

**MINUTES OF THE  
WASATCH COUNTY COUNCIL  
JUNE 26, 2024**

The Wasatch County Council met in regular session live and on Zoom at 4:00 p.m. and the following business was transacted.

PRESENT: Chair Spencer Park  
Mark Nelson  
Erik Rowland  
Steve Farrell  
Kendall Crittenden  
Luke Searle via Zoom  
Karl McMillan

STAFF: Dustin Grabau, General Manager  
Wendy McKnight, from the Clerk's Office  
Jerry Jones, from the Clerk's Office  
Jon Woodard, the Assistant Wasatch County Attorney  
Joan Gould, Wasatch County Communication Specialist  
Tierra Cooper, from the County Manager's Office  
Richard Breitenbeker, from the County Manager's Office  
Rick Tatton, Court Reporter via Zoom  
Austin Corry, Assistant Wasatch County Planner  
Doug Smith, Wasatch County Planner

PRAYER: Councilman Steve Farrell

PLEDGE OF ALLEGIANCE: Led by Chair Spencer Park and repeated by everyone.

**OPEN AND PUBLIC MEETING AFFIDAVIT**

The Open and Public Meeting Affidavit was made a part of the record.

**ADMINISTRATIVE ISSUES FOR FUTURE MEETINGS**

Chair Spencer Park asked if there are any administrative issues for future meetings. Dustin Grabau, the Wasatch County Manager, indicated that a contractor or developer wants to donate some money for a park, and we need to discuss that issue. Let's put it at our July work meeting.

## **LEGISLATIVE ISSUES FOR FUTURE MEETINGS**

Chair Spencer Park asked if there were any legislative issues for future meetings and there were none.

## **PUBLIC COMMENT ON ISSUES THAT ARE NOT ON THE AGENDA**

Chair Spencer Park asked if there were any public comments on issues that are not on the agenda and there were none.

## **APPROVAL OF THE JUNE 5, 2024, MINUTES AND APPROVAL OF THE MINUTES OF THE JUNE 12, 2024, MEETING.**

**Councilman Mark Nelson made a motion to approve both the June 5 and June 12 minutes as presented. Councilman Karl McMillan seconded the motion, and the motion carries with the following vote:**

**AYE: Karl McMillan**

**AYE: Chair Spencer Park**

**AYE: Steve Farrell**

**AYE: Erik Rowland**

**AYE: Mark Nelson**

**AYE: Luke Searle indicated that he abstained for June 5<sup>th</sup> minute and vote yes for the 12<sup>th</sup>.**

**NAY: None.**

## **CONSIDERATION OF AWARDING TRAILS, ARTS, AND PARKS GRANTS.**

Alese Overly presented a power point presentation and then indicated that the County TAP Tax Board is recommending to the County Council awards of \$285,151.95 and allocates ten percent of total TAP tax collecting every year to build reserves. This year ten percent equals \$37,500. After grant awards and ten percent allocation to reserves, the remaining \$52,348.05 will go towards the next grant cycle which is our proposal to the County Council. We were able to fund every single grant to receive an award. This is our first cycle and we're using this cycle to create a foundation for how to move forward. There weren't any stipulations in the code that we were aware of and reviewed and it was allowed for the Board to recommend what we thought would benefit our community. We wanted to see an equalization take place. Dustin Grabau, the Wasatch County Manager indicated that Wasatch County's share of the money is \$400,000.00 and the TAP Board

makes a recommendation to you and that is what is before you today are what the Wasatch County's portion of those subject to our tax sharing agreements with Midway City and Heber City that have their own advisory boards and award process.

Councilman Mark Nelson indicated that what the manager has just said is what I wanted to be in the record. Dustin Grabau replied that we are planning to have two cycles.

**Councilman Steve Farrell made a motion that we go ahead and recommend the approval of the exhibit project as outlined by the County Tax Board. Also to add a helpful condition would be approval with Dustin Grabau working with the attorney's office on the award letters that might have additional procedure conditions. Councilman Karl McMillan seconded the motion, and the motion carries with the following vote:**

**AYE: Chair Spencer Park  
AYE: Mark Nelson  
AYE: Erik Rowland  
AYE: Steve Farrell  
AYE: Luke Searle via Zoom  
AYE: Karl McMillan**

**NAY: None.**

### **HEBER VALLEY HOSPITAL PRESENTATION**

Si Hutt, representing the Heber Valley Hospital, presented a power point presentation and then addressed the Wasatch County Council and indicated that the Heber Valley Hospital's Mission is helping people live a healthy life as much as possible. We have an insurance plan and employ a lot of physicians, home health, and hospice people. This allows us to get up stream a little bit more if someone has an acute episode. We are a model health care system, and we take that very seriously. We are striving to provide high quality healthcare in a way that costs less and for people to utilize healthcare less and people would want that.

Si Hutt then talked about the not-for-profit status. We must follow those requirements necessary to maintain that both from the federal system and the state system. We are organized as a 501C3 and there is no financial benefit that comes from that. We have a charity care program and a financial assistance plan. We have a governing board for the Heber Valley Hospital and the Park City Hospital that do an excellent job overseeing the quality at our hospital. We have made capital improvements to the hospital. We provide education through the hospital to the community for free. We had a grand opening last Friday of our specialty clinic and are working to get more specialists in Heber Valley and this clinic will help us obtain those specialty services. The hospital is designated as a critical access hospital and has been named for the second year in a row as one of the top critical access hospitals in the nation. Medicare ranks the hospital as a five star for patient

experience. We are looking for specialists that are not here which would help people in having to go to another hospital for that service. Twenty-five percent of our revenue comes from Medicare.

Councilman Steve Farrell replied that you should be complimented for the facility that you have created here in Heber City because it has come a long way to what we had fifteen years ago and both facilities are top notch so thank you.

#### **DISCUSSION/CONSIDERATION OF BOARD OF EQUALIZATION ADJUSTMENTS**

Jerry Jones, from the Clerk's Office, addressed the Wasatch County Council and indicated that they would like to get a motion to approve the recommendations from our local hearing officer for these two issues Adam Hale and Kandace Dato matters and orders from the State Tax Commission to reconvene Board of Equalization.

**Councilman Steve Farrell made a motion to approve the recommendations of the hearing officer and the Board of Equalization as has been presented. Councilman Mark Nelson seconded the motion, and the motion carries with the following vote:**

**AYE: Chair Spencer Park  
AYE: Mark Nelson  
AYE: Erik Rowland  
AYE: Steve Farrell  
AYE: Luke Searle via Zoom  
AYE: Karl McMillan**

**NAY: None.**

#### **DISCUSSION/SECOND READING OF ORDINANCE 24-06 UPDATING WCC TITLE 15 TO INCLUDE THE 2021 EDITION OF THE IFC TO REQUIRE FIRE FIGHTER AIR REPLENISHMENT SYSTEM (FARS) ON CERTAIN NEW STRUCTURES TO MAKE RELATED UPDATES CONSISTENT WITH THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 13, AND TO MAKE ADDITIONAL UPDATES TO THE FIRE CODE.**

Clint Neerings, from the fire department, addressed the Wasatch County Council and indicated that this was discussed at the fire board meeting a month or two months ago. We had the first reading in the middle of May. Nothing has changed from the document and has spread it out to some of the buildings that are under construction and some of them are moving and so we are trying to get ahead of the curve. Wasatch County Council, after consideration of recommendations

and advice from the Fire District finds that it is in the best interest of the health, welfare and safety of the citizens of Wasatch County to adopt Appendix L to the International Fire Code, with certain amendments hereafter defined as part of the Wasatch County Code, and (I) to include automobile parking garages in Ordinary Hazard Group 2, consistent with the 2022 edition of National Fire Protection Association 13-installation of sprinkler systems. Also, in regard to the fire fighter air replenishment and basically give breathable oxygen to the fire fighters so they don't have to carry bottles up and down and it just speeds up the process and reduces the loss by fire so gives fire fighters more convenience to the fire floor. This makes it more available. The second portion of this adoption would be as Chair Spencer Park would be the adoption of the ordinary hazard Class 2 of the National Fire Protection Association so we are adopting the ordinary hazard Class 2 from the 2022 version that may be adopted by the State this year but for sure in two years and with the building that we have going on in the parking structures and this increases the water that will be dispersed through a sprinkler system so that we don't have a large lost fires that has happened in other parts of the world. This would apply to five stories above grade or two stories below grade. We had to amend it a little bit because building in Texas is a little different than building in the Jordanelle Basin so any time we are getting more below grade it is as big of an issue if not bigger than above grade because if you get a fire in the fourth floor of the basement, heat and smoke rise that is where we had five above and two below so we can get water and air to the fire fighters.

