

**MINUTES OF THE
WASATCH COUNTY COUNCIL
JULY 19, 2023**

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

PRESENT: Vice Chair Karl McMillan
Karl McMillan
Luke Searle
Kendall Crittenden
Steve Farrell
Erik Rowland

EXCUSED: Chair Spencer Park

STAFF: Dustin Grabau, Wasatch County Manager
Heber Lefgren, Assistant Wasatch County Manager
Rick Tatton, Court Reporter via Zoom
Austin Corry, Assistant Wasatch County Planner
Jon Woodard, Assistant Wasatch County Attorney
Scott Sweat, Wasatch County Attorney
Wendy McKnight, from the Clerk's Office
Joey Granger, Wasatch County Clerk/Auditor

PRAYER: Councilman Luke Searle

PLEDGE OF ALLEGIANCE: Led by Vice Chair Karl McMillan and repeated by everyone

Vice Chair Karl McMillan called the meeting to order at 4:00 p.m. on Wednesday July 19, 2023 and indicated that all the Wasatch County Council are present except Vice Chair Spencer Park who is excused. 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

Vice Chair Karl McMillan asked if there were any administrative issues for future meetings. Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that last year we listed one of our properties. The County owns a surplus in Swiss Mountain Estates and someone has shown an interest in buying it. The Council then needs to list a method of sale. Would that be a competitive bid process or a negotiated bid? Dustin indicated that he has already listed as surplus and we need to identify a method of sale. We need to select a method of soliciting bids on that. Dustin indicated that a competitive bid makes sense in this case and we would post it for a certain period. Councilman Steve Farrell replied that we need to do some research on that because many of those lots don't have water. Dustin replied that this one doesn't. We wouldn't make any representations about the buildability of that lot or anything like that.

LEGISLATIVE ITEMS FOR FUTURE MEETINGS

Vice Chair Karl McMillan asked if there were any legislative items for future meetings and there was none.

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Vice Chair Karl McMillan asked if there were any public comment on matters not on the agenda.

Steve Aste, interested party on election certification matter, addressed the Wasatch County Council and passed out a copy of a power point presentation that we have put together. Our group is interested fairness in elections and there has been a lot of talk whether they are fair, unfair, or cheating, or not cheating it all depends on who you talk to. A poll recently came out that said that eighty percent of Republicans believe there is cheating in our elections. Sixty-four percent independent and forty-five percent of Democrats believe that is various activities in our election which is nationwide. Steve Aste then presented a power point presentation. Truth is what we are after here. We get to the truth by putting in method, methodologies that can actually certify the results of our elections. There is nothing like that in place right now. We are not interested in what you think or I think and what my biases might be about how our elections are certified or counted. We are interested in getting to the actual truth of the matter and whether we are Republican or Democratic, independent or otherwise when we find out the truth we may have to be prepared to adjust our biases based on what we find as the truth. We need to put in a robust certification process into our election system. We are interested in finding the truth. The reason I am here today is the Council is one of the canvass members that have to make these decisions for Wasatch County based on what the clerk gives you in a summation report. We believe that we have put together such a plan to do that.

Roy Piskablo, interested party on election certification matter, addressed the Council and indicated that he will go through page 5 of the handout that I have given to you. A discussion took place regarding the information on page 5.

Councilman Mark Nelson asked what is the mission that you are looking at if you succeed with your plan, What Roy Piskablo and group are doing is working on drafting legislation that would ultimately get voted on. The important thing is that we are going to every county in the State of Utah which there are twenty-nine and getting their feedback.

Councilman Kendall Crittenden replied that we got this information through e-mail on Monday. I would be willing if we want as a Council and talked with Joey Granger our Clerk and she indicated that she would be willing to sit down and meet with people from this group. I understand that you just want to get input from all the counties and see what they think. Also we have done a great job in Wasatch County regarding the elections.

Councilman Steve Farrell indicated that we could set up a subcommittee to look into this matter. All the Council Members felt like that would be a good way to proceed. Roy indicated that his group would be willing to come back up and meet with the subcommittee. Dustin Grabau replied that you need to get a hold of my office to set up a time but which ones want to participate in the subcommittee. The Council indicated that Councilman Kendall Crittenden and Councilman Erik Rowland will serve.

Duane Mettson, interested party, addressed the Council and indicated that he would be willing to do his part in this matter and possibly contact people regarding this issue and do anything to help the Council out in any way that I can.

APPROVAL OF THE MINUTES OF JULY 5, 2023

Councilman Steve Farrell made a motion to approve the minutes of July 5, 2023 as presented. Councilman Erik Rowland seconded the motion and the motion carries with the following vote:

**AYE: Vice Chair Karl McMillan
AYE: Erik Rowland
AYE: Kendall Crittenden
AYE: Luke Searle
AYE: Steve Farrell**

NAY: None.

