

Daniel Town Council Meeting
Monday, July 10, 2023, at 6:00 PM
Wasatch County Services Building, Conference B
55 South 500 East, Heber City, UT

Meeting Minutes

Quorum Present: Mayor Scott Kohler, Council members, Robyn Pearson, Barry Dixon, and Merry Duggin. Council Member Blotter was not present. Also present were, Planner Eric Bunker, Amelia Pays, and Clerk/Recorder Kim Crittenden to take minutes. Council Member Pearson left the meeting prior to completion.

Members of the Public: Gary Weight, Taylor Larson, Jason Binggeli, Rachel Michael, Meike Long, Waylon Sodern, Lisa Dinga, Brent and Gina Williams, Ben and Cheramie Hughes, Cheryl Nicolaski, Harry Weyandt, Brent Haight, Mike Johnson, Rachel Kohler, and Heidi Franco

Mayor Kohler called the meeting to order at 6:00 PM.

1) Public Comment: (please limit to 2 minutes per person)

Lisa Dinga asked about any potential fireworks bans for the 24th of July holiday. It was noted that this had been discussed in previous meetings and that the Wasatch County Fire District had not issued any recommendations for additional bans to the Daniel Town Council for the 24th of July Weekend.

Cheramie Hughes asked about how a person could obtain of Lot of Determination record from the Town. It was repeatedly noted that the lot in question is in litigation and that the Town could not comment on that specific lot. Mrs. Hughes stated that she had been informed by the State of Utah Ombudsman and Wasatch County that it was the responsibility of the Town of Daniel to issue or deny a lot of record. It was reiterated multiple times that the lot in question was currently in litigation and the Town would not be able to make a comment or determination about anything concerning the lot in question until after the litigation was completed.

2) Public Hearing Planning Commission Changes to Daniel Town Code 8.10

Council Member Pearson moved to open the Public Hearing. The motion was seconded by Council Member Duggin. A roll call vote of Pearson yes, Duggin yes, Kohler yes, and, Dixon yes. The motion passed.

3) DO 2023-07-10 Ordinance for Daniel Town Code Change to 08.10

Planning Commission Chair Gary Weight discussed the proposed changes from the Planning Commission. He stated that the current Town Code had become problematic to enforce the Town Code in regard to the many requests for storage unit type businesses that had come before the Planning Commission for approval. He referred to the changes that were proposed to the code changing wording to include the word "Nexus" specifying "third party tenants", rather than the current wording as well as other grammatical changes to clarify the Code. (See code changes attached).

Council Member Dixon moved to close the Public Hearing. The motion was seconded by Council Member Duggin. A roll call vote of Pearson yes, Duggin yes, Kohler yes and, Dixon yes. The motion passed.

The changes to the Town Code were read into the record. (See attached Town Code changes.)

Council Member Dixon moved to approve DO 2023-07-10 Ordinance for Daniel Town Code Change to 08.10. The motion was seconded by Council Member Duggin. A roll call vote of Pearson yes, Duggin yes, Kohler yes, and Dixon yes. The motion passed.

4) Business License Renewal

a. New

- i. RM Outdoor Adventures- Russell Morgan.**
- ii. The Pretzel Connection- Meike Long**
- iii. Cloudy Owl Farm, LLC.- Rachel Michael**
- iv. CMC Rock- Todd Cusick**

Mr. Morgan did not attend the Council Meeting despite being notified that he and his business would be on the Town Council Agenda. Mayor Kohler stated that he would contact Mr. Russell.

Council Member Dixon moved to continue the business license application for RM Outdoor Adventures since he was not present. The motion was seconded by Council Member Duggin. A roll call vote of Pearson yes, Duggin yes, Kohler yes, and Dixon yes. The motion passed.

