

**MINUTES OF THE
WASATCH COUNTY COUNCIL
NOVEMBER 28, 2018**

The Wasatch County Council met in a special session at 5:00 p.m. At the Wasatch County Administration building, Heber City, Utah and the following business was transacted.

PRESENT: Chair Greg McPhie
Danny Goode
Mark Nelson
Spencer Park
Mike Petersen
Steve Farrell
Kendall Crittenden

OTHERS PRESENT: On list attached to a supplemental file

PRAYER: Councilman Mike Petersen

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

Chair Greg McPhie called the meeting to order at 5:00 p.m. and welcomed those present and called the first agenda item.

OPEN AND PUBLIC MEETING AFFIDAVIT

The Open and Public Meeting Affidavit was made a part of the record

COUNCIL

DISCUSSION/CONSIDERATION OF RESOLUTION #18-17 FOR MIDA AGREEMENTS

Chair Greg McPhie indicated that we are here to consider Resolution #18-17 regarding MIDA agreements which are interlocal agreements between Wasatch County and MIDA. There has been numerous discussions regarding this matter and now ready to consider and pass Resolution #18-17. At the end I will reserve some time for public comment.

Kit Kosakowski, Wasatch County resident, addressed the Wasatch County Council and indicated that she has just a very quick question and it has to do with Wasatch County's proclamation regarding the election results and the question is that I see the proclamation with regard to the

open space bond but I don't see it with regard to Proposition 10 and just wanted to know what was going on there.

Chair Greg McPhie indicated that she should contact the Wasatch County Clerk's Office regarding the question and they will be able to answer that question.

Chair Greg McPhie then turned the matter over to Scott Sweat, the Wasatch County Attorney.

Scott Sweat, the Wasatch County Attorney, put a map up on the screen showing the MIDA property and addressed the Wasatch County Council and indicated that the Resolution is a Resolution that does two things. One is it approves the interlocal agreements. There was an interlocal agreement entered into in 2012 between Wasatch County and MIDA. This Resolution #18-17 bring into two new interlocal agreements and replace the 2012 interlocal agreement with two new interlocal agreements, one that covers what is on the west side of the road and one that covers on the east side of the road. It would also add some property into the MIDA area. In order for that property matter to happen is that Wasatch County has to consent that the property be allowed into MIDA and then the landowner of the property also has to consent that the property goes into MIDA. If the property owners didn't want to come into MIDA at the present time this would give them the opportunity to come in at a later time if the property owner so desired. Once Wasatch County says that the property can come into the MIDA area then that decision cannot be taken away by Wasatch County.

Scott Sweat also indicated that some of the red line items that Wasatch County had were accepted by MIDA. Mike Davis, the Wasatch County Manager, addressed the Wasatch County Council and indicated that most of the items that were in question was just for clarification pertaining to the annexation area and a couple of places where it said it is the sole discretion of MIDA and want the sole discretion of the Wasatch County. What was agreed upon is that the Conference Subcommittee that this would go through that committee and that is what was thought when we met with Paul Morris which is how that is spelled out in the current agreement and that clarification has been made.

Scott Sweat also indicated that basically MIDA is contracting with Wasatch County or hiring Wasatch County to do some of the services or some of the permitting and approval process that can be hired whoever they wanted to hire such as a private party. MIDA looked at the jurisdiction that is the closest and Wasatch County wanted to be a party in that process. Also some clarification on exactly what it meant to be in or not in and what property would come in and how it would be brought in the future. That matter was just made more clear.

Councilman Steve Farrell indicated that with regard to the hatched area on the map that is being shown was limited to 200 ERU's. Scott Sweat indicated that is in the Resolution. Paul Morris, MIDA Chairman, indicated that is spelled out in Land Use No. 8 and then goes to B and then 3i which is on page 8 of the first agreement which indicates 200 ERU's and that is the same if the property changes owners and MIDA will allocate it.

Councilman Danny Goode on page 5 under J providing municipal services and then K talks about the Conference Subcommittee and the question is would the Conference Subcommittee determine who the third party is between MIDA and Wasatch County or would the Conference Subcommittee determine that without going through a third party. Scott Sweat indicated this doesn't provide for that specifically and doesn't see a process that would be put in place for Wasatch County to mediate with MIDA to say here is why we want to do this or here is how the matter can be speeded up.

