power Director; Randy Hancey, Fire Chief; Matt Ence, City Attorney; Bob Nicholson, City Planner; Kristelle Hill, Admin. Assistant; Mark Sanders; Patrick Manning; Fred Fage

**4:00 p.m.** - The City Council went on a tour of the newly remodeled Rachel Drive Fire Station and returned to Town Hall for the City Council Meeting at 5:00 p.m.

1. **Call to Order:** Mayor Rosenberg called the meeting to order at 5:00 p.m. He welcomed everyone in attendance and introduced himself and the City Council.

2. **Opening Ceremony:**

- Pledge of Allegiance: Denny Drake
- Opening Comments: Denny Drake

3. **Communications and Appearances:**

A. General Citizen Communications:

1. Mark Sanders, 3641 Vista View Circle, said that the issue on the Heights sort of turned into a firestorm. He said he let his neighbors go ahead and try to resolve this. He said he redesigned his backyard and he wanted to clarify that everything had been done 8 years ago before he bought the house. It had a drip system and trees in that land. He just wanted to improve the fence that he put up when he purchased the house along where he thought the edge was. He said he went ahead and put cinderblock wall on each side, and he knew that everything had to be within the line. The trampoline was completely buried and set where it is which is 65% City property. He had already placed decorative stones

and to try and drag them anywhere meant he would have to tear up his backyard. He said he has removed all plants and drip line. There is only the flagstone on that area. It will have no water, no trees. He said there is one tree right now and he will dig it up and remove it. He talked with both neighbors on both sides of him and they had reached an agreement that as long as we don't water or plant any live plants that we can use the land. He said he is hoping we can work out maybe that same thing since he is at this point. He is not reshaping any of that hill. It was already like that when he bought the property. He just wants to leave everything how it is and use it. He was hoping to do wrought iron on the back of the property. He was hoping that something like that could work.

- Ben Shakespeare clarified that Mr. Sanders has cinderblock down each side and the trampoline is about 2/3 outside of his property and the fire pit is outside of it and then the decorative rock. He said the Council's concern was water.

- Mayor Rosenberg said the one concern was water and the other concern was formalizing permission to encroach. He said that the City has developed a new request where citizens can request to be onto City property. He asked if this is something that Mr. Sanders is looking for a use on or is he looking for ownership.

- Mark Sanders said that obviously he would love to own it but he understands that everyone is gun shy to give anything on the edge. He stated that he understands the reasoning and not wanting to even mess with it even if he brought in 100 experts that say it is fine. He understands the City's err on caution. He said in years, if it hasn't moved, he would like to try again but he would like to at least get the usage for now.

- Mayor Rosenberg said that looking at the aerial view there is a little piece of green there. He asked if that was grass that straddles the line.

- Mark Sanders said he had it resurveyed.

- Mayor Rosenberg said we worked something out with some of the other neighbors to the north.

- Matt Ence, City Attorney, said the agreement we worked with some of the other neighbors was to accomplish a couple of things: 1. To deal with the issue of water being added to the slope. So one of the things the agreement required is if they were watering off their property they would have to cease doing that and 2. It was also intended to relieve anyone of the obligation to have to tear anything out other than landscaping that they had already put on City property. He said that was to alleviate a potential hardship for someone that was encroaching, but we recognize we may have done so innocently or because the City hadn't maintained its property line. He said the other part of it is all of those parties basically agreed to fully indemnify the City for any liabilities that might occur and on top of that the agreement can essentially be cancelled by the City at any time with a certain amount of advanced notice. He said to be clear he thinks the purpose of the agreement was not to allow more encroachment to happen, it was to stop the encroachment and to minimize the damage and to protect the City. He said he thinks we would offer a similar agreement to anyone who has existing improvements that encroach in this area but if we are talking about new improvements that is a different story.

- Mayor Rosenberg asked Mr. Sanders had any improvements back there now.

- Mark Sanders said all that is in place is the flagstone and the big rocks and the trampoline.

- Wendell Gubler said that when Mark bought this property Andy Johnson was the owner before him and that property was created by Andy and all of that was done when he was there. Mark was right in the fact that he thought that his lot went out to where it was graded. He said he thinks Mark ought to have some concessions on this.