Councilman Steve Farrell asked if there have been any comments regarding this because we have had a public hearing concerning this. Clint Neerings replied that there have been some discussions with some of the developers about how we implement it and how we work through it. We have three to four permits that will be coming through that we have notified so it is not a surprise to them, and they get a permit and have something of an issue, and we have worked with them to get on the same page and work through fire to adoption and let them know that it is not officially adopted. We haven't had any major issues come up that we haven't been able to resolve. In my opinion it is not necessary to have a third reading of this. Also, we have kept it as close to the original wording is what we would prefer.

**Councilman Karl McMillan made a motion to accept Ordinance 24-06 as presented. Councilman Steve Farrell seconded the motion, and the motion carries with the following vote:**

**AYE: Chair Spencer Park  
AYE: Mark Nelson  
AYE: Erik Rowland  
AYE: Steve Farrell  
AYE: Luke Searle via Zoom  
AYE: Karl McMillan**

**NAY: None.**

## **CONSIDERATION OF IMPLEMENTING FIREWORK RESTRICTIONS FOR SUMMER 2024.**

Clint Neerings from the fire department, indicated that this is the same map that we have done since at least 2021. Basically, it is inclusive of all of our designated wild land urban interface areas. There are some areas like, for instance Daniel and Midway are working on more restrictive restrictions that come further out of the wild land and working with them to implement that into this. The Wasatch County Fire District is recommending that Wasatch County implement firework restrictions for areas located in the wildland urban interface shown in the map that I just showed you. These restrictions would apply to the allowable discharge dates of July 2-5 and July 22-25. Each municipality in Wasatch County also has options to enact their own restrictions within their boundaries. Additional safety information is available on our website. We would like a motion to approve the firework restrictions as proposed. They can still sell in County, but they can't discharge anywhere that is shown in red on the map.

**Councilman Steve Farrell made a motion that we implement fireworks restrictions for the summer of 2024 as has been presented by Chief Neerings and Chief Hales. Councilman Mark Nelson seconded the motion, and the motion carries with the following vote:**

**AYE: Chair Spencer Park  
AYE: Mark Nelson  
AYE: Erik Rowland  
AYE: Steve Farrell  
AYE: Luke Searle via Zoom  
AYE: Karl McMillan**

**NAY: None.**

## **CONSIDERATION OF AUTHORIZING FUNDING OF A CONSERVATION EASEMENT APPRAISAL.**

Councilman Steve Farrell indicated that there is a property coming up for sale and approved two million dollars for this property a year and a half ago. For certain reasons they haven't went through and they are now ready to move forward, and our conservation appraisal has expired, and we have a policy of committing twenty percent towards it and we want to make sure that two million is still twenty percent of the conserved value. My request is that we take the ten thousand dollars out of the rollback funds as protection and make sure that we are now exceeding our policy of twenty percent. I am requesting that we approve to use up to ten thousand dollars out of the rollback fund for a new appraisal on these 119 acres in Midway.

Councilman Mark Nelson replied that if the appraisal comes back and value has changed enough so that doesn't fit then what? Councilman Steve Farrell indicated that we must make a decision of

how much difference there is and then go from there. The other thing that we can do is just go ahead with their approval of the two million dollars and then worry about it if it doesn't come up. What it does with the ones that we have already approved based on the twenty percent allocation. I would rather see us to have an appraisal to make sure that we are staying on track.

**Councilman Mark Nelson made a motion that we approve Councilman Farrell's recommendation to use up to ten thousand dollars of roll back funding for a reappraisal. Councilman Eric Rowland seconded the motion, and the motion carries with the following vote:**

**AYE: Chair Spencer Park**

**AYE: Mark Nelson**

**AYE; Steve Farrell**

**AYE: Erik Rowland**

**AYE: Luke Searle via Zoom**

**AYE: Karl McMillan**

**NAY: None.**

**WASATCH OPEN LANDS BOARD RECOMMENDS THAT THE WASATCH COUNTY COUNCIL SIGNS A LETTER OF COMMITMENT OF FUNDING TO THE NORTH FIELDS PROTECTION INITIATIVE RCPP PROPOSAL OF UP TO \$3.6 MILLION IN ORDER TO LEVERAGE FUNDING IN THE AMOUNT OF UP TO \$20 MILLION.**

Wendy Fisher, from the Urban Lands Board, addressed the Wasatch County Council and indicated that the Wasatch Open Lands Board (WOLB) has recommended that the County Council authorize the distribution of the attached letter in support of the Regional Conservation Partnership Program, which would add a designation to future projects that are preserved in the North Fields with the help of the Nation Resource Conservation Service. We would ask the County Council to make a motion to approve or modify the letter as proposed. Wendy Fisher then read the letter into the record. Our request would be for \$3.6 million to help us leverage the dollars and help with our ranking in these particular projects. The other element to this is this commitment is only good if we receive the funding. In other words, if our grants that we are requesting for up to twenty million dollars do not go through then this partnership letter you don't have that obligation.

Councilman Steve Farrell replied that most of the property is in the area that we have requested a grant is also in the areas that we have anticipated working with. Wendy Fisher replied that is correct because most of the properties are landowners in the North Fields. Councilman Steve Farrell replied that basically what this is just a letter of support.

Councilman Mark Nelson asked if the letter of support is binding the Council to \$3.6 million or some other number of the open space bond funds. Wendy Fisher replied that now it would just be the total of the \$3.6 million and part of that is the consideration that the Lundin Property is part of this proposal which there is already a commitment for the two million and technically it is only an additional \$1.6 million for other projects that are in the North Fields that we haven't brought forward so it would be inclusive of the moneys of the Lundin properties.

**Councilman Karl McMillan made a motion that the Wasatch County Council signs this support letter of commitment for funding to the North Fields Protection initiative RCPP proposal up to \$3.6 million to leverage the funding in the amount up to \$20 million. Councilman Steve Farrell seconded that motion, and the motion carries with the following vote:**

**AYE: Chair Spencer Park  
AYE: Mark Nelson  
AYE: Erik Rowland  
AYE: Steve Farrell  
AYE: Luke Searle via Zoom  
AYE: Karl McMillan**

**NAY: None.**

#### **CONSIDERATION OF AUTHORIZING A PUBLIC INFRASTRUCTURE DISTRICT FOR THE BLACK ROCK MOUNTAIN RESORT.**

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that in May Wasatch County received an application for a Public Infrastructure District (PID) for the Black Rock Mountain Resort. This is following an April adoption to changes to the PID policy the Council authorized. The resort is located at 909 West Peace Tree Trail, Heber City, Utah 84032 off Highway 248.

The PID is proposed to issue \$14.17 million in debt repaid over time though an additionally assessed property tax of 10 mills of 1 percent. The State Code required 100 percent of property owners to opt-into the creation of a PID. Limited financial liability exists for the County as this debt is not connected to the County's financials and is issued against the properties in question.

The funding is planned to be used for earthwork and retaining walls, culinary water, sanitary sewers, irrigation, storm drain, street improvements, parking, event center, general and SWPPP.

Though the amount requested only represents a portion of the total cost of these improvements.

In addition to the attachments that outline the creation of the PID the County's Development Review Committee DRC reviewed the application and has supplied feedback in an additional attachment.

Dustin Grabau indicated that presently we are working with the Black Rock matter on a governing document that outlines some of the specifics authorization.

What is before the Council today is consideration of the PID application and your comfort with that PID and if your comfort sufficient to go ahead and proceed to authorizing the PID and to go through those procedural steps.

Councilman Steve Farrell replied that everything is pretty much in line with our ordinance and maybe we ought to address some of the complaints that came and why they are complaining. Dustin Grabau replied that there seems to be some confusion of the difference between the properties that are included in a Public Infrastructure District and those that are exempted. Portions of the Black Rock Resort that are already owned by other entities outside of the petitioners, those properties would not be subject to any increase property taxes. This proposal to create a one percent property tax against portions owned by the petitioners which any other residents are not subject to that. These are not HOA amenities. The funding for this is included in the financial plan outlines how much money is being generated and what it is being used for and many of those are the public infrastructure associated with the project as well as the event center itself.

Russell Skowsen, general counsel for the applicant, addressed the Wasatch County Council and indicated there could be confusion with those who own units in the project that there is a map of the project that shows the entire project but in the description it says it includes this and doesn't include that and no third party owner that is included in any way in this petition for a PID and will not be. There is no way to subject them to additional cost they are just outside of the project. Dustin Grabau replied that it is not possible for a PID to force someone to subject them to that without their consent.

Councilman Steve Farrell replied that the people that has been excluded from this is condo owners within the building. Russell Skowsen replied that is correct. Councilman Steve Farrell asked what about the common areas that owners depend on that are included in it. Russell Skowsen replied that the common areas are not individually parceled. Councilman Steve Farrell indicated that he wouldn't want somebody mortgaging the pool that I would use and it is a confusing project because the individuals who are owners should be made aware of what this PID is encumbering. Russell Skowsen replied that individuals are made aware of what they are purchasing and what they are not purchasing.

