

**JOINT MEETING OF DANIEL TOWN COUNCIL AND PLANNING COMMISSION MINUTES
MONDAY, FEBRUARY 6, 2017 AT 6:00 PM
WASATCH COUNTY SERVICES BUILDING, ROOM 126
55 SOUTH 500 EAST, HEBER CITY, UTAH**

Quorum present: Council members Bunker, Glodowski, and Blotter were present when Mayor Turner called the meeting to order at 6:03 PM. Council member Bateman was absent.

Planning Commissioners present: Kim Norris, Tom Rawlings, Pam Skinner, and secretary Kathy-Jo Percy.

Treasurer Sherri Price was present and Clerk Lynne Shindurling present to record the minutes.

Members of the public in attendance were: Mike Petersen, David and Elizabeth McCombs, Justin McAllister, Kyle Turnbow, Jennifer Gressmen, Teri Welch, Jeff Heftel, Jeremy Heftel, Stefanie Grady, Mark and Jamie McAllister, Brent Waterman, and Ryan Taylor.

1) PUBLIC COMMENT CONCERNING ANY ISSUE NOT ON THE AGENDA

There were no comments made from the public, but Council member Blotter stated he has received comments from residents that a street lamp on Highway 189 where 3000 South intersects would be very helpful as it is quite dark at night and hard to find the street heading east into Daniel.

2) UPDATE ON HEBER LIGHT & POWER FRANCHISE AGREEMENT

Mayor Turner stated this was on the agenda as a continued discussion from January of when the agreement expires. He said it is a ten-year non-exclusive franchise agreement whose term is up in September 2020. If the Town wishes to continue the contract after its expiration date, the renewal is automatic. However, if the Town wishes to terminate the contract, a 120-day written notice is required.

Council member Bunker suggested making HLP aware of the need for a street lamp as mentioned in item #1. This should be covered under the franchise agreement. Mayor Turner suggested the Town formulate a list of areas where lighting may be beneficial with which to approach the power company. Council member Bunker also stated an ombudsman was to have been selected to handle complaints under the agreement, and, to the Town's knowledge, no one had been chosen to fill the position.

3) DISCUSSION ON DANIEL PLAZA OWNED BY MIKE PETERSEN

Mr. Petersen was in attendance and addressed the Council on several subjects dealing with the plaza. He has been working with Ryan Taylor, Kyle Turnbow, and the Town Planner to resolve the issues needed to obtain a Certificate of Occupancy; i.e., on the lighting the lights have been changed to face downward; an additional fence to be installed on top of the

concrete one already installed. On landscaping he intends to plant trees and a berm covered with grass when the weather allows in the spring. He has a bond in place to do this work and will present that to Planner Bunker. He is also going to turn water shares over to Daniel Town.

He turned in a business license application to the Planning Department, along with the appropriate fee, but will not receive a license until the CO has been issued. This license is in the name of Heber Valley Properties.

Planning Director Bunker stated he has received two applications for business licenses from Kimball Strickland, who is intending to engage in business at the Daniel Plaza location. One license is in the name of Classic Auto Sales, which Mr. Bunker stated is not an approved conditional use in the commercial zone. The closest business use is a truck and car rental as a conditional use. Mr. Strickland has also applied for a business license for PVC Steel Exterior and Kimball Roofing, as well as carpet cleaning. Planner Bunker produced for Mr. Petersen and the Council the signage plan Mr. Strickland had provided. Mr. Taylor stated the two issues need to go before the Planning Commission, the business licenses and the signage, for a recommendation.

Mr. Petersen also gave an update on the Golub annexation into Charleston. He illustrated on the white board the Daniel Town boundary is currently on the east side of Highway 189 going into Heber. In his discussion with Jim Kaiserman with Wasatch County, the suggestion was made the Town boundaries for Charleston and Daniel remain on the edge of Highway 189 and the State control the highway itself. Council member Bunker stated an island is created if you do not go to the center of the road. He also stated if you move the line from where it is shown on the annexation petition, the petition becomes void and the process should begin again. Mr. Petersen does not want to get into a legal battle, and suggested having a meeting with himself, Mayor Kowallis and Mr. Bunker to finalize where the boundary line should be. Mr. Bunker informed Mr. Petersen the Town of Daniel is in possession of a letter signed by the Charleston clerk and mayor moving the Daniel boundary from the side of the highway to the center.

