

**MINUTES OF THE  
WASATCH COUNTY COUNCIL  
FEBRUARY 21, 2024**

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

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

**EXCUSED:** Councilman Kendall Crittenden

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

**PRAYER:** Councilman Erik Rowland

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

Chair Spencer Park called the meeting to order at 4:00 p.m. on Wednesday February 21, 2024 and indicated that all the Wasatch County Council are present with the exception of Councilman Kendall Crittenden who is excused. The record should reflect that the Wasatch County Council is meeting in the Wasatch County Administration Building located 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 is any legislative issues for future meetings.

County Manager Dustin Grabau indicated that the clerk/auditor's office has requested that we hold a board of canvassers meeting on March 19, 2024 at 2:00 p.m. so this would be outside of our regular meeting schedule. The purpose of this meeting is to canvass the Democratic Primary Election. Also a request was received for an agenda item considering water use on an approval. I have asked that individual who requested it to provide me the information and then I would share that with the Council. We also have an owner's representative of a land use approval here who is requesting a re-consideration of a particular agenda item for Strawberry Ranches and if we want to consider a future meeting where we would look at some potential revisions to that approval. We probably could work that matter out with Chair Spencer Park and we could talk with the staff for best timing for that type of approval. Chair Spencer Park indicated that he would work with staff regarding the matter and then put it on the agenda when we have the information that is needed.

## **ADMINISTRATIVE ISSUES FOR FUTURE MEETINGS**

Chair Spencer Park then asked if there were any administrative issues for future meetings and there was none.

## **PUBLIC COMMENT FOR ISSUES NOT ON THE AGENDA**

Mike Winward, from the Senior Citizens Center, addressed the Wasatch County Council and indicated that we are still going ahead with our pie day. We are getting the other cities involved and other city council's involved for just some friendly competition and we want you to join in to abuse you. That will be held March 14, 2024 at the Senior Citizen's Center at noon. We are doing this to raise money for the meals-on-wheels and we will charge everybody \$2.00 for the pies.

## **APPROVAL OF THE MINUTES FOR FEBRUARY 7, 2024**

**Councilman Karl McMillan made a motion to approve the minutes from February 7, 2024 as they are written. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:**

**AYE: Chair Spencer Park**

**AYE: Erik Rowland**

**AYE: Mark Nelson**

**AYE: Steve Farrell**

**AYE: Luke Searle**

**AYE: Karl McMillan**

**NAY: None.**

Chair Spencer Park indicated that we now need a motion to leave our regular session and go into SSA #1 to handle some matters.

**Councilman Steve Farrell made a motion to go into SSA #1. Councilman Karl McMillan 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; Luke Searle**

**AYE: Karl McMillan**

**NAY: None.**

#### **SSA#1**

Board Chair Steve Farrell indicated that we have warrants to approve and Ben Probst will present them and there are a couple of contract amendments.

Ben Probst, CPA for SSA#1, addressed the Governing Board and indicated that there is a bill for Central Utah Water for \$1,162,668.00. One to Gilbert and Stewart for \$855.00 and another one from them for \$700.00 for January that is not on the list. Then JSSD amounts for a total of \$10,485 and Wasatch Wave for public notice of \$32.38 for a total of \$1,174,740. 38. Board Chair Steve Farrell indicated that to just add some clarification the \$1,162,000 is our assessment for our supplemental water that we pay annually and collect that from the water users. The \$10,485.00 that is an administrative fee and we have the JSSD provide the administrative services to the SSA#1 and the water board. Part of that is for their time and the majority of it is for attending the water conference in St. George in two weeks and that is how we pay for Council to go to that.

**Board Member Karl McMillan made a motion to approve the warrants as have been presented. Board Member Spencer Park seconded the motion and the motion carries with the following vote:**

**AYE: Board Chair Steve Farrell**

**AYE: Board Member Mark Nelson**

**AYE: Board Member Erik Rowland**

**AYE: Board Member Luke Searle**

**AYE: Board Member Karl McMillan**

**AYE: Board Member Spencer Park**

**NAY: None.**

Board Chair Steve Farrell indicated that he has two contracts that we need to amend for SSA#1. The first one is Contract 97-SLC - 0343 and it is between Central Utah Water Conservancy District, United States Department of Interior and Bureau of Reclamation, United States Department of Interior United States Department Central Utah Completion Act Office, Wasatch County Special Service Area No. 1 and the United States Department of Energy, Western Area Power Administration for the Electric Service to the Wasatch County Water Efficiency Project of the Central Utah Project and what this is doing is adding Central Utah as a party to this agreement. It is like any other government contract and it is hard to understand but that is what it is doing. I need to have authorization to go ahead and sign this contract as presented.