Councilman Steve Farrell asked is there an appeal process available for the property owners? Dustin Grabau replied that there is a required affidavit of the petitioners and there are no property owners involved that aren't a party to this agreement and this is part of the application process.

Are there condos in the new portions of the hotel that will be subject to the property tax and if that represents any concern with any disparity between units that are not in the PID and units that are in the PID and the cost of that? Russell Skowsen replied that these issues are explained to them at purchasing if they want to buy or not. They come in knowing if there is a PID tax.

Chair Spencer Park indicated that he would like to have on the record what is the public benefit from enacting this \$4.8 million PID. Glen Brown, representing the applicant, is that there is public improvement is deemed to be a public benefit. There is parking, there is this event center, recreational center that is open to the public and that provides benefits. It is a benefit and why we recognize it if you are doing a public improvement the public will benefit.

Councilman Erik Rowland asked if there are fees associated with the public using these amenities. Glen Brown replied that there will be some in certain areas and we must make money to be able to do this and that is not outlined in the PID. The PID is merely a financing mechanism to help pay for it like the capital cost of something.

Councilman Steve Farrell replied that the economic benefit to the County is the public good and this generates the second highest amount of transient room tax and restaurant tax in the valley right now. The public good is the economic benefit. This could be done through the state without being brought to the counties. Dustin Grabau replied that we have already received an application for an infrastructure financing district which is a very similar financing model that doesn't involve the County and that is part of the rationale we have used for adopting the PID policy is at this avenue it gives us a chance to have a seat at the table to work with the applicants on their project.

Councilman Steve Farrell replied that my biggest concern is the misunderstanding on who is included and who is not that none of the private units will be included in this PID and there will not be a special tax assessed against them without their accepting of it and approval of it and this could become an administrative nightmare for our County Assessor and on our tax administration side of which unit pays it and which ones don't. Dustin Grabau replied that we typically have created new tax districts for PIDs, and they would be part of this property would be in the PID tax district and portions that would be in the underlying tax district.

Councilman Luke Searle replied that some units will have the units, and some will not have the PID which could be a logistical nightmare. Russell Skowsen indicated that there is one entity that will be responsible for this and that is the entity is the commercial operator of the greater hotel and event center and it could be set up for that to be the case.

Councilman Steve Farrell asked if there is a way that we generate a hybrid of the two systems. Russell Skowsen replied that could be done. Dustin Grabau replied that our bond counsel might recommend additional formalities in the process of adopting this but I think you are indicating that you are comfortable with it as presented and gives us what we need for now and if there is something else we can come later for it.

**Councilman Erik Rowland made a motion that we proceed as presented with the Public Infrastructure District for the Black Rock Mountain Resort as has been presented tonight. Subject to the review of our bond counsel. Councilman Steve Farrell seconded the motion, and the motion carries with the following vote:**

**AYE: Chair Spencer Park  
AYE: Mark Nelson  
AYE: Karl McMillan  
AYE: Steve Farrell  
AYE: Erik Rowland  
AYE: Luke Searle via Zoom**

**NAY: None.**

### **CONSIDERATION OF AUTHORIZING A PUBLIC INFRASTRUCTURE DISTRICT FOR WAKARA RIDGE**

Dustin Grabau, Wasatch County Manager, addressed the Wasatch County Council and indicated that this matter is consideration of authorizing a Public Infrastructure District for Wakara Ridge. Dustin Grabau indicated that in May, Wasatch County received an application for a Public Infrastructure District PID for Wakara Ridge. This is following an April adoption to changes to the PID policy. The Council authorized the property is approximately 180.81 acres located east of Tuhaye and north of the Jordanelle Reservoir. It will consist of 182 ERUs including 130 single family lots, 45 cottage homes, and a 25,000 square foot clubhouse.

The PID is proposed to issue \$24,643 million in debt repaid over time though a special assessment paid off at title transfer and a minimal 1 mil or 0.1 percent property tax only useable for actual administrative costs.

The State Code requires 100 percent of property owners to opt-into the creation of a PID. Limited financial liability exists for the County as this debt is not connected to the County's Financials and is issued against the properties in question.

The funding is planned to be used for earthwork and retaining walls, culinary water, sanitary sewers, irrigation, storm drain, street improvements, general and SWPPP.

In addition to the attachments that outline the creation of the PID, the County's Development Review Committee DRC reviewed the application and has supplied feedback in an additional attachment, and I neglected to include the DRC comments and they focus largely on Summit County's efforts to impact the access to this project. There is no event center that is included. These are largely infrastructure for the development itself is what is being proposed.

Councilman Steve Farrell asked that there is no tax element involved in it? Dustin Grabau replied

that there is a minor tax. Councilman Steve Farrell replied that as soon as those units are sold, they are paid off. Dustin Grabau replied to a special assessment portion is paid off yes. Taxed at closing at title transfer yes.

Brennan Brown, from the applicant, indicated that state statute limits it as well and the state statute limits it to one third of the appraised value and that lots of times it is done at less than that. It will be paid off by the development team before it is transferred to the lot or home buyer. That would be paid off and then the lot owner would have it free and clear, and it is a mechanism to help fund the infrastructure and do it with tax exempt dollars and the other options that you would go and do that with traditional forms of capital. This is a way to install the infrastructure with the public infrastructure and it is only the infrastructure that is public.

Dustin Grabau indicated that this is a funding option through infrastructure financing districts that is available to others and that the PID affords us a seat at the table in this discussion even through there are other financing options available to them.

Councilman Erik Rowland replied that just to reiterate the value it brings us is pretty much inclusive to the residents in the area. Brennan Brown replied that only those residents will bear any cost or burden associated with it. Dustin Grabau replied that it is a little bit of a nebulous thing to determine what is the public good from this and that is up to you as a Council to determine if you feel like this PID has sufficient public good. Also, this aligns with the PID policy that we adopted earlier this year. It is up to the Council to see it as sufficient public good. Brennan Brown indicated that there is a public good in allowing us to do this development in the County where the County benefits more from this development than it would a MIDA development. Councilman Steve Farrell replied that one of the other public goods we could say that they are going to be users of the JSSD Special Service District which we have already built the infrastructure for, and we added additional units to it.

**Councilman Steve then made a motion that we authorize the Public Infrastructure for Wakara Ridge subject to a final review and our bond counsel review. Councilman Karl McMillan seconded the motion.**

**AYE: Chair Spencer Park**

**AYE: Mark Nelson**

**AYE: Erik Rowland**

**AYE: Steve Farrell**

**AYE: Luke Searle via Zoom**

**AYE: Karl McMillan**

**NAY: None.**

Councilman Erik Rowland replied that just to reiterate the condition to pay itself at the time of sale and this is limited to the Jordanelle Reservoir which will help overcome that nebulous what is

public good issue. Dustin Grabau replied that this shouldn't be under stated that I think sets that precedent that is the case. Councilman Erik Rowland replied that this doesn't open a flood gate to others that may want to do that.

Dustin Grabau also indicated that we would like a motion to amend, approve, or deny the PID application.

## **COUNCIL/BOARD REPORTS**

Councilman Karl McMillan indicated that he went with Max and Dave to the Jordanelle Basin to look at all the pump and lift stations that we have got to repair and upgrade which will be a horrendous project in the next couple of years.

Councilman Mark Nelson indicated that he had the opportunity to visit a couple of times the Utah Daughter's of the Utah Pioneer Museum. We all have assignments for different things and no Councilman had that on their responsibilities the Utah Daughter's of the Utah Pioneer and I would like to have that responsibility and work with them on some of their concerns and some of the other opportunities that are there. Chair Spencer Park asked Tierra Cooper to add that as a board assignment and put Councilman Mark Nelson as our Council representative on that board assignment. Also, there is a concern that they are going to have to move and that is not the case currently. Dustin Grabau replied that there is no desire to force anyone to change and right now is just trying to test the waters and see what people are interested in and how we can better make that even a more prominent part of our community. Also, our County Manager mentioned earlier this afternoon the potential for a park and that up on the east side. The land that the administration building is being considered on is also a possibility or at least has been in the discussion for parks and that our parks and recreation department is working on a master plan for parks. I think we just need to be very thorough and look at all these parks and potential parks and what it means in the Jordanelle Basin and what it means in Heber City and in the County and just make sure we are meeting that. That is very important to the citizens of Wasatch County. Councilman Steve Farrell replied that the property that we bought from the Hicken family fifteen years ago and one of the conditions is that we would have a park and name it after one of the members of the family.

Chair Spencer Park indicated that we met with the architects for the criteria for the new administration building and discussed different goals that we wanted from the building and left it to the architects to come back with a proposal based on what we would like to have. Dustin Grabau replied that our intent is that once they come back with something we will reconvene that group and just keep reiterating until we get to a final project. We also do have an RFP closing this week for the construction manager and general contractor on that project and we will be going through the selection over the next couple of weeks and will bring it back to you at our July 17, 2024, meeting for approval

## **MANAGER'S REPORT**

Dustin Grabau, the Wasatch County Manager, replied that he has nothing to present.

