

Daniel Town Council Meeting
Monday, September 12, 2022, 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, Merry Duggin, Jon Blotter, Robyn Pearson and Barry Dixon. Also present were Ryan Taylor of T-O Engineers, Planner Eric Bunker and Clerk/Recorder Kim Crittenden to take minutes. Council Member Blotter was excused from the meeting early.

Members of the Public: Sherri Price, Gary Weight, Bridger Wilde, Andrea Clayton, Sam Cusick, Todd Cusick, Jonelle Fitzgerald, Craig Hancock, Geoff Dupaix, Troy Richardson, Eric Bennett, Jay Eckersley, Jon Hagen, and Naomi Kisen.

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

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

No public comment.

2) Wasatch County Health Department Update to Town Council

Jonelle Fitzgerald updated the Town Council and public attendees on the role the Health Department plays in both Wasatch County and the cities and towns within the County. She distributed the latest annual report. She briefly went over the report for 2021 and discussed ongoing services. She turned the time over to Health Department Board Member Jay Eckersley.

Mr. Eckersley stated that the Health Department is an apolitical agency and explained that the 6-7 Board Members are appointed by the County, but that the agency follows public health laws. He stated that the Health Department monitors the quality of air and water as well as communicable diseases. Mr. Eckersley turned the time over to wastewater scientist Tracy Richardson to discuss septic systems and the permitting process.

Mr. Richardson stated that the Utah State Legislature passed a resolution that building permits were required to be reviewed within 14 days. He stated that this was an issue for the County Health Department to meet that deadline and so to avoid delays, all septic system inspections and approvals must be completed before the building application is completed. He further stated that the septic system approval process can be complicated and may require groundwater testing and other studies when necessary. He discussed the 5-acre rule that was adopted in 1997, which requires a parcel of 5 acres to have a septic system installed. He noted that parcels of less than 5 acres that were legal lots of records before 1997 would be grandfathered in and exempt from the 5-acre rule. He stated that the Health Department did a water quality study from 2018-2020 and found local groundwater quality to be good. Mr. Eckersley stated that the study showed the County water quality was pristine. He further stated that the Board of Health will update the study every five quarters and that they have several wells that owners throughout the county who have granted them access to for testing. The County Water Board is also participating in the ongoing studies, which will also track the volume of water available to

the County from various sources. It was further stated that the water volume in the County is remaining constant despite the drought.

It was asked how the size of a septic system is determined. He stated that septic system size is determined by the number of bedrooms in a home with the assumption that each bedroom would house two individuals. It was asked if the Health Department has records about currently installed septic systems. He stated that they have good records from about 1980 -1995, and excellent records from 1995 to the present, however, prior to 1980, the records may be incomplete. He stated that older systems would likely require an inspection prior to any permits being issued.

3) UDOT- Heber Valley Corridor Environmental Impact Statement-Town of Daniel Screening Results Presentation

Mayor Kohler turned the time over to Craig Hancock, Project Manager with UDOT. He began by addressing the Council with a PowerPoint presentation of the Heber Valley Corridor bypass alternatives. He acknowledged the attendance of Geoff Dupaix, Communications Manager, Naomi Kisen Environmental Manager, and Andrea Clayton, Project Consultant. He stated that the Heber Valley Corridor Project had been in the current phase for more than a year and the hoped outcome is to have a plan to proceed for a draft environmental impact document.

He stated that the plan had three parts or goals of the study. The first is to study regional and local mobility on US-40, including Heber Main Street. The second is how to provide opportunities for non-motorized transportation such as biking or walking. The third is for Heber City to meet its vision for a historic Town Center, including Main Street.

He acknowledged that the Heber Valley Corridor bypass has been discussed for 25-30 years and stated that the purpose of this study was driven by and focused on the environmental impact of possible bypass alternatives. He stated the first consideration was the traffic flow on Heber's Main Street to how best to alleviate both traffic and commute times through the Heber Valley. He stated that the screening process had taken into account public comments, been refined and/or revised and that process had produced the five bypass route alternatives he was presenting.

