

CITY COUNCIL MEETING

Franklin City Building

September 13, 2023

7:00 P.M.

MAYOR AND COUNCIL IN ATTENDANCE

John D. Packer

Lyle J. Fuller

Stuart Parkinson

Mark Dietrich

Kevin D. Beck

STAFF

Tyona Atkinson, City Clerk

ATTORNEY

Aaron K. Bergman

Council meeting was called to order at 7:00 p.m. by Mayor Packer.

Prayer: Councilmember Mark Dietrich

Pledge: Councilmember Stuart Parkinson

It was moved by Councilmember Kevin Beck and seconded by Councilmember Stuart Parkinson to approve minutes of August 9, 2023, Council Meeting. Motion passed. Unanimous

It was moved by Councilmember Lyle Fuller and seconded by Councilmember Kevin Beck to approve minutes of the FY Budget 2023-2024 Public Hearing and Special City Council Meeting August 30, 2023. Motion passed. Unanimous

It was moved by Councilmember Stuart Parkinson and seconded by Councilmember Mark Dietrich to approve the bills for August 2023. Motion passed. Unanimous

USDA RD Presentation of Cost Overrun for Water Project – Taylor Pratt (32:55) See Attachment

Taylor Pratt is with the USDA RD (US Department of Agriculture Rural Development) and is the area director in the Blackfoot Idaho office. Lana Duke was the community program specialist in Idaho who originally started this project, and she is assisting Taylor to make sure this cost overrun has been properly processed and helping to get the loan documentation and additional funding. Lana was unable to attend tonight but has provided the breakdown of the funding. Taylor went over the cost overrun for the water project and talked about the increased costs. She and Lana made sure there were additional loan funds and were able to get some grant funds so this project could continue to move forward. In the Letter of Conditions Amendment #1 document, the funding for \$239,000 for the loan and \$341,000 for the grant have been added. It is essentially the same letter of conditions as before but includes the additional funding for the cost overrun. This includes a breakdown of what will go into effect once the loan is finalized, closed out, and the bond starts the repayment process. She provided a draft letter of conditions which have not been executed by Rural Development. The final document will not be implemented until the funding has been set in place or at the closing of the loan. Taylor

indicated they are hoping that congress will approve a continued resolution or approve the budget before the end of the government's fiscal year on September 29, 2023. Councilman Mark Dietrich asked where the amounts for the cost overrun got missed. Mayor John Packer indicated that some of it was additional engineering costs due to the delay in weather and a couple of change orders in phase one and two involving piping and valving. Councilman Lyle Fuller questioned if an additional amount was added to the loan if another judicial confirmation would need to be done and asked if the city could check with the Bond Council. Attorney Aaron K. Bergman stated that we do have a bond council that can check on that but absent the order actually saying that would they allow otherwise, typically you would see a judicial confirmation if there were an additional indebtedness over the stated period.

Taylor stated the Letter of Conditions Amendment #1 has been submitted to the community program director, Lana has been working with him to get additional waivers submitted. Taylor said they would like to have the funds set aside, and obligated and approved for the City of Franklin before the end of Fiscal Year. Once everything is in place and ready to sign off Taylor will need a signature on a Letter of Intent to Meet the Conditions and the request for Obligation of Funds.

It was moved by Councilmember Lyle Fuller and seconded by Councilmember Stuart Parkinson to approve Mayor John Packer to sign the Letter of Intent and related documents related to applying for the grant and loan through USDA. Motion passed. Unanimous

Grant Administration Procurement (Park) – Amanda Collins (47 :37) See Attachment

Amanda Collins the Community Development Manager from SICO (Southeast Idaho Council of Government, Inc) explained as part of the park grant the City of Franklin will get additional points and it is required by the Community Development Block Grant (CDBG) that you have a certified grant administrator to make sure you meet the compliance end of the CDBG grants. Currently it is a micro purchase procedure because the cost of administration is under \$50,000.

Mayor John D. Packer read aloud the Grant Administration Procurement letter to the council which states, "The Franklin City Council hereby supports and endorses a Community Development Block Grant for application for the Park Improvement Project: And, with the micro purchase procurement procedure, the Franklin City Council designates SICO as its administrative agent for this grant."

