

**MINUTES OF THE
WASATCH COUNCIL
NOVEMBER 16, 2022**

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

PRESENT: Chair Mark Nelson
Jeff Wade
Marilyn Crittenden
Kendall Crittenden via Zoom
Steve Farrell
Danny Goode via Zoom

EXCUSED: Councilman Spencer Park
Wendy McKnight from the Clerk's Office

STAFF: Dustin Grabau via Zoom County Manager
Karl McMillan via Zoom new Wasatch County Councilman
Heber Lefgren via Zoom Assistant County Manager
Natalie Foster, secretary to the managers
Jon Woodard, the Assistant Wasatch County Attorney
Doug Smith, the Wasatch County Planner
Austin Corry, the Assistant Wasatch County Planner
Rick Tatton, Court Reporter via Zoom

PRAYER: Councilwoman Marilyn Crittenden

PLEDGE OF ALLEGIANCE: Let by Councilman Steve Farrell and repeated by everyone.

Chair Mark Nelson called the meeting to order at 4:00 p.m. on Wednesday November 16, 2022 and welcomed those present and indicated that all of the Wasatch County Council are present either live or by Zoom, except Councilman Spencer Park who is excused. The record should further reflect that the Wasatch County Council is meeting in the Wasatch County Council chambers in the Wasatch County Administration Building located at 25 North Main, Heber City, Utah 84032. Chair Mark Nelson then called the first agenda item.

THE OPEN AND PUBLIC MEETING AFFIDAVIT

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

ADMINISTRATIVE ISSUES FOR FUTURE MEETINGS

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

LEGISLATIVE ISSUES FOR FUTURE MEETINGS

Chair Mark Nelson asked if there were any legislative issues for future meetings. Councilman Steve Farrell indicated now that the RAP Tax has passed I would like to have a discussion on how the public trails will be done which is a complicated issue. We need to look at involving some of the municipalities in this discussion and see if we want to do an MOU to get them involved to help maintain the trails. Dustin Grabau via Zoom indicated that he has been having meetings with Brandon Cluff and Tom Bonner about this. We would like to present to the Council what we have come up with. Councilman Kendall Crittenden via Zoom indicated that this is a great discussion in an Inter local meeting.

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

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

Chair Mark Nelson indicated that we need to have a motion to go into the Wasatch County Fire District for an item.

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

AYE: Chair Mark Nelson

AYE: Marilyn Crittenden

AYE: Jeff Wade via Zoom

AYE: Steve Farrell

AYE: Kendall Crittenden via Zoom

AYE: Danny Goode via Zoom

WASATCH COUNTY FIRE DISTRICT

DISCUSSION/POSSIBLE APPROVAL OF WASATCH COUNTY FIRE CHIEF

Board Chair Steve Farrell indicated that this is a matter that we have been working on all year and have gone through the process to identify a new fire chief. We have worked with the advisory commission and put a job description together and sent it out and we had some great applicants come back and ended up interviewing five of the applicants. Part of the interview committee we had three members of the Council, myself, Councilman Kendall Crittenden, Councilman Spencer Park and some members from the advisory board, advisory council Mary and Gale was involved in that interview process. Out of that interview process we came back with a recommendation that we would like to present to the Council for their approval of Chief Eric Hales as the Wasatch County Fire Chief. If there is any reason to discuss this we can go into a Closed Session and there was none.

Councilwoman Marilyn Crittenden made a motion to approve the appointment of Chief Eric Hales as the Wasatch County Fire Chief. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:

**AYE: Board Member Mark Nelson
AYE: Board Member Jeff Wade
AYE; Board Member Marilyn Crittenden
AYE: Board Chair Steve Farrell
AYE: Board Member Kendall Crittenden via Zoom
AYE: Board Member Danny Goode via Zoom**

NAY: None.

Board Chair Steve Farrell made a motion to leave the Wasatch County Fire District and go back into the regular Council agenda. Board Member Marilyn Crittenden seconded the motion and the motion carries with the following vote:

**AYE: Board Chair Steve Farrell
AYE: Board Member Jeff Wade
AYE: Board Member Marilyn Crittenden
AYE: Board Member Kendall Crittenden via Zoom
AYE: Board Member Danny Goode via Zoom
AYE; Board Member Mark Nelson**

NAY: None.

REGULAR COUNCIL AGENDA

APPROVAL OF THE MINUTES FOR NOVEMBER 2, 2022

Councilman Steve Farrell made a motion to approve the minutes for November 2, 2022 as written. Councilwoman Marilyn Crittenden seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Marilyn Crittenden

AYE: Jeff Wade

AYE: Steve Farrell

AYE: Kendall Crittenden via Zoom

NAY: None.

