

**MINUTES OF THE
WENDOVER CITY COUNCIL MEETING
Wednesday, June 5, 2013 at 6:30 P.M.
Wendover City, Tooele County Complex Building**

1. CALL MEETING TO ORDER.

Mayor Mike Crawford called this meeting to order at 6:30 p.m.

2. ROLL CALL.

PRESENT: Mayor Mike Crawford
Councilmember Dennis Sweat
Councilmember Lamar Melville
Councilmember Gordon Stewart
Councilmember Karen Shepherd

City Attorney Mark Bell (late)
City Administrator Glenn Wadsworth
City Treasurer Darlene Trammell
City Clerk/Recorder Mariah Murphy

ABSENT: Councilmember Mandolin Hunt

AUDIENCE: Gary Bean, Brett Shelton, Shirlee Shelton, Humberto, Judey Doudna, Johnny Gorum, Steve Reyes, Artemio Rojas, Saul Mendoza

3. PLEDGE OF ALLEGIANCE.

Lead by Councilmember Karen Shepherd.

4. APPROVAL OF THE BUDGET WORK MEETING MINUTES OF MAY 15, 2013.

Motion made by Councilmember Gordon Stewart, seconded by Councilmember Lamar Melville to approve the Budget Work Meeting Minutes of May 15, 2013. All in favor, motion passed.

5. APPROVAL OF THE REGULAR COUNCIL MEETING MINUTES OF MAY 15, 2013.

Motion made by Councilmember Karen Shepherd, seconded by Councilmember Gordon Stewart to approve the Regular City Council Meeting Minutes of May 15, 2013. All in favor, motion passed.

6. DEPARTMENT UPDATES

A) SHERIFFS DEPARTMENT

Stats were presented to the Council. Department had nothing to report.

B) FIRE DEPARTMENT

No representative present.

C) UTILITY DEPARTMENT

Nothing to report.

D) TREASURER

Darlene reminded the Council that a Budget Opening will need to take place for this years budget and also for the upcoming years budget. She expressed concern about a bill received from the company that operates the Credit Card machine. It was stated that an increase in “over the phone” payments were taking place and these types of transactions (not having the credit card present and having to type in the number) have a higher rate and thus an increase has occurred with the bill. No decision on this was made. Darlene also informed the Council that new refurbished phones were purchased for the city office.

E) CLERK/RECORDER

Mariah presented the Council with a new building permit application form that has been simplified and easier for residents to understand. Council gave approval to start using the application. Mariah also presented to the Council a proposal from Mike Haycock to be the Building Official over the City. Council did not make a decision, item to be discussed at the next City Council Meeting.

F) CODE ENFORCEMENT

Code Enforcement Officer, Gary Bean informed the Council that he sent out 15-20 Courtesy Notices to residents and businesses in regards to the posting of physical addresses. Gary explained to the Council that he has to use his personal laptop and take it home to print out reports so as far as timing goes on completing these notices, he was unsure. Gary informed the Council that the graffiti that was along the railroad tracks down from 6th Street was cleaned up. Also, Gary has noticed residents posting physical addresses since the notice went out. Gary presented the Council with the booklet that he received while in Code Enforcement training and asked the Council to review it. He found that there were many things in the handbook that should be incorporated into the City’s Ordinances. Gary emphasized the State Statutes for temporary businesses and home based businesses.

7. PLANNING AND ZONING:

**A) 20’ X 16’ STORAGE SHED AT 245 PEQUOP AVE. ARTEMIO ROJAS.
DISCUSSION/DECISION**

Gary informed the Council that there was no quorum at the Planning and Zoning Meeting the night prior, therefore no decision was made by the Commission. Gary went on to explain the project and informed the Council that he saw no problems with the shed.

Motion made by Councilmember Gordon Stewart, seconded by Councilmember Lamar Melville to approve Artemio Rojas to build a 20’ x 16’ storage shed at 245 Pequop Ave. so long as all the current building codes are met. All in favor, motion passed.