The Council next addressed the business license application of Mr. Petersen under the name of Heber Valley Properties. He stated he will not conduct business from the location but wanted to have the necessary license as the plaza owner. Council member Blotter asked if Mr. Petersen, as the owner of the property, would have any responsibility for tenants moving into the building and making sure their businesses fit within the Town Code. Mr. Petersen stated he would have any prospective tenants come before the Town Council with their license applications before allowing them to enter into a lease on his property.

Council member Glodowski moved to accept the business license application once a certificate of occupancy has been issued to Mr. Petersen. The motion was seconded by Council member Bunker and passed with the following vote: "Ayes" from Mayor Turner and Council members Glodowski and Bunker; a "nay" vote from Council member Blotter.

4) RECOMMENDATION FROM PLANNING ON SPROULE/GRESSMEN FINAL PLAT APPROVAL

Mayor Turner read the recommendation letter from Planning into the record. This allows for a 50' driveway containing the public utility easement. Planning Director Bunker stated the non-exclusive right-of-way makes the entire 50' width a public utility easement. Jennifer Gressmen affirmed their understanding is this meets the Town's requirement for the PUE right-of-way.

5) RECOMMENDATION FROM PLANNING ON McCOMBS MAGNIFICENT FAMILY FARMS FINAL PLAT APPROVAL

Planning Director Bunker stated the exact situation exists on the McCombs right-of-way. It becomes a non-exclusive PUE as the lot is created. Mayor Turner read the recommendation letter into the record. Planner Bunker stated this condition on the PUE exists for the creation of a single lot. If, in the future, the creation of a second lot was requested, the PUE would have to be revisited by the Council.

Council member Blotter moved to approve the Planning Board recommendation on the Sproule/Gressmen subdivision, which was seconded by Council member Glodowski. In further discussion, Planner Bunker requested the additional language "final plat" be added to the motion. ***Council member Blotter added "final plat" to the motion; the second stood. The motion passed unanimously.***

Council member Blotter moved to approve the McCombs Magnificent Family Farms final plat, which was seconded by Council member Glodowski. The motion passed unanimously.

6) DISCUSSION AND POSSIBLE ADOPTION OF RESOLUTION CONTAINING RATE SCHEDULE PROPOSED BY RYAN TAYLOR/GDA ENGINEERS

Mr. Taylor stated in January the Council approved adding him as a Town engineer. He has now submitted a rate or fee schedule to present costs to the Town Council. He stated in comparison to the Epic rate schedule currently in effect, his time will be billed at the same rate or slightly less through GDA. It contains largely the same scope of service as that in the Epic Engineering schedule. The clerk added Mr. Taylor at GDA is usually billed as an Engineer IV, billed at \$120 per hour, in comparison to a like position under the Epic schedule at \$123 per hour.

Council member Blotter stated he would like to get a schedule of comparable rates from other local engineering firms. Mr. Taylor stated he cannot provide rates from other firms, and it was agreed Council member Blotter will research rates from additional engineering firms such as Summit Engineering and Horrocks Engineering here in the Heber Valley. Mayor Turner

stated he would like to approve the GDA rates this evening, and deal with any changes which may become necessary at a later date.

Council member Blotter moved to approve the resolution. It was decided to have Mayor Turner read the resolution DR-2017-02-06 into the record first, which he did. ***Council member Glodowski then moved to approve the resolution as written, with a second from Council member Blotter.*** Council member Bunker said to add “The February 1, 2017 rate schedule” to the motion. The motion was modified by Council member adding “The February 1, 2017 rate schedule” and Council member Blotter said the second stands. ***The motion passed with the following vote: “Aye” votes from Mayor Turner and Council members Bunker and Glodowski, and “nay” vote from Council member Blotter.***

7) DANIEL MUNICIPAL WATER MATTERS AS NECESSARY

Kim Norris stated he had no issues to discuss. Council member Glodowski asked if Mayor Turner had had a conversation with Hugh Barker of Daniel irrigation Company in regards to making the status of shares held by municipalities non-voting. Mayor Turner had not had any contact with Mr. Barker as of the date of this meeting.

