

**MINUTES OF LAYTON CITY  
COUNCIL MEETING**

**JULY 17, 2014; 7:01 P.M.**

**MAYOR AND COUNCILMEMBERS  
PRESENT:**

**MAYOR BOB STEVENSON, JOYCE BROWN, TOM  
DAY, JORY FRANCIS, SCOTT FREITAG AND JOY  
PETRO**

**STAFF PRESENT:**

**ALEX JENSEN, GARY CRANE, BILL WRIGHT,  
PETER MATSON, TERRY COBURN, DAVE PRICE  
AND THIEDA WELLMAN**

**The meeting was held in the Council Chambers of the Layton City Center.**

Mayor Stevenson opened the meeting and led the Pledge of Allegiance. Mr. Green gave the invocation. Scouts and students were welcomed.

**MINUTES:**

**MOTION:** Councilmember Brown moved and Councilmember Day seconded to approve the minutes of:

**Layton City Council Meeting – May 15, 2014;  
Layton City Council Joint Strategic Planning Work Meeting – May 29, 2014;  
Layton City Council Work Meeting – June 5, 2014;  
Layton City Council Meeting – June 5, 2014;  
Layton City Council Work Meeting – June 19, 2014; and  
Layton City Council Meeting – June 19, 2014.**

The vote was unanimous to approve the minutes as written.

**MUNICIPAL EVENT ANNOUNCEMENTS:**

Councilmember Brown said the free concert on July 24th would begin at 8:00 p.m. She said Riders in the Sky would be performing and it was a great family oriented concert. Councilmember Brown said the gates would open at 7:00 p.m.

Councilmember Petro said tomorrow the Chamber of Commerce would be serving lunch to military staff at Hill Air Force Base.

Mayor Stevenson thanked everyone for the July 4th celebrations. He thanked citizens for attending the information meetings held the last two nights regarding the Macquarie proposal for UTOPIA.

**CITIZEN COMMENTS:**

Richard Salazar, 421 North 3425 West, expressed concerns with a dispute he had with his former HOA and their efforts to use the City's Code Enforcement against him. He said he currently had three Code Enforcement citations issued against him concerning the Code covering the landscaping of his front yard and with construction materials blocking the sidewalk during landscaping construction. Mr. Salazar said the third violation was that his landscaping had not been completed within 18 months of completion of his home. He said he was concerned that a City entity was being used in a vindictive fashion.

Mayor Stevenson asked if this was something City Staff could look into and get back to Mr. Salazar.

Gary Crane, City Attorney, said yes, his Staff could look into it.

Brent Barney, 2116 North 75 East, expressed concerns with a building complex near his home at approximately 75 East and Fort Lane. He said there was presently an asphalt company using the property. Mr. Barney said he understood that the asphalt company was requesting a variance for this location. He said they were a very poor neighbor; they poured concrete at 3:00 a.m. when they were building the complex; during construction they destroyed 35 sections of the sidewalk that had not been repaired; they installed a settlement fence that was completely full; they didn't control the weeds; the security lights were too bright and were on too long; they frequently heated asphalt at 5:30 in the morning; they moved a bunch of equipment onto the site without a hard service; and they had storage tanks for fuel, which he didn't think were up to code. Mr. Barney said they were trying to get a variance for a chain link fence with slats instead of a solid fence. He said he didn't want the variance granted; they hadn't been a good neighbor in the past.

Councilmember Day asked if that was Precision Asphalt.

Mr. Barney said yes.

Councilmember Day said this was currently being considered by the Planning Commission; it was in the conditional use process and they were working through some of these issues. He suggested that Mr. Barney attend the Planning Commission meeting this coming Tuesday at 7:00 p.m.

Mayor Stevenson asked if Staff was familiar with this; were there some violations.

Peter Matson, City Planner, said they had occupied the site prior to the conditional use permit being given. He said it would be reviewed by the Planning Commission on Tuesday. Peter said they had to abide by the conditions or they would not be able to use the site.

Julio Endelao said he recently moved to Utah from California where he was involved in politics. He encouraged the Mayor and Council to develop an outreach program for the large Hispanic population in Utah. Mr. Endelao said it was important to keep the State of Utah a conservative state. He indicated that the Hispanic population would vote conservatively if they had knowledge. Mr. Endelao indicated that he crossed the border from Mexico illegally, but received his citizenship this past January. He said he wanted to help maintain Utah as it was; a great State that helped businesses and helped people start businesses.

Mayor Stevenson asked Mr. Endelao if he lived in Layton.

Mr. Endelao said yes.

Mayor Stevenson said there were a lot of volunteer programs in the City that Mr. Endelao could become involved in. He said being involved in the community was important. Mayor Stevenson asked Mr. Endelao to talk with him after the meeting.

#### **CONSENT AGENDA:**

#### **AGREEMENT WITH ZIONS FIRST NATIONAL BANK – CONSULTING SERVICES TO PREPARE A PARKS, TRAILS AND RECREATION IMPACT FEE ANALYSIS – RESOLUTION 14-55**

Dave Price, Parks and Recreation Director, said Resolution 14-55 would adopt an agreement for consulting services with Zions First National Bank. He said the consulting services would be to prepare a Parks, Trails and Recreation Impact Fee Analysis. Dave said Zions Bank was qualified to provide these services and would prepare an Impact Fee Facilities Plan and the Impact Fee Analysis in compliance with requirements of Utah law. He said Zions Bank would be compensated for the services at an hourly rate not to exceed the total sum of \$8,000. Dave said Staff recommended approval.

Councilmember Freitag recommended that Items L and M of the Consent Agenda be voted on separately.