ABSTAIN: Mark Nelson, (Absent)

COUNCIL

CONSIDERATION AUTHORIZING POLICY 190-002 PUBLIC INFRASTRUCTURE DISTRICT ESTABLISHMENT

Dustin Grabau, County Manager, addressed the Wasatch County Council and indicated that in the 2023 budget, Wasatch County planned to add a code enforcement officer in the second half of this year. Since then, two Council meetings have discussed staff's recommendation that additional planning and zoning staff are needed more than code enforcement. The Wasatch County staff would seek authorization to reallocate existing funds to hire an entry level planner. I have worked with our bond attorneys and talked to some of the development in the community about the proposed policy. Dustin showed the Council two different copies so that the Council would be aware of the two versions. The direction that the Council gave me previous was to look at alternatives for evaluation of the criteria that someone would be able to meet for a public infrastructure district (PID). I put together some criteria that the Council would like to see in priorities. The Council had some concern around Public Infrastructure Districts are being used for specifically residential projects. This criteria at this time includes a prohibition against districts consisting of solely residential uses pertaining to finance solely localized horizontal improvements. Neighborhood PIDs are not really what we are interested in. This proposal would be to arrange some of these things and make clear that our highest priorities that are things that are already in compliance with our plans that create a preservation or creation of agricultural areas, open space, parks and other public outdoor amenities. Commercial or other industrial development and then moving down that list to the provision or contribution to regional, sub-regional infrastructure down to multi-use, mixed use development. I added this section here of increased affordable housing availability and that previously wasn't in that criteria.

Dustin Grabau indicated that in talking with the development community I think they would like me to convey to you some of the difficult times, economic difficulties facing all types of projects in the private sector. Right now with the bank failures that happened this year, private credit is very tight and not a lot of avenues. These bonds are a viable alternative. PIDs are a tool that facilitates the development of property. It is an incentive that doesn't currently exist or typically hasn't been used by the County and this policy would establish a criteria and method for someone to establish a PID and something to consider is that while we haven't typically offered incentives for development. What this would do is expedite previously approved projects. PIDs require one hundred percent property owner to opt in. This likely would be done in conjunction with a land use process. There are existing development that may be owned by a single owner that would be interested in taking advantage of this and to find out how they meet this criteria. What this does it takes those developments that would already be built and add something that generates a public interest to that project. There are applicants waiting with an application in hand to apply under this policy. Some applicants indicated that they would like the Council to authorize some residential uses of PIDs.

Councilman Steve Farrell asked is there any way that we can limit this to only those properties or projects that is going to enhance the value of the County through the tax base, sales tax, transient room tax. Dustin Grabau replied that yes this criteria needs to do this and some of these other things. Councilman Steve Farrell indicated that I don't see the benefit of doing this for residential housing development. We can make this a requirement that it will be enhancing the County tax base through property tax, sales tax and transient room tax.

Vice Chair Karl McMillan indicated that he agrees with Councilman Steve Farrell that we stay away from residential side of the world and stick pretty much to the business infrastructure for the community. Dustin Grabau replied that would just be maintaining this Item five as a prohibition of local residential uses and comfortable with this being communicated to applicants. Vice Chair Karl McMillan replied yes. Dustin Grabau indicated that there is a commercial district with some housing attached to it that would be eligible and something that we would evaluate against this criteria to see if you felt it matched enough public interest to be worth offering this type of incentive towards for the county's benefit.

Dustin Grabau indicated that this would be Resolution 23-12. We could incorporate the changes as outlined.

Councilman Steve Farrell made a motion that we go ahead and authorize approve Resolution 23-12 in our public infrastructure district establishment. And incorporate the changes as outlined. Vice Chair Karl McMillan seconded the motion and the motion carries with the following vote:

**AYE: Mark Nelson
AYE: Erik Rowland
AYE: Steve Farrell
AYE: Luke Searle
AYE: Kendall Crittenden
AYE: Vice Chair Karl McMillan**

NAY: None.

CONSIDERATION AUTHORIZING MATCHING FUNDS FOR THE WALLSBURG TOWN TRAIL.

Dustin Grabau, the County Manager, addressed the Wasatch County Council and indicated at the County's Parks and Recreation Special Service District Board meeting, members of Wallburg Town petitioned Wasatch County for \$23,898 in matching funds to secure a grant that would built a perimeter trail at the Wallburg Town Park.

The Parks and Recreation Special Service District Board expressed support and requested this be forwarded to a County Council meeting for consideration. The TAP tax passed last year is allocated between Wasatch County, Heber City, and Midway City. The County's portion was intended to cover the other smaller incorporated areas around the County. As such, Wasatch County Administration feels that the use of TAP tax funds is appropriate for this use.

Terri Eisel, from Wallsburg Town, addressed the Wasatch County Council and presented a short power point. Dustin Grabau indicated that the TAP Tax is an ideal funding source for this because the County's portion we are collecting about thirty-five percent of the TAP Tax and we intended that our portion to cover all of the smaller municipalities including Wallsburg. Right now we have not achieved a quorum of TAP Tax Advisory Board and should be receiving recommendations from them on the use of these funds. That being said I don't think it would be out of bounds for you to say that this is a program that you are supporting and would like to authorize.

Councilman Steve Farrell replied that the Council would act as that Board until we replace the TAP Tax Advisory Board. Dustin Grabau replied that you are the final party that's okay something such as this. That may be a question for Scott Sweat do we have to bring it before the advisory board. We have the \$90,000 in hand and we only have 35% of that \$90,000 which is pretty close to that amount. Terri indicated that the total was \$353,000.00 we asked for and then the grant was \$329,000.00 and some change. Dustin Grabau indicated that the TAP Tax will generate like \$300,000 this year and it is possible both applications could be funded.

Councilman Steve Farrell indicated that we could fund half of it with the TAP Tax and the other half out of the Council's discretionary fund. Councilman Kendall Crittenden indicated that this is the type of project that we did the TAP Tax for.

