

**MINUTES OF LAYTON CITY
COUNCIL JOINT PLANNING
COMMISSION WORK MEETING**

NOVEMBER 19, 2015; 5:30 P.M.

**MAYOR AND COUNCILMEMBERS
PRESENT:**

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

**PLANNING COMMISSION MEMBERS
PRESENT:**

**DAWN FITZPATRICK, DAVE WEAVER, BRIAN
BODILY, TRICIA PILNY, WYNN HANSEN AND
DANIELA HARDING**

STAFF PRESENT:

**ALEX JENSEN, GARY CRANE, BILL WRIGHT,
PETER MATSON, JAMES “WOODY”
WOODRUFF, DAVID PRICE, JOELLEN GRADY
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.

AGENDA:

AMENDMENT TO TITLE 13 OF THE LAYTON MUNICIPAL CODE – ORDINANCE 15-34

Alex Jensen, City Manager, said Staff was in the process of doing a comprehensive review of Title 13, which mostly had to do with Public Works and engineering issues. He said the draft ordinance included in the packet identified proposed changes. Alex said Staff was not asking Council to do anything with this tonight, but it was provided to allow Council time to review the changes. He said it would be brought back on December 17th for consideration of approval.

**DRAFT UPDATES – LAYTON CITY PARKS, RECREATION, TRAILS, OPEN SPACE AND
CULTURAL FACILITIES MASTER PLAN**

David Price, Parks and Recreation Director, said Staff wanted to introduce the Parks Master Plan and allow Council time to make comments and recommendations. He turned the time over to the consultant, Mark Vlasic with Landmark Design.

Mr. Vlasic indicated that they had been working on this project since March. He expressed appreciation for Staff and the Parks Commission for their tireless work on this project. Mr. Vlasic indicated that the City’s Parks Master Plan had not been updated since 1982. He said the survey that was done last year was very helpful.

Mr. Vlasic reviewed key elements in the draft Master Plan. He indicated that the Plan would focus on the next 10 years and continue through build out. Mr. Vlasic reviewed key findings and special conditions within Layton City.

Councilmember Freitag asked if this draft was put together before the outcome of the RAMP tax was known.

Mr. Vlasic said yes; they didn’t know if the RAMP tax would pass or not. He said they would change the

language in the Plan to reflect those additional funds.

Mr. Vlasic reviewed demographic findings included in the Plan; Layton was one of the youngest communities in one of the youngest states. He indicated that this put a lot of demand on parks and recreation. Mr. Vlasic reviewed a map that showed existing parks and proposed parks and trails. He reviewed information about the various park types.

There was discussion about the City's relationship with the School District relative to shared facilities.

Mr. Vlasic indicated that a parks distribution analysis was done to identify gaps where there weren't sufficient parks available. There were 7 gap areas in the City; one large gap in the southwest area of the City. Mr. Vlasic explained ideas to fill the gaps.

Mr. Vlasic reviewed information about levels of service. He said the community had good access to parks, but the City would need 10 acres of additional parks to provide adequate level of service through build out. Mr. Vlasic reviewed information about open space; the City should continue to explore opportunities to acquire open space as they arise, particularly in areas contributed by development. He reviewed information about minimum park standards.

There was discussion about trash receptacles, wifi and lighting in parks.

Commissioner Daniela Harding suggested having lighting on in the parks for those that use them in the early morning.

Councilmember Brown said she assumed that residents that lived near parks would not want large bright lights on very late or early.

Mr. Vlasic reviewed park facilities and amenities; the City currently exceeded expectations in basketball, tennis, volleyball and playgrounds, but the City was lacking in some things such as soccer fields. He suggested improvements with pickle ball courts and water facilities. Mr. Vlasic said the City's recreation programs were very well run and the City had great cultural facilities with the amphitheater. He said with approval of the RAMP tax, the City should consider additional cultural facilities. Mr. Vlasic reviewed information about trails.