Mayor Stevenson said Items L and M of the Consent Agenda would be moved to the end of the Consent Agenda and voted on separately.

### **FRANCHISE AGREEMENT WITH LEVEL 3 COMMUNICATIONS, LLC – RESOLUTION 14-57**

Tyson Willis, Associate Attorney, said Resolution 14-57 would approve a franchise agreement with Level 3 Communications, LLC. He said Level 3 Communications previously had a franchise agreement with the City that had expired. Tyson said this agreement was substantially the same as their previous agreement and Staff recommended approval.

Councilmember Petro said this was a 5 year renewal; was this the same as the previous agreement.

Tyson said the previous agreement was a five year agreement, but the difference with this agreement was an automatic renewal unless ended by either party. The previous agreement did not have an automatic renewal.

Councilmember Petro asked why it was an automatic renewal.

Tyson said since the City was renewing after five years, the automatic renewal was added for convenience. He said it could be ended if the Council chose to do that.

Councilmember Petro asked if this was opened for additional RFPs so that other companies could bid on this type of work.

Tyson said it was a franchise agreement and was not a bid for a particular type of work. He said this granted them permission to run their lines through the City's rights of way. Tyson said it was not an exclusive agreement.

Councilmember Petro asked if this would have an impact on UTOPIA.

Gary Crane said Level 3 Communications typically ran fiber for large cell phone towers. He said they were treated similarly to Rocky Mountain Power and telephone companies. Gary said they all ran utilities in the City's streets and the City required a franchise so that the City could control what they did to the streets. He said the City granted franchises to all types of utilities to be able to locate in the City's streets.

### **AGREEMENTS AND DEEDS FOR THE ACQUISITION OF PROPERTY NECESSARY FOR THE CONSTRUCTION OF A ROUNDABOUT AT THE INTERSECTION OF CHURCH STREET AND ANTELOPE DRIVE AND THE INSTALLATION OF IMPROVEMENTS ALONG CHURCH STREET – RESOLUTION 14-56**

Tyson Willis said Resolution 14-56 was for a project at the intersection of Antelope Drive and Church Street. He said the City intended to build a roundabout at that intersection, and because the shape of the intersection was changing, the City needed to acquire some parcels of property. Tyson displayed a map of the area and identified approximately 800 square feet of property on the southwest corner of the intersection that the City had negotiated a purchase agreement with the property owner. He said the City would purchase the property and a slope easement on that corner. Tyson said there was a portion of property on the northwest corner the City would also need to purchase.

Tyson said in addition, part of the same project was to install curb, gutter and sidewalk on the west side of Church Street. He said that land would be donated to the City in exchange for the improvements. Tyson said Staff recommended approval.

Mayor Stevenson asked if the property owners were good to work with.

Tyson said yes. The City had dealings with three different property owners and they all had been good to work with.

**EASEMENT ENCROACHMENT AGREEMENT WITH THE UNITED STATES OF AMERICA FOR THE INSTALLATION OF A CULINARY WATER LINE – ANTELOPE DRIVE AND HIGHWAY 89 – RESOLUTION 14-45**

Gary Crane said this item and the next item involved agreements relative to the new Antelope Drive connection to Highway 89 and the frontage road. He said a lot of Weber Basin property was purchased by the Federal Government and whenever you encroached into the Federal Government's property they required a separate agreement for each item that encroached and for each encroachment. Gary said Resolution 14-45 and Resolution 14-44 in the next item were minor encroachments for easements involving culinary water lines, sewer lines and storm drain lines. He said Staff recommended approval of these two items.

**EASEMENT ENCROACHMENT AGREEMENT WITH WEBER BASIN WATER CONSERVANCY DISTRICT AND UDOT FOR THE INSTALLATION OF A CULINARY WATER LINE, SEWER LINE, STORM DRAIN LINE AND CONDUITS/CABLE – ANTELOPE DRIVE AND HIGHWAY 89 – RESOLUTION 14-44**

This item was discussed with the previous item.

**ADOPT STREET IMPROVEMENTS PAYBACK AGREEMENT WITH GREEN AND GREEN DEVELOPMENT – RESOLUTION 14-49**

Gary Crane said this item and the next two items involved payback agreements. He said there were often times when developers put in improvements prior to development. Gary said often they were required to overbuild those improvements. He said these three agreements involved the overbuilding of improvements.

Gary said the first agreement involved the overbuilding of improvements by Green and Green Development along Layton Parkway. He said typically a developer was required to put in a half street on the side of the street of their development and a full street when they were developing on both sides of a street. Gary said a full street was approximately 66 feet wide. He said the City collected impact fees to cover the costs of these improvements.

Gary said this item and the next item involved over-sizing for the Parkway. He said the developers would be reimbursed from impact fees for the improvements.

Gary said the third item was for a storm drain detention pond that was combined into a future park. He said there were properties that would be benefitted in the future by the detention pond. Gary said the properties that would benefit from the improvement had been identified, and as those properties developed, they would reimburse the developer for their proportional share of the improvement.

Gary said Staff recommended approval of all three items; Resolutions 14-49, 14-50 and 14-51.

Councilmember Day asked if the properties south of Oak Hills Drive would pay the fee when they developed their property.

Gary said yes. He identified the payback area on a map.

**ADOPT STREET IMPROVEMENTS PAYBACK AGREEMENT WITH CASTLE CREEK HOMES LLC – RESOLUTION 14-50**

This item was discussed with the previous item.

**ADOPT STORM DRAIN DETENTION POND PROPERTY PAYBACK AGREEMENT WITH MUTTON HOLLOW ESTATES, LLC – RESOLUTION 14-51**

This item was discussed with the previous item.

