

MINUTES OF THE  
WASATCH COUNTY COUNCIL  
OCTOBER 16, 2019

The Wasatch County Council met in regular session at 3:00 p.m. at the Wasatch County Administration Building, Heber City, Utah 84032 and the following business was transacted.

PRESENT: Chair Danny Goode  
Kendall Crittenden  
Marilyn Crittenden  
Mark Nelson  
Spencer Park  
Jeff Wade  
Steve Farrell

OTHERS PRESENT: On list attached to a supplemental file.

PRAYER: Councilwoman Marilyn Crittenden

PLEDGE OF ALLEGIANCE: Led by Councilman Mark Nelson and repeated by everyone.

Chair Danny Goode called the meeting to order at 3:00 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.

**ADMINISTRATIVE ISSUES FOR FUTURE AGENDAS**

Chair Danny Goode asked if there was any administrative issues for future agendas and there was none.

**LEGISLATIVE ISSUES FOR FUTURE AGENDAS**

Chair Danny Goode indicated that for the first meeting in November a discussion about the make-up of the MIDA Board. We should collectively support the concept of our Senator that we share with Summit County and Duchesne County members of the MIDA Board so there is just more

than one member on that board. Also a new member needs to be selected for the Wasatch County Council representation there.

Chair Danny Goode indicated that he would like to have a Wasatch County Council discussion on the annexation and property rights and what our vision is for the future of Wasatch County moving forward and that will be put on for the November 6, 2019 meeting at 3:00 p.m. Also have all the matters that need to be put on the November 6, 2019 meeting in by November 1, 2019.

### **PUBLIC COMMENT AND PUBLIC ISSUES FOR FUTURE AGENDAS**

Chair Danny Goode asked if there are any issues for future agendas and if there is please come forward and state your name for the record.

Joe Coombs, Wasatch County resident, addressed the Wasatch County Council and indicated that he is sort of a developer in Wasatch County. The issue is with Twin Creeks Special Service District and their equalization payment. There are already problems with the water costs of M&I Water secondary water component of it. The issue is that this fee no one can tell me what it is going to cost to make my payments on the water after the fee has been assessed. Ron Phillips, the General Manager of the Twin Creeks Special Service District indicated that the fee will equalize everything and make all the payments equal and could be anywhere between \$60,000 up to \$80,000 that has to be paid up front before I can get final plat approval. Joe Coombs said after talking to a few of your Councilmen there seems to be a confusion about what this was and some said it would be like a three month deal. There needs to be some type of a time frame on it. That fee needs to be paid up front before the property can be developed. The issue is that nobody has told me what is really taking place. Joe Coombs also indicated that he is trying to make these lots affordable for people like police officers, coaches, school teachers, etc. Also if that fee is to be tacked onto the lots that is not fair to these type of buyers. The issue is that I would like this matter to be addressed so that people will know how much the fee is. This needs to be fair for everyone and I need to know what the thought process is in making this work.

Councilman Steve Farrell indicated that this matter is being addressed.

### **APPROVAL OF THE MINUTES OF SEPTEMBER 25, 2019 AND OCTOBER 2, 2019.**

**Councilman Kendall Crittenden indicated that he has looked over both sets of minutes and can see no errors that can be found so I would make a motion that we would accept the minutes of September 25, 2019 and October 2, 2019 as written. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:**

**AYE: Marilyn Crittenden  
AYE: Mark Nelson**

**AYE: Spencer Park**  
**AYE: Jeff Wade**  
**AYE: Steve Farrell**  
**AYE: Chair Danny Goode**  
**AYE: Kendall Crittenden**

**NAY: None.**

## **COUNCIL**

### **DISCUSSION AND POTENTIAL ACTION; THE CROSSING AT LAKE CREEK HOA WOULD LIKE TO DISCUSS STREETLIGHT SERVICING WITHIN THEIR HOA COMMUNITY.**

