AMERICAN FORK CITY COUNCIL
JANUARY 11, 2022
REGULAR SESSION MINUTES

Members Present:

Kevin Barnes	Council Member
Staci Carroll	Council Member
Ryan Hunter	Council Member
Rob Shelton	Council Member
Clark Taylor	Council Member

Staff Present:

Bradley J. Frost	Mayor
David Bunker	City Administrator
Patrick O'Brien	Community Development Director
Camden Bird	Community Services Director
Terilyn Lurker	City Recorder
Anna Montoya	Finance Officer
George Schade	IT Director
Cherylyn Egner	Legal Counsel
Cameron Paul	Police Chief (Interim)
Scott Sensanbaugher	Public Works Director

Also present: John Woffinden, John Haderlie, Ken Berg, Mike Horan, Jake Horan, and Mr. Shelley.

The American Fork City Council met in a regular session on Tuesday, January 11, 2022, in the American Fork City Hall, 31 North Church Street, commencing at 7:00 p.m.

REGULAR SESSION

1. Pledge of Allegiance; Invocation by Council Member Barnes; Roll Call.

Mayor Frost welcomed everyone to the meeting. Those present recited the Pledge of Allegiance. Council Member Barnes offered an invocation. Mayor Frost conducted roll call.

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

There were no public comments.

3. City Administrator's Report

City Administrator David Bunker reported on the annual pass sale at the Fitness Center. He said it was successful and urged those present to sign up soon if they wished. He announced the addition of a spin room which would be dedicated to spin classes, and which should be completed in 3-4 weeks. He congratulated the Fire Department for a difficult, yet banner year. They had responded to 4472 (15% over 2020) calls during 2021, which made them the busiest fire department in Utah County. He thanked them for their work.

4. Council Reports

Council Member Taylor reported that the PARC Tax committee had met and started the process for a workshop to be held January 27. All who had interest in obtaining PARC funds must attend this meeting, where information on the application process will be provided.

Council Member Carroll mentioned that on January 12th the Chamber of Commerce would be sponsoring the State of the City luncheon where Mayor Frost was scheduled to speak.

Council Member Barnes stated it was good to be present in this meeting, and though he had nothing official to comment on he mentioned he was glad that 2021 was past and that he looked forward to 2022 and all the good things that would be accomplished by citizens, residents, employees, and others affiliated with American Fork.

Council Member Sheldon had nothing to report.

Council Member Hunter expressed his appreciation for the Audit Committee members and the time they spend on the audit.

5. Mayor's Report

Mayor Frost reflected on the feelings he had had during the Christmas season. He felt the city had a very festive atmosphere, which he appreciated. He pointed out the parade in which he had participated that featured Santa Claus. This year Santa had a companion, the Grinch. As the Grinch threw out onions, Mayor Frost enjoyed watching the look in people's eyes. The experience, which lasted 2.5 hours, gave Mayor Frost a real sense of how much the city had grown. He commented the south area of the city was alive with children and families. As they went along the Grinch tried to steal Santa's thunder, but the children always favored "the Jolly Fat Man."

Before moving to the Common Consent Agenda, Mayor Frost mentioned that each item had more information about it in the packets that were made available to the Council prior to the work session.

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 November 23, 2021, city council minutes.
2. Approval of the December 7, 2021, work session minutes.
3. Approval of the December 14, 2021, city council minutes.
4. Approval of the authorization to release the Improvements Durability Retainer of $820.00 for AMERICAN FORK DUPLEX, located at 625 East 100 North.
5. Approval of the authorization to release the Improvements Durability Retainer of $318.75 for ANDERSON ACRES PLAT B, located at 864 East 120 North.
6. Approval of the authorization to release the Improvements Construction Guarantee in the amount of $170,946.88 and issue a Notice of Acceptance for the AUTUMN CREST PLAT D construction of public improvements located at 1000 East 1000 North.
7. Approval of the authorization to release the Improvements Construction Guarantee in the amount of $78,803.85 and issue a Notice of Acceptance for the BRUBAKER LOTS 3,4 construction of public improvements located at 758 South Auto Mall Drive.
8. Approval of the authorization to release the Improvements Durability Retainer of $830.91 for DOUG SMITH KIA ADDITION, located at 523 West Main.