**BID AWARD – STAKER & PARSON COMPANIES – ANTELOPE FRONTAGE ROAD CONSTRUCTION – CONNECTING ANTELOPE DRIVE AT APPROXIMATELY 1200 WEST TO 2250 NORTH – RESOLUTION 14-52**

Terry Coburn, Public Works Director, said Resolution 14-52 authorized the execution of an agreement with Staker & Parson Companies for the Antelope Drive frontage road construction project. Terry said the project included the construction of 905 tons of asphalt, 2,000 tons of subgrade, 800 tons of structural fill, installation of 843 lineal feet of storm drain pipe, 1,048 lineal feet of sanitary sewer pipe, 550 lineal feet of water pipe, lighting, fiber optic conduit, and other associated work items. He said the project would lessen traffic congestion and improve traffic flow around Antelope Drive and University Park Boulevard. Terry said five bids were received with Staker & Parson submitting the lowest responsive, responsible bid of \$436,052.85. He said Staff recommended approval.

**REQUESTS FOR PROPOSAL AWARD – GREAT BASIN DEVELOPMENT – ROBINS DRIVE PRESSURE REDUCING VALVE – ROBINS DRIVE NEAR ANTELOPE DRIVE AT STATION 1+00 TO 3+00 – RESOLUTION 14-54**

Terry Coburn said Resolution 14-54 authorized the execution of an agreement with Great Basin Development for the Robins Drive pressure reducing valve (PRV) project. He said the project would consist of the installation of a new PRV and telemetry system with associated work items. Terry said this project was being completed in conjunction with the UDOT Antelope Drive I-15 project, and must be completed prior to the widening of Robins Drive by UDOT. He said five requests for proposals were sent out with Great Basin Development submitting the lowest responsive, responsible bid of \$84,846. Terry said Staff recommended approval.

Mayor Stevenson asked how quickly this would be done.

Terry said in the next couple of months.

**MAINTENANCE AGREEMENT WITH UDOT FOR THE EXTENSION OF ANTELOPE DRIVE FRONTAGE ROAD AND COMMUTER PARKING FACILITY – RESOLUTION 14-53**

Terry Coburn said Resolution 14-53 authorized the execution of an agreement with UDOT for a maintenance agreement for the Antelope Drive frontage road and commuter parking facility. He said the agreement set out the provisions under which construction and maintenance for the facilities would be performed. Terry said UDOT would provide construction of roadways, commuter parking facilities, curb and gutter, sidewalk, drainage facilities, landscape, conduit for lighting, and pavement marking and signing. He said the City would install lighting in the parking facility, furnish electrical power, and provide maintenance of the facilities. Terry said Staff recommended approval.

Mayor Stevenson said work had started on the project and the City Engineer was staying on top of it.

**OFF-PREMISE BEER RETAILER LICENSE – LAYTON WHISTLE STOP LLC – 74 SOUTH MAIN STREET**

Peter Matson, City Planner, said this was an off-premise beer retailer license request for Layton Whistle Stop LLC located just south of the Kays Crossing development near the train station. Peter said the location met all buffer requirements and background checks had been approved by the Police Department. He said Staff recommended approval.

Councilmember Brown asked if a restaurant was going into this building.

Bill Wright, Community and Economic Development Director, said there were plans for a café on the second level of the building.

**ANNEXATION REQUEST – SUMMER HOLLOW LLC – ACCEPTANCE AND CERTIFICATION OF THE PETITION – APPROXIMATELY 1900 EAST OAK HILLS DRIVE – RESOLUTIONS 14-39 AND 14-40**

Peter Matson said this was an annexation request submitted by Summer Hollow LLC. He said this was the first step in the annexation process. Peter displayed a map of the proposed annexation area and indicated that it was located at approximately 1900 East Oak Hills Drive, and contained approximately 11 acres. Peter said Resolution 14-39 was acceptance of the petition by the City Council and Resolution 14-40 was the Council's acceptance of the City Recorder's certification of the petition. He said if this was approved, Staff would initiate the necessary annexation procedures outlined by State law. Peter said a public hearing would likely take place at a September Council meeting. He said the annexation was also accompanied by a rezone request to R-1-10. Peter said Staff recommended approval.

**AMENDED PRELIMINARY PLAT APPROVAL – GREYHAWK TOWNHOMES NORTH PRUD – APPROXIMATELY 3260 NORTH 1700 EAST**

Peter Matson said this was an amended preliminary plat approval for the Greyhawk Townhomes North PRUD located at approximately 3260 North 1700 East. He identified the property on a map. Peter said the Council approved the preliminary plat in 2012. He said the applicant did not proceed forward for final plat approval and the preliminary plat approval had expired, which required another approval process with the Planning Commission and Council. Peter said the Planning Commission recommended approval and Staff supported that recommendation.

**PUBLIC UTILITY EASEMENT VACATION AND NEW PUBLIC UTILITY EASEMENT ACCEPTANCE – EAST LAYTON HILLS SUBDIVISION, PHASE 6 – 2032 AND 2033 EAST DAN DRIVE – RESOLUTION 14-46**

Peter Matson said this was a vacation of a public utility easement and relocation of that easement to an adjusted property line in the East Layton Hills Subdivision, Phase 6. He said as with any easement vacation, it required approval from the Council. Peter said the easement would line up with the new property line between lots 8 and 9 of the subdivision, which would accommodate a new garage. He said Staff recommended approval.