## **CLOSED SESSION**

The Council and Dustin Grabau, the County Manager both indicated that there is no need for a closed session this evening.

Chair Spencer Park indicated that the time is now 6 :00 p.m. and we are now going to hear our Public Hearings that are scheduled for this evening. There are five members of the Wasatch Council present. Councilman Kendall Crittenden will be joining shortly, and Councilman Luke Searle might be here via Zoom and the rest of the members of the County Council are present.

## **PUBLIC HEARING JUNE 26, 2024**

**THE CROSSINGS OF LAKE CREEK I, L.L.C. REQUESTS A PLAT AMENDMENT TO THE CROSSINGS AT LAKE CREEK PHASE NO. 1, IN ORDER TO AMEND THE BOUNDARIES OF LOT C, AND DESIGNATED OPEN SPACE LOT THAT WOULD ADJUST THE LOCATION OF THE PARCEL BUT MAINTAIN THE SAME SIZE FOR THE PARCEL AND TO INCLUDE THE REQUIRED TRAIL IMPROVEMENTS THAT HAVE NOT YET BEEN COMPLETED. THE PARCEL IS LOCATED AT APPROXIMATELY 340 S LINDSAY HILL ROAD IN THE RESIDENTIAL AGRICULTURE 1 RA-1 ZONE.**

### **Staff:**

Austin Corry, the Assistant Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that the applicant is in the process of seeking final approval to develop phase 11 of The Crossings at Lake Creek Master Plan development. While making the application, the DRC identified that the applicant was attempting to plat new lots over an area that is currently recorded as open space. Lot C in The Crossings at Lake Creek Phase 1 that was recorded by plat in March 2005. The project has a lengthy history of multiple phases, development agreements, and a settlement agreement. Relevant to this request would be the requirements for open space and recreational amenity improvements recorded in the development agreement. The applicant is seeking to amend Lot C of the plat in order to adjust the boundaries in a way that removes the portion of the lot where the proposed Phase 11 overlaps and

to add to this Lot C areas of un-platted ground shown for a future unbuilt phase of the project. The result would be an open space lot that is the same acreage as the current lot, but in a slightly different configuration. In the development agreement there is an asphalt trail that runs north and south through this lot and that was committed to by the developer and so that is one of the requirements that they would have to follow the current procedures of either bonding or building that trail to record the plat. The Planning Commission had a fair amount of public comment to it and there was one letter that was received just before the Planning Commission through the online submission process, and this is from the Vice Chair of the Crossings HOA and this has been made a part of the record. The letter says that the County doesn't need to be involved any more, the HOA will work it out. Also, that the declarant will work with the HOA to define where the new boundaries would be. Would like some more open communication and dialogue with the declarant concerning matters that may impact HOA's going forward. There is also a resolution and transfer agreement made and paragraph eight was referred to in that agreement.

The Wasatch County Code requires notice to be sent to all property owners within the plat, as well as property owners within 500 feet of the requested plat amendment. Wasatch County Code 16.01.05 identifies who the land use authority is depending on the scope of the proposed amendment. Since the proposal does not qualify as a Minor Plat Amendment under the definitions specified in the Wasatch County Code, the request is required to be heard by the County Council.

Austin Corry then went through key issues to consider.

1. Compliance with zoning requirements, including supplementary development standards.
2. Compliance with recorded development agreements.
3. Compliance with UCA Section 17-27a-609, including WCC 16.04.02 definition of good cause.

The good cause definitions that are in 16.04.02 are providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.

The Development Review Committee has reviewed the plat amendment and finds the proposal is ready for the Council to determine if Good Cause exists as required by State Law. It is believed that the modifications to the boundaries are insignificant and do not contradict the current development requirements. The construction of the missing trail amenity is a positive benefit to resolve the existing issue of incomplete infrastructure.

Austin Corry then went through the DRC Comments:

PLANNING comments:

- The trail plans need to be presented for DRC review. After review and approval and before

the Mylar can be signed a subdivision construction permit will need to be obtained and bonding put in place for the trail construction. The subdivision construction permit and bonding from the previous comment will be required prior to engineering's signature.

- Bonding and construction of the trail in accordance with the trail plan will be required.
- The final estimate will need to include revegetation of the disturbed area from grading activities.
- The trail will need to include the weed barrier underneath per WCC standard detail.
- I don't see any details about the culvert and how the trail relates. The grading plan fails to show finish grade at the culvert area. The engineering permit will need to be validated.
- The Engineer's Estimate will be reviewed further at submittal for construction permit.

ASSESSOR comments:

- Assessor recommends the lot be designated as common area instead of an open space lot to avoid the risk of potential tax sale later down the road.

ENGINEERING comments:

- The trail plans need to be presented for DRC review. After review and approval, and before the Mylar can be signed a subdivision construction permit will need to be obtained and bonding put in place for the trail construction. The subdivision construction permit and bonding from the previous comment will be required prior to engineering's signature.
- Engineer's estimate will be reviewed further at submittal for construction permit.

Doug Smith then went through the proposed findings:

1. The subject property is a 7.54-acre open space lot part of The Crossings at Lake Creek master development.
2. The development agreement required that the applicant provide 20 percent open space for the project.
3. The proposed boundary adjustment reconfigures the 7.54-acre open space lot but maintains the same acreage.
4. The application includes a portion of the trail plan consistent with the development agreement for a public trail.
5. Good cause for the amendment exists to resolve the completion of the trail committed to in 2005 with no other significant alteration to the open space acreage currently provided.
6. No public or private roads are being vacated as part of this plat amendment.
7. The Development Review Committee has reviewed the technical requirements of the proposed project and determined the project is ready for decision by the Land Use Authority.
8. The proposal is consistent with Utah Code 17-27a-609.

Austin Corry then went through the proposed findings:

1. The subject property is a 7.54-acre open space lot part of the Crossings at Lake Creek master development.

2. The development agreement requires that the applicant provide 20 percent open space for the project.
3. The proposed boundary adjustment reconfigures the 7.54-acre open space lot but maintains the same acreage.
4. The application includes a portion of the trail plan consistent with the development agreement for a public trail connecting throughout the master plan development.
5. Good cause for the amendment exists to resolve the completion of the trail committed to in 2005 with no other significant alteration to the open space acreage currently provided.
6. No public or private roads are being vacated as part of this plat amendment.
7. The Development Review Committee has reviewed the technical requirements of the proposed project and determined the project is ready for decision by the Land Use Authority.
8. The proposal is consistent with Utah Code Section 17-27a-609.
9. Good Cause exists because of the furtherance of the agreement between the declarant and the HOA dated May 6, 2021

Austin Corry then went through the proposed conditions and made a couple of small tweaks to the language of the conditions, but I did it with the intent of meeting the Planning Commission's stated intent and that was more to highlight and reference their desire to make sure that the state or federal permits were adhered to.

1. The trail improvements and any other construction activities needed to comply with state or federal laws shall be completed or bonded prior to plat recording. If bonded, the construction of the trail shall be completed in accordance with the bond agreement timelines.
2. The trail plans presented for the engineering construction permit shall include all areas of the trail, including the crossing of the stream, in compliance with County code and other permits required by other state or federal agencies.
3. All issues raised by the DRC shall be resolved to the satisfaction of the applicable review department in accordance with applicable standards.
4. There be no interference with the creek and riparian areas unless approval from the property jurisdiction is obtained.
5. The declarant covenants to either complete the trail or file a performance bond prior to December 31, 2024. Open space parcel C will be transferred on or before December 31, 2024.
6. We talked a lot about the stream alteration permit but there were also discussions in the Planning Commission about potential wetland issues with the Army Corp.

Councilman State Farrell asked that with regard to Findings No. 5 wasn't a condition of the original approval or how would that be good cause to amend it to what they originally agreed to do. Austin Corry replied that is a determination you would have to make. One of the definitions in good cause is resolving issues and non-compliance. It fits in line with that but if you don't agree with it you don't have to include.

Jon Woodard indicated that Austin Corry mentioned that the stream as shown in the application varies from the application made to the State. What, if any, impact do you see that having on this

application? For me whether that permit had been made prior to us being aware of it or after the fact the stream alteration permit is handled through the state and is really subject to a decision there because it doesn't change the trail alignment if the state granted the stream alteration without any application with the County, then the state would have granted that allowance to happen anyway. In terms of the DRC and technical review it does impact what would expect to be seen in the engineering construction permit and primarily more about the bonding. That is why the conditions that were recommended in the initial staff report and by now in front of you with the Planning Commission's recommendation include bonding for any of the improvements that are in there. The primary thing what happened between what the Planning Commission saw and now this new permit that doesn't include it is that we would need to ensure that the engineering bond included the work that they are now supposed to do.