- Brock Jacobsen said the Sanders were building a fence and the footings were in and then Corey (Bundy) put a stop because it was determined that the footings were built on City property. Nothing has gone on since then. It has been awhile. They just stopped at the footings until something was decided. Mr. Sanders has been to TRC and had a discussion there and at that time in the discussion we had gone on to the agreement with the other neighbors and it was said at that time that the City's stance was we weren't allowing anything new to be placed on City property.
- Ben Shakespeare said the trampoline is there and the fire pit is there and the boulders are there and water has been pulled back and obviously as a resident Mr. Sanders wants his yard fenced in so really the question for us as Council is whether we are okay with a wrought iron fence and leaving what has been there, there. He said he thinks wrought iron is a better solution than block and it is permanent.
- Mayor Rosenberg said if it is the wrought iron concept that can be removed if necessary...this is really for the Sanders protection. The City is probably not going to be able to access to do any remedial work on the back of that point because the hillside falls away all the way around where the Mr. Sanders is proposing his fence to be. The wrought iron fence could be moved or adjusted in the event he had something a lot easier than a block wall. He is not proposing any new plans back there or anything beyond the rock that is already stacked there. He said he doesn't have an issue with this one if the agreement was put into place to where in the event that something starts to happen on that slide that its Mr. Sanders responsibility and there wouldn't be any obligation to the City to come up and do anything.
- Wendell Gubler said he is okay with it.
- Jarett Waite said he is okay with it.
- Denny Drake said what he is concerned about is lots on the edge in the future that border Santa Clara property. How do we police that with all the sudden having to make changes, too, if they build out into the City property?
- Mayor Rosenberg said he appreciates Mr. Sanders coming to us and following the process and what we need to make sure happens is that there is a defined process and if neighbors want to come through the process then we can review the application and if the assurance is going to be built in accordance with the application maybe we can mitigate some of that in the future. The thing Mr. Sanders wants to make sure of is when he builds that fence, everyone that comes after him is going to think he owns out there and he does not. There is going to have to be something to make sure that is specified and probably recorded so that it is actually tied to the property.
- Matt Ence said that agreement would be recorded.
- Mayor Rosenberg said this is basically giving Mr. Sanders the ability to use it not necessarily own it and he is assuming all liability and responsibility for the use.
- Ben Shakespeare said he thinks that protects us years down the road when someone comes in, that something is documented. He said this is probably the way to go.
- Leina Mathis asked if the permission for the use is granted just to Mr. Sanders or does it go in perpetuity with the land.
- Mayor Rosenberg said he thinks the same permission granted Mr. Sanders would go with the land but the same limitations would go with it as well.
- Matt Ence said that is correct.
- Brock Jacobsen said that Scott Bannon and himself actually visited the site and took some pictures out there. He said when they went through and staked the City property and looking at the pictures, he doesn't see a fire pit installed on City property and if there

is one installed now so at that time even though he was told not to put anything on City property did he go ahead and install a fire pit in the improvements on City property after he was already instructed not to do anything on City property.

- Mark Sanders said all this stuff was set. He said at first it was that he needed to stop and see what happens with his neighbor. Everything was placed, everything was done and then it stopped. He said that nothing has been done in his yard.

- Brock Jacobsen said that seeing these pictures he sees the boulders and the large flagstone in the crate but it wasn't actually placed and put in and any fire pit or anything there. He said that is his concern. They were there but not installed.

- Mark Sanders said they are still there and are wrapped up. Nothing has been done.

- Mayor Rosenberg asked if this is something that comes back for formal approval or just direction given to Staff.

- Matt Ence said because it is an agreement it probably needs to come back for formal approval. The others we did as a group and the Council considered it as a group. He said he doesn't want to discourage the course Council is taking but he thinks that it is clear that there is a difference between what we did with those other property owners and what we are being asked to do here. Council is being asked to allow additional improvements to be made on City property. That is not what we did with the other property owners. He said we can talk about the difference between permanent and temporary and what can be moved and what can't and that is fine but we need to be clear that this is not quite the same situation.

- Wendell Gubler said in Mark's defense he is the one that came to the City to try and get this done. He had already put a lot of time and money into this thing and he thinks we ought to allow this.

- Mark Sanders said that was his main point of coming to Council to clarify that it wasn't him that wanted to mess up the hillside. He was just using what was already used before he bought his home. He was not extending any further. He wasn't changing the hillside. It had been used for 8 years.

- Leina Mathis asked if the trampoline and fire pit were there previously. It sounds like the fire pit wasn't there. That was something he was adding and got stopped, correct?

- Mark Sanders said he had a fire pit there and he took it down to replace it. Yes, there was a fire pit there. He did have a chain fence around the whole outside which he ripped out to start putting in a new one. All of it was in place he was just upgrading it.

- Denny Drake said he thinks this creates a real future problem if we allow new construction after the way we handled it with the other individuals. We need to protect our citizens but at the same time when you buy a home you probably ought to have it surveyed or at least know the boundary lines are compliant. He said his problem is he looks at the Tuacahn Wash and the homes being built along the edge of that and who is policing the boundary lines and if they build out into it, is the same thing applicable. It is not the size of the property but the ability to gain advantage over a neighbor or another person to what the boundary changes to. We have to make sure we are policing as best we can any new construction. He said he thinks the concession has been made with the prior agreement and as long as we are following those prior agreements we don't have an issue.

- Mayor Rosenberg said in that case we wouldn't allow construction of any new improvements beyond the City property line.

- Denny Drake said that is what we told others so he would say no.

- Jarett Waite said the tricky thing with that for him is we are also having to do policing

with other neighbors if they change a rock or pour some concrete so we are not out there checking all the time. Just because we know the fire pit has been torn out to be replaced with something nicer, he doesn't think we need to allow that to go through. He said a small cosmetic change he can see being fine.

