

**MINUTES OF
THE WASATCH COUNTY COUNCIL
FEBRUARY 16, 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
Marilyn Crittenden via Zoom
Kendall Crittenden
Steve Farrell
Jeff Wade

STAFF: Dustin Grabau, the Wasatch County Manager
Jon Woodard, the Assistant Wasatch County Attorney
Doug Smith, the Wasatch County Planner
Austin Corry, the Assistant Wasatch County Planner
Wendy McKnight, from the Clerk's Office
Rick Tatton, Court Reporter via Zoom
Scott Sweat, the Wasatch County Attorney
Shelby Thurgood, Assistant Wasatch County Attorney

PRAYER: Chair Mark Nelson

PLEDGE OF ALLEGIANCE: Led by Councilman Kendall Crittenden and repeated by everyone.

Chair Mark Nelson called the meeting to order at 3:00 p.m. and indicated that all of the Wasatch County Council are present, Councilwoman Marilyn Crittenden via Zoom and Councilman Danny Goode may join the Council later. 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.

THE OPEN AND PUBLIC MEETING AFFIDAVIT

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

LEGISLATIVE ISSUES FOR FUTURE MEETINGS

Chair Mark Nelson then asked if there were any legislative issues for future meetings and there was none.

ADMINISTRATIVE ISSUES FOR FUTURE AGENDAS

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

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Chair Mark Nelson asked if there was any public comment on matters not on the agenda and there was none.

APPROVAL OF THE MINUTES FOR FEBRUARY 2, 2022

Councilman Steve Farrell made a motion to approve the minutes for February 2, 2022 as written. Councilman Spencer Park seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Marilyn Crittenden via Zoom
AYE: Jeff Wade
AYE: Steve Farrell
AYE: Spencer Park
AYE: Kendall Crittenden**

NAY: None.

Councilman Steve Farrell made a motion to leave our regular agenda session and go into SSA#1. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Jeff Wade
AYE: Marilyn Crittenden via Zoom
AYE: Steve Farrell
AYE: Kendall Crittenden
AYE: Spencer Park**

NAY: None.

SSA #1

APPROVAL OF THE WARRANTS

Ben Probst, the Financial Officer, presented the warrants to the SSA#1 Governing Board.

Board Member Jeff Wade made a motion to approve the warrants as listed. Board Member Spencer Park seconded the motion and the motion carries with the following vote:

**AYE: Board Chair Steve Farrell
AYE: Board Member Mark Nelson
AYE: Board Member Marilyn Crittenden via**

Zoom

**AYE: Board Member Jeff Wade
AYE: Board Member Kendall Crittenden
AYE: Board Member Spencer Park**

NAY: None.

DISCUSSION/APPROVAL TRANSFER OF M AND I WATER FROM TWIN CREEKS TO MIDWAY CITY.

Board Chair Steve Farrell indicated that a request has been made for 24 acre feet of M and I Water that was allocated to Wasatch County and was given to SSA #1 to administer. SSA #1 was given the job of dividing it to a public water facility for culinary purposes like Heber City, Midway, Twin Creeks. SSA#1 then had 28 acre feet of water transferred to Twin Creek and then Twin Creeks transferred to an individual a developer. Now that individual wants to transfer that water out of Twin Creeks Service Area and wants to transfer it to Midway City to be used for a development in Midway. There needs to be an approval from this Board to allow the transfer to ensure that we track that water and we need to do a transfer letter from Twin Creeks to Midway and then Midway will have to provide SSA #1 an acceptance letter indicating that they will accept that.

Board Member Marilyn Crittenden asked for an explanation with regard to M and I Water. Board Chair Steve Farrell replied that M and I water was water that was created with the Central Utah Project for Wasatch County. There was so much project water allocated to Wasatch County. The 24 acre feet of M and I was allocated to Wasatch County for the purpose for municipal and industrial use and this is part of that. That water can be used anywhere in Wasatch County. Twin Creeks indicated that where it costs \$437 an acre foot, there is nobody interested in it right now

and right now can't stand the cost of covering it.

Board Member Spencer Park made a motion to authorize the SSA#1 Board authority to transfer this water from Twin Creeks to Midway City. Board Member Mark Nelson seconded the motion and the motion carries with the following vote:

**AYE: Board Chair Steve Farrell
AYE: Board Member Spencer Park
AYE: Board Member Mark Nelson
AYE: Board Member Kendall Crittenden
AYE: Board Member Marilyn Crittenden via**

Zoom

AYE: Board Member Jeff Wade

NAY: None.