The Planning Commission has now forwarded this matter to you for consideration. There were some modifications to the conditions and some concerns that were raised over a stream of water that had been altered in Lot C presumably without permits that there really wasn't evidence during the Planning Commission meeting and these were the two main items that came was that is there actually good cause. Many of the comments said that we really want the amenities to go in because the year 2005 is a long time to wait for those amenities. Now the applicant has now applied for what is called after the fact stream alteration permit with the Division of Water Rights. There has not been a decision made on this permit made but the State is in review of that since June 21, 2024. We would rely on the State in their review and decision on that permit.

Councilman Steve Farrell indicated that isn't this kind of a moot issue then until we get a decision from the State of Utah. That probably half of has been altered is currently outside of the boundaries that you are considering today. Councilman Steve Farrell asked who owns the water rights associated with that stream or who owns the stream and gets beneficial use out of it. Austin Corry replied that he doesn't know the answer to that. Councilman Steve Farrell replied that if this is open space what is the reason for realigning the stream. Austin Corry replied to you will have to ask the applicant. There is nothing in our code that tells them that they have to move the stream. Councilman Steve asked what is the source of this water or is it a spring or is it subject to high water runoff or what? Chair Spencer Park indicated that they said it was the Lindsay Spring Channel.

### **Applicant**

Logan Cannon, one of the applicants, indicated that fifty percent of it is owned by us and the other fifty percent of it is owned by Lake Creek Irrigation. Right now, the water has just been going down the stream, but we use our half of that Lindsay Spring. Councilman Steve Farrell asked do you have Lake Creek's approval to move this stream. The owners ought to be the ones that signs off on it if they approve of the move or not. Logan Cannon indicated that is what we are working with the stream alteration permit. These questions that have been raised will have to be checked into regarding the stream.

Councilman Erik Rowland replied that in going forward that can't be done until that creek resolution regarding the moving of the creek is resolved you can't proceed. That basically that must be resolved first. Austin Corry replied that is correct.

Logan Cannon then presented a power point presentation and then clarified a few points. The Lot C realignment and the stream alteration permit are two separate issues. The stream alteration doesn't change the alignment of our trail and doesn't change our plans to put that but just changes where we can put the landscaping for the stream and stuff like that.

Logan also indicated that there is good cause because the trail would be built, and the property takes in property that is very steep which could be a liability and maintenance issue for the HOA. Realigning that boundary doesn't change anything except that it just straightens it up and puts it in a place where we can put a fence. The good cause and the HOA and ourselves have worked to do what the original agreement always intended to have this. We are here to get this cleaned up and get this done and transfer the ownership and finish this amenity.

Councilman Erik Rowland replied that if the alteration of the stream or creek is denied I am assuming that any changes made the stream would have to be returned to its existing primary course. If that happened would that cause any changes to the trail or anything else. Logan Cannon indicated that it would not change the boundary or change anything as far as Lot C alignment and the realignment that we are asking for. It would change how we use the amenities on the other side, but it would not change anything to do with Lot C.

#### **Public Comment:**

Chair Spencer Park then opened the hearing up for public comment.

Bo Landin, lives on Lindsay Spring Road, indicated that he is concerned about tampering with this creek without state or federal approvals. Also, a member of the HOA and the creek should belong with the HOA and a very important wildlife corridor. The trail is dead ended. There is no reason to change Lot C unless you want to make more money. If this decision can't be made today it should be referred to the Planning Commission and sorted out. I oppose the approval being made today because good cause can't be found. The Planning Commission found that there was good cause because this point A in the agreement between the HOA and the declarant that they had agreed in 2021 to negotiate this and sort out the boundaries. This is a serious matter. Also, we want to have the amenities. The applicant is holding themselves back regarding the trail and stream problem. We are on the right track. We want the same things, but we want to do it the legal way and the correct way.

Greg Tumulty and president of the Crossings of Lake Creek HOA indicated that what the HOA

wants is that Lot C would need to be realigned. The HOA wants to have Lot C transferred after nineteen years and the time now for this lot is transferred. Also want the amenities to be put in for the whole neighborhood, which is really the biggest concern of every single homeowner that I have spoken to. We want to have a connecting trail. And if the stream needs to be put back that should be the declarant's responsibility and not the HOA. I am asking you that you go ahead and approve the realignment of this parcel and that trail be put in and transferred to us or bonded by December 31, 2024 so we can have Lot C in place along with all of the other common areas as part of the HOA property and in addition to that we can have a trail system is continuing to be completed which is critical as we move forward. The stream is a state issue and if you look at both drawings that have been presented the stream stays onto the lot whether it is realigned or not and if they move the stream, it is still on Lot C which is an important amenity. Let's not go back and start over because it has been nineteen years, and we don't want to lose those nineteen years and what has been done and get the residents what they are entitled to.

Merry Reader, resident of the Crossings, indicated that she wrote a letter with my concerns in. It is not good cause because the land that they are giving us is a portion of a detention basin is not an amenity, but the stream is an amenity. We want the trail built now. I would urge you to deny this because it doesn't meet the requirements of good cause and more of my points are in my letter. Also, Norm Hendersen, I live at 560 South Lindsay Spring Road, indicated that most of the things that I wanted to say have been said. I want to add that my concerns is to the application. The application that was made didn't show to the Planning Commission or to anybody exactly what was being proposed regarding the stream and we are finding out that there is now even more reconfiguration that is being proposed. Finally, shouldn't the applicant be required to go back and give to the County an application for exactly what it is that the declarant wants to be done. The County should require not approve this current application but require the applicant to go back and resubmit with everything that they want and hopefully go get your permits first before you come and ask the County to bless this whole thing.

Jody Reynolds, resident of the Crossings and I back up to Lot C, indicated that stream is important to the residents and the riparian aspect of it. I am asking that the Council will not approve or table this motion for two reasons. First because the developer did not meet condition no. 4 on the report of actions dated June 13, 2024, and second because I don't believe that the boundary change meets the standard of good cause. The trail could have been put in twenty years ago and they haven't done it. There is nothing holding them up. The trail right now doesn't go anywhere and goes to Lot C and stops because it is all undeveloped land up there. Encourage you to look at the good cause of what they are asking for.

Merry Kennedy, resident of the Crossings, indicated that what I have heard this evening does not seem right and things like this should be communicated with residents as to what is going on.

The record should show that Councilman Kendall Crittenden has now joined the hearing and Councilman Luke Searle has joined the hearing via Zoom.

Jason Haddock, the HOA Vice President, indicated that the communication is not the best but however starting over is simply not right. We must resolve this and resolving issues in non-compliance is good cause, providing positive benefits and providing public amenities is good cause. I would ask you to find good cause and forward this on so the developer can go forward and create the amenities and I really appreciated the Planning Commission 's foresight and the conditions that they imposed to try and put a time frame on this and get things going after this long delay. The stream issue is a difficult issue and I agree that it is concerning but it is the state's issue and state's jurisdiction, and the County doesn't want to start doing the state's job. Let the state do its job because the Division of Water Rights is well apprised and can do the job on this issue. I would ask you to approve it so that things can move forward.

Chair Spencer Park then closed the public comment period.

### **Council Comments:**

Chair Spencer Park indicated I don't believe that any of our actions in the past or in the present or in the future are why the amenities have not been done in nineteen years.

Councilman Erik Rowland replied that hypothetically if the petitioner came through and decided to learn the creek after the fact would it cause an issue with the boundary change the prior amendment. Jon Woodard replied that it probably depends on what the outcome of that decision was. In making this subdivision amendment application they are required to make all the submittals that they would have for a new subdivision and then you can decide whether to approve it or not based on good cause. Part of that application does show where the trail is going to be and where the stream is going to be, is that stream going to move and there are environmental studies, there is studies that make sure that we are not going to interfere with the water way in a way that would upset beneficial use of property and water and things like that. The answer is probably not, and I think that could be addressed through the conditions that are in place but if the determination from the state comes back in a way that makes it so the plan that was submitted isn't workable that could make it so that they would have to come back again.

Councilman Erik Rowland indicated that once again since we are not the governing body that can decide whether or not the stream can be moved and in this particular case the impact would be it seems like two things, one is there a potential of the approval or denial of that stream is in a reconfiguration of the trail which is part of the agreement and two does this pass on any legal burden to the HOA if it is unresolved with this being approved. Jon Woodard indicated that I am not going to answer for the HOA but would let the attorney for the HOA answer the part about liabilities for the HOA as for the County I don't see that as creating liabilities. I would want Austin to answer the question about what impacts moving the stream would have.

