

**MINUTES OF
THE WASATCH COUNTY COUNCIL
JANUARY 12, 2022**

The Wasatch County Council met in regular session live and by Zoom at 3:00 p.m. and the following business was transacted.

PRESENT: Chair Mark Nelson
Spencer Park
Danny Goode
Marilyn Crittenden
Kendall Crittenden
Steve Farrell

EXCUSED: Councilman Jeff Wade

STAFF: Dustin Grabau, the Wasatch County Manager
Jon Woodard, the Assistant Wasatch County Attorney via Zoom
Doug Smith, the Wasatch County Planner via Zoom
Austin Corry, the Assistant Wasatch County Planner
Michelle Crook, from the Clerk's Office
Rick Tatton, Court Reporter via Zoom
Don Wood, the Wasatch County IT Director

PRAYER: Councilwoman Marilyn Crittenden

PLEDGE OF ALLEGIANCE: Led by Councilman Danny Goode and repeated by everyone.

Chair Mark Nelson called the meeting to order at 3:00 p.m. and indicated that all the Wasatch Council are present with the exception of Councilman Jeff Wade who is excused. The record should further reflect that the Wasatch County Council is meeting in the Wasatch County Council Chambers located in the Wasatch County Administration Building at 25 North Main, Heber City, Utah 84032. Chair Mark Nelson then proceeded to call the first agenda item.

T H E O P E N A N D P U B L I C M E E T I N G A F F I D A V I T

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

LEGISLATIVE ISSUES FOR FUTURE MEETINGS

Councilman Danny Goode mentioned that we should have a meeting with the State Tax Commission regarding issues in Wasatch County. Dustin Grabau, the Wasatch County Manager indicated that he would look into the matter and get it taken care of and arrange a meeting.

ADMINISTRATIVE ISSUES FOR FUTURE AGENDAS

Chair Mark Nelson asked if there was any administrative issues for future agendas and there was none.

PUBLIC COMMENT

Chair Mark Nelson asked if there was any public comment regarding issues that were not on the agenda. Pam Patrick, Wasatch County Resident, addressed the Wasatch County Council and indicated that she and a lot of others like to watch the video that is being made of the meetings but most of the time can't hear what is being said because the Council Members fail to turn on their microphones. I would ask that the Council Members to please turn their microphones on because that makes the meeting better as well as making good accurate comments that the public can hear.

APPROVAL OF THE MINUTES FOR JANUARY 5, 2022

Councilman Steve Farrell made a motion to approve the minutes for January 5, 2022 as written. Councilman Kendall Crittenden seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Marilyn Crittenden

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Danny Goode

AYE: Spencer Park

NAY: None.

DISCUSSION/CONSIDERATION OF WASATCH COUNTY REDISTRICTING

Don Wood, the Wasatch County IT Director, addressed the Wasatch County Council and indicated that nothing has changed since the last meeting was held regarding the boundaries and maps.

Dustin Grabau then read some comments that were sent in from Jennifer Lee, who agreed that Proposal No. 1 is the best proposal and agreed that her preference was for Option 1 and second preference was for Option 4 and did not like Options three and five. Councilman Kendall Crittenden indicated that he talked to Sheriff Jared Rigby who is the Chairman of the Republican Party and he didn't have any input either way. Dustin Grabau also indicated that Jerry Duke did send an e-mail to Joey Granger on it but was not submitted as a public comment. Jerry Duke did appear late at the end of the meeting and wanted to make sure that his e-mail was received.

Councilman Danny Goode made a motion that we accept Proposal No. 1 for redistricting. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Marilyn Crittenden

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Danny Goode

AYE: Spencer Park

NAY: None.

Don Wood asked for the next Council meeting if we could have a line item for the representing of the County. This sets the Council districts and school districts and now we need to set the voting precincts for 2022. Chair Mark Nelson also indicated that Councilman Jeff Wade e-mailed me and said that he would vote in favor of Proposal No. 1.

FIRST READING ON ORDINANCE 22-01 ADOPTING CHANGES TO TITLE 5-UTILITY FRANCHISES.

