Daniel Town Council Meeting

Monday, August 1, 2022, at 6:00 PM
Wasatch County Services Building, Conference B
55 South 500 East, Heber City, UT

Meeting Minutes

Quorum Present: Mayor Scott Kohler, Council members, Merry Duggin, Jon Blotter, Robyn Pearson and Barry Dixon. Also present were Ryan Taylor of T-O Engineers, Planner Eric Bunker and Clerk/Recorder Kim Crittenden to take minutes.

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Members of the Public: Sherri Price, Gary Weight, John Glodowski, Bridger Wilde, Jeremy Charchenko, and Pam Skinner

Mayor Kohler called the meeting to order at 6:00 PM.

1) **Public Comment: (please limit to 2 minutes per person)**

No public comments

2) **DR 2022-08-01 Resolution to pass Certified Tax Rate for 2022**

Mayor Kohler read the Resolution into the record and asked for public comment. There was no public comment on the Resolution. Mayor Kohler asked for a motion to adopt the Resolution. It was noted that the Certified Tax Rate would remain the same as the previous year.

Council Member Duggin moved to accept DR-2022-08-01 to Pass the Certified Tax Rate for Daniel Town Property Tax Rate of .000398 for 2022. Council Member Blotter seconded the motion. The roll call vote was Duggin yes, Blotter yes, Kohler yes, Dixon yes, and Pearson yes. The motion passed.

3) **Charchenko appeal of building fees**

Mr. Charchenko discussed the processes and steps that have been required to come into compliance since a Stop Work Order for an unpermitted structure on a portion of his property which is in a floodplain. He stated that the process had been complex and noted that he had been required to secure surveys, topical maps, and miscellaneous engineering requirements. He stated that all but 15 percent of his property is in the floodplain in question. He stated that as far as he knew this was the first time a structure had been built in a floodplain in the Town of Daniel. He further discussed that the fees associated with bringing the building permit into compliance had been estimated to be approximately $6,000, however, his assessed fees for the permit had been reduced to $2,500. Mr. Charchenko acknowledged that there had been significant time spent by the Town Planner, Eric Bunker, and the Town Engineer, Ryan Taylor but contended that the reduced fees were still exuberant. He further contended that if he applied for a Building Permit Application in a floodplain today the cost would be approximately $1,000 and thus, he should not have to pay the difference in the fee of approximately $2,500

which had been ultimately assessed. He stated that it was his opinion that this dispute was part of the Town's growing pains and he should not be held to pay the difference between the reduced fee of $2,500 and the cost of obtaining a new building permit for the existing structure.

Town Engineer Taylor asked to interject comments and Mr. Charchenko turned the focus to his comments. Mr. Taylor stated that the Town had passed an Ordinance that would include a Floodplain Building Permit, but that permit had never been created, but noted that none had been requested in the last 10 years. Mr. Taylor further stated that the Stop Work Order was issued because no application for any type of Building Permit had been submitted. Mr. Taylor acknowledged that a Building Permit in a Floodplain should have been available and that as part of the process of determining the safety and viability of the structure on the Cherchenko property, one had been created for the Town.

Mr. Taylor went on to explain that when a Building Permit is applied for there is a set fee, however when a building is constructed without the appropriate permit then it requires corrective action, which is generally significantly more expensive. He pointed out that corrective fees can include additional engineering fees, legal fees, and others that are not part of the set fees associated with Building Permit applications.

Mr. Taylor continued by stating that through this process a form had been created that should have previously been created which was the reasoning for the significant reduction in the approximately $5,000 of true costs associated with the corrective action and the $2,500 assessment that was ultimately billed. He stated that the additional $2,500 would be paid by the Town as part of the process of creating the appropriate Building Permit. He stated that based on his research the appropriate cost for applying for Building Permit in a Floodplain in Daniel should be between $750- $1,000. He stated that the $2,500 fee included a $1,000 fee for the Building Permit and approximately $1,500 for costs associated with bringing the construction into compliance.

Mayor Kohler stated that he had received a detailed copy of the billing from the Town Engineering firm, T-O. He further stated that he had attended a meeting at the Town Office with Mr. Charchenko, Engineer Taylor, Planner Bunker, and Clerk/Recorder Crittenden where a detailed account of the construction history and associated fees were discussed. He stated that it was the meeting where the above reduction in fees and reasoning was discussed with Mr. Charchenko. Mayor Kohler stated, that although he is a long-time builder, red-tagged on an unpermitted deck, and had to pay more than $1,800 fees in corrective action fees associated with coming into compliance.

Mr. Charchenko continued his discussion about his experience with the Town stating it had been difficult, while specifically citing his wife's application for a Conditional Use Permit and Business License, which he contended took 5-6 months. He acknowledged however that the management of the Town and the associated process had improved significantly.

The Town Council began asking questions. The breakdown of the costs was explained. Engineer Taylor stated that he had taken a detailed look at the billing and attributed the costs appropriately and fairly and not just taken the total and halved it. The difference in fees between beginning a construction project with the proper Building Permits and the costs associated with the Town taking correction actions were extensively discussed.