ABSTAIN: Councilman Danny Goode via Zoom (absent)

CONSIDERATION OF A RESOLUTION #22-15 AUTHORIZING C-PACE FINANCING FOR BLACK ROCK MOUNTAIN

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council via Zoom and indicated that today there is a project before you to take advantage of those C-Pace Bond and we got the information on Friday and there is a representative from Gilmore Bell who will present some information about the project.

Jacob Carlson with Gilmore Bell works with Randy Larsen. Jacob indicated that the resolution that is before you is a consideration for a C-Pace project to be done here in Wasatch County and it really isn't a bond. The County wouldn't be issuing bonds here but what they would be doing is entering into a written agreement whereby Wasatch County would be designating the C-Pace Assessment Area and levying the C-Pace Assessment and then assigning their rights and that assessment lien over to the C-Pace lender who then would finance the improvements to the property owner. That is what the written agreement does in the nutshell and that is what the resolution that is before you. You would just authorize the County to execute that substantially in the form that has been presented at this meeting today. Wasatch County has no involvement once it assigned its right in the C-Pace lien over to the C-Pace lender and there is no more involvement of the County at that point.

The C-Pace lender would be the entity that would be servicing the loan, collecting payments and then directing any foreclosure on the property. The amount of the loan that would be made by the C-Pace lender is \$60 million and bear interest at an interest rate not exceeding eleven percent per annum and would mature on or prior to December 31, 2051. This is just for energy saving equipment.

The C-Pace lien would be placed on all of the hotel units and then as those hotel units are sold off they would prepay a portion of that assessment. Under Utah Law you are not allowed a C-Pace lien on individual parcels like that.

Councilwoman Marilyn Crittenden indicated that she is questioning the dollar amount. Jacob indicated that was the number we were provided by the C-Pace lender meaning that is the number that they are comfortable in financing.

Chair Mark Nelson asked if this is considered a first reading. Dustin Grabau via Zoom indicated it is a resolution and it would really help if we had the completed energy efficiency audit. Jon Woodard had some things maybe you wanted to address with the proposed resolution as well.

Jon Woodard, the Assistant Wasatch County Attorney, indicated that the attorney's office is that we just got this a week ago and haven't had a chance to look it over. I am not raising any red flags but would like a chance to look it over before we recommended approval.

Jacob indicated that the lender is trying to get this closed before the end of the year which is the time frame. Upon signing of the written agreement it starts a 30 day statute of limitations and there is a thirty day window that anyone from the public can come in and contest to the assessment on the project. Once that thirty day window expires that is when the lender will be comfortable closing. They want to get that thirty day window started.

Councilman Steve Farrell asked if there is any reason we couldn't go ahead and pass this Resolution 22-15 subject to a legal review our county attorney. Jon Woodard indicated that we could do that but prefer not to be put in a position where we felt like we are blowing everything up because we thought that there were things we thought needed to be changed and with that we would prefer to have it continued.

Jacob indicated that the resolution before you it doesn't obligate the County to sign that written agreement but just authorizes you to sign but you could take what time you need in order to review the document before signing it but just authorizes you to eventually sign it if you so choose.

Dustin Grabau via Zoom asked if you are comfortable with Scott Sweat and my discretion on any potential changes to that agreement or is that something that you would like to look at after we negotiated. If the changes were substantial enough we would want you to look at that but with regard to minor adjustments we could handle. Dustin indicated that with me signing it contingent on changes I would just need to know what your comfort level is with regard to the degree of changes that would be authorized for. Dustin indicated with major changes I would feel more comfortable signing after you agreed that it still matches your intent for this program.

Councilman Steve Farrell indicated that he sees this whole process as being nothing but administrative here for the County because we really don't have any commitment or any bonding requirements on it so it is just authorizing that we use this state approved program to a private vendor.

Councilman Steve Farrell made a motion that the Council approve Resolution 22-15 authorizing a C-Pace financing for Black Rock Mountain subject to final review by the County Attorney and County Manager and any major changes to the agreement must come back to the Council for approval. Councilman Marilyn Crittenden seconded the motion and the motion carries with the following vote:

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

NAY: None.

DISCUSSION AND CONSIDERATION OF THE ALLOCATION OF TRT AND TRCC FUNDS

TRT Funds

1. HVTED	1,750,000
2.P&R	803,000
3.Public Safety	500,000
4. Business Grants	397,000
<u>5. Marketing</u>	<u>50,000</u>
Total	3,500,000

TRCC FUNDS

1. Fair Promotion & Operation	130,000
2. County MOU Cost	234,000
<u>3. Transfer to Debt Service</u>	<u>635, 400</u>
Total	999,400

Dustin Grabau, the County Manager, via Zoom addressed the Wasatch County Council and indicated that the Wasatch County Council is taking under advisement the recommendation from the Tax Advisory Board TAB on the use of Transient Room Tax Funds and Restaurant Tax Funds and the current proposal from the TAB is as follows. Also we talked in our last Fire Board Meeting about a potential discrepancy between what the Heber Valley Tourism and Economic Development Board (HVTED) tentative budget and Fire District's tentative budget proposed and our projection for next year is TRT revenues is such that we could meet both budgets within the projected revenues so what we would do is maintain the proposal for the HVTED of 1,750.00 and

around \$400,000 grant program and provide \$600,000 to the fire district while also maintaining the \$90,000 to the search and rescue program. So with those increased revenue projections we could accommodate both programs at your discretion.

