

CITY COUNCIL MEETING

Franklin City Building

October 11, 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

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

Prayer: Councilmember Mark Dietrich

Pledge: Councilmember Kevin Beck

It was moved by Councilmember Stuart Parkinson and seconded by Councilmember Mark Dietrich to approve minutes for the Public Hearing for Park Playground Grant of September 13, 2023, Council Meeting. Motion passed. Unanimous

It was moved by Councilmember Kevin Beck and seconded by Councilmember Lyle Fuller to approve minutes of September 13, 2023, Council Meeting. Motion passed. Unanimous

It was moved by Councilmember Mark Dietrich and seconded by Councilmember Kevin Beck to accept and approve the bills for September 2023. Motion passed. Unanimous

Councilmember Lyle Fuller asked for clarification regarding the bill for Bordertown Design. Mayor John Packer explained that when Bordertown made the sign for the city building it was too big, so they had to make a second one. Bordertown Design asked if the city would be interested in purchasing the first sign for a discounted cost to use somewhere in the city.

CAPSA-Domestic Awareness Month – James Boyd (5:41)

CAPSA (Citizens Against Physical & Sexual Abuse) is a nonprofit domestic violence, sexual assault, and rape recovery center serving Cache Valley and the Bear Lake area. James Boyd, a representative from CAPSA, indicated that October is domestic violence awareness month and they wanted to thank our community for its support. He stated that in this area, one in three women and one in five men will experience sexual or domestic violence in their lifetime. This last year CAPSA supported 2,677 women, men, and children in our area. CAPSA provides free support services to this community which include: a 36-bed emergency shelter, transitional housing, clinical therapy, crisis/support phone line, children services, and more. James encouraged individuals to share on social media about CAPSA in helping bring awareness to our community and invited anyone to take a tour of CAPSA to see their facilities in Logan, Utah.

Gaga Ball Pit – Andrew Jensen (11:50)

Andrew Jensen addressed the city council about doing a gaga ball pit in the city park for his senior project. Gaga is a variant of dodgeball and allows the players to hit a kickball off the walls to improve their chance of getting a player out. The pit is a ball court designed in a hexagon made from wood measuring 30 inches tall to 30 feet in diameter and keeps the ball in play. He was planning on using 2x12 wood, which would be painted. Suggested items for the bottom of the pit could be wood chips, grass, sand, or dirt. Councilmembers and Andrew discussed how it would be secured, where it would be put in the park, how it would be maintained, when it needed to be completed, and how it would be funded.

It was moved by Councilmember Stuart Parkinson and seconded by Councilmember Kevin Beck that they approve this senior project for a gaga ball pit. Motion passed. Unanimous

Tabled Item -Discuss Draft of Proposed Amendments to Development Agreement, Heritage Land Development– Aaron Robertson (19:29)

Aaron Robertson (Heritage Land Development) and the city council discussed the draft of the proposed amendments to the Development Agreement. Councilmember Stuart Parkinson brought to Heritage’s attention that the city’s address was incorrect on the original agreement along with all the amendments. Aaron said that he would get the address corrected.

AMENDMENT 2-PLANNED IMPROVEMENTS

Councilmember Lyle Fuller wanted clarification from Heritage which phases needed to be broken up. Aaron indicated that at this time there are five phases and Heritage is proposing phase two be broken up with three sub phases and the ability to break up future phases as needed and agreed upon by the city and its engineer. Lyle brought up the change from *five phases* to *multiple phases* and indicated that he did not have a problem with breaking the phases up into additional phases. He also referenced the new addition to the agreement which states, “*the timing and configuration of which shall be mutually agreed upon by Developer and the City’s Engineer at the time Developer submits plans for each phase of development.*” Lyle would like the agreement to say *City* instead of the *City’s Engineer*. Craig Rasmussen (Forsgren Engineer) agreed with Lyle about changing the wording to just say *City* which encompasses the council, city engineer, and all city representatives. He said ultimately it is the council who will approve what constitutes a phase in coordination with the developer. It was discussed that the council would like to see each phase completed as much as possible before moving on to the next phase. Mayor John Packer’s biggest concern was the completion of the retention ponds in phase one and asked Aaron what Heritage’s schedule on the ponds was. Aaron indicated that there are concerns with the retention basin and it is being worked on; however, the city would need to speak to Tami Midzinski (Heritage’s Project Manager) regarding the schedule. Lyle suggested that the city could have a conditional approval on the final plat for 2a upon finishing the retention pond in phase one.