Board Member Jeff Wade made a motion to leave the SSA#1 Board and go back into the regular Wasatch County Council Agenda. Board Member Kendall Crittenden seconded the motion and the motion carries with the following vote:

**AYE: Board Chair Steve Farrell
AYE: Board Member Spencer Park
AYE: Board Member Mark Nelson
AYE: Board Member Kendall Crittenden
AYE: Board Member Marilyn Crittenden via**

Zoom

AYE: Board Member Jeff Wade

NAY: None.

COUNCIL

DISCUSSION/APPROVAL A NOMINATION FOR AMERICAN COWBOYS RECOGNITION.

The Wasatch County Council discussed the matter and different names were submitted and discussed and the Wasatch County Council decided on Keary Stephens.

Councilman Jeff Wade made a motion to select Keary Stephens. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson
AYE: Kendall Crittenden
AYE: Marilyn Crittenden via Zoom
AYE: Jeff Wade
AYE: Steve Farrell
AYE: Spencer Park

NAY: None.

Councilman Kendall Crittenden indicated that he will fill out the form and send it to them.

REVIEW OF THE PROPOSALS FOR AFFORDABLE HOUSING AND RETAINING WALLS FOR WAIKERIE RIDGE FORMERLY BERG RIDGE. THE COUNTY CODE 16.27.29 REQUIRES APPROVAL BY THE COUNCIL FOR RETAINING WALLS THAT ARE LONGER THAN 200 FEET IN LENGTH AND ALSO REQUIRES APPROVAL OF THE AFFORDABLE HOUSING PLAN WHICH HAS CHANGED SINCE THE PRELIMINARY APPROVAL. WAIKERIE RIDGE IS A DEVELOPMENT ADJACENT AND EAST OF TUHAYE NORTH OF THE EAST ARM OF THE JORDANELLE RESERVOIR IN THE JBOZ JORDANELLE BASIN OVERLAY ZONE.

Doug Smith, the Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that this matter went to the Planning Commission last week and received final approval for Phase 1 Plat but a couple of items there that needed to be discussed with the Wasatch County Council regarding retaining walls and the affordable housing fee-in-lieu which need the Council's approval. The Wasatch County Code pertaining to retaining walls that are greater than 200 feet in length is required to come to the Council after a recommendation by the Planning Commission and two retaining walls exceed 200 feet. The Planning Commission approved the retaining walls with the color being of an earth tone brownish color and having steps in any retaining wall over ten feet with landscaping in between those steps. This matter needed to come to the Council because it was an esthetic issue. All the engineering studies have been done and reviewed by the Engineering Department.

Doug Smith indicated that with regard to the affordable housing aspect of this when it came before us for preliminary all the affordable housing was going to be paid by a fee-in-lieu and the letter provided by the housing authority was okay with a fee-in-lieu and also indicated that they would like to build some caretaker units in the clubhouse. As a result they will have to come in with a site plan and go through a site plan approval process but would like to put one or two caretaker's dwellings for workforce housing in the clubhouse. As a result I can't tell them what their fee will be reduced to until I know what the floor plan is. The idea is that they build those and be deed restricted and it's in our Development Agreement that they stay affordable units and for employees of the project otherwise they would be paying this \$221,000 for 79 units to be paid for a complete fee-in-lieu. It will be decreased if the Council agrees to allow the workforce housing on site. Also if the AUE's are one ERU they might end up paying \$165,200.00 still and their fee-in-lieu will be

on site in constructing housing.

Chair Mark Nelson indicated that they will pay a little bit less in fee-in-lieu but Wasatch County will get two more affordable units than it had otherwise.

Scott Sweat, the Wasatch County Attorney, indicated that it would be cleaner if the matter came back for a motion where it is not listed as a motion being given today.

Chair Mark Nelson asked the Council if anyone is opposed to approving this. All the Council members indicated that they are okay with approving this.

Councilman Steve Farrell made a motion that the Council will approve the amendment to the retaining walls as well as approval for the affordable housing for WAIKERIE Ridge Development as presented and bring this back to the next Council meeting on March 2, 2022 for ratification and am fine with the way it is. Councilman Kendall Crittenden seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Jeff Wade

AYE: Marilyn Crittenden via Zoom

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Spencer Park

NAY: None.