Councilman Kendall Crittenden made a motion that we support Wallsburg in this and award their portion of \$23, 898.00 from that TAP Tax money. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

**AYE: Mark Nelson
AYE: Vice Chair Karl McMillan
AYE: Steve Farrell
AYE: Erik Rowland
AYE: Luke Searle
AYE: Kendall Crittenden**

NAY: None.

CONSIDERATION OF A RESOLUTION # 23-13 PLACING A RURAL HEALTHCARE SALES TAX FOR EMS SERVICES ON THE NOVEMBER 2023 BALLOT.

Dustin Grabau, the County Manager, addressed the Council and indicated that in the 2023 legislative session HB392 made Wasatch County eligible for a rural EMS sales tax that was previously available only to 5th and 6th class counties. This sales tax requires County Council approval to be placed on a ballot for the electorate to determine.

In the July 5th meeting the County Council directed staff to prepare the resolution that would place the initiative on the ballot. The attached resolution would start the process to do that allowing voters to decide to authorize or not the sales tax. This is the same process that we followed the last two years for the RAP Tax. Is this one percent sales tax what you would like to ask for authorization? There is an argument that could be made that we could meet a sufficient number of needs with half a percent while remaining competitive with our sales tax rate compared to other entities. Or are you concerned on how our sales tax rate net the difference between our rate and other entities rates would be. Our current sales tax is 6.45 percent. The MIDA project area does charge the resort tax. My estimate of a full one percent if it were implemented this year would generate in excess of \$12 million. What this ballot proposition does is that it authorizes it for ten years and at that the County Council we have the option of extending it further. The Council could then at that time retire it or adjust it.

Councilman Steve Farrell replied that if we raised this with the understanding it could be to offset lower property tax and that justification is that we go for the full one percent. Dustin Grabau replied that one thing that we would want to be cognizant is the Fire District still, for a couple of reasons, would want to maintain some part of property tax and one being is that sales tax is much more volatile than property tax and having a reliable income source is valuable for the Fire District. This will only cover the EMS. The EMS is the vast majority of the fire district's operation and will need alternative revenue sources for the fire portion of their services.

Councilman State Farrell asked is there any way that we could structure the Resolution that could authorize the County to go up to one percent and as we go through this we get a feel if the people would be supportive of something less and then we could go with less. Dustin Grabau replied that my understanding of how it works is that when we have the ballot proposition we would pass a resolution affirming the ballot proposition. I haven't talked with our attorneys but I think it is possible at that time that we could adopt a resolution that has a lower parameter following that election. We have to pass a resolution to the tax commission that says how much it is that we are imposing and I believe it is following that election what we pass the resolution like we did with the RAP Tax.

Dustin Grabau replied should we just go for the full one percent. This tax doesn't apply to gas or groceries and some essential living products aren't going to be impacted. This does a good job of capturing revenue from the sources that are imposing a lot of the cost and visitors to our County will contribute to these services.

Councilman Luke Searle replied that he reviewed this presentation before hand and the Fire Chief and the fire district is proposing .5% because it is meeting the needs based on what is immediately in front of them. Dustin Grabau replied that we could meet many of the currently planned needs of the fire district with just a half of a percent. That might not always be the case and would be why you would want to consider the one percent. The Fire Chief indicated that he feels like with our current projected needs that .5% is all that is necessary. Ten years from now that could be a very different place.

Councilman Kendall Crittenden replied that we could set it no higher than one percent but adjust it on the needs at the time. Dustin Grabau replied that he doesn't know if we can pass that authorizing resolution as a lower number than what the ballot proposition is.

There are a number of tasks that we have to complete prior to get it on the ballot and we have to provide this resolution to the Lieutenant Governor's office so that it can get on the ballot and get a proposition number. We have to produce a pamphlet for information for those that are in favor and opposed to the ballot proposition. There are a number of steps we have to take which is why I wanted to bring it before you today.

Councilman Steve Farrell replied that this could be a catch twenty-two because a lot of car dealerships are selling a lot of vehicles, ATVs and different things because of our low sales tax rate.

Councilman Erik Rowland replied that we shouldn't be comparing ourselves with other counties because this is a relatively new option and it could just be a matter of time before others would be enacting this.

Councilman Steve Farrell replied that the only true advantage of this is being able to shift the tax burden from the local residents to visitors, a portion of it. Do you want to put the one percent on the ballot or how would you like to proceed. If we can't have the option would you like the ballot to read a half of a percent, but if we did have the option you would like it to read with the full one percent. I think that you could pass that motion, that one way contingent on the attorney's office review and we could then get this signed. Councilman Steve Farrell indicated that he would like to see the Council pass it that way and give us the option if we can.

Councilman Kendall Crittenden replied if we can't then otherwise I am more comfortable with the point five percent and that is what the Chief asked for. Councilman Luke Searle replied that we could in the future if there was based on need to get to that percent. Dustin Grabau replied we would need a motion to adopt this Resolution as is if we have the option of reducing it after the fact otherwise a half of a percent if we cannot.

Councilman Steve Farrell made a motion that we adopt Resolution 23-13 at the one percent subject to us getting verification that we can adjust it and amend it at a later day if necessary

and pass it at point five if we can't do that. Councilman Luke Searle seconded the motion also it is one percent as long as we can reduce it to .5 percent and if not it is .5 percent and the motion carries with the following vote:

AYE: Vice Chair Karl McMillan

AYE: Erik Rowland

AYE: Mark Nelson

AYE: Steve Farrell

AYE: Kendall Crittenden

AYE: Luke Searle

NAY: None.