Shelly Thurgood, the Assistant Wasatch County Attorney, presented a power point presentation and then addressed the Wasatch County Council and indicated that this is a brand new ordinance but adopting still some of the old language with the new ordinance and update the old ordinance. This ordinance gives guidance on when and how and what needs to be included and what can't be included and gives the County has discretion not to give them. The amendments are an effort to provide clear guidance to the County and clear guidance to the utility providers what is required before utilities can be put in the County right-of-way. Cell phone service and internet service are also considered utilities. Shelby Thurgood also indicated that the definition of utilities is really broad in the ordinance and it includes any kind of service that serves the public so it would be sewer, gas, and internet, phone anything that would be installed in a right-of-way.

The County has sixteen franchise agreements currently. All of the current franchise agreements are grandfathered in under this ordinance under the terms that they were entered into. Also if a utility provider doesn't have a franchise agreement we give them a license agreement that allows

them to leave whatever they are installing in the right-of-way and assigns things like liability and indemnity and things like that and that is being done internally right now because the County doesn't have any guidance in the County ordinance. This ordinance is new to clarify the County's practices.

The way this ordinance is drafted it is in two categories. One is a franchise agreement and one is a license agreement. The difference is that a franchise agreement is for a utility provider that is providing utilities throughout the County. The franchise agreement is helpful that it sets the terms early on and all of the utility providers actions will fall under that one utility franchise agreement.

A license agreement is for a smaller utility or a smaller amount of work that is going to be in specific places in the County and for example it might be a neighborhood installing something specific in their neighborhood that will only affect people on that street and that would fall more appropriately fall into a license agreement where it doesn't affect a high number of people or the County generally.

The franchise agreement has to be entered in by the Council through ordinance and the license agreements can be granted by the County Manager. Dustin Grabau indicated that what this ordinance is doing is outlining what we have been doing in practice and not really changing the county practice but giving the practice formal right of code. Also not to have a dozen providers in the same road.

Shelby Thurgood indicated that this ordinance clearly states that the County can decide where in the right-of-way where a line is going and if any more lines can go there. Also it states that the County is not required to give a franchise to anybody and not required to give a license agreement to anybody and it provides certain factors to consider when deciding whether to give one or not. This ordinance gives the County clear authority to evaluate the best use of the right-of-way for the County as a whole.

There are various irrigation companies that already have franchise agreements and have had for a very long time. Dustin Grabau indicated that if something like that comes along we would just give license agreements to those irrigation companies. Shelby Thurgood indicated that all the County's regulations and all of the permanent requirements are still in place and the license and franchise agreements are an overlay that provides the rules on how they can pursue to install utilities.

Councilman Steve Farrell asked if the County gave the Brighton Estates Water Company a license or franchise agreement. Shelby Thurgood indicated that we entered in 2013 one to the Water Distribution Company and it expires in 2022 and will automatically renew every five years unless the County declines. Mike Davis, the MIDA Coordinator, indicated that it was given in a specific road and specific area and wasn't a blanket franchise agreement.

Councilman Danny Goode asked if the granting of this is at the discretion of the County Manager or can it be at the discretion of the County Manager to renew something like this to renew it or

not. Shelby Thurgood indicated that she doesn't know the answer to that but will check into that before the second reading of this ordinance takes place. Also there is a way to revoke the franchise agreement in this ordinance either by the terms of the franchise agreement itself or there are termination clauses in the ordinance and this can be done at any time with or without cause.

This draft ordinance requires the County Manager just to maintain a list so that we don't have to do an ordinance change every time the franchise agreements change. Dustin Grabau indicated that if we are adopting those franchises by ordinance the County is amending that list by ordinance but not in the second code.

Shelby Thurgood indicated that one other point to note is that one of the main portions of the ordinance is that it assigns liability to the utility provider and indemnifies the County and requires the utility provider to have insurance to cover any damage to the road or any damage caused by the utility and that also cannot be waived. Also a bond is not required to get a franchise agreement but insurance is.

Councilman Steve Farrell asked if they have looked at other municipalities franchise agreement and see how close this ordinance matches Heber, Midway, Charleston, and Daniels as the utility enters one of them. Shelby Thurgood indicated that she will look into that before the second reading. Dustin Grabau indicated that the county's engineering firm look at this and they provide some extra jurisdictional insights and they are comfortable with this ordinance as it is.

Councilman Danny Goode made a motion that we accept this as the first reading for Ordinance 22-01 and the second reading to take place on February 2, 2022. Councilman Steve Farrell seconded that motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Spencer Park

AYE: Danny Goode

AYE: Steve Farrell

AYE: Kendall Crittenden

AYE: Marilyn Crittenden

NAY: None.