Mrs. Long and Mrs. Michael discussed the business plans that had been submitted to the Planning Commission and the Town Council to share a baking space and discussed the plans with the Town Council. It was noted that there had been an issue with the space due to a lack of Certificate of Occupancy which had been resolved. Planner Bunker stated that there were no longer any impediments to approving the business licenses. They both stated that all applicable and appropriate sales tax would be credited to the Town of Daniel.

Mr. Larson discussed the improvements to original the CMC Batch Plant, including a much smaller plant and reduced potential noise due to the fact they had ultimately purchased a European-designed pre-packaged plant. He asked that their business license be approved as well. Mr. Larson also stated that CMC had made many efforts to make sure the Town of Daniel would receive appropriate sales tax.

Council Member Dixon moved to approve the Town of Daniel Business Licenses for The Pretzel Connection, The Cloudy Owl, and CMC Rock. The motion was seconded by Council Member Duggin. A roll call vote of Pearson yes, Duggin yes, Kohler yes, and Dixon yes. The motion passed.

Mayor Kohler read all of the Business Renewal Applications into the record.

b. Renewal

- i. Action Performance Electric- William Brereton**

- ii. Jolley Electric-Troy Jolley
- iii. A-1 Roofing DBA Kimball Roofing and Siding- Richard Wayman
- iv. Computer Nerds- Chris Anderson
- v. Tee J's Mutt Cutts- Tori Skinner
- vi. Bart Wilde and Associates- Bart Wilde
- vii. Timberline Lumber and Distributing – Michael Ashby
- viii. MVC Construction Co. Inc.- Mark Lloyd
- ix. StoneCutter Construction Inc.- Eric Bunker
- x. Coleman Trucking Inc.- Melanie Coleman
- xi. Jill's Hair Salon- Jill Bonner
- xii. BMCI Electric Inc. Brent and Mary Waterman
- xiii. John Glodowski LLC- John Glodowski
- xiv. Suburban Propane- Karen Huber
- xv. Simpson Fence- Ryan Simpson

Council Member Duggin moved to approve the Town of Daniel Business Licenses renewals for Action Performance, Jolley Electric, A-1 Roofing, Computer Nerds, Tee-J's Mutt Cutts, Bart Wild and Associates, Timberline Lumber and Distributing, MVC Construction, StoneCutter Construction, Jill's Hair Salon, BMCI Electric, John Glodowski LLC, Suburban Propane, and Simpson Fence. The motion was seconded by Council Member Pearson. A roll call vote of Pearson yes, Duggin yes, Kohler yes, and Dixon yes. The motion passed.

5) Heber Council Update on Airport Expansion

(This item was initially skipped while waiting for the Heber City Council Members to arrive).

Heber City Council Members Mike Johnston and Rachel Kahler addressed the Town Council and attendees concerning the newly adopted Heber Valley Airport Master Plan which has a significant impact on commercial and residential property that borders the end of the runway at approximately 3000 South and near HWY-189 across from the Wasatch County Public Works complex. Mayor Heidi Franco was also in attendance. Council Members Johnson and Kohler stated that the Master Plan had been worked on over the last 3.5 years and is a 20-year plan to increase the airport capacity with improvements to meet projected demands. They stated that the plan is what the FAA is willing to fund in order to get the full value of the runway that they built.

Council Members Johnston and Kahler then presented current and anticipated "operations" which is how many take-offs and landings happen per day and what types of airplanes are using the airport. They stated that currently there is an average of 34 take-offs and landings per day. It was stated that the forecast is for operations to increase by 30% over the next 15-20 years. Council Member Johnson stated that once an airport reaches 500 operations per year the FAA requires the cities to continue to work on a 20-year Master Plan or they lose funding. The Heber City Airport reached this threshold in 2009 and currently has approximately 12,600 operations annually of Class A, B, and C aircraft. Additionally, it was stated that aircraft based at the airport would increase from the current 84 to 109 which will require additional space and 12 hangars in addition to the current 34 which will be relocated as part of the plan. He stated that improvement to the airport will make it safer to accommodate the larger Class C aircraft which require longer and wider runways. The Class C aircraft will also require a larger "safety zone" which directly impacts the Town of Daniel property owners who fall into this zone. He then referred to the Airport Master Plan and discussed the short and long-term improvements to the entire Heber Valley Airport property.