Jake Packard, property manager for the HOA, addressed the Wasatch County Council and presented a short power point presentation and then indicated that the Development Agreement that was made with Wasatch County and the developer of the Crossings. The issue that the HOA would like to bring forward is found in Section 3.2 Sub (D) which is the obligations of Wasatch County with road maintenance. Jake Packard indicated that what is hoping to be accomplished here is to have Wasatch County take care of the roads as documented here in the Section I as it pertains to street light maintenance such as replacing bulbs and things like that. Also it is the HOA's understanding that this agreement covers such maintenance. Also Wasatch County does take care of street lights in the Cobblestone Development. Mike Davis, the Wasatch County Manager, addressed the Wasatch County Council and indicated that when the street lights that are put up and are the county standard lights found in the Wasatch County Code Heber Light and Power maintains them or Rocky Mountain Power maintains them. Those companies only stock for the standard street light that we have in the Wasatch County Code. If a developer put in other street lights that are not covered in the Wasatch County Code; that becomes the responsibility of the HOA. When a light bulb needs to be replaced which is a standard street light bulbs the utility company stocks our parts and then the utility company is reimbursed for their costs of the bulb, which utility companies are Heber Light and Power and Rocky Mountain Power. Mike Davis indicated that he is not aware of a street light ever having been repaired in the Crossings and Heber Light and Power is not aware of a replacement either. That maintenance has nothing to do with regard to Class "B" Roads. Jake Packard indicated that the Crossings feel like Wasatch County should be responsible for labor costs of the regular maintenance and repair of street lights.

Brandon Cluff, the Wasatch County Public Works Director, addressed the Wasatch County Council and indicated that he has never seen an invoice from Heber Light and Power for the Crossings. I do get one every year from the other lights that Heber Light and Power maintains for Wasatch County and have never seen one from the Crossings. Heber Light and Power services everything that is in their power grid. Mike Davis indicated if Wasatch County receives a bill for the labor, Wasatch County would have paid the bill for the labor.

Julie Smith, who has worked with the HOA since 2007, addressed the Wasatch County Council and indicated that up until two years ago the street lights were replaced through Utah Power and Light and never received a bill but no money was asked up to that time. There was a verbal agreement with Kent Berg, former Public Works Director, and the Crossings because there was unique lights the Crossings paid for the materials and agreed to paint the street lights as well as long we did that labor would be provided and that has been on going until two years ago when Heber Light and Power indicated that they didn't have an agreement with Wasatch County to do the street light work for the Crossings.

Councilman Kendall Crittenden indicated that information should be obtained from Heber Light and Power with regard to this matter as to what their understanding is.

Councilman Steve Farrell indicated that he is worried about the precedence that would be set with the maintenance of street lights such as the issue that is before us here. Also need to look at other subdivisions that would be involved in this kind of a matter.

Chair Danny Goode indicated that he agrees with Board Member Steve Farrell and Board Member Kendall Crittenden. Possibly the matter could be taken care of with having a written agreement. The Council just needs further facts and proceed cautiously.

Roy Wasden, board member of the HOA, addressed the Wasatch County Council and indicated that the Crossings would just like to be equitably treated in this matter. There are safety concerns when the lights aren't functioning and a written agreement would satisfy Heber Light and Power and help the Crossings to move forward in creating our budgets and stuff so that we will know what will take place. Cobblestone Street lights are similar to the Crossing Street Lights but not to County standards.

Mike Davis indicated that he believes that something can be worked regarding the matter.

McKay King, assistant Wasatch County Attorney, addressed the Wasatch County Council and indicated that with regard to precedence a Court of Law could look at an agreement like this and say that since Wasatch County made an agreement with this subdivision and in future cases the County has interpreted this language to mean that pertains to all other subdivisions.

#### **DISCUSSION REGARDING CODE SECTION 16.21.46 WHICH REGULATES ACCESSORY RESIDENTIAL UNITS AND ACCESSORY DWELLING UNITS.**

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Council and indicated that a situation came up recently where trying to decide to do an amendment to a code that was recently adopted. Just needed to get some guidance from the Wasatch County Council on this before time would be spent on the item. The issue is there is a basement layout for a home up in Wasatch View that recently had a building permit application come in for a home that has a large square footage and basement that is twenty-two hundred square feet and the code has said that



there needs to be one thousand fifteen square feet for an accessory dwelling unit. The question what is done with the rest of the square footage in the basement if only one thousand fifteen square feet is used? The applicant is going through the necessary things and wants it to be finished by Christmas so that his kids and grandkids can enjoy it and be available when they come to visit him. Also he is not going to rent the basement after it is finished. Doug Smith indicated that currently we require a deed restriction that says that this will not be rented out and only for guests, only for family and one of the things that could be said is that the second kitchen is for family and relatives and all the various options are being explored.