**8. CITY ATTORNEY MARK BELL UPDATES AND PENDING MATERS.
DISCUSSION/DECISION.**

- A) WATER AGREEMENT AMONG NEWMONT USA LIMITED, THE CITY OF WEST WENDOVER, NEVADA AND THE CITY OF WENDOVER, UTAH.**
Steve Clyde has sent the City a Retainer Agreement that needs to be approved. Mark stated that there were a number of issues raised by Utah Law. Mayor Crawford stated that there were 28 issues. Mark urged the Council to complete the approval process so that Steve can move forward.

Other items that were discussed:

ANIMAL LICENSING ENFORCEMENT

Certified letters have been sent out to multiple residents regarding animal licensing within the City. Mariah stated that the response on the letters has been increasing and working well. Mark recommended that if no response is given that a criminal citation be given to the resident.

ANNEXATION

Mark stated that Mariah has sent or will send a copy of the Policy Plan over to the Tooele County Commissioners. The city is now ready to move forward with the actual annexation of the cemetery property. With the transition between attorney's, Mark suggested that this item be forwarded on to Joel Linares. Mark mentioned that further investigation and information is needed before moving forward with the annexation of the Intrepid property. He stated that this seemed to be more of a long term goal for the city. Councilmember Karen Shepherd was under the impression that the ball was in Intrepid's court. Mark replied stating that the company is holding back because the property tax analysis they made was on the several thousands of acres. The cities proposal was just for a portion of the property. Further research is needed to help determine the actual cost of the proposed property. Council was under the impression that the process for the annexation was complete. Mark explained that just the Policy Plan at this point had been created. Mayor Crawford stated the issue was not a pressing matter and would be forwarded to Mr. Linares.

BUSINESS LICENSES

Mark mentioned that a review of the city's business licenses was well over-due for a review and a financial analysis. Mariah mentioned that further information on this would be addressed later on as an agenda item.

GOVERNMENT RECORDS ORDINANCES

Mark mentioned to the Council that over the past few years there have been changes to the Government Records Ordinances that the city will need to address.

CITY ORDINANCES

Mark is aware that the Council has started reviewing the city's ordinances. He suggested that, if at all possible, the city look into contracting out with a code company that can review and put together the city's ordinances. Codes are compiled correctly and readily available on-line.

HORSE BARN

Mark informed the Council that he received a call from Lawyer Tom Neilson.

MAYOR CRAWFORD CHANGED THE AGENDA TO ITEM #22 UNFINISHED BUSINESS.

22. UNFINISHED BUSINESS:

Mayor Crawford informed the Council of complaint letters the City received in regards to a new horse barn being put in by Saul Mendoza on Lot 1B of the Wendover, UT Subdivision (Parcel# 08-000-A-0001). Judey Doudna approached the Council at this time with further letters of complaint that she received from her tenants at the Chapel Apartments not far from the location. Many stated the concern with health issues. Mayor Crawford stated that a desist order was prepared for the project per conversation with Attorney Mark Bell. Mayor Crawford then turned the time over to Mark for further explanation. He informed the audience and council of the situation as stated: Mr. Mendoza approached both the Planning and Zoning Commission along with the City Council to build a horse barn on his property, which sits in an M1-M2 zone. One of the permitted uses within an M1-M2 zone is agriculture. Based on this, the commission and city council assumed the use of the horse barn would be allowed. After reviewing the definition of agriculture it was found to state the following:

“The tilling of the soil, the raising of crops, horticulture and gardening, but not including the keeping or raising of domestic animals and fowl, except household pets, and not including any agriculture industry or business, such as fruit packing plants, fur farms, animal hospital or similar uses.”