- Brock Jacobsen said we do have photographs of what is currently there so we would know if a change has been made which would be contrary to the agreement they made with the City.

- Denny Drake said since it has to be brought back for approval, we wait for the approval process.

- Ben Shakespeare said the difference in this is that a wrought iron fence is a non-permitted use. You don't need to come in for a building permit for wrought iron or to extend the patio. He said he appreciates that we know it, we can address it and we can look at it. He said this is the right way to go about it. In this case as far as structure and improvements we aren't going to go back and say to remove what is there but you also need to provide some type of security around it. He said if the documentation is there and recorded and everyone is aware of how it was done in this case he is okay with it.

- Matt Ence said it would be helpful if that is the direction the Council wants to go it would be helpful for Staff to have an idea of what Council is willing to allow and what you are not willing to allow because Staff is going to have to look at whatever is being proposed. Or we can just bring it back to Council and have Council approve it as a condition of the agreement and you can look at what is being proposed and approve it or not approve it your selves.

- Mayor Rosenberg said from what he is hearing right now he would probably direct Staff to go ahead and put an agreement together based on what was said tonight and bring it back to a meeting and we will have this discussion. Maybe we can have some feedback as far as what we are going to allow and things we might consider allowing.

- Wendell Gubler said what we are talking about is a wrought iron fence and a fire pit.

- Mayor Rosenberg said landscape boulders, a wrought iron fence and a fire pit. We just need to formulate language that would encompass that, then Staff can enforce it.

- Matt Ence said to be totally honest he thinks the only real fair way to do it so that you don't have a different agreement with each of those property owns is for City Council to decide what he can finish and once he is done, he signs the agreement that says that nothing else is added. That is what the agreement says, "no more improvements". That is what the neighbors agreed to. The agreement is there so what needs to be decided is what you are going to allow him to do before he signs the agreement.

- Mayor Rosenberg said not just him but anybody. Let's put this on the next agenda and we will have that discussion and give Staff direction and then Mr. Sanders can follow through with the agreement based on what Council allows.

- Matt Ence said he can provide Mr. Sanders with a copy of the agreement. It is the same one his neighbors have signed.

- Mayor Rosenberg said that two weeks from tonight it will be on the agenda. He asked him to give his email address to Brock.

#### **4. Conflicts and Disclosures:**

- Mayor Rosenberg said he has been asked to put together a sketch on Santa Clara Drive/Gates Lane Left Turning Lane (Item 5C4).

**5. Working Agenda:**

**A. Public Hearing(s): None.**

**B. Consent Agenda:**

1. Approval of Claims and Minutes
  - July 28, 2021 Regular City Council Meeting Minutes
  - Aug. 4, 2021 City Council Work Meeting Minutes
  - Claims through Aug. 11, 2021
2. Calendar of Events
  - Aug. 25, 2021 Regular City Council Meeting
  - Sept. 1, 2021 City Council Work Meeting
  - Sept. 8, 2021 Regular City Council Meeting
3. Set a Public Hearing to receive public comment on the issuance and sale of not more than \$2,600,000 aggregate principal amount of Electric Revenue Bonds for September 8, at 5:05 p.m.

**Motion to Approve the Consent Agenda.**

**Motion by Leina Mathis, seconded by Ben Shakespeare.**

**Voting Aye: Leina Mathis, Jarett Waite, Denny Drake, Wendell Gubler and Ben Shakespeare.**

**Voting Nay: None.**

**Motion Carried.**

**C. General Business:**

1. Consider approving Resolution 2021-12R, authorizing the issuance and sale of not more than \$2,600,000 aggregate principal amount of electric revenue bonds, series 2021BB for the purchase of a 4<sup>th</sup> generator. Presented by Brock Jacobsen, City Manager.
  - Brock Jacobsen said we have Mark Anderson from Zions Bank with us on a Zoom call. He said this is the first step to issuing a bond. We do not anticipate issuing the bond for the 4th generator until later in the year or in the early part of 2022. We will not be receiving the generator until 2022 and payment will not be due until it is installed and running. By adopting the bond parameters resolution and having a public hearing to open the 30-contest period it gets the first steps done. Then when we are ready to issue the bond we can quickly move forward. The bond parameters set forth the details of the bond; 1. how much the city can issue in bonds, \$2,600,000, 2. maximum number of years over which the bonds may be amortized, 21 years, 3. maximum interest rate the bonds may have, 4%, 4. maximum discount from par, 98%, 5. delegates who has the authority to approve the final terms and provisions of the bonds within the terms of set forth in this resolution, 6. sets the date and time of a public hearing on the bonds to be issued, 6. sets forth the contest period of the bonds.
  - Mark Anderson, Zions Bank, said Brock has done a good job of explaining what the purpose of the parameter resolution is and the need to schedule a public hearing and authorization of certain officials to make decisions regarding the terms of the bonds as

well as the signing of them. He said he knows the City is not anticipating the delivery of this new unit until probably May of next year and so the question is when is the right time to issue bonds for this. He said it would be nice to have some direction from the City as to what parameters you are hoping to stay within interest rate-wise because right now his estimate based on wrapping this around the City's existing debt and only increasing the payment by about \$100,000 and keeping that level for 14 years is probably an interest rate range of 1.8-1.9%. He said we really need to have the understanding of what point in time do you want to complete the bonding process in order to reduce interest rate. He said sometimes rates can increase quite rapidly so it would be nice to have some discussion amongst the Councilmen and Staff as to what you would like him to do as he tries to monitor the market conditions as to when the best time to issue these bonds is.