Councilman Erik Rowland indicated that my concern is if there is any chance that it would result in the change of the trail then would it be wiser to wait for at least as the condition and think it is already in there to say that we need to wait for at least the state to present their findings. Austin

Corry indicated to answer the question directly I think you have got two options in front of and what I presented to you is what the Planning Commission recommended to you but then notes new information that came in since that the Planning Commission didn't see. That is what the Planning Commission was comfortable doing or recommending to you was approval based on conditions. I think the two options that you have is how comfortable do you feel that the conditions can cover those items of potential concern. The main thing they have got to get an engineering permit to do that. How comfortable do you feel that the conditions can cover those items of potential concern and the main thing being they still have got to get an engineering permit to do that and wouldn't be able to issue a engineering permit until they really say this is exactly what we are doing. Certainly, the decision on the stream alteration is going to have to happen.

Councilman Erik Rowland indicated what about Councilman Steve Farrell's point that they are going to have the designation of it if it is an irrigation ditch. Is there any point that the designation would then put it under the purview of the County to state that it could have been moved if it was reclassified as an irrigation ditch. Austin Corry indicated that the changes there are related to the state and water rights, not necessarily land use code. Councilman Erik Rowland indicated that if turned out to be a creek but instead an irrigation ditch does that mean there is a different jurisdiction body that warrant that it could be moved. Chair Spencer Park indicated that the irrigation company would then be the one. Councilman Erik Rowland indicated that clearly, we are not the body to police or to review an application to another body and we can't see it complete and that is not a job. But in reference to the application, when they reached out to us and indicated that if you had anything that would help us come to a determination please provide. If there is any chance that the application was maybe not accurate in how it represented the changes in the creek would it even be appropriate for us to say here is our understanding and provide to the state, the current alignment in what is being proposed or would we just want to keep our hands out of it. Austin Corry indicated that sending a record of the public comments given in this meeting likely seems applicable for the state.

Councilman Steve Farrell asked the developer a question. We have been going through this for twenty years and do you see a need to move the stream? Logan Cannon replied that the primary reason was to keep the elevation high. The change that we are proposing is cosmetic and can meander around the trail.

Councilman Erik Rowland indicated that one your reasons for not doing the trail over the last nineteen years was because it went to nowhere there would be an unnecessary burden to maintain a trail unlikely to use and now because you are planning these next phases there will be eventually soon a designation. Logan Cannon indicated that the benefit really comes down to it better aligns with that. Also allows dimensionality on phase 11 to work better and aligns better.

Councilman Erik Rowland indicated that if we were to agree to these conditions and item no. 4 it came back from the state and the state denies this then that would be a conflict with this condition and that didn't abide by whatever the states says to do and if they denied and take the stream back the way it was and they did that would be considered and would be in compliance it. If you don't

do what the state says and that is part of the conditions, this could be revoked. Austin Corry said yes.

Councilman Steve Farrell indicated that he would like to add one other condition of that item no. 4 and need to have their approval of the water right owners which is the Lake Creek Irrigation and the Cannons all the water right owners. I think the open space transferred the ownership. There is a time frame of December 31, 2024. Councilman Kendall Crittenden replied that what Councilman Steve Farrell indicated it is condition no. 5. Austin Corry indicated that we add an Condition No. 7 to address Councilman Farrell's requirement. Condition No. 4 was the one that you originally referred to and Austin Corry added Condition No. 7. Councilman Steve Farrell indicated that could be added as Condition No. 7. Jon Woodard replied that he wants to help make sure that this is legally defensive, and could you say how you think that would promote good cause for that to be required. Councilman Steve Farrell replied that it would be the water right owners and it would be good cause to protect their interest in that water right and the historical course. They might have a canal system or something downstream that would depend on that water.

Councilman Mark Nelson asked does anyone have experience and knowledge with what is the typical lead time for to act on one of these applications. Councilman Erik Rowland indicated that should we amend Condition No. 6 and that it would be conditional upon some wording that coincides with No. 4. Chair Spencer Park replied that I don't think we want to hold up donating Parcel No. C until that approval is done. What if the HOA takes ownership and the responsibility and legal requirements that might come from this permit are always to be the responsibility of the developer and not the HOA. Jon Woodard indicated that they can't record the plat that includes the parcel until this is recorded. What happens if they don't get that stream alteration permit on time is that this approval goes away and they start over and the time would be December 31, 2024, and if you want to extend that is up to you. Jon Woodard indicated that if we put an alternative time frame in there, we should probably give a date from their approval to these things being done to meet the reasons that these conditions are put in there within three months of the stream alteration permit would work for both condition five and condition six does that make sense. It is the approval of the stream alteration permit because you must have that in order to meet the conditions as long as it didn't alter the approved plan I would agree.

Councilman Erik Rowland replied that what we are saying is even if it is approved or denied and that results in no changes to the trail or anything else then you are right they are not the same issue it is separate and that shouldn't conflict with any of the other conditions that are stated here and until we get to that point we realize that whatever that comes back from the state if in fact that results in no changes to these conditions but for some unknown reason it does then we have to have protections in place that don't allow you to proceed knowing that we have just broken some conditions that we didn't need to make.

Austin Corry replied that a bond amount and your engineering permits. Logan Cannon replied that he agrees with you on that. Austin Corry replied that to restate the Council's concerns on if the status of the permit affects the legal liability for or financial liability of the HOA and whether

facilitating the boundary change and the transfer to the HOA shift some of that liability is that accurate. Councilman Erik Rowland indicated that is another one as well and perhaps that might be the stronger argument of the two but yes. The first would be any remote possibility that trail realignment would have to be resubmitted in the application that they will say here is the actual alignment now and now we know that we must change the creek and let's just make sure that is covered in the conditions. Then also this question of liability and that is for myself why I feel there is a connection but otherwise you're right. They are two separate issues.

Logan Cannon replied that the intent of this whole agreement is to move forward and put this trail in. We want to build it and want to put it in. We might be able to record but we wouldn't be able to advance and to put in future phases until it is done. If the permit gets denied does that unravel all of this. Austin Corry replied that I could see you Logan bonding for the higher engineering estimate with this and just releasing if they are unnecessary at some future point. We require bonding prior to plat recording and maybe we need to have some confidence in what we are bonding for prior to that and that is an option.

Chair Spencer Park replied that the date to be done December 31, 2024, and they bond for the case and still give Parcel C to the HOA, and they can still get the trail in and everything even if they are waiting for this other stuff from the state and Army Corp Engineers. Jon Woodard indicated that the challenge is to record the plat, so they need to figure out the stream and the need approval from the state for whatever is happening with the stream. Open Space C won't exist as proposed until this plat is recorded so they can't transfer it until this plat is recorded. I think the December 31, 2024 time is okay, but you just need to recognize that if you do that and they don't get the stream alteration permit in that time to get this stuff figured out then this approval they couldn't meet the conditions of approval.

Dustin Grabau replied that this doesn't include the option that they abandon this stream alteration permit and remediate it prior to December 31, 2024, right. Like Logan said they would build the trail and the previous alignment and put that stream back or whatever. Jon Woodard replied that my concern is that we are requiring no interference of the creek and the riparian areas unless approval from the proper jurisdiction is obtained and it also says that trail plans and engineering construction permits obtained and be in compliance with County code and other permits required state or federal agencies and look at that we need a path forward from the state to say that this is okay before they meet the conditions of approval and that could be remediation but I think we need some understanding what is remediation and what is being put back to.

Councilman Erik Rowland replied that whether condition no. 4 is rewritten or modified to this bonding requirement so that we cover the liability aspect is that possible to do it some way and it protects all parties involved in future legal or financial liability. Dustin Grabau replied that with condition no. 4 and how are we enforcing that and is Austin Corry going out there to check or what. Jon Woodard replied that when they bring in the plat and before we release it to you to sign and record it and they have to demonstrate that all the conditions are met. They would have to provide something to us from the proper jurisdiction that condition has been met. Dustin Grabau

replied that the two conditions are the same Condition No. 4 and 5 that they have to get a permit from the appropriate entity.

Jon Woodard replied that he doesn't think it throws in to any enforcement thing and it will be upon the applicant to demonstrate compliance with this. If the state gives them a letter saying this is taken care of and if the state doesn't produce that then they will be able to demonstrate that they are following that condition. I think that the path forward is there.

Chair Spencer Park replied that we can get it done and this gets donated and given to the HOA and the trail gets put in that is properly bonded and the developer is still responsible for anything that comes back from the state application for stream alteration and things move forward. Jon Woodard replied that is fine and we could cut out the editions that I made with what you are saying is that okay. Chair Spencer Park indicated that there has got to be some type of agreement that we can do in the meantime to make sure that the developer gets sole responsible for any implications from the stream alteration. Jon Woodard replied that the state will monitor that. We are in a very unusual situation here on who is responsible for what.

Councilman Erik Rowland replied that the HOA is very aware of this if they would assume ownership, they could be obtaining the responsibility for the stream change. Have we got this written out and did we get the conditions where we wanted it. Councilman Steve Farrell indicated that it is as close as we are going to get it.