Pam Patrick, Wasatch County resident, addressed the Wasatch County Council and indicated that a lot of people in Wasatch View already have that type of dwelling and not only there but throughout Wasatch County. There is pros and cons in having this done. This type of dwelling causes a lot more traffic and there are all these people. Sometimes there are several families. If you let people do it and then say no to other people that is not fair.

Councilwoman Marilyn Crittenden indicated that we shouldn't control things such as this to that point. A situation like this would allow us to solve some of our affordable housing problem. Also this situation is so different than many of the others. Also we need to look at those various issues. Also how do we police these problems?

Doug Smith indicated that these things are violations of our Code. Also in situations where there is five acre lots that is not a problem because there is plenty of parking but when we get into the Cobblestones, the Wild Mares, where they are smaller lots there is a problem. The deed restriction would work if there was a complaint and might be difficult even then but until somebody complains we don't know about that kind of issues. It isn't fair to say use the thousand square feet for this purpose and then let the other square footage stay vacant forever.

Councilman Kendall Crittenden indicated that he is for restricting zoning as much as possible.

Doug Smith indicated that it sounds like there is mixed support on this issue. What is being said here is that something should be worked on and bring a very rough draft back for the Wasatch County Council to look at.

Mike Davis, the Wasatch County Manager, addressed the Wasatch County Council and indicated that some things in this regard are fine and other things are not but how do we take care of these problems.

Julie Smith, HOA manager, addressed the Wasatch County Council and indicated that in the HOA we had several homes that fit into this category that were being used as a B&B. In our CC&R's indicated that you couldn't have one set of people in a ten day period until we found out that Wasatch County said that our development we can't have anybody in there more often than every thirty days and as a result everything was outlawed. Wasatch County also didn't back us up on that in getting rid of people doing. The people renting their property for such things didn't mind a fine from the HOA because they were making so much money renting their dwelling for such things.

Julie Smith also indicated that if you have an ordinance then the County had better be prepared to enforce it. Mike Davis also indicated that Wasatch County has enforced that and the matter went to a Court of Law and the Judge imposed a fine of fifty dollars and for Wasatch County to enforce this cost a few thousand dollars to enforce this and there was only a fine of fifty dollars being imposed. Mike Davis indicated that the most successful thing that the County has done is that we require a business license and business license laws are a little bit stricter than the B&B laws. In order to get a business license the applicant has to conform to the County Code.

The Wasatch County Council indicated that bring the Council back a rough draft and let the Council look at it and we will go from there in trying to solve this problem. All of the Wasatch County Council was okay with going that particular route.

### **COUNCIL/BOARD REPORTS**

Chair Danny Goode indicated that a committee was selected with Heber City for the landfill discussion meeting. We need to propose some dates that meeting could be held with the Mayor of Heber City. The Council Members on the committee were Councilwoman Marilyn Crittenden, Councilman Steve Farrell and Councilman Kendall Crittenden. Councilman Kendall Crittenden indicated to the other Council Members to propose some dates that would be good and he will take them back to the Heber City Mayor.

The record should show that Chair Danny Goode had to live the Council meeting for another appointment but indicated that he would be back for the 6:00 p.m. public hearings.

### **MANAGER'S REPORT**

Mike Davis, the Wasatch County Manager, addressed the Wasatch County Council and indicated that there is a request by the State of Utah and also a video business to do a trail video mapping and then people can pull it up on their technology devices and see where people are on the trail which can be a safety issue if there is some problem involving the trail. Also a contract can be done with the video mapping business for \$3,500. Once the mapping is done the County can bill the State of Utah for the \$3,500 so in essence the mapping of the trails doesn't cost Wasatch County anything.

The Wasatch County Council indicated that this is something that they are okay with being done.

### **CLOSED SESSION**

Vice Chair Mark Nelson then asked if there was any need for a closed session and there was none.

**Councilman Kendall Crittenden made a motion to continue this Wasatch County Council meeting until 6:00 p.m. when the public hearings will be held. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:**

**AYE: Vice Chair Mark Nelson**

**AYE: Steve Farrell**

**AYE: Marilyn Crittenden**

**AYE: Jeff Wade**

**AYE: Spencer Park**

**NAY: None.**

Chair Danny Goode called the Wasatch County Council Agenda back to order at 6:00 p.m. and indicated that the Wasatch County Council will now hear the Public Hearings. Also we will need a motion to go into the Governing Board of the Wasatch County Fire District.