Mr. Vlasic reviewed key recommendations, including: 10 additional acres of park to fill today's gap; develop an additional 58 acres into usable park by 2025; develop an additional 63 acres into usable park by 2050; establish minimum standards for parks and upgrade current and future parks to meet those standards; focus on larger parks; and maintain cooperative partnerships with the School District as future sites became available. Mr. Vlasic said funding required to meet the 2025 needs, including the additional 10 acres of park property would be approximately \$11,000,000. To improve the trail system would be approximately \$3,600,000, and it would be approximately \$150,000 per year over the next 10 years to maintain existing parks.

Councilmember Freitag asked if this Plan was something to help review impact fees.

Mr. Vlasic said that was the next step in the process.

Gary Crane, City Attorney, said this was the first step in developing impact fees. He said the Council would ultimately make a decision on those fees.

CITY COUNCIL AND PLANNING COMMISSION DISCUSSION REGARDING HOMEOWNERS ASSOCIATIONS (HOA)

Gary Crane said the City was not an advocate of HOAs or any cooperative associations. He said HOAs were one of a number of tools a developer had when coming to the City to develop property. Gary said

the City required a developer to meet certain standards when developing within the City; the developer tried to provide private means of accommodating those standards. In a developer's bag of tools, he had a number of things he could ask for, including payback agreements or a return of impact fees if he had to put in facilities that were considered system improvements.

Gary said another tool developers used was the creation of CC&Rs. He said no city was a proponent of CC&Rs; that was a private agreement between the developer and homeowners. Many CC&Rs solved problems with complying with city ordinances.

Gary reviewed information about the City's concurrency ordinance. The concurrency ordinance required a developer to provide all utility services needed to make a development work. Often a developer would create an HOA in order to accomplish the requirements in the CC&Rs. Gary said Woody would explain some of the requirements that Layton City imposed on developers.

James "Woody" Woodruff, City Engineer, said one of the largest impacts to a development was storm water. He said they had to mitigate storm water coming off of the site, which could include piping to a regional detention basin. If a regional detention basin wasn't available, very often, especially with commercial development, they would do a small onsite detention basin. Woody said there were over 120 detention basins in Layton; about half of those were private. He said the City owned and maintained the public detention basins, and private detention basins were supposed to be maintained. Woody said the City had tried to keep those to a minimum and utilize larger regional basins. He said when developers looked at putting in miles of pipe to a regional basin, or installing a smaller basin within their development, it was often more economical for them to install a smaller basin. Woody said the City tried to balance what best fit a particular development.

Councilmember Petro asked if there was a ratio used to determine the size of a basin.

Woody said it was a mathematical calculation based on estimated run off. The larger basins were built for 100-year events; Layton had three 100-year events this year. Most problems were with basins not being maintained appropriately. Woody said there was limited capacity in the streams as well. He said the City tried to take a balanced approach in working with developers to try and help them be able to continue to develop land that was within the City.

Councilmember Day said with half of the basins being private, what criteria did the City use to determine if they were private or if the City would take them over.

Woody said if there was a smaller basin that was not on the Master Plan, or was an infill, most were required to be a private system. However, some of the developments had open space requirements that allowed for the ponds to be located in the open space. Woody said it was determined on a case by case basis, based on what infrastructure was available.

Commissioner Dawn Fitzpatrick asked how many private basins were in PRUDs.

Woody said most were in private commercial developments. He said he would guess that 20 to 30 percent were in PRUDs.

Commissioner Fitzpatrick said when there were adjacent developments and two separate developers, why was the City not planning ahead and having them utilize one basin; very often there were two detention basins across the street from each other.

Woody said a lot of it was driven by the developer and what land they purchased. Usually it was the component of how the property was developed. He said in many situations, the developer would come in before a regional detention basin had been planned.

Commissioner Fitzpatrick mentioned issues with many small detention basins in an area. She questioned

whether they were failing, as planners, in looking at the long range picture to make sure infrastructure was in place as subdivisions were being developed.

Alex Jensen said the problem was with the timing of development. The City couldn't ask a developer to sacrifice three or four building lots to build a larger basin in anticipation of adjacent property developing when it could be 10 or 20 years before the adjacent property developed. Alex said you couldn't come in after a subdivision developed, and take a home out, to accommodate a larger basin. He said many years ago the City required all development to go into a regional detention basin; developers weren't given the option of building small detention basins. Alex said it became very unpopular with developers because they didn't feel they should have to run miles of pipe to get to a detention basin when they could develop a basin on their own property and do it for half the cost.