It was moved by Councilmember Lyle Fuller and seconded by Councilmember Kevin Beck that they approve the mayor's signature on the Grant Administration Procurement Letter. Motion passed. Unanimous

Lack of Infrastructure (Roads) – Robert Saxton & Curtis Lowe (50:59)

Robert Saxton is a long-time resident of Franklin, Idaho for 43 years. He welcomed Dirk Bowles the Franklin County Commissioner to help him as he addressed concerns regarding road infrastructure particularly on Maple Creed Road. He stated one of the challenges we face includes increased traffic due to new home builds and growing businesses. There has been an

increase in semis and cars on the roads which has caused daily congestion and breaking roads. He feels our current infrastructure is ill-equipped to handle this volume of traffic. Other concerns are the safety of neighborhood children, the absence of sidewalks, speeding cars, and inadequate winter road maintenance. He feels these concerns are placing our community at risk. He proposed the construction of a new road to provide an additional point of entry into Franklin. This new road would not only alleviate traffic congestion on Maple Creek Road but also address the hazardous intersection of Main Street and Highway 90. He was hopeful that by working together with fellow residents and local authorities we could secure the necessary funding and resources to make the community safer and more prosperous.

Curtis Lowe, a resident of Franklin who has lived here his whole life stated the community has tripled in size and the roads still stay the same. The residents still rely on the main street as our way in and out of the canyon. As the population grows the traffic overruns the roads. He is proposing to build an access road by Womacks old dairy (346 Maple Creek Rd.) take the road down over the hill and join on to the highway at the river bottoms. It would have to be engineered, and one of the concerns is the Indian burial site, but when Curtis looked at where the proposed road would be it would be on the north side of the burial site. The road would be on the south side of the culvert where the high water goes under the road in the spring, where there is not much of a flood plain. This would help to get more traffic off the main street. Mayor Packer stated that the road Curtis is proposing is in the county. Curtis stated the road would start in the city and end in the county. Robert Saxton stated eighteen years ago this road was a discussion when he was on the city council.

Dirk Bowles, Franklin County Commissioner, stated the county has received a grant to do a transportation study that will start in a year. In a previous study 20 years ago, it projected where growth would happen but that changes. Franklin has experienced a lot of growth. Dirk did not want to discourage this road, but he explained that when a road starts going past the Indian burial sites and the wetlands that will be a tremendous expense mitigating environmental impact studies and cultural impact studies. These studies would all have to be done, which will push the project down the road for five to ten years. He agreed that the city should not have all that traffic coming through town the road wasn't made for it. The county could help a lot more by improving the existing road that goes out to 3200 S. to help with some of the traffic. He is not sure how to enforce that. Dirk would propose that the city works with the county and get a plan in place to improve the existing road 3200 S. and then find a way to direct the traffic to it with an engineer. Dirk stated that he cannot commit the county for the funds to improve the road, with some city encouragement it might help with getting the funding to get started. Mayor Packer stated he will bring this up at the monthly meeting he attends which includes another county commissioner. Robert Saxton stated that anything that can happen to better our lives and make our lives safer we are happy with Mayor.

Residents expressed other concerns and Mayor Packer encouraged them to get on the agenda next month.

Tabled Item -Heritage Land Development Agreement-Discuss Draft of Proposed Amendments to Development Agreement – Aaron Robertson (1:12:05) (See Attachment)

Heritage Land Development submitted some specific language to the concepts discussed on the Third Amendment for the Legacy Village Subdivision Development Agreement. Aaron Robertson indicated that Heritage has not received feedback on what was presented. Council members indicated that 48 hours before the meeting was not enough time to review the amended agreement. Attorney Aaron K. Bergman indicated that he had not looked at it. It was his understanding at the last meeting there was a discussion that the council would review the amended agreement before having the attorney look at it.