9. Approval of the authorization to release the Improvements Construction Guarantee and issue a Notice of Acceptance for the LAKESHORE LANDING BLOCKS 1-3 construction of public improvements located at 350 South 900 West.
10. Approval of the authorization to release the Improvements Durability Retainer of $6,835.43 for NORTH POINT CUL-DE-SAC, located at 1300 South 630 East.
11. Approval of the authorization to release the Improvements Construction Guarantee in the amount of $323,998.00 and issue a Notice of Acceptance for the ROCKWELL RANCH BLOCK 2 PHASE 1 construction of public improvements located at 350 South 1100 West.
12. Approval of the authorization to release the Improvements Durability Retainer of $710.20 for SHELLEY RESIDENCE, located at 825 East 50 South.
13. Ratification of city payments (December 8, 2021, to January 4, 2022) and approval of purchase requests over $50,000.

Before the vote to approve the common consent agenda, Council Member Barnes noted he had a few minor corrections to the minutes which were mainly misspellings, but in the work session minutes an amount needed to be corrected.

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

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Clark Taylor, Council Member
SECONDER:	Rob Shelton, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

ACTION ITEMS

1. Review and action on a resolution supporting environmental protections for Utah Lake.

Mayor Frost began by stating there had been a work session last week where they received information and before them was a resolution supporting environmental protections for Utah Lake. He noted Provo City has approved a resolution, which has started a movement to invite cities to weigh in on whether development should take place on Utah Lake and on the Utah Lake Authority bill. The idea was to tailor the resolutions regarding Utah Lake to what cities wanted. Mayor Frost felt it was important to highlight the lakebed was the sovereign territory of the State of Utah and it needed to be held in the jurisdiction of State agencies. Mayor Frost stated this was similar to Provo's resolution and asked if the council had any input.

Council Member Taylor questioned if on #2 where they mention that regulation and decision making remain with state agencies, they add wording such as "rather than exclusively by Utah Lake Authority". Council Member Shelton agreed and felt they needed to make an impact and wanted the city's opinion to be direct and concise. He commented that Utah Lake should not be treated differently than any other body of water in the state. It was felt that anything that had to do with any lake should be decided by the whole legislature.

Mayor Frost noted the bill has not yet been released but that there were two different bills. Council Member Shelton thought that with the two bills, they may need to have two separate resolutions that are direct and to the point, one that indicated the council's support that Utah Lake should be treated the same as all bodies of water and the other that was directed right at the Utah Lake Authority.

Mayor Frost suggested they could take two weeks to insert stronger language into the document or they could just add or take away from what was already in front of them.

Council Member Carroll commented that she preferred to have something conceptual rather than something directed at a specific bill, especially a bill they had not seen yet. She pointed out that they knew they were against the idea of a small group of people making decisions for Utah Lake and she wanted to put that desire into writing. She suggested they do that regardless of what a bill said, now or in the future.

It was suggested they work on the language and bring a resolution back at an upcoming meeting. Another suggestion was to keep the resolution brief and to the point.

Council Member Taylor moved to table the motion in preparation for Tuesday's work session. Council Member Shelton seconded the motion. Voting was as follows:

RESULT:	**TABLED [UNANIMOUS]**
MOVER:	Clark Taylor, Council Member
SECONDER:	Rob Shelton, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

2. Presentation and acceptance of audited financial statements for Fiscal Year Ending June 30, 2021.

Finance Director Anna Montoya to introduced John Haderlie of Larson & Company and turned the time over to him.

Mr. Haderlie introduced himself as a partner in Larson & Company. His firm had recently audited American Fork's financial statements. He stated they had given American Fork an unqualified (or unmodified) opinion, which was the best opinion they could give. He called to the Council's attention page 2 of the audit report where it defined what fell under their opinion and what did not. He also referred council members to the MD&A (Management Discussion and Analysis), a condensed overview of the entire document. He stated that was much easier to read and understand. Auditors prepared comparative data on the city from last audit year to the current audit year, looked at internal controls, and tested compliance to Utah State code.

