

AMERICAN FORK CITY COUNCIL
MAY 4, 2021
WORK SESSION MINUTES

Members Present:

Bradley J. Frost	Mayor
Kevin Barnes	Council Member
Staci Carroll	Council Member
Ryan Hunter	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
Terilyn Lurker	City Recorder
Anna Montoya	Finance Officer
Aaron Brems	Fire Chief
George Schade	IT Director
Cherylyn Egner	Legal Counsel
Adam Olsen	Senior Planner
Darren Falslev	Police Chief
Derric Rykert	Parks and Recreation Director
Scott Sensanbaugher	Public Works Director

Also present: Casandria Crane, and two citizens

The American Fork City Council met in a work session on Tuesday, May 4, 2021, in City Hall, located at 31 North Church Street, commencing at 4:05 p.m.

WORK SESSION

The purpose of City Work Sessions is to prepare the City Council for upcoming agenda items on future City Council Meetings. The Work Session is not an action item meeting. No one attending the meeting should rely on any discussion or any perceived consensus as action or authorization. These come only from the City Council Meeting.

1. **Discussion on updates to the general fee schedule**

Anna Montoya, Finance Officer, said that the City reviewed its fee schedule annually to make sure that it's cost of services is covered. She said that staff informally surveyed other cities to compare their fees to American Fork's. She said that departments reviewed each of their schedules and submitted them to the Finance Department who created a combined fee schedule. She then went over some of the changes to the fee schedule.

In the administrative miscellaneous category, there was a line item for facility rentals. She said that the City did not current charge for renting Old City Hall or the Senior Center, but wanted to add that fee. In addition, a facility rental deposit was added. It was noted that the deposit was refundable if there was no damage to the space or extra cleaning required. The deposit was intended to serve as an incentive to take care of the spaces. Ms. Montoya said that there were a

lot of requests for special events and film permits. Because of this, a \$50 processing fee was added to cover staff's time to handle those requests.

Council Member Barnes clarified that there were two separate fees: \$500 for the rental of Old City Hall or the Senior Center and a \$400 deposit.

Ms. Montoya then talked about changes regarding cemetery fees. She said that initially the cemetery had requested to eliminate holiday burials. Staff, however, felt like if a holiday burial was needed that they wanted to make sure that burials were available. Administration opted to charge two and a half times the cost for holiday burials. She explained that currently staff are not available on holidays so they would have to come in and work overtime.

Council Member Barnes said that he was told by a mortuary that there were some religions that required that burials take place within 24-48 hours of a death. He felt like this was a good move to be able to accommodate burials on holidays.

Council Member Shelton asked if the jump in cost was just to discourage people. David Bunker, City Administrator, said that on holiday's the City had to pay employees' double time. It was more expensive for the City to cover holidays instead of regular hours.

Council Member Shelton said that the cost was \$600 on a weekday and \$1,500 on a holiday. That was more than double the cost. He wanted to understand if rate that was more than twice that of a weekday was just to discourage holiday burials or to truly cover costs. Mr. Bunker said that he was sure that it covered more than just the City's cost. He said that employees did need to be incentivized to come in and work a holiday.

Ms. Montoya said that there was a separate Saturday schedule with burials costing \$850. She said that she was not sure that the increased fee on holidays would completely eliminate folks from having burials on holidays, but it did encourage people to have burials when staff were already working.

In regards to cemetery refunds, Ms. Montoya said that there was a loophole in the transfer fee. Camden Bird, Community Service Director, said that the City was not currently charging any fees to execute a refund even though the paperwork and processing was the same as it would be if someone wanted to transfer to another location. In theory, if someone didn't want to pay a fee to transfer to a different plot, they could ask to sell back the plot they owned for a refund and then go ahead and turn around to by a new plot at a different location and get out of paying the transfer fee. This meant that there was an inconsistency in the fees charged to reach the same goal. He clarified that there was a difference in the fee charged to cover the processing of a plot change and the amount of money that a resident would be refunded in selling back their lot. Per American Fork code, the City had to sell the plot back to the resident at the price that the resident paid for it. However, the standard among cemeteries was to sell plots back to people at the current market value. Staff would like to move towards that model, but would need to bring an updated ordinance and code to the Council for them to approve.

