

**MINUTES OF LAYTON CITY
COUNCIL MEETING**

MAY 15, 2014; 7:03 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,
JAMES (WOODY) WOODRUFF, BRANDON
RYPHEN, TERRY COBURN 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. Richard Allen gave the invocation. Scouts and students were welcomed.

MINUTES:

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

**Layton City Council Meeting – April 17, 2014;
Layton City Council Work Meeting – May 1, 2014; and
Layton City Council Meeting – May 1, 2014.**

The vote was unanimous to approve the minutes as written.

MUNICIPAL EVENT ANNOUNCEMENTS:

Councilmember Brown said upcoming Family Recreation program activities included golf at Swan Lakes Golf Course this Monday from 4:00 p.m. to 8:00 p.m. She said there would be reduced prices for everything including food.

Councilmember Brown said on May 31st the City would be initiating a new program, “Go and Play.” She said there would be activities at Ellison Park for elementary age students and it would continue throughout the summer.

Councilmember Brown said June 7th was free fishing day in the State. She said there would be activities at Andy Adams Pond beginning at 10:00 a.m.

Councilmember Brown said the Splash Pad would open on Memorial Day weekend.

CONSENT AGENDA:

**INTERLOCAL COOPERATION AGREEMENT WITH DAVIS COUNTY FOR ANIMAL
CONTROL SERVICES – RESOLUTION 14-16**

Alex Jensen, City Manager, said Resolution 14-16 was a proposed agreement with Davis County for the provision of animal control services. He said many years ago the City found that it was more cost effective to contract with the County for these services. Alex said the contract was the same as in the past; the fees were based on the City’s percentage of calls relative to the total number of calls among the other cities in the County. He said in addition, the City was charged \$25.75 per call for nuisance animals. Alex said for 2014 the City would pay \$145,191 for animal control services and \$9,167 for nuisance animals. He said Staff

recommended approval.

Councilmember Petro asked if there had been an increase in wild animal calls.

Alex said it continued to grow.

Mayor Stevenson said a citizen had asked him about a fox that had been eating their chickens. He said they had called animal control and was told that if they were in a more rural area they had the right to protect their livestock. Mayor Stevenson asked Gary Crane to expound on that.

Gary Crane, City Attorney, said you could protect your livestock; probably the best way to protect your livestock was to trap the animals. He said the discharge of firearms was not allowed within the City limits.

Mayor Stevenson said animal control had indicated that it was very difficult to trap a fox. He said animal control had alluded to the fact that it was legal to discharge a firearm if you were protecting your livestock within the City.

Gary said he would look that up in the Municipal Code.

Councilmember Brown said the City had set ordinances relative to pets. Recently the County had indicated that people should be able to have three dogs if one came from a shelter, but Layton City's ordinance indicated no more than two dogs. She said the City's ordinance was the one the County enforced in the City.

Alex said that was correct. He said for ease of enforcement the County encouraged every city to be on the same page, but when there were differences they were mindful of that and enforced the City's ordinance.

PETITION FOR ALLOTMENT OF TREATED WATER WITH WEBER BASIN WATER CONSERVANCY DISTRICT FOR THE TREATMENT AND DELIVERY OF WATER – RESOLUTION 14-21

Terry Coburn, Public Works Director, said Resolution 14-21 authorized the execution of a contract with Weber Basin Water Conservancy District to treat and deliver an additional 84 acre-feet of drinking water to the Layton City water system. Terry said the additional water being petitioned was from the allotment of 1,202 acre-feet recently purchased through the tri-lateral agreement in 2012. He said the petition to treat and deliver additional water was necessary to satisfy contract obligations resulting from a contract coverage of 84 acre-feet in 2013. Terry said the cost for the additional water was \$167.50 per acre-foot for a total of \$14,070. He said Staff recommended approval.

Mayor Stevenson asked if this was due to the increased size of the City.

Terry said maybe partially. He said the City actually helped Weber Basin when they were replacing a waterline, which ran through the City's boundaries. Terry said Layton City actually helped supply water to Kaysville City during the construction of that line, which was also a factor in the overage. He said the City reminded Weber Basin of the favor the City did for them, but they politely indicated that the City needed to pay the overage. Terry said the City politely told Weber Basin that on their next project they would be paying the fees to cut the City's road; the City would remember this.

