

**MINUTES OF LAYTON CITY
COUNCIL WORK MEETING**

AUGUST 6, 2015; 5:33 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, STEVE GARSIDE,
TERRY COBURN, SCOTT CARTER, BILL
WRIGHT, WESTON APPLONIE, PETER MATSON
AND THIEDA WELLMAN**

The meeting was held in the Council Conference Room of the Layton City Center.

Mayor Stevenson opened the meeting and turned the time over to Staff.

MISCELLANEOUS:

Alex Jensen, City Manager, said this year's budget for repairs and overlays of streets included over \$1,000,000. He said this year the asphalt bid was very good and last year's budget ended up better than anticipated. Alex said Staff would recommend using the extra money from the budget and add a few more overlay projects to this year's street maintenance projects, and take advantage of the good prices received from the contractor. He said Staff would recommend adding an overlay of Fort Lane north of Gordon Avenue to the new Fire Training Facility, and overlaying the top end of Angel Street.

Councilmember Freitag arrived at 5:37 p.m.

Alex said both projects could be done for about \$275,000. He said the money would be well spent. With Council's approval, the contractor would add those to the project list.

Consensus was to move forward with the projects.

Council and Staff discussed the Hill Field Road/Main Street intersection. They discussed the sewer project on Angel Street.

AGENDA:

DISCRIMINATION TRAINING

Steve Garside, Assistant City Attorney, said annually, the City provided URMMA required training, and tried to address topics where there was a high area of liability. He said he would be covering conflict of interest, which included proper disclosure and recusal if appropriate. Steve presented information relative to conflict of interest and the importance of proper disclosure. He discussed the recent creation of Ethics Commissions; Layton City along with Bountiful City, Clearfield City and Roy City, had entered into an interlocal agreement where the City would cooperate in the creation and use of an Ethics Commission if there was a complaint. Steve said none of the cities had yet received any complaints.

Steve explained that there was the possibility of criminal prosecution if there was a financial benefit that Councilmembers gained because of their position.

Gary Crane, City Attorney, cautioned the Council to file yearly conflicts of interest forms with the City. He said the form was required and allowed Councilmembers to declare any conflicts of interest they

might have. Gary indicated that the forms were available in the HR Department. He said there were also instances where Councilmembers were required to state conflicts of interest in open meetings.

Councilmember Day said he could remember doing that when he came on the Council, but he couldn't remember doing it since then.

Steve said it was something that should be reviewed annually and updated if necessary. He said employees were asked to do the same thing.

Alex said Staff would try to do a better job of sending those out annually and reminding Councilmembers to update their forms.

Steve said an additional item the Council needed to be reminded of was discrimination, which included sexual harassment and hostile work environment. He reviewed information relative to quid pro quo. Steve showed a video depicting various forms of discrimination.

Steve said historically, the City had done a fantastic job in these areas. He said employees receive annual training on discrimination, including sexual harassment and hostile work environment. Steve explained the City's process when dealing with sexual harassment complaints.

Gary said harassment could also include people from the outside coming into the City building and harassing employees or elected officials.

OPEN MEETING ACT TRAINING

Gary gave the Council copies of the Open Meetings law. He said there were very few things the Mayor and Council could go to jail for, but violation of the Open Meetings law was one of them. Gary said mayors and councils could get into trouble with open meetings violations when they knew about it and purposely violated it. He said it became a Class B misdemeanor, which would be prosecuted by the County Attorney or the Attorney General.

Gary said the City had an obligation to provide this training once a year. He said the intent of the Open Meetings Act was for the people's business to be conducted in the open and deliberation should be conducted openly. Gary said the City Council and Mayor, the Planning Commission and the Board of Adjustment were subject to the Act, which included any administrative, advisory, executive or legislative body that spent public funds and decided the public's business.

Gary explained that if three or more members of the Council were present, it was a meeting. He said this included workshops, closed meetings or meetings by electronic means. Gary said anytime the Council was receiving information or discussing the public's business, it was a meeting. He said it didn't matter if the meeting was by text, email, or phone. Gary said if there was ever a GRAMA request, the City would have to produce texts and emails. If it was discovered that three or more members of the Council were involved in a discussion, it would constitute a meeting, and it would be an improper meeting.

Councilmember Brown said when a citizen sent an email to the entire Council and Mayor, as long as they were not making a decision, they could answer the email.