Councilman Mark Nelson indicated that he has a feeling that someone is going to come back and say that is dirty that you can't do that. Dustin Grabau replied that the counter argument to that is, it is to the benefit of the voter that we have the option of opposing less.

SCHOOL HOUSE ACADEMY PRESENTATION

Councilman Kendall Crittenden indicated that we didn't get notification to them to come today and we should table this and have them come back when they are ready. This matter will be tabled indefinitely.

APPROVAL OF STATE AND GREENBELT/ROLLBACK BOE APPEAL DECISIONS.

Joey Granger, the Wasatch County Clerk/Auditor addressed the Wasatch County Council and indicated that she just has a couple to go over. I sent you the list late and there were just a few. The top three were ordered by the State to reconvene so we could have a hearing officer come and open the board back up with the hearing officer and the assessor's office to review. There were three recommended changes as you can see there in the far right value change and the third one does look like a large amount but it is a zero tax change because it was a pure value appeal and it is a Greenbelt property so it didn't adjust anything on the taxes. We had two roll back appeals that were outside of the state appeals in the regular BOE process and one was upheld. The hearing officer did agree with that roll back being assessed and then the second one their evidence provided he did recommend withdrawing that and those had zero change in values.

Councilman Steve Farrell asked what the basis is on the top three that the tax commission used to reconvene the Board of Equalization. Joey Granger indicated all three of them were able to establish a requirement like a death in the family or medical emergency. Most of them had been denied and everything that is left we do have one left that we were ordered to reconvene the board. They are actually working on a stipulation. If we don't get anything back we will have a hearing officer hear that in the next week. There are about thirty left in the queue that are going to hearings.

So those will be state decisions for reconsideration and no more having to open the board back up for 2022 so one left. I will have more rollback and I think there are three in the queue that the hearing officer is going to hear on rollback appeals. If you could give me approval on these five appeals that would be awesome.

Councilman Steve Farrell made a motion that we approve the action requested by the clerk/auditor on these that were reconvened and rollback tax issues. Councilman Kendall Crittenden seconded the motion and the motion carries with the following vote:

AYE: Mark Nelson

AYE: Erik Rowland

AYE: Steve Farrell

AYE: Vice Chair Karl McMillan

AYE: Kendall Crittenden

AYE: Luke Searle

NAY: None.

CONSIDERATION OF AUTHORIZING THE COUNTY MANAGER TO EXECUTE AN AGREEMENT TO PURCHASE PROPERTY LOCATED IN THE SOUTH FIELDS.

Dustin Grabau, County Manager, addressed the Wasatch County Council and indicated that Wasatch County has been negotiating the purchase of a roughly 5.5 acres located in the South Fields area for \$3.5 million. The proposed agreement includes right of first refusal for water on the property and an adjacent parcel, included in the proposed motion is a \$50,000 earnest money payment payable to the property owner, that amount is included in the \$3.5 million purchase.

Disclosure of the final purchase agreement will be made once executed. The proposal is to use funds from available fund balances and appropriate those funds through a budget amendment. We are purchasing an option on an adjacent property for an additional \$2 million. The option is for three years and provide a six month notification to vacate prior to executing that option. We need to finalize some closing dates in that agreement but once we have a fully executed agreement with the closing dates I will bring that back to you and we will fund that using existing fund balances so it will be a cash transaction. After you have authorized me to execute that agreement then we would go through the process to close on that property and bring it back to the public for review. There is a lease back and would be able to provide them advance notification by the beginning of the year because of the nature of the operation they need some advance notice to leave.

Councilman Mark Nelson made a motion to authorize the County Manager to execute the

agreement as proposed. Councilman Erik Rowland seconded the motion and the motion carries with the following vote:

AYE: Vice Chair Karl McMillan

AYE: Mark Nelson

AYE: Erik Rowland

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Luke Searle

NAY: None.

MIDA UPDATE

Mike Davis, the MIDA Coordinator, indicated that he has some home problems and can't be present and there wasn't anything to report. Dustin Grabau then talked about the tour that was done in the MIDA area with the Council. Councilman Steve Farrell indicated that we had a MIDA Board meeting this morning and we approved the agreements and authorized the agreements between Wasatch County and the Mayflower Stitching and Extell to make it possible for them to get the affordable housing units going on the Mayflower Stitching that we agreed to the tax increment on the parcels of ground. The Board approved the tax increment on Lon piece of property which is the Jamara piece of ground. On that piece of ground there are two sites for government office buildings on that Jamara piece and recreational fields and parking lots. The Board approved all those things. MIDA and Extell were very complimentary in working with Wasatch County and how nice they are to work with and how cooperation they are getting from the county.

COUNCIL/BOARD REPORTS

Councilman Mark Nelson indicated that is just an information note. The building that Tourism and Economic Development folks are in between that building and the 7-11 there is a vacant lot and there is typically a fruit stand there and it is really an eye sore, messy place. The Tourism and Economic Development folks have been talking to the owner of that vacant lot to sell it and doesn't want to sell it but to improve it and make it feel like it is part of that and the owner agreed to that finally. There will be a plan put into place for cleaning up that vacant lot and make it fit into the area.

Councilman Steve Farrell indicated that Councilman Karl McMillan and I met with Max Covey, the General Manager of the Service Districts and Wendy Fisher to get working on the possible purchase and conservation easement upon the forty-seven acres on Highway 40 owned by North Village Special Service District. She is requesting a \$10 million allocation from NRCS to be earmarked for the purchase of the properties in the North Field. She said that it is an ideal situation

because we got things already lined up and got the local support as well as congressional support we would like to look at that and move forward quite rapidly on that.