Doug Smith indicated that Councilman Steve Farrell's motion was fine in moving forward with it and if I look into it and discuss this with the Legal Department is it okay if it is or is not depending on whether it needs to be put on the March agenda? The Council indicated that is fine with them.

FIRST READING OF FRANCHISE AGREEMENT BETWEEN UTAH BROADBAND AND WASATCH COUNTY.

Shelby Thurgood, the Assistant Wasatch County Attorney, presented a power point presentation and then addressed the Wasatch County Council and went through the proposed Ordinance No. 22-06 and went through the terms of the proposed contract so that the Council understands the proposed language so we can get it on the record. The length of this is for 30 years and renews every year for a total up to 50 years at each window period the agreement can be reviewed and renegotiated. If either party intends to not renew then the contract requires a 100 day written notice to the other party. The consideration is a \$50 fee which is set by state statute.

Some of the conditions are: the franchisee is required to follow all the ordinances including giving all the permits, franchisee is required to notify the county of all work that is being done and compile a list of all known work that will be done throughout the year and provide it to the County by

March 1. Franchisee is allowed to do emergency work without prior notification to the County and then notifying the County as soon as it is reasonable and allows the County to do emergency work at the cost of the franchisee if that is needed, the County can mitigate any emergency that way. The franchisee is required to relocate utilities at the County's request, and that relocation is at the franchisee cost if it is in the interest of public health, safety and welfare if it was put in pursuant to a franchisee agreement and the County to provide a new location for the facilities. The franchisee is required to allow the County or other utilities to share the trenches when it is reasonably possible, and it doesn't increase the cost to the franchisee and allows franchisee to plant trees around utilities as needed, and requires the franchisee to maintain insurance and to indemnify the County.

Shelby Thurgood indicated that with regard to early termination if the County believes the franchisee is not in compliance with the agreement the county can notify the franchisee and the franchisee has 30 days to respond to cure or to begin to cure if the cure is going to take longer than 30 days. If the franchisee doesn't respond or the response isn't sufficient the County can require specific performance which means make them comply with the contract. Also to correct the problem the County can sue for damages or revoke the agreement. If the county chooses to revoke the contract they need to notify the franchisee and give the franchisee 90 days to object and state their objection and then the County will hold a public hearing at which the franchisee will have an opportunity to speak and then the County can decided to revoke or not.

Shelby Thurgood indicated that what she has indicated above are some of the key terms in this franchise agreement.

Steven McGee, owner of Utah Broadband, addressed the Wasatch County Council and indicated that what we are doing is bringing fiber into the community and we felt like a franchise agreement would be the best way to do that to help provide better communication with the structure that will last the test of times.

Councilman Steve Farrell made a motion that we approve this as the first reading of the Franchise Agreement for Utah Broadband and Wasatch County and the second reading to take place on March 2, 2022. Councilwoman Marilyn Crittenden seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Jeff Wade
AYE: Marilyn Crittenden via Zoom
AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Spencer Park**

NAY: None.

PRESENTATION ON TAB BOARD APPROVALS

Dallin Koecher, the Department Director, presented a power point presentation and then addressed the Wasatch County Council and indicated that the TAB approvals regarding the money for marketing advertising purposes came to \$50,000.00. Then gave the annual report from the Tourism Office and what is taking place in the economic marketing in Wasatch County. Jessica from the Tourism Department presented the names of the people and businesses that received different amounts contained in the \$50,000.00. The applicants had to score 60 percent or above to receive money from this \$50,000. Jessica indicated that there were some good applicants that applied. The County Council indicated that they had no comments regarding the scoring and were okay with where the advertising marketing funding went.

Councilman Steve Farrell commented that you guys have really came a long ways in ten years and it is to be commended. Chair Mark Nelson indicated that he agreed with what Councilman Steve Farrell just said.

Councilman Steve Farrell made a motion that we approve the recommendation of the TAB Board as it relates to the awarding of the funding. Councilwoman Marilyn Crittenden seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Jeff Wade

AYE: Marilyn Crittenden via Zoom

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Spencer Park

NAY: None.

MIDA UPDATE

Mike Davis, the MIDA Coordinator, was absent from the meeting but Dustin Grabau, the Wasatch County Manager indicated that we did have an in person meeting with the tax offices and MIDA to talk about issues. Talked about varying items and working through some technical glitches over the last couple of weeks that have been resolved and good progress is being made and have a great relationship with the entire staff.