Eric Hales, the Fire Chief, indicated that he could get some information out of my car. Chair Mark Nelson indicated that he would entertain the thought that if there are sufficient funds to approve both of those requests this year and that we can spend a little more time and look more carefully at and gather that data that we have talked about and consider that as part of next year.

Councilman Steve Farrell indicated and come up with an amended percentage adjustment. Eric Hales indicated that there are some good numbers that we are looking at and I could send that to Council and the information just wasn't ready for today's meeting. The ask was about six percent of our budget request with that \$600,000. We will tie some numbers to what that 33% looks like and see if that will be amenable to everybody. Councilman Steve Farrell indicated that why don't we just go ahead and approve it as recommended then we can modify it or amend it for next year. Dustin Grabau replied via Zoom, I think that also matches the TAB Board recommendation of phasing it over the years and we could meet this year's needs and examine it next year as part of that budgeting process as well.

Councilman Steve Farrell made a motion that we go ahead and approve the allocation of the TRT and TRCC funds as outlined by the County Manager. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:

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

NAY: None.

MIDA UPDATE

There was no update given today because Mike Davis, the MIDA coordinator was excused.

COUNCIL/BOARD REPORTS

Councilman Kendall Crittenden indicated that he has something to add after the public hearing number 4 that is on the agenda for later.

Councilman Steve Farrell indicated that we had a great open lands meeting last Monday night and

got a lot of good information and had UDOT there to discuss the process that they are going to use on the EIS and fund selection as it goes up through the North Fields and there were a lot of property owners there to express their opinion and it was a good productive meeting to get information on the table.

MANAGER'S REPORT

Dustin Grabau, the County Manager, via Zoom addressed the Wasatch County Council and asked the Council if they are in favor of this proposal from Heber City. Heber City is interested in pursuing a study to quantify the cost of the Heber Airport were to maintain their existing BII standard and what would it cost to provide that and they are asking if the Council would be willing to contribute \$10,000 of our funds for this study for them.

Councilman Steve Farrell asked if this would not be a master plan study. Dustin replied no it would be a study to examine what would be the long term cost of maintaining the current service level as the Heber Airport which is the current runway that it would not accommodate CII airplanes. Councilman Steve Farrell and maintain it as a BII level.

Councilman Kendall Crittenden indicated that he thinks it goes along with the resolution that we already passed that we would be willing to support or at least take it to the taxpayer to see if they want to support Heber City in maintaining the BII. I am in favor of the amount they are asking for.

Dustin via Zoom replied that he doesn't know exactly what the scope of it is and could probably get more information from them. Midway City has already committed I believe it is \$5,000 for this study.

Chair Mark Nelson indicated that he is a little bit surprised at this and confused by it and would hate the Council to make another commitment or decision and find out later that we don't have all the information that we should have to make a decision. It seems to me in all of the meetings and materials that I have heard and read about this that it is almost an unanimous fact that we are in fact acting as a C11 airport right now and all the C11 planes are coming we don't need the safety standard but it is functioning as a C11 Airport. Is Heber City because this number is so huge that no reasonable person would agree to it or is that some other reason.

Dustin via Zoom replied that this would not change what the airport is designated as but the potential is in what level the airport is built to service and by not complying with the C11 standard, Heber City would jeopardize their FFA funding and the study is intended to quantify what would be the cost of maintaining that airport if they would comply with the C11 standard and what this study would do is identify is that \$50-60 million number that we have heard and if so then we could start to address the questions of paid through existing future airport revenues or other funding.

Chair Mark Nelson wondered if this is a legitimate request or we just need the County to help us pay to go prove this is a ridiculous idea. The Council indicated that they would like more information and to have Heber City come to our meeting and explain this a little bit better what

this study is really about. Dustin via Zoom indicated that I will put this on the next agenda for our first meeting in December.

Chair Mark Nelson indicated that there is no need for a closed session this evening.

Councilman Kendall Crittenden via Zoom made a motion to continue this meeting until 6:00 p.m. for our public hearings. Councilman Danny Goode seconded the motion and the motion carries with the following vote:

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

NAY: None.

Chair Mark Nelson indicated that the record should show that the council is back in session and the time is 6:00 p.m. and we will now hear our public hearings that are scheduled for this evening.

