

Town Council Regular Meeting

October 13, 2021

Elected Officials Present: Mayor Marty Larson, Councilmembers Neil Brown, Hale Robison
Councilmembers John Savage was excused from this meeting for a work conflict, and Lori Christensen was out of town for Fall Break.

Staff Present: City Recorder Lucinda Thomas, City Deputy Clerk Nicole Preston, Town Attorney Josh Nielsen, Fire Chief William McMullin, Code Enforcement Manny Escotto

Public Present: Ivy Allred, Bryan Draper, Shon Fullmer, Ben Carson, Blake Draper, Jake Ellsworth, Jeanette Parker, Wayne Parker, Allen York, Tracie York, Norma York, Dick York, Melissa Argyle, Scott Argyle, Jake Thompson, Jun Khaysavang, Sara Bouley

1. **Call to Order** - Mayor Larson called the meeting to order at 7:05pm
 - a. Ivy Allred gave the opening prayer
 - b. Bryan Draper led the Pledge of Allegiance
2. **Approval of Minutes for September 8, 2021.**
 - a. Councilman Brown made a **Motion** to approve the minutes for September 8, 2021. Councilman Robison **Second** and the motion **Passed** all in favor.
3. **Approval of Expenditures**
 - a. Councilman Brown made a **Motion** to approve the expenditures in the amount of twenty-eight thousand nine hundred sixty-six dollars and eight-five cents (\$28,966.85). Councilman Robison **Second** and the motion **Passed** all in favor.
4. **Approval of Work Orders**
 - a. Councilman Brown made a **Motion** to approve the work order in the amount of eight thousand four hundred twenty-five dollars and fifty-five cents (\$8425.55) payable to Frandsen Civil Engineering. Councilman Robison **Second** and the motion **Passed** all in favor.
5. **Commission & Staff Reports**
 - a. Fire Chief Report – Chief William McMullin
 - i. They had 10 calls 5 medical, 1 accident, 3 structure fires in Santaquin, and 1 brush fire.
 - ii. Mario Garcia has now passed his Fire I and Fire II and his basic EMT. With his completion that make the whole department Fire I and Fire II certified.
 - iii. They had a good turnout at their Fire Prevention Week open house and fundraiser.
 - b. Code Enforcement Authority – Code Enforcement Manny Escoto
 - i. He's been responding to all the complaints that have been filed including calls for cars parked on the road, building permits, he mentioned that he will follow up with the complaints and then if there is no change, he will send the issue to the town attorney. He stated that it has only been a response base not proactive. He would like to be able to write the citation himself and just send it to court and get it over with, but that it is not something that he can do, so he must send it to the City Attorney and let him take it from there.
 - ii. Councilman Brown asked how many calls/complaints that he responds to a month. He responded that it could vary sometimes one sometimes five, but then he does do follow-ups with each complaint. If they don't comply then he sends the report to the town attorney. He was asked if there are repeat offenders. He said yes, but he just keeps writing the reports and sending them on but feels like unless they are issued a citation and send to court that it won't change. He was asked how he is received when he has to make a visit. He stated that people are generally pretty good to him, he is kind to people when he talks to them, but he does let them know that they need to comply with the

town's rules. He would like to see the town issue a citation or send them to court right a way for those who aren't complying, that way the offender would know that the town takes this seriously.

- c. Planning Commission Report – Planning Commission Chairman John Rosenberger
 - i. Chairperson Rosenberger went over the approvals and recommendations from their last meeting.

Public Forum-

Jeannette & Wayne Parker – Ms. Parker read a letter stating their apologies that the town and TKW Holdings have been dragged into this family dispute. She stated that on different occasions they (Mr. & Mrs. Parker) tried to buy land from family, and most recently from TKW, at the same price that they paid Dick York for the land, to make them a legal parcel but all attempts have been refused. They feel like they are out of options as there is no other land to buy. She quoted the town attorney who had previously stated in different planning commission meetings that this parcel had to be dealt with all together as the original subdivision that was created was created illegally and that the city does not recognize the subdivision currently. She went on to quote some of the code listed in the zoning ordinances and the subdivision ordinance stating that this proposed subdivision is illegal by the city's laws. She is asking the Council to comply with their laws and not approve this subdivision and rezone. She apologized again that the city has been dragged into this and thanked the council for giving her time to address them.

Blake Draper – He understands that zoning is a discretionary matter and he recognizes that. He has some concerns with a proposed road that runs east and west that could potentially hinder Rose Draper's ability to one day subdivide her parcel as it would cut a small portion but would then make it where she wouldn't have enough property to subdivide into two lots. He would also like to comment on the developmental standards proposal that is on the agenda. He understands that this is targeted towards developers and builders, and that this community is an agricultural community, but he has concerns about placing rules for one but not for all. He feels like we should have equal standards for all.

