

**SANTA CLARA CITY COUNCIL MEETING  
WEDNESDAY, MARCH 24, 2021  
MINUTES**

THE CITY COUNCIL FOR THE CITY OF SANTA CLARA, WASHINGTON COUNTY, UTAH, met for a Regular Meeting on Wednesday, March 24, 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 steam on the YouTube link:** <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: Jack Taylor, Public Works Director (Retiring); Dustin Mouritsen, Public Works Director; Brad Hayes, Parks & Trails Director; Gary Hall, Power Director; Randy Hancey, Fire Chief; Matt Ence, City Attorney; Kristelle Hill, Admin. Assistant; Rich Rogers, Public Safety; Richard Hughes; Karen Lessman-Hughes; Tiffany Phelps; Woody Wagner; Beth Tolbert; Suzan Erickson; Megan Webber; Keith Marcos; Eileen Marcos; Dennis Barnes; Mark Sanders; Sarah Sanders; Scott Awerkamp; Heidi Awerkamp; Craig Mangus; Gary Lamph; William Lyzenga; Tina Taylor

1. **Call to Order:** Mayor Rosenberg called the meeting to order at 5:01 p.m. He welcomed everyone and introduced the City Council.

2. **Opening Ceremony:**

- Pledge of Allegiance: Wendell Gubler
- Opening Comments: Wendell Gubler

3. **Communications and Appearances:**

A. General Citizen Communications: Mayor Rosenberg stated that Keith and Eileen Marcos and Dennis Barnes want to discuss the City property boundary up on Rim View Circle and Gubler Drive and the issues that we have had with encroachments up there.

1. Keith and Eileen Marcos, 3650 Rim View Circle, said they closed on their house March 4. Keith said he saw the plot map and that it was cutting into the property and there was grass on it and their realtor talked to the seller's realtor and they assured them that there weren't any issues. Brock Jacobsen, City Manager, provided them with the communication that went out in September. He asked the City Council if there was any possible way of putting measures in place if there was a leak that would auto shut down

or if not on the remediation side can they put xeriscaping on it. This is the Steed property. He talked about the grading that was done to the property. He said that Brock showed him the lines where it was. The lines are right down the center of the slope line. It had been dirt since 2003. He said he believes the grading was done by the initial construction. He is asking if we can come up with an alternative to removing the grass and if we can't, can he get some directions? He suggested xeriscape or rose bushes with drip lines. He also suggested stone steps because it is a pretty steep slope.

- Mayor Rosenberg said that Santa Clara has a history with some of the slope stabilization. He talked about the slope failures and that the City just recently did the last attempt to try and stabilize a similar hillside up above Chapel Street that failed and actually had to relocate four homes because of the failure of the slope so Council is a little sensitive to issues relative to the slope and the stability of the slope. He said that the City Council had walked this site at the request of Mr. Steed who asked if he could buy that property from the City when he discovered that he crossed over the line he talked about purchasing it. There is probably still some concern from the Council about the close proximity of the lawn and the turf irrigation on the top of the slope and some concerns about future stability of the slope and then any instability of the slope because that could lead to problems with the adjacent homes. Taking the grass out would be a positive move to reduce the irrigation being placed on the top of the slope. He said he doesn't know that Council would have a problem with the rockwork we just don't want walls and improvements built back in that zone. We don't want a lot of heavy lush landscaping back there. He said if it were him, he would probably pull some of the grass that is on their side of the line back and maybe replace it with some low water type of things and reduce the amount of water that is going into that slide. He asked Council if there are things we can do to work with the Marcos's on that encroachment on the City property or do we just want to stand with the demand letter and have everything pulled back to that line.

- Ben Shakespeare said that on this the concern was the liability to the City. The previous owner was trying to purchase that property and as a Council we felt that it put the City in a problem as far as liability. The key was for the water to be pulled back off City property for the slope. He said we weren't comfortable with the sale of the property because it opened up a floodgate of others wanting to purchase property all the way down the road and also the water onto the City property. He said it is getting that irrigated area off City property and off the slope. He said for him there aren't any issues with remedies as far as the water is pulled back to the property line.

- Mayor Rosenberg asked the Marcos's if they are aware of the Notice of Hazard that is on the final plat. It should have been on the title report relative to the area in the back. It is on the subdivision plat that identifies the boundary of the lot. He explained that it is a "Notice of Hazard, Slope Protection Zone: the integrity of the natural slopes and hillsides may be impaired by grading activities as well as loading and the introduction of water. Because of the potential instability of the natural slopes and hillsides adequate setbacks from structures from the top of existing slopes is required. No structures, including swimming pools and/or fill soil shall be permitted within the slope protection zone shown on the plat. Privacy walls and temporary structures may be placed in this area." He said that kind of tells why the Council is a little sensitive on the area on top of the slope because of the geotechnical reports the City gets for the subdivision that indicate that there are some issues with that. He said that if Council is okay with them pulling the landscaping back and getting the water off of that slope and the Marcos's are okay with

that as far as any impacts it may cause their house in the future then we could work something that way. Council doesn't want to sell any of that property because of the liability but we could probably work with the Marcos's in removing some of the irrigation and some of the plants that are back there and replace it with some gravel or something like that. That shouldn't be a problem as long as we are not talking about extensive fill or loading any additional weight up on top of that slope.

- Denny Drake said that due to the past experiences that we have had within the City any encroachment into the slope of the hill whether it be irrigation or weight both accentuated the slide situations in Santa Clara so therefore maintaining it at what it was is the most important thing, maintaining the integrity of the slope so that we don't lose homes.

- Keith Marcos said that there are two trees that were planted that are in that zone as well. He asked if they needed to be removed.

- Denny Drake said that if they are being irrigated then yes.

- Mayor Rosenberg said yes if they are being irrigated. He said anything that they are providing water to keep it alive because they are introducing water to the soil that hasn't been there.

- Wendell Gubler stated that the Council is going to meet in Executive Session to discuss these matters.

- Matt Ence, City Attorney, said that yes, it is appropriate to discuss this then.