**CABLE AND FACILITIES EASEMENTS – UTAH TELECOMMUNICATION OPEN INFRASTRUCTURE AGENCY – VARIOUS UTOPIA HUT SITES – RESOLUTION 14-48**

Peter Matson said Resolution 14-48 included 16 cable and facility easements for the construction of fiber optic hut facilities throughout the City. He identified the hut locations on a map. Peter said the City Engineer recommended that the easements be recorded once everything had been finalized and was in place so that adjustments would not need to be made. He said Staff recommended approval.

Mayor Stevenson asked when Layton was built out would the number of huts increase.

Gary Crane said he thought this included most of the major huts that would be required in order to be able to deploy in the City. He said because of new development some additional huts may be required in the future.

**APPOINTMENTS TO THE PLANNING COMMISSION – C. BRETT NILSSON, BRIAN R. BODILY AND RANDY L. PULHAM – RESOLUTION 14-47**

Peter Matson said Resolution 14-47 would make appointments to the Planning Commission. He said Tim Pales' term ended last month after his long years of service on the Planning Commission. Peter said the Mayor had interviewed several applicants and recommended that Brett Nilsson, who was currently an alternate member, be appointed as a regular member for a term that would expire on July 1, 2017; Brian Bodily be reappointed for a second term that would expire on July 1, 2017; and that Randy Pulham be appointed as a new alternate member of the Commission with a term that would expire on July 1, 2017. He said Mayor Stevenson recommended that the appointments be confirmed, and Staff supported that recommendation.

**MOTION:** Councilmember Freitag moved to approve Items A through K and N through S of the Consent Agenda as presented. Councilmember Francis seconded the motion, which passed unanimously.

**FINAL APPROVAL EXTENSION REQUEST – FERNWOOD SPRINGS PRIVATE SUBDIVISION – APPROXIMATELY 3200 EAST FERNWOOD DRIVE**

Peter Matson said this was on the Council's agenda on June 19, 2014. He said this was a final approval extension request for the Fernwood Springs Private Subdivision located at approximately 3200 East Fernwood Drive. Peter said the proposal was for five lots on 1.91 acres. He said lot 4 would incorporate an existing home on the property and there was a garage on lot 1 that would be removed. Peter said on July 18, 2013, the Council granted a one-year final extension request and that extension would expire tomorrow. He said the developer, Mr. Collin Brown, had requested an additional one-year extension in order to confirm retaining wall plans and find a contractor specializing in the hillside retaining walls required for development of the subdivision. Peter said the Council tabled this request on June 19th and requested that the developer be present to answer questions. He said Staff recommended approval of the one-year extension request.

Mayor Stevenson said the developer's comment in the Council packet indicated, "He was still trying to confirm the retaining wall plans to make sure they worked out with the rest of the required improvements. It had been hard finding any contractors that specialized in retaining walls on these hillsides." Mayor Stevenson asked the developer to comment on this.

Mr. Collin Brown, property owner/developer, said he had finally found a contractor and engineer about a month ago. He said it was a complicated situation with how the slopes were running and getting construction access to actually do it. Mr. Brown said he was working with the people that did the retaining wall in the Greyhawk development. He said with the way the subdivision was laid out, he almost had to have the house plans figured out before the retaining wall could be done. Mr. Brown said within the next 6 to 8 months they should be able to have engineered plans and proposed construction.

Mayor Stevenson asked Mr. Brown how many years he had been working on this.

Mr. Brown said he purchased the property 8 years ago and they were in the preliminary approval process for about 5 to 6 years due to delays with Weber Basin on an easement they had on the property. He said it had been a struggle.

Mayor Stevenson asked Mr. Brown if he had been able to secure financing for the project.

Mr. Brown said he had saved the cash; financing wouldn't be necessary for the improvements.

Councilmember Day said Mr. Brown had indicated that he would need the house plans before he could proceed.

Mr. Brown said not all house plans; only the two hillside lots.

Councilmember Day asked Mr. Brown if he had people interested in the lots.

Mr. Brown said both homes would be spec-homes and he would live in one of them.

Councilmember Petro asked if that would be done within 6 months.

Mr. Brown said he would like to have a good idea on the house plans by that time so that the engineer could get plans and a cost for the retaining wall. He said he might have bitten off more than he could chew with the sensitive lands issue, but he was trying to find the right people to work with.

Mayor Stevenson asked if they had done any geotechnical testing.

Mr. Brown said yes; before they did the conceptual plans they had a full geotechnical report.

Mayor Stevenson asked Mr. Brown if he would be here next year asking for another extension.

Mr. Brown said if that happened would he have to go back through the entire process again.

Peter Matson said he would have to start over again with the final approval process.

Mr. Brown said he would hope that that wouldn't be the case, but he really hadn't been in that big of a hurry. He said if the Council felt that it would be better to hold off, he would go back through the final approval process again if it was necessary. Mr. Brown said it took him several years to save the money to do the construction and he was now in a position to move forward once the plans were ready.

Mayor Stevenson asked Mr. Brown if he was saying he would be fine with this if the Council denied the extension, realizing that it might be a couple of years before he was ready.

Mr. Brown said he wouldn't be totally heartbroken. He said he had been pushing forward with the anticipation of getting it done within the next year.

Mayor Stevenson said his thinking was that if Mr. Brown wasn't going to do anything within the next year, then maybe the Council should not approve the extension and have him bring it back through the process.

Mr. Brown said he wanted to make sure it was done correctly.

Mayor Stevenson asked Mr. Brown if it was a possibility, as he went through the engineering process, that he might find some of the lots might not work and some adjustments would need to be made to the layout.