COUNCIL/BOARD REPORTS

Chair Mark Nelson indicated that he is working with, Councilman Jeff Wade in getting the Boundary Commission established so that the item that is in question can be taken care of. A letter

has been sent to the various Mayors and given them a copy of the code and indicated that they have to follow the code and asked them to get together to vote for two other members and that hasn't been done. Natalie Foster, the Wasatch County Manager's secretary gave a report on what she has done to try and help get the Boundary Commission established in contacting various individuals. Chair Mark Nelson indicated that the issue is that the property that the Wasatch County School District owns petitioned to be annexed into Heber City and an adjoining neighbor protested and wants to be included in the annexation and that is why the Boundary Commission is needed.

Chair Mark Nelson also indicated that Doug Smith, Councilman Jeff Wade, Dustin Grabau and myself went and looked the Black Rock Hotel and they have a nightly suite that can be rented for \$7,000.00 a night.

Councilman Kendall Crittenden indicated that he received a notice of the meeting with the Sage Brush and Twin Creeks Irrigation shareholder meeting is being held and will plan to attend that and represent Wasatch County.

MANAGER'S REPORT

DISCUSSION AND POTENTIAL APPROVAL OF APPOINTING BAIL COMMISSIONERS.

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that one of the processes allowed in state code for an inmate at the county jail is for Bail Commissioners to issue pre-approved bail amounts for certain accused offenders so that they may be released on bail without having to wait for a Judge to set bail. This expedites the process for all involved. State Code requires that the county executive present bail commissioners who are Sheriff Office employees, for approval under the advice and consent of the Council. The following are recommended to the Council to fill the role as bail commissioners. Sergeant Danny Davis, Sergeant Natalie Bateman, Sergeant Angela Mecham, Nick Daniels, Chris Tuckett, Riley Ingram, Travis Price, Dakota Lloyd, Jody Fugal, Max Murphy, Austin Kinross, Chris Overn, Jedd Shepherd, Austin Bolos, Justin Hammack, Kevin Durr.

Councilman Spencer Park made a motion to accept the manager's recommendation and appoint these individuals as bail commissioners. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Jeff Wade

AYE: Marilyn Crittenden via Zoom

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Spencer Park

NAY: None.

DISCUSSION AND POTENTIAL ACTION ON A WASATCH COUNTY TRANSIT PLANNING STUDY

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that the Wasatch County meets twice a month with High Valley Transit HVT as we explore options for bringing public transit services into the County. At the request of Wasatch County, High Valley Transit has prepared a scope of work to study the options, costs and time line for implementing a transit route in Wasatch County. High Valley Transit has a pre-established contract with VIA who has done other recent studies for HVT. This study would build on existing data sets to provide for four tasks 1. Updating market analysis. 2. Developing service alternatives. 3. Modeling and simulations. 4. Recommendations and implementation plan.

These tasks will provide Wasatch County critical information for identifying the costs and benefits of expanding transit services here. VIA has provided a quote of \$21,000 to perform these tasks. It would be my recommendation to present a motion to approve funding for the transit planning study.

This study will give us a better idea of what the cost of providing services and what we get for that cost. This cost is not in our budget at the time but we do have a manager's budget for contact services this year and this would be an opportunity to use that budget money there. Also if we did not decide to go this route this study would help us in other areas. MIDA is going to need transit help and could be asked to help fund this study. Councilman Steve Farrell indicated that he isn't opposed to such a study being done.

Councilman Kendall Crittenden made a motion that we approve the \$21,000.00 transit planning study with High Valley Transit VIA and authorize Dustin to fund it from the manager's budget. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Jeff Wade

AYE: Marilyn Crittenden via Zoom

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Spencer Park

NAY: None.

FUNDING REQUEST FROM THE LEGISLATURE

Councilman Kendall Crittenden indicated that they have asked Wasatch County to support our legislators to the tune of \$10 million of a \$20 million facility and what they are looking for as you go along Highway 40 where the UDOT Road Shed is between the UDOT Road Shed and Home Depot that property right there and asking for some state help for that. Dustin Grabau indicated that Wasatch County has asked our lobbyist to express our county support and also reached out to MIDA and MIDA is using their lobbyist to support this request as well. Our lobbyist has indicated that this is a little late for funding requests at the legislature at this point.

