

**MINUTES OF THE
WASATCH COUNTY COUNCIL
JUNE 21, 2023**

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

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

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

PRAYER: Councilman Erik Rowland

PLEDGE OF ALLEGIANCE: Let by Chair Spencer Park and repeated by everyone

Chair Spencer Park called the meeting to order at 4:00 p.m. on Wednesday June 21, 2023 and indicated that all the Wasatch County Council are present. Councilman Steve Farrell will be just a few minutes late. The record should also reflect that the Wasatch County Council is meeting in the Wasatch County Council Chambers located in the Wasatch County Administrative Building at 25 North Main, Heber City, Utah 84032. Chair Spencer Park 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 Spencer Park asked if there were any administrative issues for future meetings and there was none.

LEGISLATIVE ITEMS FOR FUTURE MEETINGS

Chair Spencer Park asked if there were any legislative issues for future meetings

Dustin Grabau, the Wasatch County Manager, indicated that there is a request from the Utah State Parks to fund some communication materials related to their golf history. Tom Bonner, the Wasatch County Recreation Director indicated there has been a campaign put together to honor all of the previous state amateurs for the State of Utah specifically those that were played up at Soldier Hollow and at Wasatch Park Golf Course. The cost of the initial campaign they are looking for some raising is about \$15,000. One good thing that happened today is that the Utah Golf Association just awarded or in the process of awarding Wasatch Mountain State Park and Soldier Hollow golf courses the state am championships on a four year rotation for men and women. There will be a championship at one of the golf courses every other year so more or less turn this into the home of amateur for the State of Utah. We would like to have this put on a future agenda. The Council indicated that we could put it on the July 5, 2023 agenda.

Tom Bonner indicated that back to Parks and Recreation, Ken Fisher is the recreational director of Park City and indicated that they are going to put a matter on the ballot for \$30 million for recreational facilities at Quinn's Junction which will be eight indoor pickle ball courts, 16 outdoor courts, a refrigerated outdoor sheet, Nordic area and other improvements to their park facilities there. He stated to me that the Park City Council is concerned that Wasatch County residents are going to be using those facilities. They come down and use ours and looking for some collaboration and don't know what that is whether it is dollars or in kind type of things. They have asked for that and probably not through this board but through Parks and Rec and put that on the agenda if you wanted to hear more about this. Dustin Grabau indicated that it would likely be County TRT funds if we did want to do something and could use those funds. The Council indicated to put it on the agenda of the Parks and Recreation Board and it will be a good conversation item. Tom Bonner indicated that he will put it on his agenda when we are ready for it.

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Chair Spencer Park asked if there were any public comments on matters not on the agenda and there was none.

APPROVAL OF THE MINUTES FOR JUNE 7, 2023

Councilman Erik Rowland indicated that his first name was spelled wrong.

Councilman Kendall Crittenden made a motion to approve the minutes for June 7, 2023 as written with the correction as noted. Councilman Karl McMillan seconded the motion and the motion carries with the following vote:

AYE: Chair Spencer Park

AYE: Karl McMillan

AYE: Luke Searle

AYE: Kendall Crittenden

AYE: Erik Rowland

AYE: Mark Nelson

NAY: None.

COUNCIL

FIRST READING OF AN ORDINANCE #23-11 TO ESTABLISH A RECORDER APPEAL AUTHORITY AS REQUIRED BY HB 351.

Jon Woodard, the Assistant Wasatch Attorney, addressed the Wasatch County Council and indicated that this year the Legislature was upset at the recorders of the counties. It wasn't us. They threatened to have a State Office take over all of the county recorder's duties and you wouldn't have recorders anymore and just have a state office that would handle all recordings throughout the State of Utah. They decided after people being all upset they instead decided to set up a Utah County Standards Board. This board would set up rules that are designed to ensure that the recorders throughout the State of Utah are applying the Utah Law the same way as it pertains to recording documents. It requires to set up an appeal's board to handle appeals of the application of the standards set up by the Utah County Standard's Board. Utah County isn't the county but the Utah State Counties Standards Board.

Jon Woodard indicated that the Council under this ordinance that I proposed would serve as this appeal authority. You would hear appeals of the county recorder's applications of the rules made under the county recorder's standard board. The Council could also hear other appeals if made and agreed to bring to the Council and that would be an addition to what the State Code requires us to do. It requires any appeal to be made by filing a written appeal with Dustin Grabau's office and pay \$150 fee within thirty days of a written decision of the recorder. It also requires that the appellant request a final decision. If an appeal is made they would have to list all the reasons why they thought that the recorder got it wrong or her office got it wrong. Then the recorder's office could prepare a presentation for the Council that showed why the recorder thinks she got it right. The Council would then hold a hearing and both sides would present. At that point a written

decision would be made and has to be done within 50 days of the appeal unless both sides agreed to continue that. The written decision would either be a report of action that reflects what your oral motion was or simply make a motion to make a written decision later and then our office would become involved and help draft a written decision in line with what the Council thought and all of you would sign that and just mail it that way so you wouldn't actually take the action in a public meeting you would just make a motion to do the written decision later. The decision can be appealed to the Court in thirty days. This is a solution to a very small problem. More than likely we will never even use this process but the State Code now requires us to have it. I would hope that we could accept this as the first reading since it is Title 3 and we have to go through a first and second reading.

Councilman Kendall Crittenden made a motion that the accept this as the first reading for Ordinance No. 23-11 and set the second reading for the July 5, 2023 meeting. Councilman Luke Searle seconded the motion and the motion carries with the following vote:

**AYE: Mark Nelson
AYE: Erik Rowland
AYE: Chair Spencer Park
AYE: Kendall Crittenden
AYE: Luke Searle
AYE: Karl McMillan**

NAY: None.

PRESENTATION OF THE GFOA DISTINGUISHED BUDGET PRESENTATION AWARD.

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated the Government Financial Office's Association publishes criteria for best practices of local government budget documents. Wasatch County was recently awarded the Distinguished Budget Presentation Award largely due to the Assistant County Manager, Heber Lefgren's work in conjunction with the Clerk-Auditor's Office.

Wasatch County is the first and only county to receive such an award in the State of Utah for the 2023 annual budget. This award is applied for annually based on peer evaluation of a multitude of criteria. Wasatch County intends to continue to pursue this award but success will require the ongoing commitment of department and office heads to continue to meet these high standards. Then presented the award to Heber Lefgren, the Wasatch County Assistant Manager and the County Clerk Auditor's Office. I hope that Wasatch County will receive more such awards.

Chair Spencer Park indicated that Councilman Steve Farrell has just joined the meeting.