MIDA UPDATE

Mike Davis, the MIDA Coordinator, addressed the Wasatch County Council and indicated MIDA approached me this afternoon about franchises. There was a meeting this afternoon regarding some questions with various departments and this is working the way it is supposed to work and we talked through the various issues that was brought up. An issue that came up has to do with JSSD and the fire district and will draft a letter to them regarding when a plat is signed and they sign the plat MIDA does not require a performance bond and potentially there may be some liability

associated with the services provided. This doesn't affect the County per se but for these districts that do put their name on the plat there may be a potential liability there.

Mike Davis also indicated that he sent the notes from the Friday meeting to give the Council a general idea of things that were discussed and just let me know if you see something in there that you have a question on or that you don't understand let me know. Also sent to you the presentations done by Extell, Sky Ridge and financial reports from MIDA that was given to the MIDA Board. Also Heber City's Mayor contacted MIDA and have arranged a meeting to discuss MIDA.

COUNCIL/BOARD REPORTS

Councilman Kendall Crittenden indicated that the Lincoln Day breakfast is coming up on February 12, 2022 at Soldier Hollow at 8:00 a.m. We will discuss that to see if the Council would want to reserve a table or take care of it individually if you decide to go.

Councilman Kendall Crittenden indicated if there is any issue that you would like to put on the Inter local meeting in Midway we need to let them know by January 13, 2022.

MANAGER'S REPORT

DISCUSSION ON RECRUITING AN ASSISTANT COUNTY MANAGER

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that there are a few things he would like their input on. Chair Mark Nelson indicated that he would leave the one hour away and see if there is any problem with the recruiting process also if they live just outside the county boundaries. The Council indicated that they would want the Assistant Wasatch County Manager to act as the acting Wasatch County Manager when the Wasatch County Manager is absent. Those Council Members to sit on the selection board are Councilman Danny Goode, Chair Mark Nelson, and Councilwoman Marilyn Crittenden. Councilman Spencer Park would take Chair Mark Nelson's place if he is out-of-town. Dustin Grabau indicated that we will get this posted and provide updates as they come about.

Councilman Spencer Park made a motion to leave our regular session and go into a Closed Session for Pending Litigation, Property Purchase Exchange or Lease. Councilman Danny Goode seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Spencer Park
AYE: Danny Goode
AYE: Steve Farrell
AYE: Kendall Crittenden
AYE: Marilyn Crittenden**

NAY: None.

Councilman Spencer Park made a motion to leave the Closed Session and go back into regular session. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Marilyn Crittenden
AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Spencer Park
AYE: Danny Goode**

NAY: None.

ADJOURNMENT

Councilman Steve Farrell made a motion to adjourn. Councilwoman Marilyn Crittenden seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Spencer Park

AYE: Danny Goode

AYE: Steve Farrell

AYE: Kendall Crittenden

AYE; Marilyn Crittenden

NAY: None.

Meeting adjourned at 6:00 p.m.

MARK NELSON/CHAIRMAN

JOEY D. GRANGER, CLERK/AUDITOR

Councilman Spencer Park made a motion to leave the Closed Session and go back into regular session. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Marilyn Crittenden
AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Spencer Park
AYE: Danny Goode**

NAY: None.

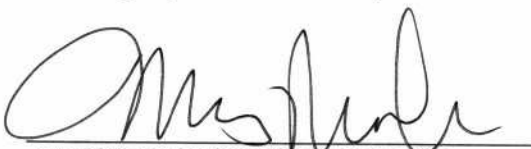
ADJOURNMENT

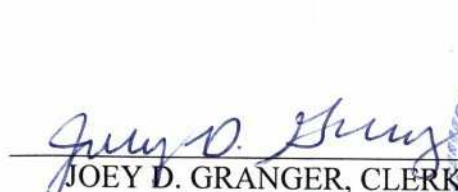
Councilman Steve Farrell made a motion to adjourn. Councilwoman Marilyn Crittenden seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Spencer Park
AYE: Danny Goode
AYE: Steve Farrell
AYE: Kendall Crittenden
AYE; Marilyn Crittenden**

NAY: None.

Meeting adjourned at 6:00 p.m.


MARK NELSON/CHAIRMAN


JOEY D. GRANGER, CLERK/AUDITOR