Councilman Steve Farrell indicated that with the Heber Valley Special Service District we have got a lot of upset people with regard to the smell and odor that is being felt. They are worried about the health issues and looking real serious what we have to do to take care of the various concerns. We have increased the mechanical plant and take it a further step in the process so that we don't have all the bacterial growth going in. Sometimes the public blows it out of proportion. Councilman Kendall Crittenden indicated that the health department has looked into it and there is no danger of health risks.

Councilman Kendall Crittenden indicated that the transfer station will close July 24th through August 5th and the information on how to get to the temporary area for the landfill have been noticed in various places.

Councilman Luke Searle indicated that the library board is meeting this week.

Heber Lefgren attended the Heber City Council yesterday regarding animal control. Heber Lefgren, the Assistant County Manager, indicated he presented a presentation to them to get their feedback. The option of adding a SSD. And for the most part the Heber City Council was supportive requiring changes but they want to see a lot more information. On the options that were presented the Heber City Council didn't have a consensus with the exception that they were hesitant on doing SSD's creating another SSD partially they felt like it took it out of the control of an elected body and felt like it should stay within an elected body. Keep looking at it and bring it to the next Interlocal meeting.

Vice Chair Karl McMillan indicated that he didn't have anything further than what Councilman Steve Farrell has already mentioned.

MANAGER'S REPORT

CONSIDERATION AUTHORIZING STAFFING ADJUSTMENTS IN THE PLANNING DEPARTMENT.

Dustin Grabau, the County Manager, addressed the Wasatch County Council and indicated that in the 2023 budget, Wasatch County planned to add a code enforcement officer in the second half of this year. Since then, two Council meetings have discussed staff's recommendation that additional planning and zoning staff are needed more than code enforcement. Wasatch County staff seek authorization to reallocate existing funds to hire an entry level planner. Does the Council intend or

would like us to pursue more active code enforcement. If you did want us to pursue more active code enforcement including things like short term rental compliance, we would need to maintain the budget as funds for a code enforcement officer for the second half of this year. We have largely worked on a complaint based model of responding to code enforcement issues and we would like to maintain that if we were to use these funds for an entry level planner. By adding a planner would help us do code enforcement actions because we would have more staff. Also it would give Doug Smith and Austin Corry more breathing room to be able to do some more proactive planning.

Doug Smith indicated that we have struggled for the time that I have been here to do any proactive planning because we are doing current planning and dealing with the projects that are coming in. The planning department should do planning and do planning for the future which we have never really had that luxury. The other thing is I think we can keep up with the code enforcement unless the Council wants to be proactive about it which is very difficult in an urbanizing enforcement where you have got rural and urban.

Councilman Steve Farrell replied that he would like to see you do the same type of code enforcement as we are doing now on an as needed basis. We need to work with the municipalities and maybe do a combine effort to hire one code enforcement officer which would be paid for all the municipalities. That could be funded through an Interlocal agreement.

Councilman Erik Rowland replied that he would prefer that we focus on the additional planning and zoning. I support Doug Smith in this and make sure that he has the resources he needs. This would just pay off in dividends. Councilman Steve Farrell replied that the problem that Doug Smith and Austin Corry will have is finding someone to fill that position. Austin Corry replied that we want to do more proactive planning and that is the kind of things we want to do and be able to come to you as a Council and say that lets talk actual policy now and we know how to enforce what we have got on the books and you have seen a myriad of code amendments come through but they are primarily reactionary. We would like to have the Council be a policy making body rather than reactionary.

Councilman Luke Searle made a motion of authorizing staffing adjustments in the planning department as follows with that fiscal impact. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:

AYE; Vice Chair Karl McMillan

AYE: Mark Nelson

AYE: Erik Rowland

AYE: Steve Farrell

AYE: Kendall Crittenden

AYE: Luke Searle

NAY: None.

CONSIDERATION OF APPOINTING A MEMBER TO THE CHARLESTON WATER CONSERVANCY BOARD.

Dustin Grabau, County Manager, addressed the Council and indicated that the Charleston Water Conservancy Board has solicited and received applications to fill a recent vacancy on that board. Their board and the County Manager recommends the appointment of Don Sant to be a member of the Charleston Water Conservancy Board.

Councilman Kendall Crittenden made a motion that we approve the appointment of Don Sant to the Charleston Water Conservancy Board. Councilman Eric Rowland seconded the motion and the motion carries with the following vote:

AYE: Vice Chair Karl McMillan

AYE: Luke Searle

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Erik Rowland

AYE: Mark Nelson

NAY: None.

EMERGENCY GENERATOR ISSUE

Dustin Grabau, the County Manager, addressed the Wasatch County Council and indicated that we were recently were eligible to apply for a FEMA grant to put an emergency generator at the Senior Citizen and Library building. The FEMA grant is a ninety percent match grant but we got an estimate that exceeds the original grant amount and Wasatch County would be responsible for the difference. We have an estimate of \$180,000.00 for the total cost. \$116, 00.00 of that will be FEMA funds and the additional portion would be budgeted and would be an expense of next year's budget but we need to order that equipment now. That would allow us to operate in an emergency using the Senior Citizens building. It wouldn't allow us to use it as a shelter because FEMA requires that showers be in a facility.