- Brock Jacobsen said not having a crystal ball as to when interest rates are going to move, we don't want to allow it to get to high, above that 1.99% but also knowing that when we issue them that starts when we will have interest and principle payments which will come quicker. If we issue them around April and we are already making a bond payment for that year and we don't have a generator yet for another 8 months and we will be paying on it before we even have it. That is not ideal but it is all right.

- Mark Anderson said one of the things that motivated us on issuing the bond last time was the opportunity to capture some savings by refunding a couple of other bonds earlier. He said interest rates are very favorable but how long that will last is not known.

- Jarett Waite said we don't have to pay for the generator until it is installed.

- Brock Jacobsen said that is correct but if the bond is issued the payment is already started.

- Ben Shakespeare asked if we could set that money aside in a money market account and generate interest on the flipside and help offset that cost.

- Mark Anderson said you can and that would be expected. That is what is happening with the initial bond that was issued a couple of months ago. It would have to be invested with something compatible with the public treasurers investment fund with the State of Utah. Right now that is yielding less than .04%.

- Ben Shakespeare said we want the best interest rate we can get so do it when it is the best but we don't know that.

- Leina Mathis said she would prefer to do it sooner than later and take the lower rate even though we are making the payment because if we wait too long we are quickly going to eat up that amount if we get a 3% interest rate over a 14 year period.

- Mayor Rosenberg asked Leina if she is saying to do it now.

- Leina Mathis said she is saying to do it now.

- Ben Shakespeare said if the rates are under 2% right now, he can't imagine doing much better than that and over a long term that is a lot of money.

- Brock Jacobsen said we will keep the process going then. We will have the public hearing in September and continue the process to issue the bonds.

- Mark Anderson said he thinks we could be in the position to issue bonds as early as the first part of October once we have the public hearing and the contest period but we can lock in an interest rate prior to the bond close.

- Jarett Waite asked how leveraged the Fire Department will be with this bond. It is not like a debt to income ratio for this.

- Brock Jacobsen said that is called debt coverage. We still look good on our debt coverage. We are well above what we need to be.

- Mark Anderson said we need to maintain a 1.25 coverage and we are still close to 2.0.

The annual payment is only increasing by about \$90,000 and as the debts fall off we would just fill in those payments and keep a level payment.

**Motion to Approve Resolution 2021-12R, authorizing the issuance and sale of not more than \$2,600,000 aggregate principal amount of electric revenue bonds, series 2021BB for the purchase of a 4<sup>th</sup> generator as presented.**

**Motion by Jarett Waite, seconded by Denny Drake.**

- Brock Jacobsen said that on the series 2021BB that is really 2021B.
- Mark Anderson said that is correct.

**Amended Motion to Approve Resolution 2021-12R, authorizing the issuance and sale of not more than \$2,600,000 aggregate principal amount of electric revenue bonds, series 2021B for the purchase of a 4<sup>th</sup> generator as presented.**

**Motion by Jarett Waite, seconded by Denny Drake.**

**Voting Aye: Leina Mathis, Jarett Waite, Denny Drake, Wendell Gubler and Ben Shakespeare.**

**Voting Nay: None.**

**Motion Carried.**

2. Consider approving the Black Desert Development Agreement. Presented by Matt Ence, City Attorney.

- Matt Ence said we have been working with the developer on this project for a number of months. The development agreement has been something that has been an on and off negotiation but we have gotten to a place where this agreement is ready to move forward. He can give a quick summary of what is covered in the agreement. The Black Desert project extends from Ivins to Santa Clara so this development agreement would only apply to our portion. It is a fairly straightforward agreement. It really does a few major things. Most importantly from the developer's perspective is it vests the developer with a maximum of 1,937 total residential units for the portion of the project that is in Santa Clara on 297.56 acres so that 1,937 total units comes from the approval of the Master Plan which approved the overall density of 6.5 units per acre and 6.5 units per acre over that acreage is where the 1,937 units comes from. That isn't going to be spread evenly across the project so one of the things the development agreement allows the developer to do is as they bring in phases for project plan approval of specific portions of the development they can cluster that density in order to get higher densities in certain areas. They have to use their open space where they are not going to develop to make sure those densities comply with the development agreement and our ordinances. The maximum density they are permitted under the PDR zone is 8 units per acre, which they can also increase up to 12 units per acre if they get an additional approval for bonus density. The development agreement allows them flexibility to take their open space and utilize it in such a way that they can cluster the density and develop the property in a manner that they would like and get those higher densities, preserve those open spaces and have a lot of flexibility to do that. Open space pursuant to the development agreement can consist of a couple of different things. One is unimproved open space, which he said they have had discussion with the developer about taking the open spaces that they plan to have no improvements on and for them to grant to the City a conservation easement. He said we are in the midst of the process of reviewing what that would look like and this would