AMENDMENT 3-BUILDING PERMITS

In talking about the completion of each phase, councilmember Kevin Beck brought up the part of the agreement which states, *“no lots or units may be offered for sale prior to recordation of the final plat for each phase which shall be approved upon completion of improvements.”* He went on to say the agreement also states that no one will be able to build until the street signs are installed and before building permits are issued by the City. Craig read the part of this section which states, *“no certificate of occupancy for residential units in a phase shall be given until all improvements for such phases have been completed and accepted in writing by the city.”* He explained that because the storm retention ponds in phase one are not finished that makes phase one not complete. There are homes that are currently being built and when they are finished the residents are going to want their certificate of occupancy. The residents don't have control over the developers so basically the city becomes the bad guy. Craig indicated that things that can change if Heritage does not have the improvements made by the time the residents are ready for occupancy the city could double the bonding on the outstanding items.

Lyle stated that he is not comfortable with the amendment that reads, *“which approval shall not be unreasonably withheld, conditioned or delayed.”* He said that is referring to the fire district's approval, which the city has no control over. He hates to bind the city to a contract awaiting that approval. Lyle added that the fire district is not a party to the agreement. Craig suggested that the city attorney review that section.

AMENDMENTS 4-POTABLE WATER & 6-WASTEWATER

Councilmember Lyle Fuller stated that looking at amendments 4 and 6 (Potable Water & Wastewater) if the developer puts in water and sewer and others come along and take advantage of this, then they would have to reimburse Heritage Land Development. He stated there needs to be a time limit on that. By tracking the fees, it is saddling the city with an administrative burden. This could possibly be a breach of contract if the city did not track it correctly or if someone hooks on without reimbursement.

Mayor Packer stated he does not want to do anything with this amendment until the city attorney has a chance to go over it.

There was a discussion on oversized costs, Craig explained to the council and mayor that there are two separate things here, first there is an upsized cost which would be the oversized amount and reimbursed to the developer. The second is a latecomer's agreement which is what this amendment reads, *“To the extent future development within the City will benefit from any of the improvements, upgrades, reports and/or studies completed by Developer. City and Developer shall agree upon the form, terms and conditions of a recordable reimbursement agreement by which any future connectors shall reimburse Developer for a proportionate share of such costs. Fees associated with connecting individual homes to water improvements shall be paid by the owner of each lot at the time a building permit is requested.”* Aaron indicated that Heritage was not asking for a latecomer's agreement, but the intent of that clause was for the city to pay the upsize difference. Craig said that clause doesn't have anything to do with an upsize; it is talking about future connections and the wording would need to be changed to clarify the intent. Other council members agreed with the city engineer that they also understood it as a

latecomer's agreement. Councilmember Stuart Parkinson said these changes would need to be made in both amendments 4 and 6.

AMENDMENT 7-COMMON AREA, PARKS AND PATHWAYS

Kevin suggested some ideas for the big park in Legacy such as basketball and pickleball courts, an open grass area for kids to play football, baseball, and soccer and a trail around the outside of the park for people to walk their dogs or ride bikes. The council agreed with these suggestions and would like to have it be a traditional park.

Lyle indicated that one of the suggestions by Heritage was to have the developer donate money to the city in lieu of putting it in the open space and he is not opposed to exploring that option but doesn't think the city code allows it. He stated if the city decided to go this direction, then they would need to talk to the city attorney to see if the city code could be amended.

Craig stated in listening to the comments from the council it sounds like they feel it is important to have a park in that area regardless of how it is constructed or built. Lyle wanted clarification on who would own the parks. Kevin indicated the HOA would own the areas directly around the townhomes and the big open space would be deeded over to the city as well as any water rights. Aaron asked the city to keep in mind when designing the park that it is not all flat and has some hillsides to it. Lyle asked Aaron if there was enough flat area to put in playground equipment. Aaron explained that if there were not enough flat areas then Heritage could regrade and shape it so there could be a place for a playground area. The mayor indicated that when it gets closer to putting in the park, the city could do a site visit. Aaron stated that Heritage is flexible and will put whatever the city wants in the park.

Heritage would like to lock in a dollar amount for the park then they can move forward. Craig stated that if an amount is going to be allocated, he recommends putting an escalation that would at least accommodate inflationary costs for expenses. If Heritage is looking at \$300,000 when this development agreement was originally written, and the master plan was put into place in 2021 there has probably been a 15 to 20 percent escalation in the cost of the park improvements. He doesn't know what will happen in the next three to five years before the actual park gets built and feels it is only fair to look at five to seven percent inflation annually until then. Craig identified that the amount of \$300,000 does not get anywhere near the park it does today as it would have two years ago.