Council Member Barnes asked if he could go buy 20 plots as an investment, wait for the plot price to go up, and then sell the plots back in 10 or 15 years. Mr. Bird said that in theory someone could do that. He said that cities who sell plots back at the market rate have not had any issues with

people buying burial plots as investments. It was true that the plot would be treated like an appreciating asset.

Council Member Carroll said that if it became a problem, the City could place a limit on the number of plots a single person could purchase.

Ms. Montoya then reviewed the Fire Department Fees. She said that there were quite a few changes. One of the first changes was to initial business inspections. This would be included with the business license fee. Specific assessments for fire and assembly were eliminated. Hospitals already had to pay \$500 for hazmat, so that was removed. Inspection on a business without a license was also reduced to encourage businesses to get their license. There was a new scrap permit at a cost of \$100 to encourage cleanup.

For the library fees, it was proposed to eliminate overdue fines.

The Public Works department proposed a credit card processing fee. These would be for large impact and permit fees to recover some of the credit card cost. Staff proposed a 3% fee on these payments because some of them were quite large.

Council Member Carroll asked if there were any other times that the City charged credit card processing fees. Ms. Montoya said that as of now this would be the only place the City was charging a credit card processing fee. She said that it was because Public Works development charges were so large (sometimes \$10,000+) that it made sense to have a fee. She said that staff considered charging a credit card fee for utilities, but didn't want to discourage residents from paying online and doing automatic payments with a credit card. That saved a lot of processing and staff time to have the automation through express bill pay.

Council Member Barnes asked if they had not had problems in the past with bounced checks for utility payments. Ms. Montoya said that they did not have a problem with that. She said that the City did charge an NSF fee of \$25 to recover the bank costs associated with bounced checks. She said that there were several thousand people who paid by check, but that utilities were primarily paid with credit cards.

Council Member Shelton said he could see the justification in not charging the processing fee for utilities because it saved the City some mailing costs by not having to pay postage on utility bills. He said that he was more concerned with the General Fund overall. He said that he was interested to see what other credit card payments the City used under the General Fund. He said that in a previous work session he thought that Ms. Montoya had mentioned the City paid \$200,000 in credit card processing fees. Ms. Montoya said this was roughly the number, but the amount changed from month to month. She said that the majority of fees came from utility billing. The second biggest expense was for development. The third contributor to credit card fees was the fitness center.

Council Member Shelton said that eight years ago the total credit card processing fees were \$80,000. He said that an \$120,000 increase in eight years was significant. He said that in his mind he was trying to balance out this additional expense. For \$200,000 you could hire staff to handle the increase and trouble in dealing with payments via check. He said that he was trying to look at it from an economic standpoint about what would be best for the City. He also wanted to know if processing fees were more or less on debit card transactions. He reiterated that he was primarily

concerned about the General Fund and not utilities. Ms. Montoya said that only about 20-30% of the credit card fees were associated with the General Fund, and 70% were a result of utilities.

Council Member Shelton said that he was glad that the City was looking into this. He felt like it was a step in the right direction, especially adding the development fees. He then asked if the merchant processing was done through the State contract. Ms. Montoya said that the City had all of the major merchants—Visa, American Express, Mastercard. They don't discriminate based on merchants. She said that she had not looked at the contract recently. Their most recent contract with Express BillPay was drafted in 2018.

Council Member Carroll asked if it would be possible to let a developer know that they would be charged a credit card processing fee so that they could have the choice to bring in a check. Ms. Montoya said that staff would notify developers. Having the developer pay by check would still save the City money.