Mr. Haderlie explained that there was a budget finding as there were three funds over budget. The State used to be very strict on that point, requiring a statement of finding if a budget was even $1 over. However, they had softened that a bit by measuring materiality rather than hard numbers. These three funds were over budget but they still met the materiality criterion. His recommendation was for the City to take a hard look at those funds and work to bring them at or under budget in the future.

Finally, Mr. Haderlie explained the need for a Federal audit because American Fork had accepted over $750,000 of CARES money for COVID related expenditures. That portion was also completed and submitted to the Federal Government. If the Federal Government had questions Larson & Company would help with that. He then opened the floor for questions.

Council Member Shelton commented that he really appreciated Larson & Company for their great job. He had a question about the custodial account, which appeared to him that there was $15 million in that account, $14 million of which was not insured. He wondered why there was such a large amount. Mr. Haderlie commented the PTIF was not a true investment, but more like a

savings account. He recommended a different type of investment if the intent was to hold cash for a long time. Ms. Montoya clarified that the balance was currently more like $2 or $3 million and had been reduced in September 2021 when they consulted an investment advisory firm on how to invest that money.

Mr. Haderlie expressed his appreciation for Ms. Montoya, whose effort to prepare the annual comprehensive report was extremely valuable. He commented that he had had only a few review notes for her.

Council Member Taylor moved to accept the comprehensive annual finance report for fiscal year ended June 30, 2021, and the Communication with Governance Letter. Council Member Hunter seconded the motion. Voting was as follows:

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Clark Taylor, Council Member
SECONDER:	Ryan Hunter, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

3. Review and action on acceptance of a transfer of utilities from the CK Farms, Terracom Communities, Phase 2 development to the city.

Public Works Director Scott Sensanbaugher explained that there had been quite a few issues on ownership, easement, bond release, and infrastructure with this transfer, however all the issues had been resolved so that this transfer could take place. These utilities had been intended all along to be a public facility, and though some of the infrastructure had originally been done at a substandard level and had to be re-done, it met public standards now.

Council Member Shelton moved to accept the transfer of utilities from CK Farms, Terracom Communities, Phase 2 development and authorize Mayor Frost to sign the dedication of water line. Council Member Barnes seconded the motion. Voting was as follows:

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Rob Shelton, Council Member
SECONDER:	Kevin Barnes, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

4. Review and action on a water banking agreement for water rights with Christian Lundahl for 20.76 acre-feet of water.

Council Member Carroll moved to approve the water banking agreement with Christian Lundahl for 20.76-acre feet of ground water rights and authorize the city to sign the agreement. Council Member Taylor seconded the motion. Voting was as follows:

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Staci Carroll, Council Member
SECONDER:	Clark Taylor, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

5. Review and action on subdivisions, commercial projects, condominiums, and PUD's including 1) plat approval; 2) method of satisfaction of water rights requirements; 3) posting of an improvement bond or setting of a time frame for improvement installation; and 4) authorization to sign the final plat and acceptance of all dedications to the public and to have the plat recorded.

a. Review and action on an ordinance approving the final plat for CK Farms, Terracom Communities, Phase 1 1st Amendment plat, located at approximately 360 South 600 East in the PC Planned Community Zone.

Community Development Director Patrick O'Brien came forward and explained these were simple housekeeping items. He mentioned the initial approval had included one lot less, and this night's action was to add one more lot. It was only a minor technical correction, but it had to come before the City Council.

Council Member Barnes moved to adopt Ordinance No. 2022-01-01 approving the CK Farms, Terracom Communities, Phase 1 1st Amendment Plat, located at approximately 360 South 600 East in the PC Planned Community Zone and to authorize Mayor Frost and the City Council to sign the plat and accept the dedications with instructions to the City Recorder to withhold recording of the plat subject to all conditions identified in the public record associated with the December 8, 2021, Planning Commission meeting. Council Member Taylor seconded the motion. Voting was as follows:

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Kevin Barnes, Council Member
SECONDER:	Clark Taylor, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

b. Review and action on an ordinance approving the final plat for AF Crossing Plat E-1, located at approximately 950 South 900 West in the PR-3.0 Planned Residential Zone.

Mr. O'Brien commented that this, as well as the following items, was also a housekeeping item.