Gary said that would not be considered a meeting. He said it violated the Act when the Council began discussing it among themselves.

Councilmember Day asked if that was the case if he emailed Councilmember Petro and later emailed another Councilmember.

Gary said no; it had to be a group email among three or more Councilmembers. He suggested not doing group emails. One on one conversations were not a violation.

Councilmember Petro asked if it was a violation if more than two Councilmembers attended a Parks Commission meeting.

Gary said no, unless they were discussing an issue among themselves. He said councils often got into trouble when they stayed after a meeting and discussed issues that were discussed at the meeting. Gary said discussing issues that were not before the Council for a decision, or those that didn't have anything to do with the public's business was fine, but if they were to discuss an issue that was on the agenda, that would be a violation of the Act.

Gary said a meeting was not a chance meeting or a social gathering. He cautioned the Council to be careful of what they talked about during chance meetings or social gatherings. Gary said Councilmembers would take a big risk if three or more of them were invited to a citizens' meeting, and attended.

Councilmember Brown said last evening two of the Councilmembers were at a meet the candidate event. She asked if that would be a problem if three of the Councilmembers had been there.

Gary said it wouldn't have been a problem because they would be discussing general items; it would not have been something the Council was currently making a decision on. They would not have been deciding anything at that meeting.

Gary said it was not considered a meeting if no public funds were appropriated and it was solely for the purpose of discussing or implementing administrative or operational matters.

Gary said relative to closed meetings, the Council could not make a decision in a closed meeting. He said there were really only three reasons for closing a meeting that the Council would be involved in; an individual's character, professional competence, or physical or mental health; a strategy session to discuss the purchase, exchange, lease or sale of real property; or a strategy session for pending or reasonable imminent litigation. A meeting could be closed for placement of security, but the City didn't have those situations. Gary said there were no meetings that were required to be closed. He said the Planning Commission could not close a meeting.

Gary said there were penalties associated with an improper closed meeting. He said a decision could be voided; if it was knowingly done, violators and those who helped could go to jail. Gary said it was a Class B misdemeanor with up to 6 months in jail and up to a \$2,500 fine. Attorney fees may be granted, which could be very expensive.

Gary said the process for closing a meeting included the presence of a quorum; it had to start out in an open meeting and have a 2/3 vote to close the meeting; and after the closed meeting was over, a motion must be made to go back into the open meeting.

Gary said nothing could be approved in a closed meeting and no one could be interviewed in a closed meeting, including applicants for an opening on the Council.

Mayor Stevenson asked if the Council was interviewing someone for an open position on the Council, would the interview be conducted in an open meeting.

Gary said yes.

Councilmember Petro asked if the meeting would have to be publicized.

Gary said yes; the request for resumes would need to be publicized and the meeting for interviews would be publicized.

Mayor Stevenson said he didn't know if the person being interviewed would want that to be in an open

meeting.

Council and Staff discussed the interview process.

Gary said the Council could not take any final action in a closed meeting and they could not disclose what was discussed in a closed meeting. He said with the exception of the competence of an individual, records of all closed meetings were kept. Gary said those records were protected records. He said anyone that disclosed the content of the meeting was subject to prosecution of a Class B misdemeanor.

Gary reviewed noticing requirements for emergency meetings. He stated that written minutes and recordings must be made and kept of meetings, and the written minutes were the official record of a meeting. Gary said recordings of a meeting had to be available for the public within 3 days of the meeting, and the written minutes had to be available within a reasonable time after they were approved. He said draft minutes could be given out. Gary said the public could make their own recording of a meeting as long as they didn't disrupt the meeting.

Councilmember Day said often he would receive calls from developers asking him to look at a piece of property. He asked how that should be handled.

Gary said if the property came before the Council for a decision, he would recommend that the Councilmember disclose that he had talked to the developer and looked at the property. He said if the Councilmember was to err, he would suggest that they err on the side of transparency.

Alex asked Gary to explain who had standing to challenge or assert that there had been a violation, and what protections were afforded to elected officials to make sure they weren't the subject of abuse or mean spirited efforts to accuse when there was nothing there. Alex asked if any of the laws applied to the State Legislature.