PRESENTATION FROM INTERMOUNTAIN HEALTH

Si Hutt, Administrator of the IHC Heber Valley Hospital, addressed the Wasatch County Council and indicated that with our not for profit status we give you guys a report every month and then we come and present to the Board of Equalization in order to answer any questions and to demonstrate that we have met the requirements for not for profit status and give you a detail on what is happening in the hospital. Our mission is helping people to live the healthiest lives as possible. We currently have thirty-three hospitals and Heber Valley Hospital is one of those. We have about 60,000 care givers throughout those seven states. We want to make sure that we have got the healthcare services here locally for people in as much as it can be supported and we have the coordinated care for those things that we can't support here and can get it at other medical facilities. We have 184 care givers at our hospital. Our Board is here to make sure that Intermountain is meeting the needs of the local community and we are providing the quality that you would expect from your local hospital. If people can't pay their bills we adjust it down and write it off to Charity Care. We have made improvements over the last year. To keep the not for profit status we need to do a community needs assessment and that is done intermountain wide and do it in every county where Intermountain has a hospital and then look at what those major needs are. We did about a quarter of a million dollars to various entities around Wasatch County. Also we don't have any shareholders or other individuals that are in leadership with Intermountain. We also don't discriminate with you and if you need healthcare come in and we will take care of you. We will work with you with the help of Charity Care.

SECOND-READING OF ORDINANCE 23-10 TO ENACT A SHORT-TERM RENTAL SALES TAX FOR MOTOR VEHICLES OFF-HIGHWAY VEHICLES, AND RECREATION VEHICLES.

Dustin Grabau, the Wasatch County Manager, indicated that there are no changes to this since our first reading. We have started to reach out to the entities that would be affected by this sales tax and let them know. In 2021, the state legislature made an adjustment to the tourism, recreation, cultural, and convention sales taxes to be eligible to apply to short-term rentals of motor vehicles, off highway vehicles, OHVs like side-by-sides, and recreational vehicles like snowmobiles. A 7 percent sales tax would be applied to short-term rentals of motor vehicles, but would not apply to vehicles used during a repair or insurance agreement. A 7 percent sales tax would apply to OHV and recreational vehicle rentals. Due to the specialized nature of these sales taxes, the County does not have a current estimate of the revenue this tax would generate. But the tax must be used for financing promotion, development maintenance, and other costs of tourism, recreation, cultural, and convention facilities as outlined by state code. We would file this information with the Tax Commission so that it would be implemented and not this following quarter but if we do it by the end of this month it would apply to the fourth quarter of this fiscal year. Councilman Luke Searle asked how many entities in the State enact this kind of a tax. Dustin Grabau replied that it is a relatively new sales tax that was only available as of last year and so I think there is not that many but more in the rural communities like ours that have a high use of OHV activity. This would be part of our transient room tax so it would be part of that. We will also indicate what that added

transient room tax would provide in year 2024 and what that would be used for. Some of the eligible uses are things that all comply with State Code, promoting tourism and recreation, cultural facilities as well mitigating the impacts of tourism and recreation. There are eight entities in Wasatch County that this tax will be collected from.

Councilman Steve Farrell made a motion that we go ahead and approve the second reading of Ordinance 23-10 and don't know if we need to go to a third reading or not. Dustin Grabau indicated that if you vote in favor of this it would be the final reading and implemented into the County.

Councilman Steve Farrell indicated that he will make the motion that this is the second reading and that we approve Ordinance 23-10. Councilman Karl McMillan seconded that motion and the motion carries with the following vote:

AYE: Chair Spencer Park

AYE: Kendall Crittenden

AYE: Karl McMillan

AYE: Luke Searle

AYE: Steve Farrell

AYE: Mark Nelson

AYE: Erik Rowland

NAY: None.

Councilman Luke Searle replied that he is in favor of this and not in favor of raising taxes. I think that Wasatch County is unique in this fact that there are many places that people want to see and there are these types of businesses and hopefully this will not adversely affect them but it will help us in our community to mitigate the impacts that they have so I support this.

CONSIDERATION OF AN ORDINANCE ADOPTING CHANGES TO ANIMAL CONTROL ENFORCEMENT IN TITLE 8

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that Wasatch County has already conducted two readings of this ordinance and received input from the Council on potential changes. This ordinance is now presented for a third reading and potential adoption to ensure consistent standards for applying regulations related to animal control specifically this ordinance enacts regulations related to leaving animals in hot vehicles and permits a community cat program to address best practices with strays.

Shelby Thurgood, the Assistant Wasatch County Attorney, addressed the Wasatch County Council and indicated that this is the third reading of the ordinance. There were requested changes and those have been done. The most significant change that we discussed last time was regarding spaces and containers that were hot and the Council asked that it be just referring to motor vehicles. That change has been made. There has to be a certain temperature inside of the vehicle for 90

degrees and has to be for ten minutes or longer and has to be multiple indicators that the animal is distressed because of the temperature. This gives the animal control officer the ability to address the situation as it arises.

Councilman Luke Searle replied that there are other areas as well. Also we are meeting tomorrow as the animal control board to tour the facilities of the animal services and also I believe Paws for Life to see what the facilities are like and again exploring the possibility in the years to come if the County was going to take on these services or what the plan is for the next several years and we are also looking to overhaul the ordinance and going through it all which is Title 8.

Shelby Thurgood indicated that there is another change in the next section down below regarding dogs generally. The State Code has changed and does not allow us to charge Class B Misdemeanors for dogs at large or for dogs where they are not supposed to be. This is a new change from the other readings. That section has been changed so that the section is in line with the state code that only allows infractions for dogs at large and dogs prohibited where notice is given rather than the Class B Misdemeanors that Wasatch County had in the past.

Shelby Thurgood indicated that there is another change that this ordinance proposes is to how feral cats are dealt with. There hasn't been any substance changes made to this section. The discussion last time wasn't about any specific changes and it was just a general discussion of whether the Council was interested in adopting this or not and there are no changes to be discussed but that question remains of whether the Council is interested in this. It is basically a program where if a cat is picked up by animal control and animal control determines that it is healthy and does not have an identifiable owner the shelter can vaccinate and spayed or neutered.

Councilman Steve Farrell asked why we don't put them up for adoption. Shelby Thurgood replied that from Animal Control is that they have no more room left at the shelter for animals and too many cats are in the shelter and the cats aren't getting adopted.

Heber Lefgren, the Assistant Wasatch County Manager, was the animal care services director for the city of San Antonio and he could address some specific concerns. Heber Lefgren replied that this is only for the cats that are feral in nature. They are oft times unadoptable without extensive time to get those cats ready. If the cat comes in and it is adoptable and friendly, purring, normally those are the ones that stay in the shelter and they find a placement. We are talking about the cats that are feral and never interacted with humans. The concept is they stay and are neutered them and put them back. Feral cats tend to avoid human contact. They want to be isolated. If they are neutered oft times that action takes care of a lot of nuisance issues such as the spraying or the howling at nights and remove that and put them back and keeps the population from growing.

Councilman Luke Searle made a motion that we adopt the changes to the animal control enforcement in Title 8 the Ordinance 22-24 as presented. Councilman Steve Farrell seconded that motion and the motion carries with the following vote:

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

NAY: None.