Councilman Danny Goode indicated that a similar question is on page 7B. Paul Morris also indicated that MIDA is okay with that. Scott Sweat indicated that one thing that could be put in is that MIDA would give us notice and we would have sixty days to cure the problem in consultation with them and then after the sixty days then this starts in these two sections which in my opinion would be good to have the sixty days in there. Paul Morris indicated that he has no problem from changing that from 30 to 60 days with a right to cure. Also before a third party is hired then we would go and talk between Wasatch County and MIDA first as to which third party is going to be hired but before we get to who we are going to hire the problem should be addressed before Wasatch County and MIDA before a third party is hired.

Councilman Danny Goode indicated that should language should be put in the Resolution wherever that 30 to 60 days matter is discussed, 8Bi and over on page 8 this is on the west side and wherever else the matter is discussed good for both east and west side on page 17 and 18.

Councilman Mark Nelson indicated that this is a partnership agreement and will be in neither party's best interest to not make the services work which is not good for MIDA and certainly not good for Wasatch County.

Chair Greg McPhie indicated that this is an agreement that the Wasatch County Council approve and authorize the County Executive Mike Davis to sign, is that correct? Scott Sweat indicated that is correct. Chair Greg McPhie then asked the County Executive Mike Davis if there are any things that would like to be brought up or are you okay with this Resolution. Mike Davis, the County Executive, indicated that we have reached a point that we agree with the language that has been presented that we have here and if that needs to be adjusted a little bit I am okay with that too and overall I am okay with this Resolution.

Scott Sweat indicated that the problem with any agreement is there is always more that can be put in the agreement and the more you can clarify. What Councilman Danny Goode has brought up if we don't like this person we can wait thirty days and we could have some sort of other process. The question is where do you end that process but as long as both sides are working together that is the important thing and then how far do you want to define that out. Also agree that is an issue to talk about and decided where the Wasatch County Council wants to go with it. Paul Morris indicated with regard to municipal services and the notice is given in 60 days with the right to cure but there is still something wrong then now MIDA can step in and that over that municipal service. The second one is in paragraph the last sentence of J it says that MIDA reserves the right without

cost to Wasatch County to supplement any such services itself or through a third party service provider at any time and from time to time so if there is a need to charge, Wasatch County can't be charged. Also Wasatch County indemnifying MIDA for providing municipal services and MIDA indemnifying Wasatch County for providing municipal services so there is now a double indemnification language so anything that MIDA is doing we have to indemnify you if you get sued and vice versa.

Councilman Danny Goode then asked Scott Sweat if Wasatch County has noticed everything properly according to State Statute and County Code. Scott Sweat indicated that according to his assumption is that Wasatch County has but have not taken the time to go back and look at every notice and cross reference with every state provision but I don't do it on any meeting we have until somebody brings an issue to me was this done right. Also everything that I have seen looks like it has been noticed right. Paul Morris also indicated that he looked at the web page and you have given more than 24 hours notice for this meeting and have done it correctly with the interlocal agreements. Paul Morris indicated that our meeting has been changed from December 4 to December 17.

Scott Sweat indicated that with everything he has seen regarding the Resolution the attorney's office is comfortable with this resolution.

Mike Davis indicated that he has worked on this matter for a long time and for one thing there is no perfect agreement particularly if lawyers have written it and analyzed it. What Councilman Mark Nelson has indicated is this is a partnership and for me personally I have to have some trust in what we are going to do. I think that I have the trust and I have the trust to proceed forward with what is being proposed today. Is it perfect no and in five years are we going to say we shouldn't have done that or boy we were smart to do that. My trust level is enough with MIDA that I think this Resolution is good to go and that is where I am at with this matter.

Paul Morris indicated that we too are looking for a partnership. MIDA is a small organization and always contacted the local governmental entity and we keep doing that and really looking for a partnership. I know that it hasn't been perfect and have had its challenges. We are excited about being involved in this project and can do some very special things together so thank you.

The Wasatch County Fire Chief Ernie Giles asked for some clarification when services are being talked about in sixty days to try to do this. Chief Giles indicated that he doesn't even know that he even has the staff to actually do some of these inspections. Councilman Steve Farrell asked if the Fire District and JSSD still tied to the 2012 agreement that has already been signed. Paul Morris indicated yes and also the solid waste and those three agreement are going to stay in place and this Resolution recognizes that. Also it says in the agreement that the Fire and JSSD districts will treat these properties that are in the project area the same as if they were not in the MIDA project area and you will charge the same fees, inspections that you normally do the same as with the fire district and JSSD and both treated the same.

