

AMERICAN FORK CITY COUNCIL  
APRIL 13, 2021  
PUBLIC HEARING, REGULAR SESSION MINUTES

Members Present:

Bradley J. Frost	Mayor
Kevin Barnes	Council Member
Staci Carroll	Council Member
Rob Shelton	Council Member
Clark Taylor	Council Member

Staff Present:

David Bunker	City Administrator
Camden Bird	Community Services Director
Wendelin Knobloch	Associate Planner
Rebecca Andrus	City Engineer
Terilyn Lurker	City Recorder
Anna Montoya	Finance Officer
George Schade	IT Director
Cherylyn Egner	Legal Counsel
Adam Olsen	Senior Planner
Darren Falslev	Police Chief
Scott Sensanbaugher	Public Works Director

Also present: Amy Stone and Spencer Stevens

The American Fork City Council will hold a public hearing in conjunction with the regular session on Tuesday, April 13, 2021, in the American Fork City Hall, 31 North Church Street, commencing at 7:00 p.m. The agenda shall be as follows:

Mayor Frost welcomed everyone to the meeting and explained the reason for the electronic meeting. He mentioned the passing of Council Member Christiansen.

PUBLIC HEARING

- Receiving public comment on the declaration of real property located at approximately 90 N. Church Street to be surplus and disposed of

There were no public comments.

REGULAR SESSION

1. Pledge of Allegiance; Invocation by Council Member Taylor; roll call.

Those in the meeting recited the Pledge of Allegiance and an invocation was offered by Council Member Taylor. Roll call was taken.

2. Twenty-minute public comment period - limited to two minutes per person.

There were no comments.

3. City Administrator's Report

David Bunker, City Administrator, explained that on April 19<sup>th</sup> the City will be taking the bubble off the pool to get it ready for the season. In the recreation department, baseball, soccer, adult softball, and open spike ball play will all begin within the next week.

Mr. Bunker expressed concerns about water conservation and the lack of snow pack in the mountains. He commended Mayor Frost in preparing for drought this year and involving other cities on joint message about limiting water usage early in the year. Staff was also working on a water shortage contingency plan as the City was assessing the situation more broadly.

On May 15<sup>th</sup> there will be a ribbon cutting for Canal Boulevard. On April 21<sup>st</sup>, the Veterans would be doing a flag retirement ceremony, and lastly, Arbor Day is on April 29<sup>th</sup>.

Mr. Bunker concluded his report by expressing his appreciation for Council Member Christiansen and all she did for the City; he gave his condolences to her family.

4. Council Reports

Council Member Shelton remarked that Council Member Christiansen's funeral was a beautiful time to celebrate her life. He expressed appreciation to Mayor Frost for his remarks at the service. Council Member Shelton stated that he grew up reading Council Member Christiansen's work as a journalist and that she inspired him to get involved with public service. He concluded that she would be missed.

Council Member Barnes expressed his appreciation about Council Member Christiansen as well. He reminded everyone that Memorial Day was coming up in May. There would be no Memorial Day breakfast this year. However, there would be a video posted on the City's website to honor and remember those who have served.

Council Member Carroll also added her words to what has been spoken about Council Member Christiansen. She was out of town during the funeral but she was able to walk around gardens listening to what she could hear of the funeral service. One remark that stood out to her was the words Council Member Christiansen's son said shared that "you don't have to be loud to have influence."

Council Member Taylor stated that he had known Council Member Christiansen since 1994. She had always been a constant professional and looked out for the City. He really enjoyed working with her on the Council. She was dedicated, always well researched, and great teammate, and overall a wonderful human. He was grateful to have associated with her.

5. Mayor's Report

Mayor Frost also commented on the passing of Council Member Christiansen. He expressed the weight he felt of hearing of her passing, and was honored to participate at her funeral. He stated that he would miss a lot of things about her, but especially her perfectly timed wit. He said she could always make a grim situation better with humor.

COMMON CONSENT AGENDA

(*Common Consent* is that class of Council action that requires no further discussion or which is routine in nature. All items on the Common Consent Agenda are adopted by a single motion unless removed from the Common Consent Agenda.)