He proceeded to discuss five alternatives that were being proposed from the initial seventeen proposed options. The final five proposed alternative bypass routes were displayed visually and repeatedly referred to as part of the PowerPoint presentation to the Town Council and present members of the public. He stated that the criteria for the selection options for the Heber Valley Bypass initial phase studies considered the impact on Heber City's vision for a historic Mainstreet, commute times through the proposed bypass area, initial environmental impacts, impacts to property owners, and overall construction cost. He stated that while the initial timeframe for public comment has passed, that any citizen was still welcome to submit comments on the UDOT Heber Valley Bypass website.

Several concerns about how all of the five alternatives presented would likely drive additional traffic through Daniel via 3000 South were raised by the Town Council and members of the public present at the meeting.

Many questions about the community impacts for Daniel residents, the costs of the construction of the bypass, and how the plan impacts plans for the Heber Airport expansion plans were raised. He stated that UDOT is not associated with the Airport Expansion efforts. However, he conceded that UDOT consults with the Heber City Airport Expansion Committees and that the

alternative that abandoning US-189 and rerouting this traffic would mainly benefit the Heber City Airport expansion efforts.

It was stated that concerns about this project seem to be only driven by Heber City's effort to divert traffic from Main Street and that Heber City is not considering the impact on neighboring towns and communities.

Mr. Eckersley, Health Department Board Member, interjected that the Health Department is also concerned about the impact on air quality if the Heber Valley Bypass selection would help facilitate an airport expansion. He continued by stating that the Wasatch County Health Department is monitoring air quality throughout the Heber Valley and invited UDOT to access this publicly available data.

Concern about access to Daniel was discussed. It was discussed that currently there are only three viable accesses to Daniel since South Field Road had been closed and that all of the bypass alternatives will have significant impacts on the commute for Town of Daniel residents.

It was asked if ultimately UDOT had the decision-making power and after much discussion about the preceding steps, he acknowledged that indeed UDOT would ultimately make the decision.

Mayor Kohler stated that he would like to officially oppose options two and four in the interest of the Town of Daniel and asked what he needed to do to officially make this a part of the record. Mr. Hancock stated that he could draft a letter and submit it, however, the public comment period has closed. It was suggested that the letter be specific as to the reason for the opposition.

Additionally, questions about study criteria, such as noise, were asked. A representative from UDOT acknowledged that the current list posted on the website was a "short list" and stated that a more exhaustive and inclusive list than the current one found on the website should be provided and posted for the public. Additional stated criteria included noise, water resources, water quality, and other criteria.

A UDOT representative stated that all of the bypass alternatives diagrams, projected criteria, and impact charts as well as specific technical information presented on the presented PowerPoint presented and discussed in the Town Council Meeting can be found at <https://hebervalleyeis.udot.utah.gov/>.

4) CMC Rock Appeal of Impact Fees and Agreement to Provide a Will Serve Letter to the Wasatch County Water Board

Mayor Kohler welcomed Todd Cusick from CMC Rock to address the Council. Mr. Cusick discussed his concrete business and interest in the lease of the property in question for the eventual construction of a concrete batch plant on a parcel that spans both the Industrial Zone of Daniel and Wasatch County. He stated that the first issue he was bringing before the Town Council was seeking a "Will Serve Letter" required by the Wasatch County Water Board. Additionally, he is seeking financial consideration for the installation of a water line for the batch plant in lieu of impact fee assessments. He proposed the current estimate of an impact fee of approximately \$200,000 be exchanged for a promise of putting in a waterline large enough to serve the Town of Daniel in the future, which is in the Town General Plan.