Council Member Shelton said that he thought that a merchant was required by law to disclose if they were charging a processing fee.

Ms. Montoya continued talking about different fees. With residential buildings there was a new expedited plan review fee of \$400 to cover staff overtime hours. This was separate from the plan review fee of \$500 and was only incurred if an expedited review was requested by the developer.

Council Member Shelton asked for clarification about the state law that was floating out there that required cities to complete inspections or site reviews within a certain period of time. He thought that state law required these steps to be completed within three weeks. Mr. Bunker said that all plans had to be reviewed within 14 days and inspections had to be completed within three days. He said that this fee would be if a developer wanted to move faster than that.

Ms. Montoya said that for construction water, staff proposed a \$100 fee to cover the cost of water. She said this would provide a better use base. For commercial development there was a base fee plus a rate based on usage because these were larger projects.

For development fees there was an additional staff cost for the Public Works Director of \$180 per hour. This was a comparable fee to that associated with the inspection consultant. Council Member Shelton clarified that this fee would be applied in Scott Sensenbaugher, Public Works Director, had to be pulled in to consult on a project for a developer. Ms. Montoya said that was correct.

A legal review fee would be added to cover the actual consultant cost.

For utilities, staff proposed to eliminate the \$150 deposit. She said that because it was a two-year deposit, considerable staff time was allocated towards reviewing who needed refunds each month. In lieu of that, staff proposed a \$30 processing fee. This was a lower expense for the applicant and a lot less staff time to keep track of. She noted that each month there were anywhere from \$2,000-\$10,000 refunds that had to be issued depending on the number of applicants two years prior.

Council Member Shelton asked how many claims the City had to make on residents who were delinquent on their utility bill. He wanted to know the dollar amount. Ms. Montoya said that it was very rare. Typically, staff refunded the whole deposit. The purpose of the deposit was essentially to establish credit. The deposit is hardly ever recorded as revenue as it is almost always

returned in full to the applicant. It was also pointed out that refunds were issued by check. There would be a cost savings for the City by not having to pay for and mail the checks themselves.

In regards to garbage fees, Ms. Montoya said that they City's contract with Republic had gone up 2% over the last couple of years. There was no increase in the garbage and recycling fee in FY2021, so staff proposed a 4% increase in 2022 to recover costs. The 4% increase was to recover costs from the last two years.

Mayor Frost asked when American Fork's contract was up with Republic Services. Mr. Bunker said that they City had opted for an extension two years ago. He said that he thought that the City had two years left in the extended contract, but that he would have to confirm that.

Council Member Shelton asked if he could get what that garbage fund balance was. Ms. Montoya said yes.

An additional fee was added for water use without a utility account. Ms. Montoya explained that there had been a lot of complaints about neighbors overwatering and not having an account set up. This would be a punitive charge. When a resident did finally connect, there would be a fee of \$250.

Ms. Montoya noted the addition to the fee schedule of frontline personnel residing in American Fork, as adopted by resolution, would get a discount on their utility bill.

In regards to the Fitness Center, most of the fees were increased by about 3% because of inflationary costs of services such as higher utility and staff costs.

Council Member Shelton asked where the increase in funds from the fitness center would go. Ms. Montoya said that the Fitness Center was already significantly subsidized by the General Fund. She said that the increase in fees would help close the gap to make the Fitness Center more self-sustaining. The increase in fee was geared more towards cost recovery than towards improvements. She said that staff had conducted a survey of a few other facilities. American Fork's Fitness Center fee was more in aligned with what other cities charged, while still being a little less than neighboring municipalities fees.

Council Member Barnes restated that the increase in fees was really only covering increases in costs, not improvements. It was not a gain at all but trying to create less of a subsidy from the General Fund. Ms. Montoya said that the City was definitely not making a profit by the increased fees. It was just to close the gap.

Council Member Branes said that if American Fork's fee was below everyone else's, he felt that they should take a more serious look at increasing the fee.