**Board Member Karl McMillan made a motion to give Board Chair Steve Farrell authorization to sign this contract. Board Member Erik Rowland seconded the motion and the motion carries with the following vote:**

**AYE: Board Chair Steve Farrell  
AYE: Board Member Mark Nelson  
AYE: Board Member Erik Rowland  
AYE: Board Member Luke Searle  
AYE: Board Member Spencer Park  
AYE: Board Member Karl McMillan**

**NAY: None.**

Board Chair Steve Farrell indicated that the second agreement is a contract between Wasatch County Special Service Area No. 1, the Central Utah Water Conservancy District, United States Department of Interior for the storage carriage agreement for non-project water to be held in Jordanelle Reservoir. This is what they call the Warrant Act where we are able to store non-project water into a government program. It amounts to five thousand acre feet. It is earmarked for the Ontario Tunnel and the contract with SSA#1 will be with JSSD and with Midway Irrigation Company because they are the two that has Ontario Tunnel Water. Now we do have storage rights for the companies that are in the efficiency project that came from the upper lakes and that has been transferred down as part of the project down to Jordanelle. This has been a long time coming and we are able to move space out of Deer Creek up to Jordanelle.

Board Member Luke Searle asked is this just a matter of adding capacity for us. Board Chair Steve Farrell replied that it is adding storage capacity to JSSD and Midway being able to use water that comes out of the Ontario Tunnel. In the case of JSSD they have got a lot of water that runs year round that they don't need during the winter time so they can store it. In the case of Midway Irrigation Company we have water from April 15<sup>th</sup> to about July 15<sup>th</sup> that we are running down the river that we don't have a need for it until the natural flow drops and then we can use that water to

go out the rest of the season. There will be a charge for this water. We will pay thirty-three dollars an acre foot just like everyone else of water being stored in Jordanelle.

Board Member Karl McMillan asked how much are we pumping up the hill for snow during the winter: Has Mike Covey, the General Manager of Jordanelle, ever said. Board Chair Steve replied that I think it is around 125 acre feet. I will need a motion on this.

**Board Member Karl McMillan made a motion to authorize Board Chair Steve Farrell to sign both of these agreements. Board Member Erik Rowland seconded the motion and the motion carries with the following vote:**

**AYE: Board Chair Steve Farrell  
AYE: Board Member Mark Nelson  
AYE: Board Member Erik Rowland  
AYE: Board Member Spencer Park  
AYE: Board Member Luke Searle  
AYE: Board Member Karl McMillan**

**NAY: None.**

**Board Member Luke Searle made a motion to go out of SSA#1 and go back into the regular Council Agenda. Board Member Spencer Park seconded the motion and the motion carries with the following vote:**

**AYE: Board Chair Steve Farrell  
AYE: Board Member Mark Nelson  
AYE: Board Member Erik Rowland  
AYE: Board Member Spencer Park  
AYE: Board Member Luke Searle  
AYE: Board Member Karl McMillan**

**NAY: None.**

## **COUNCIL AGENDA**

### **RECOMMENDATION FOR APPOINTING A HEARING OFFICER FOR LAND USE APPEALS**

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that as part of the land use changes approved by the County Council in 2023, the shift away from a Board of Adjustment to a hearing officer was approved effective this month. The County solicited through RFP's for qualified applicants to fill that role. The County received two

responses from attorneys. The staff recommends that the Council authorize the County Manager to enter a contract with Polly McLean as a hearing officer for Wasatch County. I need a motion to authorize myself as the County Manager to execute an agreement with Polly McLean as a Hearing Officer.