Attorney Aaron Bergman stated that he read the draft minutes from the last meeting where this agreement was gone over extensively. He asked Aaron Robertson from Heritage if the changes relatively mirror the things that were discussed in that meeting or if there were significant differences. Aaron R. replied that it mirrors it but the biggest area that Heritage desires is input regarding the Common Area, Parks, and Pathways. Heritage is looking to create some flexibility as they get closer to the later phases. They are looking for something that can be agreed upon for the future instead of being locked in on what was agreed by the previous council. Craig Rasmussen, city engineer (Forsgren), received the proposed amendments on Monday and did a preliminary review of it. He agreed the amendment largely reflects the things that were discussed at the last council meeting. Some of those things the city may or may not agree with or they may want to adjust or tweak the wording. Aaron R. stated that one of the changes that Heritage is looking at which is on the next agenda item is that phase two be broken into three phrases. They need the development agreement amended to facilitate this change in phase two.

Craig agreed with Aaron R. that there needs to be some coordination to make proposed changes to the park. One of the things the council expressed previously was acquiring park amenities earlier in the project opposed to phases four or five. He indicated that the wording that has been proposed is that the developer provide money in lieu of parks with the intent to improve parks elsewhere in the city. Craig questioned Aaron R. if they are proposing to take out this property in the development or just the improvements in the property. Aaron R. stated it is open to discussion, they are negotiating with Weber County to give land in lieu of a fee and others are paying fees to develop it.

Councilmember Lyle Fuller asked if there needed to be a motion to put items 4 and 5 on the agenda together since they both involve discussing the same issues. Craig Rasmussen stated that although they are interlocked with the same development, phase 2 separation into smaller phases could be handled as a separate item. The proposed changes to Phase 2 could be resolved tonight pending councils vote on that. The amendments are going to take more time. Councilmember Lyle Fuller stated he is not comfortable amending the development agreement by a motion tonight.

Councilmember Lyle Fuller went back to the issue of the cash in lieu of open space, he stated that maybe the city attorney could check on this because he is not sure if the city code allows that.

Councilman Mark Dietrich stated that there needs to be another park for the people who will live in that area when this project gets done. He feels the city doesn't have enough room in the parks as it is right now. Aaron R. stated that he wants the councilmembers to know there are options for the park. For example, this park is not a park to go play frisbee or football on. He indicated that the development agreement requires them to build a dirt bike park. Craig agreed with Councilman Mark Dietrich that another park needs to be available. He indicated that he is on the city council in Hyrum, Utah, and Hyrum has a large development coming into the city. The developer was going to put in a park that was in line with the original plans. When they started to work on the park it became apparent to the citizens that the original concepts were not what they wanted. Hyrum city made the decision that instead of having the developer build the park the developer would contribute money and Hyrum city put together a committee of people in the neighborhood. They decided what amenities were important to them and they redesigned the rest of the park. Craig stated this park (Legacy Village) might be a dirt bike park, a skate park, or a combination, it might have pickleball courts, children's playground equipment, or disc golf facilities. His recommendation is that it is better to have people in the community decide what goes into the park rather than the developer saying what goes into the park. Craig stated it is up to the council, but giving the developer feedback or negotiating this is important. He recommends the council take the opportunity to review options for the park that are more flexible.

Craig stated there were a couple of items in the discussion last month that the council may want to further discuss such as the way that the fees are paid on the water and wastewater with the \$4,000 prepayment per connection as discussed. The developer would like to take that out of the agreement. Craig recommends the council have a discussion on this component and give them direction if they are prepared to. Kevin Beck commented that he didn't think Heritage necessarily meant that they want to take it completely out of the agreement, he read from the amendment (Potable Water) that it says terms and conditions of a recordable reimbursement agreement upon by the developer and the city. Craig said that that was not addressing the payment of fees. What Kevin read in that paragraph is referring to additional studies on the potential impact of the development and the developers are required to put in infrastructure to meet the demands of the development. He stated that Heritage is requesting a latecomer's agreement for people who connect on to that infrastructure in the future and that Heritage would then be paid back by people who connected in the future on a sunset clause up to 10-15 years. In certain situations that could be a good policy and Craig can understand why Heritage would like to do that. However, he cautioned in including that in the development agreement as a blanket statement because in many situations it is almost impossible to enforce or track those changes or identify how much and when those latecomer fees would apply. The city does not know what all the improvements are going to be until an impact study has been facilitated. That is what Aaron R. is asking for separate of the prepayment of fees. Lyle Fuller asked Craig on the engineering part of the latecomer's agreement who will keep track of it ten to fifteen years from now, because in Preston it has been a nightmare for all the reasons you identified. Lyle stated if Heritage were running a spur, a brand-new water and sewer line a half mile out where there is no water or sewer it is easy to say that if a person connected on to their line that person would need to help pay for it. If there is city to the north and city to the south, how would you prove

