

Daniel Town Council Meeting
Monday, August 3, 2015 at 6:00 PM
Wasatch County Services Building, Room 126
55 South 500 East, Heber City, UT

As Pro Tem Mayor, Eric Bunker, called the meeting to order at 6:04 PM, Council member Glodowski was present. Mayor Turner and Council member Bateman were excused. Upon the arrival of Council member Blotter at 6:05, a quorum was present. Treasurer Sherri Price was present and Lynne Shindurling to record the minutes.

Members of the public in attendance were: Mark Davis, Terry Shoemaker, Curtis Livingston, Francis Harrison, Blaik Baird, Deb Jones, Eric Bennett, Pam Skinner, Joyce Bull, Don Robertson, Pepi Kelman, Stefanie Grady, Sandy Dearden, Bill Skinner, Tracy Taylor, Melissa Campbell, Eric Campbell, Merry Duggin, Mike Duggin, Karen Reeder, Rex Reeder, John Webb, Lorie Hobbs, Shad Sorenson, Jill Cottam, Kayden Cottam, and Bridger Wilde.

1) PUBLIC COMMENT CONCERNING ANY ISSUE NOT ON THE AGENDA

Eric Bennett stated he was not present at the last Council meeting, but he was of the understanding that Daniels Academy had come before the Council asking for an expansion of their facility. As a close neighbor, he expressed his concern and hope that the Council would not allow the expansion. Pro Tem Mayor Bunker explained the July meeting afforded the Daniels Academy an opportunity to come before the Council to explain their plans for expansion and/or relocation. Upon receipt of a formal application by the Academy to the Planning Commission, a recommendation will be made to the Town Council and possibly a public hearing will be scheduled for public comment, depending on the action of the Council. The previous meeting was for information purposes only.

2) PRESENTATION BY WASATCH COUNTY SCHOOL DISTRICT ON PROPOSED ELEMENTARY SCHOOL WITHIN DANIEL TOWN

Mark Davis, the Wasatch County School Board president, led the discussion. He explained for several months the school district had been looking for a site for an elementary school in Daniel or the Wheeler Park area. Lots 7 and 8 in the Daniel Estates Subdivision have been purchased for building the school.

School Superintendent Terry Shoemaker then began a presentation of what the district plans to do in terms of the school. The school would be north facing with Wheeler Road running east and west in front of the school. He stated there have been several meetings already with the Mayor and Planning Director of Daniel, as well as members of the HOA for Daniel Estates, some with attorneys present and some without. At this point the district is working with the Wasatch County Health Department and the Town of Daniel as to where to obtain water and sewer/septic for the school.

Mr. Shoemaker stated the average growth rate in the Heber Valley for 20 plus years has been around 3%, necessitating the building of new schools. The district tries to place schools as close to where the children are located as possible to promote safety and avoid long bus rides for the kids. Although the district had previously purchased a property on 3000 South in Daniel, a decision has been made to put the school closer to Wheeler Park where many more children are located.

The school board is looking to pass a resolution for a bond election to obtain funds for building a new middle school on Mill Road near Old Mill Elementary School, an elementary school in Daniel Town, and a community pool. If the bond passes, the intention is to reconfigure the grades within the school system to K-5 in elementary schools, two middle schools housing grades 6-8, and Wasatch High School housing grades 9-12, with the use of Timpanogos Intermediate School as an extension thereof. If the bond election is successful, construction of the new schools would begin spring of 2016. Mr. Shoemaker explained the district has an obligation to respond to current development and to provide the best education possible to those children living within the county. With the new school buildings in place for the 2017-18 school year, the school boundaries will have to be adjusted.

The floor plan for the new elementary school is planned to follow that of Old Mill Elementary School in Cobblestone on Mill Road. Curtis Livingston reviewed the site plan and elevation design of the proposed school with those present. The intent is to have student and bus drop-offs at the front of the school to the north off of Wheeler Road. Additional parking will be provided to the sides and rear of the school. The driveway would encircle the school and exit onto Wheeler Road. Ranch Drive (780 East) would remain closed to the north forming essentially a dead-end street, with a proposed emergency gate on the east side of the school property exiting onto Ranch Drive if, for some reason, Wheeler Road was blocked and this was the only exit from the school grounds.