Council Member Taylor moved to adopt Ordinance No. 2022-01-02 approving the final plat for AF Crossing Plat E-1, located at approximately 950 South 900 West in the PR-3.0 Planned Residential Zone and to authorize Mayor Frost and the City Council to sign the plat and accept the dedications with instructions to the City Recorder to withhold recording of the plat subject to all conditions identified in the public record associated with the December 8, 2021, Planning Commission meeting. Council Member Carroll seconded the motion. Voting was as follows:

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Clark Taylor, Council Member
SECONDER:	Staci Carroll, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

c. Review and action on an ordinance approving the final plat for AF Crossing Plat E-2, located at approximately 950 South 1000 West in the PR-3.0 Planned Residential Zone.

Council Member Taylor moved to adopt Ordinance No. 2022-01-03 approving the final plat for AF Crossing Plat E-2, located at approximately 950 South 1000 West in the PR-3.0 Planned Residential Zone and to authorize Mayor Frost and City Council to sign the plat and accept the dedications with instructions to the City Recorder to withhold recording of the plat subject to all conditions identified in the public record associated with the December 8, 2021, Planning Commission meeting. Council Member Hunter seconded the motion. Voting was as follows:

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Clark Taylor, Council Member
SECONDER:	Ryan Hunter, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

d. Review and action on an ordinance approving the final plat for AF PD South Plat A, located at approximately 650 South 900 West in the PR-3.0 Planned Residential zone.

Council Member Shelton moved to adopt Ordinance No. 2022-01-04 approving the final plat for AF PD South Plat A, located at approximately 650 South 900 West in the PR-3.0 Planned Residential Zone and to authorize Mayor Frost and City Council to sign the plat and accept the dedications with instructions to the City Recorder to withhold recording of the plat subject to all conditions identified in the public record associated with the December 8, 2021, planning commission meeting. Council Member Barnes seconded the motion. Voting was as follows:

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Rob Shelton, Council Member
SECONDER:	Kevin Barnes, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

e. Review and action on an ordinance approving the final plat and site plan for Deer Park Subdivision, located at approximately 9 West 1100 South in the PI-1 Planned Industrial Zone.

Mayor Frost stated that the Chairman of the Planning Commission indicated he wanted to address something on this agenda item when it came before the City Council.

Mr. Woffinden stated that this same item had come before the Planning Commission last month. The motion had passed on a 5:1 vote, with his being the opposing vote. The reason for his opposition was that he had reviewed the geotechnical reports and had found five or six things in error. Those items being: the level of groundwater, seismic analysis, faults present, response analysis, soil pH, the number of buildings shown in the figures, and the amount of sediment in 1,000 feet of water. He elaborated on the sediment concern, noting measuring had appeared to have stopped at 5 feet, and he wanted to know why. The Planning Commission had included in its motion that the applicant would have to furnish, in a timely manner, the reason for stopping at 5 feet. The applicant had not done that yet, even though they had been asked several times. His professional opinion was that they would have to drill a lot more holes to get the answers they needed.

Mr. Sensanbaugher pointed out that he did not favor recommending items with serious issues that had to be addressed after conditional approval. Often the issues were rather minor and could be handled with the developer after approval had been given. He felt the issues here were minor, though he respected Mr. Woffinden's professional opinion. In advance of this night's meeting, he had conferred with a Rebecca Andrus, the City Engineer, and together they had agreed that it was ready for final approval. Mr. Sensanbaugher stated he deeply respected Mr. Woffinden's concerns, but staff has gone over this thoroughly and in their opinion the project does meet code.

Council Member Barnes questioned an earlier statement Mr. Woffinden had made in which he indicated that the applicant was supposed to have given answers to staff earlier, and they had not. This was not okay in his opinion. He didn't like loose ends and there were still many on this project.

He asked what the developer's motivation would be to make corrections in a plan if the City Council had already approved it.

Mayor Frost agreed, generally, regarding motions that had conditions that had not been met. In this case, he knew the developer and felt confident in his credibility. He was therefore comfortable passing this.

Council Member Taylor commented he respected the professional opinion of Mr. Woffinden. He didn't want any vote he may cast to come off as an affront to any individual. As a non-engineer, Council Member Taylor had read the report, noted the concerns, and he wanted to be able to rely on the expertise of staff. With Mayor Frost, he was going to rely on staff in this case.