AMENDMENT 12-ACCEPTANCE OF IMPROVEMENTS

Lyle commented that he wasn't comfortable with the change added in this section stating, "*which acceptance shall not be unreasonably withheld, conditioned or delayed*" and would like the city attorney to look at it.

It was agreed upon by the mayor, city council and Heritage Land Development to have the city's attorney review, study, and make comments so the process can move forward. Since Heritage cannot meet on the next city council date a special council meeting was set up to discuss feedback, make drafts, and discuss the pros and cons.

It was moved by Councilmember Lyle Fuller and seconded by Councilmember Stuart Parkinson to table agenda 3 with the two bullet points until the special council meeting on November 15, 2023, at 7 PM. Motion passed. Unanimous.

Tabled Item-Proposed Changes to Legacy Village Phase 2 Phasing Plan, Heritage Land Development – Aaron Robertson ()

Maple Creek Road (Speed, Safety, Rerouting Trucks) – Ben & Robin Berrett (1:06:18)

Mayor John Packer read the rights of those attending city council meeting from the bottom of the agenda which states: *“The public has the right to **attend** meetings (with the exception of lawful executive sessions) but opportunities for the public to speak are limited to designated public comment periods and public hearings. When public testimony occurs, the council may set reasonable time restrictions to ensure all persons have the opportunity to speak and to keep the meeting from bogging down with unproductive, repetitive testimony. No person has the right to disrupt a meeting and the chair can order the removal of any disruptive individual.”*

Ben and Robin Berrett, Franklin residents of 33 years, have lived at three different locations here in Franklin and have seen a lot of change and growth over the years. The past 17 years the Berrett’s have lived on Maple Creek Road and expressed their concerns to the city council regarding the volume and speed of the vehicular traffic and safety regarding pedestrians along that road. Ben indicated that the road is the main artery through Franklin up to Maple Creek and with all the new housing developments being established up there, there is an excessive number of trucks going back and forth. He mentioned that there are many new families along that street with small children and there are no sidewalks on either side of the road from about 3rd East continuing through Maple Creek Road. Ben stated it has been scary to watch young children riding bicycles, scooters, and all kinds of electrical devices out on the street because that is the only way to get to friend’s homes and to the park. He said with the excessive speeding problems and with large trucks it has become a dangerous situation. Ben thanked Sherriff Dave Fryer (Preston Police Department) for bringing a temporary radar trailer last month and indicated that it did help. He asked the council if plans have been made to address these concerns and suggested a permanent radar sign, sidewalks along the road, and an additional vehicular route for the big trucks.

A discussion about frontage property for sidewalks was addressed. Councilmember Stuart Parkinson asked Craig Rasmussen, Forsgren Engineer, if Forsgren could give the city a plan regarding sidewalk placement and how much it would cost. Craig stated that he would need to look at the frontage property and if it belongs to the resident or if there is a right of way. He said a dedication plat would need to be prepared and look into funding. Mayor Packer stated that he is in the process of looking for a funding package for new sidewalks.

Robin brought up the discussion from September’s city council meeting about the bypass road starting at Maple Creek Road and 3200 S for the trucks to take instead of going through the city. She stated if the city could work with the county to get the road improved so it wasn’t a dirt road, she thinks the trucks would go around. Mayor Packer indicated that since the last meeting he did

write a letter to the Franklin County Commissioners proposing both ideas from the last city council meeting. Councilmember Kevin Beck reported that he talked to the Local Highway Technical Council about the road situation. He indicated that the city could detour trucks if it is within city limits, but since the city doesn't have jurisdiction over the county road going north to 3200 S., the city officials can't legally enforce it. Currently, he feels like adding sidewalks and speed limit signs are the best options to start with.

Kevin suggested we decide tonight regarding the speed limit sign. Mayor Packer mentioned that he has done some research on a flashing speed limit sign, which is solar powered, and it would be permanently mounted in the ground and cost \$7,000 each or we could get a mobile radar speed trailer like the sheriff's department has. The mayor indicated that the radar speed trailer would cost around \$12,000 and it could be moved around to where it is needed. He also stated that it would give a daily history of vehicle speeds and a report could be printed out. Robin asked if the city could contract a police officer to patrol the city. Kevin indicated that it is expensive and back in 2018-2019 the city paid for an officer to patrol the city for 34 weeks at 5 hours each week and it wasn't very effective. Sherriff Fryer stated that he doesn't have enough manpower right now and is down three officers. He has mentioned to the mayors from smaller communities that they could work together to come up with enough revenue in their budget for an officer's base pay. Then maybe the county can add funding to their budget funding for the officer's benefits. This way an officer could be on a rotating schedule to patrol those smaller communities like Franklin. Fryer stated according to city code the mayors and the council are responsible for providing law enforcement for their communities; however, he said he will support the city the best he can. Councilmember Lyle Fuller advised the council that before a decision regarding the speed limit signs are made, we need to find money in the budget.

