

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, March 4, 2026, 5:00 pm.

111 S. Main, La Verkin, Utah

Present: Mayor Kelly Wilson; Council Members: Amanda Barr, John Valenti, Scot Pectol, and Darren Prince; Staff: Kyle Gubler, Derek Imlay, and Nancy Cline; Public: Patrick Julon, Ben Willet, Mark Anderson, Jopheth McGee, Randy Lawson, Don Bean.

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

1. America First Credit Union, PID.

Patrick Julon explained for nine years the credit union has owned the property. Last year there was an offer, and they started creating a development agreement with the city. That fell through and they have listed the property for sale again and have 26 interested investors. He thought within the next month they would receive 3 or 4 offers.

Ben Willets gave a short history for the new city council members. There is approximately 490 acres. The credit union owns the bulk of that with BLM slice just off the highway and a chunk of SITLA land. The biggest issue is getting utilities up there. We were originally going to be looking to do a tank up on the north side. On one of those Mesas. It's just below the test site there, but that didn't become feasible because of test site. Working with the city, with Derek and Kyle, looking at potential sites on the credit union's piece that would serve most of the site from a gravity standpoint, and then have a booster pump that would suffice for probably about a third of the site that would need that booster pump. And then for sewer, as I am not sure if you know or not, but there is a big regional line. It's now planned to come from Virgin all the way down to the new confluence treatment facility. Ash Creek received an interest free loan, through a hardship program with the state, that allows them to be able to put that infrastructure in. But they're basically kind of waiting to make sure what happens with the credit union piece. They want to run a parallel track at the same time, roughly. They want to make sure they're going to get their impact fees, obviously, before they go, pull the trigger on that loan and get because it's an 8–10-million-dollar project It will all get paid back through eventual impact fees. But they want to make sure that's all coming down the pike before they really go on with that. The other part was the development agreement, which basically entitled the project to 1600 ERUs. ERUs is an equivalent residential unit. We spelled that out in the development agreement that gave the construct of what that looked like in residential units and to commercial because there's a different equation you use. It's not a one - to- one translation as far as an equivalent residential unit to X amount of size, basically based on the water usage of a commercial unit. That is all spells out in the development agreement of how that translates. The other high point things in the development agreement are having certain X amount of commercial based on the net. The net developable area, and so it spells that out. We went back and forth quite a bit with the staff to make sure we were hitting a certain commercial minimum commercial amount, so it couldn't be all residential or all commercial, obviously. And then also making sure things like certain parts that could be nightly rental components that could have an overlay, which would be primarily closer to the commercial areas. We did add a provision as an addendum to it, to have the ability to look at a PID, which is basically a public infrastructure bond. Because there's going to be so much public infrastructure that's going to be needed to get everything off the ground up there, that we wanted to look at as a potential funding mechanism to get that public infrastructure bond in place for a potential buyer.

Mayor Wilson asked if that depended on who buys it.

Ben Willet replied that it does. They don't have to use a PID. But it is one more tool for them to finance the development. The state has become more creative. There is IFD's now, which are infrastructure funding. There is a myriad of different types of bonding mechanisms depending on how they get paid back and how long the terms are. The IFD you can do on your own because it's a much shorter term. The PID gets paid at closing time, where the PID gets paid over a twenty-five-year term. It becomes a special assessment tax on the individual property owners that are under the PID. But it's only public infrastructure. You can't do anything of the private nature as far as like the lot development that kind of thing. It's only for things like water tanks, sewers, roads that kind of thing. But the IFD would, it's a different mechanism, and it has

to be paid back at time of closing. So that becomes like a line item on their closing docs when they go in to close. It's been just over a year now that that development agreement was ratified by the council. We went back and forth for quite a while with the city attorney, staff, and then the credit union's attorney to get everybody comfortable with it. That's basically going to be the governing document that will move forward with whoever ends up purchasing this property. Then they'll come in with the PID. That becomes their base document as far as their baseline entitlement.

Kyle Gubler asked if they are aware of any legislative changes happening.

Ben replied that they were looking at potentially some modification language in there. From what I understood, it wasn't becoming more restrictive. But they were just looking to say, okay, after so many years of having PID's going what can they do to have better oversight over them because I think they felt like some of them didn't have quite as good oversight that it may have been a little too lopsided towards the developer, That they would make sure they had more independent, whether it was legal counsel or whoever that came in to be more like an independent auditor.