Mr. Livingston then explained the administration would be at the front of the school providing better security. There will be five classrooms per grade for 1-5 and four rooms for kindergarten children. Mr. Shoemaker stated this same plan has been built in several places with some fine-tuning taking place each time, and the district feels this is a very practical and functional design. He explained they want to build it big enough to deal with the increased population in the community. Mr. Livingston then produced a conceptual rendering noting changes in color could occur, but the final building should be similar to the drawing produced.

At this point Council member Glodowski asked how many students the school could house. Mr. Shoemaker replied it is built for about 800 students. Pro Tem Mayor Bunker requested the closure of the emergency gate exiting onto Ranch Drive be put in writing in the final documents. Council member Glodowski inquired if there would be a break in the fencing to allow for pedestrian traffic if children are dropped off at the deadend of Ranch Drive. The type of fencing and gate has not been determined but would possibly allow for students to enter and exit on foot to the east. Mr. Glodowski also asked if the lot south of the school is currently occupied and received the answer from Pepi Kelman that she owns the lot.

Ms. Kelman then asked of the district what she would see looking north from her lot. Mr. Livingston replied the back of the school is visible with some parking and then a large grass playground abutting next to her lot. Although an elevation was not available this evening showing the rear of the school, Mr. Livingston recommended those interested look at the back of the Cobblestone school to get an idea of the aesthetics. Council member Glodowski asked for an estimate of the size of the playground and was told it would be approximately 300 feet from the southern boundary to the asphalted area behind the school. Mr. Livingston explained there would be some ballfields on the grassy area as well. Ms. Kelman expressed concern at the level of noise coming from the children outside playing and explained the installation of a soundproof wall ought to be considered, or the placing of a berm with large trees would help. Because the properties nearby are horse properties, the HOA would appreciate consideration of ways to reduce noise which could upset the animals. The school district agreed to generate an elevation of the back area of the school for the HOA to review within a two-week period. The school board agreed to have the elevation available by August 20th.

The question was asked by Ms. Kelman if the school could provide signage off of 3000 South and Teancum Road that there is no entrance to the school from the south. Mr. Shoemaker stated that is not the responsibility of the district but rather something provided by the Daniel Council. Questions asked regarding the extension of Wheeler Road out to Highway 40 were answered by Mr. Shoemaker that the Heber City Master Plan does show Wheeler Road continuing out east, but at the current time the road will dead end at the east end of the school.

Rex Reeder inquired of Mr. Shoemaker which part of the property is Daniel and which is Heber City. He was informed the school itself would be located in Daniel, but the road in from of the school, Wheeler Road, is in Heber City.

Ms. Kelman expressed concern that, to her understanding, as Mountain Valley RV Resort phase 3 is built out on the north side of Wheeler Road, the road in front of the school will then be shared with RVs entering and exiting the RV park. Others in the meeting stated their understanding is the RV park will be entirely fenced with only an entrance from Highway 40 to the east. Pro Tem Mayor Bunker stated that is up to the Heber City Board to decide and plans may change as the RV park is built out. Ms. Kelman stated for the record she was present at the last Heber City meeting where the subject was discussed, and her understanding is there would be an emergency exit from the RV park onto Wheeler Road and the collector road can be used by the public. Mr. Livingston stated as the Master Plan has been adopted by Heber City, eventually Wheeler Road will continue east to Highway 40 and be a public road. Ms. Kelman stated her concern for the safety of the children with a school being located on what is to become a busy road.

At this point Council member Glodowski asked how many buses could fit within the bus drop-off in front of the school. Eight is the maximum, but the district only anticipates use of five buses coming to this school from longer distances. Those living a mile and a half or more, or having a hazardous route will be bussed to the school.

Pro Tem Mayor Bunker explained this is a very preliminary discussion and its purpose is to bring residents up to speed on what the district is planning to do. There would still be much involved in the planning process.