**DISCUSSION AND DIRECTION ON A DEVELOPMENT AGREEMENT FOR THE
HEBER VALLEY TEMPLE PROJECT. THIS IS NOT AN APPROVAL OF THE
PROJECT.**

Jon Woodard, the Assistant Wasatch County Attorney, addressed the Wasatch County Council and indicated that this presentation is going to take a while and covering some important things that we are getting a lot of public feedback about and so I think it is worth our time. What we are doing is seeking input from the Council on the Development Agreement for the temple project. This meeting will not include any approval of a development agreement or land-use application for the Temple project and it is not a public hearing. Public hearings will be held on the Heber Valley Temple project at a later time. What is sought is direction to staff and the applicant on potential changes to the development agreement that will later be considered officially. Jon Woodard then gave some general background over how federal law relates to state law and county law. Federal laws can take precedence over state or local laws. Jon then gave examples of this. Jon then went through UIUIPA (Utah Religious Land Use and Institutionalized Persons Act) and URLUA (Utah Religious Land Use Act) that applies to state and local jurisdictions which prohibits on their face discrimination against religion. Also prohibit laws that has the effect of imposing a substantial burden on religious exercise. Attorney fees can be awarded by a plaintiff who successfully wins one of these cases. Councilman Steve Farrell asked if the FFA rules are they considered federal Law. Jon replied that yes they are federal.

Legislative versus administrative and what has been proposed to us through this development agreement that accompanied the single lot subdivision application was a legislative development agreement. What we generally do with an administrative approval takes a different route. An administrative rule would normally just follow the existing law and strictly apply that to the application. The temple is a conditional use in the RA-1 Zone so the temple can be built under the current code. The conditional use indicates that if there is negative impacts or detrimental effects that cannot substantially mitigated then you can deny it. Normally if it is considered a conditional use in the zone and the way the courts and the legislature look at that there should be a way to typically build or allow that conditional use because it wouldn't be allowed in that area if there was no way to substantially mitigate the negative impacts. If you don't want it, don't make it a conditional use, just don't allow it.

If the administrative route was followed it would require us to apply RLUIPA to the application. We would have to specifically determine where RLUIPA did or did not supersede local law. It would be a difficult analysis. Under an administrative approval the administrative body could not make any exceptions to any ordinances for things the legislative body believes it would make a temple project better. If it violated an ordinance you couldn't allow an exception there because you would have to try and go through the variance process and that would be difficult to prevail in this case. The church could withdraw the legislative development agreement and ask us simply to consider their application under the current land-use laws of the County and would have to evaluate that in light of RLUIPA. And so it would turn it into a very technical legal analysis of what we could and couldn't do based on the county code, the conditional use criteria, the state code that requires us to favor the code in favor of the land-use applicant and RLUIPA that gives protections for religious structures and worship. If we denied an administrative application we would need to have substantial evidence on the record for the denial of any proposals by the church and would have to defend a RLUIPA claim. The legislative approach is what the church has applied for through the development agreement.

Jon indicated that the temples are beneficial to the community by increasing property values, economic developments, supporting weddings, tourism, and creating a beautiful structure that mirrors the historic tabernacle. The county legislative body has significant discretion to legally approve or deny a legislative approval. You wouldn't have the same level of discretion in an administrative approval. We don't think that this is a good candidate in redoing the code to match this and instead we propose to make the development agreement the rules for this project to the extent that the development agreement specifically covers those things.

Councilman Erik Rowland indicated that what you are saying is that this project is unique enough that it wouldn't be worth modifying our existing code to accommodate such projects but rather in the near future if there are other projects just take them case by case. Jon replied that is the proposal is a unique project. We don't think that the legislative process is a good practice for most developments. If our land-use code isn't addressing the issues that you want to address lets amend the code. Again I don't think it is a good use of county resources to adopt a whole code surrounding a very unique project.

Jon indicated that what we are going to do today is go through specific proposals that have been made in the proposed legislative development agreement. These are things that I think the Council will be most interested in. Today is not a public hearing for the process required for approving or denying the project, the development agreement, or the land-use regulation that we enact through an ordinance that enacted the development agreement. That process will be followed later. This presentation is allowed to have the legislative body to better understand what is in the development agreement to ask questions and get feedback on the unique part of the development agreement including some of the processes of approving this project. Public input will be a significant consideration later in the process but understanding what the Council either supports considering further, generally opposes or needs more information to help Doug Smith and I and the applicant in how to process and pending applications and how to change the proposed development agreement or possibly get rid of the development agreement altogether because a small scale

subdivision does not require a development agreement.

The development agreement does reference RLUIPA (Religious Land Use and Institutionalized Persons Act) but also references the Utah Religious Land Use Act (URLUA) and both of them have similar affects. The owner is seeking to develop the property as a site consisting primarily of a house of worship for the Church of Jesus Christ of Latter Day Saints. For the members of the Church of Jesus Christ of Latter Day Saints is the most sacred place of worship on the earth that is unique from all other places of worship. This is put in the development agreement but the purpose is just to show that this is a structure that is a house of worship and a structure that have some aspects to it that would implicate the RLUIPA and the URLUA protections.

Councilman Steve Farrell asked is the Legislative Development Agreement the way the Church has built the other temples. Loyal Hulme, attorney representing the L.D.S. Church, replied that yes we do use those development agreements regularly. Councilman Steve Farrell asked is that the predominantly the way that you do them? Loyal Hulme replied yes, I would say so. We can do it either through conditional use process or through the legislative development but by and large we have many, many development agreements going on both for the Church and our commercial clients. I always include the language that if there is any discrepancy between the existing development agreement and the land-use code that it governs which is a protection for both sides. The reason we include that is because this in essence becomes a contract for unique, if you will ordinance, for that specific site. It binds the applicant to specific requirements. Many ways it can be stronger and better for the Council and for the community because you can add a lot of things not necessarily under your conditional use process. You can only impose conditions that are consistent with the way the temple would impact the surrounding area. This legislative agreement allows the County broad latitude to negotiate with an applicant and be able to say I can't really fashion this in a conditional use settings. We don't do large developments without these. The municipality is being given greater latitude than the conditional use process in our experience. We are in a zone that allows for this use.

It is really important as we talk about these things that we have complied and are complying with your code but we find that this legislative development agreement is going to give the County a greater benefit. We will supply you a letter that extensively shows why in every way the temple is consistent with RLUIPA and that protection is needed both for the spirals and the size. The goal to understand is that there is really two pathways to go either conditional use or legislative development agreement and we believe the legislative is actually going to be more protective.

This temple does truly represent the highest level of worship in our Church and it represents in our Church it is truly a house of the lord. The size is significant, the steeples are designed to be high on purpose and designed to draw eyes towards heaven because that is a symbol of what this represents to our people. Symbol of faith. Very important covenants occur in the temple. This temple does represent a symbol to the people in the area that they can look to strengthen their faith and think about those covenants they make. So to discount the size and discount the steeple and discount these other things is a discount to the temple. The temple needs to be the size that is consistent with the needs and consistent with the surrounding area. With regard to these ordinances

and statutes we will get you a nice letter that you can study at your convenience and review to go through why this meets in every way your ordinances and also RLUIPA and why it is so important. RLUIPA basically says if a county seeks to substantially burden the exercise of religion including the construction of a house of worship the County must demonstrate that is the least restrictive means of compelling that governmental interest, which is a very high standard that the County would have to meet. It has to be the least restrictive means of compelling a governmental interest. We believe that this meets your current ordinance. One of the issues that sometimes gets forgotten or maybe over looked a little bit is these temples have been built since the onset that we believe in the restoration of the gospel of Jesus Christ. We have built early temples and have had some significant discrimination. We want to make sure that these symbols of our faith are protected. That they have the deference of federal and state religious liberty laws protect.