**PUBLIC HEARING
NOVEMBER 16, 2022**

ITEM 1 CHRIS GIVENS, REPRESENTING THE KENNETH NILE GIVENS TRUST REQUESTS A ZONE MAP AMENDMENT IN ORDER TO CHANGE THE ZONING OF PARCEL NUMBERS 14-6634, 21-0673 AND 21-0674 LOCATED AT APPROXIMATELY 996 WEST MAIN CANYON ROAD FROM THE PRESERVATION P-160 ZONE TO RESIDENTIAL AGRICULTURE 5 RA-5 ZONE TO FACILITATE A PROPOSED FARM PRESERVATION SUBDIVISION CONSISTING OF OUR PROPOSED LOTS ON 64.98 ACRES.

Austin Corry, the Assistant Wasatch County Planner, addressed the Wasatch County Council and indicated that Chris Givens, the applicant for the Kenneth Nile Givens Trust rezone in the Wallsburg area, has been made aware that only four Council Members will be in attendance at the pre-advertised November 16, 2022 public hearing. Considering the limited number of members in attendance, the applicant would like the item continued to the next available public hearing.

Councilwoman Marilyn Crittenden made a motion that we continue this matter to the December 7, 2022 meeting. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:

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

NAY: None.

PUBLIC HEARING
NOVEMBER 16, 2022

BLADE MCINTIRE, REPRESENTING PCL DEVELOPMENT L.L.C., REQUESTS A CONDITIONAL USE PERMIT FOR A 263 FOOT ROCKERY RETAINING WALL THAT WILL BE AS PART OF THE INDI RIDGE DEVELOPMENT NEAR THE MAIN ENTRANCE TO THE TUHAYE MASTER DEVELOPMENT.

Staff:

Austin Corry, the Assistant Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that INDI Ridge is a development they received final approval from the Planning Commission last week but one of the retaining walls was in the development is 263 feet and the code requires the Council to approve those retaining walls if they are over two hundred feet. This is just for the approval of the length going to 263 feet.

Public Comment:

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

Councilman Steve Farrell made a motion that we go ahead and approve the modification to the retaining wall as required for the conditional use permit for 263 foot retaining wall as part of INDI Ridge Development. Councilman Danny Goode seconded the motion via Zoom and the motion carries with the following vote:

AYE; Chair Mark Nelson
AYE: Marilyn Crittenden
AYE: Jeff Wade
AYE: Steve Farrell

AYE: Kendall Crittenden via Zoom
AYE: Danny Goode via Zoom

NAY: None.

PUBLIC HEARING
NOVEMBER 16, 2022

A REQUEST BY LANDSCOPE L.L.C., FOR AN AMENDMENT TO WASATCH COUNTY CODE 16.33.13 ORDINANCE 22-22 PARKING COMPUTATION MATRIX, TO REDUCE PARKING REQUIREMENTS FOR MULTI-FAMILY RESIDENTIAL UNITS IN THE JSPA OVERLAY ZONE.

Staff:

Doug Smith, the Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that this would be a county-wide code amendment but I am using this as an example. This is up in the Jordanelle off from Highway 319 and to the East of the Stillwater Lodge. The applicant Mr. Burbidge is requesting we lower our parking stalls for multi-family projects. Our code requires two and a half parking stalls per unit. The reason he is asking for the lower rate is because his parking never gets used or doesn't get used to that amount. There are twenty-one underground stalls that are assigned. We required him to show how he could provide the parking and bond for that parking to be built if this code amendment didn't pass. He has shown how that can work for him and bonded for it but if he gets this code amendment passed then it will be twenty-one underground parking stalls and three surface parking stalls and these are twelve plexus. It would be twenty-four for building if the code amendment passes.

Doug Smith indicated that he looked at a number of parking codes throughout the state. Wasatch County Code is two per unit plus one guest stall for each two units so two and a half stalls per unit for a total of thirty parking stalls and using a twelve plex as an example and it doesn't have to be a twelve plex obviously. The highest requirement is Bountiful City at two point seven five stalls per unit for a total of thirty three stalls. The request is to go down to two stalls per unit for a total of twenty-four for example on a twelve plex. This would be county wide yes.

Councilwoman Marilyn Crittenden indicated that we have to say would this really work county wide? Councilman Steve Farrell asked that didn't we change this not too long ago. Doug Smith replied that he doesn't think so. Councilman Steve Farrell asked how come we have so much problem like Todd Hollow in parking because we are fighting that every year because people are complaining about parking on the road and there is not adequate parking. Doug Smith replied that you don't want more parking and two few parking stalls.

Councilwoman Marilyn Crittenden indicated that she would like to see more green space versus a parking lot. Doug Smith indicated that this is the language that we are proposing is two per unit up to three bedrooms and an additional point two five for each bedroom above three bedrooms so anything above three you would have the point two five for each bedroom above three bedrooms. The part of the reason that we went to that scenario is a single family home is two per home and over three bedrooms on a single family home there is a point two five for each bedroom above three. The Planning Commission recommended this to the Council with a five to zero vote. They too had the same concern about this regarding it being county wide.