Domestic animals include horses and therefore are not allowed in an M1-M2 zone. This was contrary to what Mark had stated to Mr. Neilson earlier, before he reviewed the definition. The city now finds itself in an unfortunate position of possibly giving unlawful approval. Mark stated that it was not unlawful to approve the construction of the barn, but if it is going to be used for the housing of horses then it is a problem with the permissible uses of the property and not allowed. Mark mentioned that it was discussed earlier in the day the possibility of doing a “Special Use Permit” however, Mark was unsure of all the details to know if doing so would be beneficial. He also mentioned that with a special use permit the use must show that it contributes to the well being of the community and is not detrimental to the health, safety, and welfare of those adjacent to the property, along with setback requirements. Mayor Crawford then asked for Mark’s recommendation. Audience member, Saul Mendoza, spoke up and stated that it was already too late for recommendations at this point because he had already been given approval. Mayor Crawford explained that there was a misunderstanding regarding the M1-M2 allowable permitted uses and even though Saul had received approval, it was something that the City Council really had no power over to approve. Mark then pointed out that the law will assume that not only the city knows their ordinances but the public as well. He then informed the Council that they could not stop the work of the building. A building permit has been issued. However, if the use of the property will be for the housing of horses, then in all fairness everyone needs to be aware that down the road the city will not be able to permit that because it would be a violation of the Wendover City Zoning Ordinances. Mark informed everyone that an application for zoning change or a change of the ordinance can be done but it is a much longer process. The city must operate with the ordinances that are currently in place. Mark also stated that if there were any losses occasioned by this then the city will need to take a look at that and make a decision within the next few weeks. Mayor Crawford then addressed the audience and asked why, since this has been posted since September 2012, are the complaints coming in now?

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Ms. Judey Doudna stated that having it mentioned under new business and old business didn't say horse barn or having horses, stalls, hay, manure and fly's. Her apartment building has been there for a long time. There are 10 tenants there who have lived there for a long time and some have respiratory problems and allergies. She also stated that the hay could kill someone including herself. Ms. Doudna then stated that her doctor faxed a letter over to her lawyer Mr. Neilson and stated that she was going to fight it no matter what. She reiterated that the horse barn was not allowed in the ordinance and that it is a health issue especially to herself. Councilmember Lamar Melville asked Ms. Doudna about the horse corrals that are already near her property. Ms. Doudna stated that it was really far from her apartments and they have but maybe one or two horses. The proposed horse barn is a lot closer to her property and the wind blows in from the west, which will bring all the smell. Mayor Crawford then affirmed that there had been a threat of litigation with Mark, in which Mark agreed, and stated that the Council would go into an executive session. Mayor Crawford then also stated that a decision could not be made tonight and that it was within the city's power to place a desist order on the project because they could not move forward without knowing what the city's liability was. Mayor Crawford then also stated that Mr. Mendoza could build the building, he just couldn't place horses in it at this point. Mr. Mendoza then stated that this has been going on since September of last year and he went through and dotted all the i's and crossed all the t's. He was prepared to pour concrete today. He stated that its not like you can tell me to stop because of this issue. Mayor Crawford then stated that the city needed to stop him today because of their liability. Ms. Doudna then made a comment stating that this was a pretty big issue. Mr. Mendoza then made the comment that horses, goats and kids are less than 30 feet away. Mayor Crawford then stated that, that was not the issue. The issue was his property. He then stated again that the Council would go into an executive meeting so the Council could discuss the issues before making a decision. Mr. Mendoza then asked if he had to hold off on everything. Mayor Crawford then stated that he had too. Mr. Mendoza asked why? Attorney Bell then addressed Mr. Mendoza and stated that pending the discussion that in light of what he knew now, if it makes sense to move forward with the likelihood that he would not be able to have horses on the property. Mr. Mendoza then stated that it was already too late. He had everything. He received permission, approvals and went through everything that the city told him to do, with all the expenses of even buying the adjacent lot. To him that wasn't an issue and now it is an issue because someone has complained and we are already past that issue. Mayor Crawford then addressed Mr. Mendoza and stated that the complaint wasn't about the whole issue, it was something that made the city aware of something that they were wrong about. "Cities can be wrong just like everybody and we are wrong." Mr. Mendoza then stated that, that's my money. Mayor Crawford then addressed Mr. Mendoza and stated that he needed to think about what his next choice was going to be. Mayor Crawford stated that as a city we are wrong and we need to fix it for our interest and reiterated that the lawyer stated that he could go ahead and continue building, he just couldn't put horses there. Mr. Mendoza commented that the permission asked for was to put horses there. Mayor Crawford then stated that in light of the complaints and further investigation we were wrong. Mr. Mendoza then asked if the whole thing was wrong. Attorney Mark Bell then addressed Mr. Mendoza stating that we may have been wrong and that no determination has been made at this point. Mark continued stating the the city had enough concern that we felt it necessary to contact you (again addressing Mr. Mendoza) so you didn't need to spend any more money than you had too. Mr. Mendoza then stated that everything had already been purchased except for the concrete. Mayor Crawford then addressed the Council about going into an executive meeting.