AUDITOR SELECTION

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that we need to select an auditor for Wasatch County. There have been three auditors apply. The Council will need to decide whether to do interviews first or other discussions or analysis of the responses that we have received. The three applicant names have been sent to each of the Council Members for you to go through. The existing Auditor has been Larsen and Company. The two new firms are Squire and HBME. The cost is \$500 within the three of them. The normal standard to keep an auditor is around five years and then you change your auditors. There also is a five year contract. Councilman Steve Farrell indicated that he is fine with either one of the new applicants. The Council asked that the matter be put on the March 2, 2022 agenda for a decision.

Chair Mark Nelson indicated that a Closed Session has been called for by Councilman Steve Farrell for Pending or Reasonably Imminent Litigation.

Councilman Kendall Crittenden made a motion to go into Closed Session for Pending or Reasonably Imminent Litigation. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Jeff Wade

AYE: Marilyn Crittenden via Zoom

AYE: Steve Farrell

AYE: Kendall Crittenden

AYE: Spencer Park

NAY: None.

Councilman Jeff Wade made a motion to leave the Closed Session and go in recess. Councilman Spencer Park seconded the motion and the motion carries with the following vote;

AYE: Chair Mark Nelson

AYE: Jeff Wade

AYE: Marilyn Crittenden

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Spencer Park

NAY: None.

Chair Mark Nelson indicated that all the Council are present with Councilwoman Marilyn Crittenden via Zoom and Councilman Danny Goode still not present and the time is 6:00 p.m.

**PUBLIC HEARING
FEBRUARY 16, 2022**

**AN ORDINANCE #22-04 PROVIDING FOR THE IMPOSITION OF MODIFIED
IMPACT FEES FOR TRANSPORTATION FACILITIES, PARKS AND RECREATION
FACILITIES AND PUBLIC SAFETY FACILITIES IN WASATCH COUNTY.**

Staff:

Dustin Grabau, the Wasatch County Manager, presented a power point presentation and then addressed the Wasatch County Council and indicated that a study has been done with Lewis and Young analyzing our current existing impact fees and coming up with estimated impact fees that reflect our current level of service. The study has been completed and published it in accordance with State Law which includes our web site. On our County web site you can see these documents. This is the first reading of Ordinance 22-04 which is adopting these changes to the impact fees for transportation facilities, recreation facilities and public safety facilities in Wasatch County. The Council had a discussion regarding where these impact fees should be for the three that I just mentioned. The final consensus of the County Council was to raise the impact fees for all three of these facilities to the maximum with the understanding that they didn't want to go back on the services that are being provided by these impact fees at the present time. Also in the future these impact fees can be lowered down from the enacted impact fee if the Council feels that it is necessary.

Fred Philpott, from Lewis and Young, addressed the Wasatch County Council and indicated that as the Council is looking at the maximum allowable fee versus the enacted fee and impact fees are calculated based on demand and level of service and several other variables. If the Council chose to adopt a lower impact fee then the outcome is either you have a corresponding reduction in your

level of service or you have to make up those funds with some other funding mechanism. The Statute allows you to adopt up to the maximum or anything below or eliminate impact fees altogether.

Councilwoman Marilyn Crittenden indicated that what you have just said is keeping the maximum impact fee to keep the same level of service that Wasatch County has right now and if we go less we are not keeping that same level of service. Fred Philpont indicated that based on what Wasatch County currently assesses is that residential is going up a little bit, commercial is going down and we are adding the industrial component to that fee structure.

Chair Mark Nelson asked would it be accurate to say that this analysis really is kind of like a zero based thing, you didn't look at the old ones you just looked at the service and really didn't use the existing ones as a basis. Fred Philpont indicated that is correct. We did not take any previous study and try and replicate and update. We looked at methodologies that we currently utilize that are accepted across the State of Utah and standards of practice and apply those methodologies and comparing that to what you have currently with regard to impact fees. Dustin Grabau also indicated that the recreation impact fee that is being proposed is down from \$4,000 to \$2,000 and that came from the Parks and Recreation Advisory Board.

Councilwoman Marilyn Crittenden indicated that she doesn't believe that any impact fee should be lowered because we have got a good level of service right now with the current impact fees and do not want to lower our degree of service. Dustin Grabau indicated that we need to revisit these impact fees more regularly and with these suggested impact fees may only be for the next two to five years depending on how frequently we decided to reenact them and our discussion has been closer to two years. Fred Philpont indicated it is good for the staff to look at these impact fees regularly and if some of the assumptions that have been considered start to shift then that may trigger an update. Most communities look at this every two years. Dustin Grabau indicated that we have sufficient information to back up the numbers that we are considering.