Doug Smith then went through the proposed findings.

1. The current code requires two stalls per unit and I guest stall for every two units or 2.5 stalls per unit in this scenario 30 stalls per building are required.
2. The applicant is proposing two stalls per unit with no guest parking for a total of 24 stalls 21 underground and three surface.
3. In the neighboring identical development the 12-plex occupied buildings do not fill up the 21 stalls underground.
4. There is no way to guarantee in perpetuity that units will remain second homes.
5. The parking requirement for a single family home is two stalls for up to three bedrooms and .25 for each additional bedroom.
6. Due to the documented parking use of the same buildings to the west staff believes that 2.5 parking stalls per unit is too high.
7. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan.
8. Positive impact of the proposed changes would be reduced hard surface, increased landscaping and open space and smaller detention ponds.
9. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Applicant:

Lee Burbidge, the developer, addressed the Wasatch County Council and indicated that one thing that brought this to our attention is we were causing a lot of problems for the HOA because what it was becoming was a boat ramp parking area. People would come in there and park their cars and then all get into one car because they charge per car not per person. The neighbors have put up signs that says no parking. The problem with that is that it is a public road. In the new project those are all private. I have never seen the outside parking lot anywhere full. The owners come park their boats in there for all summer. I would rather see green than asphalt and it is not really being used and it is going to have to be maintained at some point. Our thought was why we don't build what we need and then the rest could be open space and green. We are going to build another seventeen units. There is guest parking downstairs and every owner is assigned a parking stall and ADA parking also. We will do whatever and we don't think there is a need for a lot of asphalt. I think we would alleviate that problem by saying from three bedrooms on you have to have more parking. This would not affect our snow storage because we have got an area that we can dump the snow.

Public Comment:

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

Council Comments:

Councilman Steve Farrell indicated that could be a big issue and is there any apartments in the County not in the Jordanelle Basis that you can see that would cause a problem. Doug Smith replied there is the North Village Crossings. Also this would drop apartments to two. Also initially it was Lee Burbidge's proposal was only to change this in the JSPA area and I struggle with that because our parking is County wide and it is difficult to say that something in the JSPA is going to be second home in perpetuity versus something in the valley that is not. We are considering this multi-family because it is stacked.

Councilman Steve Farrell indicated so that in Heber City one bedroom is one point two five parking unit and two bedroom is one point five.

Councilwoman Marilyn Crittenden was concerned still about having this be county wide. Also there will be affordable housing coming on line too. Doug Smith replied that there will be transit there also.

Chair Mark Nelson indicated that two is adequate in this area. Doug Smith indicated that if you wanted to make it so it was only in the JSPA you could do that. Councilman Steve Farrell indicated that if we approve this and two years down the road we find there is an issue can we go back and change it. I don't have a problem reducing it for this project but you can't say what the next one is going to be.

Jon Woodard asked is there a provision of the code that allows you come in with a parking study and lower the requirements based off from what is on a project by project basis. Doug Smith replied that there is in the JSPA so we could do that potentially. Councilman Steve Farrell indicated that he would much rather do that than make a County wide adjustment and do an individual project based on their parking plan. Doug Smith indicated that if you are that uncomfortable would it be okay to continue this and have me do some more research on this and come up with a parking study potential.

Councilman Steve Farrell indicated that we should not be talking affordable housing as much as workforce housing up there. I would probably be in agreement to this and get that information and see if we can't make something fit in this. Is this a time sensitive issue? Lee Burbidge replied no it isn't. Councilman Steve Farrell indicated if we had an answer by mid-December would you be okay with that. Doug Smith replied that if you continued if you want to December 7 but I could have that information back to you by then.

Councilman Steve Farrell made a motion that we table this item on the parking to December 7, 2022 to get more information available to us. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:

AYE: Chair Mark Nelson

AYE: Jeff Wade

AYE; Marilyn Crittenden

AYE: Steve Farrell.

AYE; Kendall Crittenden via Zoom

AYE: Danny Goode via Zoom

NAY: None.

**PUBLIC HEARING
NOVEMBER 16, 2022**

**RECOMMENDATION OR ENACTMENT OF AN AGRICULTURAL PROTECTION
AREA ADVISORY BOARD AND RELATED CODES AS ALLOWED IN 17.41.402 OF
THE UTAH STATE CODE.**

Staff:

Jon Woodard, the Assistant Wasatch County Attorney, presented a power point presentation and then addressed the Council and indicated that he will present two options today and the Council obviously can do what you want but would encourage you to be liberal in continuing this until the first meeting in December so that we can look at things closer and see if this is the direction that we want to go.