**Board Member Steve Farrell made a motion that we approve the recommendation of the County Manager appointing a hearing officer for land use items by the name of Polly McLean. Board Member Karl McMillan 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: Luke Searle**

**AYE: Karl McMillan**

**NAY: None.**

#### **CONSIDERATION OF ORDINANCE 24-01 GRANTING A FRANCHISE AGREEMENT TO QUEST CORPORATION**

Dustin Grabau, the Wasatch County Manager, addressed the Wasatch County Council and indicated that a first reading of this ordinance was on February 1, 2024. There were a couple of questions about the previous franchise agreements and my understanding is that we did not have a franchise agreement prior to this for this applicant and the part of remedying that process is this franchise agreement now. Dustin indicated that he got a request from the Wasatch County Public Works Department to consider an amendment to the agreement that would provide basically an avenue for us to notify the franchisee of a need to relocate their services in the event there is a public right-of-way work like storm drain work and if there is a franchisee in the way that we would provide notice to them and that they would have as a minimum three days to respond to that.

Shelby Thurgood, the Assistant Wasatch County Attorney, indicated that there is a relocation section already which is Section K and that it already allows us to a relocation so the issue might already be in there. Dustin Grabau indicated that the concern was mostly when the timeliness of the response to that relocation. Maybe this should be something that we should consider in future franchise agreements. Shelby Thurgood replied that in the past our franchise agreements have been inconsistent and in the last two years we have been trying to get them all consistent and this is part of it in getting everybody who needs a franchise agreement in the process with a franchise agreement. Quest Corporation have requested it.

They have several projects that are ongoing and the way we have been handling this is license agreements per project and they would like to get an overall franchise agreement in place so they don't have to get a license agreement for each project.

Councilman Steve Farrell replied that this is our agreement that we ought to maybe go ahead and approve it subject to them adding our recommendations for timeliness by our Public Works Director. Shelby Thurgood replied that she understands the Public Works Director's concern and we can be more explicit in the future but this one in K-1 the requirement is that the franchise shall diligently begin a relocation as reasonably necessary to meet the County requirement. There is some protection there. If we add that I would want to talk to Quest before about that. If you want to move it to a third reading, if you want to proceed this way and add a specific date. I wouldn't want to adopt it and then ask them to change it. I would just continue with their agreement if that is what you want to do. We have been negotiating and they have to accept it.

Chair Spencer Park asked is there a way to approve it if they accept this thing and if not bring it back to the Council for a third reading if they do not accept it. Dustin Grabau replied that I can see their concern with three days because that is a pretty short time frame. Shelby Thurgood replied that her recommendation is that if the Council wants to add a time frame my recommendation would be push it to a third reading because there will be some pretty significant negotiation on what days we would chose if we were going to choose a specific day. If we have a third reading and after further negotiation it will be much easier to approve it then approve it today.

**Councilman Steve Farrell made a motion to put this off for a third reading and present to them the concerns of our public works director and the time frame. 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: Steve Farrell**

**AYE: Erik Rowland**

**AYE: Mark Nelson**

**NAY: None.**

## **COUNCIL/BOARD REPORTS**

Councilman Luke Searle indicated that Dustin Grabau wanted to know if we would want to hire a facilitator for our March work meeting to go over goals. It would be beneficial for somebody to come and facilitate that meeting or we need a direction on that so we could move forward with it. Dustin Grabau replied that would help the Council explore more topics more thoroughly than we might otherwise. Councilman Steve Farrell replied that why can't we assign Heber Lefgren, the Assistant Wasatch County Manager, to do that. Dustin Grabau replied that we could do that.

Councilman Karl McMillan indicated we were approached by Kelly Christensen about the County and American Eagle should provide a recycle facility at the airport road. We will write a letter that we are not getting in the recycle business. Councilman Steve Farrell replied that could be beneficial to have something like that to take the green waste because it will save us from taking it to Duchesne. I think they should make a proposal and we could tell them that we accept or not and make a counter offer. Councilman Karl McMillan indicated that he will talk to Kelly Christensen about that.

Councilman Erik Rowland indicated that we met at the Wasatch County Administration Building and it was a good meeting and had some good action items. We are going to put together an RP for Council to get ready for discussion and that will give us a chance to go to the next steps. Dustin Grabau replied that will be on the March 6<sup>th</sup> meeting and have the RP ready for us.