- Mayor Rosenberg said the Council will discuss this in the Executive Session and then bring it back to the Marcos's.

- Matt Ence asked what the parcel number or the lot number is on this lot.

2. Dennis Barnes, 1631 Gubler Drive, said the land dispute with the former resident of the Marcos's home sparked an interest to check the whole hill. He said he has been a resident for 22 years. 15 years ago, this area was starting to be developed and he built his home, and he had all the engineering staking markings, so he put up his home and his privacy wall. He said he remembers seeing the stakes a little over the hill and one stake was there for several years. He said that they were told that anything past the staking that the City put up had to be removed. That is just a few feet with his wall and his cinderblock and his iron wall and would have to tear it all down. He said he was confused because he saw the stakes when he built his home, and it wasn't even that close to them. He said he talked to a City official, and they said they would look into it and he was told that they came and re-measured it and that his numbers were accurate. He said when he built 15 years ago his house was inspected by the City, the walls were built, and all finished up and everything was approved back then. He felt that everything was a little unfair that 15 years later to receive a legal letter saying it needed to be removed or else. He said he has another neighbor two houses down, she couldn't make it tonight, and she is a great citizen to our area and her home has a little putting green for their grandchildren and a little in-ground trampoline for the grandchildren and the City wants that removed. The Walters built that back when their home was built close to 15 years ago. She asked him to represent her at the meeting because she doesn't have the energy right now because she is mourning the loss of her husband. He said she told him she felt like her husband, Mark Walters, did a lot for this community. He talked about the many ways Mark Walters contributed to the community and he said that Mrs. Walters said she felt like she was being taken for granted and that she was kind of trampled on. He showed the map to the City Council. He said the previous owner was Lowell Anderson. The City had acquired the land years later. He said this was never brought up until

recently.

- Ben Shakespeare asked if Dennis believes that originally his stakes were further out.
- Dennis Barnes said he does. They were over the hill and going down about 15 or 20 ft. He said there is a zone there that a privacy wall can be built and that shows from where they put the marks up recently and that is showing 33.5 ft. That is what he saw 15 years ago. He saw the stakes there and it was inspected by the City and approved, and no one ever brought it up again. Right now, they are showing it is 3 or 4 ft too far out. He said it doesn't feel fair. He said years later he spoke to the original engineers and they said that Anderson owned this, but the City acquired it years later. He said he feels for Val. She is a great citizen and has been there for many years and he doesn't see any danger she is providing on any hillside. She has a trampoline and a little putting green and no water or irrigation. This beautifies the top of the hill and is better than weeds. He has been a contractor all his life and been around these things all his life and it surprises him that 15 years later it would bounce back like this.
- Wendell Gubler said that Dennis mentioned to him earlier that he questioned it and he knew when he built his wall, he was within his property lines and he actually rolled that to find out what the actual footage was.
- Dennis Barnes said he did. He showed the scales on the map.
- Wendell Gubler asked if this is the map from the final plat from Southern Utah Title from when he closed.
- Dennis Barnes said that is correct. This is the final plat that was originally designed 15 years ago.
- Mayor Rosenberg said the subdivision plat shows the exterior dimensions 24394. The 33072 is within that 243. He just scaled it off the map. The Barnes total property length is the 24394. That is where the property corner is and then he is going past that on his improvements. What is going past that?
- Dennis Barnes said it is a block wall with the iron that is a few feet past, and he has a concrete pad.
- Mayor Rosenberg asked if there is any irrigation or pools in that part.
- Dennis Barnes said no. His backyard has zero irrigation. It is all fake grass. The nearest water is 40 or 50 ft away from that wall. It is nothing but brick wall and fake grass and concrete.
- Mayor Rosenberg asked that concerning the Walters the encroachment is it just the trampoline pit and the little putting green. Is there any water back there?
- Dennis Barnes said there is no water that he has seen. The line goes across her little putting green.
- Mayor Rosenberg said that the Council is going to talk about this in Executive Session. He said he appreciates Dennis coming in and his comments.

**4. Conflicts and Disclosures: None.**

**5. Working Agenda:**

**A. Public Hearing(s):**

1. Public Hearing to receive public input regarding shooting in the South Hills.

- Mayor Rosenberg apologized to those who came to speak at the public hearing because

it is a little later than scheduled. He said that this is an opportunity to receive some feedback from residents regarding the South Hills. The City is currently considering pursuing property from the BLM under an RP&P Grant to try and incorporate and develop a designated shooting range out on the west side of the South Hills in the southwest corner of the City. There are conflicts that happen out there with the mountain bikers and the hikers and the shooters all in the same place and some safety issues. The City has been trying to work with the County and the BLM to get area out there and the County is backing away and they said that if we want one then we are going to have to take the lead on getting it. We have talked to the BLM, the local managers down here, and they have indicated there is some hope of getting the range. They didn't slam the door on it completely. We have to go through quite an extensive environmental clearance process. It may require some redesign on the range but in any case, it is going to require expenditure of Santa Clara City public dollars. We have an item on the agenda to discuss the environmental assessment out there on 270 acres for the road and the shooting range. It was \$24,000. We are talking about significant expenditures. We would really like to get some public feedback if they feel like this is something the City should pursue, if they feel like this is something that we should not pursue with taxpayer dollars and hence it is why this is on the agenda. Two people have asked to speak on this item. He will let them go first. It is open to anyone who is here. It is a public hearing, so we are happy to hear your feeling or any comments relative to shooting in the South Hills.

5:32 p.m. Public Hearing Opened.