Mr. Woffinden said he was there to state his professional opinion, and if the Council went another way, he knew he had done his job and he could sleep at night.

Council Member Carroll asked what would happen if the conditions could not be met? Mr. Sensanbaugher stated that everything that had been discussed could be worked out, and that's why he and his staff were recommending approval. Had there been any question that conditions could not be worked out, they would have recommended voting against it. He assured the Council on that point.

It was pointed out there were only two buildings in the site plan, even though the packet showed three.

Mike Horan, the developer, stated he was happy to be there. He wanted the Council to know they intended to move their operations to American Fork. This made all the concerns very real to him, and he pledged to address them all as they wanted quality as much as the city did.

Council Member Carroll moved to adopt Ordinance No. 2022-01-05 approving the final plat and site plan of the Deer Park Subdivision located at 9 West 1100 South in the PI-1 Planned Industrial zone and authorize Mayor Frost and the City Council to sign the plat and accept the dedications with instructions to the City Recorder to withhold recording the subdivision and publication of the ordinance subject to all conditions identified in the public record associated with the November 17, 2021 planning commission meeting. Council Member Hunter seconded the motion. Voting was as follows:

RESULT:	**ADOPTED [4 TO 1]**
MOVER:	Staci Carroll, Council Member
SECONDER:	Ryan Hunter, Council Member
AYES:	Staci Carroll, Ryan Hunter, Rob Shelton, Clark Taylor
NAYS:	Kevin Barnes

Council Member Barnes stated his "nay" vote was because of all the information that had come in at the last minute.

6. Review and action on an ordinance creating Section 13.04.050 of the American Fork Municipal Code regarding utility services to property outside of city boundaries.

Mr. Sensanbaugher stated this ordinance would limit City resources for all utilities to those properties within the City boundaries only. He clarified that it only applied to new services and

would not affect those already connected to the utilities. If someone not in the city desired city services they invited them to annex first.

Council Member Hunter moved to adopt Ordinance No. 2022-01-06 creating Section 13. 04.050 of the City Code regarding utility services to property outside of City boundaries. Council Member Taylor seconded the motion. Voting was as follows:

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Ryan Hunter, Council Member
SECONDER:	Clark Taylor, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

7. Review and action on a resolution approving a cooperative agreement with Utah Department of Transportation (UDOT) regarding traffic signal and access control along US Highway 89 in American Fork.

Mr. Sensanbaugher stated that this was an agreement brought to American Fork by the Utah Department of Transportation (UDOT). They had been doing this with cities in which a state highway passed through the city. It was a straightforward resolution and he recommended approval.

Council Member Taylor moved to adopt Resolution No. 2022-01-01R approving the cooperative agreement with UDOT regarding signal spacing and access control along US Highway 89 in American Fork and authorize the city to sign said agreement. Council Member Barnes seconded the motion. Voting was as follows:

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Clark Taylor, Council Member
SECONDER:	Kevin Barnes, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

8. Review and action on the appointment of the City Attorney.

Mayor Frost appreciated Legal Counsel Egner and wanted her to stay with the City. He recommended her appointment as City Attorney.

Council Member Taylor moved to approve Mayor Frost's appointment of Cherylyn Egner as the City Attorney. Council Member Shelton seconded the motion. Voting was as follows:

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Clark Taylor, Council Member
SECONDER:	Rob Shelton, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

9. Review and action on approval of a contract for civil legal services.

Council Member Taylor moved to approve the contract with Hansen Law, P.C. for civil legal services. Council Member Hunter seconded the motion. Voting was as follows:

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Clark Taylor, Council Member
SECONDER:	Ryan Hunter, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

10. Review and action on approval of a contract for criminal legal services.

Council Member Hunter moved to approve the contract with Hansen Law, P.C. for criminal legal services. Council Member Taylor seconded the motion. Voting was as follows:

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Ryan Hunter, Council Member
SECONDER:	Clark Taylor, Council Member
AYES:	Barnes, Carroll, Hunter, Shelton, Taylor

Council Member Shelton noted he wanted to look into the Justice Court. Legal Counsel Egner said they were working on putting together information on a Justice Court.

11. Adjournment.

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

The meeting adjourned at 8:30 p.m.

Terilyn Lurker
City Recorder