

**MINUTES OF LAYTON CITY  
COUNCIL MEETING**

**NOVEMBER 20, 2014; 7:01 P.M.**

**MAYOR AND COUNCILMEMBERS  
PRESENT:**

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

**ABSENT:**

**JORY FRANCIS**

**STAFF PRESENT:**

**ALEX JENSEN, GARY CRANE, BILL WRIGHT,  
KENT ANDERSEN, KEVIN WARD 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. Bill Wright, Community and Economic Development Director, gave the invocation. Scouts and students were welcomed.

**MINUTES:**

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

**Layton City Council Joint Planning Commission Work Meeting – October 16, 2014.**

The vote was unanimous to approve the minutes as written.

**MUNICIPAL EVENT ANNOUNCEMENTS:**

Councilmember Brown said the Family Recreation Turkey Bowl would be held this Saturday at Davis Lanes. She said the cost was \$3.50 per person for 1 hour of bowling.

Councilmember Brown said the Annual Christmas Lighting Ceremony would be held next Monday beginning at 6:00 p.m. with choir performances at Layton High. She said the lights would be turned on at 7:00 p.m.

Councilmember Brown said on December 10th from 6:00 p.m. to 8:00 p.m. there would be free hay rides through the Christmas lights. She said refreshments would be served in the bowery and Santa would be there.

**PRESENTATIONS:**

**RECOGNITION – NATALIE K. THOLEN – NORMA MATHESON OUTSTANDING  
VOLUNTEER AWARD**

Kevin Ward, Fire Chief, recognized Natalie Tholen for receiving the Norma Matheson Outstanding Volunteer Award. He said Natalie helped keep the Fire Corps program going and for it being what it was today. Kevin said Natalie donated over 5,000 hours of volunteer service to the City and citizens of Layton. Natalie came forward to shake hands with the Mayor and Council.

**RECOGNITION OF COMMUNITY EMERGENCY RESPONSE TEAM (CERT) GRADUATES**

Kevin Ward explained the CERT program. He indicated that there had been over 2,000 graduates of the program. Kevin introduced the recent graduates. The graduates came forward to receive their certificates and to shake hands with the Mayor and Council.

Mayor Stevenson said it was impressive to see the number of citizens that were willing to donate their time in service to the citizens of Layton.

## **CONSENT AGENDA:**

### **MEMORANDUM OF UNDERSTANDING WITH DAVIS APPLIED TECHNOLOGY COLLEGE (DATC) – RESOLUTION 14-71**

Kevin Ward said Resolution 14-71 was a memorandum of understanding with DATC. He said there had been an agreement with DATC since 2007. Kevin said the agreement needed to be updated and renewed, and would include the use of the training facility and equipment, and there was a fee increase. He said the fire training facility had been a great asset for developing a very comprehensive fire training program. Kevin said Staff recommended approval.

### **AGREEMENT FOR PROFESSIONAL SERVICES WITH SALT LAKE CHAMBER OF COMMERCE – RESOLUTION 14-72**

Gary Crane, City Attorney, said Resolution 14-72 would adopt and approve a professional services agreement with the Salt Lake Chamber of Commerce. Gary said at the Utah League of Cities and Towns (ULCT) conference last fall, the ULCT passed a resolution, which promoted the funding of transportation into the future. He said this included the resurfacing of streets and adding new streets to accommodate increasing populations in the State. Gary said it included things like trails and bike paths. He said modes of transportation were changing on a continual basis and in order to keep up with and accommodate the needs of transportation into the future the ULCT, the Utah Association of Counties and numerous businesses in conjunction with the Salt Lake Chamber of Commerce were proposing a group to put together tools the cities could use in order to explain these transportation needs to the public and to elected officials. Gary said the agreement was with the Salt Lake Chamber of Commerce who was heading up an effort to be able to provide those tools to jurisdictions. He said Resolution 14-72 authorized the City to become a part of the Transportation Coalition formed by these groups. Gary said the City's contribution would be \$2,000; for the contribution the City would receive unlimited access and assistance in getting the City's message out regarding funding for transportation needs. He said Staff recommended approval.

Councilmember Freitag asked if there were a minimum number of municipalities or private parties that needed to belong to this in order for it to go forward.

Gary said already the private community had funded a good portion of this. He said if 50% of the cities along the Wasatch Front actually participated, which they had already committed to do, it would go forward. Gary said the level of going forward would be what would change. He said with the funds already received, and with the commitments from the cities that had already indicated that they would come on board, there was sufficient funding to proceed forward.

Councilmember Freitag asked if the ULCT had asked all of their members to participate, or only those along the Wasatch Front.