Rex Reeder inquired of the school board why there was a purchase made of property on 3000 South followed by the purchase on Ranch Drive when only one school is to be built. Blaik Baird responded the intent when the 3000 South property was purchased was to build a school, but as time passed the Board realized another location would be safer for the children. The intention now is to sell the property on 3000 South. But even with that sale, a bond will be necessary to have enough funds to build the two schools planned for.

Pepi Kelman then asked if the school board has had access to SB 29 from the Utah State legislature outlining the requirements of a school district when dealing within a municipality. She feels as of yet, the board has not met its obligations under the Senate Bill. Pro Tem Mayor Bunker stated this becomes a part of Title 53 and that Daniel Town is in discussion with the school district in an effort to complete all the requirements laid out. He explained the district has talked about traffic flow, the community impacts. Fees have yet to be decided as between the Town of Daniel and the district. Ms. Kelman has not seen information gathered from required studies which she feels should have been done before purchase of the property. As to the traffic study, Mr. Bunker stated because Ranch Drive will be a dead-end, there is no impact and a study is not necessary as to the Town of Daniel.

Pam Skinner asked the distance from the school building to the southern border or Ms. Kelman's lot and was told that will be answered when the elevations are provided later in the month.

Council member Glodowski asked regarding sewer versus septic on the school lot. Mr. Shoemaker explained Heber City can provide water and sewer to the school. If utilities were to be provided by Daniel Town, a septic could be built and a waterline run up Ranch Drive from 3000 South to the school. One concern of the district is the cost of the impact fee charged by Daniel Town of \$180,000 versus about a third of that charged by Heber City. Mr. Shoemaker cited Utah statute 11-36a-402 in regards to impact fee enactment and feels they would be entitled to credits from Daniel Town if they do provide an 8" waterline to the school benefiting other residents with property on Ranch Drive. The estimated cost of the waterline was \$200,000 from Daniel's engineer.

At this time Council member Blotter inquired about crossing municipal boundaries with utilities. Pro Tem Mayor Bunker stated when the church on Daniels Road within Daniel Town hooked into Heber City's sewer line, it was after negotiation between the municipalities. The same would have to happen here with the school. Mr. Shoemaker asked the Town of Daniel to provide exact costs for the waterline construction and impact fees for the board to consider. Mr. Baird of the school board asked that the issue of crossing boundaries be addressed as between the Town of Daniel and the school district to know what can and cannot be done

legally. Pro Tem Mayor Bunker stated the usual and customary fees are negotiated with the improvements in mind and credits given accordingly.

Mark Davis mentioned in previous meetings with the HOA and the Town of Daniel the question was asked if Daniel wanted to service the waterline and the answer was yes. The district has moved forward in this effort believing an agreement can be reached with regard to a reasonable cost for the water. As to the septic/sewer, the details have to be negotiated with crossing boundaries and which makes more sense

Once again, Terry Shoemaker stated the purpose of this meeting was to inform Daniel residents of the district's intentions with the school and why. The decisions made with regard to this school affects residents countywide.

Council member Glodowski inquired regarding the population increase within the county, is there felt to be an adverse impact with illegals in the community. Mr. Shoemaker stated federal law requires education of all its residents. There can be no question asked as to legal status of residents, simply the requirement to educate all. He does feel the impact of immigrants is slowing as compared to past years.

On behalf of Ms. Kelman the question was asked where construction traffic would be routed during construction of the school. Mr. Shoemaker reported the matter had not been discussed as of yet, but it would make sense to use Wheeler Road. A follow-up question was how do the points of contention and decisions made become part of the written documents. Mr. Bunker, as the Planning Director, stated he has attended all meetings on the proposed school and he has made notes regarding promises made. He will do the followup. Council member Blotter also stated when an application is filed with the Planning Commission for the construction of the school, there will be a list of items which must be completed in order for construction to begin. These are discussed in the open Planning Commission meetings held on the third Wednesday of each month and the agenda will reflect when the school is scheduled as a discussion item.

Pepi Kelman inquired about posting of agendas for Town Council meetings. She feels notice is required to be sent to Daniel residents of discussion items. Mr. Bunker stated notice is required within 500 feet of a property under discussion if there is a public hearing held. If it is an accepted use within the zone, no notice is sent. Clerk Shindurling explained agendas are posted on the Daniel website as well as the state Public Notice website generally the Friday before Monday's meeting, as the items to be discussed are not finalized until that week before the meeting.