Mr. Brown said he didn't think any adjustments would need to be made to the layout, and he thought that the retaining wall would be figured out. He said his only worry would be if changes could be made to the zoning requirements that could ruin his final approval at that time.

Mayor Stevenson said things could change, but this was in an R-S zone and there shouldn't be any significant changes that would impact the development.

Councilmember Day asked Mr. Brown what his preference would be.

Mr. Brown said he would like the extension but would understand if that wasn't possible.

Councilmember Petro asked if this extension was approved and Mr. Brown showed some type of activity on the project, what would happen if it was delayed again.

Mr. Brown asked if all construction had to be completed in the one year period.



Mayor Stevenson said Mr. Brown would need to be ready to start construction.

Mr. Brown said he was under the understanding that he had to have construction completed within the one year period. He said if he only needed to have the project underway, he was a lot more confident that everything would be on time.

Councilmember Day asked if this was started and then Mr. Brown dragged his feet for years and years, what kind of provisions were there to insure that the development continued in an orderly and timely fashion.

Gary Crane said they had to take substantial steps to completion. He said the time they stopped doing that, as determined by the Council, the approval would end and they would have to start the process over again.

Mr. Brown said he would still like the extension and would work a lot harder to get the plans done and move the project forward.

Councilmember Francis said he felt that there was a lot of uncertainty; maybe this should be denied. He said he didn't get a good sense that Mr. Brown was ready to go.

Councilmember Petro asked if any of the lots were sold.

Mr. Brown said he had several offers, but he wasn't planning on listing them for sale. He said he was considering keeping it all for family.

Councilmember Brown asked if this was denied, would there be a cost to start the final approval process again.

Peter said the final subdivision application fees would apply. He said it would be \$250 base fee and \$60 per lot for a total of \$550.

**MOTION:** Councilmember Freitag moved to approve the final extension request. Councilmember Brown seconded the motion. Councilmembers Freitag, Brown, Petro and Francis voted yea; Councilmember Day voted nay. The motion carried.

**FINAL APPROVAL EXTENSION REQUEST – TUSCANY VILLAS PRUD – APPROXIMATELY 1225 EAST GENTILE STREET**

Peter Matson said Tuscan Villas PRUD was located at approximately 1225 East Gentile Street, just east of the Bowden Chiropractic building, and was in an RM-1 zoning district, which was a multi-family residential zoning district. He said this project was first approved in 2009 and the proposal was 40 units; three 12-plex unit buildings and one 4-plex unit building. Peter said in June 2012 the plat was amended to break the development into smaller pieces or phases. He said in June 2013 the Zoning Administrator granted a one-year final approval extension, which expired June 25, 2014. Peter said the developer and owner, Mr. Brian Lamano, had requested a one-year extension from the Council to this amended plat in order to find an equity partner to secure financing for the development. He said at the last Council meeting this item was tabled to today's meeting with a request to have Mr. Lamano present to answer questions regarding the extension request. Peter said Staff recommended approval of the final approval extension request.

Councilmember Freitag asked if there had been another equity partner up to this point.

Mr. Brian Lamano said there wasn't a previous equity partner. He said he was planning on developing the project on his own; he had already invested a substantial amount of money in the project. He said in 2009 when the project was originally approved, the economy went south. Mr. Lamano said interest in the project was coming back and he had been approached by a local bank with interest in the project. He said he reacquired some of the 4-plex units across Gentile Street, which cost him a substantial amount of money. Mr.

Lamano said some of the funds earmarked for the Villas project were diverted at that time. He said they looked much stronger now than they did in 2009 or 2012. Mr. Lamano said the land was virtually debt free. He said if he wasn't able to acquire financing, he had some leads on a third party. Mr. Lamano said he would prefer not to involve a third party and was asking for the extension to allow time to secure financing with a lending institution.

Councilmember Freitag asked why Staff recommended that this extension be granted.

Peter said Staff felt that this was a good design and Mr. Lamano had spent a considerable amount of time on the project. He said Staff felt that the design concept was quite a bit better than the original concept that Mr. Lamano brought forward years ago. Peter said to keep the momentum going on a quality and upscale design was a positive thing.

Mayor Stevenson said he had received complaints about one of Mr. Lamano's projects in Peacefield that had come to a stop. He said he understood Mr. Lamano had indicated that he had run out of money to complete that project. Mayor Stevenson said if the abilities weren't there he felt that the extension should not be granted and the focus should be to get some of the projects already in place taken care of. He said some of the hardest things the City dealt with were homes that were partially finished and neighborhoods complaining.

Mr. Lamano said he only had one project outstanding. He said he had the funds to complete the project, which was not the issue. Mr. Lamano said the City would see that project move forward substantially over the next little while. He said he had a year to complete that project and the project was on its way to being done by September 1st. Mr. Lamano said that project should not have an impact on this project.

Mayor Stevenson said even if the extension were denied, it was a fairly simple process for Mr. Lamano to bring this project forward at a later date. He said a denial would allow the current Council to have more control over the project.

Mr. Lamano said he had spent a lot of time and money on this project. He said the project needed to continue and he needed time to do that. Mr. Lamano said he had spent a lot of money on the project across the street and that was now a much nicer development for the City. He said tabling this would hamper his abilities to work with banks on funding.

Mayor Stevenson said he didn't agree; there were many projects people started from scratch and they were able to work with financial institutions for funding. He said he had gone through the process himself as a developer. Mayor Stevenson said he was voicing his opinion, but the Council would make the decision.

Mr. Lamano said it had been an active project for him since 2009. He said if the economy hadn't faltered, the project would have already been done. Mr. Lamano said he had diligently been pursuing financing; he didn't see the harm in extending the project.