engineering, legally or otherwise that those improvements have benefited somebody that lives by city hall and tell them they have to reimburse Heritage Land Development fifteen years from now. Aaron R. stated that Craig is correct in alluding to this idea, in our minds this is a separate agreement; the idea is that reasonable and actual cost is very common for cities to have an oversize agreement. Lyle stated in principle he understands, in practice it's tough.

Lyle asked Aaron R. if what they are proposing regarding the connection fees is instead of the \$4,000 nonrefundable funds upfront it would be \$15,000 for water and \$12,000 for sewer payable when a building permit is applied for. Aaron R. stated the proposal is that we stick with the current code and pay connection fees at the time of building permit.

The question was asked by one of the councilmembers it is common to make a lot of changes in the development agreement? Aaron B. stated that every case is different, every development is different. After reviewing the minutes and what has been represented, there seems to be extensive modifications to the agreement. That doesn't mean that the council should disregard it. Craig agreed with the attorney. In the context of a multiphase development, it is probably not uncommon to have suggested changes or amendments. Given changes to the economic climate it is reasonable to look at the phasing plan and make adjustments. Some of the other changes with the fees can certainly be understood.

Aaron B. asked Aaron R. as the developer, are you seeing a financial hardship in completing the development in accordance with the development agreement as presently constituted? Aaron R. answered most definitely. We are trying to facilitate a development agreement that is not going to put us in a situation where we are trying to do things we can't do. He stated if he had to pay a full impact fee for the next phase it would be over a million dollars and Heritage is already paying for the infrastructure which is a great expense. Aaron B. questioned, are we dealing with an amendment that is really necessitated by circumstances or are we dealing with an amendment that is just a preference. Aaron R. said the change in circumstances is the change in environment. Two and half years ago when the agreement was negotiated Heritage couldn't build fast enough. Today that is not the situation, interest rates got down to 2.8% for buying a house now they are over 7%. We are approaching a 400% increase in cost to the homebuyers on the interest side and that has slowed things down. He said it is not that Heritage doesn't want to pay or can't pay it is they are trying to pay as needed in smaller bites based on what the economics is doing.

Lyle stated that in a past meeting there was a discussion about the connection fees and why a city might want to get a \$4,000 nonrefundable fee upfront instead of waiting until the time the building permit was applied for. He questioned why that was in the development agreement.

Craig stated that he was told that Heritage's attorney proposed that. He said the city would like it because it frontloads some of the impact costs which is helpful for paying down water department loans for the tank and more things like that. He also indicated that Aaron R. was correct that the home does not have an impact until those people connect on to the water system. Aaron B. asked if the improvements need to be made before. Craig replied that they do. The city has costs but that parcel of property doesn't have an impact individually on that home until they are using the water.

Mayor Packer stated that one of the reasons the connection fees are paid up front is so the city will have the water meters and MXU's on hand ready to put in and not have to go out and purchase them. Craig told the mayor that may be part of the why because water meter purchases are a valid reason because they are a long time out. Aaron B. said when the agreement was made, he could recall the reason for the \$4,000 was to defray the impact of the improvements that would have to be made to the water system. Aaron R. stated that the agreement already indicates if there are upgrades that need to be made to the system Heritage is already responsible for it. Lyle asked Heritage development if there was a number between 0 and \$4,000 to be paid up front that might be more reasonable for the city to look at. Aaron R. stated any number would be challenging but any number less than \$4,000 is more attractive than \$4,000. Aaron B. indicated that from what he recalls the number was created by the engineer.