Councilman Erik Rowley asked that there does seem to be those who are against the temple are the size and height and from what you have said earlier that there is a process from which the Church goes through in determining what is the appropriate size and height and will you be able to go in detail of that process so it sounds like it is more formulated and arbitrary in order to determine that size would that be a correct statement. Loyal Hulme replied that he wouldn't say that necessarily and am not involved in that process of the temple.

Jon Woodard then indicated that we will next go through specific things in the development agreement. Some of these things might be big enough issues that you would ask for us to come back and talk about it some more. Section 8 goes through most of the key things that are being handled legislatively without specific finding compliance within the standard of the code. These are design guidelines and from talking to the applicant the goal here was to memorialize things in the approval that may not be part of the normal approvals that are design elements and also to allow the Council of the County to ask for things that normally wouldn't be part of an approval that would fit in with the design. What we would ask is for the applicant to do before we start the public hearing process is to make sure that we at least have a draft of that exhibit. Is there anything that you would like to bring up in regard to the design guidelines?

Councilman Mark Nelson asked is lighting one of those design guide lines. Could be how the lights look that are in the design guidelines. Chair Spencer Park said that he would like to see the demonstration of the calculations of the two to one in the ordinance that was referencing and the architect could show a diagram on how that has been met.

Jon Woodard indicated that the next section is height. The development agreement says that the main tower can be 210 feet tall. The back tower is 141 feet tall and I don't believe that is specifically referenced and it just talks about the tower height. The main body of the temple would be 100 feet. Our Code addressed the height in different ways. The general rule in the RA-1 Zone is thirty-five from natural grade. There are rules for churches. Churches are conditional use in all zoning districts. In the event that a conditional use is granted for greater height than is permitted in the zone additional setbacks may be required. It is steering us towards the conditional use and asking the approving authority to specifically consider how the setbacks relate to what is normally required in the zone..

Councilman Steve Farrell asked about the FFA requirement being in the flight path what requirements do they have on height and lighting and things like that are they built into this equation. Once we get to a certain point it is out of our hands altogether. Jon replied that he would answer that in a few different ways. As it pertains to the lighting we have addressed in the lighting code that the FFA lighting is not restricted. As it pertains to a conditional use analysis we could see how the requirements of the conditional use of the findings that the land-use authority would have to make as they relate to the height and we could restrict that. What we are steering towards right now is the legislative process which would allow you to raise concerns and see how the applicant addresses them and do what you think is right in the approval by segregating the height from the code and saying that for this project we are going to make a legislative development agreement to define what the height is. If you have concerns about that we should explore that further.

Curtis Miner, architect for the church, addressed the Wasatch County Council and indicated that when we applied to the FFA they did not dictate the height of the building. We essentially told them what we were proposing based on that height and based on the analysis of the building and how it relates to the air space around the airport they came back and told us what type of lighting would be required to be on the building because of the height. We stated the height and they told us the lighting to put on the building because of the height and not the other way around.

Councilman Farrell then indicated that the lighting is over and above our lighting ordinance. Curtis replied that is correct based on the way the lighting ordinance was approved that is correct. Councilman Steve Farrell replied brighter and more visible than what we have allowed. Jon replied that we are pulling out the height from the analysis of our County Code and instead of approving this through a legislative agreement if the Council supports. Also churches are entitled to additional height in the context of conditional use permit. This is part of what the Church gave as the rationale for why the two hundred foot height is appropriate and not directly applicable in our code to this project but the principles seem to match well with what the conditional use criteria wants us to look at in considering the appropriate height of a church. Normally the front set back required is eighty-five feet. The actual is 211 feet. If you go by that two to one ratio they could go quite a bit more than the 200 feet.

Councilman Erik Rowland replied that eighty-five set back is the two to one based on what is required of the code and what they are proposing is actually 211. Jon indicated with the two to one the height could be 252 feet over twenty feet. With regard to site setbacks. Ten foot is the required amount and they are at 206 and this is on the east side of the project. If you go to the left side there is a much greater set back between the temple and the edge of the property line? The rear set back thirty foot is required and they have got 210 feet. If you look to the north east side of the property there is a building there and will be subject to the normal height restrictions because it is not a church but a maintenance facility that is part of the temple project but it won't be getting any special exceptions. It is twenty feet from the property line and so it meets the normal set back requirements.

Would you like the church to present on the building height as we work through this initial process before it comes to the Planning Commission and Council for the hearings? Councilman Erik Rowland replied that his concerns have been covered. This would be a discussion that would be worth presenting because there seems to be a lot of discussion how do they chose height and size.

Jon Woodard asked would you like more discussion now or would you like to discuss later in conjunction with the public hearings. Councilman Erik Rowland replied that the most value would be in the public hearings. Councilman Steve Farrell replied that he thinks that would be the best.

Councilman Erik Rowland replied that he would like to be sure on the legal analysis regarding this so that the County wouldn't be a risk for potential legal action. Jon Woodard replied that there is more legal risk to the County pushing the thresh holds of RLUIPA because of the fact that the RLUIPA law allows for attorney fees if the plaintiff being the religion institution successfully prevails on a RLUIPA suit. I think that RLUIPA would apply to this project. The way I am approaching this with the legislative approval is designed to give you the freedom to ask those questions and what it doesn't take away is the ability of the applicant to say that you know we think we can get a two hundred foot temple under the standards of the code when combined with RLUIPA and what to take away your legislative discretion. We want you to decide whether you want to approve this or not and then we will decide what to do from there.

Councilman Steve Farrell replied how do we argue the two to one. Jon Woodard replied that code specifically applies to industrial commercial. This is still a residential zone. This section is super informative for helping us show how the code contemplates this. You are in a residential zone we are putting in a temple there and it is kind of similar to a business commercial industrial use but this isn't a business commercial industrial use.

Jon Woodard then mentioned massing and massing refers to the structure and three dimensions. It influences the sense of space which the temple encloses and helps define both the interior space and the exterior shape of the building. Architectural design begins by studying massing. Massing impacts is what creates the most impact on the eye and massing is the most important architectural design consideration. Massing consists of the height of the building, main structure of the building, side view of the building and proposed exterior of the building is supposed to look like. This is part of the application that has been made. That the exterior does not contain the smooth granite and that should minimize the reflectivity and also got a paint that is not a high gloss paint. Any concerns with this or do you want to discuss this further? The Council indicated that some comments regarding this might be helpful.