Councilmember Day asked Peter what the fee schedule would be on this project if the extension was denied.

Peter said just over \$2200; in a multi-family development it was \$250 plus \$50 per unit.

Councilmember Francis asked how this would be impacted by the moratorium on apartment developments.

Gary Crane said because it was already entitled, it would not be impacted.

Councilmember Freitag said on April 29th Mr. Lamano received an email from the City reminding him that the extension was set to expire in June, and it was on the June agenda. He said at that meeting the Council felt that it was important to talk with Mr. Lamano about this. Councilmember Freitag said he was concerned that from April 29th, when Mr. Lamano was given the notice, until today, July 17th, Mr. Lamano didn't have more of a solidified plan with an equity partner. He said the City didn't have anything concrete to go on at

this point.

Mr. Lamano said he wasn't going to look for an equity partner if he could do it himself. He said his goal was to put this project in on his own. Mr. Lamano said that was his intent going forward.

Councilmember Freitag said he understood what Mr. Lamano was saying tonight on July 17th; on April 29th Mr. Lamano stated that the reason for the extension request was to find an equity partner.

Mr. Lamano said if he could get financing from a bank with only the land equity he would do that; if not he would be looking for an equity partner for three to four years. He said there were possibilities available. Mr. Lamano said he would not approach an equity partner until he was denied by his lending institutions. He said he would prefer to move forward on his own.

Councilmember Freitag asked Mr. Lamano if he understood his concern; when asked why Mr. Lamano wanted the extension, the reason was to find the equity partner. Tonight, Mr. Lamano was telling the Council a different reason for why he requested the extension in the first place.

Mr. Lamano said since April, a financial institution had indicated that he had enough equity to justify standing alone. He said if he could get that through the process, that would be his preference. Mr. Lamano said before this the financial institution had indicated that he would need an equity partner. He said all he could do was pursue those leads. Mr. Lamano said he didn't want to do that until he had another situation taken care of, which the Mayor mentioned earlier.

Councilmember Freitag said he agreed that there was a big economic downturn in 2007, 2008 and 2009, but since that time the Council had seen multiple apartment projects that were well funded, approved and built within the City. He said the Council had recently passed a resolution indicating that the City needed to look at the housing stock going forward, because the majority of the Council felt as though the City had plenty of supply on that side. Councilmember Freitag said in cooperation with the Planning Commission, for the past two years, the Council had been looking at the ordinances and making adjustments. He said in order to give the new Council and Mayor time to review all of the information that had been studied over the past two years, a resolution was passed to allow time for additional study to make sure that going forward the percentages of housing stocks was appropriate. Councilmember Freitag said while Mr. Lamano suffered the consequences of a downturn in 2009, in his opinion that had not been the case the entire time from then until the resolution was passed. He said since the resolution had been passed, it gave the Council the opportunity to look at everything that was not already going and decide if it should be part of what was being studied, or should it be approved. Councilmember Freitag said he thought he heard the Mayor say that the size of this project fit into the concerned area of the Council. He said if this wasn't approved for an extension, in his opinion there were two very valid reasons: 1) the financing was a possibility before; and 2) that this now fell under the study of multi-family projects.

Gary Crane said this project was already entitled; it would not fall under the category of multi-family dwellings that the City could say no to. Gary said if the extension was denied, Mr. Lamano would have preliminary approval and would need to get a new final approval. He said the reasons for denying final approval were much different from denying a zone change. Gary said the difference between preliminary and final approval came down to site plan issues, rather than whether or not the use was appropriate at this location. He said this project would add to the total numbers being studied, but as far as being able to say no to this project, that was not an option.

Mayor Stevenson said he thought everyone understood that. He said from his point of view, he was not sure there had been a true attempt to try and make the project happen. Mayor Stevenson asked Mr. Lamano if he could look at the Council and tell them that the project would be started in the next 12 months.

Mr. Lamano said he would not make that kind of statement to the Council, but he could tell the Council that since 2009 he had worked diligently to find financing for the project. He said it was a little frustrating when he had spent so much time and so much money to get this project off the ground, and spent time with City

Staff, and then all of a sudden to hear comments that it could be tabled for lack of financing when that arena was finally coming through. Mr. Lamano said this wasn't a big project like some that had been dumped in Layton City; this was a privately owned business with limited capital to work with.

Mayor Stevenson said he had asked Mr. Lamano if he could have this project going in 12 month, and Mr. Lamano stated that, "I'm not going to tell you that would happen." He said next year at this time, Mr. Lamano would have to come back to the Council and request another one-year extension. Mayor Stevenson said because Mr. Lamano would only have to go through the final process again if the extension was denied, if Mr. Lamano was not ready to move forward, he felt that the extension should be denied. He said the economy had continued to grow since 2009 and these types of projects were very feasible, and if Mr. Lamano wasn't ready to do the project, was incapable of doing the project, or whatever the reason was right now, his feeling was that the City should not grant the extension and when Mr. Lamano was ready he could come back in and go through the final process again.

Mr. Lamano said that would cost him more money. He said the Council didn't know what had been going on behind the scenes in contacting financial institutions. Mr. Lamano said he would like to move forward with the project. He said if he had to come back to the Council in a year from now, he would do that, but he would bring everything he had to show the Council his efforts in moving forward. Mr. Lamano said he would diligently pursue the local bank that wanted to work with him on the project. He said he was concerned that this would fall under the moratorium on apartments if it was denied.

Mayor Stevenson said, as the City Attorney stated, the location of this project did not fall under the moratorium.

Councilmember Petro said this project had received more than one extension already; this was the third extension.