Randy Lawson with Gilmor and Bill approaching this as assisting the city through the creation. I agree in general with what you're saying. There are some changes coming to PIDs, nothing that would materially change what's been described. There's some analysis by the state auditor that argues that PIDs are a component unit for accounting purposes of the creating entity. Majority of accountants and otherwise disagree with that, but there's some legislation to come that will help. Not a huge deal. If the PID becomes a component unit of La Verkin City, then that means you have to add their audit to yours. It doesn't change the liability. It doesn't change that you could be liable for any of their loans. But it's also something that cuts against how PIDs were created to be a separate entity.

Patric Julon asked if the PID has issues, does it affect the city's credit rating?

Randy replied no, but what it does do is it means they don't want to interfere with the non-liability, that's rock solid. If there is a default on the PID bonds, there is no access to city funds or not. There is no recourse to the city because they're using the properties as collateral.

Kyle brought up there is a PID up north that has defaulted and claiming bankruptcy. They claimed they were going to go after the city's funds. The council would have concerns about that.

Randy explained that it was false. That was a resort golf community where there was an assessment bond done on this property, which means, instead of a property tax there was an assessment, a method of allocation to all the properties based upon their benefit from the public infrastructure. That's a governmental lien. So, it comes before any mortgage or other financing there is. A commercial lender on the property had already lent around seventy-five million dollars. They became concerned about finishing and so they stopped continuing to lend. There was kind of a plan that they would continue and they said, we don't see the progress that we want, so we're going to stop. There was an assessment bond done on the same property. The developer claimed bankruptcy which isn't uncommon. So, what's going to happen to these PID bonds? Well, the answer was pretty straightforward. The commercial lenders who have seventy - five million dollars at stake and don't want to be subject to the assessment plan, which comes ahead of them paid the assessment. Bonds are not in default; but the developers declared bankruptcy. No connection to the city. No connection to their credit, but that was an example of saying, "hey, maybe we need more oversight." And I would argue the oversight was absolutely appropriate. The offering document to the bond said the city has no obligation. Don't look to the city look solely to the PID. And it operated in normal course as you would expect.

Japheth agreed but added the rating perspective, a default of one of these entities would not be considered a default by the city. If it was considered a component unit, there is a possibility that some of the rating agencies might look at that and use some of the debt included in some of their calculations of debt metrics. That's a little example of what we've seen that actually happened. From a rating perspective, there is some concern that if these are component units, which we don't think they are, but if they are considered that then there would be a question from some of the rating agencies. So that's my only clarification

Randy agreed but added they can't tell the rating agencies what to do. So, what that means is you'll want some comfort on this component unit issue. Before you were to create a PID. I feel strongly, but I can't guarantee it that come Monday, I can give you comfort around that because of legislation

Don Bean from D R Horton added they have a contract with SITLA property. They use several funding mechanisms. We have the cap, but sometimes it's better to use a PID to fund the projects. Cheaper debt.

Patric added that a PID is just a funding mechanism.

Randy commented that the whole purpose of a PID in short, is basically to be a special purpose entity, so it removes the debt obligation from the creator of it and allows that to access tax- exempt debt. Tax- exempt debt does not mean that any taxes are required by the City or the state. It just means the federal government will not tax a bondholder's interest earnings as taxable income. So therefore, the investors give you a lower interest rate by virtue of the preferred tax treatment for doing it. It's a special purpose entity separate from the city allows tax exempt bonds to be purchased. And you would gauge that. DR Horton and everyone else is going to gauge what's the cost of a P I D bond. Against my commercial or other funding sources, and routinely this comes in significantly better, which makes it hard to make public infrastructure runs big burdens of that penciled. Because now I have a lower cost of debt.

Kyle asked with a PID as opposed to an infrastructure district, with a PID you can negotiate with the developer and there can be things to help with City projects. The city would benefit from it as long as it worked for both entities.

Randy summarized it as if they are prohibited from creating an exaction. But that's related to land; that's not related to this. Sometimes there is horse trading, right? Like, hey, if we wanted this park or we wanted this interchange or we wanted another piece, I just would caution look at the numbers. There may not be as much juice in that as you think. This is not tax increment. Where you are giving up some of your property tax for a school district or county to go towards redevelopment. This is the landowner increasing expenses to them for that.

Mark Anderson commented that the city would use criteria to evaluate any application as to whether or not it meets the city's objectives in determining whether or not they want to allow a potential developer to use this financing.