Councilman Erik Rowland indicated that he had a chance to present at the Chamber which was great and questions came after and all of those was about the bypass

Councilman Mark Nelson indicated that Ron Crittenden passed away the other day. In years past he came to a lot of County Council meetings and very diligent and would stand up and argue what he believed in and was always great to work with.

Councilman Mark Nelson indicated that Roger Brooks is a planner and he has been invited and will be here on March 5<sup>th</sup> and Heber City is bringing him and Wasatch County leadership is invited. The CRA will be discussed and bypass stuff also. Also George Hansen from Midway wrote a letter regarding the bypass both to Heber City and Wasatch County Councils.

## **MANAGER'S REPORT**

### **UAC CONFERENCE**

Dustin Grabau indicated that UAC is holding a management conference which will be in St. George Tuesday April 30<sup>th</sup> and Wednesday May 1<sup>st</sup>. They are switching to having this conference in this time frame and have the fall conference up in the Wasatch Front area in that time-frame as we prepare for legislative so it is easier for state legislators to participate so if any of you would like to attend that meeting just let us know so that you can get you registrations for that conferences so we can work out the details.

Chair Spencer Park indicated that there is a need for a closed session to discuss personnel.

**Councilman Erik Rowland made a motion to go into Closed Session for Personnel. 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: Steve Farrell**

**AYE: Erik Rowland**

**AYE: Mark Nelson**

**NAY: None.**

**MINUTES OF THE  
WASATCH COUNTY COUNCIL  
CLOSED SESSION  
FEBRUARY 21, 2024**

Chair Spencer Park indicated that the record should show that we are meeting in the Wasatch County Council Chambers in the Wasatch County Administration Building located at 25 North Main, Heber City, Utah 84032 to discuss personnel.

**PERSONNEL**

**PRESENT;** Chair Spencer Park  
Karl McMillan  
Mark Nelson  
Erik Rowland  
Steve Farrell  
Luke Searle

**STAFF:** Dustin Grabau, the Wasatch County Manager was invited in.

No minutes were kept of this personnel meeting because of the sensitive nature of it.

**Councilman Karl McMillan made a motion to come out of Closed Session and go back into regular session. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:**

- AYE: Chair Spencer Park**
- AYE: Mark Nelson**
- AYE: Karl McMillan**
- AYE: Luke Searle**
- AYE; Erik Rowland**
- AYE: Steve Farrell**

**NAY: None.**

Chair Spencer Park then indicated that the time is 6:00 p.m. which is time for the Public Hearing scheduled for this evening. The record should show that all the County Council is present with Councilman Kendall Crittenden being excused and Councilman Erik Rowland present via Zoom.

**PUBLIC HEARING  
FEBRUARY 21, 2024**

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

**Staff:**

Doug Smith, the Wasatch County Planner, presented a power point presentation and then addressed the Wasatch County Council and indicated that this is a proposal to amend the existing Agricultural Protection Area code in 16.29 as well as sections in 4.09.02 and 2.02.19. This amendment adds the ability to protect industrial areas. The various code sections proposed to be amended allows for an application fee, provides for an Industrial Protection Advisory Board and outlines a process for designation property as an Industrial Protection Area and establishes criteria for Industrial Protection Areas.

The Agricultural Preservation Area code was adopted at the end of 2022 and has been used a number of times by property owners in the north fields with the intent to preserve their agricultural uses. Utah state code 17.41 allows for the preservation of agricultural areas and industrial areas in the same code. The amendment to the County code is simply adding industrial uses to the Agricultural Preservation Area code so it can do what the State code already allows. The intent of the State and proposed County code is to provide protection, already afforded for agricultural uses, for industrial areas. The protection allowed by these codes is intended for urbanizing areas which industrial uses are being encroached on by uses that are not compatible with industrial zones and

uses. Farms and industrial uses might have been somewhat remote when initially approved but with increasing development pressure may get residential neighbors who complain about noise, odors, dust, lighting, hours of operations, etc.