**Board Member Danny Goode made a motion to leave our regular Wasatch County Council agenda and go into the Governing Board of the Wasatch County Fire District to hear a Public Hearing regarding the Wasatch County Fire Impact Fee. Board Member Jeff Wade seconded the motion and the motion carries with the following vote:**

**AYE: Board Chair Steve Farrell**

**AYE: Board Member Spencer Park**

**AYE: Board Member Danny Goode**

**AYE: Board Member Kendall Crittenden**

**AYE: Board Member Marilyn Crittenden**

**AYE: Board Member Jeff Wade**

**AYE: Board Member Mark Nelson**

**NAY: None.**

## **PUBLIC HEARING OCTOBER 16, 2019**

### **DISCUSSION/CONSIDERATION FOR THE FIRE IMPACT FEE**

Board Chair Steve Farrell indicated that this evening we need to get the public input on the proposed fire impact fee.

Theresa Pinkal, from Lewis Young Robertson & Burningham, Inc., addressed the Governing Board of the Wasatch County Fire District and presented a power point presentation and then indicated that all of the appropriate noticing requirements have been gone through to the intent to

amend the IFA and IFFP and an analysis has been done. The findings have been presented to the Governing Board through meetings and work sessions. The notice was given for the public hearing which is why we are here tonight. As a result of that we are at a point where the Governing Board may modify, accept or deny the impact fee and once that motion is made there is a ninety day waiting period. Also nothing can be imposed until that ninety day waiting period is up.

Theresa Pinkal then went through the IFFP and IFA Methodology that was used which were:

1. Determine existing and future demand within the service area.
2. Provide inventory of existing facilities.
3. Establish existing and proposed level of service.
4. Identify existing and future capital facilities necessary to serve new growth.
5. Consider all revenue resources to finance system improvements.
6. Conduct proportionate share analysis.

Theresa Pinkal indicated that the Residential Impact Fee per unit is \$920.00 and that was considered just on a per unit basis and there wasn't a delineation made between the sizes of those units. Non-Residential is \$1,465.00 which is based on a per thousand square foot basis. The Governing Board of the Wasatch County Fire District now either can adopt, modify or reject the proposed impact fee. Keeping in mind that cannot take effect until after the ninety day waiting period has passed.

Mike Davis, the Wasatch County Manager, addressed the Governing Board of the Wasatch County Fire District and asked if these fees apply to agricultural buildings as well? Theresa Pinkal indicated that it would apply to anything that is not residential. The barn would be at the higher fee and be under the commercial designation. Mike Davis also indicated that if the Governing Board of the Wasatch County Fire District enacts this fee that shouldn't have any effect on the Wasatch County fee currently but at the present time re-looking at that fee and will not be looking at EMS or fire issues at all and only be looking at search and rescue and wildland fire and Sheriff issues when the Wasatch County impact fee is looked at. Also at the present time there is a public safety impact fee that didn't specifically cover fire issues, also there is a road impact fee and a park and rec impact fee.

Ernie Giles, the Wasatch County Fire Chief, addressed the Governing Board of the Wasatch County Fire District and indicated that the money has to be generated from somewhere and the money should come from the people that are causing the impact to occur and not on a tax basis that everybody pays for it. Ernie Giles also indicated that he believes that the fee should be higher than what is being proposed. Ernie Giles indicated that the Fire District doesn't collect any impact fees today. Ernie Giles also indicated that no written comment was received concerning this matter. The matter has been in the local paper for the last couple of weeks and posted at the library, health department, county building and the first district. The whole analysis has been on the website since June.

Board Chair Steve Farrell then opened the public hearing for public comment.

Dennis Goudy, Wasatch County Resident serving on the Wasatch County Fire District Advisory Board, addressed the Governing Board of the Wasatch County Fire District and indicated that after much consideration this impact fee is an opportunity for Wasatch County to build a foundation to move us forward. Wasatch County doesn't want this opportunity to pass.

Mary Duggin, Wasatch County resident, serving as the chair of the Wasatch County Fire District Advisory Board addressed the Governing Board of the Wasatch County Fire District and indicated that an impact fee study was just completed and would say that we endorse this proposed impact fee whole heartedly and hope that you can see to adopt it tonight.

Theresa Pinkal indicated that in regard to Mike Davis' question regarding a barn and one of the flexible impacts there is a non-standard impact fee and that would be applicable to a unit such as a barn and could be used as a review tool and instrument to be used under those circumstances. Also all the calculations in coming up with this fee amount are included in the impact fee analysis which has been published and also just looking at Fire and EMS calls and that was done proportionately.