Randy advised the city has to be consistent with that. They can't allow one developer to use it and one not to without cause.

Kyle added the key deal is most developers that are going to go up there are going to have to have something that will help them with the amount of money, it's going to cost to get infrastructure up there. The tank is about two-or-three-million-gallon tank. I know that D R Horton has got interest in that SITLA property. There's going to be just one tank up there. So, whoever gets this property is where the tank will be. And I think it was penciled in to be two million gallons.

Ben added that when the tank was going to be up on the inner Masa the water district was going to be involved. But then once we brought it down lower, they bowed out. It'll be roughly around 3 or 4 million. There's a lot of variables, but you're looking at at least two and a half or three bucks a gallon. That's going to easily be a six seven-million-dollar project. Then you have all the UDOTs, so they have to have access, all the widening and everything that's going to happen for at least the first access and there's going to be a second access. The infrastructure, the public infrastructure component, is going to be very heavily loaded up front on a project like this. Before you even turn a teaspoon of dirt to start a lot. You're going to probably have, and I'm just spit balling you're going to have easily, 20 to 25 million dollars before we even say, here's a lot ready to go.

Councilman Prince commented they worked a lot on this last year. The cities agreement didn't allow the PID, you don't have to worry about that. But we've committed to discussing it. That would be a possibility.

Ben agreed. Some cities are an absolute no. At least La Verkin city agrees to consider this as a possible financing mechanism.

Randy added that it means small groups but nonetheless don't like the policy behind the PID. A lot of that is they don't understand right? They feel like it might take away authority from them, the land use authority. The PID is simply a capital financing tool. Can it be abused, yes? Can it increase taxes? No, no more than what the property owners agreed to and are forced to disclose to the next property owner in very robust manner. A PID is going to be disclosed at least as well as an HOA fee. And it has a cap; HOA fees do not. Those are the kinds of things that require a little more education. I would pay attention, as Japheth and Mark mentioned, this component unit is unfortunate, trying to use regulatory things to create a policy that I think we've solved in the legislature. We want to know what's the final impact.

Councilman Prince asked about a letter they received from the county of higher fees for the PID to be used. How does the city handle that?

Randy replied that the county has elected to say we need a higher fee to collect the taxes for a tax related to PID. If you use an assessment, the counties are not involved. If you use the property tax component, they have increased their fees, and that would need to be paid by the PID. The PID would absorb that cost before it was paid to bonds.

Mayor Wilson asked if the county disclosed what that fee was.

Randy replied that it's reasonable for what it costs them. I am empathetic to the county to say, before we had, fifty tax entities, now you are talking about maybe doubling that. We don't have the appropriate staffing to do that, so it's putting everyone on notice. Make sure PIDs know that amount. Matt Ence and others are very aware of where we have that issue. I would recommend a PID creation process before the development agreement is often premature because you don't quite know what you might be financing. So, I am thrilled to know that that's in place. Does that make sense? Because the PID should not be a component of the development agreement. The PID is just a funding source for what the development agreement may require. If we don't have that, then it's hard to know what we are telling the PID to do.

Kyle commented that their development agreement is pretty vague because they don't know who is buying the property yet.

Councilman Prince asked how the water is going to get to that tank.

Ben replied that there's a water line in SR 9 right now. It's a water district water line. They're going to be upsizing that soon, but there is an existing water line that will feed to the tank from there. It won't have to come from down here.

Kyle clarified it will be water districts water not spring water.

Mayor Wilson added that they will have to pump some of the water, but they will have gravity feed areas.

Councilman Micah Gubler asked how long they have been doing PID's.

Randy replied for about four or five years in Utah. Our tool in Utah is a little less robust than some of our neighboring states. It doesn't have to do O and M. It's not meant to exist in perpetuity. That was intentional in Utah. Most importantly, investors recognize this tool and regularly invest in it. They have a lot of experience.

Councilman Micah Gubler commented it's a funding mechanism. Obviously, it's the property owner right that's going to pay it. Is there any downside to whether at the end, if the developer has to front the cost up front. The price is higher or they can develop, but for less, but It's the property owner paying off these bonds, right? What does that look like to the end user? Have they been around long enough to know?