Public Comment:

Chair Mark Nelson then opened this public hearing up for public comment and there was none so the public comment period was closed.

Motion:

Councilman Steve Farrell made a motion that we pass the first reading of Ordinance 22-04 dealing with the impact fees for the transportation facilities, parks and recreation and public safety and move this onto the second reading for March 2, 2022. Councilman Spencer Park seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Jeff Wade

AYE: Marilyn Crittenden via Zoom.

AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Spencer Park

NAY: None.

PUBLIC HEARING
FEBRUARY 16, 2022

JOHN TRAVIS REQUESTS A TEXT AMENDMENT TO WASATCH COUNTY CODE 16.15.06 (H), JBOZ COMMUNITY COMMERCIAL REGULATIONS TO INCREASE THE MAXIMUM BUILDING FOOTPRINT SIZE TO SITE RATIO FROM 18 PERCENT TO 25 PERCENT TO ALLOW LARGER BUILDING FOOTPRINTS IF PARKING, LANDSCAPING AND ALL OTHER REQUIREMENTS CAN BE MET.

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 has obtained site plan approval for construction of a grocery and office building at the intersection of Highway 248 and the Jordanelle Parkway. To reduce costs the second story office space is being removed. And as a result this would be a single-story grocery. The applicant has indicated that the grocery store interested in occupying the space needs greater square footage than the footprint limits allow in the JBOZ Community Commercial. As a result the request is to amend the footprint to site ratio from 18 percent to 25 percent to allow a larger single store structure. No other requirements of the code are being requested for amendment. As such total square footage parking, landscaping, height restrictions, etc., would all still apply. As a staff we have reviewed the proposal and compared the code with the Jordanelle Land Use Plan and we have been unable to find any reason the 18 percent limit was determined.

Austin Corry then went through the proposed findings:

1. Current code limits the footprint of commercial buildings to 18 percent of the site.
2. The proposed amendment would increase the footprint allowance to 25 percent while still keeping the 36 percent maximum building size. No other regulations would be amended such as parking, landscaping, and heights.
3. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan and the Jordanelle Land Use Plan to support a mix of uses in the area.
4. Present development in the area has been almost entirely focused on residential density and the commercial needs of the area are not currently being met.
5. The proposed amendment is consistent with the purpose and objectives outlined in Section 16.15.01.

6. The General Plan Objective 11.2 is to encourage businesses and activities that are compatible with Wasatch County's identity and that provide jobs which can support permanent resident households.
7. The General Plan Policy 9.1.7 is to incorporate traffic management, features that help reduce speed and calm traffic with the intent of improving safety for all roadway users.
8. A grocery store component in the JBOZ would encourage longer stays and reduce travel demands outside the area from those residing and visiting the Jordanelle Recreation Area.
9. Closer retail services to this population density will contribute to more localized trips and potential alternative forms of transportation as opposed to longer vehicular trips using the major highways to and from Jordanelle.
10. The applicant has provided a statement of potential benefits and drawbacks to the proposed amendment.
11. Positive benefits include accommodation of a better model for typical single-story uses such as grocery stores to locate in the desired land use area, thus increasing economic development and retail tax base in the area.
12. Negative impacts could be increased land area being consumed by single-story buildings in an area that could support two story buildings to free up more land area. Other adjustments should be made to the code if that is a significant point of concern at this time.

Public Comment:

Chair Mark Nelson then opened the public hearing for public comment and there was none so the public comment period was closed.

Motion:

Councilman Spencer Park made a motion that we approve Ordinance 22-05 in light of the findings and subject to the conditions as presented. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Jeff Wade
AYE: Marilyn Crittenden via Zoom
AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Spencer Park**

NAY: None.

The record should show that Councilman Danny Goode has just joined the Wasatch County Council.

**PUBLIC HEARING
FEBRUARY 16, 2022**

CONSIDERATION OF ORDINANCE 22-02 AMENDING THE WASATCH COUNTY LAND USE AND DEVELOPMENT CODE TO ALLOW FOR RECORDED DEVELOPMENT APPROVAL MEMORANDUMS IN PLACE OF SIGNED DEVELOPMENT AGREEMENTS, AND UPDATING THE BONDING CODE TO MEET UPDATED UTAH CODE REQUIREMENTS AND RELATED ISSUES.