Dave Kennamer, Wasatch County resident, addressed the Governing Board of the Wasatch County Fire District and indicated the issue of collecting impact fees for schools should be looked into. Such a fee is not illegal except in Utah. The issue of impact fees should be fair but should not be ignored.

Board Chair Steve Farrell then closed the public comment period.

Board Member Mark Nelson indicated that the intention of this impact is to match the capital improvement costs over time. Ernie Giles indicated that the impact fee can only be spent on certain things that have been listed. As far as the Fire District's budget part the impact will not impact the budget end other than if this fee tonight isn't enacted then more than likely would be back for another tax increase to build fire stations. Mike Davis indicated that all of the EMS budget which is somewhat precipitated the budget discussion none of that would qualify for any labor, ambulances don't qualify, those types of costs. Ernie Giles also indicated that why the residential impact fee is not done according to square footage is because that would take so much time to figure out the square footage of each house and to have a flat rate is much easier.

Board Member Kendall Crittenden indicated that he still wonders about the fee on the residential because that probably will discourage smaller homes where Wasatch County is working toward getting some affordable housing and would hope that wouldn't have an impact on that.

Theresa Pinkal indicated that once the Governing Board approves the fees and would want to change that within the ninety day time period then the Governing Board would have to go through another hearing process, advertising but not through a new capital facility plan. Also if there was a need to break apart the residential to a unit type of size then it would be appropriate to go back through and look at that analysis again. Any change to an analysis looking at anything above the proposed impact fee maximum based on the analysis that has been presented any change to that

actual document analysis would require a new analysis.

Board Chair Steve Farrell indicated that his only concern is the equitability of charging that fee on a small home as well as on a fifteen thousand square foot home. Also could a person pass a non-standard residential fee if we wanted to encourage affordable housing? Theresa Pinkal indicated that could be considered yes.

Clair Provost, the Wasatch County EMS Director, addressed the Governing Board of the Wasatch County Fire District and indicated that we still are going to need to meet this because the demand for services is still going to go up. Also the demand for affordable housing as well as our demand for services are going up also along with stations, equipment, etc. Everything needs to be balanced.

Board Member Jeff Wade indicated that a call to a thousand square foot home is the same as a call to a fifteen thousand square foot home again it is very difficult to differentiate between the costs.

**Board Member Mark Nelson made a motion that we accept the impact fees as proposed. Board Chair Steve Farrell seconded that motion and the motion carries with the following vote:**

**AYE: Board Chair Steve Farrell  
AYE: Board Member Danny Goode  
AYE: Board Member Spencer Park  
AYE: Board Member Marilyn Crittenden  
AYE: Board Member Kendall Crittenden  
AYE: Board Member Mark Nelson  
AYE: Board Member Jeff Wade**

**NAY: None.**

**Board Member Danny Goode made a motion to leave the Governing Board of the Wasatch County Fire District and go back into our regular Wasatch County Council agenda to hear the public hearings. Board Member Jeff Wade seconded the motion and the motion carries with the following vote:**

**AYE: Board Chair Steve Farrell  
AYE: Board Member Danny Goode  
AYE: Board Member Kendall Crittenden  
AYE: Board Member Marilyn Crittenden  
AYE: Board Member Mark Nelson  
AYE: Board Member Jeff Wade  
AYE: Board Member Spencer Park**

**NAY: None.**



Chair Danny Goode indicated that the record should show that we are now back in the regular Wasatch County Council agenda to consider the following public hearings.

The record should indicate that Councilman Kendall Crittenden left for another matter and was not present during the next two public hearings.

**PUBLIC HEARING  
OCTOBER 16, 2019**

**CONSIDERATION OF ORDINANCE 19-07 AMENDING SECTION 16.27 DEVELOPMENT STANDARDS REGARDING THE DEVELOPMENT REVIEW PROCESS AS IT RELATES TO LAND USE HEARINGS, ADVERTISING, STAFF REPORTS, AND INCLUDING ANCILLARY CLEANUP ITEMS IN OTHER SECTIONS OF TITLE 16, AS A RESULT OF THE CHANGES TO 16-27.**

Austin Corry, the Assistant Wasatch County Planner, presented a power point presentation and then indicated that at the 11 April 2019 Planning Commission meeting the Commission instructed staff to identify ways to clarify the review process in a way that would discourage development proposals from moving onto Planning Commission agendas without first working through issues with the Development Review Committee. A previous code amendment and an amendment to the Planning Commission bylaws have reinforced this and prepared the code for a manageable amendment as is now presently being proposed.