8) STORM HAVEN WATER ISSUES AS NEEDED

Mr. Norris reported no issues with Storm Haven either. Council member Bunker stated in working through the Hazard Mitigation Plan for the Town, FEMA has valued water meters at \$103 per person at a residence per day for loss of service. Loss of secondary water is valued at \$43 per person at a residence per day.

9) BUSINESS LICENSE APPLICATIONS

Planning Director Bunker reported three business license renewal applications came in for the month, those being Coleman Trucking, Phil’s TV & Appliance, and Jill’s Hairstyling. The Council approved renewal of all three businesses.

10) PLANNING DEPARTMENT REPORT, VIOLATIONS AND ENFORCEMENT

Planning Director Bunker presented the Council with the monthly planning report showing his hours worked and a list of items he had pursued. Council member Blotter asked how working with the two engineering firms had gone over the past month. Mr. Bunker stated everything was progressing, but there were billing issues with Epic Engineering which were still unresolved. Kyle Turnbow said he would check with Mr. Walker at Epic on the status.

Council member Blotter asked the status of the McAllister zone change application. Mark McAllister stated he had not had a chance to move forward with the process but would be doing so as soon as possible. Council member Blotter also inquired about the total wages earned by Planner Bunker in 2016 delineated on his planning report. Mayor Turner commented the Town continues to benefit greatly by the work performed by Planner Bunker.

Council member Blotter asked if the CDBG application process was completed. Mr. Taylor stated the application has been completed and submitted.

Planning Director Bunker said Epic Engineering has stated they feel there is a conflict of interest in their performing engineering work on the road into the Clyde/Ritchie small subdivision because Epic is in the pool of engineers for the Town. Mr. Turnbow stated they would like to be directed by the Town to do the design work and bill the Town for said work, and then the Town could bill the landowners for work performed. Planner Bunker stated that amounts to the Town designing a private road for a landowner, which the Town should not be involved in. As Epic sees a conflict of interest, Mr. Taylor suggests the landowners use a third engineering firm to do the design work which will then be reviewed by Mr. Taylor. This is basically a private road for a property owner and design should not be accomplished by the Town. The Town will not engage Epic to undertake the road project.

11) APPROVAL OF MINUTES FOR JANUARY 9, 2017

Council member Bunker moved to approve the minutes as written, which was seconded by Council member Glodowski. The motion passed by the following vote: "Ayes" from Mayor Turner and Council members Bunker and Glodowski. Council member Blotter abstained.

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

In presenting the warrants for Town expenses, the clerk mentioned charges by our attorney, David Hartvigsen, for work on franchise agreements for Allwest Communications. The Mayor had not authorized the charges and will investigate the matter. The clerk finished presenting the water companies' monthly invoices.

Council member Blotter moved to approve the warrants. The motion was seconded by Council member Glodowski and the motion passed unanimously.

13) CONTINUED WORK MEETING WITH PLANNING COMMISSION ON REVISION OF HOME OCCUPATION CODE 8.25

Mayor Turner began the discussion by stating the Council had held the necessary public hearings and received many comments. The public needs to understand not all the items will be included in revision of the code.

He stated his understanding is the Town officials are to write this evening a purpose for the next section of code, which at the time is still untitled. If it is felt another section in this code is not needed, then the Boards can revisit what has already been completed on home-based businesses and further revise that code.

Council member Blotter does not want another purpose defined, feels it is not necessary. He stated he has done a lot of research for "commercial residential businesses" and has concluded from realtors and appraisers that property values are decreased with allowing

such businesses in a residential zone. He pointed out that his home on 3000 South is surrounded by such businesses.

Mayor Turner asked Council member Blotter then how he would handle a situation where history has certain business endeavors being conducted in a small shop on an individual's property but the current code does not allow accessory buildings on premises. Would he be willing to make some adjustments to the code?