Motion was made by Councilmember Karen Shepherd, seconded by Councilmember Dennis Sweat to go into an executive meeting. All in favor, motion passed.

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Council then left the room for further discussion beginning at 7:15 PM and came back into the room at 7:40 PM.

Motion was made by Councilmember Dennis seconded by, Councilmember Karen Shepherd to resume the Regular City Council Meeting. All in favor, motion passed.

Mayor Crawford then turned the time over to Attorney Mark Bell to state the position of the Council and give his legal analysis. Mark stated that despite the meetings and the approvals that are reflected in the minutes the keeping of domestic animals on property in an M1-M2 zone is not a permitted use and its not a conditional use either. Going forward the city can't allow under the current status of its ordinances domestic animals, which would include horses on the property in a M1-M2 zone.

Mr. Mendoza then asked Mark to repeat what he had just stated. He then asked what he should do with all of his fences that he had a permit to do and all the wood that he bought that was purchased specifically for this project? Mark stated that he could not give Mr. Mendoza legal advise on that. Mr. Mendoza stated that the permit stated that it was for a horse barn since day 1. Mark spoke for the council in stating that the Council understood where he was coming from. Mr. Mendoza then stated that this decision did not benefit him. Mayor Crawford then addressed Mr. Mendoza stating that he was more than willing to contact outside help or talk to the Council personally. Mr. Mendoza then asked about the permit that he paid for. Mayor Crawford then asked Attorney Bell the same question and if he gets his money back. Before Attorney Bell could respond Mr. Mendoza commented to make that in writing and that he had spent a lot of money. Mayor Crawford then asked Mr. Mendoza what he wanted in writing. Mr. Mendoza then commented that what "he" said addressing Mark Bell. Mayor Crawford assured him that what was said will be reflected in the minutes. Mr. Mendoza stated that he had spent over \$150,000.00 for the two lots, the fencing and the work from Shelton's Construction and it's not like you can say you can't do it anymore. Mayor Crawford then stated that the city will have everything in writing and stated that how Mr. Mendoza proceeded was up to him. With Mayor Crawford hinting to proceed by saying "okay" Mr. Mendoza then commented saying that it wasn't okay. Mayor Crawford and Councilmember Gordon Stewart commented that, that is all they could at this time. Code Enforcement Officer, Gary Bean then commented that he was the one contacted to issue the desist order and asked if it was due to land use? Mark commented that we are not to give out a stop work/desist order. Mayor Crawford reminded him that he advised this earlier in the day. Mark then commented stating that what we were telling him tonight, that of the keeping of domestic animals on the property is not a permitted use. He has not placed any animals on the property yet. If, Mr. Mendoza proceeds to do anything further, after today he does it at his own risk.

MAYOR CRAWFORD PUT THE AGENDA BACK IN ORDER

9. APPROVE OR DENY ADDITIONAL PAYMENT OF \$2,000.00 TO PINNOCK, ROBBINS, POSEY & RICHINS FOR NON-AUDIT ACCOUNTING SERVICES AND MATTERS RELATED THERETO. DISCUSSION/DECISION.

Darlene stated that the auditor is saying that they had to do so much more work then what was stated on the bid to get the city ready for the audit. Councilmember Karen Shepherd stated that it should be kind of expected with a new auditor that some cleanup work would have to be done. Darlene commented that they should have known that, when they put in the bid. Karen then stated that in the agreement there may be something in writing that for any time spent over the basic audit, the city would be billed at an hourly rate.

Motion made by Councilmember Karen Shepherd, seconded by Councilmember Dennis Sweat to approve the additional payment of \$2,000.00 to Pinnock, Robbins, Posey & Richins for non-audit accounting services. All in favor, motion passed.

10. WAIVE RENTAL FEE ON COMMUNITY CENTER FOR AUGUST 03, 2013 FOR WENDOVER TOWN REUNION AND MATTERS RELATED THERETO. DISCUSSION/DECISION.

Motion made by Councilmember Karen Shepherd, seconded by Councilmember Lamar Melville to approve to waive the rental fee on the Community Center for August 3, 2013 for the Wendover Town Reunion. All in favor, motion passed.

