

**Daniel Town Council Meeting
Monday, October 6, 2014 at 6:00 PM
Wasatch County Services Building, Room 126
55 South 500 East, Heber City, UT**

Quorum present: Council members John Glodowski, Eric Bunker, and Kasey Bateman were present when Mayor Chip Turner called the meeting to order at 6:03 PM. Council member Jon Blotter arrived later in the meeting. Recorder Lynne Shindurling was present to record the minutes. Treasurer Sherri Price was also present.

Members of the public in attendance were: Adrienne Clyde, Jim Ritchie, Pam Skinner, Ryan Taylor.

1) PUBLIC COMMENT CONCERNING ANY ISSUE NOT ON THE AGENDA

There was no comment received at this meeting.

2) INTERLOCAL AGREEMENT WITH WASATCH COUNTY FOR SNOWPLOW SERVICES FOR 2014-2015 WINTER SEASON, RESOLUTION REQUESTED

Mayor Turner read Resolution DR-2014-10-06 as presented and stated there had been no changes in amounts billed from the previous year's agreement. ***Council member Glodowski moved to accept the resolution as read, seconded by Council member Bateman. (Council member Blotter arrived during this discussion at 6:05 PM.) The resolution passed with "aye" votes from Mayor Turner, Council members Bunker, Glodowski, and Bateman, with no vote provided by Council member Blotter.***

3) BUSINESS LICENSE APPLICANTS

Council member Bunker stated Klenk Construction, Housekeeping by Dawn, Great Escapes applied for renewal of their licenses. The residential adult treatment center known as Sundance Ridge applied for a renewal under the name of Nathan Stoddard as the owner, whereas the original conditional use permit was issued to the Petersons. On the application Mr. Stoddard stated the Town of Daniel incorrectly printed the license with the name of Sundance Ridge rather than Sundance Canyon, Inc. However, the Town's records clearly state the

business name as Sundance Ridge with the Petersons as the applicants. Because this is apparently a new owner applying for a new business, with a check presented written on the account of Sundance Canyon, Council member Bateman would like Mr. Stoddard to come before the Council as required by Town Code. The conditions placed on the prior entity had been met, but since this is a new business application, Council member Blotter would also request further explanation of the circumstances be made to inform the Council of the specifics of the operation currently. A public hearing would need to take place if this is to be considered as a new business under a conditional use permit. Further discussion ensued resulting in the Council requesting Commission Director Bunker to send a letter to the applicant asking why the change and if, indeed, they want this to continue under a different name. This will be brought before the Planning Commission and then the Town Council for further discussion.

Council member Bunker then presented a new business license for Kendra Giles doing business under the name of Tender Touch Massage. She had originally applied for a license with Wasatch County, but was informed that since the business address is within the Town of Daniel, she needed to apply there. Mayor Turner stated she had contacted him directly also, and his opinion is she would be doing massages in her home on a very limited basis. Council member Bateman stated his understanding of the language in the Code requiring an applicant appear before the Council when applying for a new business is for the Council members to ask questions of the applicant so as to have a full understanding of the nature of the business and give the neighbors an opportunity to object, if desired.

After minimal further discussion amongst the Council members, the Council agreed to renew licenses for Klenk Construction, Great Escapes, Housekeeping by Dawn, and issue a new license to Tender Touch Massage.

4) PLANNING DEPARTMENT REPORT

Council member Bunker reported he had 20 Blue Stakes requests during the month of September, totaling 27.5 hours of work, and 29 hours put in doing planning matters. On the Davis matter, the building still needs to be brought into compliance. There had previously been a Stop Work order issued, and as work has continued, problems continue. Ryan Taylor reported it has a zero setback

with the addition put on the back of the building, which was done without a permit. One recourse to correct the setback problem is to work out a boundary line adjustment with the neighbor, Nephi Trunnell. If this is not accomplished, part of the building will have to be torn down. Council member Bateman asked for clarification on his non-compliance, having been red-tagged once before. Council member Glodowski asked whether Mr. Davis has had explained to him the ramifications if he proceeds as is, that being possible court action on a Class C misdemeanor. Council member Bunker stated the facts have been thoroughly explained to him. Mr. Taylor stated he keeps abreast of the progress on the building as he drives by it twice a day. The addition is a dog kennel, which needs to be removed if the boundary adjustment is not accomplished. He requests a report before the Council at November's meeting.