There were also some minor changes to fees associated with park and field rentals. Ms. Montoya said that staff eliminated half-day rentals and increased full-day rentals and field prep costs. This was also to recover costs. In addition, some programs were revised—baseball, softball, tennis—to be in align with current services.

Council Member Shelton talked about the completion of Art Dye and the possibility of charging for the use of those fields. He said that he wanted to see a plan for how the City could take

advantage of Art Dye as an asset, as he felt that there were currently a lot of regional users who were not paying for the park. He didn't think that the City was capturing the revenue and that formal contracts might help.

Ms. Montoya stated she would take the Council's comments into consideration and would bring back the amended fee schedule for adoption next month.

Mayor Frost stated that they would stop the meeting at 5:50 p.m. because the Council was scheduled for an open house at 6:00 p.m.

2. Discussion regarding continuation of the PARC Tax.

Cherylyn Egner, Legal Counsel, explained that the PARC Tax was taken to the ballot in 2014. The ballot proposition noted that the tax would be levied for eight years. The ordinance that certified the election was passed in December 2014 and indicated the PARC Tax had an eight-year duration with an effective date of April 1, 2015. As a result, on March 31, 2023, the PARC Tax will lapse. If the Council wishes for the PARC Tax to continue and put it on the ballot this year, it would provide two chances to secure an extension of the tax. If the tax was put on the ballot in 2021 and for some reason did not pass, the Council could put the PARC Tax on the ballot in 2022. If the Council waited to put the PARC Tax on the ballot in 2022 and it did not pass, there would be a lapse in PARC Tax funding coming in because the Council would have to wait until 2023 to put it back on the ballot. This would mean that there would be no PARC Tax revenue from April 1, 2023 through April 1, 2024.

Council Member Carroll asked if the new PARC Tax would have a ten-year term. Ms. Egner said yes. She said that was something that staff had looked into. She said that the PARC Tax switched to a ten-year period under the statute prior to the tax being approved by American Fork residents. However, the ballot proposition clearly stated an eight-year tax. Because of this, it was staff's interpretations that continuation of the tax needed to go out to ballot prior to the conclusion of the eight-year period because residents did not vote on a ten-year tax.

Council Member Shelton said that he felt like the City was in a grey area. He said that he appreciated the City's interpretation but he wanted to know the State's administrative interpretation of the situation. He didn't even know what body oversaw the PARC Tax. He thought that whoever this was—the Lieutenant Governor, the State Tax Commission—that the City needed their perspective on how the situation should be interpreted.

Ms. Enger said that staff could reach out to the State. It was her recommendation to have discussions based on the premise that the PARC Tax needed to go out to ballot at this point based on the eight-year period. If this was the intent of the Council a resolution needed to be passed by the Council. Then, the City's intent had to be communicated to the County and the State, prior to the PARC Tax going on the ballot. In addition, it needed to be included in the voter pamphlets.

It was clarified and acknowledged that there was a contradiction between state law and what the residents voted on.

Council Member Shelton said that he appreciated that there was a discrepancy, but that had been known for at least four years. He would like clarification on the interpretation because he would hate to go through the effort of bring the PARC Tax to ballot if there wasn't a need.

Mayor Frost said that in his mind, it came down to how citizens interpreted the ordinance, not the state.

Ms. Enger said that she would be happy to reach out to the state. She said that when the PARC Tax was passed the first time there were a lot of conversations with the Governor's office because American Fork had questions about the tax itself.

Mr. Bunker asked if the interpretation of the state was that the City was obligated to honor the eight-year term outlined on the ballot, did the Council want to move forward with going out for the PARC Tax again this year. Council Member Taylor said absolutely. He said that he felt like American Fork's track record with what had been accomplished with the PARC Tax and what they could do supported going out for the tax again. Council Member Barnes agreed that they should proceed. He said that they did need to find out as fast as they could which interpretation applied. It was his experience that the state always trumped the City.