Randy explained that it really depends on what source of financing was used for the PID. So, I'll give you two examples. The most common way is an assessment that is not a property tax that doesn't ride with assessed value. That's based on ERUs or acreage or some form of allocation to say, here's the ten million dollars of improvements, and this is how we're going to divide each property up how they pay their fair share. In that scenario it can be paid off at any time. An IFD, for example, would require that to be paid off before a homeowner could take occupancy. For commercial buildings, they can extend it if it makes sense to them. But either way, whether it's at closing or whether it's five years after closing on the

property, you always know a payoff amount for your property in an assessment. In those, you wouldn't expect necessarily to be a huge distinction because it's either getting paid when you close or it's not. If it's not, you might sell it for a little less. If you have a property tax, there is a real sensitivity because D R Horton has how much the market can bear of an increased property. You also have a little concern to say, "They're going to come to the city and say, 'Why is my tax higher than someone else across the street?'" So, property taxes aren't used as often on residential components but still are. But if they are, they're usually a very small component. That part requires robust disclosure, so that every succeeding property owner knows there's an enhanced property tax on this piece. And you will see typically those homes over time trade differently than someone who does not have a property tax, but not super significant because that property tax is usually such a small component of the overall tax burden for the property. I should say you could do this across the city yourself, right? But then you'd be liable for the bonds. That's not something any of us, Zions bank or our group would be saying, "Great idea. Let's go help fund that." It does pay for improvements that need to be paid for regardless. This would be more of a trickle-down economics argument than a direct. If, there's a lower cost of capital to deliver a finished lot. Now they can do more at one time, better master planning does not have to come back and cut through streets because we're doing another fifty. Get it all done at one time, and that allows them to sell that property for less. That doesn't mean they will; they'll sell it for whatever the market can bare.

Kyle commented they talked to one developer, and he understood the rate could vary. In our development agreement, it's known that there is going to be an element of commercial on that property. And typically, what they said they do is the commercial was going to pay us a higher portion than the residential would. Can that be affected by both?

Randy replied that it can as you authorize two PIDs. Just as the city can't charge one property tax for this area and another one for this one, the property tax must be uniformly applied within its boundaries. What often occurs is you do one PID for the commercial PIDs, another PID for the residential, and they pledge it together to one bond. That often is because a lot of commercial buyers will be thrilled that they get to finance the infrastructure burden at a tax-exempt rate. Plus, they're sophisticated enough not going to come whining afterwards. So residential often if it bears any property tax burden, is lower and you get to determine the cap as the city. They're limited by state law to fifteen mills (1.5 percent). That's big; they're probably double the property tax burden. Oftentimes, particularly if it's residential, you will as a city say we're not going to have a similar interest because it's too high, they can't sell them.

Councilman Price commented that in economic development, when we're talking about this all the time, one of the concerns that you hear all the time is that there's a potential that the home buyer doesn't think it was clear in the documents. They feel like it's not published as well.

Randy replied that your policy will dictate some extra things above law, But I'll tell you just the legal restriction requirement, it has to be in seller disclosure. A real estate agent has to disclose if it's in a PID. The real risk is that first buyer. Because the first buyer doesn't have historical property. If you ever bought a home or property, it says "last year's property tax." It's going to be already embedded into that. I think your policy, if I recall and Marcus Jacob can remind me, requires that at closing for our first lot that there actually be a separate-colored display, even maybe a sign on the front, which all would be better disclosed than HOA fees. Disclosure is always a weak point. the unknowing property owner that says, "Dang, I wouldn't have done this, ", but they would be no worse off than any other property tax or HOA. In fact, just for analogy, not the maybe the right answer, but by analogy, an HOA can go up as the HOA decides. These cannot. They're specifically capped, and they only can be charged in the amount to repay the bond. Bonds are paid off; tax right goes away. I'd like to make that analogy to HOA. It doesn't mean that we're okay with HOA disclosure, but it's certainly better than HOA.

Patrick added that I would just comment too, as I'm talking to a bunch of different buyers on this project and other projects in the last four and a half years since PIDs have been a new financial tool for development. There are some examples of people adding too much of a mill rate. And then having that be an issue on their home sales or whatever. And I think most developers that I've talked about this piece and around the market of Utah are getting savvy not to push that too much to not get too much property infrastructure fees back with the PID. There are a certain balance and a threshold that this market allows for. So, maybe you do the main arterial road, you do the water and sewer system, and some of the public streets and leave it at that versus expanding it to big park systems and other stuff.

Randy commented that we've seen mill rates of no higher than six for residential, other times even lower. Other than in high resort, second home kinds of areas where they're less sensitive to that. DR Horton home, I'm guessing that's about what you've seen in all your experience.