Gary said none of the laws apply to the Legislature. He said there were protections in place; someone would have to hire an attorney or they could go to the County Attorney, who would review the matter. Gary said he had reviewed a number of cases with the County Attorney, where there had been alleged violations, and the County Attorney had indicated that there was no intent and not enough information to prosecute. He said the protection was that it had to go through a judicial process before it became a problem for a Councilmember.

ZONING AND LAND USE TRAINING

Gary said there had been a request for training on land use. He said some of the largest settlements granted in the State had to do land use. Gary mentioned a recent issue in Tooele that was costing the City of Tooele \$21,000,000. He said Staff would be putting together a two-hour training on zoning and land use, and would invite Brent Bateman, the State Ombudsman, to give instruction on land use training. Gary said Mr. Bateman dealt with issues that arose as a result of conflict between private property owners and city councils. Gary said a time would be scheduled when the Council and Planning Commission was available.

Councilmember Petro asked how they should handle a situation when someone called asking their opinion on a zoning issue, or land use issue.

Gary and the Council went through some scenarios of how these types of situations should be handled.

Gary said listening to information was never inappropriate, but any comment that could show bias, could be used against them. He cautioned the Council to stay away from making a decision or stating their position, but to not stay away from listening to information.

UPDATE OF DRAFT BEEKEEPING ORDINANCE – TITLE 19 – ORDINANCE 15-17

Weston Applonie, City Planner, said he wanted to review the history of the beekeeping ordinance. He indicated that it had been before the Planning Commission a couple of times and Staff had met with the Davis County Beekeeper's Association and the Utah Department of Agriculture. Weston said he wanted to update the Council on the changes the ordinance had gone through.

Councilmember Brown said the information in the packet indicated that they had to have a suitable water source. She asked what the water source consisted of; standing water also would breed mosquitoes.

Weston said it could be something the size of a dog dish.

Councilmember Brown said there had been previous discussion about fencing around the yard. She asked if that was included in the ordinance.

Weston said it was in the initial draft, but it had been removed. He said after further review by Staff, the Utah Beekeeper's Association and the Utah Department of Agriculture, it was recommended that it be removed from the ordinance. Weston said the main reason being that it could put a financial burden on residents that may want to have beehives.

Councilmember Brown said a fencing requirement was included in the ordinance involving the keeping of chickens. She said her concern was for those that were allergic to bees, particularly a child that may get into a yard where bees were being kept, that didn't understand what the hives were, and be attacked by bees.

Weston said Mr. Homer with the Beekeeper's Association could address those concerns.

Mr. Homer said he understood the concern. He said bees were not like wasps; they were only after nectar and pollen. Mr. Homer said children would have just as much of an issue being stung in their own yard if there were flowers in the yard. It wasn't that big of a deal; last year there were 40 deaths in the United States from stings with 20 being from bees and the rest being from ants, wasps and other things.

Mayor Stevenson said he could see a situation where kids could go into a yard and mess with the hives to see if they could stir up the bees.

Mr. Homer said a fence wouldn't stop that from happening.

Mayor Stevenson said it would if they couldn't get to the hives. He said most yards were fenced, but in residential areas, what would it hurt to have a fencing requirement.

Mr. Homer said it would be fine as long as it wasn't a six-foot fencing requirement. He said he felt the City would find that most beekeepers wanted to be good neighbors. Mr. Homer said there were currently 41 registered beekeepers in Layton, and there hadn't been any problems.

Councilmember Brown expressed her concerns with children getting stung if they were allergic to bees. Swimming pools required a fence; chickens required a fence; there was a liability for homeowners.

Weston said that was reasonable. He said Staff could look at that before the ordinance was brought to the Council for approval.

Alex said it would be well for the presentation to be sent to the Council for review and then have additional discussion at a future meeting.

Weston said he would send the slide show presentation to the Council.

Councilmember Day said he had attended all of the Planning Commission meetings where this had been discussed. He said he felt that Staff and Mr. Homer had gone over all of these issues in detail and had come to the best conclusions possible.

REZONE REQUEST – FLINT/VAN DRIMMELEN – A (AGRICULTURE) TO R-S (RESIDENTIAL SUBURBAN) – APPROXIMATELY 150 NORTH 2200 WEST – ORDINANCE 15-18

This item was not discussed.

The meeting adjourned at 6:56 p.m.

Thieda Wellman, City Recorder