Alex said as pressure came from developers, the City tried to strike a balance. If a regional detention basin was reasonably available, developers were required to do that. He said the City wouldn't create an undo financial burden on developers if they could accommodate detention themselves. Alex said if developers chose to do that, there were conditions associated with it; they had to install the detention basin and maintain it. He said when making that determination, developers often developed an HOA because they didn't want to have to maintain a detention basin for the next 20 or 30 years; they passed it along to the homeowners. When homeowners purchased lots, they knew or should know that they were buying into a financial responsibility. Alex said the City had almost come full circle on this; there had to be a balance with the interests of developers and the interests of the homeowners.

Councilmember Day said to a large extent the decision was up to the developer with what they wanted to do.

Alex said as long as it met the City's standards.

Gary mentioned Harmony Place where multiple developers came together and agreed to develop a basin that would serve multiple developments. He said this was beneficial for the City.

Commissioner Fitzpatrick said Harmony Place was a PRUD development and they were able to use the detention basin as part of their open space calculation for density. She said there was no benefit to a developer in a private subdivision.

Alex said in the development where Commissioner Fitzpatrick lived, the developer had the choice of putting in a big pipe and tying into Layton Parkway. He said it would have cost the developer a lot more money to do that. The developer made the decision to sacrifice a couple of lots, put in a small detention basin, and develop an HOA to maintain the basin. It was simply a financial decision.

Commissioner Fitzpatrick said the development across the street was built at the same time. Now there were two smaller basins across the street from each other. As planners, couldn't they look at that becoming one basin?

Mayor Stevenson said developers would do whatever was most economical for them to do. The City allowed options and if developers wanted to work together that was acceptable.

Councilmember Petro said going forward, did it seem that the City should require fewer small basins and require developers to access larger regional basins.

Woody said it depended on the location.

Council and Staff discussed development in various areas of the City and access to larger detention basins.

Gary explained how the City worked with developers when it was possible to build larger detention

basins that would benefit future development in the area. He said the decision was made by the City and the developer, and it had to be fair to both. Gary said caught in the middle of that were individuals that were in subdivisions with HOAs. He said an HOA was simple for the developer to put in place, and they liked that tool because it allowed for them to place a lien on the property if the property owner didn't pay.

Gary mentioned conversations he had with other land use attorneys to come up with a way to resolve issues with liability insurance and HOAs; possibly legislation to allow for mini HOAs. He mentioned issues with homeowners not being aware of the financial burden with HOAs, and possibly requiring the developer to file notice against each lot. Gary said ultimately it was the developer who decided what type of entity to set up, not the City.

Commissioner Harding said if an HOA wasn't maintaining a detention basin, who was the governing body over the HOA; was it the City.

Gary said in most cases the City was not a part of the CC&Rs that governed an HOA. He said in a couple of instances the City had made itself a part of the CC&Rs, but that hadn't worked very well. Gary said it didn't make the City primarily responsible; the homeowners were primarily responsible for enforcing their CC&Rs.

Bridget Girrard, Parks & Recreation Commissioner, asked if the developer remained a part of the HOA.

Gary said they were usually involved until about 75% of the lots were sold.

Commissioner Fitzpatrick said a developer couldn't be involved in the HOA after 7 years.

Gary said some developers would usually turn the HOA over to the homeowners before that time.

Gary said the City wanted to stay away, as much as possible, from the liabilities associated with private subdivisions, and maintaining those improvements.

Commissioner Fitzpatrick said when the HOA took over from the developer, if there was any infrastructure or equipment that was not functioning, was there any protection or anything the City could do to make sure the infrastructure was functioning correctly, such as holding the development bond. She asked what protection the City could provide to the HOA to make sure they were not taking over a defunct HOA; they took over an HOA that was \$2,200 in debt. Commissioner Fitzpatrick said there had to be some protection for the citizens, especially with infrastructure.