Councilman Steve Farrell indicated that he liked the 2012 agreement better but I would like to make a motion to pass Resolution 2018-17 terminating the September 11, 2012 interlocal agreement with MIDA and replace it with by approving a west side and east side interlocal cooperative agreement with MIDA with the changes that has been noted and hope that we have the partnership that we are looking forward to and give the Wasatch County Manager authorization to sign the agreement. Councilman Mike Petersen seconded the motion and the motion carries with the following vote:

**AYE; Spencer Park
AYE: Mike Petersen
AYE: Steve Farrell
AYE: Chair Greg McPhie
AYE: Kendall Crittenden
AYE: Danny Goode
AYE; Mark Nelson**

NAY: None.

Bob Theobald, interested party, addressed the Wasatch County Council and indicated that he would like some clarification. Also wanted to commend what the Wasatch County Council has done with regard to this Resolution along with Paul Morris from MIDA. Bob indicated that between the west side and the east side the land use authority for the west side is MIDA and for the east side it seems to be Wasatch County so any property that Mayflower may have left on the east side we would submit an application and deal directly with Wasatch County. Then on the east side there is some oversight on land use that wasn't included in the JSPA covered in the JSPA but is not included in this particular map and left out of the MIDA control area, how do we rectify that? Mike Davis indicated that there is not a provision in the JSPA that has to be in MIDA. Some properties are and some properties aren't but all the properties in MIDA will be under JSPA. So if there wants to be an annexation with regard to the boundary, the process has to be gone through. There are some properties that are in the JSPA that are not in MIDA. Just have to go through the zone change process with the Planning Commission and the Council but if it was something to take into MIDA then it would go through a different process. Bob Theobald indicated that the priorities on the east side and west side for any tax increments refunds are they separated east side and west side. Mike Davis indicated that it is the same as in the Lewis Young Report that was done in 2012.

Mike Kosakowski, Wasatch County resident, addressed the Wasatch County Council and indicated that he would like to thank the authors of this Resolution because they certainly heard the comments that Kit Kosakowski and other people in our area made. Mike Kosakowski indicated that he has a couple of questions. One is with regard to the transient room tax for hotels that are in MRF whether they are in your tax base and go to you but there seems to be some exceptions that go to County and not to MIDA. Paul Morris indicated that there is only one exception and

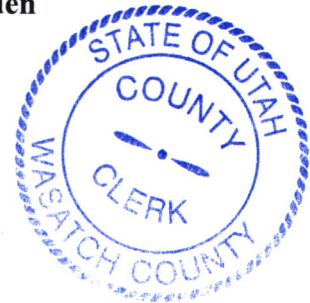
the hotel that we are involved in is the military hotel and that hotel is subject to its very own tax which is the MIDA's accommodation tax which is around fifteen percent. Of that fifteen percent what we have agreed is that two percent of it will go to the County for whatever they want to use it for not to provide municipal services on top of municipal services that goes to county our estimate that would be about a half million dollars a year and another two percent plan on going to MIDA for its operations and one percent is going to go to the Air Force to promote what we are doing here on an annual basis. The rest of it is going to go to help fund the hotel. The rest of the hotels are in the village and hotels that are on the east side or anywhere else that is not government only doesn't involve us just the way the normal taxes work.

Mike Kosakowski also indicated that there are two properties on the map which look like they have been added. Paul Morris went through with what happened with regard to those properties and why they were left out and why some of their property was left in and some of the property was out and so it was said to clean up the map and fix the problem. Again no property owner gets forced in. They have to sign a consent or they can just stay out. Mike Kosakowski then had a question about the Gardner's Addition Subdivision. Mike Kosakowski then had a question about the JSSD property if it was going to be developed more. Paul Morris didn't know what has taken place with regard to that because that hasn't been changed. Paul Morris also indicated that this isn't a JSPA map but a MIDA map.

Councilman Danny Goode then made a motion to adjourn. Councilman Kendall Crittenden seconded the motion and the motion carries with the following vote:

- AYE: Spencer Park**
- AYE: Mike Petersen**
- AYE: Steve Farrell**
- AYE: Chair Greg McPhie**
- AYE: Kendall Crittenden**
- AYE: Danny Goode**
- AYE: Mark Nelson**

NAY: None.



Meeting adjourned at 6:00 p.m.


GREG MCPHIE/CHAIRMAN


BRENT TITCOMB/CLERK/AUDITOR