1. Approval of the March 16, 2021 work session minutes.
2. Approval of the March 23, 2021 city council minutes.
3. Approval of the authorization to issue a Notice of Acceptance for the 1100 WEST PHASE 1 ROAD PROJECT construction of public improvements located at 1100 West 200 South.
4. Approval of the authorization to release the Improvements Durability Retainer of \$1,327.80 for JCW's, located at 580 East State.
5. Approval of the authorization to release the Improvements Durability Retainer of \$ 17,843.62 for OSMOND RETAIL PLAZA, located at 521 South 500 East.
6. Approval of the authorization to release the Improvements Durability Retainer of \$ 45,261.85 for WASATCH-SAVAGE SUBDIVISION PHASE 1B, located at 517 South 600 East.
7. Ratification of city payments (March 17, 2021 to April 6, 2021) and approval of purchase requests over \$25,000.

**Council Member Taylor moved to approve the common consent agenda. Council Member Carroll seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Clark Taylor, Council Member
<b>SECONDER:</b>	Staci Carroll, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

ACTION ITEMS

1. Review and action of an Amended Reimbursement Agreement for 1100 South with GB AF Industrial Investment LLC

Council Member Barnes pointed out there were a couple of mathematical errors. Scott Sensenbaugher, Public Works Director, explained that the information in the background was in error but the correct number was in the budget impact.

**Council Member Taylor moved to approve the Amended Reimbursement Agreement for GB AF Investment LLC. Council Member Barnes seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Clark Taylor, Council Member
<b>SECONDER:</b>	Kevin Barnes, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

2. Review and action on a Beer License for Bandera Barbeque located at 496 North 990 West.

**Council Member Carroll moved to approve a Class B beer license for Bandera Barbeque located at 496 North 990 West. Council Member Taylor seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Staci Carroll, Council Member
<b>SECONDER:</b>	Clark Taylor, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

3. Review and action on the Water Banking Agreement for Water Shares with Layne Downs for 7.75 acre-feet of water.

Mr. Sensanbaugher pointed out there were a couple of changes. First, there were two different water rights: 19-acre feet of water rights. Secondly, there were 11 late contained shares that comprised of 2.75-acre feet. The owner was assigning 14-acre feet of water to American Eagle Ready Mix, which left 7.75 acre-feet. They would be a clearer total number of acre feet in the future, and staff would keep the Council informed on the matter.

Cherylyn Egner, Legal Counsel, stated that the revised agreement was on the screen and this was the agreement they were taking action on.

**Council Member Taylor moved to approve the water banking agreement with Layne Downs for 7.75 acre-feet of water. Council Member Shelton seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Clark Taylor, Council Member
<b>SECONDER:</b>	Rob Shelton, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

4. Review and action on an ordinance approving the re-allocation of fiscal year 2019/2020 PARC Tax revenues to Wasatch Music Alliance.

Council Member Carroll asked if all of the funds needed to be spent by the end of June. Ms. Egner explained that what was not spent would go back in to a pool of funds that could be re-allocated next year. There was then a brief discussion on how COVID-19 had affected some of the City's expenditures.

**Council Member Taylor moved to approve Ordinance No. 2021-04-17 approving the re-allocation of fiscal year 2019/2020 PARC Tax Revenues to Wasatch Music Alliance. Council member Shelton seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Clark Taylor, Council Member
<b>SECONDER:</b>	Rob Shelton, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

5. Review and action on an assignment of interests in easements and personal property on Cedar Hills property.

Mr. Sensanbaugher explained that this item was in regard to abandoning an old easement for a small piece of water line and signing the area over to Cedar Hills; the line was nonoperational and they no longer need it. This was the last little easement needed for the waterline and the contractor was already mobilizing. Mr. Bunker noted that the easement in question fell within a fairway at the golf course, so it was in everyone's best interest to get the area into an easement on the edge of the course.

**Council Member Shelton moved to approve the assignment of interests in easements and personal property on Cedar Hills property as presented and authorize the city to execute the associated documents. Council Member Taylor seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Rob Shelton, Council Member
<b>SECONDER:</b>	Clark Taylor, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

6. Review and action on 200 South Easement Agreement, Easement, and License Agreement for the 200 South Waterline Project

Mr. Sensanbaugher explained that the subject area was located east of the railroad tracks. The easement would be dipping into the property because it was more perpendicular to the tracks to minimize the amount of land that needed to be drilled. This dramatically reduced the length of that bore. The contractor was already mobilizing.