Mr. Lamano said yes, but in 2009 banks were not loaning money.

Councilmember Petro said rather than take action tonight, if the Council tabled this for another month, could Mr. Lamano show the Council activity that he was seeking financing and that it was moving forward.

Mr. Lamano said he didn't know if he would have financing in place, but he had three places he was pursuing financing from. He said he would be glad to come back in a month.

Councilmember Petro asked if that was a possibility.

Gary said the possibilities were to vote it up, vote it down or a motion to table or continue the item was appropriate.

Councilmember Freitag asked Gary if the extension had to be for one year.

Gary said no, the Council could make it for less than a year.

Councilmember Brown said Peter mentioned that this was a better project now than what was first considered. She said she didn't want to go backwards from what the current project would be.

Councilmember Petro said she would like to see proof of funds from Mr. Lamano.

Councilmember Francis called for a question.

Mr. Lamano asked what the process would be if this was tabled.

Mayor Stevenson said bottom line, if Mr. Lamano wasn't realistically going to do this project for two years, he could bring it back to the Council and not go through the entire process, only the final phase.

There was discussion about the current phasing approval on the project and whether that would stay in place.

Gary said Councilmember Francis had called for a question, which meant that a motion had been called for and discussion should be concluded.

Councilmember Brown suggested a three month extension, which would allow time for Mr. Lamano to show that he had financing in place. She said she would rather do that than table this and have to deal with it again in another month. Councilmember Brown said if there wasn't any progress in three months, the extension could be denied at that time.

Mr. Lamano asked again, for clarification, if this was denied could he come back with the same plat for approval.

Councilmember Freitag said the question had been called and the Council needed to move forward with a motion and vote.

**MOTION:** Councilmember Brown moved to extend the final approval extension to October 16, 2014, to give the applicant time to show that he was pursuing financing. Councilmember Petro seconded the motion. Councilmembers Day, Brown and Petro voted yea, Councilmembers Francis and Freitag voted nay. The motion carried.

#### **PUBLIC HEARINGS:**

#### **AMENDMENT TO TITLE 19, CHAPTER 19.21 – TEMPORARY AND SEASONAL USES – ORDINANCE 14-15**

Peter Matson said Ordinance 14-15 was a proposed zoning ordinance amendment to Title 19, Chapter 21, relative to temporary and seasonal uses. He said the amendments primarily had to do with the size of various temporary use businesses.

Peter said the City received a request from a business owner to change the allowable dimensions for a snow shack type business. He said together with that the Staff and Planning Commission had worked on text amendments. Peter said this section of the zoning ordinance addressed street vendors, tent vendors, snow shacks, single-event and seasonal outdoor vendors. He said language was added to address signage in clear view areas for these uses.

Peter said street vendors were being proposed to be allowed in the C-H and CP-3 zoning districts with some guidelines; they were presently only allowed in the MU and MU-TOD zones. He said it was also proposed that businesses under the street vendor regulations not be allowed to occupy more than 15% of the parking stalls where the business had been approved. Peter said street vendor carts or facilities could not be self-propelled and regulations were added to indicate that they had to be attended. He said those located in the MU and MU-TOD zones would be operated out of carts, allow a footprint no larger than 100 square feet and that in the MU and MU-TOD zones no tables or chairs would be allowed.

Peter said vendor trailers would not be larger than 160 square feet. He said snow shack facilities could occupy areas no larger than 160 square feet, and they would also be allowed in the MU-TOD zone but could occupy no more than 100 square feet and could not be conducted out of a trailer in the MU-TOD zone.

Peter said there were some clarifications on fireworks stands, which were primarily regulated by the Fire Department. He said the Planning Commission recommended that parking for tent vendors be provided off-street and on an improved surface, which would include produce stands in the commercial, mixed used and agricultural zones. Peter said there was discussion in the earlier work meeting about this and Staff would be having conversations with specific sites about this issue. He said the Planning Commission recommended approval and Staff would support that recommendation; however, Staff would recommend that the provision

in 19.21.050 (2) for off-street parking on improved surfaces for tent vendors and snow shacks not be included in the code amendment.

Councilmember Day said he needed to disclose that he had an interest in a produce stand.

Councilmember Brown said in 19.21.050 (1) it stated, “Businesses under this section may not occupy more than 15% of parking stalls on the lot where the business has been approved.” She said that indicated that they would need parking stalls. Councilmember Brown said 19.21.050 (2) stated, “Parking for these businesses shall be provided off-street and on an improved surface.”

Peter said the issue that seemed to be problematic was that in those instances where they were not located in a parking lot, the improvements would need to be added so that there would be off-street parking available.

Councilmember Brown said she had a citizen mention that one of the snow shacks had tables and those tables stated that they were for sale. She said it seemed that they were trying to get two businesses out of one business license; did that seem quite right.

Peter said Shannon Hanson, the new Code Compliance Officer, had made contact with the individual that was selling the tables, which was separate from the snow shack vendor, and had asked them to figure out a location where they could operate as a temporary seasonal use, or take the signs off the tables.

Mayor Stevenson said relative to the parking issue that was discussed in the earlier meeting, did the Council need to pull out part of the ordinance amendment in order to pass it.

Peter said that would be Staff’s recommendation; striking (2).

Mayor Stevenson said that would be 19.21.050 (2).

Peter said yes.

Councilmember Brown said that could be done in the motion if the Council chose to approve the ordinance.