Doug Smith indicated that we have an acting board and the State Code requires a board, planning commission and a council to approve and both the board and the planning commission make recommendations to the council. For the Ag preservation ordinance we are using the Soil Conservation Board and we thought why re-create the wheel with this, let's just use the same board. They know what they are doing with this and so we have a process worked out with them. I went to them a week ago today and presented it to their body and they were unanimously in favor of it. It also adds to the fee schedule, a fee for approving or going through the process for the application for an Industrial Preservation Area. It defines that the industrial area covers those areas zoned industrial and PF public facilities. Finally to add the language for the agricultural preservation code and all the things that go along with that and what is required and that type of thing. What I added is there are portions of the code that we adopted for the Agricultural Preservation Area that excluded the bypass road areas. I added areas along Highway 189 and portion of the bypass alignment as shown in the Wasatch County General Plan Map which is south of SR 113. The intent of this as you have agricultural or industrial you have in rapidly in urbanizing areas potential for homes to expand next to industrial or agricultural uses and then as a result nuisance complaints arise. Hopefully this protects against those things. The proposed amendment would allow for the use of the Wasatch County Soil Conservation Board, who is serving as the Agricultural Preservation Board, as the board for the Industrial Protection Board.

Doug Smith indicated that State and County preservation codes allow for protection of preserved areas in the following ways:

1. Limits local regulation changes and rezoning of property.
2. Excludes protected areas from certain nuisance complaints.
3. Stipulates that State and County agencies should encourage the continued viability of the protected uses.
4. Has restrictions on the use of eminent domain
5. Has restrictions on State development projects.

For the most part, the additions to the existing Agricultural Preservation Area code 16.29 is only adding the phrase and industrial protection areas. The majority of the text is the same other than the aforementioned phrase. This is because the state code, which the county code used as a template, currently allows for the protection of industrial areas. The code changes are minor as you can see.

Doug Smith indicated that some key issues to consider are:

1. Is it appropriate to preserve industrial uses in the industrial zone and the PF Zone?
2. Is the Agricultural Protection Advisory Board, now in place and processing Agricultural Preservation Areas applications, the appropriate body to use as the industrial Protection board?

Doug Smith indicated that in short the code provides for the following:

1. As Industrial Preservation Advisory Board
2. A fee for the review and processing an Industrial Preservation Area application.
3. Defines that the Industrial Protection Area covers those areas zoned Industrial and PF Public Facilities
4. Adds language to the Agricultural Preservation code that allows for the processing public hearings and review of Industrial Protection Area applications.

Doug Smith then went through the following findings:

1. Wasatch County and the surrounding incorporated cities are developing rapidly.
2. Residential development may encroach on industrial type uses and zones.
3. Residential development may not be compatible with some industrial zones and industrial type uses.
4. State code 17.41 allows for Industrial Protection Areas.
5. Wasatch County adopted an Agricultural Preservation Area code in 2023 based on State Code 17.41.
6. The Agricultural Preservation Code has been used to process a number of Agricultural Preservation Areas.
7. This proposal amends the existing Agricultural Preservation code and makes some minor changes mostly adding the phrase, and Industrial Protection Areas.
8. There are certain areas of the County with industrial type uses in the industrial zone and PF Public Facilities zone that should be protected from encroaching development.
9. This proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan including sections 6.1.2, 6.1.3, goal 8, 11.4.2 and 11.4.4.
10. The proposed amendment uses the existing Agricultural Preservation Area Board as the board for the Industrial Preservation Area Board.
11. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

**Council Comments:**

Councilman Luke Searle asked what the restrictions of the use of eminent domain is. Doug Smith replied that I don't know that I have the ability to answer that because it would probably be a legal process that would have to be a lot lengthy. Scott Sweat, the Wasatch County Attorney indicated that some will be allowed and some won't be. Councilman Luke Searle indicated that in our General Plan we all have a goal that the County should work with Heber City in their efforts to establish a truck route west of the city. I guess ideally with Map 32 us keeping the space that would be there for a route but I don't know if UDOT's plans on the space on how much right-of-way is needed if they were to utilize south fields road on that portion that they would need more space or not and would it be more difficult if an Industrial Protection Area would be around those spaces

for them to be able to use eminent domain. Dustin Grabau indicated that it would be a 200 foot right-of-way.

Councilman Karl McMillan said I don't see a problem with bringing this on line at all. If the state as to play eminent domain then they will play eminent domain and in the meantime I think this protects business owners of the County.

Councilman Steve Farrell said where this is the option of the owner of the property and if there is some way they could work it out and not go through the eminent domain they would. The owner can make any amendments to as they want or see fit too. The protection is from the growth and the housing and the complaints.