BID AWARD – KAPP CONSTRUCTION – CHERRY LANE WATERLINE CONSTRUCTION – CHERRY LANE FROM APPROXIMATELY OAKRIDGE DRIVE TO HIGHWAY 89 – RESOLUTION 14-29

Terry Coburn said Resolution 14-29 authorized the execution of an agreement with Kapp Construction for the Cherry Lane waterline construction project. Terry said the project included the construction of approximately 2,200 lineal feet of 10-inch and 1,200 lineal feet of 8-inch water main piping, and all associated items for a fully functioning system. He said the project would replace deteriorated waterline in

Cherry Lane from Oakridge Drive to Highway 89; upgrade the waterline in Evergreen Street, which currently did not meet fire flow requirements; and add curb and gutter to the north side of Cherry Lane between 2800 East and Highway 89. Terry said three bids were received with Kapp Construction submitting the lowest responsive, responsible bid of \$451,477.65; the engineer's estimate was \$420,000. He said Staff recommended approval.

Councilmember Freitag asked if this was funded in the current year budget.

Terry said yes.

Councilmember Brown said this went in front of East Layton Elementary. She asked if the project would be completed while school was out this summer.

Terry said yes.

COMPENSATION FOR MEMBERS OF THE PLANNING COMMISSION – RESOLUTION 14-27

Bill Wright, Community and Economic Development Director, said this was initiated by Mayor Stevenson as he asked Staff to research the level of compensation provided to the Planning Commission. He said under the City Code, the Planning Commission members may be compensated as provided by State law. Bill said for several years the Commissioners had been compensated \$25 per meeting attended. He said this was one of the lowest in the area. Bill said the Mayor and Staff recommended an increase to \$40 per meeting attended.

Councilmember Brown said there were two meetings a month; were they compensated for special meetings.

Bill said in the past they had not been compensated for extra meetings, but that could be a recommendation of the Council.

Councilmember Francis said he thought that that would be a good idea.

Councilmember Brown asked if alternate members were compensated for attending meetings.

Bill said yes.

Mayor Stevenson said if anyone followed what the Planning Commission did, they would realize it involved more than attending a meeting on Tuesday night. He said the Commissioners had to do research and often visit sites. Mayor Stevenson said if the Commissioners were being asked to attend additional meetings, he felt that they should be compensated.

RIGHT OF WAY AND EASEMENT GRANT AGREEMENT – QUESTAR GAS COMPANY – UTOPIA HUT SITE AT 2140 W. HILL FIELD ROAD (FIRE STATION 51) – RESOLUTION 14-28

Bill Wright said Resolution 14-28 was similar to previous easement agreements with Questar Gas for access to UTOPIA hut sites in order to run service lines for backup generators. He said this UTOPIA site was located near Fire Station 51 at 2140 West Hill Field Road. Bill identified the property on a map and the location of the easement. He said Staff recommended approval.

Gary Crane said relative to the discussion on nuisance animals, there were a number of references in State Code about being able to discharge a firearm to protect livestock. He said the City had not made that exception in City Code, however, if the animal was caught in a cage, it could be dispatched with permission from the Police Department.

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

PUBLIC HEARINGS:

REZONE REQUEST – PETER ALEX – A (AGRICULTURE) TO R-1-8 (SINGLE FAMILY RESIDENTIAL) – APPROXIMATELY 2400 WEST 1125 NORTH – ORDINANCE 14-06

Bill Wright said this was a rezone request from the property owner, Peter Alex, for property located at approximately 2400 West 1125 North. He said the property was currently zoned agriculture; the request was to rezone the property to R-1-8. Bill said the property contained a little over 8/10 of an acre. He displayed a map of the property and indicated that subdivisions surround the property. Bill said the General Plan designated the property as single family residential and the rezone was consistent with the General Plan. He said the Planning Commission recommended approval and Staff supported that recommendation.

Councilmember Brown said because this was being zoned R-1-8, even though it was a large lot, they could not have horses.

Bill said no, but they could have chickens.

Councilmember Day asked if the applicants were aware of the limitation on the animals; why were they not requesting the RS zone.

Bill said they requested the R-1-8; he wasn't sure why they didn't request the RS zone.

Mayor Stevenson opened the meeting for public input.

Dawn Fitzpatrick, 451 South Trailside Drive, said that same question came up at the Planning Commission meeting. She said they were told that if the lot sold, a future buyer could request the RS zone because the size of the lot was compatible with the RS zone.

Bill said that was correct.

MOTION: Councilmember Brown moved to close the public hearing and approve the rezone request, Ordinance 14-06. Councilmember Day seconded the motion, which passed unanimously.