include open spaces such as a significant part of the lava and potentially others that they don't plan to improve would be preserved and the City would have a conservation easement so that we could insure that those properties remained open and not disturbed. They would also have improved open spaces as well such as parks and trails and other things. The development agreement also contemplates that they will have commercial development. It states that the commercial development when it is approved will reduce the overall residential units that they can develop in the project but there is no hard formula set for that. When they bring a commercial project to the City they can they think it is the equivalent to X number of residential units and that can be considered and approved at that time. That could vary depending on the type of commercial development they are bringing to the table. What is important is to make sure we have the infrastructure to serve both the commercial development as well as the units they are entitled to. Another thing covered by the development agreement is they committed to dedicate land for master trails that will comply with the City's Master Trails Plan. The development agreement also lists traffic and road improvements that need to be addressed to address the traffic impacts of the development and requires all of those improvements to be considered as part of a traffic study that they will obtain. The development agreement also provides that they will contribute to off-site traffic improvements that are identified in that traffic study and it also addresses their ability to receive impact fee credits when they provide some kind of public system improvement that we don't otherwise pay for. The development agreement says in its current form that their project plan, including the golf course, has been approved by the city. The PD project plan that included the golf course was actually considered by the Planning Commission back in Sept. 2020. The Planning Commission recommended that the City approve it and then also granted them a conditional use permit for the golf course but it did not come to the City Council after that so the City Council has not actually given the final approval yet on the golf course. He said he doesn't think it needs to hold up what we are doing here. If Council is comfortable with the development agreement we can approve it subject to them coming back and bringing that PD project plan amendment with the golf course for Council's final consideration and approval. He said that when the approval for the Master Plan was given it excluded what is referred to as Area 6, which is where the trail and the power line and a lot of the lava is along Pioneer Parkway. The acreage we are trying to cover with the development agreement because it is the entire project actually includes Area 6 and they want the benefit of the density that they would otherwise build in Area 6 so they could use it elsewhere and Area 6 is an area that they want to preserve with a conservation easement and so because Area 6 was excluded from that previous Master Plan approval we bring that back to the Council at the same time as we do the golf course consideration and have the City Council amend that Master Plan approval to bring Area 6 into that as well so that they have the same density that they are entitled to there and then it will all be treated the same and covered by the development agreement and will all be part of the Master Plan and that will tie off those loose ends.

- Bob Nicholson said it could come to the next Council Meeting if the Council wants. It was the amended PDR zone. The PDR that is existing really represented the old Knoll's pasture plan, so they are bringing through an amended PD zone. He said in Area 6 is about 18 acres. Planning Commission is concerned about preserving this very unique portion of lava, which is not the entire 18 acres. It is the east portion of Area 6 that is quite special and unique.

- Matt Ence said what is before Council now is the development agreement for Council's

review and approval potentially but subject to approval by City Council of the amended PDR plan that includes the golf course and incorporates Area 6.

- Wendell Gubler asked why that didn't come before the Council after the Planning Commission approved it.

- Matt Ence said that looking at the timetable it was in September of last year and that was around that same time we started working on the Regal Homes portion of the property so it may be that we set that aside or the developer set that aside as we worked on that. He is not sure.

- Bob Nicholson said part of the answer was the instruction was not to bring the amended zoning to the Council until the development agreement was done also.

- Matt Ence said if we would have realized that soon enough we could have added it to the agenda, we could have done that tonight but it didn't get discovered soon enough. Planning Commission did make a unanimous recommendation of approval, they did approve the conditional use permit for the golf course use and did so unanimously but those things were subject to this final approval of the City Council.

- Denny Drake said in Section T "Available Funding" under "Resources" it states: "The City agrees to use its best efforts, consistent with the City's best interests, to assist the Developer, and sponsoring Developer's requests when appropriate, in obtaining and using any state, regional or federal funds, including but not limited to grants, reinvestment funds, or other monies..." He asked if this is not a guarantee. We are not going to guarantee that something will affect our bond rating but just helping them to achieve their goal.

- Matt Ence said he doesn't see it as a guarantee because one of the phrases in there is "consistent with the City's best interests" so that is a way of the City saying if there are opportunities that make sense the City will help them. He said he thinks one thing the developer is going to want to come back to the City and discuss at some point is the potential of creating a PID in the City to help finance some of the public improvements and the approval of the development agreement does not require the City to do that.