Kevin B. asked Heritage why the connection fees were not brought up when the agreement was signed in 2021. Aaron R. stated that at the time there was an expectation that Heritage had a build-in buyer in Sierra Homes that was building homes as fast as they could develop it, but that is not the case now, so it has become more difficult to recover those impact fees. Kevin indicated he understands Aaron R.'s concerns and the desire to make sure things are more fluid so that Heritage will remain the developer throughout the whole process.

Aaron R. encouraged the council to take the time needed to come up with substance.

Aaron R. stated that it is their intent to give the city secondary water for the park, and they will retain what they need for the parks they are responsible for. Craig stated as he was reviewing the amendment and the plans there is a huge pocket park with one access pass and questioned if there are facilities for parking. Aaron R. stated the design does not have a parking lot of any kind it is intended to be roadside parking.

Councilmember Lyle Fuller expressed his concern about putting off the open space until phase 4 because phase 4 may never come or it could be 20 years from now. Legacy Ranch is nineteen years into development, and they still don't have a park. He asked if the open space could be moved to an earlier phase. There was a discussion about other options such as money paid to the city as each lot is purchased, or cash in lieu of open space that the city can bank.

Craig stated there are two other proposed amendments that need to be addressed. #1 - Section 6 on storm water, he asked Aaron R. if there has been any progress on the connection to Legacy Lake if not, he wondered if that needed to be amended. Aaron stated there is a natural connection that exists, and they are looking to make use of that same connection. Craig told Aaron R. there is a pipe that goes under the road that has not been installed. He also wondered if Heritage needs to get an agreement in place to discharge water there. #2 - Section 7 - Irrigation there is reference to irrigation water in phase 4 if Heritage is adjusting phases there needs to be an item added in the agreement.

Attorney Aaron Bergman stated that the changes to the Development Agreement are a fundamental alteration, and he cannot in good conscience advise the city to agree with them.

It was moved by councilmember Lyle Fuller and seconded by Councilmember Kevin Beck to table the two agenda items (Heritage Land Development-Draft of Proposed Amendments to Development Agreement and Proposed changes to Legacy village Phase 2 Phasing Plan) and be prepared to take action, at least on phasing the next time Mr. Robertson comes.

Review & Take Action on Proposed Changes to Legacy Village Phase 2 Phasing Plan. – Aaron Robertson (2:24:15)

Tabled Item

Wastewater Planning Grant – Facility Study Plan – Craig Rasmussen (2.24.33) See Attachment Craig Rasmussen, Forsgren engineer, discussed the two wastewater funding grants. The first one is for a wastewater planning study and the authorizing resolution is for the Franklin City Council to authorize the Mayor or City Clerk to sign all applications, funding agreements, and other documents relating to the wastewater project. Franklin City intends to develop a project for wastewater facilities for the wastewater system being necessary to determine the needs of the area for health, safety, and wellbeing of the people. The costs of this project are eligible for state funding. This is for a \$60,000 grant to update the wastewater facility planning study which is a 50/50 match, \$30,000 will come from the grant funding from the state, \$30,000 is matched by the city. This study will document the existing conditions and future conditions of what needs to be done to meet future growth and demands in the wastewater treatment processes and systems. In Idaho to get funding for a project a facility planning study is required and a scope of items must be completed for each study. Councilmember Stuart Parkinson asked how long the study would take. Craig responded that it would take several months to the better part of a year. He indicated that Franklin City put in an initial interest request and is ranked #6 in this wastewater planning grant. Attorney Aaron B. asked if the study was necessary in order to get a larger grant down the road. Craig indicated to Aaron B. that it is necessary to get funding for the improvements. Aaron B. stated that recently there was a huge revamp done of the wastewater system and asked if there is another one in the near future that necessitates this. Craig responded that the facility planning study should be updated every five years to be able to get project funding. Mayor Packer explained to the council that the contact chamber, which treats the water before it dispatches to the lagoon or to the lake, needs some work.