Ms. Kelman expressed concern that Mayor Turner was not in attendance at this Council meeting and felt he has missed several Heber City meetings she attended when discussion of the Mountain Valley RV Resort expansion was being discussed. Pro Tem Mayor Bunker explained he would have limited say at their meetings as he is the mayor of Daniel, not Heber City; that her attendance and voice would be the same as his at their meetings. He also stated

this was the first Daniel Town Council meeting Mayor Turner had missed since taking office in January 2014.

Mr. Bunker thanked the district officials and school board for their presentation and stated engineer Ryan Taylor would be forwarding the necessary documents to them in the near future.

3) BUSINESS LICENSE APPLICATIONS

The application for the new business of Primo Farms and Fungi came before the Town Council in July. The Council sent it on to the Planning Commission for review. The P.C. reviewed the application and sent a recommendation back to the Council that the license be issued. Merry Duggin asked what the business is. Director Bunker explained the intent is to grow mushrooms and other vegetables, stating they are close to not needing a license because it is agricultural. He stated the mushrooms are being grown inside a trailer on site and that a greenhouse will likely be built in the future to grow other products. They have a general partnership license from the State of Utah. Rex Reeder expressed his concern that 3000 South seems to have become a business district with so many home occupied businesses, some of which have a number of vehicles parked at the residences. Director Bunker stated none of the businesses have retail sales being made from the homes and, thus, there is not an impact on the community preventing the home-based businesses. When complaints are made by the public, they are investigated by Town officials. If a business reaches a size warranting it being in a commercial zone, notification to the owner is made to move the business. Mr. Reeder inquired about the code showing requirements for home-based businesses. Council member Blotter stated the Town Code can be found online at danielutah.org and can be researched by its citizens.

Council member Glodowski moved to approve the mushroom farm business, which was seconded by Council member Blotter. The motion passed with unanimous "aye" votes and the license will be issued. Council member Bunker stated there were no other renewal applications for business licenses in the month of July.

4) PLANNING DEPARTMENT REPORT

Planning Director Bunker stated that the Planning Commission is still considering new road standards and/or flag lot standards within the Town and has no recommendation as of yet. He stated the Clyde/Ritchie and Reeder/Wilde lot splits are still awaiting completion of all required items before they are finalized. Council member Blotter stated Mr. Reeder would probably be interested in the Planning Commission's discussion in consideration of flag lots or new road standards as his property is involved in a lot split.

Mr. Bunker produced a recommendation of the Planning Commission in regards to the County corridor preservation agreement under consideration by County officials and UDOT. He recited the recommendation as being: "the UDOT plan for the intersection at 3000 S. and

Highway 189 is not acceptable.” Director Bunker explained there is a meeting scheduled to take place, Friday, August 7th, at 9:00 AM at the Senior Citizens Center. Merry Duggin asked who would be presenting at the meeting and was told by Mr. Bunker Shawn Seager of Mountainland Association of Governments and UDOT will be there with the representatives of the municipalities within the Heber Valley. Lorie Hobbs inquired what the plan is as far as Charleston versus Daniel properties in the realignment of the intersection. This is one of the main points of the discussion. The intent is to install a semaphore at the intersection. Mike Duggin explained the original intent of Charleston was to have six lights along 189, which has now been reduced to three lights: one at 3000 South, one at 2400 South, and one at South Field Road. Director Bunker told those present that Don Robertson, who owns property on the Daniel side of the intersection, has done his own traffic study of the area which he presented to the Planning Commission at their July meeting.

In furtherance of the report, Director Bunker stated a lot split was given to the John Glodowski property on 3000 South. He reported violation notices had been issued to Nilsson, Grose and Lazenby and problems had been corrected. (This was incorporated here rather than as enumerated in item 5 on the agenda.) He mentioned Nilssons had applied for a permit for an agricultural building and were told they must take care of the noxious weeds on their property before one would be issued. Mr. Bunker cited 10 other properties within Daniel where he had dealt with issues for the residents.