Staff:

Jon Woodard, the Assistant Wasatch County Attorney, presented a power point presentation regarding Ordinance 22-02 amending the Wasatch County Land Use and Development code to allow for recorded development approval memorandums in place of signed development agreements and updating the bonding code to meet updated Utah Code requirements and related issues. Jon Woodard went into great detail indicating what he is proposing which can be found in the Ordinance itself.

Jon Woodard indicated that there is an applicant who is upset at being required to do a development agreement. Utah Code doesn't allow a development agreement to be the only option for developing land in the County. The current code as we apply it makes it so that a small scale development which are six or less lots we don't normally required a development agreement unless there is something unique about the development that needs to be address. On the larger scale developments we do now require development agreements. By doing this ordinance that would change that to make to where we would normally require one unless the applicant requests it and there are no unique issues that could be well handled through a development agreement and they are on their requesting base density. This is what the code is going to require as this alternative to a development agreement and we call it and Developmental Approval Memo. This would be recorded be with or before the final plat but there would be a big difference the developer would not have to sign it and also would be shorter. A Developmental Approval Memo would be an option to highlight the approvals of the project without the need to have the applicant sign them as an agreement and it would also be shorter. It would be a document to provide a good record to protect the current developer, future developer and future for owners as there is a clear record of what the approvals were. Also the State Code is making it more difficult for the County to protect the health, safety, and welfare needs of the residents and visitors of the County. The proposal relieves the requirement for simple developments where there isn't open space or bonus densities. One of the reasons why we want something recorded on the project is what happens sometimes when we get an approval there is a downturn and years pass before anything is done on the project. If they go too long they lose the approval because technology changes. It makes people and developers understand what the rules are.

Jon Woodard indicated that we changed the building permitting code. What we did is very closely follows what the State Code now allows us to require for bonding on a building permit and what improvements have to be completed. Also drawing on these international building code and international fire code requirements because those are the lines that the legislature has put in place where we can and can't require these infrastructure improvements.

Jon Woodard indicated that with regard to bonding. The State legislature is painting us into a corner and under State Code we have to allow bonding for infrastructure improvements. We can't stop building permits if certain improvements are done that meet minimal fire code and international building code standards. What affects this is that costs have gone up since we bonded. This will protect us from that day when that happens but our hands are really tied. The County has been against just allowing public improvements districts (PID) as bonding and I am opposed to them because my experience has been you will have a developer set it up and when things fall apart there won't be anybody to run the PID and the only entity left standing will be the County. When there is a downturn there is going to be a huge administrative burden as these lawsuits come in and at the same time the revenues for the County drop.

Jon Woodard indicated that with regard to open space. We require open space to be common area with an open space easement. What I have done with this is added language that clarifies this in the code. Also helps how the common improvements are going to be handled by the HOA.

Jon Woodard also indicated that he has made huge changes from the version that is in your code and the biggest one refers to Exhibit No. 19 which is an application for a final plat and how moderate income housing is addressed there.

Jon Woodard indicated that with regard to the County Engineer that he has to agree on the completion date for the improvements for a bonding application.

Jon Woodard indicated that we need to get this adopted as fast as possible. We are in the middle of a State Legislative Session that this is intended to hopefully address some of the concerns that developers have. Let's go ahead and adopt it tonight if you want to go that way and then ratify it the first Council meeting next month so functionally we would be meeting the first and second reading requirements but we would also adopting the Title 16 stuff immediately so I could report to the developers who are concerned about this. We would just ratify it. Councilman Steve Farrell asked do we go ahead and approve it tonight under Title 16. Jon Woodard replied that you can but there is Title 14 things that I thought it would be safer to do it. If it was just Title 14 for sure I would be saying let's do a first reading and a second reading. The hybrid is kind of unclear and I thought let's just ratify it to make sure that nobody could say they avoided the second reading. I would like you to adopt it if that is ow the Council feels.

Public Comment:

Chair Mark Nelson then opened this public hearing up for public comment and there was none so the public comment period was closed.

Motion:

Councilman Kendall Crittenden made a motion that we pass Ordinance 22-02 amending the Wasatch County Land Use and Development Code to allow for recorded development approval memorandums in place of signed development agreements and updating the bonding code to meet updated Utah Code requirements and related issues. That we pass this tonight and ratify this in our March 2, 2022 meeting. Councilman Steve Farrell seconded that motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Jeff Wade
AYE: Marilyn Crittenden
AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Spencer Park
AYE: Danny Goode via Zoom**

NAY: None.