It was stated that the Town does not apply corrective action fees to punish but to cover the real cost associated with bringing in unpermitted construction to compliance. It was further stated that any further cost reductions for Mr. Charchenko would be borne by the other citizens of the town. It was stated that the Town has incurred costs associated with bringing the construction into compliance and that it would then be borne by the citizens of the Town. It was reiterated that the Town does not seek to generate revenue by any fees associated with permits, but rather just cover the associated costs to the Town.

Mr. Charchenko was asked if he knew that he was building in a floodplain and he stated that he did know.

The consensus was that the fee reduction was not warranted and no action was taken.

4) **Business Licenses recommended for approval by the Planning Commission:**

   a. **NEW:**

   b. **RENEWAL:**
      i. **Daniels Creek Construction**
      ii. **John Glodowski**

Mayor Kohler read the business license applications into the record. He stated that both businesses have been licensed in the town for years with no know complaints and asked for a motion to approve.

> ***Council Member Blotter moved to approve both Business License renewals. Council Member Dixon seconded the motion. The roll call vote was Duggin yes, Blotter yes, Kohler yes, Dixon yes, and Pearson yes. The motion passed***

5) **EIS update before the Charleston presentation on August 11, 2022**

Mayor Kohler read an emailed letter into the record about the UDOT EIS update on the Heber Valley Corridor Project which would take place in Charleston on August 11th or 12th at 7:00 pm at the Charleston Town Hall.

6) **Charleston Annexation**

Planner Bunker discussed the map that was sent to the Town of Daniel and included it in the handouts for the Council. He noted a few inconsistencies that he had been in contact with the Charleston Town Council about that would be corrected which were carried over from an older map. It was noted that the State of Utah would not allow anything to be annexed that was not in the 20-year plan that they are currently updating.

7) **Council Reports/Updates**

Council Member Duggin updated the Council on the Interlocal Meeting that she attended. She stated that the League of Cities and Town's representatives were there, they introduced themselves and expressed their interest in meeting with all municipalities, including Daniel.

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She stated that the increasing problem of graffiti around the valley was discussed as well as a desire for localities to come together to control it.

She reported that the Mountainland Association of Governments (MAG) was also in attendance. She discussed a program that MAG is sponsoring called Tech TAG (Technical Assistance to Governments) that would provide technical assistance to smaller towns in transportation and land use. She reported that the $800,000 funding would be for five years and would fund three to five major projects.

She further reported that the majority of the meeting time was taken by Wasatch County School District over a lease revenue bond for a $150 million bond that they are seeking to build a new high school on Midway Lane. She stated that if 20% of eligible voters signed petitions it would obligate a vote on the bond. She was asked to keep the Council updated on this issue.

Council Member Pearson discussed an email that he had received from Brad Allen that discussed his experience in building a new home in the Town of Daniel and the requirement to turn over two shares of Daniel Irrigation water to the Town to build. He referred to the Council to the copy of the email in their packet. He referred to previous discussions in Council meetings that provided explanations as to why two shares were required to build a new home in Daniel. He then provided Engineer Taylor with a letter from the State of Utah from March of 2022 that stated that one share of irrigation water was sufficient for building a home. This letter did not refer to any building in Daniel and Engineer Taylor stated that he would do some additional research based on the letter provided. Engineer Taylor stated that the conversion rate from irrigation to municipal water needed to be researched. Mayor Kohler stated that he would retrieve the Daniel Irrigation Water Shares from the Town safe deposit box with Sherri Price and work to begin the conversion process.

He continued his report by stating that the potential donation of land from Staker-Parsons to the Town for the Storm Haven Water Tank was on track and just awaiting a valuation of the donation for their tax purposes. Discussions about the location of the property in Independence, permitting processes, and project funding were touched on and it was noted that he would work with Engineer Taylor on water resources.

He then moved on to previous discussions on holding a Daniel Town Celebration. Mayor Kohler related his experience with the disappointing turnout to the Heber Days Celebration which he helped his wife cook and serve food. He stated that it has been difficult to secure a location to hold an event in Daniel. It was decided to postpone the celebration until next year.

8) Discussion of Ethical Behavior Policy and ethical behavior pledge form

Council Member Duggin referred to the Fraud Risk Assessment in the packet and reported that it was due to be completed by the end of the year. She stated that there were nine different areas to address and that there were templates for each. She explained that in the handouts she had edited them to put the Town of Daniel where applicable, but that it could be modified as needed. She stated that a pledge form was included in the packet.

She proposed that going forward the Council look at two policies per meeting so that all of the aforementioned nine would be discussed.

She discussed the Ethics Policy and stated that it was nearly identical to the State statute but suggested that addition for personal behavior be added. She used as an example that this policy would include a provision that any elected or appointed Town Official and employees would pledge not to engage in libelous, slanderous, or malicious gossip that would impair any person's reputation.