11. WAIVE RENTAL FEE ON COMMUNITY CENTER FOR AUGUST 10, 2013 AND MATTERS RELATED THERETO, DENNIS SWEAT. DISCUSSION/DECISION.

Motion made by Councilmember Lamar Melville, seconded by Councilmember Gordon Stewart to approve to waive the rental fee on the Community Center for August 10, 2013 for Dennis Sweat. All in favor, motion passed with Councilmember Dennis Sweat abstained.

12. RATIFY MOTION MADE ON MAY 15, 2013 BY COUNCILMEMBER DENNIS SWEAT, SECONDED BY COUNCILMEMBER LAMAR MELVILLE TO WAIVE RENTAL FEE'S ON COMMUNITY CENTER FOR KEARNEY FAMILY. DISCUSSION/DECISION.

Motion made by Councilmember Gordon Stewart seconded by Councilmember Lamar Melville to ratify the motion made on May 15, 2013 by Councilmember Dennis Sweat, seconded by Councilmember Lamar Melville to waive the rental fee's on the Community Center for the Kearney Family. All in favor, motion passed.

- 13. WAIVE RENTAL FEE'S ON COMMUNITY CENTER FOR JOSE CHARSOY, VICTORY BAPTIST CHURCH FOR SUNDAY SERVICES FOR 6 MONTHS. AND MATTERS RELATED THERETO. DISCUSSION/DECISION.**

Council thought about the proposal that was offered at the prior council meeting. Council felt that the time asked for was too much.

Motion made by Councilmember Dennis Sweat, seconded by Councilmember Gordon Stewart to deny to waive the rental fee's on the Community Center for Jose Charsoy, Victory Baptist Church for Sunday services for 6 months. All in favor, motion passed.

- 14. RATIFY MOTION MADE ON MAY 15, 2013 BY COUNCILMEMBER KAREN SHEPHERD, SECONDED BY COUNCILMEMBER LAMAR MELVILLE TO HIRE CLYDE SNOW ATTORNEYS IN SUPPORT OF WATER SETTLEMENT AGREEMENT AND MAYOR TO EXECUTE AGREEMENT. DISCUSSION/DECISION.**

Motion made by Councilmember Karen Shepherd, seconded by Councilmember Lamar Melville to ratify the motion made on May 15, 2013 by Councilmember Karen Shepherd, seconded by Councilmember Lamar Melville to hire Clyde Snow Attorneys in support of the water settlement agreement and for the Mayor to execute the agreement. All in favor, motion passed.

- 15. APPROVE NOTICE OF AWARD TO KILGORE CONTRACTING FOR ROAD PROJECT 2013 AND MAYOR TO EXECUTE AWARD, AND MATTERS RELATED THERETO. DISCUSSION/DECISION.**

Motion made by Councilmember Lamar Melville, seconded by Councilmember Gordon Stewart to approve a Notice of Award to Kilgore Contracting for the Road Project 2013 and for the Mayor to execute the award. All in favor, motion passed.

- 16. RATIFY MOTION MADE ON MAY 15, 2013 BY COUNCILMEMBER LAMAR MELVILLE, SECONDED BY COUNCILMEMBER KAREN SHEPHERD TO PROCEED WITH THE SELL OF SURPLUS PROPERTY OF 40 ACRES (SW1/4NE1/4 SEC.34., T.1N., R. 19W. SLBM) AND THE PRUITT PROPERTY (PARCEL 01-257-0-0015) DISCUSSION/DECISION.**

Motion made by Councilmember Lamar Melville, seconded by Councilmember Karen Shepherd to ratify the motion made on May 15, 2013 by Councilmember Lamar Melville, seconded by Councilmember Karen Shepherd to proceed with the sell of surplus property of 40 acres (SW1/4NE1/4 SEC.34., T.1N., R. 19W. SLBM) and the Pruitt Property (PARCEL 01-257-0-0015). All in favor, motion passed.

17. APPROVE OF DENY CONTRIBUTION OF \$6,000.00 TO THE 4TH OF JULY FIREWORKS AND MATTERS RELATED THERETO. DISCUSSION/DECISION.