Councilman Steve Farrell indicated that possibly some other county buildings that would be more adequate for emergency centers. Dustin Grabau replied that the recreation building and event center building would make good emergency buildings. We have discussed this but at this time it makes sense for the Senior Citizen's and Library building to be used for this grant but in the future we need to look at these other County buildings in installing an emergency generator. We need to do a master plan on parks and recreation and other facilities for long term planning with other County buildings becoming an emergency center. Councilman Steve Farrell replied that right now we ought to go with the Senior Citizens building and Library at the present time. Dustin Grabau

replied that we won't need a motion on this matter because we will adopt the actual budget to expect this be part of our 2024 budgeting process.

Councilman Kendall Crittenden made a motion to go into Closed Session for litigation. Councilman Erik Rowland seconded the motion and the motion carries with the following vote:

AYE: Vice Chair Karl McMillan

AYE: Luke Searle

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Erik Rowland

AYE: Mark Nelson

NAY None.

**MINUTES OF THE
WASATCH COUNTY COUNCIL
CLOSED SESSION
JULY 19, 2023**

PRESENT: Vice Chair Karl McMillan
Councilman Luke Searle
Councilman Kendall Crittenden
Councilman Mark Nelson
Councilman Erik Rowland
Councilman Steve Farrell

ALSO PRESENT: Dustin Grabau, County Manager
Heber Lefgren, Assistant County Manager
Wendy McKnight, from the clerk's office
Jon Woodard, Assistant Wasatch County Attorney
Scott Sweat, the Wasatch County Attorney

Vice Chair Karl McMillan indicated that the record should show that the Wasatch County Council is in Closed Session to discuss pending litigation. The record should also 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.

PENDING LITIGATION

Dustin Grabau addressed the Wasatch County in Closed Session to discuss pending litigation and then indicated that:

Councilman Steve Farrell made a motion to leave the Closed Session and go back into regular session to consider the three public hearings scheduled for this evening. Councilman Kendall Crittenden seconded the motion and the motion carries with the following vote:

**AYE: Vice Chair Karl McMillan
AYE: Luke Searle
AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Erik Rowland
AYE: Mark Nelson**

NAY: None.

Vice Chair Karl McMillan indicated that the record should show that the Wasatch County Council is now going to consider the three public hearings scheduled for this evening.

**PUBLIC HEARING
JULY 19, 2023**

FIRST READING OF AN ORDINANCE #23-12 AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO MOVE THE GATE ON CASCADE SPRINGS DRIVE AND TO ENACT AN UPDATE TO THE WINTER MAINTENANCE ROAD MAP.

Staff:

Jon Woodard, the Assistant Wasatch County Attorney, addressed the Wasatch County Council and gave a history of this matter. Jon Woodard indicated that over the years we have had consistent pressure as the County grows and more and more people move into the mountains for us to plow higher and higher into the mountains. The cost to the County is significant as we get into the higher elevations. If you just leave a road covered with snow through the winter not much damage happens to it. If you plow it through the winter huge amount of damage happens to it. We have tried to make it so we are not bearing those increased costs by not plowing in those higher elevations. We were doing that on a piece meal basis in the past but because of the increased pressure we were getting in 2019 we adopted an ordinance that defined where we would and would not plow. We also required any building permits or development in areas where we would not plow to include notes on the plat or on the building permit stating that they understand there isn't going to be snowplow services provided there and that could have implications for emergency services and things like that through the winter. It is not that somebody wouldn't try to get to them but just that it will be a lot harder.

Jon Woodard also indicated that we made it so that map was adopted by ordinance and could only

be amended by ordinance. We did that so that you could take each change on its own merits and there wouldn't be an automatic process for that to be changed. If on the other hand there is a new road built as part of a development the map helps define how to handle that. If it is in an area where we already do plowing then we plow that one too and if it is a higher elevation we wouldn't plow up there unless the Council specifically revised this map.

Cascade Springs Road as you get up in the Soldier Hollow area we don't plow up there. We put up a gate in the winter and block that off. So recently we have paved that as part of a joint project with Utah State Parks and the U.S. Forest Service. They have requested that we move that gate to a location just a little bit further up so that it would make it would be easier to block the traffic.

What this ordinance does is adopts the map with that change. The other thing that it does authorizes the public works department to remove the gate where it currently is and to put a new gate where the present gate is. There were some minor updates to the map to incorporate new roads but besides this and this is really the reason for it. Also it would be a lot harder for a truck to get around a gate at this place but where it is now it is not hard for them to get around it. There is some good practical reasons for this.

Councilman Steve Farrell indicated that he was always under the impression that the developer was going to move the gate and not the County. The developer was going to maintain the road down to the historic turn around. Jon Woodard replied that the way it is written we would have the public works department doing that, both the maintenance and the moving of the gate. There are good reasons to do in order to make sure that we aren't running into issues with who is responsible for liabilities if the road is not maintained in a way that is up to County standards. We could have them move the gate but the public works department as it written now could authorize them to do it and it doesn't say how that gate is moved and just authorizes the public works department and how they did that I don't think would matter. I would have concerns with allowing a private entity to plow a County road.

Councilman Steve Farrell asked if we are going to plow up there shouldn't we require at least the developer to build a turnaround at that point. Right now you go up there and you would turn right into their development and there is no place to put the snow. I have had discussions and I thought that they were going to move and maintain the gate and then pave the road. Dustin Grabau replied that some of the considerations are that we do have an agreement for people that plow roads above this line and we don't typically have agreements for people to plow roads below this line. We have talked about this and the County Attorney is working on a road maintenance agreement process that we could utilize but we don't have it in place yet. It probably would be worthwhile and I can take that responsibility on Jon Woodard to reach out to the developers and see if they would be willing to facilitate a wider turn around for plowing to make sure that we have that availability and have a vested interest to make sure that we can do it safely as well.