Discussion then turned to the five Daniel properties which are directly affected by the safety zone requirements. One of the properties owned by Harry Weyandt is currently under development for a gas station and other retail establishments. Concerns were expressed by the developer and the property owner that the Heber Valley Airport Master would prohibit the proposed development

It was stated that the potential developers for the 10-acre property at the intersection of 3000 South and HWY 189 had met with the attorney for Heber City and he stated that Heber City was prepared to condemn the property despite the fact that it was a commercial property with significant sales tax income potential to the Town of Daniel. Mayor Franco stated that she had been unaware of this meeting and that she had not been privy to any discussion about condemning any property in the Town of Daniel bordering the Heber Valley Airport. She further stated that she was unsure that Heber City had the right, ability, or funding to condemn any property in the Town of Daniel since it had never been discussed in any meeting that she had attended, private or public. She continued by saying that there must have been a discussion "behind the scenes" because there had never been such a discussion in an open public meeting nor a vote in a Heber City Council Meeting to allow a purchase of property due to condemnation or even offer of a voluntary sale of property to an affected property owner.

The discussion moved on to discuss the waterline that runs down 3000 South. The developer asked about the possibility of running a sewer line from the existing one to the Town of Charleston industrial/retail park directly across HWY 189. Council Member Johnston stated that Heber City would not support this because of the airport expansion. The property owner Harry Weyandt stated that he had developers who were interested in developing his property in a way that would greatly benefit the Town of Daniel. It was noted that the property in question had previously been zoned commercial for years and that the current commercial zoning had been discussed in months of Planning Commission and Town Council Meetings. Council Member Johnston stated that he was not going to "sugar coat" it and Heber City would not agree to anything that would enable the development of the 10-acre commercial development, and in fact Heber City would work to block the proposed development up to and including condemnation of the land.

Daniel Town Council Members and community members in attendance expressed frustration and concerns about the lack of consideration that was given to the property owners bordering the Airport expansion/safety zone areas. Council Member Johnston stated that the area was undeveloped and rural so the expansion/safety zone should have no effect on property owners. He stated that the properties in question had only outbuildings and animals. He proposed that Heber City would compensate property owners by "buying out" their land and/or homes. He stated that he hoped property owner would sell rather than have their land condemned. It was reiterated by Mayor Franco that condemnation discussions had yet to happen in any public or private meetings that she attended and she was shocked that the Heber City Attorney had been so hard-handed in talks with the property developer. She stated that she would look into this concern raised by the property owner and developer. She stated that she did not think the Heber City would even condemn property in the Town of Daniel.

Discussion from the Town Council and community attendees at the meeting then moved to frustrations about the Town of Daniel not being allowed to be a part of the planning process despite having Council Member Dixon on the Airport Planning Committee and the lodging of a formal complaint to the FAA about the lack of communication and impact consideration with the Town of Daniel and its affected property owners. When it was pointed out several times that the planned

safety zone could potentially cost the Town of Daniel several hundred thousand dollars a year in tax revenue by blocking the approved development on the 10-acre parcel next to HWY 189, Council Member Johnston proposed that Heber City would consider other options of assisting the Town of Daniel with commercial development on the other side of the Town of Daniel near HWY 40. The zoning map was displayed and it was noted that the prime commercial development on HWY 189 has always been in the Town of Daniel Land Use Plan and that the Airport Expansion Committee ignored this designation despite it being pointed out in several meetings. It was noted with much frustration that the Heber City Council Members came to this meeting to explain a Master Plan that had already been approved rather than coming and presenting this for public comment from the Town of Daniel prior to approval. Council Member Johnston noted that this was a valid criticism.