STREET CONVERSION REQUEST – CANDLEWOOD ESTATES PRIVATE SUBDIVISION – APPROXIMATELY 1100 SOUTH WEST SIDE DRIVE – RESOLUTION 14-30

Bill Wright said Resolution 14-30 was a request by the Candlewood Estates Homeowners Association (HOA), which was a private subdivision, located at approximately 1100 South West Side Drive. He said the request was for a street conversion and utility conversion from private to a public. Bill said the subdivision was approved in the early part of 2000, but because of an existing home that set the stage for the street design, the street width did not meet the City's subdivision ordinance requirement of a 58-foot right of way for a cul-de-sac to be a public street. He said a 58-foot right of way was not possible in the design of the subdivision to accommodate the existing home and the depth of the property. Bill said the developer went with a 50-foot right of way and a private subdivision.

Bill said since the subdivision was built, the City's subdivision code had been changed to allow for a 50-foot right of way on a cul-de-sac with 10 or fewer lots. He said under today's standard this road would meet the City's requirements for a public street. Bill said with that in mind, the HOA had researched what it would take to have the road be a public road, which involved a lot of inspections by the City Engineer and City Inspectors. He said they reviewed how the road was built and how it had been maintained. Bill said the City Engineer concluded that all of the public street standards could be met; that it would be reasonable for this to be considered by the Council for a conversion from a private street to a public street. He said the Code required a public hearing for the conversion. He said Staff recommended approval of the conversion to a public street.

Councilmember Petro asked if street lighting would be required.

Bill said if it was converted to a public street it would follow the standards for lighting on a cul-de-sac. He said in this case it would likely be only one light at the back portion of the cul-de-sac. Bill said it would fall under the standards of installing the light in the future.

Mayor Stevenson asked if there were any street lights there now.

Bill said no. He said there were other situations in the City that didn't have street lights.

Councilmember Petro said if this was approved tonight, would the City be responsible for installing the street light.

Bill said yes, at some point in the future.

Councilmember Brown said she counted 11 homes on the cul-de-sac; she assumed one didn't count because the driveway faced West Side Drive.

Bill said that was correct; it wasn't located on the cul-de-sac.

Councilmember Brown said it looked like there was only sidewalk on one side of the street.

Bill said that was correct; that was allowed under the public standards with cause. He said the cause was that the sidewalk would have encroached on the existing home on the south side of the street.

Councilmember Day asked how common this type of request was.

Bill said in his six years with the City it had been requested 3 or 4 times; this was the only one that had met the standards to come to the Council.

Councilmember Day said it would be the responsibility of the HOA to maintain and plow the road if it wasn't a public road.

Bill said this subdivision was not approved as a planned unit development in order to gain a density bonus. He said if that were the case, it was not likely that the Staff would recommend the change because there would have been a specific benefit gained by putting in a private road.

Councilmember Day said back to Councilmember Petro's question, there was quite a punch list of items involved in this. He asked why the lighting wasn't addressed.

James (Woody) Woodruff, City Engineer, said they didn't evaluate the lighting; that was an error on the City's part and should probably be discussed with the HOA. Woody said there could potentially be 1 or 2 lights.

Councilmember Day said his understanding was that lighting was a priority in the City and it should be looked at.

Councilmember Brown said if a light was required; what would the cost be for the HOA.

Woody said a residential light would be approximately \$2,000, as long as there was a power box that it could be connected into.

Councilmember Day said he would like to hear from the home owners on the lights.

Councilmember Brown said because this was a private street the home owners were currently paying for

upkeep of the road and snow removal.

Woody said that was correct.

Councilmember Francis asked about the underground utilities.

Woody said currently there was a master meter on West Side Drive; that would be removed and each homeowner would have an individual meter. He said a North Davis Sewer District trunk line currently ran through the subdivision and would be relocated into the power line corridor. Woody said a new sewer line would be run into the subdivision. He said the home owners had been informed that the City wanted these improvements completed before the subdivision would be accepted.

Mayor Stevenson opened the meeting for public input.

Braun Bennett, 1100 South 1695 West, said to address the question regarding the lighting, they had discussed purchasing their own lighting in the past. He said they would be willing to pay for that if it was necessary. Mr. Bennett said they had been paying the monthly lighting fee since it had been initiated by the City and hadn't benefitted from that.

Councilmember Brown said everyone in the City paid the street light fee, and there were many areas that didn't have street lights installed yet.

Lari Frandsen, 1091 West Side Drive, said their home faced the main road and not the cul-de-sac. She said when they purchased their home they were told that they would pay a \$20 per month HOA fee; \$10 of that fee would be for administrative costs and the other \$10 would be for the common area, which they were later told was a strip of rocks that ran along the south end of the street. Ms. Frandsen said it was their understanding that Iron Horse Investments would manage the HOA, but they were later informed that the HOA was being turned over to the homeowners. She said at that time there were only 5 occupied lots and none of the residents had any experience in managing an HOA. Ms. Frandsen said they learned that there were several problems with the HOA, including that there were no bylaws, lots did not have water meters, each home was billed by acreage creating a very inaccurate billing system, the maintenance of the private road and water system was left up to the homeowners to manage, and a fence that was to be erected by Iron Horse Investments was not done. She said as a Layton City resident, they had paid the same taxes as other citizens but did not receive the same services.