Robin stated that Ben and Robin thanked the council for the time and effort that has been put into addressing these problems so the ball can get rolling.

Kevin stated that he would like to give Forsgren the right and ability to look into the sidewalk dilemma and let the city know what the costs will be, and the grants associated that the city might be able to access.

It was moved by Councilmember Kevin Beck and seconded by Councilmember Lyle Fuller to have the mayor sign a task order for Forsgren Engineering regarding sidewalks by the November 2023 meeting. Motion passed. Unanimous.

Truck Traffic on Maple Creek Road – Tracie Daley (1:47:50)

Mike and Tracie Daley, owners of Maple Creek Backhoe Service, feel the truckers are getting blamed for all the speeding and ruining of the roads. Tracie says she is not saying the trucks don't speed but it is near impossible to go the speeds that have been discussed on social media on that strip of the road. She lives outside city limits on Maple Creek Road heading up the canyon where the speed limit is 35 mph and sees cars and pickups going 40, 50, and 60 mph daily. Tracie stated that trucks from local businesses such as Ritewood Eggs, Twin Rivers Dairy, Incredible Concrete, and others have been using that route through the city for their businesses for years and that is not new. She emphasized what is new is the additional trucks hauling

supplies up our canyon for the building of new housing developments that our city and our roads are not ready for. The roads have been paved but there are no sides to these roads and when it rains it washes out underneath the asphalt.

The Daley's are not in favor of taking their trucks on the suggested bypass road north of the city. Several safety issues were discussed such as the road being like a washboard, extremely dusty making it hard to see, not wide enough, the bend and the bridge are unsafe, two trucks cannot pass at the same time without one pulling to the side of the road, pulling out on a busy and fast-paced highway, and the extra fuel used to go that extra five miles out of the way. Tracie indicated that it would be additional wear and tear on their trucks and fuel costs are ridiculous. She stated that their company spends \$60,000 a month on fuel.

Tracie mentioned that on social media the comment was made that the truckers do not pay taxes to the city. She explained that the taxes that truckers pay are outrageous and are broken down between federal, state, county, and city. These taxes go toward road repairs and maintenance. She stated the truckers pay three main taxes, the first one is the **IFTA** (International Fuel Tax Agreement) which is paid quarterly and in Idaho it is 32 cents per gallon which their trucks use approximately 18,878 gallons per quarter. The second tax is **2290** (Heavy Highway Vehicle Use Tax) for vehicles with the taxable gross weight of 55,000 pounds or more and is paid yearly. The third tax is **overweight permits** for any vehicle that is over 80,000 pounds and a permit must be purchased for each state that it goes through. Tracie concluded that trucking businesses do pay taxes to the city to use the roads and the mayor verified that the city does receive funding from these taxes.

Mayors Report (2:02:29)

Mayor John Packer updated the council on the different phases of the water plant. He indicated that in phase one the contractor does not want to come back to finish the work. USDA-Rural Development (United States Department of Agriculture) wants the job completed so legal actions may need to be taken toward the contractor and a new contractor hired to finish the job. He reported that phase two is completed and the water tank has been approved by the DEQ (Department of Environmental Quality) and is now in operation. He would like to have a ribbon cutting ceremony at the new water tank. Mayor Packer informed the council that preconstruction meetings are being scheduled for phase three and the filters have come in and will be installed within the next couple of weeks. The completion date for phase three will be 120 days from January 8, 2024, with an additional 30 days for the final cleanup of the site. WesTech is still waiting for the equipment.


Mayor Packer approved a change order for a new air compressor for the filtration system at the water tank and contractor RS Jobbers will install it once it gets here.

A Prebid meeting was held for contractors for the sewer screening project and bids will be accepted and opened within a couple weeks.

The mayor conveyed his appreciation to Franklin 3rd Ward for their services in rototilling the volleyball court, cleaning up the weeds around the ball field and garbage under the stands.

It was moved by Councilmember Kevin Beck and seconded by Councilmember Stuart Parkinson to adjourn at 9:17 p.m. Motion passed. Unanimous.


City Clerk


Mayor