Ms. Enger said that the State did always trump the City. The concern in this instance was the fact that the residents voted on an initiative that was different than state code. If the ballot itself had not specified a duration, she would see no problem in following the 10-year term outlined by the State.

Council Member Taylor asked if it was a possibility that although the residents voted on an eight-year term that the State could say that regardless of this, statute says PARC Taxes are on 10-year terms. Ms. Enger said that was a possibility.

Council Member Shelton said that he wanted clean start and stop dates of the program from the State.

Council Member Carroll said that she felt like there was some discretion on when a City could re-initiate a tax given that it could go on the ballot either in 2021 or 2022. She felt that if there was discretion on when the tax term could begin again that the City should honor the eight-year term that residents voted on.

Council Member Shelton said that he wanted to State's interpretation. Ms. Enger said that she did not disagree about the need to get clarification from the State. She simply wanted to know that if the eight-year term the residents voted on was binding or the City had discretion to honor the eight-year term, if it was the direction of the Council to move forward with getting the PARC Tax on the ballot again this year.

Council Member Carroll said that although she did not want the PARC Tax to go on the ballot earlier than was needed, she leaned toward the City's obligation to do so.

Council Member Hunter was also in favor of renewing the PARC tax.

Council Member Shelton said that he was for putting the PARC Tax on the ballot if that was the determination of the State. He also brought up that it had always been his sense that the City was not allowed to use PARC Tax money for operational expenses. However, State code did allow for this. He wondered if they should entertain using the PARC Tax for operational costs. He felt that the Council should begin to discuss this so that they could give clear guidance to the PARC Tax Committee.

3. Discussion regarding the American Rescue Plan (ARP) Act funds.

Mr. Bunker said that staff had great news. The federal government borrowed \$1.9 trillion to aid in recovery in COVID related issues. \$130 billion will go to cities and towns across the United States, with \$1 billion will go to local governments in Utah. That meant that \$3.7 million was estimated to be allocated to American Fork. He said this would come to the City in two tranches. The first would come this summer between the end of June and the beginning of August. One year later the second trench would come. There would be no middle man. This meant the county couldn't be in the middle. The county and state cannot place any additional requirements on those funds. He said that the federal government will require accurate reporting and record keeping, which would fall to the City.

Mr. Bunker outlined what the funds could be used for. The City would be allowed to cover revenue losses due to COVID-19, and the City would need to be able to document where those revenue losses occurred. The money could be used to support grant programs that were established through the CARES Act for small businesses and non-profits or other impacted industries. A premium could be paid to eligible essential workers at a rate of up to \$13 an hour more than their regular wage. The funds could also be used to make infrastructure investments, specifically water, sewer, broadband, transit or transportation. Based on these possibilities for using the rescue funds, staff saw a few potential projects that they wanted to get the Council's input on: PI water metering, a water recycling project, broadband infrastructure, culinary well generators, main street or small business grants, storm drain improvements, 200 South infrastructure, roadway improvements, etc.

Council Member Shelton asked if transportation and roadway improvements allowed for full depth reclamation, or did the improvements have to enhance the roadway as opposed to address repair. Mr. Bunker said that this was not defined exactly, but his interpretation was that the City could use the funds for full depth reclamation as well. He said that the funds certainly could be used to increase road widths.

Mr. Bunker noted that these funds were borrowed from the future and would be paid back through tax revenues. He said that when he was down at the Utah Cities and Town's training, Governor Cox made the comment they were using tomorrow's money today. Governor Cox asked what investment could the City make today that would help people in the future. Mr. Bunker said that the City did not have to do that, but that it might be wise to pick a project that would help American Fork long term. He thought that this was a good way to go. Lastly, Mr. Bunker said that there was the possibility to match the American Rescue Plan funds with state funds. He said that City managers did not yet have all of the matching opportunities, but that was something to consider: if these funds could be augmented with state dollars. Cities were only getting about 1% of the amount of money that was sent to the State. He said that he knew that the State was very concerned about water conservation. American Fork had received a grant from the Bureau of Reclamation for \$1.5 million as a matching grant. That was a great way to leverage dollars. This meant that the first leg of the pressurized irrigation project was supported by the grant. The \$1.5 million that American Fork was responsible to match was already set aside in the budget that was being prepared by staff for the Council to consider. He said that the City was well on its way on the pressurized irrigation project.

