

**MINUTES OF LAYTON CITY  
COUNCIL MEETING**

**JUNE 2, 2016; 7:00 P.M.**

**MAYOR AND COUNCILMEMBERS  
PRESENT:**

**MAYOR BOB STEVENSON, JOYCE BROWN,  
BRUCE DAVIS, TOM DAY AND JOY PETRO**

**ABSENT:**

**SCOTT FREITAG**

**STAFF PRESENT:**

**GARY CRANE, BILL WRIGHT, ALLEN  
SWANSON, PETER MATSON 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. Kent Smith gave the invocation. Scouts and students were welcomed.

Mayor Stevenson indicated that Mr. Smith was on the Council during the 1980's. He expressed appreciation to Mr. Smith for moving the City forward.

**MUNICIPAL EVENT ANNOUNCEMENTS:**

Councilmember Brown said this Saturday Go 'n Play Day would be held at Ellison Park for elementary aged children. She said the program encouraged children to get outside and play.

Councilmember Petro said the free Sunday concerts would begin this Sunday at the amphitheater.

Councilmember Brown said the July 24th celebration would be held on the 23rd this year; the 24th fell on a Sunday.

Councilmember Petro said a new program would begin this year; an all human electric light parade. She said anyone could be involved; at the end of parade there would be free food and entertainment.

Mayor Stevenson said the Council would be handing out glow sticks during the parade.

Mayor Stevenson said the City received very little press coverage. He asked everyone to share this information on Facebook to get the word out to the public.

Mayor Stevenson mentioned issues with the fireworks finale at the July 4th celebration last year. He said this year the fireworks display would begin with last year's finale; it would be the best fireworks display in the State.

**PRESENTATIONS:**

**WASTE MANAGEMENT**

Beth Holbrook indicated that she was here this evening on behalf of Waste Management to honor the Davis Education Foundation. Ms. Holbrook said Waste Management had an opportunity last year to start recycling in Layton City. She said they wanted to come up with some unique ideas to get residents involved in recycling. They developed a sign up program through the Davis Education Foundation; for anyone that signed up for recycling services in Layton they would donate \$10 per account. Ms. Holbrook said this evening they were presenting a check to the Davis Education Foundation for \$2,730; 273 Layton residents signed up for recycling services from March 1st through the end of April. She expressed appreciation to the City for the opportunity to provide recycling services to the residents.

Sherrri Miggin with the Davis Education Foundation expressed appreciation for their partnership with Waste Management to bring more resources to classrooms. She thanked the City for doing great things to help kids.

### **POLICE AWARDS**

Allen Swanson, Police Chief, thanked the Mayor and Council for allowing time to present these awards. Allen said when officers performed above and beyond the call of duty the City liked to recognize those officers in a public setting.

Allen read a citation and recognized Officers Petre, Derrick, Moreno and Criddle for saving the life of a young female. He presented the officers with the Life Saving Medal.

Allen read a citation and recognized Officers Bobrowski, Smith and Weekes for saving the life of a young suicide victim. He presented the officers with the Life Saving Medal.

Allen read a citation and recognized Officers Blymiller and Corbin for saving the life of a young suicide victim. He presented Officer Blymiller with the Life Saving Medal. Officer Corbin was not in attendance.

Allen read a citation and recognized Officer Parkin for saving the life of a child trying to escape from a fire. He presented Officer Parkin with the Police Star Medal.

Allen thanked the Mayor and Council for their time and support.

Mayor Stevenson expressed appreciation to the Police and Fire Departments for all they did to protect the citizens of Layton.

### **CITIZEN COMMENTS:**

Andrew Smith, 556 North Fairfield, said he was representing A to B Taxi Service. Mr. Smith indicated that he would recommend changing the City's business licensing procedures to require taxi businesses to provide one million dollars of commercial insurance in order to provide services in the community. He said most taxi businesses did not have adequate insurance to protect the public.

Mayor Stevenson asked if this was directed at services such as Uber.

Mr. Smith said he couldn't speak to Uber, but there were two licensed cab services in Layton; he was one of those services and he could provide proof of commercial insurance. He said he didn't think other cab services had commercial insurance because they were driving personal vehicles.