Council Member Shelton asked if this helped the City for a right-of-way or just for a water line. Mr. Sensanbaugher responded that this was an easement for the water line. He then presented an aerial map to show where the easement was located.

**Council Member Taylor moved to approved the 200 South Easement Agreement, Easement, and License Agreement for the 200 South Waterline Project and authorize the City to enter into the agreement and sign the associated documents with the property owner. Council Member Barnes seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Clark Taylor, Council Member
<b>SECONDER:</b>	Kevin Barnes, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

7. Review and action on revised template for the Master Services Agreement for On-call Engineering Services

Mr. Sensanbaugher explained that a couple of years ago the Council approved a master services agreement template that allowed them to enter into agreements with various engineering consulting companies for several smaller projects. There were a couple of agreements with expiration dates that were coming due. This would allow them to approve agreements for three years and set a maximum of \$100,000, whereas the agreement was previously for two years and

an amount of \$200,000. Rebecca Andrus, City Engineer, clarified that they were extending the contract but the overall rate was the same.

Council Member Barnes asked if the City used these firms frequently. Mr. Sensenbaugher answered affirmatively. The City typically used these firms for contracts ranging between \$5,000 to \$40,000. If they get up to \$100,000 worth of work, they prefer to send out RFPs. Mr. Sensenbaugher added that these firms had been an invaluable tool for the City. Council Member Barnes asked if there had been any trouble with any of the firms, to which Mr. Sensenbaugher said no.

Ms. Egner added that prior to establishing these agreements, there wasn't a system in place at all and the City had more exposure than staff would have liked.

Council Member Shelton said that as he looked at this, the term was three years with a renewable of three years, but appeared that per the agreement they could also terminate with 30-days' notice. Ms. Andrus said yes, these agreements were for three years and up to six years total; however, if there were problems they could terminate earlier.

Council Member Shelton pointed out that the minimum amount was zero but the maximum was \$100,000 per year. Ms. Andrus clarified that this meant per engineering firm. Ms. Egner added that this amount would be the total task orders for the year; anything above the \$100,000 would require an RFP. Council Member Shelton requested that this be clarified, and there was additional discussion on other language changes to make to the agreements.

Council Member Barnes asked if this would be signed by each firm and on the City's records, to which Ms. Egner answered affirmatively. Council Member Barnes asked how many firms would be involved. Ms. Andrus said they had between a dozen and twenty; each firm had different focuses. Council Member Barnes said he thought this was a great idea.

Council Member Shelton asked if these agreements followed the normal procurement policy or if it would just be approved under the contract. He wanted to know if there were several expenses over \$25,000. Mr. Sensenbaugher said there were some and they would not need to come to Council for approval under this format. He explained this was a good thing because it would be burdensome as there were a lot of smaller expenditures. However, anything over \$25,000 had to be authorized by the Council.

**Council Member Shelton moved to approve the revised template for the Master Services Agreement for on-call engineering services with the change in section four to reflect "all task orders." Council Member Barnes seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Rob Shelton, Council Member
<b>SECONDER:</b>	Kevin Barnes, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

8. Review and action on a resolution declaring real property at approximately 90 North Church Street as surplus.

**Council Member Carroll moved to approve Resolution No. 2021-04-13R declaring real property at approximately 90 North Church Street as surplus. Council Member Shelton seconded the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Staci Carroll, Council Member
<b>SECONDER:</b>	Rob Shelton, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

9. Review and action on a representation agreement with Mountain West Commercial, LLC, for the acquisition of open space and park land

Mayor Frost said they had good discussions with this company; they knew the area and the community really well because they were also part of it. Council Member Shelton asked if they were willing to go into a non-exclusive contract. Mayor Frost said he did not know if that question was even asked. He stressed that it was important to have a cohesive team that was familiar with everything, and having an exclusive contract was beneficial. Council Member Shelton stated that for anyone they opted to purchase property from, they still had to pay the 3% commission on property that the City found to purchase even though the City found that seller for the company. This was the difference between an exclusive versus non-exclusive agreement. For this reason, Council Member Shelton preferred a non-exclusive agreement: that way, if the City found a potential seller, they could negotiate that more easily.

