

City of La Verkin

435 North Main St., La Verkin, Utah, 84745
(435) 635-2581 Fax (435) 635-2104
www.laverkin.org

La Verkin City Council Work Meeting Minutes

Wednesday, December 6, 2023, 5:00 pm.

Council Chambers, 111 S. Main, La Verkin, Utah

Present: Mayor Kelly Wilson; Council Members: Blair Gubler, Patricia Wise, Richard Hirschi, and Micah Gubler; Staff: Kyle Gubler and Christy Ballard; Public: Ben Willits and Matt Ence.

A. Called to Order-Mayor Wilson called the work meeting to order at 5:00 pm.

1. La Verkin topside, America First Credit Union

Ben Willits represents America First Credit Union (AFCU) for La Verkin Mesa, along with Matt Ence from Snow, Jensen & Reece, also representing America First Credit Union.

Ben explained they have been going back and forth with the property owner on how best to proceed. SITLA is now involved, and the proposed water tank is moving forward.

AFCU would like to get the property as ready as possible for a potential future buyer, but they also don't want to overly complicate it. A buyer could have a completely different vision of the property.

The main thing the Bank would like to do is get a development agreement that keeps the land uses intact but leaves the details to the buyer.

They would like to set the pods within the Planned Community Development Zone of what the land use type should be. Short-term rental zoning is a great example. The Bank knows the potential developer will want nightly rentals but doesn't know where they may want it. They want to ensure the general zoning for short-term rentals is in place and will carry over to the potential buyer in the development agreement.

They would like the major components to be in place without overly complicating or encumbering the property. They would like to get a development agreement finalized. With that, they will probably come in with a Public Infrastructure District (PID). The PID will be for the general framework, being accepted in general terms, stating the City is good with it and what the parameters need to look like.

Matt Ence said the development agreement is in draft form, so they are open to input from the City.

The development agreement does a few things, one of which is the overall master plan for the property, which consists of pods of different uses inside the overall PCD Zone. The development agreement would be recorded on the property to apply to any buyer.

The development agreement would confirm the number of units that can be developed on the property, which is 1600 units. It also puts into place some details about the developer's responsibility for providing public improvements. Some of that is already built into the City's ordinances, but a development agreement goes a little further by identifying the different categories.

This is where a PID would come into play. They would like the Council to consider creating one or more PIDs for the property. They can be put into place now while AFCU is the owner, and when that property is sold, the new property owner will take responsibility for the PID.

The PID will issue bonds to help pay for the public infrastructure. One of those categories is water improvements, which includes the water tank being discussed between the City, AFCU, and the Water Conservancy District. Parks & trails are another category that could be financed with a PID. Any public improvement that will ultimately be owned by a city or any other public entity could be financed by a PID.

The sewer line could be financed, but after talking with Ash Creek SSD, it is his understanding they would like to make it part of the capital facilities plan and build it themselves.

Mayor Wilson stated that may have changed.

Ben mentioned the treatment facility and the Town of Virgin may be driving a change.

Matt reported he attended a Water Conservancy District meeting where the District essentially agreed to accept a proposal for Virgin to become part of the regional water supply agreement. A potential condition of the proposal was for Virgin to join Ash Creek and be part of that system. There is definitely a possibility it could be financed through a PID.

Mayor Wilson mentioned that Mike Chandler questioned whether impact fee money could cover the cost. Virgin could help cover the cost as well.

Ben mentioned that would be the ideal circumstance for a PID. The property owners of that project would pay for their infrastructure.

Kyle said he felt Virgin should be taken into consideration. La Verkin City only needs to get to our boundary. They should also be responsible for the upsize of the line.

Mayor Wilson reported he had had that conversation at the Water District meeting. He also told Mayor Kraus that now is the time to get on board with Ash Creek & the Water District because it would save them a lot of money to do it while this infrastructure is going in.

Matt said this conversation highlights why the Bank wants to get one or more PIDs in place now. Whatever the needs are determined to be, financing mechanisms are available.

Councilwoman Wise asked for the breakdown for more than one PID.

Matt replied that more than one PID is good for large projects. Projects like this are usually developed in phases. Having more than one allows the financing of the public improvements also to be done in phases. He used the example of commercial along the highway getting developed first. That could be the first PID, with a second PID taking on the next residential phase. It is also a tool for bond underwriters who will ultimately advise the PIDs on structuring the bonds, so they are marketable.

A PID can issue more than one bond, and they can do it over time. He has seen that done in projects that use a special assessment area instead of a tax levy for specific areas within the project. The more common technique is multiple PIDs.

Councilwoman Wise asked if the different phases would pay for all the PIDs. And how does it get written when you have no idea when the future will happen?

Matt replied no, they would be structured not to overlap unless there was a reason to.

Mayor Wilson commented that the entire project should pay for the water and sewer lines because they will all benefit from it.

Matt replied those reasons are why it needs to be flexible so those decisions can be made at the appropriate time of development. Second, having a commercial portion of a project to finance improvements that benefit more than just that area is not unusual. They have PIDs that are part commercial and part residential. If a city council wasn't comfortable with a tax levy on the residential side, they could levy the tax for the commercial side and create a small special assessment bond for the residential side. He thinks that is justifiable where the uses and impacts are different. These are the kinds of decisions that are made, not at the time of the creation of the PID but more when it comes time to structure the bonds. They would like the City Council to set parameters they are comfortable with. The goal is to make them flexible enough that when development begins, the developer can work within those boundaries.

In this situation where the bench is segregated from the City, no matter how the PIDs are structured, we have accomplished the primary goal of not having anyone else bear the financial burden. He feels we can preserve flexibility and still reach the City's objectives.