The second grant is a sewer overflow and storm water reuse grant funding assistance. This grant is for \$40,000 and is a 90/10 match, \$36,000 will come from the grant funding from the state and \$4,000 match from the city. Craig stated this is a study of the sewer and collection systems in addressing how much infiltration from ground or storm water or other sources come into the sewer system that eventually goes through the treatment process and into the lagoons and takes up space. He stated in responding to Aaron B.'s comment if there are areas that are exceptionally high infiltration found in the study, then the city is eligible for the funding to address certain situations or problems which help extend the capacity of the system if you get that extra water

taken out. Lyle asked when the city needed to pay the matching amount. Craig indicated it would be when the work is being done and invoiced.

Authorizing Resolution – Craig Rasmussen (2:45:19)

The purpose for the Authorizing Resolution is to tell the state that this grant has been discussed in a council meeting and the Mayor and the Council are aware of the commitment of funds.

It was moved by Councilmember Kevin Beck and seconded by Councilmember Lyle Fuller to give Mayor Packer the ability to sign our letter of intent for the wastewater planning grant study and give Forsgren the ability to submit it for the city. Motion passed. Unanimous

Adopt Annual Appropriation Ordinance No.2023-9-13- Budget (2:45:19) (See Attachment)

Mayor Packer introduced the Annual Appropriation Ordinance No. 2023-9-13 relating to the fiscal year 2023-2024 budget.

It was moved by Councilmember Lyle Fuller and seconded by Councilmember Stuart Parkinson to introduce Ordinance 2023-9-13 and dispense with the reading on three separate occasions and authorize it to be read once in summary form by the Mayor or Madam Clerk. Motion passed. Unanimous

Roll Call Vote:

- Councilmember Mark Dietrich – Yes
 - Councilmember Stuart Parkinson – Yes
 - Councilmember Lyle Fuller – Yes
 - Councilmember Kevin Beck – Yes
- Motion passed. Unanimous

Ordinance No,2023-9-13 was read once in summary (or entirety) by Mayor Packer.

CITY OF FRANKLIN

FRANKLIN COUNTY, IDAHO

ORDINANCE NO. 2023-9-13

ANNUAL APPROPRIATION ORDINANCE 2023-2024

AN ORDINANCE ENTITLED THE ANNUAL APPROPRIATIONS ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023, APPROPRIATING THE SUM OF \$1,360,388 TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF FRANKLIN, IDAHO FOR SAID FISCAL YEAR; AUTHORIZING A LEVY OF A SUFFICIENT TAX UPON THE TAXABLE PROPERTY AND SPECIFYING THE OBJECTS AND PURPOSES FOR WHICH SAID APPROPRIATION IS MADE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF FRANKLIN, FRANKLIN COUNTY, IDAHO:

It was moved by Councilmember Stuart Parkinson and seconded by Councilmember Kevin Beck to adopt the Annual Appropriation Ordinance 2023-9-13.

Roll Call Vote:

Councilmember Kevin Beck – Yes
Councilmember Stuart Parkinson – Yes
Councilmember Lyle Fuller – Yes
Councilmember Mark Dietrich – Yes
Motion passed. Unanimous

Approval to Request Bids for Sewer Screen Project (2:49:04)

Mayor John Packer indicated that the sewer screen project has been funded with ARPA (America Rescue Plan Act) money. Franklin city has been approved for an ARPA grant which will pay 56% of the sewer screen project and the city will be responsible for 44%. The ARPA money is available, and the city has budgeted for its share. He said the drawings have been submitted to DEQ and have been approved and the city is at the point to advertise for bids.

It was moved by Councilmember Mark Dietrich and seconded by Councilmember Stuart Parkinson for the city to go out to bid for the sewer screen project. Motion passed. Unanimous

Discuss Options for Park by Highway (2:51:31)

Mayor John Packer asked the councilmen for options for the park by the highway. It was suggested and agreed upon by council members that the park be leveled out and seeded in grass.

Mayors Report: (2:54:40)

The mayor reported that the tank is no longer leaking and has been certified by Forsgren engineers.

The city is still working on trying to get contractor Bracken Christensen to finish phase one.

It was moved by Councilmember Kevin Beck and seconded by Councilmember Stuart Parkinson to adjourn at 9:35 p.m. Motion passed. Unanimous


City Clerk


Mayor