Gary said because it involved everything from trails to bicycle paths, transportation of rural areas was a big focus of the plan put into place. He said it would involve all the cities in the State even though the Wasatch Front had the most concentration of transportation needs.

### **PARCEL SPLIT – DUANE JOHNSON SHOPS – APPROXIMATELY 3100 NORTH 650 EAST**

Bill Wright, Community and Economic Development Director, said this was a parcel split request from Duane Johnson for property located at approximately 3100 North 650 East. He identified the property on a map. He said the proposal was to split a smaller portion of the property that contained an existing industrial warehouse building from a larger portion of the property. Bill said the parcel met all of the requirements of the M-1 zone. He said the overall plan for the property included additional buildings that would be

constructed on the remaining part of the parcel. Bill said 650 East was not a public street and the determination in the past was that as development occurred they were asked to sign waivers providing for funding for improvements should it become a public street in the future. He said that was in place for this property. Bill said the Planning Commission recommended approval and Staff supported that recommendation.

**MOTION:** Councilmember Petro moved to approve the Consent Agenda as presented. Councilmember Freitag seconded the motion, which passed unanimously.

## **PUBLIC HEARINGS:**

### **REZONE REQUEST – PHEASANT VIEW LAND COMPANY, LLC – A (AGRICULTURE) TO R-S (RESIDENTIAL SUBURBAN) – 1242 EAST PHEASANT VIEW DRIVE – ORDINANCE 14-22**

Bill Wright said Ordinance 14-22 was a request to rezone property located at 1242 East Pheasant View Drive. He said the property was currently zoned agriculture and the request was to rezone the property to R-S. Bill said the applicant was the Pheasant View Land Company.

Bill said the property was a landlocked piece of property that was approved for annexation at the November 6th meeting, along with an annexation agreement. He said this would accommodate an expansion of an existing facility, Pheasant View Assisted Living facility. Bill said the addition would include 15 additional units that would be restricted to memory care units. He said the building would be attached to the existing building.

Bill displayed a site plan of the facility and explained additional parking that would be provided. He said the expansion and facility complied with zoning requirements of the City. Bill said a portion of the existing building would be demolished to allow for the expansion and a driveway access.

Bill said the Planning Commission held a public hearing on this item on November 12th and found that the zone change was appropriate for the area and was consistent with the General Plan. He said abutting property was zoned R-1-8 and this rezone request was for R-S zoning, which was a residential zone that had a larger lot size requirement than the R-1-8 zone. Bill said the assisted living facility was an allowed use on the property. He said the Planning Commission received comments from the public, which were included in the Council's packet information. Bill said most of the comments would be addressed through the site plan review process and some were based on the operation of the facility. He said the owner, Eric Martz, could respond to those comments. Bill said the Planning Commission recommended approval and Staff supported that recommendation.

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

Eric Martz, partner in the property ownership, said this was a much needed public service for the community. He said the rate of Alzheimer's was increasing drastically in the State; Utah was slated to be the highest in Alzheimer's and dementia in the nation. Mr. Martz said assisted living facilities across the State were expanding and adding Alzheimer's units because of this expected and current need. He said their goal was always to build in a residential neighborhood to make it as much like a home for their residents as possible. Mr. Martz said they tried very hard to be a good neighbor to surrounding properties and they encouraged an open-door policy.

Mayor Stevenson asked what was in the part of the building that was being taken out for the driveway.

Mr. Martz said two resident rooms were in that area.

Hailey Hales, 1248 East Pheasant View Drive, expressed concerns for the facility expansion because of parking issues. She said in one day she had collected 25 signatures from residents in the neighborhood that were against the facility. Ms. Hales gave copies of pictures relative to cars parking in the area. She expressed

concerns with semi trucks backing into the facility with children in the area. Ms. Hales said there was not enough on-site parking, and the facility made the residential area feel more commercial.

Mayor Stevenson asked how often there was street parking.

Ms. Hales said at least 3 times a week. She said the facility landscaper parked in front of her home all the time.

Mayor Stevenson said besides the parking issues, were they a good neighbor.

Ms. Hales said they were okay right now because the facility was small, but she was worried with it growing bigger; it would be a bigger problem. She said the original owners of her home were promised that the facility wouldn't impact their home, but they had to take out part of their backyard and fence because it created a blind spot. Ms. Hales said the information wasn't clear on the number of parking stalls.

Mr. Martz said relative to the parking, unfortunately the Hales' property was the closest to the facility. He said similar to any other neighbor that had people coming and going to their home, they would be affected if they were the closest to that. He said he would encourage people to park on the street adjacent to the church parking. Mr. Martz said if the property had been developed like originally proposed with an R-1-8 zone, the property would accommodate four homes; four homes would create more traffic. He said the number of parking stalls would meet the mass majority of their needs and were in line with City Code.