Councilmember Freitag said the fireworks section, 19.21.070 (3) (b) added; “Firework retailers shall generally adhere to all requirements of the Layton City Municipal Code,” and (c) referenced 50 feet and 100 feet, which was different than what was in the fire section, 9.64. He said he would recommend that (b) be included but strike (c), and leave (e) because that was not dealt with exactly as it pertained to the business license and detailed drawing – that detail was not in the fire section. Councilmember Freitag said he wouldn’t want to approve something that was different than the fire section of the Code because there could be conflicting ordinances. He said he thought the Council needed to address fireworks at a later date, because it didn’t separate storage versus sales. Councilmember Freitag said he thought the storage of fireworks should be reviewed because it wasn’t regulated at all. Sometimes the storage was much more dangerous than the actual sales because it was unoccupied most of the time. He said it was also limited to gas pumping stations and he would like to look at all flammable liquid or combustible material as it pertained to the distance, and address what may be around the storage. Councilmember Freitag said he had noticed that a lot of the fireworks stands were in vacant commercial fields, but there was a lot of dry material around them. He said he would suggest that the Council strike the new (c), leave (d) and (e), and in a future meeting address the fireworks section of the Code.

Peter asked if he would leave the 100 feet that was struck, or put that back in.

Councilmember Freitag said he would take out everything in (c) and just refer to the Municipal Code, fireworks section.

Peter said that was a discussion they had had with the Fire Marshall; wondering if they were to the point that referring to that Code section would be the best way to go because those could change more often than this

particular code was being addressed. He said he thought he had all of Councilmember Freitag's recommendations.

Councilmember Freitag said leave (b), strike (c), renumber (d) to (c) and renumber (e) to (d).

**Mayor Stevenson opened the meeting for public input.**

Bob Strong said he was the Director of Franchise Development for the Hokulia Hawaiian Shaved Ice concept. He said their offices were located in Layton at 872 West Heritage Park Blvd. Mr. Strong said they were excited to have one of their franchises open in Layton. He said they had a couple of things they would like to discuss. Mr. Strong said their trailer was a bit larger than what was originally set forth in the ordinance. He said they had designed the trailers to easily be put into communities all over the United States; currently they were in California, Nevada, Utah, Idaho, Montana, Nebraska, Georgia and Alaska. Mr. Strong said the standard in most communities was their current trailer size, which allowed space for all the things required to be in the high tech trailer. He said restricting the size would make it not allowable in a lot of different situations, and frankly they didn't see any harm in the current size.

Mayor Stevenson asked what the size of the trailer was.

Mr. Strong said it was 8 ½ feet by 14 feet, which didn't include the tongue length.

Mayor Stevenson said that was about 120 square feet, which was less than the recommended maximum.

Mr. Strong said they had also made their locations very attractive. He mentioned their location on Gentile Street and showed the Council pictures of proposed tables and chairs they would like to use at this location. Mr. Strong said they would like to put three or four of these tables at this location. He said they greatly impacted businesses around them with additional exposure and customers.

Mr. Strong showed pictures of some of their other locations.

Councilmember Petro asked Mr. Strong why he didn't start out with these tables; was there a problem with the Code.

Peter said the present Code would not allow anything beyond a single table. He said the trailer size was also a problem before the proposed changes.

Councilmember Brown said with the proposed changes they could have multiple tables and the size of the trailer would be acceptable.

Peter said that was correct.

Bret Fessler said he had a snow shack on Main Street called Mr. B's. He said he had some issues that were being addressed. Mr. Fessler said he couldn't understand why the seating was limited to five seats or one picnic table. He asked if there would be a limit on the number of tables.

Peter said the only limitation would be in the MU and MU-TOD zones, which were the downtown core areas; Main Street and Gentile Street. He said the Planning Commission felt that it would be good to have some flexibility to allow the uses there but have some restrictions. Peter said the limitations would go away with the proposed ordinance amendments in the typical retail zones along other areas of Main Street.

Mr. Fessler said the other issue he had was with signage. He said he couldn't have any signs while the business across the street from him had eight flags on Main Street. Mr. Fessler said he couldn't have any sign unless it was against his building.

Peter said that was covered under the sign ordinance section of the City Code, under temporary signage. He

said Staff had a proposed draft amendment to that section of the Code that addressed those types of things based on input from the business community. Peter said Staff hoped to have those proposed amendments reviewed by the Council in the next couple of months.

Mr. Fessler said he didn't understand why Layton City didn't match up with Davis County for the open dates on seasonal shaved ice stands. He said Layton City shortened the season by 60 days. Mr. Fessler said he didn't understand why he couldn't sell snow cones on Christmas if he wanted to, but at least the dates should match up with Davis County dates.

Mayor Stevenson said Mr. Fessler could sell snow cones on Christmas, but he would have to be in a permanent location. He said some of the proposed changes would hopefully help.

Cale Ward said he was representing Rainbow Snow. He said the stand had been at its current location for approximately 15 years. Mr. Ward said they recently had a lot of problems with Code Enforcement relative to signage. He said he had been told several times that they did not get to enjoy the same privileges as brick and mortar businesses relative to banners and A-frame signs. Mr. Ward said they were told that they couldn't put their table on the grass, and they couldn't put anything in the landscape area.

**MOTION:** Councilmember Freitag moved to close the public hearing and approve the amendments to Title 19 regarding temporary and seasonal uses, Ordinance 14-15 with the following changes: 1) in 19.21.050 striking the new number (2) and renumbering the rest of those subsections appropriately; and 2) in 19.21.070 striking the new subsection (c) and renumber the other two sections appropriately. Councilmember Brown seconded the motion, which passed unanimously.

**The meeting adjourned at 9:27 p.m.**

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Thieda Wellman, City Recorder