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

Sherry Tatton, 1032 West 500 South, expressed concerns with parking near her business and the recently approved church where there was no parking available. She indicated that wires to her security camera had been cut and a \$5,000 camera was destroyed. This was what happened when you tried to protect your property. She didn't want people trespassing onto her property.

Mayor Stevenson said he had a conversation with Ms. Tatton yesterday where he indicated that he would look into some of the issues she raised. He said relative to the right of way behind the buildings, he had asked Mr. Crane to look into that.

Gary Crane said he researched to see who owned the easement behind the buildings; there seemed to be a conflict with the new use. He said the alley behind the buildings had been used probably since the buildings were constructed to access all of the buildings. Gary said Mr. Day had a warranty deed for the underlying fee for the property. There seemed to be a conflict because in 2001 a half interest in that same property was

conveyed to the Tattons. Gary said the bottom line was that the area had been used for a right of way for a very, very long time. He said there were a number of individuals that seemed to have written permission to be on the property, and until that written permission was removed they had the right to access that property. The only one that could remove that right would be a judge. Gary said the Days did have four parking spaces directly behind their building that was part of their underlying property. He said there had been a continual use of the access.

Mayor Stevenson said he could remember using that lane as a kid. He asked if anyone could use the lane; marking it as a private lane couldn't stop anyone from using it.

Gary said that was correct; all that was required to make it a public prescriptive right was continuous public use over time.

Mayor Stevenson said relative to Ms. Tatton's parking, on-street parking was available for anyone. He said the Police Department was working on the vandalism issue.

There was additional conversation back and forth between Mayor Stevenson and Ms. Tatton about the lane being used by the public, and ownership of the lane.

Gary said there were two issues; the prescriptive issue was clear. The other wasn't even an issue, relative to who owns the property. Gary said Ms. Tatton could have a title search done on the property, but it really wouldn't make a lot of difference since the road had been used for public use for the prescriptive time period. Even if Ms. Tatton owned half of the lane, she couldn't prohibit anybody from using it from this time into the future, unless a judge told her that she could.

#### **CONSENT AGENDA:**

#### **INTERLOCAL COOPERATION AGREEMENT FOR ANIMAL SERVICES WITH DAVIS COUNTY – RESOLUTION 16-39**

Gary Crane said Resolution 16-39 was an interlocal cooperative agreement with Davis County for animal control services. The County provided animal control services for most cities in the County. The County had been inundated with costs and with a need to update their facility. Gary said the agreement included some major changes. The cities would be more involved in making decisions with the creation of a board that would include city managers from two cities in the County. He said capital costs to improve the facility would be included in the agreement; and costs would be shared 50/50 between the cities and County for animal control. Wild animal collection would remain the same, and the capital improvement costs were added to the contract. Gary said the City's share of animal control costs for the current year was \$187,000, wild animal costs were \$12,500 and the City's portion of the capital improvement costs was \$15,200. He said the services provided would be similar to the past. Gary said Staff recommended approval.

#### **ON-PREMISE CLUB LIQUOR LICENSE – THE DO DROP INN – 2971 NORTH HILL FIELD ROAD**

Bill Wright, Community and Economic Development Director, said this was an on-premise club liquor license for the Do Drop Inn located at 2971 North Hill Field Road. He said there had been an ownership change, which required a new license. Bill said the Do Drop Inn had been at this location since 1971. He indicated that the location had legal non-conforming rights at this location since that time, and the location met all buffer requirements. Bill said background checks had been approved by the Police Department. He said Staff recommended approval.

#### **ON-PREMISE BEER RETAILER LICENSE – JNL PLUS CAFÉ, INC. – 2501 EAST GENTILE STREET**

Bill Wright said this was an on-premise beer retailer license for JNL Plus Café located within the Valley

View Golf Course. Bill said there had been an ownership/management change, which required a new license. The location met all buffer requirements and background checks had been approved by the Police Department. He said Staff recommended approval.