- Karen Lessman-Hughes said she has lived in her home for about 32 years and from the very beginning she has had dogs and has roamed the South Hills with her dogs. Several years ago, she was out there with her dogs and she heard a bullet come whiz past her head. She called the cops. The cop didn't want to go up there and talk to the guy that was shooting. He said maybe it was just a ricochet. She said if it kills her, and it is just a ricochet is it okay. Since then, she has not been up in the South Hills. She is terrified because of the shooting up there. She said an even bigger issue for her is when she moved here, she moved into this nice, quiet, friendly valley. She said there is not a Saturday in the last four or five years that she has been able to sit out on her patio on the north side of her house, she lives at 3298 Hamblin Road, so she is on the north side of the river and Santa Clara Drive and she can't go out there and not feel like she is living in Afghanistan or Iran with the gunshots going off over there. There is nothing quiet about that. It is every Saturday morning and in August or September before hunting season it is every day of the week. She said it is a blessing that they have torn up the road up there and there have been some quiet mornings where there is not gunfire going off all the time. She said when she first moved here there would be people shooting over there but very rarely. Now it's every weekend, every day. If they are going to put vacation homes up there those people are going to be raising some...if they keep shooting where they are shooting. She said if the City is going to put this shooting park in, she is requesting that somebody go over there and fire some guns, and somebody stand over here in the Heights on her side of the street and listen to how much noise there is. How much are we going to have to listen to all those people shooting their guns over there? She said she is assuming that if the shooting park goes in that safety things will be managed but right now, she doesn't know who keeps that place safe because she couldn't get the cop to go

up there. She said that is her experience and that is her huge frustration. She said the dog that was with her the day she heard the bullet go by she thinks the bullet hit the ground near her. She will barely leave the driveway if they are shooting over there. It traumatized her years ago. She said it does affect her and the peace and quiet that she would like to enjoy in her own backyard.

- Richard Hughes, 3298 Hamblin Drive, said he has lived over in South Hills for about 26 years. He said before the road was closed there was shooting every day. It started at six or seven in the morning. He said that when it gets dark, they are still shooting, and they are not stopping. He said they hear automatic weapon fire, which he thinks is illegal, and they have heard cannons go off there and rifles. He said that the City of Santa Clara doesn't have a shooting regulation ordinance within the City limits. Ivins, St. George, and Washington do but Santa Clara doesn't have one. The only thing the City falls back on is the State regulations, which basically says you have to be a quarter of a mile from a house, and you can't shoot across a road. He stated that it sounds like a war zone out there. He said he is not sure pushing them out is going to help that much. The road is closed but they are still going up there to shoot. He thinks there should be a shooting ordinance for the City and to push the shooting out farther. He said the other one has to be engineered. If that park goes in how close are they to the vacation rentals that are going to go in there and any other development. He said the County has a shooting park over in Hurricane and they have had to close that down several times because the people are shooting and it's going to the subdivisions a couple of miles away. He said we have to think about that. When you put in a shooting range there is a liability to that too. He is surprised the County is willing to go in with that because they have had such a mess with the other one. He thinks the City needs an ordinance that says no discharge of firearms except under circumstances they have such as for officers. He said that if the shooters are pushed farther out that may not solve the problem. He said looking at where that is going to be sited where is that going to impact the development around it. He said he thinks the Southern Corridor is supposed to go back in that area so there would be a major freeway behind the area. He said he is against the shooting in the South Hills, and he doesn't think we should have a shooting range either. He talked about how you can't get through the intersection by Lin's. Lots and lots of people go out to Ivins and there are all sorts of people out there. He was in the military and worked at a rifle range. They were very strict but every once in a while, there would be a shot going off and they didn't know where it was going to land. The shooters out there in the South Hills aren't even regulated right now. If they have an accidental discharge, we aren't sure where it will go. It is very unsafe, and he thinks that area needs to be shut down.

- Mark Sanders, 3641 Vista View Circle, said that as a shooter he felt inclined to talk about this. He enjoys shooting in that area. He said the Second Amendment has come under fire and people who believe in that already feel pushed down in today's environment. Like anything it is up to the shooter to be responsible. He said that ricochets do happen. He said the shooting range would be a great idea and he is for that and for leaving the South Hills open as well. There needs to be a place like the shooting range and in this environment in Santa Clara most of the neighbors that he knows own guns and they love being able to exercise that right to shoot them and be with their family with them for sporting and for hunting. He said they value that. He said he thinks the climate in this area is a climate that values all those amendments and the right to practice them. He said a lot of people love coming here and shooting and doing other activities and if you are all about rentals that is one more thing. He said there are both sides to that.

He said that is one thing he wanted to address is that throwing that away for families and people to exercise that right and have that be part of their community he doesn't agree with that. He said he hears the firing just like everybody. He hears that and he thinks "freedom" every time he hears a bullet. They are exercising their rights. Good for them. He said he loves the environment as well. He said the problem is people not taking their trash off that hill. It upsets him. He wants to start a community or City once a month clean up hauling off all of the junk. That would be the way he wants to help this situation.

- Craig Mangus, 1688 Tamarisk, said he has taught hunter safety in Santa Clara for over 25 years and has had over 1,000 students so he has shot out there but never on Saturdays or Sundays. There are too many people and it is too dangerous. He said he thinks we need a shooting range or somewhere for people to shoot because this is an area where there is a group of people who live in Southern Utah who like to shoot. There is a high percentage of people who like to shoot, and he doesn't think it can be outlawed because it will just happen anyway. He said he used to be a Scout leader and he would tell his Scouts that if they would do a service project once a month, he would take them swimming or shooting and about every month they would switch back and forth. Those boys liked to shoot. He said the service project would often times be to go and pick up trash out in the South Hills. He said he doesn't think we can stop it. People will continue to shoot. We need to be aware of the litter problem and the safety is paramount. If there is hikers or campers or whatever then no, they can't shoot. If we had a designated shooting area, then the hikers and campers would stay out of there because they know it is perilous to be in there. He is welcome to answer any questions if anyone wants to call him to learn about the history of shooting in our area. He said even if the City passes ordinances people will still shoot out there.