Councilman Steve Farrell replied that right now that only in the winter time when that gate is closed there is only one access off from Cascade Springs Road and the second access is down

Ward's Lane which is a substandard road in the first place and got to approve the emergency access because of the historic use. By opening this up that gives them two accesses on Cascade road and plus the emergency access out of Cascade. I think that they had discussions to put stop signs on the road to protect their snowmobile and ATV trail that will cross the road. They have another snowmobile trail to the side of it.

Jon Woodard replied that if you wanted us to think through how to make the HOA able to do it we could think about that but it would be a fairly significant thing that would duplicate a lot of the work that Attorney Shelby Thurgood is working on right now. Dustin Grabau replied that they are interested in getting a more permanent access. In my mind I think that I would suggest that we pursue this if they would be willing to contribute to the relocation of that and make sure that there is a turn around. The incremental costs of plowing that few hundred yards more is probably not worth the complications that go along with it. Resolving the one-time items with them is how I would suggest that we proceed. Jon Woodard replied that would be my feeling as well and even make part of the motion approving it but we get contributions from the developer towards those costs for both the gate and the turn around. This is a first reading.

Councilman Steve Farrell replied that maybe between now and the second reading we can clarify the issues. Dustin Grabau replied that the problem is that we are putting the gate at a wash where there is a ravine and not going to be right at the gate and likely would be at the intersection and making that intersection wide enough to be able to have a more significant turnaround. We won't be plowing to the gate itself and plow to that intersection and that is where we would need the turnaround is at that section.

Public Comment:

Vice Chair Karl McMillan then opened the issue up for public comment and there was none so the public comment period was closed.

Motion:

Councilman Steve Farrell made a motion we approve as the first reading of Ordinance #23-12 amendment to the winter maintenance road map and the second reading on the third meeting in August. Councilman Mark Nelson seconded the motion and the motion carries with the following vote:

AYE: Vice Chair Karl McMillan

AYE: Mark Nelson

AYE: Erik Rowland

AYE: Steve Farrell

AYE: Kendall Crittenden

AYE: Luke Searle

NAY: None.

**PUBLIC HEARING
JULY 19, 2023**

MARGO FRANCE REQUESTS THE CREATION OF AN AGRICULTURAL PROTECTION AREA CONSISTING OF APPROXIMATELY 20 ACRES OF HORSE BOARDING AND HUSBANDRY OPERATIONS LOCATED ON PARCEL 12-8566 IN THE NORTH FIELDS AREA IN THE AGRICULTURE 20 (A-20) Zone.

Staff:

Nathan Rosvall, the Assistant Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that the applicant Margo France, is requesting an Agriculture Protection Area for property located in the Agriculture A-20 Zone at 1800 North and 1750 West in the north fields. The property contains 20.07 acres. This is a lot of record in Wasatch County. Two properties have been included in the Agricultural Protection Area.

The proposed Agriculture Protection Area includes 10 structures, all utilized for agricultural purposes. All buildings are located near the west and rear of the property and centrally located on the parcel. The property is a legal nonconforming lot of record. The agricultural use on the property includes horse boarding and husbandry with a pasture for grazing. The adjacent property owners currently use their properties primarily for residential and agricultural purposes.

Wasatch County 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.

Wasatch County Code requires the following noticing methods sending notice to all property owners within 1,000 feet of the requested agricultural protection area, positing notices on the Utah Public Notice website, and posting notice at five places within or near the proposed Agriculture Protection Area.

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. At the time of this report no objections have been received in response to the notices sent.

If the proposal is approved by the legislative body the County will need to do the following:
1. Designate the property as an Agricultural Preservation Area on the County zoning map.

2. Give constructive notice of the existence of the Agriculture Protection Area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the Agriculture Protection Area within ten days of the creation of an Agriculture Protection Area, the County Planning Department shall file an executed document containing a legal description of the Agriculture Protection Area with the County Recorder and The Planning Commission.

Within 10 days of the recording of the Agriculture Protection Area, the County Council Chair shall submit notification via email to the Utah Commissioner of Agriculture and Food that the Agriculture Protection Area has been created. The notification needs to provide the following information.

- A. The number of landowners owning land within the Agriculture Protection Area.
- B. The total acreage of the area.
- C. The date of approval of the area and
- D. The date of recording.

Nathan Rosvall then went through the proposed findings:

- 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 off 1800 North and 1750 west.
- 3. The parcel is 20.07 acres.
- 4. The property is a legal nonconforming parcel.
- 5. The current use of the property proposed for protection status is for horse boarding and husbandry with pasture for grazing.
- 6. The proposed area includes ten existing structures 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. 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.
- 9. Surrounding properties are zoned A-20 and are used for similar agricultural pursuits.
- 10. No objections have been received in response to the notices sent or signs posted on the property.
- 11. If the Agricultural Protection Area is approved, the approval will be in effect until the 20th calendar review year.

Nathan Rosvall then listed 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:

Vice Chair Karl McMillan then asked if the applicant was here and the applicant was not present.

Public Comment:

Vice Chair Karl McMillan then opened the hearing up for public comment and there was none so the public comment period was closed.