Mr. Martz said they would make sure the trash was not picked up prior to 7:00 a.m. He said there was a Sysco delivery truck that came in on Wednesdays or Thursdays, but there would be no additional deliveries with the new addition.

Mr. Martz said relative to the fence that was mentioned with the previous neighbor, the owners of the facility had approached them and offered to pay for all of the fencing, including the removal that was made mandatory by City Code, but they refused. He said City Code required that anyone building on the lot would have to insure clear view at the end of the driveway.

Mr. Martz said they were trying very hard to be good neighbors. This was a residential home, just not a standard residential home.

Councilmember Brown said one of the comments in the email from the Hales was that there would only be 14 parking stalls. She asked how many stalls there would be.

Mr. Martz said there were currently 11 parking stalls. One parking stall would be removed to allow access to the back, but 7 new stalls would be added for a total of 17. He said if they were able to fit an additional stall they would do that. Mr. Martz said they understood that sufficient parking was highly desirable.

Councilmember Brown said in the earlier work meeting Mr. Martz mentioned that they could park on the east side of their driveway entrance. She said some of the neighbors thought that that was illegal parking.

Mr. Martz said his understanding when the original building was built was that they had to have a 30-foot minimum width, which they met. He said the drivable sidewalk on the northeast side was not considered fire lane; the fire lane was on the other side. Mr. Martz said they installed a drivable sidewalk to allow for the parking and still have access for emergency vehicles.

Councilmember Brown asked if City Code allowed for parking in that area.

Bill Wright said what Mr. Martz had stated was correct; parking wasn't restricted on that side, but it wasn't counted as part of the required parking.

Michael Hales, 1248 East Pheasant View Drive, gave Council copies of the site plans that were marked up.

He said this wasn't a typical home. Mr. Hales said in the Municipal Zoning Code, 19.04.02, it stated that the zone was intended for very low density residential, and R-S was for low density single-family residential. He said 35 beds on 1 lot was not very low density. Mr. Hales said in 19.06.05(5) it stated that they must provide adequate off-street parking. He said they didn't have adequate off-street parking now and the expansion would only make it worse. Mr. Hales suggested that they take out some of the beds and put in more parking.

Mr. Hales said gutter to gutter on the driveway approach was 22 feet not 30 feet. He said parking there obstructed the fire lane. Mr. Hales said with the drivable sidewalk it was closer to 30 feet. He said the delivery trucks made it feel like a commercial area not a residential area. Mr. Hales said allowing for the expansion based on a reasonable accommodation of the Fair Housing Act was not appropriate; this was not a discrimination issue. He said adding this huge expansion didn't seem like a necessary accommodation. Mr. Hales said the Department of Justice stated that the Fair Housing Act was not a land use or zoning statute; it did not preempt local land and zoning laws. He said he was not against this type of facility in their neighborhood, but this was more about a business trying to get as much financial gain as possible.

Mayor Stevenson asked Mr. Hales how many parking spaces he thought were needed.

Mr. Hales said in his opinion they needed 5 additional stalls for the existing facility and 10 more for the expansion.

There was discussion about the number of trucks coming to service the facility and the times they were coming.

Mayor Stevenson said there was no question that this was a business, but there were requirements for the number of parking stalls. He said the facility was following the rules relative to parking. Mayor Stevenson said anyone could park on a public street; he mentioned parking issues at one of his commercial buildings. He said the City couldn't stop people from parking in front of a home on a public street. Mayor Stevenson said some of these issues were tough to legislate against. He suggested that the neighbors could work some of these things out with Mr. Martz, such as garbage pickup times.

Mr. Hales said with the new addition they wouldn't be meeting the Code.

Mayor Stevenson asked if the facility would meet parking requirements with the new addition.

Councilmember Day asked Staff to address how this fit with the Fair Housing Act and the zone.

Bill Wright said this was a preliminary site plan; the permit would not be issued unless the facility met all of the zoning requirements, and the additional restrictions addressed in the annexation agreement. He said residential facilities for persons with a disability were a permitted use in all of the City's residential zones and the agricultural zone. Bill said the Code identified a small facility, which was defined as 12 or fewer units in a building. He said the expansion could be separated and not attached to the existing building and would meet the qualifications for a permitted use. Bill said the reasonable accommodation that came with the Federal Fair Housing Act was that the City was allowing the building to be connected so that the support facilities of the main building could be provided to the residents in the addition, and there would be three additional units for people with this type of disability. Bill said through the annexation agreement the units were limited to memory care units, which usually came with less impacts because none of the clients would be bringing a car with them to the facility.