- Gary Lamph, 1379 Sycamore Drive, said he is a gun advocate. He agrees with what Craig had to say and is also sympathetic to Karen. He feels like the shooting issue has a target on it because there is plenty of noise and dangerous things going on over there in that area. There is a lot of truckloads coming down full of dirt at high speeds and that was a real danger. We have motorcycles and scooters and ATV's and other things that cause a lot more noise and a lot more threat than what is going on up in the hills. That is down here in the local area. We have kids driving that are underage and are ripping down the street with their friends. He said he recently saw a kid that was about 7 years old in an electric car or ATV with 2- and 3-year-old in there driving them around. He said it is kind of a free-for-all over there. He said he actually likes that because it is a taste of the country. He said he feels like right now everyone is down on the 2<sup>nd</sup> Amendment rights. He is for it. He has a dog that is sensitive to gunshots and explosions, but they try to mitigate that the best they can. He is sympathetic to both sides of this, but he is leaning more toward the shooting. At some point as more development goes in, it can't continue up there but for now he sees it as less of a threat than some of the stuff that goes on, on the roadways and bridge. He is for keeping the shooting up there. He said let's look at everything and not just focus on the shooting.

- William Lyzenga, 3738 Clary Hills Drive, gave a brief background of his experiences. He was a police officer, deputy sheriff, game warden, and a Federal park ranger in California. He said he has had an opportunity to make several observations up on the top of the hill in the South Hills. There is a lot of difficult situations where people get involved in unsafe practices of shooting their weapons. There is a lot of trash up there. He said himself and a few volunteers and the Bureau of Land Management (BLM) spent

about 60 hours to collect trash and it took two dumpsters. This area is full of broken glass, brass and lots of metal products and you name it. It is a mess up there. He thinks what the City needs to do along with the BLM is have a volunteer program come along and assist each other in cleaning up the area. He said a lot of volunteers only have a certain amount of time to do their volunteer work. He said currently he is the BLM person up there that oversees the area. He would like to see some input on a new firearm area as long as it is controlled. That would be great.

- Erick Marriot, South Hills, said he wanted to chime in on the trash and the activity that goes on in the South Hills. He feels that if there was a range that there would be an area for shooters to go to and it would help in keeping other activities to one specific area. It could be regulated, and it could be managed and if there is other shooting going on around it could be handled within the range and it could be manned. He wouldn't mind paying to go up there to shoot. If we had something like that it would be a much better facility and safer for everybody and then we could manage the trash. He said he would be willing to volunteer to help clean up and do activities like that up there as well. He said he hopes we can get something where there is a designated area for shooting and then it is safer for everybody.

5:52 p.m. Public Hearing Closed.

- Mayor Rosenberg said he appreciated everyone's comments and asked the Council if they had any comments.

- Denny Drake said that we have been working with the BLM for some time trying to designate a location and find the RP&P ground that they would be willing to part with. Right now, with the current status in the United States they are kind of putting us off thinking that it may take some time to get that done so in the interim we would like to try and develop some methods of cleaning up the area and taking care of the shooting that is going on and making it safer and more constructive. He said he wants everyone to know that the Council is working towards a solution and hoping to come up with one in the very near future.

- Jarett Waite asked if this would be discussed as an item later in the agenda.

- Mayor Rosenberg said the item is going to be the environment assessment and the expenditure to proceed with that. He showed on a map where the range is designated to be. There was a shooting consultant that was brought on. The shooting direction is to the south and so it is away from the City. This area is located in the far southwest corner of the City. This site is well away from any existing structures or really any proposed structures out in that particular area. The direction of shooting is south away from it. It is two ridges away from the City. It is about as far away from the built portion of the City that we can put it and still be inside the City. BLM can't regulate it on BLM land themselves, but the City can regulate shooting on BLM lands that are inside the City. They still have to comply with City ordinance so the idea in the past has been for the City to designate an area where the shooting can take place and then enforce "no shooting" in the rest of the areas so there would no longer be shooting allowed on this side of the ridge. Some of the historical shooting sites that are out there would be closed and they would have to go out to the range. The biggest problem is the road to get out there is technical at best. It is more of a route than a road. We understand if we really want people to go out there then we have to get that road improved to a standard that people can get to it. That is the direction that we are going. We are looking at an environmental

study that would look at the shooting range area and also the road out there and then we will look at some cost estimates and see how much assistance we can get from the BLM. That is the overall plan. It is quite a way away from any existing residents that are out there, and we would have them shooting in the opposite direction.

- Karen Lessman-Hughes asked if anyone would be out there manning it.

- Mayor Rosenberg said that is still to be decided. We haven't come up with an operation plan yet. We don't know that we are going to be able to secure the lease. We are still doing preliminary numbers as far as what it is going to cost and obviously if it is manned it is going to cost more but we do have a lot of volunteers. He said he is tickled to see that some shooters came tonight and offered to volunteer because they may be helping to man the course. We are also going to look to the hiking and mountain biking community to respect the shooting range as much as we are asking shooters to respect their courses. It will be a multi-faceted thing. The critical thing is if we can get the lease.

- Gary Lamph asked if there have been any injuries out there yet.

- William Lyzenga said he drives his ATV out there almost every day now and has made lots of observations. He went out there one day and there was a couple of gentlemen and they were shooting skeet. Unfortunately, there was some people who were in Cove Wash doing repelling and climbing and they received actual pellets from those shotgun shells. It was unreported. He said he just heard about it. He talked to the gentlemen and asked them to go and shoot someplace else. That is the only thing he has run into so far.

- Mayor Rosenberg said there are a lot of near misses. He said he and Chief Nelson (former Fire Chief) were in a side-by-side which the City purchased because we couldn't get emergency vehicles out there, and they came up over the ridge and looked down the barrel of a high caliber rifle about 30 yds away and it was aimed right through the windshield. Luckily, he saw us before he pulled. There is a lot of blind curves, hills, and other things out there that present the opportunity, so we don't want to have that happen. Council has been hesitant to just say, "no shooting" and absolutely block it off. We would like to designate an area and we will enforce "no shooting" in the rest of it. We can't do anything once a person goes outside the City limits but there is a large area out there that is inside the City limits and we want to try and make that as safe as we can.

- Karen Lessman-Hughes said she understands that, and she understands what the shooters are saying. She asked why they don't take the personal responsibility and take their shooting over the ridge now instead of waiting for the City to force them back there. If they know that there is bikers and hikers, why don't they move to a safer place instead of waiting for the City to push them into a safer place?