This one is very similar to the one you have seen before. Jon Woodard on a map indicated that here is the transmission. That everything in the A-20 Zone generally speaking would be eligible for being included in the Agriculture Protection Area. The roads in the future that would need to be expanded those would be excluded. The big area that would be excluded is the area between the transmissions. That would make it be open for imminent domain in that area. One change that we did make from last time is we dropped this down from a thousand dollars to \$500.00 and that certainly cover planning costs. Tried to reword this to try and make it clearer. This would be the areas that would be excluded. This was added as a comment so you could chew on it and see if you liked it. This is the land in an area described north of SR 115 west of Heber City's boundary and were on the north and west sides by the existing transmission line you could add but not excluding the rectangular area 370 feet to the south and 520 feet to the east of the transmission line adjacent to the north west corner of the previously described area and will show you on a map in a second what that looks like. These are all the roads that were excluded and notice the historic bypass south of 113 would be excluded. We have got the Wallsburg excluded. The other thing that was added to this one is land that is within 350 feet of the intersection of South Field Road and SR

113. That is to give wiggle room at that juncture for us to engineer something that works. I don't think that any of the plans have it. There being a straight connection there between South Field Road and SR 113. The rest of it is pretty much the same as what you have seen before.

Jon Woodard indicated that the other big change or big option comes from the idea of making sure that we are facilitating the bypass as UDOT is anticipating it. This one instead of putting that area between the transmission and Heber City, this one excludes WB1 and WB2. This would be in place of and not be an addition to excluding this area it would be in place of so the people inside of this as it is worded now could still place the Agricultural Protection Area, protections on their property and then outside of this they could. We got rid of the 350 feet from this intersection because the idea they would be using the UDOT route and that would be everything within 100 feet of the outside of the right-of-way.

Jon then showed what these different options would look like by creating some overlays on a map. Jon indicated that he wanted to remind you of the Resolution 22-07 where the Council said that they are opposed to western route Option D and that is the one that cuts in the middle of the North Fields up to the intersection of River Road and U.S. 40. Jon then showed the historic pass and the one that is shown in our General Plan which is the yellow one and then there is the transmission. Jon showing that on a map. There is 275, 520 feet would be approximately going across this fence line here and excluding this square. The historic County bypass route does not cut in and this here is all one big parcel. It does not cut into this parcel and so by excluding 275 by 520 feet we would be excluding all of this parcel from something that could not be included in the Agricultural Protection Area. Even with the county's route we don't go straight across and we don't go straight from South Field road.

Remember when UDOT came up with three different options and then Jon presented those three options. WA1 that option had the on ramp, off ramp access. Here is WB1 in the version that I put together that excluded WB1 and all of this red area on the map would be excluded. WB2 is very similar to WB1. The WB3 this one is not one that I have excluded in any of the versions but just wanted to make you aware of it and there is the WB4 and is not included in any of the versions that I put together.

Councilman Steve Farrell asked if you have a version that outlines the original route the General Plan Map determined. Jon replied that no there is not one of those versions now. The yellow is but this version is not in any of the code options that I presented. The code options that I presented have the transmission being the barrier except for this little square here if you chose to do that.

Councilman Steve Farrell indicated that the only differences I see it on option one and two is the way it accesses and crosses 113 and we had MAG design that intersection and was just going to be a fly over and it was questionable if we wanted to have on and off at that point. We did not want to create a major intersection there. My concern is that I think a lot of the people who are motivated to do this are wanting to do it in the interest of making sure that the bypass doesn't go through certain parts of the North Fields so I think if we tried to make it loosely and then tighten it up later that is going to be the essential window for what people are trying to accomplish here. I don't think

there is anything that would prevent us from coming back and redoing the ordinance and tightening that up as we got a better idea when we got a better idea of what actually was going to happen going forward. This would be a good tool in making some options more difficult than others.

Councilwoman Crittenden indicated that we want to keep our control in our County and not have UDOT have the say and keeps our Control within our County and rightfully so we should be able to have that kind of say that this is where we want the road to go through and then find a way to design it rather than giving them all the freedoms to just put it wherever they want. We are trying to protect the farmers and allow them to farm and continue. There are some that are willing to put in a conservation easement along the side. This is the only way that we will ever protect the North Fields. Tell UDOT this is where we want this road to go and tell UDOT you figure that out.

Dustin Grabau indicated via Zoom if we struck say that yellow alignment we would be saying to UDOT none of your options is viable and we are potentially blocking all of them. Jon Woodard indicated that one of the concerns that we should consider and we all want the bypass and I don't know if we attempt to push UDOT's hand to what they might back off and we are going to leave this to the localities and that is one of issues is trying to work with UDOT more. This little area would be eligible for an agricultural protection area and this part would not be eligible and 300 feet of this that would be cut out so the restriction here would be the same restriction that we have everywhere along here within 100 feet of the center line of 113 and then the transmission line as they exist would be the border for over here can be an agricultural protection but this side cannot be. The agricultural protection would go right up to the transmission line everywhere but that top corner. I think it would be best to refine and bring this to you again if you wanted to pass it tonight I think I have a good enough idea that I could just refine it based off the motion. I think it would be better to wait personally.