Ms. Frandsen said in addition to the problems previously mentioned, they recently discovered that their water was never connected to the HOA water. In October 2013 the City turned off the water for all the homes in the subdivision due to a water main break in the HOA, but their water supply was not affected. She said it wasn't until January 2014 that they became aware that their water was never connected to the HOA water system, but was instead connected to the City's waterline. Ms. Frandsen said they had been paying a monthly water bill to the HOA when they should have been paying it to the City. She said the problem had since been resolved, but this was an example of how the City failed to insure that the development was properly set up by Iron Horse Investments.

Ms. Frandsen said even though their home faces onto West Side Drive they were included in the boundaries of the HOA and were still paying for snow removal and maintenance of the road and water systems, but they received no direct benefit. Ms. Frandsen asked the City to dissolve the HOA and incorporate the subdivision into the City.

Councilmember Day asked what the process was for dissolving an HOA.

Gary said it depended on the rules in the CC&Rs, but it typically required a unanimous vote of the HOA. He said it really had nothing to do with the City; the City could not dissolve an HOA.

Councilmember Day said if they voted to do that, what would the City's responsibility or process be.

Gary said that process was a private process, an agreement between private individuals; they could take away the HOA but they couldn't take away the responsibility for things such as repairing the street unless or until the City took over the street.

Councilmember Francis said Ms. Frandsen stated that the City hadn't insured the correct development process in this instance. He asked if the City was derelict in its duties.

Gary said he hadn't looked at this specific subdivision, but typically the City required a subdivision bond for onsite and offsite improvements, and that bond was in place until an inspection took place by the City. He said once that inspection was completed, the bond was released. Gary said there was a one year warranty period where 10% of the bond was held back in case there were problems that arose, but if nothing was reported or nothing occurred, that 10% was released at the conclusion of another year. Gary said he presumed that this subdivision went through that process.

Councilmember Francis asked if that were the case with a private subdivision.

Gary said yes.

Brad Eggleston, 1117 West Side Drive, said his home was located on the south side of the cul-de-sac but was not part of the HOA. He asked what would happen to the utility easement that was located in the strip of rocks along the side of his home if the City took over the street. Mr. Eggleston identified the area on a map. He said the rock strip was a nuisance to his yard.

Mayor Stevenson said just because the road would come to the City, the HOA would still be responsible for the common area.

Councilmember Day asked if that strip of property would be part of the street right of way.

Bill said that was something that would need to be decided. He said if it was part of the right of way it would need to be deeded to the City, but if it remained a part of the common area, the HOA would still be responsible for it.

Braun Bennett said in order for the City to take over the subdivision, that would be deeded to the City. He said the utilities were located in that area.

Gary said typically the way that streets were dedicated to the City was one foot behind the sidewalks. He said the City required the abutting property owner to maintain the park strips.

Bill said in this instance the sidewalk was abutting the roadway and there wasn't a park strip. He said he thought that that would be a detail that would need to be decided based on the right of way width, which needed to be 50 feet in order for it to be a public street. Bill said he thought the homeowner was requesting that the gravel area become a grass surface instead of gravel.

Councilmember Day said based on what Gary stated, the responsibility would be placed on that homeowner.

Bill said that was correct; it would shift from the HOA to the home having side frontage on a public street.

Mr. Eggleston said he currently plowed that sidewalk, but he would rather have grass that could be mowed instead of the nuisance of the gravel.

Gary said one way to resolve that issue would be for the HOA, while they still owed the property, to convey it to the homeowner. He said the City didn't want to accept responsibility for that unless there were utilities under it, and then there was an easement the City may be responsible for.

Councilmember Brown said that could be added to the punch list requiring the HOA to remove the rocks and install grass in that area.

Bill said yes.

MOTION: Councilmember Freitag moved to suspend the public hearing and table this to the June 5, 2014, meeting, to allow Staff time to look at the lighting issues and the gravel area as discussed. Councilmember Francis seconded the motion.

Mr. Bennett asked if it was necessary to table this for these issues.

Councilmember Freitag said those issues needed to be worked out before it was approved; this was a better option than it being denied.

VOTE: The motion passed unanimously.

The meeting adjourned at 8:06 p.m.

Thieda Wellman, City Recorder