6. Discussion and possible action on Ordinance #2021-10 a proposed zone change petition from A-1 Agricultural Zone to the R-1 Residential Zone for the property owned by Bryan Draper parcel #29.035.0013 and located at approximately 372 S Sate in Genola

- a. The maps that were handed out and printed from the county website were out of date as Mr. Draper does have fence line agreements to make the property lines no longer cross.
- b. Councilman Brown made a **Motion** to approve Ordinance#2021-10 a rezone of property located at approximately 372 S State Parcel #29.035.0013. Councilman Robison **Second** and motion **Passed** all in favor.

7. Discussion and possible action on a proposed preliminary plat for B&K Estates owned by Brad Bylund located at approximately 600 North Main Street Genola. Parcel #29.030.0045

- a. It was discussed that this preliminary plat was already approved by the planning commission with no contingencies, and they had all their required paperwork and approvals from other entities.
- b. Councilman Brown made a **Motion** to approve the Preliminary Plat for B&K Estates located at 600 North Main Street. Mayor Larson **Second** and the motion **Passed** all in favor.

8. Discussion and possible action on Ordinance #2021-11 regarding a proposed zone change for York Farm Estates from A-1 Agricultural to R-1 Residential Zone for property owned by TKW Holding LLC, Jeannette Parker, and Dick York, located at approximately 735 W 2400 N Genola Utah Parcel #29.016.0056, 29.016.0057, 29.016.0058, 29.016.0049

- a. The Town Attorney mentioned that this is parcel was originally 50 acres before the illegal subdivision was created. One of the lots has since been absorbed into other parcels due to lot line changes. The remaining four parcels that are being discussed today make up about 42 acres. It was clarified that this zone change, and subsequent preliminary plat proposal would need to be done via separate motions.

- i. Councilman Brown made a **Motion** to approve Ordinance #2021-11 regarding a zone change for the York Farm Estates located at approximately 735 W 2400 N From a A-1 to a R-1 Zone Parcel #29.016.0056, 29.016.0057, 29.016.0058, 29.016.0049. Mayor Larson **Second** and the Motion **Passed** all in favor.

9. Discussion and possible action regarding a preliminary plat for the York Farms Estates owned by TKW Holdings, Jeannette Parker, and Dick York located at approximately 783 West 2400 - North parcel #'s 29.016.0049, 29.016.0056, 29.016.0057, 29.016.0058

- a. City Attorney Mr. Nielsen briefly reviewed the history of this plat and that originally, they didn't include the Jeannette Parker parcel and that leaving this parcel as is would be generally considered a violation of our subdivision ordinance as this parcel does not meet a minimum of 2.5 acres. The town sent them back telling them that they had to figure something out. The parties involved were unable to come to an agreement so TKW came to the town with a proposal that they would leave the Parker Parcel out but that they would have a development agreement and a notice of restrictions with the city stating the TKW would not be able to sell a portion of their property that is adjacent to the Parker Parcel until such time as either the Parkers purchased the adjacent property, a new owner purchased both parcels and they could be combined together to make a whole 2.5 acre parcel or TKW purchased the parker Parcel and then combined both parcels together to make a whole 2.5 acre parcel. Mr. Nielsen felt that this is not a perfect fix but that it might be the best option as all the parties seem to be at a standstill.
- b. Mr. Nielsen felt like there were three options that the council could do tonight.
- i. The council could deny it as it doesn't include the Parker Parcel and it doesn't meet the normal requirements of the subdivision ordinance.
 - ii. The Council could just go ahead and approve it and ignore the fact that it doesn't meet all the requirements of the subdivision ordinance. He stated that the council does have the right to do that when it is in the highest and best use of the land.
 - iii. The third option that he would recommend is because of the notice of restriction that is on the extra parcel it really makes the illegal subdivision back from 2001 all work. He would recommend that they go back and approve the illegal subdivision that was created in 2001. It was an illegal subdivision because they didn't come to the town council for approval, and they wouldn't have gotten it approved because the Parker Parcel was too small. Now with the notice of restriction the Parker Parcel will one day become big enough to fit the subdivision ordinance. He feels like with the Notice of Restrictions that this all takes care of itself in time. So, they can approve the old subdivision from 2001 and then approve the proposed subdivision from TKW which would allow them to then develop their land and sell their lots. This would all be contingent that the Notice of Restrictions still be signed and recorded against the remaining land.
- c. Councilmember Brown commented that he felt that there were three parties involved in this situation. TKW who in good faith purchased land that they thought they would get to develop, the Parkers who own the lot that is too small, and the town. TKW simply just wants to develop their land for which they have paid a large sum of money. The Town of Genola's interest is to make sure that the lots meet the Genola Standards. The Parkers are the remaining party and he felt that if the council went back and ratified the illegal subdivision that would give them a legal non-conforming lot, which would give them certain rights of development. He asked the Town Attorney if his understanding was correct. Mr. Nielsen then stated that he was correct. Mr. Brown went on to say that, under this very imperfect situation, he felt like this solution would make all the parties as whole as they can be. Mr. Nielsen went on to say that he felt that this is the best that he's seen and would eventually in the future solve and resolve the problems with the small parcel.
- d. Councilman Brown then asked Mr. Nielsen to share with the council what the Parker's Attorney said about this possible solution. Mr. Nielsen and the Parker's Attorney have talked about different solutions, but what he understood from him was that if the Parker's had a legal non-conforming lot, they wouldn't oppose the subdivision approval. Mayor Larson stated that previously there were 8 acres that have already gone through a rezone and lot line adjustments prior, and the council approved those changes prior. Mr. Nielsen clarified that the reasoning behind ignoring the illegal subdivision back then was that they were only lot line adjustments and lot line adjustments are not subject to the subdivision ordinance anyways.