Jon Woodard then went to parking. The agreement says that parking is set forth in the final plan. The project will have the numbering character of parking is consistent with the County code. The staff has asked for some additional feedback on this. It is possible that this section will change. We have asked for a parking analysis.

Jon Woodard then went to lighting. Councilman Luke Searle indicated that the Church had done an analysis to this particular area rather than just like is our set standard and nothing over a one

hundred feet regardless is that a set standard or is that something that was set for this specifically. Loyal Hulme indicated that it is specific to this property. We gave to the FFA the location of the west steeple the tall one, the east steeple, the north wall and the south wall with that information and the height that we provided the FFA did an analysis for each one of those points relative to the air space of the Heber Valley Airport. The results that they came back with regarding the requirements they have for the lighting in each one of those instances is actually specific to that information that we submitted to them. As far as the lighting is concerned that is consistent with the ordinance that was passed. Lights to be triggered by the pilot can only be done with regard to the run way and only be allowed on the run way and not allowed on the building. The only option is the light tower and the flashing red beacon.

Jon Woodard replied that the legislative development agreement will legislatively adopt the lighting ordinance that we just adopted. As part of adopting the legislative development agreement as proposed and assuming our review finds that it meets the requirements of the exterior lighting ordinance we would be adopting their lighting plan as part of the legislative development agreement. Future changes to the lighting plan would be subject to the exterior lighting ordinance so both contractually and through the legislative enactment process you are bound by the exterior lighting ordinance whether the court overturns it or not which pertains to the current lawsuit.

Jon Woodard indicated that will be an MOU that governs Center Street and the turnabout and an MOU is a requirement of the legislative development agreement. Loyal Hulme indicated that we have not discussed the timing of the roundabout from Heber City's perspective what their preference would be. The Church is responsible to construct a roundabout and I would expect that they would actually build it during the time of the construction of the rest of the project.

Jon Woodard then went to ridge line. The County has never applied the ridge line ordinance to structures on the valley floor. You could interpret the ridge line ordinance to possibly to structures on the valley floor but we would be applying the code differently than we have to other projects which wouldn't be good. The Legislative Development Agreement clarifies that the ridge line code does not apply to the project.

Jon Woodard then went to the flood zone. They are just going to follow the Wasatch County Code and Heber regulations. It does say that they won't change grades and so no exceptions to the code being granted through this part of it.

Jon Woodard then went to connectivity. The applicant has requested the biggest changes here from the County code. The way the application is proposed there is no connection between that circle and Pimlico Drive. The church's proposal is to have Pimlico Drive dead end so it would not continue through the project and there will not be a connection to Pimlico Drive and Center Street. This would be a safety hazard and would be contrary to what the County wants to see for this project.

Jon Woodard indicted that the Church would be required to finish landscaping, sidewalk, curb and gutter and trails to the dead end. We are still in discussions with the Church on exactly what this

would look like. The fire district did not oppose this.

Jon Woodard then went to the trails. We are in discussions right now and asked for the applicant to provide connectivity with pedestrian traffic between Pimlico Drive and the existing trail network. This could be done by building a bridge and connecting it that way across the canal or running a trail on the south side of the canal. We are still trying to figure out the best way forward. The Church have asked for the trails not to be open from 10:30 to 5:00 a.m. They want a specific easement agreement pertaining to these public trails. Councilman Steve Farrell replied how we are going to enforce this time schedule. Also we are setting a precedent by allowing the property owners to tell us how the trails are going to be used. We need to be careful with this. Most of our trails are maintained by HOA and there won't be an HOA associated with this property and so we want to make sure how the trail maintenance will apply to this project without handling the way we normally would.

Jon Woodard then went to maintenance and there will not be any open space requirements in the RA-1 Zone and there won't be any dedicated open space in this area and there will be provisions for maintenance for things like the underground water detention to make sure that is being properly maintained but in general this will all be handled by the property owner and not have the HOA take it over. We would handle the maintenance on the public infrastructure that is dedicated to the County. The city will be responsible for public infrastructure that is dedicated to the city. Twin Creeks will be responsible for the infrastructure that is Twin Creeks. They will be responsible to maintain the same way that the HOA for Triple Crown would be.

Jon Woodard then went to signage. The code in the RA-1 Zone only allows for a two by two sign and requires permitting as part of the application. They included a didn't initially ask for the sign to be handled by the development agreement but we noticed the sign application and realize that they have either to come up with a new sign that matches the code which would be pretty inconsistent with what you would expect for a structure of this sort or handle this through the Legislative Development Agreement. With the public hearing we will get better detail on what the dimensions of the sign and what it looks like I am sure but it would be a fairly large sign.

Jon Woodard indicated that Wasatch County will be the land use authority on this project. It will hold a public hearing before the Planning Commission and then hold a public hearing with the Council. The Planning Commission will make a recommendation to continue the matter, to modify, deny or recommend approval of the application and then come to the County. This would be legislatively approved in accordance with what is required under Utah Code for a Legislative Development Agreement. Normally, this application would be required to go through the conditional use permit process and noticing for the conditional use permit. This would not go through the conditional use permit process because we would be doing the legislative development agreement to supersede the conditional use requirements.

Dustin Grabau clarified that future amendments to this development agreement would likewise require the same legislative development approval process. Jon Woodard replied that is right because it is a legislative development agreement and would have to follow the public hearing

process to amend the legislative rule for this project yes. The Council would be the approving party. The project just so you know is going through the Development Review Committee right now and doing this in conjunction with working on this development agreement.

Jon Woodard indicated the areas to be studied more. The compatibility with surrounding structures in use, location, scale, mass, design and circulation. The visual or safety impacts caused by the proposed use can be adequately mitigated with conditions. All issues of lighting, parking, location and nature of the proposed use, the character of the surrounding development and the traffic capabilities of adjacent and collector streets, dust, odor, noise, vibrations all these things can be adequately mitigated through conditions. There are two aspects the temple and the height that would be handled by the conditional use process. The Legislative Development Agreement does state that this is the least restrictive means of furthering the County's compelling governmental interest to impose. By doing this we are bypassing the normal process.

Councilman Mark Nelson indicated that going back to the first part of the presentation this is coming before the Council as an agenda item right now for us to give our general feel for using a development agreement versus the conditional use permit and with this kind of content as represented. Jon replied that we thought this was important considering the delay that the Planning Commission would normally have this come to them as a conditional use permit. It is not uncommon for us when we have legislative approvals to make sure that the Council is on board with that before we go through the formal process and this is kind of designed to make sure that the high level you are comfortable with the direction that we are going.

Dustin Grabau indicated we are looking for your direction and that you feel comfortable enough with the contents of the Development Agreement as proposed to proceed with that process through the Planning Commission and County Council. Councilman Mark Nelson replied that I feel like the development agreement is a better approach and with the couple of exceptions that you noted.

Chair Spencer Park indicated that we still are going to have two public hearings on this. Jon replied absolutely.