5) RECOMMENDATION FROM PLANNING COMMISSION FOLLOWING PUBLIC HEARING FOR NEW CONDITIONAL USE HELD ON SEPTEMBER 8, 2014

Mayor Turner read the recommendation handed down from the Planning Commission, which recommended NOT adding the event center to the conditional uses currently allowed in the RA-5 zone. The Mayor stated his support for the recommendation. ***Council member Glodowski moved to accept the Planning Commission's recommendation. This was seconded by Council member Bateman.***

Council member Blotter inquired whether reasons as to why the denial should be placed in the record. He referred to an e-mail he had sent to the Town Council and Planning Commission members on September 9, 2014, citing Town Code and Ordinances which apply to the requested events facility, some of which is as follows:

1. Section 8.21.26: We do not allow short-term home rentals in residential areas. In my view, an events facility is similar to a short-term home rental.
2. Section 8.21.25: The Town allows a Bed and Breakfast, with the condition that receptions for groups not staying overnight on the premises are not allowed. Either the owner or resident manager will occupy the residence full time.

3. Section 8.25.06: Home occupations are allowed when the business is conducted entirely within the residential dwelling. The home occupation does not involve the use of any accessory buildings or yard space for storage or activities outside of the dwelling not normally associated with residential use. (Having parking available for participants in the events would fall within this restriction.) The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling. No more than 15 percent of the ground floor area of the dwelling is devoted to the home occupation. The existence of the home occupation is not discernable to neighboring residents.

In summary, Council member Blotter views the requested conditional use as not fitting within a home occupation as defined by the Town. It does not fit the general plan. It does not correspond at all with the Bed and Breakfast use, nor does it comply with Section 8.21.26.

Council member Bunker cited that as the Planning Commission looked at the matter, they found several areas which could not be mitigated, one being traffic. Therefore, the recommendation of denial was reached.

With a motion and second on the table, the recommendation of denial was unanimously approved by the Council. It was decided the \$60 amount tendered for a business license would be returned to Mr. Willes and no license issued. The \$500 amount tendered was deposited and used by the Town in following noticing provisions and consideration for acceptance of the conditional use.

6) RECOMMENDATION FROM PLANNING COMMISSION ON RITCHIE SMALL SCALE SUBDIVISION AT APPROX. 450 WEST 3000 SOUTH

Mayor Turner referred the Council to the list of five conditions imposed by the Planning Commission for this subdivision to proceed. Adrienne Clyde produced a concept plan of the property on a rather small scale. Commission Director Bunker produced a larger plot plan showing the 20.63 acres of land. The Council discussed with Ryan Taylor the reasons for the 250' setback, that being an attempt to form regularly shaped lots. He stated in the Town Code, figures of

100' and 200' feet also appear, and the figures used by the owners in their applications are considered on a case-by-case basis.

Commission Director Bunker stated that the Planning Commission was recommending acceptance with the five conditions listed. Mr. Taylor stated Fire Chief Ernie Giles was concerned with the length of the road as far as fighting a fire on the back property. Mr. Ritchie commented the lots are plotted as larger size to keep them greenbelt, and irrigation water is available.

Ryan Taylor stated Town Code provides for the approval of the subdivision with two more conditions addressed, those being Wasatch County's fire concerns and WCWEP producing an irrigation plan to bring water to the front lot.

Council member Bunker reviewed condition #5 where the property in question is located in two different zones. He cited that Section 8.02.04(3)(d) and (e) allow the Planning Commission in their recommendation to the Council to bring the entirety of the property into the RA-5 zone without having to go through a zone change procedure. Although not readily seen on the plot plan before the Council, a Public Utility Easement is required around each lot. Confirmation that the easement exists will be made by the engineering office.

At this point the Mayor asked for a motion to accept the Planning Commission's recommendation to approve the Ritchie small scale subdivision.

Council member Blotter moved to follow the Planning Commission's recommendation and approve the Ritchie small scale subdivision with the five conditions imposed by the Planning Commission, and adding #6, addressing the Wasatch County Fire concerns; #7, an irrigation plan from WCWEP; #8, Public Utility Easement around each lot. The motion was seconded by Council member Glodowski. The motion passed with unanimous "aye" votes from the Council.

Council member Bunker brought up an additional matter from the Planning Department, that being the building of a garage by Tom Grose. It was thought Mr. Grose would be present at the meeting, but in his absence Council member Bunker stated the Planning Commission had denied issuance of a permit to build a garage in his non-conforming subdivision, on a 1.5-acre lot, upon the basis of Section 8.21.08(3), which states an accessory structure may not be built until the main structure is built. The supplemental standards apply here because the lot is smaller than five acres. On a five-acre lot an owner may build a garage first if they

purchase a permit to build a house. But according to Code Section 8.27.21(4)(b), as well as 8.21.08, building a garage first is not permissible. This matter will be followed by the Planning Department with no action taken today.