Comments from Council Members and community attendees reiterated that the Town of Daniel lacks the resources that Heber City has and nearly all of the Planning Commission and Town Council Members volunteer their time. It was noted that while the Heber City Council acted with the thought that only five rural property owners would be affected the fact is that the entire Town will be gravely affected by a significant loss in potential tax revenue, estimated to be a half of a million dollars, by the restrictions placed on the 10-acre approved commercial development.

The discussion moved to the new large four-story apartment and housing complex on Daniel Road. It was asked if Heber City ever considered using their property on the Heber City side of the Airport Expansion rather than affecting neighboring Townships. It was stated that they had never considered this possibility and they considered only that the Town of Daniel was rural and this effect on the property owners was acceptable to the Airport Expansion Committee. It was again noted that the Town of Daniel had given feedback multiple times and in multiple meetings that this was not the case, thus the Town felt that they had no other option but to submit an appeal to the FAA.

The Heber City Council Members concluded their presentation and were excused.

6) Council Reports/Updates

Council Member Pearson discussed the three "Town Hall" meetings that he had in the Storm Haven area discussing water rates, a history of the system, possible improvements to the system, and expectations of the community. He discussed that unfortunately some of the discussion has veered to "non-conforming lots" which were not supposed to be part of the discussion. He further stated that among the attendees was a former member of the Town Council and that following the first meeting, the following two had been more productive. It was noted that attendance was surprisingly low at the meetings.

Pumping the Storm Haven sewer system was addressed and Planner Bunker stated that the septic system is inspected and pumped at least annually and that it would be happening soon.

It was discussed that grants and other funding were currently being explored to upgrade the Storm Haven Water System and that reports about progress would follow in subsequent meetings. It was stated that water rates for the system would need to increase to a level that is in alignment with the water costs for similar small systems across the state to make the system eligible to receive grants and/or low-cost long-term loans. This funding is being sought to upgrade the system with a storage tank, replace existing waterlines, and install new waterlines that would link the system with the Daniel Water System. Additionally, cost increases would be used for ongoing and future maintenance, repairs upgrades to the system.

It was noted that Storm Haven residents pay \$45 for 8,000 gallons of water while the Daniel Water System residents pay \$35 for 20,000 gallons. It was also noted that the Town of Daniel loaned money and resources to the Storm Haven water system to keep the system functional and the debt is still outstanding. It was discussed that a rate increase discussion should be on the next Town Council Agenda.

(Council Member reports resumed)

Mayor Kohler discussed the upcoming 9/11 Day of Service to take place on 9/9/2023 and the Town of Daniel service project will be to clear brush and debris from the Storm Haven area. He stated that he had arranged for the necessary equipment including chippers and dump trailers but the Town could still use as many volunteers with the necessary tools as possible.

It was noted that the Wasatch County Sheriff's Office had rededicated their building and renamed it the Hancock building.

Council Member Duggin reported on the upcoming Board of Appeals hearing that would take place the next day. She stated this was only the fifth such hearing that the Town has had to have since the formation of the Town.

Engineer Reports/Updates

Amelia Pays, representing Arudurra, the Town Engineering Firm stated that her report on funding options for the Storm Haven Water System Improvement Project had already been discussed and she had nothing else to report.

7) Planner Report

Town Planner Bunker referred to his submitted report. (See Attached) He stated that he had been able to issue an approved occupancy license for the Witt building and that the business licenses had been issued to the final necessary compliance issues being addressed.

He reported that the storm drain repair on 3000 South had been completed and thanked the Mayor and Hugh Barker for their donation of equipment, efforts, and time in resolving and repairing the storm drain. He further stated that the Town could release the bond that was being held by the Town for this area.

It was asked if a stop work order had been issued on the Ingalls property and Mr. Bunker stated that he had been in contact with the property owner who had been unaware of needing a permit and that it was now in process and should be resolved shortly.