Motion:

Councilman Kendall Crittenden made a motion that we approve the creation of an Agricultural Protection Area consisting of approximately twenty acres on Parcel 12-8566 in the North Fields area in light of the findings and subject to the conditions and also with the proposed modification as has been presented. Councilman Erik Rowland seconded the motion and the motion carries with the following vote:

AYE: Vice Chair Karl McMillan

AYE: Luke Searle

AYE: Kendall Crittenden

AYE: Steve Farrell

AYE: Erik Rowland

AYE: Mark Nelson

NAY: None

DEBORAH KNIES, REPRESENTING MARY E. SCHWARTS, REQUESTS THE CREATION OF AN AGRICULTURAL PROTECTION AREA OF 36.61 ACRES OF PASTURE AND LIVESTOCK OPERATIONS CONSISTING OF PORTIONS OF PARCELS 12-7402 AND 07-77979 AND THE ENTIRETY OF PARCELS 07-8316 AND 07-7946 ALL LOCATED IN THE NORTH FIELDS AREAS IN THE AGRICULTURE 20 A-20 ZONE.

Staff.

Nathan Rosvall, the Assistant Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that Deborah Knies representing Mary E. Schwartz, is requesting an Agriculture Protection Area for properties located in the Agriculture 20 A-20 Zone of Wasatch County. There are a total of five properties with 42.29 combined acres.

The land is devoted to agriculture, including growing hay crops in the spring and summer using flood irrigation techniques, including canvas dams to divert the water in the ditches for irrigating the pastures. Grazing of livestock during the spring, summer and fall in various pastures and during the winter months and into calving season the feeding of livestock. According to the applicant more than 50 percent of the properties are used for agricultural purposes. The adjacent property owners currently use their properties primarily for residential and agricultural purposes. The process for obtaining the designation of an Agricultural Protection Area includes review and recommendation by the Agriculture Advisory Board and the Planning Commission prior to the consideration of approval or denial by the County Council.

Wasatch County Code Section 16.29.06 requires that the Planning Commission and the Agriculture Advisory Board shall report their analysis to the County Council which shall be:

1. Analyze and evaluate the effects of the creation of the proposed area on the County's planning policies and objectives.
2. Analyze and evaluate the proposal by applying the criteria contained in Section 16.29.08.
3. Recommend any modifications to the land be included in the proposed Agriculture Protection Area.
4. Analyze and evaluate any objections to the proposal.
5. Include a recommendation to the County legislative body to either accept, accept and modify or reject the proposal.

At the time of this report, no objections have been received in response to the notices sent.

Nathan Rosvall then indicated that this noticing language in your staff report is the correct noticing language. The only difference is this says that it is a parcel and we are including the entirety which will be 42.29 as opposed to the 26.61.

Nathan Rosvall then went through the proposed findings:

1. The request is to create an Agriculture Protection Area to maintain the agricultural use and the rural environment.
2. The subject properties are located in the Agricultural A-20 Zone of Wasatch County North Fields.
3. The combined acreage of the Agricultural Protection Area is 42.29 acres.
4. The current use of the property proposed for protection status is greater than 50 percent of the land is devoted to agriculture, including growing hay crops utilizing flood irrigation techniques, grazing livestock and the feeding of livestock in the winter months going into calving season.
5. The proposed area includes two existing single family structures and two outbuildings located on parcels 12-7402 and 07-7593. The remaining three parcels have no structures: 07-7946, 07-8316 and 07-7979.
6. The five parcels do not have a Lot of Record associated with the parcel.
7. Rock Creek runs through parcels 12-7402, 07-7946 and 07-7979,
8. 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.

9. Commonly found soils in the North Fields are Fluventic Haploborol, this soil is common for tall grasses, Kovich this soil occurs on broad valley floors and is a slow permeable soil, and Logan soil is common for meadow hay and pasture.

10. 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.

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

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

13. 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 to ensure downstream flows.

Applicant:

Vice Chair Karl McMillan then asked if the applicant was present and the applicant was not present.

Public Comment:

Vice Chair Karl McMillan then opened the hearing up for public comment and there was none so the public comment period was closed.

Motion:

Councilman Erik Rowland made a motion that we approve the creation of an Agricultural Protection Area of 42.29 acres in the North fields encompassing parcels 12-7402. (23.42 acres), 07-7946 (12.03 acres) 07-7953 (1 acre) 07-8316 (5 acres) and 07-7979 (84 acres) in light of the findings and subject to the conditions and the proposed modifications as outlined by the proposal. Councilman Kendall Crittenden seconded the motion and the motion carries with the following vote:

AYE: Mark Nelson

AYE: Erik Rowland

AYE: Steve Farrell
AYE: Kendall Crittenden
AYE: Luke Searle
AYE: Vice Chair Karl McMillan

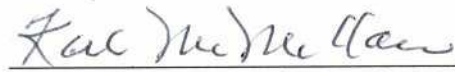
NAY: None.

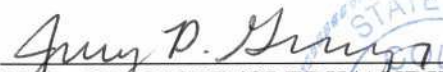
ADJOURNMENT

Councilman Kendall Crittenden made a motion to adjourn. Councilman Luke Searle seconded the motion and the motion carries with the following vote:

AYE; Vice Chair Karl McMillan
AYE: Luke Searle
AYE: Kendall Crittenden
AYE: Steve Farrell
AYE: Erik Rowland
AYE: Mark Nelson
NAY: None.

The meeting adjourned 8:33 p.m.


KARL MCMILLAN/VICE CHAIR


JOEY D. GRANGER/CLERK/AUDITOR