- Mayor Rosenberg said he thinks that the shooters for the most part are probably responsible shooters and pay close attention to that but one problem that we do have is the access. To cross Cove Wash now and go up the other side takes a unique vehicle that a lot of people just don't have access to. The project will include the road improvements to where a person can be able to get out there. Once a person can access that then we will start the enforcement on it and if the problem keeps getting worse and we can't get it we will probably end up enforcing it on the whole City limits anyway. Our hand will be forced at some point in time. It is getting a lot closer to that now than it was two years ago.

### **C. General Business:**

#### **4. Consider approval of the Environmental Assessment for the proposed 270-Acre Shooting**

Range. Presented by Brad Hays, Parks & Trails Director.

- Mayor Rosenberg said that Council is going to jump down to this item on the agenda because it has to do with the proposed shooting range. He said that this is the proposed initial steps on the environmental studies to consider any environmental impacts of the range and also construction of the road to the range.

- Brad Hays said the shooting range located in the southwest section of the City actually includes about 270 acres and the road that goes to and from there, called Stucki Springs, and also includes a 300 ft barrier each way. He said the original quote was for \$14,000. The bid was only for the area of disturbance for the range and road. He said the updated bid is for \$24,898. The original bid before the BLM wanted us to survey a larger area was the lower bid. The reason for the increase was because Gloria Tibbets, acting for the St. George Field Office sent the Mayor a letter stating that there will need to be a 300 ft buffer for the survey since this will include the Holmgren milkvetch habitat even in the ACEC area critical concern. Because this is a shooting range there could be some effects to desert tortoises that would include noise and shooting itself so the survey for plants with 300 ft buffer where construction disturbance would happen and survey the entire project area. That is why the cost went up a little bit. The reason we are doing the survey now is because there is only a certain period in the year, late March through early May, where that particular plant can be detected. When we did the RP&P for the park up in the South Hills, we did it in July, and we weren't aware of this so when we brought our EA to the BLM they asked about these plants there wasn't any documentation to show that we had done a survey for them in those months so we had to spend additional money and do an entire survey for the tortoises and those plants and that put us back about 9 months. We would like to have this survey done in April while the plants are actively growing. This will tell us what we are dealing with and what is out there and if there are plants and tortoise and what mitigation we can take to try to mitigate it and make it a viable shooting range. This would be the first step so that we know what we are dealing with.

- Denny Drake said they already have an ACEC there, an established study already done. Why are we repeating a study on something that has already been done? He said he thinks we ought to go back to them and ask for a partnership in this.

- Mayor Rosenberg said the buffer is outside and is adjacent to the ACEC but is in the area that is not included in the ACEC. All of the improvements happen outside the ACEC. By law they have to. They can't give us any lease inside an ACEC.

- Denny Drake said he understands that but if we already have a study in place, let's share the cost rather than eating the cost all by the City of Santa Clara. This is beneficial for both the BLM and for the City to establish a shooting sport park. Rather than us taking on all the liability and the BLM not wanting to take on the liability let's make a partnership and see if we can't make a shared cost in this. He said he thought initially it was to be \$14,000 and it is now jumped up almost double then what we were originally thinking.

- Mayor Rosenberg said we can go and approach the BLM to see if we can get some participation. He said from other projects he knows there has been no participation available.

- Brad Hays said the thing is if we want to get this done soon then we would have to call them and talk to them and see if we can get some help that way.

- Denny Drake said we can do that this week.

- Brad Hays asked that if they do decide that they don't want to cooperate do we go forward and move forward with the survey or do we wait another year.

- Jarett Waite said the urgency is there to get it done. He said that the \$10,000 is worth the safety of the people out there to get this figured out and get it going now.
- Leina Mathis said she agrees.
- Brad Hays said we were working with the BLM when we did the RP&P for the 52 acres up there and Bob went through and did the survey and he said there is nothing in there and that there are none of those plants in there. Bob retired and a new person came in and then it was a different story. He said he will talk to the BLM and see if we can get some participation with the EA.
- Mayor Rosenberg said that we need to get that in the form of a motion.

**Motion to Approve the Environmental Assessment for the proposed 270-Acre Shooting Range with a request of the BLM to assist in the payment of the \$24,898 for this assessment.**

**Motion by Jarett Waite, seconded by Leina Mathis.**

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

**Voting Nay: None.**

**Motion Carried.**

- Ben Shakespeare asked that once we do the assessment is their timetable to this.
- Brad Hays said he doesn't know that there is, but he will ask that question too.
- Mayor Rosenberg said it is part of the grant. Since it is an RP&P, if we do the assessment then it will start through the RP&P process and that took about a year after the assessment was done for the South Hills.
- Brad Hays said that will take 18 months. It will be sent to Washington and put on a docket so people can make comment on it and then it comes back, and it is opened again for comment and if there are any comments that are substantiated at that point then they may require us to go back and check another section.
- Mayor Rosenberg said that if the RP&P grant is issued then the City has to start performing work within 3 years.
- Brad Hays said we have to come up with a 5-year plan and then at the end of the 5 years if we are progressing with our plan satisfactorily then they will extend that another 5 years and at a certain point they will turn the land over to the City permanently.
- Mayor Rosenberg said that is the timeframe after that environmental gets approved and then they give us the right of way and then we have to start working toward it. It is not something that has to be done really fast, but we have to keep making progress toward achieving it.
- Brad Hays said that one of the caveats is once we get the RP&P and it becomes in that program that land is dedicated to the RP&P and you cannot sell it or develop it and if we do it reverts back to the government so that is what it is for.
- Ben Shakespeare said that this is one of his questions that what if this does become a shooting range and we build the road and then determine that this isn't the right location, and we need to move it further out.
- Brad Hays said we can go back to the BLM if we have to change the use of it for whatever reason we could probably do that at that time. He said part of that RP&P is a management plan, how we are going to manage it and who will take care of it and pay for it. We have to answer all those questions too as part of that.