It was stated that the estimated impact fee would be approximately \$200,000. Mr. Cusick stated that CMC would be willing to provide, by his estimation, \$400,000 worth of improvements to the

Daniel Water system in lieu of the impact fees as well as a permanent easement that would be granted to the Town to access the water lines through the property. Later in the discussion, Town Engineer Taylor stated that his calculation was much closer to the \$200,000 estimated impact fee, and thus it would be a "wash" as to cost and benefit. Mr. Cusick referred to maps and other handouts that he provided to the Council to show what portion of the property is in the Town of Daniel and the portion that is in Wasatch County. He then discussed his research as to how sales tax would be appropriated since the property spans both Daniel and Wasatch County. He contended that if the business office was located in the portion of the property that is in the Town of Daniel boundaries that the Town would receive the sales tax, however, if the office was located in the Wasatch County portion, Daniel would not receive sales tax.

Discussions included the size of the line, (it was noted that the line to be installed would be at least 8"), and an easement on the portion of the property that is in the Town of Daniel. He then referred to maps that had been previously provided to the Planning Commission and were being presented to the Town Council that illustrated the location of the property, the portions of the property that are in Daniel and in Wasatch County, and the position of the proposed water lines relative to current lines and property lines.

His discussion continued with regard to how the placement of the batch plant office could potentially affect the taxable revenue to the Town as well as his conversations with both Heber City and Wasatch County about their interests in the project. He stated that depending on how the placement of the office vs the rest of the batch plant would affect which entity would collect the applicable sales tax. He further stated that Heber City was an involved party because of the possible impact the plant would be on roads in their jurisdiction rather than the County or Daniel. He stated that he preferred to put the office in the Town of Daniel so that the Town would receive the sales tax benefit. He further stated that there is a sense of urgency to obtain the "Will Serve Letter" because it will have to go to the Wasatch County Water Board and then on to the State which could take upwards of 6 months for approval.

There was an ongoing discussion about the placement of water connections and sources for water to serve the plant. He stated that CMC would be providing an opportunity for a loop in the Daniel Water System, which is part of the Daniel General Plan. He stated that the CMC batch plant is seeking to use Daniel Water System culinary water rather than use the irrigation water from the shares that they will turn over to the town in exchange for the culinary water. He stated that the filtration required to use irrigation water was cost prohibitive due to necessary filtration for product constancy, so they are seeking to use culinary water exclusively.

Time was turned over to Engineer Taylor who provided a computer-aided presentation. His report included maps of the parcel in question, the Daniel Water System, which properties are served by the wells rather than the culinary system, the Town General Plan, and other relevant information. He was asked several questions that required referring to the projected maps to answer in regards to the current Town water system as well as how the proposed extension would hook into the system as well as the size of the line that would be required to achieve both the Town's General Plan and serve the CMC business concept. There was discussion about whether the Town had a current need for the water system expansion or as part of the General Plan the extension could take place when deemed necessary in the future. It was stated that it was not currently necessary, however for any development to happen in the industrial zone a water line extension would likely need to happen first, and that perhaps Mr. Cusick's proposal would be just the first industrial endeavor that could be served in the Town industrial zone, thus allowing for additional development sooner rather than later. Engineer Taylor stated that he calculated that the batch plant would use 20 ERUs of culinary water or the equivalent of 20

residential homes. The discussion circled back around to the investment CMC would make in installing a much larger line (8 inches rather than 4 inches) to the system than the batch plant required in lieu of impact fees. There was discussion about how Mr. Cusick came to his calculation of approximately \$400,000 and Engineer Taylor stated that his calculations would be about the same as the impact fees and thus it would be a wash although the Town would benefit from a larger line being installed initially.

Mr. Cusick stated he had also submitted a plan that rotated the plant position on the property so that the line hook-ups and portion of the concept that would generate sales tax revenue would then reside in the Wasatch County portion of the property. If this were to be the case the Heber City water system, would be providing water to the batch plant. He stated that while this would be a viable solution for his business, he preferred to connect to the Daniel Water system.