- e. Mayor Larson made a **Motion** to approve the York Farm Development agreement on signature of TKW Holdings and authorize himself the mayor to sign the same agreement. He also motioned to approve the Notice of purchase and sales restrictions which shall be recorded on the remainder parcel shown on the preliminary plat after the final plat has been recorded upon signature TKW Holdings and authorize himself the mayor to do the same. He motioned this on the agreement and Notice the Purchase and Sales restriction that they approve the 2001 subdivision of Gladys F York Parcel consisting of approximately 50 acres. He also motioned that they approved the preliminary plat for the York Farm Estates subdivision. Councilman Brown **Second** the Motion. Mayor then asked if there was any other discussion on the motion, a member of the audience (Jeannette Parker) raised her hand, and it was clarified that the discussion was for the council. Councilman Brown stated that he would like Jeannette Parker to be able to ask her question. She asked for clarification on when Thelma and Rose had redone their lot line adjustments. It was clarified that it happened 4 years ago, but the parcel in question was absorbed into other already existing lots which is why the subdivision ordinance didn't matter at that time. She was asked if she had any other questions. Mayor then asked for a vote. **Mayor Larson and Councilman Brown voted Yay and Councilman Robison voted Nay.** Councilman Brown brought up that he believed that State law stated that a minimum of three votes in favor of the motion must exist for the motion to pass, and since we only have two, the motion would fail. Mr. Nielsen stated that he felt that if the majority of the members present voted in favor that it would pass but that he would have to look it up for clarification. It was then decided that they would move on to the next agenda item and allow Mr. Nielsen time to research and see what the state law requires.

10. Discussion and possible action regarding a developmental standards amendment for road cleanliness during construction and the requirements for waters meters.

- a. There was much discussion regarding some of the proposed changes to the ordinance. Mayor Larson would like to delete the term dust and add excessive mud. Councilman Brown requested that they change the road standards requirements for phone conduit to be communication conduit with a minimum of 2 inches with 4 ports so that if new lines are needed to be pulled there is already conduit in the ground and the need to dig up the roads wouldn't be necessary. He stated that he is under the impression that this is becoming the standard everywhere. Councilman Brown asked Chairman Rosenberger if this was discussed in planning commission. Chairman Rosenberger stated that it wasn't because a high-speed communication line isn't even in our area. Councilman Brown stated that later in the agenda this would actually be a topic for consideration.
- b. Mr. Nielsen brought up that the need to add the water standard drawings and the road standard drawings needed to be added to this ordinance as well. After talking to the planning commission and then later speaking with Lucinda he found out the JUB has prepared a larger document of technical specifications and drawings which is far beyond our 7 pages of specifications and drawings before. He said that they had talked about just have the council amend the drawings, but there is also drafted language already in the ordinance that would contradict JUB's documents. Mr. Nielsen stated that they need to go back and fix the changes and make sure that there are no contradictions. They can discuss the ordinance and anything else that might need to be changed but it shouldn't be passed till next month.