A final matter from the Planning Department was production of a letter written to Charles Schultz signed by the Mayor regarding his property located at 975 West 3000 South in Daniel dated September 15, 2014. Mr. Schultz had requested a letter from Town of Daniel stating his lot is not buildable to take before the County taxing authority, but no such letter can be provided as Mr. Schultz has not appeared before the Town Council to determine such. The Town, as a whole, does not want to put any more time into this matter until Mr. Schultz comes before the Council.

7) DANIEL MUNICIPAL WATER ITEMS AS NECESSARY

No one from Daniel Municipal Water was present to make a report on water issues, but Council member Bunker stated he was aware of a problem on the property of Michael McLean where a backhoe had apparently been unloaded onto a location possibly causing a break in a waterline, but there has been no report of a break as of yet. Ryan Taylor reported he had been asked to locate the lateral and had replied the Town could only locate the meter. Council member Bunker stated he had Blue Staked about 3 feet away from the meter, but could not go any further than that. There is written record of the Town having done so.

8) APPROVAL OF COUNCIL MEETING MINUTES OF SEPTEMBER 8, 2014 AND PUBLIC HEARING MINUTES OF SAME DATE

Council member Bunker asked that the wording on page 3 of the Public Hearing minutes stating "Mr. Willes's application instigated the discussion" be changed to "initiated the discussion." Council member Blotter also requested changing the wording in paragraph 4 on page 3 from "feelings" to "opinion" and the word "feels" to "views" in the same paragraph as well as the second paragraph on page 4, "state his view." ***With these corrections having been made, Council member Bunker moved to accept the minutes of September 8, 2014, seconded by Council member Glodowski. The minutes were approved by "aye" votes by Council members Glodowski, Bunker, Blotter and Mayor Turner, with an abstention by Council member Bateman as he was not present at the meeting.***

Council member Bunker stated he had been notified anonymously that the Public Hearing had not been correctly noticed, so the clerk will take extra care in the future to make sure notices are done properly.

Council member Glodowski moved to approve the Town Council meeting minutes of September 8, 2014, as written, which was seconded by Council member Bunker. The minutes were approved by “aye” votes by Council members Bunker, Blotter, Glodowski and Mayor Turner, with an abstention by Council member Bateman.

9) UPDATE ON IMPACT FEE STUDY

Mayor Turner produced two pamphlets titled Town of Daniel DRAFT – Culinary Water Impact Fee Facility Plan (IFFP) and DRAFT – Transportation Impact Fee Facility Plan prepared by Epic Engineering under the direction of Ryan Taylor.

Mr. Taylor stated these are preliminary numbers and he needs more input on loan amounts and construction costs to be precise. The water IFFP is in two parts if monies collected are used to pay back the loan. One part is referred to as a buy-in with a second component being an impact fee necessary before a hook-up can be made on a new residence. The preliminary impact fee for a water hook-up is \$10,250, which may vary in the future. The original loan for constructing the water system was about \$1 million at .5% interest over 30 years. Council member Glodowski inquired whether, once the loan is paid off, the buy-in amount would decrease. Mr. Taylor replied it does lessen over time.

Council member Blotter asked how the transportation impact fee works. Mr. Taylor stated an amount is collected from new construction which has created an impact on the Daniel road system requiring upgrades to existing roads or construction of new roads. The two IFFPs under consideration and about which the public hearing is to be held will replace the current impact fee. At the public hearing Mr. Taylor will discuss the Impact Fee Analysis and listen to public comment. After the public hearing, if the fee schedule is adopted, the Town must wait six months before collecting any monies. The amount of the water impact fee will be dependent on meter size: the bigger the meter, the greater the fee amount, as this creates a greater impact on the current system.

Mr. Taylor asks that the Council review the packets provided, with particular attention to the Capital Facility lists included which came from the 2008-2009 Capital Facility Plans put together at that time. Completed projects as of this date have been deleted from the list.

A third element looked at by Mr. Taylor he has labeled land acquisition. Monies would be needed to purchase land on which to build a Town Hall, a park or other recreational area. With the Town currently being half built out, new construction could account for half of the amount required for such a purchase and the remaining amount coming from current residents by way of a tax increase. This money, too, would have to be spent in 7 years or returned to the contributors. Due to his lack of information, Mr. Taylor would have a difficult time coming up with an accurate estimate on the analysis needed in this area.