**Public Comment:**

Chair Spencer Park then opened the matter up for public comment.

Heidi Franco, Vice Chair of the Heber Valley Special Service District, supports the Industrial Protection Area ordinance and thank you again to the County Council for moving so quickly on what we believe was just our informal request to you about this. I do represent of HVSS users within Heber City who like their low cost and effective treatment. Heber City and HVSS treatment users do not want to pay higher cost for nuisance lawsuits because of incompatible growth that is encroaching next to the existing sewer treatment facilities. HVSS treatment users do not want to replace existing infrastructure with incredibly higher cost infrastructure somewhere else. Heidi Franco then referred to a draft letter that HVSSD is preparing to you asking for this ordinance but the draft letter was not formally approved yet and will be part of the record. The HVSSD attorney has advised us on the board with the incredibly high expense of nuisance litigation without this ordinance. We would greatly appreciate the County Council approving this ordinance to mitigate the impact of encroaching growth around existing valuable infrastructure for public utilities.

Heidi Franco indicated that she has a couple of questions. We have roughly 157 acres at the HVSS plant in Midway but there are some lots of record that are under the ten acres and one that is only two acres which is a lot of record so under this ordinance would all HVSS property come in in one application or would each lot of record need to have its own application and then we have some lots of record that are under the ten acres. Councilman Steve Farrell replied but I think we could do it in one application because the advisory board would have to review it and make sure they know they are addressing all the properties. Heidi Franco replied that would really make things easier for us and would greatly appreciate that given the lots of record. Finally, this proposed code that you are looking at in 16.2.12B asks that the Industrial Protection Area bear a direct relationship to public health and safety and that just applies exactly to the HVSSD Treatment Plant or other properties in the PF Zone. Thank you very much for considering this ordinance and greatly appreciate the protection it would give to HVSSD.

Bart Miller, from Heber Light and Power, addressed the Wasatch County Council and indicated that he shared with the Mayor the concern that you didn't have our substation in that industrial

already and if that was an oversight but need you to have to look into that. The other issue is that the state statute allows for critical infrastructure as well as this industrial so I just curious why the county is not looking at that right now. Finally the eminent domain issue does raise a little bit of concern with us because we may have to utilize it to get critical infrastructure again but typically it is governmental entities that are using eminent domain so I wonder why the state scratched that out. We would favor this ordinance being passed. Doug Smith replied that the State Code as Bart Miller mentioned does allow for critical infrastructure as I read through that and it was things like gravel pits for highways or that type of thing. When I first saw the critical infrastructure I thought well the sewer district has got to be critical infrastructure but it is not according to the State Code so that is why I went this route with the industrial.

Dustin Grabau asked Doug Smith to address the possibility and obviously be a policy choice would the preferred route to maybe rezone that as a public facility zone just around a substation then they would be eligible for this protection. Doug Smith replied that he can look into that. I didn't spend a lot of time on the critical infrastructure aspect of it. Maybe there is something with that type of thing and I will check and see if that is a possibility to add that to the code and also consider the same thing with JSSD properties if we zone their facilities as public facilities zone and then they would be eligible for this protection. The JSSD buildings are in an A-20 Zone I believe. If we did rezone it PF that it did not make it non-conforming and that type of thing.

Chair Spencer Park then closed the public comment period.

**Motion:**

**Councilman Karl McMillan made a motion to approve the Industrial Protection Act as has been presented and adopt the findings as presented. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:**

**AYE: Chair Spencer Park  
AYE: Erik Rowland via Zoom  
AYE; Steve Farrell  
AYE: Karl McMillan  
AYE: Mark Nelson**

**NAY: Luke Searle**

**ADJOURNMENT**

**Councilman Steve Farrell made a motion to adjourn. Councilman Karl McMillan seconded the motion and the motion carries with the following vote:**

**AYE: Chair Spencer Park**  
**AYE: Erik Rowland via Zoom**  
**AYE” Mark Nelson**  
**AYE: Luke Searle**  
**AYE: Karl McMillan**  
**AYE: Steve Farrell**

**NAY: None.**

Meeting adjourned at 6:30 p.m.

  
SPENCER PARK/CHAIRMAN

  
JOEY D. GRANGER/CLERK/AUDITOR