Councilman Steve Farrell replied that we will have on the Council's agenda whether to go with the Legislative Development Agreement or the conditional use will we not. Jon replied that the way the application is proposed the staff would not do a conditional use analysis but simply we would present what the applicant has proposed, how they would meet the criteria, but finds that we are approving this as a permitted use without going through the conditional use permit.

Councilman Mark Nelson wanted to ask Councilman Steve Farrell's question slightly differently. Would the development agreement approval come back to the Council before it went to the Planning Commission to be considered? Jon replied unless you wanted it to. The plan would be if you are comfortable with the direction you are going or unless you wanted to get greater feedback on any particular issue. We would work this through the DRC and the Church and I would continue negotiating a development agreement then it would go to the Planning Commission without coming back you until that hearing.

Councilman Steve Farrell replied that at no point the Council would have to say yes we want to do it with a Legislative Development Agreement. Chair Spencer Park indicated that we have to vote it. Jon replied that at the very end you could see we want to consider this as an administrative approval and not do the legislative development agreement.

Dustin Grabau replied that a conditional use would not come to the County Council for approval and the subject of the public hearings would be to approve the development agreement. Councilman Steve Farrell replied that the Council has to make a determination that we will work with the legislative development agreement or we will do an administrative development agreement. Dustin Grabau indicated that is basically what we are asking you right now that are you comfortable with proceeding with a legislative development agreement through the process.

Jon Woodard replied that they have applied for the legislative development agreement so what you would be saying is that we would like to see you apply without the legislative development agreement and for it to follow the normal County processes. The way it is now that the development agreement would define the approval and ensure that the process was approved.

Councilman Steve Farrell replied that what the applicant is saying is that we want a legislative development agreement and we say that we don't want to have that and we say no we don't accept that. Doug Smith, the Wasatch County Planner, indicated that the Planning Commission approval would be contingent upon you approving the legislative development agreement and if you did not and then it would go back to the Planning Commission through a conditional use process. We would still do it legislatively but it would go through the conditional use process to make that as confusing as possible.

Chair Spencer Park replied that if the Council denied it it would have to go back to the administrative. Doug Smith replied absolutely. Chair Spencer replied that is after two public hearings and a lot of input. Jon replied that is right and that would put us down a different track where the legal analysis of RLUIPA and how to apply the state code and the conditional use criteria but the nuisances of that become much more essential and the approval.

Chair Spencer Park asked if you feel like you have enough input. Jon Woodard replied as long as nobody else on the Council has input that they would like to give at this point. Doug Smith replied that you don't want to see this again and the next step would be once this goes through DRC it is going to the Planning Commission and then you will see it.

Chair Spencer Park replied that is the way that I see it. Jon replied if we feel like we have something that we feel like that we need to talk to the Council about we will of course bring it back to you. In fact we could just wait until we hear the public hearings to do that.

Councilman Steve Farrell replied that the purpose of this is so we as the legislative body won't have to make modifications to the ordinance or rewrite the new ordinance. Jon replied that is right. There are two ways you will get the opportunity to do that. One would be if you say that before this goes to the Planning Commission we want to make sure that this is on track with what the

Council wants and ask for those issues to be raised again and then we will come back to you with greater input and allow you to get greater input on those issues. The second stage of course is at the public hearing and the approval and that time we can change the development agreement to address certain things the way that you want to see it. At that point you can say that we are approving it this way and then the Church can decide what they want to do from there or you can deny it and the Church could decide to move forward administratively.

Dustin Grabau replied that the hope is that we work through major issues that you would like to see changed now rather than after a public hearing. So if there are things that you would like the staff to consider changing in the development agreement.

Councilman Steve Farrell replied that we won't see any of this again until after it goes to the Planning Commission. Dustin Grabau replied that unless you want to see it again before. Councilman Steve Farrell replied that we ought to see any major amendment or changes. Dustin Grabau replied that so far you haven't suggested any major changes.

Councilman Steve Farrell indicated any changes to an ordinance that we have to adjust to make this fit. Jon replied that it says that the development agreement may not allow the use or development of land that the applicable land use regulations governing the area subject to the development agreement would otherwise prohibit. It is saying you can't circumvent the county code through a development agreement unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation. So what we are going to do with this is follow the process for enacting a land use regulation but make this approval the law that binds this development. So to the extent that those areas of the development code are not being followed or we are not arguing that they are being followed this development agreement will become the law of the project.

Doug Smith replied that what I was hoping though is that when this goes to the Planning Commission if you guys have issues with the height or whatever it is I would like to go to the Planning Commission and say that Council wants to see the steeple at one hundred and fifty feet or whatever it is. I can portray that to the Planning Commission. Although you haven't voted on it at least we know what the hot button issues are when it goes to the Planning Commission.

Councilman Steve Farrell replied that some of that we won't know until the public hearing is held and see what the public comment is. Jon replied that I think that is totally fair and we are not trying to pull this out of a process where the public input is essential. I know that you need to hear that public input to know what is important to your constituents. If you are saying that no way I am going to approve a temple with 200 foot height and we would like to hear that now if that makes sense.

MIDA UPDATE

Mike Davis, the MIDA Coordinator, addressed the Wasatch County Council and indicated that the MIDA staff has asked to present to the Wasatch County Council an update of the MIDA project area and its finances. MIDA recently contributed about \$27,000 to Wasatch County as part of the Municipal Services Fund that consists of revenue sources not normally available to the County. Paula Eldridge is here from MIDA to address you.

Paula Eldridge then presented two maps showing what is taking place in the MIDA area and what you actually see on the tax rolls. Another map shows the building permits issued. You can see there was kind of a little bit of a slow start in 2018 and accelerated in 2021. Also the map shows the certificates of occupancy. Paula also indicated that the property allocation kicks in when there is a certificate of occupancy. In 2018 we had a slow certificate of occupancy. Then we are anticipating 153 certificates of occupancy in this current tax year. So there is a lot of growth. The other map shows how different sections came into the project area.

Councilman Steve Farrell asked what kind of growth in 2022 and 2023, what percentage growth that is with regard to impact fees. Paula replied that we actually received a lot of growth on the west side and the west side were the estate lots which will contribute a lot to the project area.

MAG GRANT WRITER DISCUSSION

Nancy O'Toole, from MAG (Mountain land Association of Governments) who writes the applications for grants, addressed the Wasatch County Council and indicated that what I am talking about is the Provo River Parkway Trail. Wasatch County has donated \$1.9 million and you have got that back and in the interim of that I wrote a grant for \$500,000 and we got it for Wasatch County. Since you didn't put any money in and it was all paid by the legislature and what are you going to do with the \$500,000. I was told that you can have it. What you need to do is put it on a project and we will give you that \$500,000 that you were awarded for the Provo River Parkway Trail which we are not going to be funding. The state has put it on this phase one and phase two and phase three of the rail trail. We have been working really hard on this and we had some maps for you and we had some cost. The cost will be \$5.5 million for the whole project. That is a lot of money. I talked with UDOT and they really think that we should put it in the TIF (Transportation Investment Fund).