Mayor Turner stated his view that sooner or later the Town is going to need a facility in which to hold its meetings, perhaps in conjunction with a park or other facilities. Council member Bateman opined most residents don't realize the importance or the need for having a Town meeting place and location to store Town records and conduct Town business. The Council as a whole would like more time to reach out to the public and further consider this aspect of an impact fee. Mr. Taylor stated it would be helpful for him to have a dollar amount on what the Town is willing to pay for a piece of land.

As far as public hearings in the near future, Mr. Taylor suggests reviewing the materials he has presented, coming forth with any comments or suggestions dealing with the water and transportation IFFPs, hold hearings on those issues, in November, and adding a third aspect on land acquisition in the future, if the Council so desires.

Council member Bunker moved to set a date for the public hearing, which was seconded by Council member Glodowski. Council member Blotter suggested getting the Planning Commission involved by sending them the packets of information prepared by Epic Engineering and providing input before the public hearings are held. Mr. Taylor will provide electronic copies to be disseminated. ***The Council voted unanimously to hold two public hearings, on the culinary water and transportation aspects of the impact fee facility plans, in conjunction with the next scheduled Town Council meeting on November 3, 2014.***

Council member Bunker inquired about administrative costs for these two programs if they are adopted. Mr. Taylor stated there will be separate accounts maintained. Mr. Bunker's concern is not wanting all benefits of monies collected being used to administer the programs. With the current growth rate in the Town of Daniel, Mr. Taylor is confident the programs will be advantageous overall. If not, they can be terminated at any time. He recommends updating the IFFPs every 5 years.

10) QUARTERLY UPDATE ON 2014-15 BUDGET BY CLERK/RECORDER LYNNE SHINDURLING

The first quarterly update for the year was presented by Ms. Shindurling. She explained that expected revenues for the year are running around 20% for the first quarter and expenses at approximately 25%. On the water fund budget the figure of \$2,075 under material and supplies was ½ the cost of the Blue Stakes locator, which cost was split 50/50 between the water fund and the general account.

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

The warrants for the month were presented by Clerk Lynne Shindurling. Council member Blotter inquired of Ryan Taylor what the Mike Petersen concept approval is under engineering. Mr. Taylor explained Mr. Petersen had resubmitted his prior plan from 2009 and is continuing on with the commercial project.

Council member Bunker asked about adjusting the excavation fee for the Comcast meter bases. Mr. Taylor suggests no adjustment be made in the base cost, but perhaps charging for enforcement during the building process after the permit has been issued.

Council member Bateman inquired about two separate rates for excavation in general within the Town, one for commercial and one for residential. Council member Bunker stated after years of experience in the field, a constant rate is transparent to everyone and easier to administer.

Council member Blotter moved to approve the warrants as presented, with a second by Council member Glodowski. The warrants were approved by unanimous "aye" votes.

At this time Clerk Shindurling informed the Council of the receipt of an engagement letter from Ben Probst, the auditor from Gilbert & Stewart who has been retained by the Town for a number of years. He has outlined charges for the 2013-14 full-blown audit at \$5,500 and, if our revenues qualify for the “agreed-upon procedure report,” a charge of \$2,500-3,000, as discussed in the Town Council meeting held on August 4, 2014. The Council accepted the Gilbert & Stewart engagement letter, and the audit will be conducted accordingly.

12) CONTINUED DISCUSSION OF CODE ENFORCEMENT, POSSIBLE CLOSED SESSION

Mayor Turner presented a sample Notification of Code Violation letter and informed the Council that in discussion with Clerk Shindurling, the code(s) in violation would be filled in with counsel from Mr. Bunker, Mr. Taylor, Mr. Walton, or other person authorized to issue such a notification, and be hand delivered to the site by Ms. Shindurling. Council member Bateman brought up the fact that not all locations may be a safe environment, in which case other arrangements could be made for delivery of the document. The Council would review circumstances, as necessary, and make the appropriate decision on delivery of notification. It was agreed by the Council to use this document as an initial notification tool.

13) POSSIBLE CLOSED SESSION TO DISCUSS THE ACQUISITION OR LEASE OF REAL PROPERTY

Council member Glodowski moved to leave the regular session of the Council and go into closed session, seconded by Council member Bateman. The Council voted unanimously to go into closed session.

Council member Glodowski moved to come out of closed session. Council member Blotter seconded the motion, and “aye” votes to do so were unanimous.

(Present for the closed session besides the council members, clerk, and treasurer, was Ryan Taylor.)

14) ADJOURN

Council member Glodowski moved to adjourn. The motion was seconded by Council member Blotter, and the Council voted unanimously to adjourn. Mayor Turner adjourned the meeting at 9:10 PM.

Lynne Shindurling,

Clerk/Recorder

Approved 11-03-2014