Councilwoman Wise asked how many acres would be commercial and if it would all be parallel to SR9.

Ben said the current general land use plan has a commercial/mixed-use pod along SR9 that is about 22 acres.

PIDs are not based on how much commercial goes in. The PID is based on the lift of that infrastructure to get the project off the ground. The biggest lift, as far as cost goes, is in the first phase to get the water and sewer line in place. That PID could come in with the commercial potentially going in first. The larger PID would be first; future residents would help pay that bond down as the project is built out. As future PIDs come in, the commercial may not have anything to do with three phases down. In this case, the PID expert, D.A. Davidson, would show how that would work. He suggested having the D.A. Davidson representative attend a meeting to explain how the detailed items would be structured, how this is equitable for the first guy coming in and the last guy coming in, and how it indemnifies the City. There is a formula for how everything gets paid back.

Kyle explained to the Council that the City would have Zions Bank advising us.

Matt said typically, PIDs do not finance the infrastructure costs of an entire project. What really is being talked about is the developer is ultimately responsible for making sure the public improvements get built. PIDs allow them to access public funding at public funding rates by issuing tax-free bonds.

He doesn't think we should expect that PIDs will do it all. The developer coming in should recognize they will still have a heavy lift in terms of improvement costs. This project may be a little different in that the commercial may be viable and could take a significant chunk of it right up front, but he is confident that it will definitely not pay for all of it. It also gives AFCU a positive thing to present to potential buyers that a development agreement is already in place and the PID has been approved and available. It also assures the City that sufficient avenues are available to the developer to get the capital needed to do the project.

Kyle explained another benefit of multiple PIDs is that the payout doesn't start until they are activated.

Councilwoman Wise asked what would happen to the topside without a PID.

Matt answered that there are developers out there who can pay those heavy costs upfront, but putting PIDs in place provides additional capital resources they may not otherwise be able to access. It also provides some flexibility.

Councilwoman Wise commented that once this six-member council agrees to a PID, they are committing to how the topside will be. That is a big decision.

Matt said that is a valid point. PIDs have only been available in Utah for four years. We have some excellent examples of projects that are success stories for PIDs. Lots of great things were done before that. This is just another tool. He does think that in this scenario, where the property is isolated from the rest of the City and the public improvements are significant to make it developable, it is a perfect PID project.

That is the City Councils call. If the Council isn't comfortable approving a PID at this point in the process, they would love for the Council to at least approve the development agreement. He does think the PID makes sense.

Ben explained they do not want to hang up the development agreement for the PID. They would rather defer that and keep the development agreement moving forward without it. Once a potential developer comes on board, we can have that discussion with them. However, the Bank would still love to have the PID tool to market the property.

Councilman Micah Gubler arrived at 5:35 pm.

Mayor Wilson asked if the AFCU was still moving forward with the Water District and BLM on the water tank. He feels that needs to keep moving so development can start as soon as possible.

Ben said yes, they are. SITLA is now party to the agreement with AFCU and the Water District to move forward with the initial cost-share initiatives needed to get the permit going. From there, they will move into the environmental process.

Matt said SITLA's property can be part of the PID, but SITLA itself will not be because they are a tax-exempt entity. At this stage, the Bank would probably propose that we establish the initial boundaries on the Bank-owned property only, with the ability to expand to other properties that benefit from the financed improvements.

Councilwoman Wise asked if the BLM was helping to pay for the water tank.

Ben replied that BLM is the agency overseeing the application to put the right of way. La Verkin City is also not helping to pay for the tank. They will be the purveyor of the tank.

The maintenance agreement is part of what will need to be worked through with the Water Conservancy District.

Kyle explained the City or the Water District are the entities that can own the water tank.

The Mayor said the District may be the entity controlling the tank because they may want to use that water for Virgin Town. The City would still be responsible for the water lines in the development.

Councilwoman Wise asked about the discussion with Ryan Lee and his property.

Ben replied they had had discussions with him as part of the diligence items Mr. Lee has before the property closes.

Councilwoman Wise asked for a realistic time frame for shovels in the ground for the water tank.

Ben said the biggest hurdle is the environmental process with the BLM but thought 18 months-2 years if everything went smoothly.

The Bank will start the "soft cost" processes like the studies but will not do the "hard cost" process. Once the tank is approved, the Bank will put it on hold to let a developer cover that cost.

He thinks the property will get more attention once developers can see the tank and sewer line process moving forward and a development agreement in place.

Kyle mentioned that over the last eight years, those items specifically have been the big hurdle for that property.

Councilwoman Wise mentioned her concern is that the topside will become one La Verkin, and the lower will be another La Verkin. She would like the topside integrated to the point we have one city and not two and gave some examples of how to possibly do that.

Ben said that is part of the things you can implement with zoning. Regarding specific uses, it is hard to tell a property owner what they need to do with the property.

The City can try to find people interested in the type of development they want to see in the community.

He does understand what she is saying about two disconnected areas of town. The question is how we pull that off.

Matt said if the City Council had something specific they would like to see up there beyond basic trails and parks, a PID could be a potential resource to help with that. A PID can finance it as long as it is a public benefit and dedicated to a public entity.

Kyle pointed out that would put the cost of a public park on only the topside residents.

Mayor Wilson thanked Matt and Ben for coming and said the City will continue to work with them to make this happen.

B. Adjourn

The meeting adjourned at 5:58 pm.

January 3, 2024
Date Approved

ATTEST: Christy Ballard
Christy Ballard
City Recorder

Kelly B. Wilson
Mayor Kelly B. Wilson