I have broken it down in phases. Phase One Wasatch Mountain State Park is donating the land but the rest of it is on Wasatch County. That is \$1.5 million. The second phase is the most expensive which has the two pedestrian bridges so that is \$2 million. Third phase is Heber owns. They will have to put that 40 percent matching in. So what I have done is I have taken the total amount and 40 percent of that is right around \$2.3 million. You have \$500,000 to put into that already. You also have \$633,000 that Heber is going to put in to this project because there is their matching part for phase three. So we are down to \$1.1million that you will have to fund in order to fund this whole project. That still seems like a lot of money but what we can do with that I can is apply for

a grant up to \$750,000 so can we lower our costs and I don't know that we can get the full \$750,000 because you have got to have some matching but it is an idea that you think would work. UDOT is on board with this because it will make a fantastic connection. Do you want me to put in for this \$750,000? The Wasatch County indicated to Nancy to put in the request for the grant. Nancy indicated that the request needs to be put in by August 15th.

Dustin Grabau indicated you don't need this on a Council agenda on this matter but what we would need is to actually appropriate the funds but that won't happen until next year. Councilman Steve Farrell replied would it be in the County's best interest to use it on the County's portion.

COUNCIL/BOARD REPORTS

Councilman Kendall Crittenden indicated that the land fill will be closed for two weeks starting July 1 and arrangements have been made with Ace Recycling to take the trash. They will start letting the public know of what is taking place by using fliers and other means of notification.

MANAGER'S REPORT

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and had a small discussion regarding the roundabout in the Jordanelle that Wasatch County is scheduled to pay for. MIDA wants me to sign this MOU on the roundabout. Presently we are working through the details of the proposal and would like to get your input on what we had talked about last time. We are basically going to use the \$1.9 for the trail and getting credit for the roundabout. Because of the contribution to the trail UDOT would then contribute to the roundabout. The Council indicated that they are in support of what Dustin is doing with regard to this matter. Also we still have quite a bit of work to do on the impact fee facilities plan that would incorporate the roundabout and ultimately allow us to apply those impact fees to the additional portion of that round about. Generally, if you are supportive of the \$1.9 MAG is going to send a bill to me for that \$1.9 using the TRT funds unless the Council says otherwise. The Council indicated that they are in favor of what Dustin Grabau is doing with regard to this matter.

Chair Spencer Park then indicated that we will now hear our public hearings that are scheduled for this evening.

**PUBLIC HEARING
JUNE 21, 2023**

TJ STEPHENS, REPRESENTING 1035 WEST 1800 NORTH L.L.C. REQUESTS THE CREATION OF AN AGRICULTURAL PROTECTION AREA FOR 10.83 ACRES LOCATED ON PARCEL 17-9579 IN THE NORTH FIELDS AREA IN THE AGRICULTURE 20 A-20 ZONE. AGPRO-7881.

Staff:

Nathan Rosvall, the Assistant Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that TJ Stephens representing 1035 West 1800 North, L.L.C. is requesting an Agriculture Protection Area for property located in the Agriculture A-20 Zone at 1035 West and 1800 North in the North Fields. The property contains 10.83 acres. The Agriculture Protection Area includes a barn and a single family residence on the northerly portion of the parcel. The property is a legal nonconforming lot of record, The agricultural use on the property includes raising of livestock, cows, horses, goats, etc, and the harvesting of grass for hay. The adjacent property owners currently use their properties primarily for residential and agricultural purposes. The application is made pursuant to the recently adopted County Code 16.29 Agricultural Protection Area which is allowed by the State Code Section 17-41-201. The intent of these codes is to protect agricultural areas from encroachment of urban development and the impacts that come with it including nuisance complaints, future road expansion, changes in zoning regulations, eminent domain, etc. The process for obtaining the designation of an Agricultural Protection Area is review and recommendation by the Agricultural Advisory Board and the Planning Commission prior to the approval by the County Council. Also at the time of this report no objections have been received in response to the notices that were sent.

The proposed findings are:

1. The request is to create an Agriculture Protection Area to maintain the agricultural use and the rural environment.
2. The subject property is located in the Agricultural A-20 Zone at 1035 West 1800 North.
3. The parcel is 10.83 acres.
4. The property is a legal nonconforming parcel.
5. The current use of the property proposed for protection status is for the raising of livestock and grass production for hay.
6. The proposed area includes one existing barn and a single family dwelling on the parcel.
7. The existing use is compliant with the purpose and intent of the A-20 code and the goals of the General Plan for the area.
8. The property owners intend to maintain the same farming operation as is currently being utilized on the property.
9. Middle Ditch is located on the property.
10. Commonly found soils in the North Fields are: Fluventic Haploborol, Kovich and Logan.
11. Wasatch County Code Section 16.29.08 outlines the evaluation criteria for granting the

Agriculture Protection Area and the proposal is consistent with the evaluation criteria of the code and the current agricultural uses on the property satisfy the evaluation criteria for the preservation status.

12. Surrounding properties are zoned A-20 and are used for similar agricultural pursuits.

13. No objections have been received in response to the notices sent or signs posted on the property.

14. If the Agricultural Protection Area is approved, the approval will be in effect until its 20th calendar review year.

Nathan Rosvall then went through the proposed modifications.

Section 16.29.06 allows for the review of the proposal with the options that include accepting the proposal rejecting the proposal or modifying the proposal.

As a modification of the proposal and recommendation to the County Council staff recommends that the applicant be required to maintain historic irrigation channels and that the irrigation company would have the right to maintain and clean the canal /ditch to ensure downstream flows.

Applicant:

Chair Spencer Park asked if the applicant is present. T.J. Stephens, the applicant, was present and indicated that he had nothing further to add.

Public Comment:

Chair Spencer Park then opened the issue up for public comment and there was no public comment so the public comment period was closed.

Councilman Karl McMillan made a motion to approve the Agricultural Protection for T.J. Stephens in light of the findings and subject to the proposed modifications and encompassing parcel 07-9579 consisting of 10.83 acres. Councilman Kendall Crittenden seconded the motion and the motion carries with the following vote:

AYE: Chair Spencer Park

AYE: Luke Searle

AYE: Karl McMillan

AYE: Kendall Crittenden

AYE; Steve Farrell

AYE: Erik Rowland

AYE: Mark Nelson

NAY: None.

**PUBLIC HEARING
JUNE 21, 2023**

FIRST READING OF ORDINANCE 23-07 A PROPOSAL TO AMEND SECTION 4.09.02 OF THE WASATCH COUNTY CODE REGARDING THE COUNTY FEE SCHEDULE AND MORE SPECIFICALLY CREATING A FEE FOR PLANNING COMMISSION SPECIAL MEETINGS.