Mr. Bunker stated he had worked 14.25 hours on Blue Stakes matters in the month of July. He produced a copy of the Daniel Town General Plan for the Council to review and keep in mind as current issues are further discussed. If changes need to be made to it, please advise the Planning Commission so that they may address the issue. He did this in connection with the meeting with the school board earlier in the meeting in hopes that everyone will try to adhere to the General Plan.

Director Bunker cited resolution DR2014-12-08E for the benefit of Rex Reeder dealing with control of noxious weeds within the Town.

6) ADOPTION OF RESOLUTION DR 2015-07-06D APPOINTING DIANE GROSE TO FILL THE PLANNING COMMISSION VACANCY

Council member Blotter moved to continue the vote on the resolution. Because there was no second, the motion died. Council member Bunker read the resolution into the record. The clerk needs to research the dates of service on seat 5 on the Planning Commission which are found in Resolution DR 2013-06-10A. Because the motion did not carry with only three council members present and a “nay” vote by Council member Blotter, the resolution will be corrected with the proper dates of service and discussed in the September meeting.

An ordinance dealing with changes in the compensation schedule for officials and employees of Daniel was presented to Pro Tem Mayor Bunker by the clerk. Because it was not

on the agenda, the item will be renumbered and included on the agenda for discussion at the September meeting of the Town Council.

7) DANIEL MUNICIPAL WATER ITEMS AS NECESSARY

Kim Norris mentioned he had a recent conversation with Suzanne Goodfellow, the owner of the Storm Haven Water Company, and came away with the understanding that all of the assets of the water company are being transferred to the Town of Daniel and feels the Town is getting a good deal. The accounts receivable should be turned over to the Town along with the other assets when the transfer takes place sometime during the month of August.

Rex Reeder posed the question if the Town of Daniel has enough water available to service an elementary school, should one be built in Daniel. Mike Duggin, the Town water operator, replied in the affirmative, that there is a lot of water. It is being put to beneficial use. Council member Blotter stated there is good water to sell. Council member Glodowski asked about the amount of water being used now as compared to a year before Daniel Municipal Water took over the system. Mr. Duggin stated there was inaccurate data and stated over half of it was being wasted at that time.

Council member Bunker spoke of the extended waterline request by the County to the transfer station. Pricing was given for a 4" and 6" new radio read meter. Kim Norris asked if they were being given the option of obtaining a standard meter which would have to be read, and Council member Blotter suggested going through the motions of paying someone to read the meter each month and email it to the water office seems to be an unnecessary hassle and would like to only deal with the auto-read meter. When Wasatch County returns on the agenda to continue the discussion on the extension and a new meter, the Council can talk numbers and come to a resolution on the size and type of meter and the price to be paid.

Mr. Norris gave a side note that the Town of Daniel calls Heber City, who provides sewer service to the LDS Church located in Daniel, and reports the amount of water used so that Heber City can bill the church for the monthly usage. ***Council member Blotter moved to put the meter subject on next month's Council agenda, seconded by Council member Glodowski. The motion passed unanimously.***

8) DISCUSSION ON TOWN COUNCIL'S SUPPORT OF HB 362 SECOND PART REGARDING 0.10% LOCAL OPTION GENERAL SALES TAX AND POSSIBLE RESOLUTION

Council member Blotter moved to continue the discussion until Mayor Turner returns. The motion was seconded by Council member Glodowski. With no further discussion, the motion passed unanimously.

Merry Duggin mentioned she spoke with the County Clerk, Brent Titcomb, and was told Daniel Town is the only municipality in the County interested in putting the subject on the ballot. Council member Bunker mentioned the Utah League of Cities and Towns has asked all

municipalities for their support. Ms. Duggin voiced her opinion that she feels it is inappropriate for the Town of Daniel to support this action. Mike Duggin stated the per cap split of the tax comes into play. Clerk Shindurling explained her understanding is it would be an increase in the amount of sales tax return coming to our community, but it only affects towns and cities if the County in which you live puts it on the November ballot and it passes. The clerk explained all local resolutions need to be passed by the end of August and given to County officials for their consideration. Where no action is being taken at this meeting, it becomes a moot point.