Council Member Barnes pointed to language in paragraph 4 of the agreement wherein it stated: “will look to the seller and the prospective property for compensation at 3%.” He stated that it looked like the seller was paying the 3% per this language. Ms. Egner clarified that the seller would pay the 3% but she didn’t know if the seller would directly be on point to Council Member Shelton’s concerns regarding exclusivity. She stated if the City opted to go non-exclusive it would be a different issue than what was being addressed in paragraph 4.

Mr. Bunker noted that this agreement was in place specifically for the purposes of open space. He stated that the agreement included a 30-day termination clause with prior written notice, which they could use in order to draft a new, non-exclusive agreement. He explained that they could go non-exclusive, but he agreed with the Mayor that they want a group who understood exactly what the City wanted. Ms. Egner commented that the City could still do it on its own but not use another one.

Council Member Shelton explained that this was a boiler plate contract and he wasn’t sure if they understood what exclusive and non-exclusive meant. He appreciated the company and their work; however, he felt the non-exclusive was not so binding. His understanding was that if they went out and negotiated their own deal, the company would get the 3% commission. There was subsequent deliberation among staff and Council Members regarding how to write the agreement based on the City’s needs and best interests.

**Council Member Taylor moved approval of the representation agreement with Mountain West Commercial, LLC, for the acquisition of open space and park land with the following changes: (1) that it would be a non-exclusive representation agreement, (2) that the prior modifications be incorporated into the non-exclusive agreement, and (3) with the removal of**

**limited agency so there would be no conflict of interest. Council Member Carroll seconded the motion.**

Council Member Barnes asked Ms. Egner for her opinion on the matter. She stated it was not her place to give an opinion; it was up to the Council if they wanted to enter into an exclusive vs. non-exclusive. With how Council Member Shelton described the situation, she deferred the matter to Council. Ms. Egner stated that her only concern was whether or not Mountain West would be agreeable to this change.

Council Member Taylor said he didn't understand why the 3% commission would be an issue; they were working hard for their money. He was not trying to look at cutting their commission. He said he wanted a better understanding of how limited agency would work. For example, if they had a property listed that they brought to the City, his question was if they would take a greater commission than 3%. Council Member Shelton said it meant that they can't take a side on an issue and therefore had limited agency.

**Mayor Frost called for a vote on the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Clark Taylor, Council Member
<b>SECONDER:</b>	Staci Carroll, Council Member
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

10. Review and action on the Technical Planning Assistance Program Funds Cooperative Agreement for the American Fork Bus Transit Study

Rebecca Andrus, City Engineer, explained the focus was a transit circulator, not the bus rapid transit. There had been a lot of studies done around American Fork from various directions. This particular study looked at how they get people from the Frontrunner to the commercial area at the meadows, down Main Street, and over to the areas on the east side of town. They were able to get a grant from UDOT and transportation planning assistance for \$85,000. The City provided a match of just over \$6,000 to that grant. They would be hiring a consulting company to perform this study, and would most likely going through UDOT's pool of contractors and select someone who had already been prequalified to do it.

Council Member Carroll remarked that the list of transportation studies on the document was extensive; a lot of money had been spent on transportation studies.

**Council Member Taylor moved to approve the Technical Planning Assistance Program (TPAP) Funds Cooperative Agreement for the American Fork Transit Circulator Study as presented and authorize the City to execute the associated agreement. Council Member Carroll seconded the motion.**

Council Member Shelton stated that he loved the idea of the study. However, with the list referenced on studies, he wondered how they all work together. Ms. Andrus stated that they were doing this to mesh all the studies together. Council Member Shelton stated that with the Meadows Crossing study, they had two representatives each from UTA and UDOT. He asked if this would



function the same way. Ms. Andrus answered affirmatively; it was put together with both UTA and UDOT to make sure they were all on the same page.

**Mayor Frost called for a vote on the motion. Voting was as follows:**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Clark Taylor
<b>SECONDER:</b>	Staci Carroll
<b>AYES:</b>	Kevin Barnes, Staci Carroll, Rob Shelton, Clark Taylor

11. Adjournment

**Council Member Taylor moved to adjourn the meeting. Council Member Barnes seconded the motion. All were in favor.**

The meeting adjourned at 8:36 p.m.



Terilyn Lurker, City Recorder