2. Discussion regarding Public Open Spaces on Country Lane and Pearl Rose.

- Mayor Rosenberg said we have a contingent here from Country Lane. There have been several presentations to the City before about assuming maintenance on a landscape strip on Country Lane. Scott Averkamp called the Mayor about this issue. He asked who the spokesperson is for the group.

- Tiffany Phelps, 686 Sweet Springs Drive, said she went to the City to find out the ownership of the property. She said when it was pulled up, according to the City, it was listed as municipal property. She went through all the documents and any of the discrepancies and anything that was discussed to try and find some clarity. She said she couldn't get any. She finally went to the County. The County Recorder, Gary Christensen, showed her all the documents for Country Lane Phase 1 and Phase 2 and gave her the maps, which she referenced to Mr. Jacobsen and Mr. Taylor when she met with them later. She said that according to the County and the owner's dedication it says we gave all common property to the City of Santa Clara and that was dated and signed and also in the plat for Santa Clara Phase 1 it says the same. The verbiage is slightly different, and it had been added to on Phase 1's map but is still recorded in the same verbiage which says, "public common area" and the public common area on her map (which she showed Council) talks about what we give to the City of Santa Clara in the public common area. It says "public common area" along with the same verbiage that is behind the Wash maintained which is considered public common area. She said this has been brought to the attention of the City numerous times. She said they hit a wall when they came to the City because the verbiage wasn't understood. She said the County has never deemed it as a parcel. It has no parcel number. She said in their CC&R's for the neighborhood it talks about the residents in that area being responsible for maintaining and the only word it says is "common space" but the reason why an HOA was never established was because there is actually no common area. She said they don't have an HOA. This is municipal property. For it to be the residents' property it would have to have a parcel number and they as residents would have to be able to insure the property and have the ability to maintain it legally which they can't because it is considered municipal property. She said she wanted to bring this to the attention of the City. She said that going over the legal description unless the Council has something that she doesn't the residents don't see where they are liable for that property. They cannot maintain it or insure it or do anything with it. It is considered municipal property. She said that was her purpose in bringing it to the Council's attention. The City is holding the residents liable to maintain the property that they cannot actually maintain legally because it has no parcel number, and they can't insure it and they have no HOA. She said that every paperwork she has and believes the City has literally states it is the City of Santa Clara's and the residents gave it to the City in 1996 and 1998.

- Mayor Rosenberg asked Matt Ence if he agreed with the definition of a "public common area" verses a "common area" maintained by the HOA?

- Matt Ence said he would give a little background as to what he has looked at and then he will give his opinion. He took a look at this and he looked at the documents that are in the County records including the plats for both the phases of the subdivision. There is definitely some stuff on the plat and in the CC&R's that muddle the issue. The property is designated on the diagram on each of the plats as "public common area" which is really not a description that we see much. He said he has never used that as a description of any kind of City owned property. He said that usually when we describe a common area to be owned by an HOA we would say "common area" and if it was going to be public property, we would call it something else such as "public property" or "public park" or

something like that so even the description the way it is designated on the plat is strange because it is just not the way we would typically do that. The CC&R's don't help much because they do talk about common area so they suggest that there was some kind of intent at some point that there might be some common area owned by an HOA. There is an HOA named in the CC&R's but it is not unusual for there to be some inconsistencies in CC&R's especially from years ago. He stated that he thinks the plat ultimately is the most important document to look at for what the intent was for this property. He said that what it comes down to is on the owner's dedication on both plats the dedication is solely to the City. There is not an owner's association mentioned there on both phases. The owner's dedication is the dedication of property to the City only. It mentions specifically public streets and easements. It doesn't specifically say this property but the fact that is the only dedication that was made, there is no dedication to a homeowner's association or anything else that's the definitive thing that ultimately leaves him to believe that this was intended to be property owned by the City. He said we discussed this a few years ago. It seems like the outcome of our prior discussion was that the property owners still maintaining the property, so he doesn't know if we didn't reach a definitive answer in the previous discussion but as of today what he looked at is basically consistent with what has been presented and based on all of that and considering all of it together he thinks ultimately the property was intended to be given to the City.

- Mayor Rosenberg said so the City owns it and in that case the City would be responsible for maintenance of it.

- Matt Ence said that would be where it leads.

- Denny Drake asked if we are talking all this ground around the backside including the access.

- Matt Ence said he thinks the City already manages that property. He said that is another factor. That property is designated the same as this landscape strip or this strip with the trees. It is described the same on the plat, but the City for years now has been treating those differently.

- Mayor Rosenberg asked if there was irrigation in the trees.

- Ben Shakespeare said he read through the minutes of the 2017 City Council Meeting. Going through everything is it the intent of the neighborhood that the City take care of the property? Do the residents want it to be maintained by the City?

- Scott Averkamp, Morning Glory Drive, said he thinks there is a mistaken assumption back in 2017 that this was association property, and the difficulty arose because we never had an association that owned this property. An association was never formed because there was no property to do association. He said it has been very difficult to maintain that or try to assess neighbors or anything like that, so it has been neighbors trying to get together and clean it up when it looks bad. Lately the issue came up because the trees have gotten a lot bigger and what do we do now. Do we get our neighbors up there on 20 ft ladders with chainsaws or do we try and collect assessments to try and maintain these things and take care of it? That is what brought this issue up again. He said they discovered that maybe they had been wrong all along and this really wasn't the residents' ownership at all. He said they have been doing a service project for the City the last 20 years but at this point it has been difficult to try and maintain that with the trees growing like they are so the residents looked into it and discovered that the City has ownership and so the residents would like the City to maintain it going forward. He said that is the universal feeling among the residents. It is City owned that is pretty clear.

- Mayor Rosenberg asked that if the City elected to remove the trees would the

neighborhood be okay with it.

- Scott Awerkamp said he thinks so. He said the residents want it to look good. The trees are mulberry trees and those are pretty invasive. He said there are also some pines.