Council Member Shelton asked from a budgetary standpoint if the money received would go into its own account such that it could be tracked. Mr. Bunker said that they would have to track the money. Council Member Shelton said that he would love to see the money in its own fund so that

it was clear what the money was for. He said that to have a balanced budget, the funds would have to be allocated. Mr. Bunker they would do a budget amendment once the City received the dollars. They would be shown as a revenue with matching expenses. Staff wanted to get the information to the Council so that they could start thinking about projects that would be a priority for them.

Council Member Carroll felt like the idea of the State matching funds felt a bit like conjecture. She didn't know that the State necessarily would. Mr. Bunker said that it wasn't a requirement of the State to match funds. However, staff were told in their training that the State was considering providing matching funds.

Council Member Shelton said he had two thoughts for how to spend the money. The first was to focus on roads because the City never had money to fund them. It would be a great boost to be able to allocate \$3.7 million to roads. He felt that would move the dial. When he thought about what future generations could use, he thought more about broadband. He hesitated in putting the money towards the enterprise funds. He felt like there were already fee schedules that helped provide necessary funds. He looked more towards General Fund opportunities.

Council Member Taylor said that although many people might think, "Wow! \$3.7 million in free money," the funds would have to be paid back by future generations. He felt like water was something that needed to be addressed and that the pressurized irrigation project was a good way to remedy shortages. Although he thought there were some critical passageways that American Fork needed to focus on, he had a harder time justifying road improvement. It was water and broadband that he felt was key for future generations.

Council Member Barnes felt like the money would be best spent on projects that would benefit the community for the longest time period. He said that roads were not the longest time period no matter how bad they were. He said that broadband or water seemed like projects that would last longer.

Council Member Hunter agreed. He asked if the tranches would come in equal installments. Mr. Bunker said yes and would approximately \$1.8 million each.

Mayor Frost said that he thought the direction of the Council was going in the right direction. He thought that metering was great. He also felt like if they could figure out the recycling of the water, the City would be set up in perpetuity and in a way that no other surrounding City could consider.

Council Member Shelton made a comment about the significance of \$1.9 trillion dollars. He also stated that this idea of "infrastructure" was a big joke. "According to the president, childcare was infrastructure." He said that under this precedent, infrastructure seemed to support whatever initiatives American Fork might want.

Mayor Frost suggested that the Council keep their thinking caps on. He wondered if there were possibilities for participating with federal money.

Council Member Shelton said that since the Council didn't have a clear thought on how to use the money if the best process was to get the money and put it in a separate account and then revisit how to spend the money in January or so to see what possibilities for matching funds were available.

Council Member Carroll asked if there was a limitation on when the money had to be spent. Mr. Bunker said that there was and thought the funds had to be spent by 2025. He said that depending on the project that the Council decided on, it could take some time to get the funds allocated and the project completed.

Council Member Barnes agreed they should put the funds in a separate account. He thought they should start to think seriously about how to spend it in October or November. He didn't think they needed to wait six months.

Council Member Taylor talked about using the funds to purchase land for parks or the new fire station. He said that as everything continued to go up, it would be better to use the investment straight away.

Council Member Carroll said that she felt as though Council Member Shelton had a good point that if the City waited to spend the money until the legislature was in session, there might be a clear picture of their priorities for matching funds.

Council Member Hunter said that a six-month wait was relatively nothing. He thought that would be fine.

4. Adjourn.

The meeting ended at 5:10 p.m.



Terilyn Lurker, City Recorder