Council member Blotter stated one appraiser told him Midway City used to have a similar situation and passed legislation to clear out business endeavors in the residential zones. He doesn't know where to draw the line to address buildings or vehicles or other aspects of individual businesses. He stated he contacted an attorney and was informed that by not enforcing the current code on home occupations, the Town is misrepresenting what is permissible, thereby opening them up for lawsuits. Council member Bunker would like to amend code to allow some of what is already taking place.

Commissioner Rawlings stated such business is being conducted not only throughout Daniel, but county wide. He asked Council member Blotter what he thinks can be done about business currently being conducted.

Council member Blotter stated a realtor had stated to him that because of the larger tracts of land available in Daniel, people are no longer moving in for the agricultural opportunities but to start a business. In reviewing the General Plan of Daniel, Council member Blotter stated it recites fostering of agriculture and improving property values. He would like to enforce code as currently written.

Brent Waterman brought to the Boards' attention a document he had written at the beginning of the code discussions which contains his writing of code that could be adopted which addresses the businesses currently located in Daniel.

Mayor Turner asked Council member Bunker why he thinks the current code cannot be enforced by coming down on existing businesses. Mr. Bunker stated until it is deemed a nuisance, there is nothing the Town can do. Council member Blotter disagreed and stated the Town has the right to enforce code as written. It doesn't have to rise to the level of a nuisance. He stated as current businesses use a single vehicle to conduct their own business, that is acceptable. When it rises to the level of employing additional personnel using additional trucks, the situation has changed.

Commission Rawlings stated if that is the stance the Town takes in regards to one business, it has to be enforced throughout for all businesses in the same manner, no exceptions. However, he doesn't want the enforcement duty to become so overwhelming that the Town could lose a valuable asset such as Eric Bunker.

Mayor Turner stated the conversation seems to go full circle and no words put to paper. He would like the Council and Planning Commission to work on trying to come up with a purpose and perhaps a title for these businesses being conducted within Daniel Town.

Council member Bunker asked those present to look at Senate Bill 135 before the legislature presently which will regulate businesses in municipalities. He states if the next level of business endeavor is not addressed in new code, the Home Occupation 8.25 needs to be looked at again in its entirety. He also stated the General Plan does promote business within Daniel.

Commissioner Pam Skinner stated the current title of "Home Occupation" is a terrible name. She'd like to see the Boards define more specifically business conducted within the home and perhaps outside the home. List things allowed within the home, within the garage, on the premises. The purpose should include all aspects.

Mark McAllister stated those persons who bought property on 3000 South and conduct business from the premises have the luxury of revenue generated from the business to support purchase of the property. Without those revenues those individuals may not be able to stay and what kind of people come in to replace them.

Teri Welch, who has a large home in Daniel, wonders what she can do with her empty rooms if not rent them out like Air B&B. Does the Town have the right to tell her what she can and cannot do within her own home? She has been told the Town does not allow rentals.

Mayor Turned stated as the work meeting continues on February 15th during the Planning Commission meeting, please come with perhaps a list of what you DON'T want to allow as part of a business in the Town.

Jamie McAllister stated it would benefit residents if there was commercial zoning available for people to house a small business within Daniel. She feels it is very limited. She states the purpose ought to be to accommodate the homeowners but meet the needs of working residents as well. There is a need for a small business commercial zone.

Commissioner Kim Norris stated in looking to define the purpose for home occupation code, we don't want any commercial in an RA5 or RA1 zone, but let's find the middle ground. Set the parameters as one truck, one employee, whatever you decide, but set a starting point and don't allow "the sneak" where changes in those numbers take place over time.

Commissioner Tom Rawlings stated business start-ups have limited funds and residential is less expensive than commercial ground. As the business succeeds and grows, more personnel and equipment is inherent in the growth and the business owner elects not to move into a commercial zone if not forced. Council member Blotter stated not enforcing the code allows these businesses to continue to grow in the residential zone.

Council member Bunker recited language written by Brad Allen, a local CPA, submitted earlier in the work meeting discussions and said size of the business is a major determinant in what should or should not be allowed.

The discussion will continue at the next Planning Commission meeting.

14) ADJOURN

Council member Glodowski moved to adjourn the meeting, which motion was seconded by Council member Blotter. The motion passed unanimously, and Mayor Turner adjourned the meeting at 8:12 PM.

Lynne Shindurling

Clerk/Recorder