- Mayor Rosenberg said the large Mondale pines have some of the same attributes. They plug up the storm drains. He said the neighbors have approached the City about this twice, but they are always wanting to maintain control of what is there. Are they willing to give that control up to the City?

- Scott Awerkamp said he doesn't think it is a matter of them being willing or unwilling, but it is a legal issue at this point as to who owns the property and he said he doesn't think the City wants residents to be out there with chainsaws hacking things and having problems and wondering who to sue after it happens. The City does have a risk of liability that could occur on City property if the City is going to ask the residents to continue to maintain it that would be a risk. He said he doesn't think it is a vote on what the residents want. He doesn't think they have a say in it. He said they hope this property can look good.

- Mayor Rosenberg said the City has a reputation with their parks and open space but what is growing in this particular site may not be what the Parks Department would like to see there.

- Scott Awerkamp said there is no water to the property. Originally when the developer developed it there was a waterline that was hooked to one of the lots that went back there so there may be some underground tubing that is still there, but it is not hooked to any water source and there is no separate water source for that ground back there. He said he thinks the water from the properties up above flows down and the trees survived.

- Woody Wagner said he has been there the longest in the neighborhood and the assumption always was that the residents had responsibility for the property. He said that thanks to Tiffany Phelps who found out what was going on, he feels like there is a weight off of his back. He thanked the City for taking it off of their backs.

- Beth Tolbert, 656 Country Lane, said she lives across the street from this property, and they have maintained it for 20 years. She said those trees are a real problem because they have tons of leaves. The neighborhood has done a great job of maintaining it and the residents are just going to be delighted to have the City maintain it. She asked if she could talk about the traffic on Country Lane. She said her access is out onto Dixie Drive or Sunset Boulevard. Sunset is a nightmare now and we have a high-density development going in on the corner of Lava Flow and Sunset, which is going to add to the problem. St. George City put a light in just to the east of Country Lane which was supposed to maintain that traffic a little bit, but traffic backs up clear back to Country Lane. She asked what the City is going to do about traffic. She asked if the City has a plan. She said she remembers when Governor Leavitt said that someday this area would be as big as Salt Lake City and we are seeing a lot of that come true. She said her big concern is the traffic in the City. With all of the vacation homes there are and more going in it is a real, real problem.

- Mayor Rosenberg said the City has a Master Transportation Plan in participation with the neighboring communities and the Dixie Metropolitan Planning Organization that has future routes designed as part of it to facilitate the additional traffic needs. The Western Corridor, the route that goes from Ivins and loops out through the South Hills, when we see the Sunset Boulevard and Dixie Drive start to exceed their capacity then that brings that road on that will connect Ivins bypassing and connect it down near the Tonaquint Data Center and then also to I-15 at Sun River. Those were still a few years out, but they

were moving up quickly. They are on the 10-year construction plan with the State Infrastructure Plan. Those are all regional roadways and are funded with transportation tax and Federal Highways money and State money. It is not necessarily a local Santa Clara City responsibility to build that road. The taxes we are paying now will contribute toward that project. That is probably the next major arterial road that is going to get built and will be the Western Corridor. We have been preserving right of way for it in the Heights where it goes through the northern part of Santa Clara Heights for a number of years. Most of it goes through the BLM. It is going to be environmentally challenging. He said there are additional signals planned on Dixie Drive. There is a signal planned at Sun Brook Drive and Dixie that is in design right now and should be coming online this summer. It will provide some additional gaps as you go up to Stone Brook Drive. It should help that intersection a little bit. There is another one coming at the new Canyon View Drive alignment down by the olive grove that is going to happen in the future. There are some additional turn lanes being designed to facilitate some of that. He said the City has made some improvements on Country Lane trying to manage the speed of traffic on that road. He said the City striped it and then residents are unhappy because of that so the City pulled some of the striping back and then some residents are unhappy because we pulled some of the striping back. He said traffic is an ongoing issue. He said concerning the property on Country Lane if it is the City's property, we will get with the Parks Department and see what we want to do with that property. He talked about a linear exercise training facility and maybe we'll look at something like that and if the residents want to be involved in that process, we would be happy to get some input from them.

- Tiffany Phelps said that since it has been such a topic of discussion for the neighborhood is there any way the residents could get something from the City in writing to say that this is City property so this issue can be put to rest. She said she doesn't want to revisit this again.

- Mayor Rosenberg said he thinks we could put something together. He thanked the residents for coming to the meeting. If the residents want to be involved in this just let the City know.

- Jarett Waite asked if we would get a parcel number on it.

- Mayor Rosenberg said no we probably won't, and we won't be able to sell it. It is going to be part of the street and it will show just like the street shows on the ownership plat.

- Leina Mathis asked Matt that on a typical HOA when you have common area it doesn't have a separate parcel number anyway since it is owned by the group as a whole anyway so how is this different.

- Matt Ence said the County Recorder's Office has been a little inconsistent with that because he has seen common areas that have a parcel number, and it is the same parcel number as other lots in the subdivision but then it either has "open" or "common" at the end. They may not tax it separately, but he has seen them use a separate parcel number. The property owners brought up how the County has it designated, and he doesn't think how the County has it designated is really relevant because the County is responsible for keeping the records, but they are not responsible for determining who owns what if there is ever a dispute. It would be a Court that would decide that so whether the County gives it a parcel number or not that's not really determinative of anything either way. He doesn't think they have been consistent about it over the years anyway.

- Leina Mathis asked if it was just the verbiage in the owner's dedication that we are

basing this off of.

- Matt Ence said yes when you have a plat that has a homeowner's association that is receiving a dedication of a common area usually that will be expressed in the dedication. Where this has a specific dedication to the City and nothing else and even though it is described in a way that is not typical when it says "public common area" which could be argued either way, but the City has all these years treated some of that property as City property and not the other, they really ought to be treated the same.

- Mayor Rosenberg said the property behind the lot, the Wash, we don't want HOA or anybody controlling that but the City. We have treated that as City owned property. If we want this, we almost have to take that.

- Ben Shakespeare said we have done this before; why not give all but 5 ft to the adjoining neighbors. Plat it and give it to them and leave us 5 ft. He said he is not in favor of putting a park right there or some type of recreation area on that road.