The Planning staff has worked through a number of scenarios as instructed and is providing a proposed code text amendment that would also work in conjunction with the previous changes to the Planning Commission bylaws to guide the development review process.

Austin Corry also indicated that this is the last of a large number of amendments that the Wasatch County Council has seen already. This is restructuring the organization and getting stuff in duplicate information in the code, consolidating it into one area. Other areas are referenced in 16-27 which are the development standards section. Made sure that the information was consistent, check lists were not missing something that was intended in other areas. This will help clarify expectations for developers as to what the process is in Wasatch County. Austin Corry indicated that it was emphasized in the code if the DRC has problems, the intent is that they resubmit and the DRC works through things with them. The DRC is there to help somebody get their project in line with the code. There are two points of the amendments which are that a requirement is being added for a conceptual connectivity plan. The other point is that in Wasatch County Code 16-27.10 this is the large scale development standard section. Basically that section outlines that you apply for a master plan and density determination and then move to a preliminary plan then you move to a final plan. There was a lot of amendments and things happened that was proposed in this section as a whole. The attorney's office drafted this language with more teeth in it. It states that once you



have a master plan and density determination that approval is based on the plan that was submitted and not the potential that was within the code or underlining zoning or anything like that. Your approval that vested you with a date of a code was on the plan that you submitted and got approved on. The provision is now if there is a question whether the proposed changes more than minor and inconsequential the planning director or the applicant can request that the application be reviewed by the Wasatch County Council for its determination on whether the change that the preliminary plans are from the master plan is minor or inconsequential.

Austin Corry then went through the proposed findings:

1. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan.
2. The proposed amendment is consistent with the purpose and objectives outlined in Section 16-27.
3. Positive impact of the proposed changes would be an increased efficiency in public meetings by providing an expectation that the applicant work through the Development Review Committee to align proposed projects with the applicable codes.
4. Other positive impacts would be increased clarity in the code by reducing redundancies and improving the current organization and better outlined expectations to reduce frustrations for developers, the public, and the County staff.
5. Negative impact of the proposed changes could be delays to development proposals being advertised on an agenda when applicants have not prepared adequate proposals in compliance with code.
6. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Chair Danny Goode then opened the Public Hearing up for public comment and there was none so the public comment period was closed.

**Councilman Steve Farrell made a motion that we approved Ordinance No. 19-07 amending Section 16.27 Development Standards regarding the development review process as it relates to land use hearings with all of the conditions and findings from the Planning Commission. Councilwoman Marilyn Crittenden seconded the motion and the motion carries with the following vote:**

**AYE: Chair Danny Goode  
AYE: Marilyn Crittenden  
AYE: Mark Nelson  
AYE: Spencer Park  
AYE: Jeff Wade  
AYE: Steve Farrell**

**NAY: None.**

**PUBLIC HEARING  
OCTOBER 16, 2019**

**CONSIDERATION OF ORDINANCE 19-08 AMENDING WASATCH COUNTY CODE TITLE 16 AS IT RELATES TO BONDS GUARANTEEING CONSTRUCTION OF IMPROVEMENTS FOR THE PURPOSE OF ALIGNING COUNTY REQUIREMENTS WITH THE CURRENT STATE CODE AND ADDING CLARITY FOR ADDITIONAL COUNTY POLICIES.**

Austin Corry, the Assistant Wasatch County Planner addressed the Wasatch County Council and indicated that performance bonds and warranty bonds are financial agreements put in place to ensure that infrastructure necessary to support a development project will be constructed to meet County standards. This proposed amendment is intended to align County Code with State Law, provide a clearer path for applicants, and better protect the County. Austin Corry also indicated that a bond is payment that is made and put into an account that is in the amount of the estimated construction costs for the necessary infrastructure for a subdivision such as roads, water lines, and sewer lines those kinds of things. The bond can be paid in two different ways. One is that bond can either be paid so they can record the plat right away and start selling lots while the construction is not done or number two after they get their approval they can start construction but they can't sell anything until that plat is recorded.