Patrick commented that just to circle back to the DR Horton. So, we were made aware that DR Horton was, potentially going to get the site, and we were also made aware that our project that we're trying to sell would have some infrastructure collaboration. We've been in contact with all sorts of different buyers. And, knowing that there's probably going to be a joint development plan between the SITLA piece and this piece, which is actually better for the city, better for us. Whoever gets it, we want to know about it. And that will be probably the entrances off the highway. That'll be the infrastructure systems. That'll be the design of roads. So, they're kind of sister properties the way we look at it. I can tell you where we're out there on the market, we're sellers, we're entertaining offers to qualified groups, and we're in that process right now. I'm not sure how long it will take to sell the property, but our goal is to contract with a buyer here in the next few weeks or maybe months at the very latest and move forward quickly with closing.

Mayor Wilson asked if any developers that are interested have mentioned using a PID?

Ben replied that all of them like the option of a PID. I don't have any definition as to how much they'll use it. There is, I mean, especially working with D R Horton, they've chose not to do PIDs in certain areas in most of them. But their financing structure is different. I know other developers might want to, But I think it's prudent on the developer, whoever owns this and builds it out along the city to make sure the mill rate's not too high where it just becomes a. And I don't think the market would do that. Even the bond companies will make sure it's sellable. They look at all the pricing.

Randy added that, a landowner would need to submit a letter of intent to the city. Then the city has a PID policy. If you don't have that, we can get it through the landowner. But that will guide the request to the city as far as mill rate, what you are financing, do you want assessments, do you want property tax? Those will be an important part of that letter of intent to petition the city for the creation.

Councilman Valenti asked if they were watching Representative Colford's bill.

Randy replied Representative Colford's bill actually requires more robust disclosure. On conflicts of interest, we were in support.

Fay added that our PID policy statement does refer to the letter of intent and has various requirements for them to submit to the city. To include their letter of intent and petition with requirements to submit to the city.

Randy added that's how we formally engage with you as the city is to prepare that letter of intent. You may be missing some information because you don't know who the buyer will be. The city can consider that but just note that the letter of intent is how to officially bring it into your hand. It comports with your legal policy, and we'll help you with the component unit. We work as a team to help you determine whether you want to or not.

Don commented that D R Horton doesn't use them often, but it's only because they don't fit financially in the, development toolbox that we're looking at, but when it does, we like it. It's just again, a financial tool that we have.

Mayor Wilson asked about the PID's already in place and how that is working out for them.

Randy replied that they can get you in touch and get some commentary from those cities about it like Black Desert. I don't want to speak for them, but I think it's been a huge success. Some people don't want growth that's a very legitimate concern, but it runs into conflict with property rights. And I think given that combination, I think Ivin's has been very happy with how it has gone for Black Desert. They've even been supportive of additional financing along that route. Silver Cliff is great. Black Desert has exceeded expectations. I think it's too early to know about Silver Cliffs.

Ben commented that Black Desert from a disclosure back to that discussion. I like to go see what other projects are doing and learn from all that. But you see, right on their front page, when you get scroll down and you look at a listing, and they have the disclosures of what that special assessment tax is per unit. It says your HOA is this, and then your special

assessment tax is this. They're not trying to bury it down in the point five font at the bottom that nobody can read. It's pretty apparent. At least from that standpoint, it seems like they're doing a pretty good job with that. That's primarily a second home. Possibly an Airbnb, second home, vacation home type thing. Most people aren't losing sleep over that. Toquerville I know they have probably at least ten or twelve PID's on that new firelight project. But that again like up on the Mesa here, it has a huge stress of their infrastructure to get that thing pulled off. The city was happy because they got a bypass road that doesn't put everybody right through the middle of their town. It worked out great. But I think they did at least ten, maybe even twelve PID's for that development. And they just come online as they need them and different develop different pods of development.

Randy advised they would want multiple ID's so the first homeowner doesn't pay for all future phases of development.

Ben commented as they get offers from developers they would be keeping in touch with Kyle along the way.

Mayor Wilson closed the meeting at 5:48 p.m.

B. Adjourn:

The meeting adjourned at 5:48 p.m.

March 18, 2020
Date Approved

ATTEST: Nancy Cline
Nancy Cline
City Recorder

Kelly B Wilson
Mayor Kelly B. Wilson