Questions about where the plant aggregate would come from and what streets would be used to transport the aggregate to the batch plant. He stated that they have aggregate coming from several sources from Brigham City to Southern Utah County. It was asked what the impact would be on the roads in Daniel and he stated that there would be no impact on roads within Town limits and all roads impacted are located either in Heber City, Wasatch County, or State roads. He referred the Council to his maps and outlined all transportation routes in and out of the plant to any destination outside of Daniel. He stated that he was willing to provide the Council with a guarantee that they would not utilize 3000 South as a route to the batch plant after concerns were raised. He reiterated that the impact on roads in the Town of Daniel would be zero.

He was asked about the purchase of the property and he stated that CMC was not purchasing the property, and instead would be entering into a 30-year lease with the Colemans, who own the property. He continued that any agreement entered into with the Town would be binding even after the lease expires or if it is transferred, such as the easement. It was also acknowledged that once the irrigation water shares are turned into the Town, they would remain with the Town culinary system in perpetuity.

Commission Chair Gary Weight, present as a member of the public, was asked about the position of the Planning Commission on the CMC project. He stated the Planning Commission thought that to eventually facilitate development in the industrial zone seemed like a reasonable option, but stated that the issue was turned over to the Council for the impact fee revenue and expense decision.

It was asked what the revenue to the water system would be. He stated that the projected shares CMC plans to put in the culinary system is 29 acre-feet, but projected usage is likely to be 15-18 acres-feet. It was stated that this would be billed at the highest allowed amount in the Town. He stated that CMC has an additional 30-40% of the necessary irrigation water shares as a contingent. It was asked which irrigation water shares would be turned into the Town and it was stated that Wasatch Irrigation, Daniel Irrigation, Extension Irrigation, and potentially Timpanogos Irrigation water shares. This includes all of the water shares currently used by the property and that the owners understand that once transferred those shares will belong to the Town in perpetuity. Discussions moved on to peak flow and surge tanks. CMC stated that, if necessary, they would install a surge tank to ensure that flow would not be interrupted or diminished to residential customers. It was asked what the potential revenue to the Town would be and Engineer Taylor did not have a firm number but stated that it would be charged at the highest usage rate and thus would be substantial. Mr. Cusick stated that the plant would be built with water recycling measures to meet upcoming State standards rather than the current one. A follow-up question was asked about any wastewater that may be produced from the batch plant

and it was stated that there would be none, all water would be used to produce concrete or recycled.

It was asked what the negatives to the Town would there be. And it was stated that the largest negative was that the parcel is concurrently in the Town of Daniel and Wasatch County and because the land would be leased there would not be an option to annex the entire property into Daniel.

It was asked what was necessary to move forward and Mr. Cusick stated that the "Will Serve Letter" was crucial and that the impact fee negotiation could be continued. Discussion about what conditions need to be included in a "Will Serve Letter" as well as who ultimately signs the letter on behalf of the Town. Discussions continued regarding the change application process and requirements for the State to convert irrigation shares to culinary water shares.

Discussions about caveats and/or conditions ensued. Ultimately a preliminary motion was made. Council Member Pearson made a motion to produce a "Will Serve Letter" and Council Member Dixon seconded the motion which was ultimately rescinded after much discussion on caveats and conditions.

Council Member Pearson then modified his motion.

Council Member Blotter moved to produce a "Will Serve Letter" for CMC Ready Mix with the following conditions and Council Member Dixon seconded the motion with the following conditions:

1-All involved Irrigation Companies must agree to the transfer of their water shares into the Daniel Water Company system, as well as an agreement from the Wasatch County Water Board and the State of Utah to accept and convert all of the irrigation water shares to culinary water shares.

2-The acceptable peak flow rate would be 300 gallons per minute or less and a surge tank be installed if found to be necessary by the Town Engineer.

3-If the batch plant was found to use water in excess of irrigation shares turned into the Daniel Water culinary water system, CMC would relinquish additional shares to make up any difference.

4-The method of delivery and design be approved by the Town Engineer.

5-All Point-of-Sale transactions would be conducted in the Town of Daniel to assure sales tax revenue.

6-A permanent easement be attached to the property over all waterlines.

The roll call vote was Duggin yes, Blotter absent, Kohler yes, Dixon yes, and Pearson yes. The motion passed.