11. Discussion and possible action on pursuing a grant to input a system for high-speed internet

- a. Last month Councilman Brown was asked to investigate how to use the ARPA funds that the town has received. There are some very specific available uses that are allowed for these funds and he has determined that one of the only options the town has to use the money would be for adding high speed internet. There is very few internet options in the community and because of the slower speeds that are offered the government actually doesn't see these options as high-speed internet which is why this could be a viable option in how to spend these funds. He looked at what the cost would be to bring out high speed internet to our community would be between two and five million dollars because Genola is so spread out. The federal government has allocated a large of amount of ARPA funds for the purpose of bringing high-speed internet to rural communities. There is a company out of Nephi called Rocky Mountain West Telecom that sell

engineering services and they have put together a proposal for the Town of Genola regarding the potential of pursuing these types of grants. Their cost estimates for them to put together engineering drawings, cost estimates, grant proposals, proposed funded service area maps is estimated at \$5500 and the Town can use the ARPA funds that we have already received to pay those costs. The grants have been functioning where they grant the money to the Town of Genola and we can allow the company in Nephi to manage the installation project, we can contract with a major service provider like comcast, Centracom, or Utopia to manage the installation, or we can manage the installation ourselves and then contract with a company to support the system including maintenance, billing, customer support, etc. There would be no real cost out of the town's pocket. Installing this system shouldn't be too difficult as this conduit only has to be 18 inches deep which is well above our water systems. We would have to have a central office which is building with servers' modems etc., no people or desks. This is where the fiber optics come into the community and out to the residents. He feels like the Fire Station would be a perfect space for it to be placed as it is central, and we have plenty of extra land to put in this small building. Mayor Larson asked who he would suggest as a project manager person. Councilman Brown stated that he could oversee it but that he would suggest that they allow this company out of Nephi to do all the heavy lifting for this project. Mr. Bryan Draper who was seated in the audience asked if we got a grant for 1 million dollars and the price was 2 million dollars what would then happen? Councilman Brown then clarified that these grants are being issued for the cost of the total project no matches which is why he felt that this would be a great option for our community.

- b. Mayor Larson made a **Motion** that they proceed with pursuing a grant for high-speed internet and engage with RMWT for consulting and accomplishing this task and ask Councilman Brown to oversee this task and reporting back to the council. Councilman Robison **Second** and the motion **Passed** all in favor.

Mr. Nielsen then asked to speak and stated that his recollection was based on an appeals authority, not on a council and confirmed that Councilman Brown was correct. He quoted the state law which says, "the minimum number of votes required to pass an ordinance or to take any action by the council, unless otherwise prescribed by law, is a majority of the voting members of the council, regardless of absence of vacancy." Utah Code 10-3-507 He went on to state that he could not find any contradiction to this. He clarified that the needed to have 3 votes minimum to pass any action. This would mean that the TKW Subdivision failed.

12. Discussion and possible action on a proposed Mining and Excavation Ordinance 2021-05

- a. Mayor Larson questioned about not allowing crushing in a Heavy Industrial Zone and felt that it should be allowed in a heavy industrial zone. Mayor Larson would like to have crushing listed as allowed in a heavy industrial zone but with a conditional use. Mayor Larson asked to know what exactly the changes were made by the planning commission. Planning Commission Chairman Rosenberger stated that the first major change was adding in the language that this applied only to the I-3 Heavy Industrial Zone. The other two changes were changes to the definitions to be a more defined.
- b. Councilman Brown made a **Motion** to approve Ordinance #2021-05 the Mining ordinance with the change of grammatical changes, making rock crushing a conditional use. Councilman Robison **Second** and the motion **Passed** all in favor.

13. Council Comments

- a. **Mayor Marty Larson** – He attended a meeting with UDOT concerning different road projects that would be needed. The problem is that the proposed road changes would be roughly 5 million dollars, but they also require a 6.75% contribution. The mayor has continued to bring these up at the meetings but is wondering how the council feels about him pushing this as it would cost the town a considerable amount of money. Councilman Brown thought that it was still important to be bringing up but that it was a considerable amount of money. Mayor Larson stated that he was told that 6.75% is the bare minimum contribution percentage, and he didn't see that going down anytime soon.

- 278 **b. Councilman Hale Robison** – They will be finishing the oil for the chip seal but need to wait for a
279 day that is a little warmer.
280 **c. Councilman Neil Brown** – he had no additional comments
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282 **14. Motion to Adjourn**

- 283 a. Councilman Brown made a **Motion** to Adjourn. Councilman Robison **Second** and the motion
284 **Passed** all in favor. The meeting was then adjourned at 8:15pm.
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287 Minutes prepared by Deputy Clerk Nicole Preston
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289 Minutes Approved on November 10, 2021
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to see signed copy please visit the town office
Lucinda Thomas City Recorder