Austin Corry also indicated that there are two different kinds of bonds that the State of Utah talks about. One is a performance bond and the other a warranty bond. A performance bond is what was just described above which is making sure things are constructed correctly. A warranty bond is something that is always required even if they do construct the improvements so that even if the improvements were accepted and things were moved on within the course of a year, if something fails because it was not constructed quite properly and something wasn't caught in the approval process like a road settles more than you think it should. A sewer line gradient wasn't quite right or something like that and there is a failure there, a warranty bond is intended to cover those.

Austin Corry also indicated that a county used to just require a 110% bond of the estimated construction cost. Now the State Code changed and basically is that you can't require any more than 100% but you can require a warranty bond.

Austin Corry also indicated that basically the amendment that is before the Wasatch County Council tonight is that we describe performance bonds and we describe warranty bonds. The County will require a 100% performance bond and the warranty bond will require the other ten percent. The State Code has required the County to offer two options in ways that the developer can fund that performance bond. Wasatch County is comfortable with a letter of credit from a bank or cash.

Austin Corry then went through the possible findings:

1. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan.

2. The proposed amendment is consistent with the purpose and objectives outlined in Section 16.27.01.
3. The General Plan states that Wasatch County should ensure access to necessary resources for the residents.
4. The proposed amendment aligns Wasatch County Code with current State Law, provides a clearer path for applicants, and better protects the County.
5. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Chair Danny Goode then opened the Public Hearing for public comment and there was none so the public comment period was closed.

**Councilman Spencer Park made a motion that we pass Ordinance 19-08 amending the Wasatch County Code Title 16 as it relates to bonds guaranteeing construction of improvements for the purpose of aligning County requirements with the current State Code and adding clarity or additional County policies. Councilman Jeff Wade seconded the motion and the motion carries with the following vote:**

**AYE: Chair Danny Goode**

**AYE: Marilyn Crittenden**

**AYE: Mark Nelson**

**AYE: Spencer Park**

**AYE: Jeff Wade**

**AYE: Steve Farrell**

**NAY: None.**

## **PUBLIC HEARING OCTOBER 16, 2019**

### **CONSIDERATION OF ORDINANCE 19-09 AMENDING THE MODERATE INCOME HOUSING ELEMENT OF THE GENERAL PLAN CHAPTER 4, PAGE 266-268 IN ORDER TO COMPLY WITH SENATE BILL 34, ADOPTED IN THE 2019 LEGISLATIVE SESSION, REGARDING AFFORDABLE HOUSING.**

Draper Carlile, the Assistant Wasatch County Planner, addressed the Wasatch County Council and presented a power point and then indicated that Senate Bill 34, later codified within Utah Code Annotated Section 17-27a-403(2) requires every county to have a moderate income housing plan as part of their General Plan. Wasatch County must complete this update no later than December 1, 2019. Senate Bill 34 was passed by the State Legislature and signed into law by Governor Herbert on March 26, 2019.

The requirement is timely, as Wasatch County's current moderate income housing plan states that

there is sufficient affordable rental and home ownership opportunities for moderate income households, or those households earning 80 percent or less of area median income AMI. This is an outdated outlook, as prices in the local housing market have soared in the past few years. It is time for the General Plan to be updated to reflect the reality of the housing market while satisfying the requirements of the Senate Bill.

Senate Bill 34 provides, in pertinent part, that the County must include in its General Plan an analysis of how the County will provide a realistic opportunity for the development of moderate income housing within the planning horizon, which may include a recommendation to implement three or more of the following 22 strategies.

- A. Rezone for densities necessary to assure the production of moderate income housing.
- B. Facilitate the rehabilitation or expansion of existing uninhabitable housing stock into moderate income house.
- C. Facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing.
- D. Consider county General Fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county.
- E. Create or allow for, and reduce regulations related to, accessory dwelling units in residential zones.
- F. Allow for higher density or moderate income residential development in commercial and mixed use zones, commercial centers, or employment centers.
- G. Encourage higher density or moderate income residential development near major transit investment corridors.
- H. Eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the residents own vehicle, such as residential development near major transit investment corridors or senior living facilities.
- I. Allow for single room occupancy developments.
- J. Implement zoning incentives for low to moderate income units in new developments.
- K. Utilities strategies that preserve subsidized low to moderate income units on a long term basis.
- L. Preserve existing moderate income house.
- M. Reduce impact fees, as defined in Section 1-36a-102 related to low and moderate income housing.
- N. Participate in community land trust program for low and moderate income housing.
- O. Implement a mortgage assistance program for employees of the county or of an employer that provides contracted services to the county.
- P. Apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing.
- Q. Apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity.
- R. Apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services.
- S. Apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing.

T. Apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance.

U. Utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency or community development and renewal agency.

V. Consider any other program or strategy implemented by the county to address the housing needs to residents of the county who earn less than 80 percent of the area median income. (Utah Code Annotated 17-27a -403(2)(b)(ii)(A)-(V). (2019) emphasis added).

Draper Carlile indicated that Wasatch County has implemented seven of the above indicated strategies. Goal 1 matches strategy F; Goal 2, strategy I; Goal 3, strategy J; Goal 4, strategy L; Goal 5 strategy O; Goal 6 strategy S; and Goal 7 strategy T.

Draper Carlile indicated that key issues to consider are whether the proposed amendment meets the requirements of Wasatch County Code Section 16.03.01 and 16.03.07 and whether the proposed amendment satisfies the requirements of Utah Code Annotated Section 17-27a-403(2).

Draper Carlile then went through the proposed findings:

1. The proposed amendment is consistent with the purpose and objectives outlined in Section 16.03.01.
2. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Utah State Code Utah Code Annotated Section 17-27a-403(2) by
  - a. Updating the Wasatch County General Plan to meet the needs of people of various income levels living, working, or desiring to live or work in the County.
  - b. Allowing residents with various incomes to benefit from and fully participate in all aspects of neighborhood and community life in Wasatch County; and
  - c. Bringing the General Plan into compliance with recent State Code amendments by identifying seven (7) of twenty-two (22) strategies that provide a realistic opportunity for the development of moderate income housing in Wasatch County.
3. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County General Plan.
4. A recommendation of approval can be provided to the Wasatch County Council pursuant to Section 16.03.07.

Mike Davis, the Wasatch County Manager, addressed the Wasatch County Council and indicated that his goal and priority would be that the affordable housing program give incentives and the ability to subsidize key employees of Wasatch County to live in Wasatch County instead of other counties. Also Dustin Grabaugh, the Assistant Wasatch County Manager, has been working on these various programs that would work in Wasatch County and to use the fee-in-lieu money to fund those.

Councilman Steve Farrell indicated that the fee-in-lieu now is \$28,000.00 which is too low and the study that was done indicated that the fee-in-lieu should be \$68, 000.00 and possibly the fee-in-lieu could be more than the \$28,000.00 and less than the \$68,000.00 to encourage some of the developers to go on site or give more of a fee-in-lieu to give to these essential employees of

Wasatch County.

Doug Smith, the Wasatch County Planner, addressed the Wasatch County Council and indicated that the big goal is to get the other municipalities on board with Wasatch County with regard to the fee-in-lieu then developers will annex into other municipalities because their fee-in-lieu is much less.

Councilman Kendall Crittenden indicated that whatever form the Wasatch County Council passes and then that information will be sent in. Also once these amendments are passed then the Affordable Housing Code will be adjusted to match the goals that we put in these seven strategies. And that is the part that we will share with Heber City and Midway to show them these amendments that have been in sent in to the State and hope they will agree. Draper Carlile indicated that the amendments to the Affordable Housing Plan that are adopted will be published on the Wasatch County website.

Chair Danny Goode then opened the public hearing up for public comment and there was none so the public comment period was closed.

**Councilman Kendall Crittenden made a motion that we pass Ordinance 19-09 amending the modern income housing element of the General Plan, Chapter 4, page 266 to 268 in order to comply with Senate Bill 34 and accept the findings. Councilman Steve Farrell seconded the motion and the motion carries with the following vote:**

**AYE: Chair Danny Goode  
AYE: Kendall Crittenden  
AYE: Marilyn Crittenden  
AYE: Mark Nelson  
AYE: Spencer Park  
AYE: Jeff Wade  
AYE: Steve Farrell**

**NAY: None.**

#### **ADJOURNMENT**

**Councilman Jeff Wade made a motion to adjourn. Councilman Spencer Park seconded the motion and the motion carries with the following vote:**

**AYE: Chair Danny Goode  
AYE: Mark Nelson  
AYE: Marilyn Crittenden  
AYE: Spencer Park  
AYE: Jeff Wade**

**AYE: Steve Farrell**

**NAY: None.**

Meeting adjourned at 8:30 p.m.

  
DANNY GOODE/CHAIRMAN

  
CALVIN L GRIFFITHS  
CLERK/AUDITOR