- Leina Mathis had a question on Area 6. On one hand she is okay with it on a calculation and density perspective but is there something in the amendment when it comes back and we include that, that it is specifically that there is to be no building in Area 6.

- Matt Ence said we already started the process of reviewing the form for the conservation easement and he thinks they are ready to go forward on the conservation easement as soon as we can get to it. He said we could get that taken care of very soon and almost have that property of concern in Area 6 taken care of maybe at the same time we do that approval.

- Mayor Rosenberg said the indication from Patrick Manning was that was going to stay the open space in Area 6 in accordance with the Planning Commission.

- Jarett Waite asked why Exhibit B & C are blank in the agreement.

- Matt Ence said it is probably just formatting issues.

- Jarett Waite said his concern is the agreement refers to Exhibit B several times but it is not actually in the agreement.

- Matt Ence said Exhibit B, that would be attached, would be the Master Plan that was already approved by the city. We are not really changing anything there. He said he sent an email to the applicant asking if they would provide us what they believe should serve as Exhibit B but he didn't get a response so that is something we still need to nail down but it shouldn't be anything that Council hasn't seen before. It is basically the Master

Plan and Project Plan that Council has already approved.

- Patrick Manning said one thing in particular they are trying to hurry up on. They are finished with the golf holes in Ivins and JP Construction is sitting idle waiting for permission to get into Santa Clara. He asked if Council can possibly approve the development agreement subject to final legal review and then come back in two weeks and submit the project plan, which is the golf course. He said he will give his promise to Leina Mathis that Area 6 won't be developed.

- Ben Shakespeare said the developer has been held to preserving large portions of open space and a lot of that has been addressed to be preserved so those that have concerns about what is out there, there is a large portion of this lava field that will remain untouched.

- Patrick Manning said what they are projecting to do with the document that has been seen at Planning Commission shows close to 70% of open space in Santa Clara. They are preserving all the lava that is seen in Ivins other than the golf course there is nothing on it so it is not only the 70% in Santa Clara but roughly another couple hundred acres in Ivins as well.

**Motion to Approve the Black Desert Development Agreement as has been explained with the legal review on the additional application that is going to come in and with the developer maintaining open space to retain the view we have in Santa Clara.**

**Motion by Denny Drake, seconded by Ben Shakespeare.**

- Leina Mathis said to make sure that it is subject to the amended PDR and Area 6.

- Ben Shakespeare asked if we needed to address anything right now about the golf course.

- Mayor Rosenberg said the golf course is covered in there. They will have to submit their grading plans for their grading permit to get going.

**Amended Motion to Approve the Black Desert Development Agreement as has been explained with the legal review on the additional application that is going to come in and with the developer maintaining open space to retain the view we have in Santa Clara and subject to the amended PDR and Area 6.**

**Motion by Denny Drake, seconded by Ben Shakespeare.**

**Voting Aye: Jarett Waite, Leina Mathis, Ben Shakespeare, Wendell Gubler and Denny Drake.**

**Voting Nay: None.**

**Motion Carried.**

3. Consider increasing the Carbon Free Power Sales Contract by 2 Mega Watts. Presented by Gary Hall, Power Director.

- Gary Hall said we are looking to increase our capacity in the Carbon Free project 2 more mega watts to make a total of 5 mega watts. He reminded Council that they discussed this last week at the Work Meeting.

- Ben Shakespeare asked if we still have the exit strategies. Do we still have the same updates and exit ramps? He said he agrees that we need to increase it to 5 mega watts.

- Gary Hall said with the increase to 5 mega watts our liability goes up a little bit more if we do back out. It was almost \$7,000 or \$8,000 more at the last bailout time. There is a little bit more risk going an extra 2 mega watts but that doesn't change the fact that we

still need it.

- Ben Shakespeare said yes and that's stable. The stability of it, that is more important. It is a project that we know is going to be around for 40 years.

- Jarett Waite said he wanted to note that UAMPS has provided this to us and this is the right decision for our City and so we are relying on their expertise as well as Gary's to make this decision.

- Gary Hall said he went over this with Jack Taylor and Kelton at UAMPS and he plugged it into his spreadsheet and with a 3.5% growth over the next 10 years they still figure that the extra 2 mega watts should be enough so we are not too long in the winter months and still be covered.

- Denny Drake said that 3.5% over the next 10 years is only a 33% increase. Aren't we growing at a more rapid pace than that in actuality?

- Gary Hall said currently, yes, but we will get built out and historically 3.5% is what we have been.

- Ben Shakespeare said that is a pretty conservative number.

- Brock Jacobsen said that number is consistent to what we have done in our impact fee analysis as we have gone forward doing those.

**Motion to Approve increasing the Carbon Free Power Sales Contract by 2 Mega Watts as presented.**

**Motion by Jarett Waite, seconded by Wendell Gubler.**

**Voting Aye: Denny Drake, Jarett Waite, Ben Shakespeare, Wendell Gubler and Leina Mathis.**

**Voting Nay: None.**

**Motion Carried.**

4. Consider approving the reconfiguration of Santa Clara Drive and Gates Lane to add a left turning lane. Presented by Dustin Mouritsen, Public Works Director.