**PUBLIC HEARING
FEBRUARY 16, 2022**

POSSIBLE RECOMMENDATION ON ORDINANCE 22-03 WHICH IS A PROPOSED ORDINANCE TO COMPLY WITH THE RULING FOR PARTIAL SUMMARY JUDGEMENT IN BEPOA V. WASATCH COUNTY #160500115 BY GOING THROUGH A CLUDMA PROCESS FOR THE GATE WHICH WAS PLACED ON PINE CANYON ROAD IN 2016 NEAR THE WINTER PARKING AREA TO STOP MOTOR VEHICLE TRAFFIC DURING THE HISTORIC SEASONAL CLOSURE.

Staff:

Jon Woodard, Assistant Wasatch County Attorney, addressed the Wasatch County Council and presented a power point presentation and then gave a brief history to the Wasatch County Council regarding the gate being installed. This matter has to do with a gate that is next to the Brighton Estates Subdivision. The County has already passed code on defining road closures and why we do it. The gate is the main issue today. In 1999 the County passed a Resolution to seasonally close certain County roads and Pine Canyon Road was mentioned there and that Resolution also said that the public works director is authorized to put up gates if he feels that he needs to. In 2007 or 2008 Wasatch County authorized the Brighton Estates Property Owner Association to seasonally plow Guardsman Pass Road to the "Y" and then Pine Canyon Road down to the gate. Then one of the residents up there started plowing the road down into Brighton Estates Subdivision. In 2016 the Legislative Body passed a Resolution directing the public works director to put up a gate.

Then later on Sean Brown and the Brighton Estates Property Owner's Association sued Wasatch County indicating that they want the Court to have the gate removed. The gate has been there since 2016 or thereabouts. At the present time we are now aware of anybody going past where that gate is in plowing. The gate hasn't been closed in the last few years people have been honoring it but Wasatch County still wants the gate there if we want to close it if problems arise.

In September 2021 the Fourth District Court gave a split decision on the Motion for Summary Judgment which the Court ruled for the County that we are not required to allow the Property Owner's Association to plow down into the subdivision without going through a CLUDMA Process. The flip side is that the Judge said that you have to go through a CLUDMA (County Land Use, Development, and Management Act) process to put in a gate. Few months later the parties stipulated to dismiss the case. So we have the ruling in the Motion for Summary Judgment and the case is gone. The County believes that seasonal closure of roads to traditional traffic does not require compliance with CLUDMA. The County decided not to take the decision of the Fourth Judicial Court to higher courts but we could take care of it today which is a lot cheaper and faster. The Ordinance is that the public works director is authorized to install a gate on Pine Canyon Road at the parking area where the HOA has traditionally stopped plowing on Pine Canyon Road. Otherwise seasonal road closures, gates, and snow plowing on Pine Canyon Road will continue to be governed by WCC 9.02.03 that is in place. I slightly changed this from what is in your packet because I realized that it said here before so that was fixed.

Public Comment:

Chair Mark Nelson then opened the public hearing up for public comment and there was none so the public comment period was closed.

Motion:

Councilman Kendall Crittenden made a motion that we pass Ordinance No. 22-03 which is a proposed ordinance to comply with the ruling for partial summary judgment in BEPOA versus Wasatch County #160500115 by going through a CLUDMA process for the gate which was placed on Pine Canyon Road in 2016. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Jeff Wade
AYE: Marilyn Crittenden via Zoom
AYE; Danny Goode via Zoom
AYE; Kendall Crittenden
AYE: Steve Farrell
AYE; Spencer Park
NAY: None.**

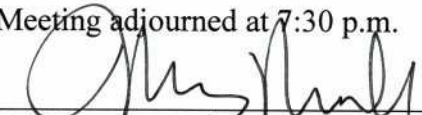
ADJOURNMENT

Councilman Jeff Wade made a motion to adjourn. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Jeff Wade
AYE: Marilyn Crittenden via Zoom
AYE: Danny Goode via Zoom
AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Spencer Park**

NAY: None.

Meeting adjourned at 7:30 p.m.


MARK NELSON/CHAIRMAN


JOEY D. GRANGER/CLERK/AUDITOR