Staff:

Doug Smith, the Wasatch County Planner presented a power point presentation and then addressed the Wasatch County Council and then indicated that recently had an applicant ask for a special meeting and we didn't have a fee. The bylaws of the Wasatch Planning Commission bylaws allow for a special meeting. The fee schedule did not have a fee for a special meeting. A special meeting has considerable expense to the County and if the Planning Commission determines to hold one the cost should be borne by the person requesting the meeting. At any given special meeting there will be at a minimum two members of the Planning Department, one person from the attorney's office, one person from the IT and the expense of the stenographer. There is also time for support staff to deal with reports of action and sending packets out. The Planning Commission Members are also paid. Regular members of the Planning Commission receive \$50 and the chair is paid \$75. With a full quorum the cost would be \$375.00. After considering things the staff believes that a \$800.00 fee is warranted. I have added this fee to fee schedule in the Planning Commission section.

Doug Smith then went through the proposed findings.

1. The County Legislative Body has established a fee schedule of adopted fees for the planning department.
2. The Planning Commission bylaws allow for a special meeting that can be called by the Planning Commission Chair or members of the Commission.
3. Unless the special meeting is for a County initiated purpose the costs for a special meeting should be borne by the individual requesting the meeting.
4. Costs for staff which at any meeting would include, IT, Planning Department, Attorney's Office, support staff and stenographer can be substantial
5. The Planning Commission members are also paid for every meeting they attend amounting to \$375.00 for a full quorum

Public Comment:

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

Councilman Karl McMillan made a motion that we accept this as the first reading which is acceptable and move it to the second reading of Ordinance 23-07 which is creating a fee for Planning Commission special meetings for July 5, 2023 on our regular agenda. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

AYE; Chair Spencer Park

AYE: Karl McMillan

AYE: Luke Searle

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Erik Rowland

AYE: Mark Nelson

NAY: None.

PUBLIC HEARING

JUNE 21, 2023

CONSIDERATION AND POTENTIAL ACTION ON ORDINANCE 23-08, AMENDING WASATCH COUNTY CODE 16.02.02 AND 16.02.05, PUBLIC NOTICING REQUIREMENTS, TO REFLECT RECENT CHANGES TO STATE CODE THROUGH SENATE BILL 43. THE PRIMARY MODIFICATION IS TO ADD MAILED NOTICE TO ZONE MAP AMENDMENT APPLICATIONS AND TO MODIFY THE LENGTH OF TIME REQUIRED UNDER COUNTY CODE FOR NOTICING IN THE NEWSPAPER.

Austin Corry, the Assistant Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Planning Commission and indicated that the 2023 legislative session included Senate Bill SB43 that modified public noticing requirements for a vast majority of state codes, including land use provisions. In reviewing County Code the current code is compliant with all the changes made by SB43 with the exception of adding physical mailing of noticing for zoning map amendments. This proposal is to make this correction to comply with the law that became effective May 1, 2023. In addition, staff poses the question of whether a 14 day newspaper notice is still desired by the policy makers. State code does not require the newspaper listing, but County Code does. It is anticipated there will be some discussion regarding this. There was a lengthy discussion regarding the 14 day noticing requirement by the Wasatch County Planning Commission. The legislation went through and created what they call Class A and Class B notices and instead of throughout the code having them describe what you did individually multiple times they just referenced this Class A or Class B type of notice. As a result of that we took that as an opportunity to go through and make sure that our code was compliant still with State Code. As I was doing that analysis one thing that stuck out was that state code does require us if it is a zone map amendment, and that is somebody coming in and saying this is RA-1 Zoning right now and I want it to be RA-5 Zoning or Mountain Zoning, state law requires us to send mail notice to individuals who are affected by that. Our current code is compliant with that but not as

clear as what we typically do. Usually in our County Code we have gone in and reiterated verbatim what that state code requirement is. The main amendment that you need to address right now is all we are doing is going in and saying we are going to provide that notice. By putting this into the code is to make sure that we don't forget it.

The next change is the timing on the newspaper. Wasatch County is longer than most other jurisdictions in terms of our length of noticing period and it is self-imposed right now. State code does not require noticing in a newspaper for land use action. You have to post on the Utah Public Notice website and apply physical postings here in our County building. Our County Code still requires noticing in a newspaper and it currently says that we have to do that fourteen days to the meeting and because we only have a once week newspaper that fourteen days turns into about three weeks before our Planning Commission meetings. We had a good discussion with the Planning Commission with them. This was just literally to raise the question and let you as a Council decide. Staff is not suggesting that you have to do with it one way or another way. We thought that was worth a discussion. It was discussed that we take out the newspaper noticing altogether, Planning Commission meetings are on Thursdays and do we just put it in the newspaper the day before and what do we do. Their recommendation to the Council off from that discussion was that we modify the requirement from fourteen days to seven days but still leave the newspaper noticing in there. By shifting it from that fourteen days to seven days that reduces the length of noticing. We still have the other ten day noticing. The newspaper is still the longest noticing period.

State code does not require a newspaper noticing. I would rather have you say that you are going to do it or you are not going to do it. This is really your decision whether you want to do this or not but the discussion with the Planning Commission is that they talked about even potentially eliminating it altogether, but felt was there is still a subscription base to the Wave and still is relied on and it shows a good faith effort from the County to really make sure that the public is aware of it even though the State doesn't make us do this. We have already had the fourteen day standard and all this would do is more accommodating to the applicant and shortening the time line between when they get the DRC approval and when they could get onto an agenda. The Planning Commission opposed seven.

Jon Woodard indicated that one of the things I often hear when somebody wants to challenge an ordinance is that we didn't hear about this and we were supposed to. In that respect I like the newspaper notice because when people say that they never got notice in the mail and this kind of stuff. They think that we have got these secret agendas no matter how many ways we publish it. When you can wave a newspaper in front of them and say that we put this in the paper there is no way that we were trying to hide this and it has got a lot of weight.

Austin Corry then went through the proposed findings:

1. The Utah State Legislature has enacted Senate Bill 43 in 12023.
2. SB43 modifies current public noticing practices required by State Law.
3. Current County code complies with noticing required y state law.
4. The addition of mailing requirements to zone map amendments is made clearer when added

specifically to the County code.

5. The proposal considers the impact of newspaper noticing requirements on land use applications.

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

7. The seven day noticing is the one presented by the Planning Commission and that is not the one in your packet but it is the one that is in the ordinance language that is in your packet.

Public Comment:

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

Councilman Karl McMillan made a motion that we accept amending Ordinance 23-08 as it is currently presented in light of the findings which is public noticing requirements to reflect recent changes to state code through Senate Bill 43. Councilman Erik Rowland seconded the motion and the motion carries with the following vote:

AYE: Chair Spencer Park

AYE: Mark Nelson

AYE: Erik Rowland

AYE: Steve Farrell

AYE: Kendall Crittenden

AYE: Luke Searle

AYE: Karl McMillan

NAY: None.

CLOSED SESSION

JUNE 21, 2023

Chair Spencer Park indicated that record should reflect that there is no need for a closed session this evening.

ADJOURNMENT

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

AYE: Chair Spencer Park

AYE: Karl McMillan

AYE: Luke Searle

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Erik Rowland

AYE: Mark Nelson

NAY: None.

Meeting adjourned at 9:00 p.m.


SPENCER PARK/CHAIRMAN


JOEY D. GRANGER/CLERK/AUDITOR