Council Member Pearson pointed out that the Oath of Office that all Town Officials and appointed employees take is taken directly from the State of Utah Code and mirrors the document she is presenting. He stated that he was concerned about signing an annual pledge form when he had already raised his hand and sworn to this when he took his Oath of Office and that this was also not mandatory. It was agreed that it would be a good idea to ensure such a policy was in the Town Employee Policy manual as well as a general Policy and Procedures Manual.

Council Member Duggin reminded the Council Members that they needed to complete the Auditors Training and print out the certificate for the office. She continued by stating this is now required for the audit process and taking these steps could affect the Town's insurance rates with the Utah Local Government Trust. It was decided that Council Member Duggin would take the lead on this issue and present it at future Council Meetings.

Council Member Pearson was excused.

9) Engineer Reports/Updates

Engineer Taylor stated that nearly all that he had prepared had already been discussed. He informed the Council that the matching grant that the Council had decided not to pursue had officially been defunded.

Mayor Kohler thanked him for being prepared to discuss the aforementioned issues and that he would work with Engineer Taylor on anything related to the Staker-Parson donation of land and then look at potential funding sources for a tank construction to serve Storm Haven. It was asked how the water would make it across the HWY to Storm Haven. He stated that because Daniel owns the parcel and the tank that an easement would be granted and the existing road would be used for access. It was further discussed that this would be a project that would require boring under existing roads and there were several other points of discussion as far as servicing Storm Haven that would need to take place.

10) Planner Report

See attached planning report.

The discussion began with the Caden Richens property and Planner Bunker stated that this was a residential construction. It was asked that since the build was in Storm Haven, had he been given permission to hook into the Storm Haven sewer system. It was stated that Mr. Richens had not, but had obtained permission from the Wasatch County Health Department to place a septic system for the home. Planner Bunker pointed out that the rules for an approved subdivision differ from other land zoning designations.

He continued by updating the Council that the Paulsen Building Permit for an Agricultural Structure had been approved by then withdrawn by the Paulsens and resubmitted for a

Conditional Use Permit for an accessory structure. He stated that the public hearing was set for the next Planning Commission meeting and that noticing was in process.

11) Daniel Municipal Water

It was reported that 35 replacement meters had been installed along Daniel Road. It was further reported that the rest of the meters that were due for installation were on backorder and would be installed as soon as the manufacturer could provide them. It was reported that the installer also installed two additional new meters. It was noted that 100 meters are still not reading properly and are only being billed at the minimum amount allowed, thus no overage charges would be able to be assessed and payable to the Town. He noted that two commercial projects are in process and would also require the conversion of Daniel Irrigation shares.

It was asked about what fee would be charged for the requested water for Geneva Rock. It was stated that it was being billed at the highest overage fee as a rate. It was asked if it was a burden on the system and it was stated it was not. He reported the springs are still running well and there were no issues to report.

12) Storm Haven Water

Planner Bunker reported that he, Mayor Kohler, and a few did some work in Storm Haven on the sewer system. It was reported that all testing in the area had passed.

13) Recorder's Office: Warrants approval, Announcements, etc.

The warrants were discussed by the Clerk/Recorder Crittenden. An error on the amount of the bond payment was noted as well as the fact that due to the earliness of the meeting not all of the normal invoices had been received and so would be processed and appear on next month's warrants.

A question about an invoice for a domain listing was addressed and after discussion, it was decided that it would only be paid if approved by the Town webmaster, Chris Anderson.

Council Member Blotter moved to approve the July 2022 Warrants. Council Member Dixon seconded the motion. The roll call vote was Duggin yes, Blotter yes, Kohler yes, Dixon yes, and Pearson absent. The motion passed

14) 4th Quarter Budget Update

Clerk/Recorder Crittenden discussed the presented report for the 4th quarter. See attached report. It was asked if actual revenues for the General Operating Budget were confirmed to be $470,159 and it was noted that this included one year's ARPA fund distribution rather than two. Mayor Kohler stated that he had asked Clerk/Recorder Crittenden to do a similar report quarterly.

15) Approval of Meeting Minutes from July 11, 2022

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Spelling corrections for Jeremy Keele and Paulsen were noted. Mayor Kohler called for a motion. Council Member Duggin stated that she would abstain because she had not reviewed the minutes thoroughly. Council Member Blotter stated that he would also abstain because he did not attend the meeting and suggested that the minutes be continued.

Council Member Duggin moved to continue the July 11, 2022, Town Council Meeting Minutes. Council Member Blotter seconded the motion. The roll call vote was Duggin yes, Blotter yes, Kohler yes, Dixon yes, and Pearson absent. The motion passed.

16) Possible closed session as permitted by UCA 52-4-205

No public meeting was held.

17) Adjourn

Mayor Kohler asked for a motion to adjourn.

Council Member Blotter moved to adjourn. Council Member Dixon seconded the motion. The roll call vote was Duggin yes, Blotter yes, Kohler yes, Dixon yes, and Pearson absent. The motion passed.

The meeting was adjourned at 7:42 pm.

Kim Crittenden
Town of Daniel Clerk/Recorder

Approved September 12, 2022