- Mayor Rosenberg said they wouldn't take the property unless we agreed to move their walls.

- Ben Shakespeare said 20 ft goes a long way in a backyard. He said that is a lot of landscape for the City to maintain.

- Mayor Rosenberg said they have block walls on their property lines. He said he thinks we can come up with an option and ask the residents how they would feel if we gave them all but the 10 ft but who maintains the 10 ft.

- Ben Shakespeare said we would have to maintain the 10 ft. but it is not 40 ft.

- Mayor Rosenberg said we are going to look to our very talented Parks Director to consider what the best use would be including the option of giving some of it back and bring something to the City Council to look at.

- Brad Hays said there are some pictures in the file. There are only a couple of walls that are actually retained that are block walls. Some of them have a drop off that is about 5 ft or so. He said one of the problems he has with maintaining it is the water that runs off the adjacent properties and drops into the rocks there and erodes quite a bit. He walked the property yesterday and there are some irrigation hoses in there, but they are all chopped up. He said he personally wouldn't mind dropping the property to 10 ft because it is quite a bit to maintain. We would have to spray it and put pre-emergent down on it and a lot of regular weed control. It would be an expense to the City.

- Ben Shakespeare said it is really too narrow to be a useable space for anything. There is probably a couple of acres of maintenance.

- Brad Hays said it is also on a curve so if people parked there it would be a little on the unsafe side.

- Mayor Rosenberg told Brad to come up with a plan and bring it back to Council.

## **B. Consent Agenda:**

### 1. Approval of Claims and Minutes:

- March 10, 2021 Santa Clara City Regular City Council Meeting Minutes
- Claims through March 24, 2021

### 2. Calendar of Events

- April 7, 2021 City Council Work Meeting

- April 14, 2021 Regular City Council Meeting
- April 28, 2021 Regular City Council Meeting

**Motion to Approve the Consent Agenda.**

**Motion by Denny Drake, seconded by Wendell Gubler.**

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

**Voting Nay: None.**

**Motion Carried.**

**C. General Business:**

1. Consider Approval of a Proclamation setting April 24, 2021 as Arbor Day in Santa Clara City. Presented by Brad Hays, Parks & Trails Director.

- Brad Hays said that this year we want to do Arbor Day on April 24 at Canyon View Park. There will be a movie in the park called “Gnomeo” and there will be activities for the kids, which will be crafts for them to take home. We have a good COVID plan. We will also do a tree planting. This is part of the “Tree City USA” requirements that we have every year to be nominated.
- Mayor Rosenberg said the Proclamation is in the Council’s packet.

**Motion to Approve a Proclamation setting April 24, 2021 as Arbor Day in Santa Clara City.**

**Motion by Jarett Waite, seconded by Leina Mathis.**

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

**Voting Nay: None.**

**Motion Carried.**

**6. Reports:**

**A. Mayor / Council Reports**

Ben Shakespeare:

- Nothing to report.

Leina Mathis:

- No meeting to report on. She asked Council about the Historic District Guidelines. Does Council want her to provide some information from the guideline book?
- Mayor Rosenberg said he thinks Council could go through the book together.

Jarett Waite:

- They had a CEC meeting this week. They went over the financials and they still have no debt. It provides an opportunity for the Board to look toward the future and how they want the CEC to function. They had presentations from two different professors on campus; one that presented using CEC facilities for some advanced editing classes and creating viral content for Southern Utah as part of the students’ assignment work. Another professor presented about the possibility of using the facilities for actual news broadcasts by student reporters and possibly even community members. It could be some sort of public news agency. There was a lot of concern about that creating competition

for other news outlets in the area. It would be more like a training ground to provide for students to graduate into a professional setup. Dr. Lee has a background in media, and he was going to dig into that and see how that would be received by the community and if that would work. That would be a really good use of the facility and what it is designed for.

Denny Drake:

- Nothing to report.

Wendell Gubler:

- Nothing to report.

Brock Jacobsen:

- He talked about the Council attending the League of Towns and Cities Conference in April. He will get the Council registered if they want to attend.

Jack Taylor:

- He wanted to thank the Council and especially his employees and Staff. He said his success has been because of them and they made him look good. All the thanks go them and what they have done for him and having his back and helping him run this City. They have been wonderful, and he loves them. They are hard workers. He has loved it here and he doesn't really have the desire to leave but an opportunity came, and he can be with his family and that is the only reason. He has loved serving here and he loves the people. That is why he has always stayed here. It has been an awesome place. He said he has learned so much. He thanked the Council for their trust. It has been a wonderful experience. He said it is amazing how far this City has come, and it is because of great leadership in the Council and Mayors of this City that have developed a beautiful community. He said he is indebted, and he is grateful for the retirement from the City. His family has been blessed. He has raised four kids here and he has 15 grandchildren. It has been a blessing to his kids and his family, and his life and he has loved it. He said thank you!

- Mayor Rosenberg said Jack's retirement party is tomorrow at noon and he hopes Council and Staff can be there. It will be an opportunity to wish Jack well. He thanked Jack.

#### **7. Executive Session:**

- Executive Session to discuss potential litigation.

**Motion to Enter Executive Session to discuss potential litigation.**

**Motion by Wendell Gubler, seconded by Denny Drake.**

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

**Voting Nay: None.**

**Motion Carried.**

- Matt Ence said there is another item that needs to be included in the Executive Session that item is discussion about a personnel issue.

**Amended Motion to Enter Executive Session to discuss potential litigation and a discuss the character, professional competence or physical or mental health of an individual.**

**Motion by Wendell Gubler, seconded by Denny Drake.**

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

**Voting Nay: None.**

**Motion Carried.**

- Entered Executive Session at 6:58 p.m.

- Reconvened at 8:09 p.m.

**8. Adjournment:**

Motion to adjourn by Ben Shakespeare.

Seconded by Jarett Waite with all members present voting aye.

Meeting Adjourned at 8:10 p.m.

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

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