**Councilman Erik Rowland made a motion that we approve the plat amendment to the Crossings at Lake Creek Phase No. 1 the boundary change of Lot C as defined in this plat amendment with the outlined conditions as defined and that conditions and finding be approved. Councilman Steve Farrell seconded that motion, and the motion carries with the following vote:**

**AYE: Karl McMillan  
AYE: Chair Spencer Park  
AYE; Steve Farrell  
AYE: Mark Nelson  
AYE: Erik Rowland**

**NAY: None.  
ABSTAIN Councilman Kendall Crittenden**

said that I lean on the side of to continue it but I am going to abstain because I have read the letters that I have received from the public and I have read through the packet some but not having the benefit of the discussion that is why I am going abstain.

The Record should show that Councilman Luke Searle is not on zoom for the last discussion and

is still gone on the following public hearing and did not vote on the previous matter.

## **PUBLIC HEARING**

**JUNE 26, 2024**

### **DISCUSSION AND POSSIBLE RECOMMENDATION OF ORDINANCE 24.04 A REQUEST BY RHETT RIDING FOR AN AMENDMENT TO WASATCH COUNTY CODE SECTION 16.21.28 (c)(3)(2) IN ORDER TO REDUCE THE SETBACK DISTANCE OF CELLULAR TOWERS FROM RESIDENTIAL OR COMMERCIAL PROPERTIES FROM 1,000 FEET TO 100 FEET IN THE MOUNTAIN ZONE AS WELL AS OTHER CODE CHANGES AND UPDATES PROPOSED TO BE INCLUDED IN THIS CODE AMENDMENT.**

#### **Staff:**

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Council and indicated that the applicant has proposed to amend the regulations of 16.21.28 entitled Telecommunication. The code was originally adopted in 2003 and has had a few amendments since that time. The intent of the code is to locate cell towers and antenna facilities as discreetly as possible. To do this the code has a hierarchy of location priorities.

Doug Smith then went through key issues to consider.

1. Is it appropriate to allow cell towers closer than 1,000 feet to a residential property line?
2. The code is contradictory and requires 1,000 feet from a residential area in several sections and a setback of 115 percent of the height of the tower to a residential property line in another.
3. Should lesser setbacks be allowed so that cell tower locations are more flexible?
4. Is the premise of the code to have a hierarchy of locations and options still appropriate?
5. None of the codes in the neighboring areas require a setback of 1,000 feet to residential areas. The next closest is 200 feet or 300 percent of tower height.
6. Can the updates be benefit to the health, safety and welfare of residents and visitors?

Doug Smith then went through the DRC review comment.

#### **PROJECT comments:**

- Many codes do not allow them in residential zones, however admittedly that is in cities that are much more compact than Wasatch County. One allows location in a residential zone only after a technical necessity exception and conditional use.

Doug Smith then went through the proposed findings:

1. The proposed amendment eliminates the conflicts in the code between the different setback

requirements for monopolies and distances from residential property lines and areas.

2. The code continues with the intent to establish a hierarchy of location priorities.

3. The intent of the code is to allow telecommunication facilities to be located as unobtrusively as possible.

4. The proposed code better clarifies the zones where specific telecommunication sites can be located.

5. The proposed amendment is consistent with the purpose and objectives statement for telecommunications outlined in Section 16.21.28(A,1).

6. The proposal does allow more flexibility with the location of antenna structures by allowed them to be closer to residential property lines.

7. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Doug indicated that the determination issue is whether code section 16.21.28 Telecommunication code, should be amended with a number of changes made including updated language and requirements and clarifying language that cellular towers can be located close to residential areas with requirements.

Doug Smith then indicated that the recommendation of the Wasatch County Planning Staff is that based on the analysis and findings in this staff report, the Planning Staff is of the opinion that the code should be amended. Also, if the requested code text amendment is approved, the applicant could proceed with a conditional use application for the proposed cell tower. What I am proposing is and I made a change to the code section that you have so D3 of the code would be amended if you agreed with this that the minimum separation between the base of the monopole any residential lot line shall be 250 feet or 200 percent of the height of the monopole whichever is greater. If the applicant proposed a stealth facility like a pine tree and the Wasatch County Council may approve a lesser setback but in no case shall the setback be lesser than 115 percent of the height of the monopole and that was what I was initially proposing.

#### **Applicant:**

Rhett Spencer indicated that when I first looked into this and in Tuhaye the cell service up there is just brutal and in places there is no cell service. There is a safety concern and so I asked Doug Smith to look into the matter. We found out that you can't build a cell tower unless you do a code amendment. Also, the present code was written twenty plus years ago. Doug Smith indicated that let's put fake pine trees in there then and just like a fake pine tree or in a building. We don't want to have another antenna pipe up like is right behind Chick's café. I have done different studies and we have put together a plan that will work for everybody concerned.

#### **Public Comment:**

Chair Spencer Park then opened the matter up for public comment. Doug Smith mentioned that he

mailed a copy of this to Alissa Haynes and she asked to see a copy of the code and the way she makes a living is that she an entitlement person for cell tower companies. So, I mailed her the code with a little fear but she came back and she said that the only recommendation that I would have is that you have a further set back from the residential boundaries than what you are saying and what she said 200 feet or 150 feet from the property boundary or 200 percent of your allowable or actual tower height is what she recommended. Chair Spencer Park then closed the public comment period.

**Motion:**

**Councilman Kendall Crittenden made a motion to approve this change to Ordinance 24-04 in order to reduce setbacks of cellular towers from residential or commercial properties as we talked about in light of the findings. Councilman Mark Nelson seconded the motion, and the motion carries with the following vote:**

**AYE: Chair Spencer Park**

**AYE: Mark Nelson**

**AYE: Erik Rowland**

**AYE; Steve Farrell**

**AYE: Kendall Crittenden**

**AYE: Karl McMillan**

**NAY: None.**

**PUBLIC HEARING**

**JUNE 13, 2024**

**BRADLEY GYGI, REPRESENTING THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, REQUESTS AN AMENDMENT TO A 2001 MASTER PLAN AND DENSITY DETERMINATION FOR THE HEBER VALLEY YOUTH CAMP IN ORDER TO MODIFY THE USES AND DENSITY ALLOCATIONS ORIGINALLY APPROVED. THE MODIFICATIONS ARE PRIMARILY TO REMOVE FOUR LODGES AND DINING HALLS AND REPLACE THE DENSITY WITH ADDITIONAL CABINS, RV HOOKUPS, AND CARETAKER DWELLINGS. THE PROJECT IS LOCATED AT APPROXIMATELY 6401 EAST 1200 SOUTH IN MOUNTAIN ZONE.**

**Staff:**

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Council and indicated that this proposal is for an amendment to the Master Plan and Development Agreement referred to as a density determination in 2001, for the LDS Youth Camp. The camp was granted a rezone

master plan, density determination preliminary approvals and final site plan approvals in and around 2000-2001. The camp is located south of the Timber Lakes Development. Individual camps are accessed from an asphalt road that starts at the east end of 1200 South and runs up the mountain. The camp is in the M Mountain zone and contains 5,708 acres. The density determination is recorded as entry #235213. The approval process that the project went through was somewhat vague. It appears that after master plan and density approval an overall preliminary was granted that seemed to be more centered on infrastructure. After the preliminary infrastructure plan was approved there were final site plans approved for the first phase which included 8 camps as well as administration buildings and cabins for service missionaries.

Doug Smith indicated that in going forward, assuming that the master plan amendment and density determination is granted, the project would need to get final site plan approvals for each specific camp or multiple camps, with a onetime site plan approval from the Planning Commission. The applicant is requesting 16 camps as part of the amendment. All the considerations for traffic, sewer, water capacities and other impacts were considered with the overall master plan that was approved and the density determination recorded in 2001.

Doug Smith then went through the key issues to consider.

1. The density remains the same as what was initially approved and recorded in the 2002 density determination.
2. The amendment proposed changing some of the uses and re-arranging some of the densities to better fit actual needs after over 20 years of operation and experience.
3. The development agreement amendment proposed 16 camps not 13 that is stated in the existing development agreement.
4. Is the new mix of density proposed i.e., more RV hookups, caretaker cabins and deletion of the dining halls and lodges acceptable?
5. The traffic volumes and sewer/water capacities remain the same.

Doug Smith then went through the DRC Review.

PLANNING: comments:

Condition of approval. I have searched the archived boxes of items submitted. It appears that an MP was approved and preliminary and finals were granted but the preliminary and finals as far as I can tell were only review of infrastructure. I cannot find anything as far as a site plan approval for placement of buildings in a super camp site or any other development area.

The process moving forward assuming the master plan addendum is approved. Is a site plan for the expansion of the RV area and future camps. This would be a final site plan approved by the Planning Commission only however constraints, setback access and all items required on the site plan application would need to be shown and reviewed. This would also apply to future buildings/camps that would need to be done prior to building

permits.