Councilmember Gordon Stewart asked if this amount was still budgeted. Darlene replied with a yes. Chairman for the 4th of July committee, Johnny Gorum, made a comment thanking the City of Wendover, Utah for the donation and asked for volunteers to help with the event. Waiving of the Community Center fee's will need to be addressed once a form is filled out.

Motion made by Councilmember Gordon Stewart, seconded by Councilmember Lamar Melville to approve the contribution of \$6,000.00 to the 4th of July celebration. All in favor, motion passed.

18. UPDATE AND RECOMMENDATIONS OF PERSONNEL POLICIES AND PROCEDURES MANUAL AND MATTERS RELATED THERETO. DISCUSSION/DECISION.

Councilmember Karen Shepherd found some errors that need to be looked into. Council decided to move this item to the next meeting. Attorney Mark Bell recommended to make sure Mr. Linares reviews any and all changes.

19. RECOMMENDATIONS WITH RESPECT TO BUSINESS LICENSE APPLICATION AND FEES AND MATTERS RELATED THERETO. DISCUSSION/DECISION.

City Clerk, Mariah Murphy presented the Council with a proposed fee schedule she completed for business licenses. The form indicated fee's totaling up to around \$30.00 but suggested cost being \$40.00. Attorney Mark Bell stated that all fee's will need to be accounted for. Mariah took suggestions and will have the new application and fee schedule along with the look of the new business licenses for the year at the next City Council meeting.

20. MAYOR MIKE CRAWFORD UPDATES AND PENDING MATTERS AND MATTERS RELATED THERETO.

JOHNSON SPRINGS BUDGET

The City noticed discrepancies. Mayor Crawford directed City Administrator Glenn Wadsworth to contact Chris Melville by e-mail and express that the outside engineering, which was 275% over budget and the legal service was 179% over budget. Mayor Crawford then read the response as to why that was, which simply stated that there was more legal and engineers than anticipated. As of this year the expense of \$85,000.00 has been spent for legal and engineering.

MOVIE COMING

Movie coming to town July 6th-10th called "Need for Speed." They have asked to use the water treatment plant to build a sally port and make the treatment plant look like a prison. Mayor Crawford has been working with them and asked that they donate \$500.00 for the 2 days, pay the wages for an employee to stand guard, make sure that the property is back to the same shape and he also stated they could possibly give the city all the fencing and the doors used. More is to be discussed between Mayor Crawford and the Movie Company.

ROAD REPAIR

With the extra money left over, totaling about \$15,000.00, after the bid from Kilgore Mayor Crawford suggested that the money be used to start repair work on Skyhawk Drive. Glenn stated that Kilgore gave a quote for change order number 1 for \$14,350.00. That will allow repair work for 350 feet.

NO AIR SHOW

Mayor Crawford informed the Council and the audience that there would be no Air Show this year. Mayor Crawford explained that Jim Petersen stated that it was due to the lack of government funds.

21. CITY ADMINISTRATOR GLENN WADSWORTH UPDATES/PENDING MATTERS AND MATTERS RELATED THERETO.

Glenn stated that we dropped below 11ft at the reservoir and turned into Nevada water for 1 day. That brought us up to 560 so they had to drop it back down to 460. Mayor Crawford commented that there was a lot of water coming in.

UNFINISHED BUSINESS: Attorney Mark Bell stated that he has a lot of files that the city will need to retain once Mr. Linares is put in as Attorney. It was suggested to rent a UHAUL and /or anytime someone from the City goes in to pick up the paperwork.

23. NEW BUSINESS:

No new business discussed.

24. COMMENTS FROM AUDIENCE:

Johnny Gorum stated that the Grand Marshall for this year is in honor of the small businessman. He asked if he could get with Mariah to receive contact information for some of Wendover, UT's small businesses.

25. EXECUTIVE MEETING:

Had earlier in the meeting.

26. NEXT REGULAR CITY COUNCIL MEETING TO BE HELD JUNE 19, 2013 @ 6:30 P.M. BUDGET OPENING HEARING AT 5:45 PM AND A BUDGET WORK MEETING AT 6PM.

27. ADJOURNMENT:

Motion made from Councilmember Dennis Sweat, seconded by Councilmember Gordon Stewart to adjourn the meeting. All in favor, motion passed.

Wendover City Mayor Mike Crawford

Wendover City Clerk – Mariah L. Murphy

Date