- Dustin Mouritsen said that after last week's discussion on the widening of the intersection of Gates Lane and Santa Clara Drive he went and revisited the intersection and found that there is room to do a deceleration lane onto Gates Lane. He said we will do a shared bypass so we can keep bypass on both sides, east/west travel lanes and the center lane going all the way through. He said this is work we can do in house and he would like to start on it soon. He said the striping would be contracted out.

- Jarett Waite asked if we are really going to take out 10 planters.

- Dustin Mouritsen said yes but we will leave the two down by the Jacob Hamblin home. He said he thinks it will look more finished if we take all 10 out. We will lose all on-street parking through that section that we restripe.

- Mayor Rosenberg said we are going to try to keep parking outside of the restriping. He asked if we want to take out the two planters that kind of guard that parking.

- Dustin Mouritsen said yes.

- Jarett Waite said we discussed at the last meeting that if this property southeast of this wants to have on-street parking they could just move the sidewalk back and use their land for that.

- Mayor Rosenberg said that hopefully they will just find the parking on-site otherwise we are inviting some of the same conflict we have down at the fruit stand.

- Leina Mathis said that Brad Hays (Parks & Trails Director) had said that most of the trees were going to be disposed of but on the far end there are a couple of trees that look

like they are fairly new. They are actually tied down.

- Brad Hays said there is two on the south side that are fairly new that could be removed. The thought is to plant them somewhere else.
- Mayor Rosenberg said that Brad is going to replace all those trees at least on a one-to-one someplace. We have set that informal policy that if you take one down you have to put one back to maintain our tree inventory, which is an asset.
- Jarett Waite asked if the deceleration lane is going to look like the one there is for Swiss Village because that has functioned really well.
- Dustin Mouritsen said yes. We actually have quite a few of these all over town.
- Denny Drake said he thinks it is an excellent idea and a good plan.
- Ben Shakespeare said that the residents that live down there are excited about this. It is a safe improvement.

**Motion to Approve the reconfiguration of Santa Clara Drive and Gates Lane to add a left turning lane as presented including the removal of 10 planters.**

**Motion by Ben Shakespeare, seconded by Jarett Waite.**

**Voting Aye: Leina Mathis, Denny Drake, Wendell Gubler, Ben Shakespeare and Jarett Waite.**

**Voting Nay: None.**

**Motion Carried.**

## **6. Reports:**

### **A. Mayor / Council Reports**

Ben Shakespeare:

- He went through Tagg'n Go. There were several Santa Clara youth working there. It is nice to see it open. He said he is excited for the commercial a little further down to see what comes.

Leina Mathis:

- Yesterday was our free swim day at the SHAC. She took her grandson over last night and there were a number of people from the City who were taking advantage of it. The director of the SHAC will get her a final count and she will pass that along to the Council so they can know how many of our citizens went to that. It looked like it was pretty well attended.

- The Heritage Commission has a meeting tomorrow. They are going to be going over the committee members. Some of them are retiring, for sure one and maybe two. She will come back to the Mayor for appointments of some new members.

Jarett Waite:

- He attended a meeting with some Internet providers with Brock and the Mayor. Century Link (Lumens) and TDS presented. A lot of good information was given. Lumens has four planned pilot projects in St. George in areas where they have really poor service they are putting fiber in an existing conduit. It is very unobtrusive to the neighborhood. They also acknowledge that they will try and expand that to the rest of Southern Utah if it goes well but it is all dependent on the upper brass and if the economics line up. He said the concern is if we rely solely on our local Internet providers there most likely will be pockets of Southern Utah that never get fiber because the

number may never line up. Either it is not dense enough or there is too much rock in the ground or whatever other reason they come up with. There might be areas that are permanently depressed because they don't have a good enough Internet connection. He said we are still pursuing possibly creating an Interlocal agreement with all the cities and we would all come together to provide fiber service and to partner with UIA to provide service.

Denny Drake:

- He had a meeting with the Water Conservancy District on Thursday to discuss the water situation in the County. He said they presented a graph to show the needs. He said that after meeting with them he feels we should be reviewing our landscape requirements by ordinance. If things don't line up by 2025 we will be doing some major changes and if we could revise our ordinances now. It is a matter of if there is going to be enough water. There are some things we need to review and according to them it is up to the cities to do that and not up to the Water Conservancy District. We have to be in the forefront of making the conservation effort.

- Mayor Rosenberg said that there is a Technical Advisory Committee for the Rural Water Supply Agreement Pact and they are working on a common landscape ordinance that all the cities would adopt so that each city is the same. It will be eliminating a lot of turf. There will basically be no ornamental turf and we are looking at things to do inside the home. Things like recirculating hot water. There will be a significant number of conservation measures. They are meeting every other week to go through that. Dustin is in this group as well as Kristelle. The State right now requires .86 acre-feet per connection as their source requirement for State code. Based on our actual usage down here that number is less. It is more like .779 so if we get the State to adopt that it takes our existing water rights and will provide water for a bigger population. They are shooting to have like a .55 on that. This is going to require a significant amount of conservation. They are looking at a target use for every home of 146,000 gallons per home and that is all you get. They are talking about putting this in on new growth to start so all new developments would have to meet it from the get-go and then provide incentives for existing residential users.