Gary Crane said this was the purpose of giving variances and variations in the Code, which was to accommodate the Fair Housing Act and Title 2 of the Americans with Disabilities Act (ADA). Gary said there was an annexation agreement on the property that further limited the uses of the facility. He said the annexation agreement guaranteed that the uses in the facility would not change; they had to be memory care units. Gary said the Fair Housing Act and the ADA would allow a much more intense use on a parcel of property in a residential zone if the annexation agreement was not in place. He said the annexation agreement allowed the City a lot more control, and the owner had agreed to the terms of the annexation agreement.

Gary said the Fair Housing Act and the ADA essentially imposed an affirmative duty on local governments to make reasonable accommodations, which included modifications and exceptions to the zoning ordinance where such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a residential facility. He said case study showed that the courts had become more and more lenient, and more imposing on local governments, to stretch the definition of what a reasonable accommodation was. Gary said in West Valley there was a facility for sexual offenders that was placed in a residential area that caused a huge court battle; in the end West Valley City lost that battle because they did not reasonably accommodate that facility within their jurisdiction. He said this situation was far from that; these were people that were essentially in the community all along, but had grown elderly and were looking to exist in an area where they felt at home. Gary said all the City was allowing was for the connection of the two buildings and a couple of additional units.

Lori Auger, 1234 East Pheasant View Drive, said their back yard bordered the building. She said with the original building there was a concession to allow it to be 12 feet from their property line when the Code was 20 feet. Ms. Auger said if any similar concessions would be made for the new building.

Mr. Martz said the two rooms being removed would take that from 12 feet to over 20 feet from the property line. He said they were not asking for any concessions from setbacks for the new building.

Joe Gange, 1235 E Pheasant View Drive, expressed concern with parking on the street, in front of his mail box. He said he had received several warnings from the post office because mail couldn't be delivered. Mr. Gange said their driveway was also blocked on occasion.

Mr. Martz asked if they would be allowed to paint the curb red in front of the mail box.

Gary Crane said it couldn't be painted red unless the Police Chief specifically authorized it and a study would have to be done to authorize it. He said it was fundamentally illegal to park in front of a mail box, and it was illegal to park in front of a driveway, and if the homeowner called the City, the Police Department would enforce that right of way and ticket them.

Mr. Martz said he would encourage the homeowner to call the City for violations. He said they didn't encourage anyone that came to their building to park in front of someone's mailbox or driveway. Mr. Martz said he would call the police if he saw a violation, and he would encourage staff to park by the church.

Mr. Auger, 1234 Pheasant View, said employees parked underneath the trees in front of their home for the shade in the summer time, even if there were spaces available on-site. He asked Mr. Martz to talk to the employees about this.

Councilmember Petro said the time and how often the trash could be picked up should be addressed, and if there would be an additional dumpster. She said the email that the Council received expressed concerns with the smell.

Mr. Martz said he would call the company and check on the schedule. He said they currently had an 8 yard dumpster and the fenced trash surround could accommodate up to a 10 yard dumpster. Mr. Martz said they could go to weekly pickups if needed. He said they didn't foresee the trash doubling with the expansion and didn't plan for an additional dumpster. Mr. Martz said he would request a much later pickup of the trash; he would try for after 9:00 a.m.

Councilmember Brown said the only thing before the Council this evening was a rezone. She said some of the other issues mentioned this evening would be addressed when permits were issued. Councilmember Brown said this was a needed facility in the community.

**MOTION:** Councilmember Brown moved to close the public hearing and approve the rezone request, Ordinance 14-22. Councilmember Freitag seconded the motion, which passed unanimously.

Mayor Stevenson said this was only the rezone; there would still be site plan approval. He said Staff would be directed to watch that closely. Mayor Stevenson said Mr. Martz had indicated that they would be willing to do anything to try and make this a nice facility and a good neighbor. He expressed appreciation to the residents for the information they had presented and for their civility through the process.

Councilmember Day asked that the citizens be kept involved through the process.

#### **SPECIAL REPORTS:**

Mayor Stevenson mentioned a conference he recently attended about recyclable waste. He said not everyone realized the operations going on at the land fill dealing with recyclables and turning waste into energy. Mayor Stevenson said the burn plant not only burned the garbage but they created two types of energy; steam that was sold to Hill Air Force Base that heated most of the buildings, and electricity was generated. He said there was an article recently in the paper indicating that Layton City was not involved with recyclables, but the City was doing its part and supported what took place at the burn plant. Mayor Stevenson explained a new system the burn plant was looking at that would separate organic materials from burnable items; the organic materials would generate methane gas, which could be used like propane. He said this system would further reduce waste going into the landfill by 30%.

Councilmember Brown said there was an article in the City's most recent Newsletter about what the Mayor had talked about that was available on the City's website.

**The meeting adjourned at 8: 15 p.m.**

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Thieda Wellman, City Recorder