Public comment:

Chair Marl Nelson then opened this public hearing for public comment.

Laren Gertsch, Midway resident owner of some North Field property, addressed the Wasatch County Council and indicated that we worked with MAG for a long time in trying to develop the route. We have been doing this for a long time and that was the yellow line and was intended to follow that route. I would encourage you to adopt everything east of the transmission line where it starts up on Midway Lane which is SR 113 and that would appreciate up on that corner none of the bypass routes ever intersected my property up there and excludes this property by prescription because it never went into that property. I did not want the bypass to go through my property let them go a little bit east. If you are hung up on the transmission line call it east and south with the exception of that one property up in the corner. I would encourage you, and time passes and more people get involved, but I would encourage you to adopt an ordinance something along those guide lines this evening and move forward on this and you could always look at the wording to make sure it was right and if you have to you open it back up at that point if something is not right. Many thanks to all of you for the time and efforts that you have put int.

Tracy Taylor, Wasatch County resident, addressed the Wasatch County Council and indicated that I reiterate what Laren Gertsch said about staying with the original proposal here. UDOT can go as far east in that northwest corridor as they want to. I am concerned on how fast they think they need this road to be. That is not necessary. I would encourage you to pass an ordinance tonight with these stipulations that we are talking about and time is of the essence. I would like to see the A-20 go clear down just north of the Casperville Road right there. We need to protect that corridor. Take all the A-20 south of Midway Lane and put it in that protection area and that will force UDOT to go where they asked us to buy property fifteen years ago which we did with best intentions.

Dennis Vanlewen, property owner in the North Fields, addressed the Wasatch County Council and indicated that my comments are not going to be anything different from what you have already heard. This valley needs your help in protecting these North Fields. I have been all around and these North Fields are a great piece of property to protect. Once this property is gone there is no way to get it back.

Chair Mark Nelson then closed the public hearing.

Council comments:

Councilman Steve Farrell indicated that he would be fine with approving it subject to Jon Woodard's final review and documentation of the right-of-way. Jon Woodard indicated is what I would do is include the maps that Austin Corry just helped to create today and this includes so the red line is GIS from Heber Light and Power and then the yellow line is the GIS from the map that is in the on line tax map that the county has and so I think those are ascertainable locations because of those things. What I would do is add this in greater detail to the exhibits.

If I understand what Councilman Steve Farrell's motion or whoever motion it would be, would be to adopt the version that excludes the area between the transmission and Heber City but would allow for this 270 and what I did to come up with this language I got onto google earth and figured out the distance between the transmission and the fence line and then erred towards being greater than. The reason that I am nervous about excluding specific parcels is that is bad code. You should be making rules that are generally applicable not treating one parcel one way than another parcel another way in the code. I have tried to accomplish that using generally applicable language. This is not excluding the area 270 feet to the south and 520 feet to the east of the transmission line adjacent to the northwest corner of the previous described area. That area is that area between the transmission and Heber City. This would make that they could fit anywhere between the transmission and Heber City in that corner.

Tracy Taylor indicated that if the bypass comes further south that Ag area can go up to that bypass road then. Jon Woodard replied that would have to be done through a subsequent code amendment. I would be uncomfortable in trying to legislate the future with unknown variables if that makes sense. We would cut out the 350 feet from the intersection of South Field Road SR 113 besides that it would be as written. I changed the Exhibit A to give us more detail there based on what Austin Corry provided today and make those other changes to the language besides that it would

be as written. Here I will read this language so you see what is going on there. Land that is within 100 feet of the center line of SR 113, 2400 South, 1200 South, South Field road, Midway Lane, U.S. 40, River Road SR 32, 189, Main Canyon Road that is over in Wallsburg, the portion of the bypass alignment as shown on Wasatch County General Plan Map 32 which is south of SR 113 that is the historic bypass or Road 10 the Wallsburg second access as shown on the Wasatch County General Plan Map 21. All of those would be excluded and the goal there is to make it so we can expand the existing roads as needed. The ones that are anticipated to be more major roads and the historic bypass both in Wallsburg and the North Fields. All A-20 can be protected.

I will go through three. Laren Gertsch asked if it would be possible to not get new surveys and everything the deed as is with this exclusion in there. You know when you record it on the agricultural protection map and you know with all the surveys that we have got in the County which would open up a whole new deal. Just asking a simple question when you are saying it excludes 100 feet and says this property with the exclusion of the 100 feet on the south end. Jon Woodard replied that it will go through three reviews and I think that those bodies will have the discretion to make that decision at that time.

Councilman Steve Farrell indicated that we are going to have to make some modifications when we get defining it and the advisory board would make some recommendations for modifications to make it easier to administer.

Jon Woodard indicated that one good thing about this code is that most of it comes straight out of Utah County and so it is likely we could take sample applications from that.