- Denny Drake said he thinks it is good that the Home Builders Association is a part of this because they are talking about trying to create smart homes and environmentally more efficient. So they are looking at unifying construction standards for the various cities so that the builders would have the same requirements for each city.

- Mayor Rosenberg said we are going to see a lot of that. The TAC is meeting weekly and there is another committee that is meeting as well. There is going to be a big effort there. He also went to a meeting that was addressing water use on the Santa Clara side. There is not that much available water left there so it is a matter of repurposing the water that we have. St. George is looking to expand some additional reuse storage reservoirs out here and the push is being made to have the Water District assume that role so they would be the ones doing those additional reservoirs. He talked about the endangered fish. The fish are going to get their water. They are supplementing irrigation water with the Gunlock wells right now. There are some water right acquisition issues. For us to be able to use our share of that reuse water we actually have to file a water right on it. We are the only ones that can file a water right on it but we haven't done it to date so it is probably something that we are going to want to do sooner than later. Right now when we have a cutback on the Santa Clara the farmers take a haircut and the residential

customers don't. There has to be a way to balance that especially when we get more and more secondary users. The City is obligated to provide that secondary water even if it is not available from Gunlock. It has to come out of our share. We need to work on that a little bit.

- Ben Shakespeare asked if there are any plans to dredge Gunlock. In order to increase the capacity they need to maintain a good dredge.
- Mayor Rosenberg said it loses about 100 acre-feet a year to sedimentation.
- Ben Shakespeare said if it is constantly maintained and have a plan then we don't have to build a new reservoir.
- Mayor Rosenberg said in order to fill a reservoir with reuse water you have to pump it all winter. Then you pay a pumping price to get the water up there. He said there is a balance of how much to pay in advance verses how much you think you are going to get from Mother Nature. They want to get about 5,000 acre-feet of additional storage on the west side.

#### Wendell Gubler:

- Had a meeting with the Solid Waste District on Monday. The fleet is getting old, and they are needing to be maintained and the maintenance costs are going up. They are probably going to be buying some new garbage trucks and setting a better standard on how to maintain them. They have also opened the dumpsters by the scale at nighttime as well as during the day. There is a problem because the commercial people are using it when they shouldn't be using it so they are going to try this for a while and see if it helps. Neighboring states are wanting to bring their waste into our state. He says he doesn't think we ought to do that. That discussion was tabled until they have further information. He said they will probably be discussing this at the next meeting so he would like to know what Council's feeling is on this.
- Mayor Rosenberg asked if it is just Las Vegas and Mesquite.
- Denny Drake said we would get it from California too.

#### Mayor Rosenberg:

- He met with the SPIN Scooter people today. They are coming to Council in two weeks for a presentation. Washington City just signed an agreement with them and they will forward it to him.

#### Police Chief Bob Flowers:

- Talked about the letter that the Mayor and some of the Council received. He asked the Council not to handle the letters and to put the letters in sealed envelopes and give them to Brock. They are going to pass these on to the FBI. The leadership at St. George City got them too. The letter talks about the receiver of the letter being dead and some type of radioactive material buried underneath all the water sources. It also talked about some businesses and made a lot of threats. It is a threatening, terroristic type of letter. Whoever sent these was pretty careful but because of the nature and the threatening of the letter it has become a Federal case. He said we are gathering the evidence. He counseled the Council that if they get the letter to not open it. He said to call him and he will come and get the letter and pass it on to the FBI. He said they can tell from some of the things in the letter that it is a local person.
- He talked about some homeless camps in the South Hills.
- Mayor Rosenberg asked what the BLM is saying about these camps.

- Chief Flowers said they are not doing much about it. They have such a big problem all through the County. This is something we are going to have to start dealing with. Fall is coming and those hills are going to fill with shooters. He asked for some guidance from the Council.
- Mayor Rosenberg said we are getting closer to closing shooting within the City limits and possibly a de-annexation and removing a large portion out of the City. It is on the TRC agenda tomorrow.
- Chief Flowers said he saw a Desert Iguana out in the hills. He called the wildlife person at BLM and he confirmed that they are out there.
- A person from Salt Lake went hiking out by the petroglyphs and got sick and died of heat exhaustion. It was one of those days we were above 115 degrees.

7. **Executive Session: None.**

8. **Adjournment:**

Motion to adjourn by Denny Drake.

Seconded by Wendell Gubler with all members present voting aye.

Meeting Adjourned at 6:52 p.m.

\_\_\_\_\_  
Chris Shelley – City Recorder

Date Approved: \_\_\_\_\_