9) DISCUSSION OF ATTORNEY'S OPINION REGARDING TOWN SELF-GOVERNANCE

Council member Bunker read the summary paragraph written by the Town's attorney, Dale Gardiner, from his letter dated July 27, 2015: "The Town's solution to the problems associated with the two ordinances is rooted in Utah Statutes and the differences between the respective ordinances' enforcement and penalties. I think notifying the county that they are in violation of Utah Code § 17-50-314 (prohibiting counties from diminishing, impairing, or affecting the power of Towns) should suffice. Please call me with any additional questions regarding the Town and County ordinances."

Merry Duggin asked if this was with regard to the animal control issues encountered within Daniel recently. Council member Bunker stated that is what precipitated the opinion letter. He is of the opinion the letter states it is inconclusive if the County can supersede ordinances passed by a town. Mike Duggin stated the Town gets their direction from the state and federal laws, and if the county should differ in their own laws, they don't have the right to try to enforce county law upon a town with no interlocal agreement in place. The present circumstances involve a Heber City officer coming into the Town of Daniel and writing a violation under state statute. Lorie Hobbs inquired where a state violation would be heard in Wasatch County. Council member Bunker stated the County Attorney's office will prosecute Class B misdemeanor state violations. He also stated the County Sheriff will patrol the whole county, but the Heber City Police should not be citing Daniel residents with regard to animal control as we have no interlocal agreement. Daniel's Town Code states the mayor is in charge of law enforcement within our Town.

10) APPROVAL OF COUNCIL MEETING MINUTES OF JULY 6, 2015

Council member Bunker asked that a correction be made on page 2 regarding the location of a second residential treatment facility on Big Hollow Road. It should be on Little Sweden Road. The clerk made the requested correction.

Council member Blotter moved to approve the minutes as corrected. Council member Glodowski seconded the motion, and they were approved by unanimous "aye" votes.

Rex Reeder inquired what is involved in the Daniels Academy expansion. Council member Blotter explained they want a reasonable accommodation to increase from 16 students to 24. They are looking at increasing the size of the current location on Big Hollow

Road and/or finding another location. Lorie Hobbs stated the home has become more of a boarding house than a school, a residential facility for persons with disabilities. Council member Blotter stated as interested residents, they should come to the Planning Commission meeting where Shane Whiting of Daniels Academy will appear to explain his application. Mike Duggin stated the State Code has eliminated the section regarding the number of persons and the distance between residential treatment facilities. He stated the governance falls under the federal civil rights law. Ms. Hobbs feels a limiting factor would have to do with the health standards in regards to proper sewage and water. Council member Bunker stated they are inspected by the State officials on an irregular basis. He explained Daniel Code does provide for only 8 persons, unrelated, to live in a home in the RA5 zone. The Town has already allowed the number of persons in the Daniels Academy to increase to 16, exceeding the local code.

11) RECORDER'S OFFICE: WARRANT APPROVAL, ANNOUNCEMENTS. ETC.

Clerk Shindurling reviewed the warrants presented during the month of July to the Council. Because the ordinance adopting new compensation for Town officers and employees was not handled correctly, it will be presented in September and the figures listed on the warrants will be adjusted downward to reflect the previous compensation payment schedule.

The warrants for Daniel Municipal Water were then presented. Once again, the payment to the water secretary, Joyce Anderson, will be reduced to the former amount with the increase taking effect in September. Figures were listed to be paid under the Storm Haven Water Company, but because the Town has not taken over the accounts receivable and, thus, providing a revenue source for payment of amounts incurred, DMW will pay the salaries to the water people incurred for the month of July. The current legal bills will be paid out of the Town general fund and repayment will be made from Storm Haven when funds are available. A ledger will be kept to record the amounts to be reimbursed to DMW.

Council member Blotter moved to approve the warrants as amended by the clerk, which was seconded by Council member Glodowski. The warrant approval was adopted by unanimous "aye" votes.

12) ADJOURN

Council member Glodowski moved to adjourn the meeting, seconded by Council member Blotter. Pro Tem Mayor Bunker adjourned at 8:40 PM.

Lynne Shindurling
Clerk/Recorder