Councilman Kendall Crittenden via Zoom indicated that these two maps are showing what I was referring to earlier. I think that these two routes are probably in what I was referring to earlier and in protecting those potential routes south of 113. Jon Woodard indicated that the proposal you just made Kendall is a little bit different from what we have just been discussing. Councilman Kendall Crittenden indicated that this is slide No. 8 showing WB1 and slide No. 8 shows WB2 and I think that is the route that UDOT is looking at right now south of 113 and hope that we would protect those for potential route. Councilman Steve Farrell indicated why you would want to protect the original route we had mapped out. Councilman Kendall Crittenden indicated that he wants to keep that.

Dustin Grabau indicated that one of the considerations of the speed is what the access standards that UDOT uses are. That are classifications for their road as they go faster they have more limited access and think that is something to consider as well.

Councilman Kendall Crittenden indicated that he would prefer the old yellow traditional route and have to narrow it down which slows it down. Councilman Steve Farrell indicated that we should stay with the course we were following and let them modify their roads to fit our course. Why are we excluding and I can see SR 113 and 2400 South why are we excluding that one? Jon Woodard indicated that wasn't bypass related that was just planning for future growth related and is not all bypass related. We could remove it if you would prefer. Council Steve Farrell asked how we can

exclude a road that never has been built on this Wallsburg second access. Jon Woodard indicated that it is similar to our historic bypass route which has been around for years as a planned second access for Wallsburg.

Councilman Kendall Crittenden we have talked a lot about this and we have had our public hearing and I guess I would like to make a motion that we continue this until December 7, 2022 to give us some time to maybe get some more clarification from UDOT on that WB1 and WB2 that we are looking at and then bring it back on December 7, 2022. Councilman Danny Goode seconded the motion and the motion carries with the following vote:

**AYE: Chair Mark Nelson
AYE: Kendall Crittenden via Zoom
AYE: Jeff Wade
AYE: Danny Goode via Zoom**

**NAY: Steve Farrell
NAY: Marilyn Crittenden**

Councilman Steve Farrell agreed that we need to work in conjunction with UDOT but I don't know if we need them to set the route for the Agricultural Protection Area. We have already set the route over the years. I think that Jon Woodard did an adequate job protecting UDOT's interest.

Councilman Kendall Crittenden indicated that he doesn't disagree with Councilman Steve Farrell but I would like to see it go the yellow route and I don't know where UDOT is seeing that. Councilman Steve Farrell indicated that we have got a better chance if we set the route as the route in this ordinance and set the yellow route as the one we prefer in this ordinance. We might have more of an influence on UDOT than you think.

Councilman Kendall Crittenden indicated that I am trying to protect our working relationship with UDOT. Dustin Grabau indicated that what we can do in the meantime but it might be helpful if we had this route what it would do to the EIS process and see what they would say in response to that. That doesn't mean that we have to do with what they say but I think that we could use that as an input as we make this decision.

Councilwoman Marilyn Crittenden indicated that we need to put this ordinance together as soon as possible so that they can have it and start working with us. Dustin Grabau indicated that this will set back the EIS process at least some and that is an important point that we could discover over the next time. When we go and meet with UDOT I am asking if some of you would like to be a part of some of those meetings and that was the motion that we would seek input from UDOT. I will reach out to UDOT and the EIS Team and see if they would be willing to meet with us and talk about it.

Councilwoman Marilyn Crittenden indicated that is what the motion was but I don't see what that is going to accomplish. If the Council feels like that is what they want to do then I would want to

be on that committee and don't really see a purpose in that.

Jon Woodard indicated that there should be a first and second reading and I think that if we counted the previous time I brought to you as a first reading we would be meeting that requirement technically because I went through most of this code two weeks ago.

Councilman Steve Farrell asked how soon we can modify this if we find an error. Do we have to wait six months? Jon Woodard replied there is nothing in the General Plan here and it would have to go through depending on the portion of it but Title 16 it would go through Planning Commission.

Councilman Steve Farrell indicated that this is our ordinance and not UDOT's ordinance. There was a long discussion after the motion was made regarding why they should meet with UDOT.

Councilwoman Marilyn Crittenden asked Councilman Kendall Crittenden why he thinks it is important for UDOT to be aware of that we as a County feel it is important to protect our plan and why is that important to you. Councilman Kendall Crittenden indicated that we are trying to protect an area that they have established and are working on in the EIS. That is what we are doing with the North Fields with this is protecting an area. Council went back and forth with why UDOT should be a part of what is taking place with the Agricultural Protection Area.

ADJOURNMENT

Commissioner Steve Farrell made a motion to adjourn. Commissioner Marilyn Crittenden seconded the motion. The motion carries with the following vote:

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

NAY: None.

Meeting adjourned at 10:00 p.m.


MARK NELSON/CHAIRMAN
Spencer park
vice
chair


JOEY D. GRANGER/CLERK/AUDITOR