Council Member Blotter excused himself from the meeting.

5) Business Licenses recommended for approval by the Planning Commission:

Mayor Kohler read the applications into the record.

a. NEW:

i. Ion

b. RENEWAL:

i. Suburban Propane

Questions about whether either enterprise provides sales tax income to the Town were asked and it was stated that neither provided sales tax to the Town.

Council Member Pearson moved to approve the new and renewal business license application. Council Member Duggin seconded the motion. The roll call vote was Duggin yes, Blotter absent, Kohler yes, Dixon yes, and Pearson yes. The motion passed.

6) Council Reports/Updates

Council Member Duggin reported on her attendance at meetings involving the Wasatch County School Board. She stated that the Revenue Bond for \$150 million passed. She also stated that there were two vacancies on the Wasatch County School Board. She also stated that she is now the Chair of the Wasatch County Board of Adjustments and that this may potentially be a conflict of interest in the future, but is not currently an issue.

Mayor Kohler reported on the Day of Service. He shared that more than 20 residents participated and brush was cleared from the Storm Haven area as well as the creek that runs along Little Sweden Road.

Council Member Dixon stated that he is attending all Airport Expansion meetings and that he had come to the Town office and taken all the binders. He reported that he had met with Airport management. He stated that he would be attending a meeting on September 21st and 22nd and would report back to the Council. He also stated that he was meeting with various Town residents to discuss their thoughts on the expansion.

7) Fraud Risk Discussion on Ethical Behavior, Conflict of Interest, and Credit Card Policies

Council Member Duggin requested that this agenda item be discussed at a later meeting. It was stated that Council Member Blotter would be assisting Council Member Duggin in undertaking this task.

8) Engineer Reports/Updates

Town Engineer Taylor passed out information regarding the Storm Haven water and sewer systems and stated those could be discussed during the next meeting. He reported that he was working on a change application for 10 Daniel Irrigation shares to be converted to the Daniel culinary system and stated that he would report on the outcome.

9) Planner Report

Planner Bunker stated that he had nothing to report besides his monthly planner report. Mayor Kohler stated that he had been in contact with property owners that currently had an ongoing issue with the Town, and he would report later about the outcome of these discussions.

See attached report.

10) Daniel Municipal Water

Town Engineer Taylor discussed testing issues and reported that the chlorinator had failed, but that the issue had been resolved.

11) Storm Haven Water

Additional discussions about the Chlorinator ensued. Planner Bunker and Engineer Taylor stated that both water systems were safe and that all chlorination issues had been resolved.

It was discussed that \$15,000 had been previously allocated to update the chlorinator and that the Council had granted permission to secure services from the lowest appropriate bid.

12) Recorder's Office: Warrants approval, Announcements, etc.

The warrants were presented and discussed.

Council Member Duggin moved to approve the warrants. Council Member Pearson seconded the motion. The roll call vote was Duggin yes, Blotter absent, Kohler yes, Dixon yes, and Pearson yes. The motion passed

13) Approval of Meeting Minutes from August 1, 2022, and July 11, 2022

A few clerical mistakes were pointed out and Clerk/Recorder Crittenden took note to correct them.

Council Member Duggin moved to approve the July 11, 2022, minutes with corrections. Council Member Dixon seconded the motion. The roll call vote was Duggin yes, Blotter absent, Kohler yes, Dixon yes, and Pearson yes. The motion passed

Council Member Dixon moved to approve the August 1, 2022, minutes with corrections. Council Member Pearson seconded the motion. The roll call vote was Duggin yes, Blotter absent, Kohler yes, Dixon yes, and Pearson yes. The motion passed.

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

No closed Session

15) Adjourn

Council Member Dixon moved to approve to adjourn. Council Member Duggin seconded the motion. The roll call vote was Duggin yes, Blotter absent, Kohler yes, Dixon yes, and Pearson yes. The motion passed

The meeting was adjourned at 9:46 pm

Kim Crittenden
Clerk/Recorder