He reported on the progress of the Utah Broad Band connections currently being installed throughout the Town.

He was asked about the Munford project and reported it was likely to be completed in the next month.

8) Daniel Municipal Water and Storm Haven Water Systems Storm Haven Water

Planner Bunker stated that the two systems were doing well but informed the Council that new EPA requirements would require three samples from various places in the system and weekly checks would soon be required.

Discussions during Warrant Approval moved to a new meter for the Daniel Elementary School. Planner Bunker stated that a new meter would cost \$4,000 or the Town could use the warranty and obtain a rebuilt meter for about half the cost. It was noted that the new meter would have a full warranty so that was the option that was chosen. Planner Bunker also discussed issues with the LDS Church meter. There was discussion about the lack of meter readings for the elementary school enabling them to “wash the asphalt” by using excessive unmetered water which is thus unpaid for.

CMC was brought up and it was stated that all water issues were resolved.

Planner Bunker stated that the Town is still waiting for some of the warranted meters to arrive and be installed. He further noted that some of the failing meters had reported a “reverse rate” which was very excessive to actual use and had produced false billing, but this was being resolved as quickly as possible.

Council Member Pearson left the meeting at 8:15 PM.

9) Recorder’s Office: Warrants approval, Announcements, etc.

Clerk/Recorder Crittenden presented the warrants. She stated that billing for the Town Engineers, Arudurra had changed to mid-month billing dates so there would be some adjustments to the warrants in future months. She noted that she had worked with Arudurra billing to make sure that accurate billing for the previous fiscal year, included on the warrants, was accurate. She also noted that there were larger than average costs for testing for samples that had been taken the previous month as required.

She also noted that the allocation for new computer equipment had been used to purchase a new laptop for the Town Planner and a new desktop computer and screen for the Town Office.

Council Member Duggin moved to approve warrants with the inclusion of pending bills from Ardurra. The motion was seconded by Council Member Dixon. A roll call vote, Duggin yes, Kohler yes, and Dixon yes. The motion passed.

10) Approval of Meeting Minutes for June 5, 2023, Town Council Meeting

Continued to next the next month.

11)BOA Bylaw Discussion and Possible Adoption

Council Member Duggin presented her proposed Board of Appeals Bylaws for approval. She stated that the Town of Daniel's current code may not facilitate the necessary procedures for the Board of Appeals. She stated that the newly appointed Board of Appeals members would need to elect a chair and vice chair. Discussions about alignment with the State of Utah code ensued and ultimately it was decided that the Utah State Code would prevail so the bylaws, while well written and helpful, should act as a guide or executive summary of the training that had already occurred. It was noted that the code provided by the Land Use Institute was more than 90 pages long, which would be difficult for the new member to become familiar with during their training and preparation. Ultimately it was decided

that the bylaws would act as a guide or an executive summary of the State of Utah, Wasatch County, and Town of Daniel code.

A brief discussion about the history of the Russell Morgan property was held and Planner Bunker stated that the business license application did not reflect the property did not have a house on it, just an accessory building, and that Mr. Morgan had actually been evicted and was not allowed to live in the existing structure. The land in question had been illegally subdivided after the original owner's death. This discussion was to reaffirm that not only would camping on the land would be against the Town of Daniel Code, but no residence is recognized as legal by the Town on the property in question.

12) Possible closed session as permitted by UCA 52-4-205

Council Member Duggin moved to adjourn the public meeting to a closed session to discuss current and pending legal actions. The motion was seconded by Council Member Dixon. A roll call vote of Duggin yes, Kohler yes, and Dixon yes. The motion passed.

The Council began a closed session.

13) Adjourn

Council Member Dixon moved to adjourn. The motion was seconded by Council Member Duggin. A roll call vote of Duggin yes, Kohler yes, and Dixon yes. The motion passed.

The Meeting was adjourned at 9:15 PM

Kim Crittenden
Clerk/Recorder