Gary said if the City became the boss of every HOA in the City, it would be a very expensive proposition. He said the City would then become the insurance company for every private improvement or utility the developer put into the subdivision. Gary said the best thing the City could do would be to place a notice against the property and have the individuals do their due diligence.

Commissioner Fitzpatrick again mentioned the situation in her development; shouldn't there be some protection for the homeowners if the infrastructure was faulty.

Alex said all of the infrastructure should be inspected by the City. He said private subdivision infrastructure was held to the same standard as public infrastructure. Alex said the developer was on the hook for at least one year after the infrastructure was installed. He said if there was a situation where the inspection was done incorrectly or if there was deception on the part of the developer, the City would go back to that developer, whether it was one year or three years, and get it resolved. Alex said if the infrastructure was installed correctly and something happened later on, the City would work with the HOA to resolve the issue.

Gary said State law allowed the City to take a bond for one year to guarantee improvements. After that time the City accepted the improvements. Gary said as years past, if there were problems where

infrastructure was installed incorrectly, the City would go after the developer, but 90% of the time the developer wasn't around any longer. He said if there were problems after the one year period, the City would repair anything to the curb.

Mayor Stevenson asked what the problem was with the detention basin in Commissioner Fitzpatrick's development.

Commissioner Fitzpatrick said there was construction debris in the basin that had never been inspected during the final inspection process for the subdivision.

Woody said debris could have gotten into the basin through the street storm drains; it was a maintenance issue. He said the City was on the hook to maintain and clean the structure.

Commissioner Fitzpatrick said there was some misunderstanding when the flooding happened in her development. They were initially told that they were responsible for cleaning and maintaining the basin; they didn't have the equipment or ability to do that.

Gary said if the infrastructure was functioning as part of the City's utility system, the City would take an easement over it and be responsible for that function. The City wasn't responsible for cutting the grass or maintaining the sprinkler system, but it was responsible for anything having to do with the storm drain system.

Gary said he would take some of these questions back for discussion this summer at the LUDMA meeting.

DRAFT UPDATE – LAYTON CITY DRAFT IMPACT FEE ANALYSIS FOR PARKS, TRAILS AND RECREATION AND LAYTON CITY DRAFT IMPACT FEE FACILITIES PLAN FOR PARKS, TRAILS AND RECREATION

Susie Becker, with Zions Bank, indicated that they were working in tandem with the Parks Master Plan process to develop impact fees. She said they would work very closely with Gary Crane to make sure the impact fees were legally defensible. Ms. Becker indicated that the process included an impact fee facilities plan and an impact fee analysis. By law the impact fee facilities plan had to have five components. The City had to identify the existing level of service and the proposed level of service; if it was higher the City was currently deficient; if it was lower the City had excess capacity. The City had to show demand created by new development and how that demand would be met. The City had to identify the cost for facilities over the next 6 to 10 years.

Ms. Becker reviewed information about service levels and how the information was used to determine cost. She said they had not yet determined a current impact fee.

Councilmember Brown asked if impact fees could cover new buildings and improvements to existing parks facilities, but not maintenance.

Ms. Becker said that was correct; it had to be capital costs.

MAYOR'S REPORT

Mayor Stevenson expressed appreciation to the Planning Commission.

Mayor Stevenson said in a meeting yesterday with IHC, they announced that they were not going to build the surgical center; they would build a 300,000 square-foot hospital. He said 100,000 square feet would be medical offices similar to what was in McKay Dee Hospital; 220,000 square feet would be a community hospital. Mayor Stevenson said they would begin with 36 in-patient beds, four operating rooms, and the hospital would provide birthing services and emergency services. He said the hospital was

expected to open in early 2018; they hoped to start construction this spring.

Mayor Stevenson said it was anticipated that the hospital would create 600 jobs. He said there would be a helipad; there wouldn't be a helicopter assigned to the hospital, but it would accommodate helicopter landings. Mayor Stevenson said there would be a Primary Children's component to the hospital. He said this was great news for the City.

The meeting adjourned at 7:01 p.m.

Thieda Wellman, City Recorder