If there are portions of the master plan that have not had a preliminary and final for roads and infrastructure that would have to be done before a site plan could be approved in those areas. I am referring to the southwest portion in pink of the land use intensity map.

I have looked through the undated land use intensity map and understand the proposed areas of development however though one of the biggest needs was the RV camp for missionaries. I do not see that on the land use intensity map along with RV pad sites. Are those included in the super camp areas?

Condition of approval. There is language in the amended density determination that gives staff the ability to make administrative changes to the densities if the total density is maintained and a few other criteria. While I agree with allowing for feasibility this will need to be reviewed further with the County Attorney where the master plan and amended DA is a legislative decision by the County Council the major aspects of the approval should be maintained and not modified by staff.

Condition of approval: Constraints have not been submitted with the application. A final site plan will need to address and constraints at the individual development sites.

Based on the percolation tests and site assessments, it doesn't appear that the proposed wastewater disposal area will meet setback requirements to a spring - specifically Zone 2 and Zone 4.

#### ENGINEERING comments:

Condition of approval upon application for site plan approvals for new improvements/construction, respond to the geotechnical review comments from AGEK in their January 22, 2024, letter.

Doug Smith went through the proposed findings:

1. The proposal was granted a master plan and density determination in 2001.
2. The density determination is recorded as entry #235213.
3. Approvals for infrastructure and the first phase of camps were approved in 2001.
4. The subject property is 5,703 acres in the Mountain Zone.
5. The acreage remains the same.
6. The approved master plan and density determination allows for 7,609 weekly campers at build out.
7. The density remains the same with this proposal.
8. After over 20 years of operation, the Church has realized that there needs to be changes to the master plan and density determination to better suit the realities of the camp.
9. Staff believes these changes comply with the original intent of the master plan.

Doug Smith then went through the proposed conditions:

1. The proposed language in the development agreement that allows for staff approved changes will need to be reviewed by the attorney's office.

2. All issues raised by the DRC shall be resolved to the satisfaction of the applicable review departments in accordance with applicable standards.
3. The emergency access to be continued to come forward and be taken care of.

Doug Smith also indicated that the highlighted area that says adjustments to density categories may be proposed by the applicant and approved by staff administratively for each phase of construction with the following limitations. The limitations are that it can't go above 7609. Super camp amenities shall conform to the general categories and description above but may be in various configurations and building types and amenities listed. Super Camp and day use camps may also include adjacent RV hookups and or caretaker dwellings not to exceed the total number of RV hookups and caretaker dwellings listed above.

They are asking for a little bit of flexibility without having to come back to you. That makes me a little nervous because I don't want to be too flexible, but I want to be able to allow them to make some changes here and there. Really the changes that they are asking for now after twenty-some-odd years of operating up there really make sense after all that time operating to know what you really need to make things work better. My condition is that we work with Jon Woodard and that amended development agreement has language that is acceptable so that I can be able to make some adjustments without taking over what the Council approved essentially. And decide whether they are big enough adjustments to come back to the Wasatch County Council and Planning Commission.

Doug Smith then indicated that the determination issue is whether the LDS Church master plan for the youth camp and the development agreement referred to as a density determination should be amended to allow for a different mix of uses while maintaining the same density.

Doug Smith then indicated that the recommendation is based on the analysis in this staff report, it appears that the proposal can be compliant with applicable laws. It is recommended that the Planning Commission forward a positive recommendation for the update to the master plan and development agreement based on the findings and subject to the conditions included in the staff report.

**Applicant:**

Bradley Gygi, representing the Heber Valley Youth Camp, addressed the Wasatch County Council and indicated that Doug Smith has done a great job explaining what is taking place with this request. I have nothing further to add and is just reallocating some of the density from the weekly camper and adjust the master plan and proposing two additional camps. We understand the conditions and findings and agree to them as part of the approval. I want to mention that we are working on second access. The question came up where their additional RV's are they coming in and out all during the years and basically they go up in April to set up and then those RV's stay there all through the summer camp and then come down in October. So, there is just one in and one out.

Jon Woodard, the assistant Wasatch County Attorney indicated that there are huge amounts of time being taken in getting emergency access on the back side of this put in and working on it now. It looks like it is on a path forward so that is going to work out. Might we conclude as a condition that the fire access road as is currently planned is included here. There is nothing in the DRC report regarding that. Jon Woodard indicated that we have had safety concerns over the years, and we wanted to put that in, and we have worked with the Church and with Timber Lakes and with all of the property owners up there. The road is mostly built, the last segment is in the camp, and they are actively working on that now and I just want to make sure that emergency road access that was in the original approvals is still in these because it doesn't sound like the DRC review is looking out for that issue. The emergency access plan needs to show on that.

**Public Comment:**

Chair Spencer Park then opened the hearing up for public comment and there was none, so the public comment period was closed.

**Motion:**

**Councilman Mark Nelson made a motion that we approve the request for the amendment to the 2001 master plan and density determination as presented by Doug Smith considering the findings and conditions. Councilman Kendall Crittenden seconded the motion, and the motion carries with the following vote.**

**AYE: Chair Spencer Park**

**AYE: Mark Nelson**

**AYE: Kendall Crittenden**

**AYE: Erik Rowland**

**AYE: Karl McMillan**

**AYE: Steve Farrell**

**NAY: None.**

**PUBLIC HEARING  
JUNE 13, 2024**

**EMPLOYMENT PAY ADJUSTMENTS ASSOCIATED WITH THE RECENT CHANGE  
TO UTAH RETIREMENT SYSTEM.**

**Staff:**

Heber Lefgren, the Assistant Wasatch County Manager, addressed the Wasatch County Council and indicated that we are taking the increase for the public safety portion and for us as an employer

to cover that cost. The retirement plan does not change, and they are not receiving any additional benefit, but it is just the state now requiring that the employees participate at a higher rate than previously. It is also different now that the non-public safety employees who are on that Tier 2 Hybrid Plan for the first time will also have to participate and pay a portion of that cost. The only difference from the non-public safety is that the state allows the public safety employees to allow us to pay for that and the state does not allow us to do a direct payment for the non-public safety. Potentially an oversight in last year's legislation. What we don't want to do especially when the total costs are going down and have the employees now suddenly see a portion of their paycheck be diverted away from their take home pay. So what we are proposing to do for the non-public safety employees who are participating is to increase their salary for about a period of one percent which will ensure that they will receive and they won't see an increase or decrease in take home pay because we are increasing their salary and we do have to pay for or appropriated federal taxes, social security and everything that goes with that and so that is where the one percent comes in.

Heber Lefgren indicated that what we are asking here today is that we have two resolutions, and the one solution is that we are asking that the Wasatch County continue to fully fund the employees required contribution amount for Wasatch County Public Safety Employees participate in the tier two hybrid retirement center by increasing the pick-up contribution from 2.59 percent to 4.73 percent per employee.

The second resolution which is Resolution 24-05 we are asking that the County temporarily increase the wages of the non-public safety employees participating in the tier 2 hybrid retirement system which also includes all applicable appointed and elected positions. That is the reason for why this item is coming at this time and not earlier today in the amount of one percent the amount required to offset and requires the employee .7 percent cost to ensure that an applicable employee do not see a change in their take home pay. We don't anticipate any costs to the County but there is a portion of the public safety that is going down but the total cost for the tier one and the tier two for the non-public safety is decreasing even with this requirement and so even though we will have to pay more but it still is within the amount that we budgeted for.

**Public Comment:**

Chair Spencer Park then opened the hearing up for public comment and there was none, so the public comment period was closed.

**Councilman Erik Rowland made a motion that we approve Resolution No. 24-04 and 24-05 as presented. Councilman Steve Farrell seconded that motion, and the motion carries with the following vote.**

**AYE: Chair Spencer Park**

**AYE: Mark Nelson**

**AYE: Erik Rowland**

**AYE: Steve Farrell**

**AYE: Kendall Crittenden**  
**AYE: Karl McMillan**

**NAY: None.**

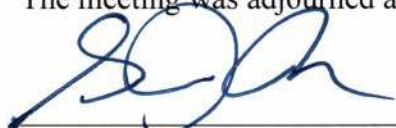
### **ADJOURNMENT**

**Councilman Mark Nelson made a motion to adjourn. Councilman Erik Rowland seconded the motion, and the motion carries with the following vote:**

**AYE; Chair Spencer Park**  
**AYE: Mark Nelson**  
**AYE: Erik Rowland**  
**AYE: Steve Farrell**  
**AYE: Kendall Crittenden**  
**AYE: Karl McMillan**

**NAY: None.**

The meeting was adjourned at 8:30 p.m.

  
SPENCER PARK /CHAIRMAN

  
JOEYGRANGER/CLERK/AUDITOR