**PARCEL SPLIT – MAGIC WASH CAR WASH – NORTHEAST CORNER OF ANTELOPE DRIVE AND 2200 WEST**

Bill Wright said this was a parcel split request for property located on the corner of Antelope Drive and 2200 West. The applicant wanted to develop vacant property on the corner for a car wash. Bill said the Planning Commission reviewed the conditional use for the car wash on May 10th and granted approval, and they reviewed the parcel split. The parcel split would leave 30 feet along the northern portion to allow for access to any businesses that would be developed on the remaining vacant property. Bill said the Planning Commission recommended approval and Staff supported that recommendation.

**FINAL PLAT – FLINT FIELDS SUBDIVISION, PHASE 2 – APPROXIMATELY 150 NORTH 2200 WEST**

Bill Wright said this was final plat approval for the Flint Fields Subdivision, Phase 2, located at approximately 150 North 2200 West. The Planning Commission approved the preliminary plat in November 2015. Phase 1 was approved earlier and was under construction. Bill said Phase 2 included 14 lots and met all requirements of the zone. He indicated that Lot 214 would front onto 2200 West, which was a collector street, and would require a circular or hammerhead driveway to allow for front movement onto 2200 West. Bill said the applicants were Ed Green and Bryce Thurgood. He said the Planning Commission reviewed this final plat on May 24th and recommended approval. Staff supported that recommendation.

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

**PUBLIC HEARINGS:**

**AMENDED FINAL PLAT – DAWSON HOLLOW ESTATES PLAT D, AMENDING LOTS 317 AND 318 OF DAWSON HOLLOW ESTATES PLAT C – 2439 EAST KAYS CREEK DRIVE**

Bill Wright said this was an amended final plat for Dawson Hollow Estates Plat D, amending lots 317 and 318 of Plat C that was located at 2439 East Kays Creek Drive. He said the two lots were vacant with the exception of a barn. The applicant wanted to combine the lots to allow for construction of a single family home and to preserve the existing barn on the property. Bill said the new lot would be 1.01 acres in an R-1-10 zone. He said the property would require a geotechnical soils report before constructing any new structures. Bill said the Planning Commission recommended approval and Staff supported that recommendation.

**Mayor Stevenson opened the meeting for public input.** None was given.

**MOTION:** Councilmember Brown moved to close the public hearing and approve the amended final plat as presented. Councilmember Day seconded the motion, which passed unanimously.

**REZONE REQUEST – H. BRUCE ALLGOOD – R-1-10 TO R-1-6 – APPROXIMATELY 240 SOUTH 975 EAST – ORDINANCE 16-07**

Bill Wright said this was a rezone request from Bruce Allgood for property located at approximately 240 South 975 East. The property was currently zoned R-1-10 and the request was to rezone the property to R-1-6. The rezone request was to accommodate the ability to build a single family home on a parcel of property that had been created by the selling of the northern portion of the property on the north side of the creek. Bill said the applicant was requesting that the portion to the south of the creek, which met the requirements of the R-1-6 zone, be rezoned to accommodate a single family home.

Bill said the property had a flood plain for the creek. He said there were some questions about there being enough buildable area on the property with the flood plain. Bill displayed a map of the area and indicated that there was sufficient buildable area to accommodate a home. He said the property was at the edge of a transition of zoning from the R-1-10 to R-1-6 zoning; the proposal was compatible with the surrounding area and the General Plan for the area. Bill said the Planning Commission recommended approval and Staff supported that recommendation.

Councilmember Brown said this didn't need to be a flag lot because it fronted the other two streets that would accommodate a driveway.

Bill said that was correct.

**Mayor Stevenson opened the meeting for public input.** None was given.

**MOTION:** Councilmember Petro moved to close the public hearing and approve the rezone request as presented, Ordinance 16-07. Councilmember Davis seconded the motion, which passed unanimously.

**AMENDED FINAL PLAT – HOLMES CREEK ESTATES SUBDIVISION LOT 34 – 240 SOUTH 975 EAST**

Bill Wright said this was the same property discussed in the previous rezone. He said this was an amended final plat for Lot 34 of the Holmes Creek Estates Subdivision located at 240 South 975 East. Bill said the applicant did not obtain signatures from all of the homeowners in the subdivision, which required that the final plat amendment be handled as a public hearing allowing citizens to make comments.

Bill said the amended final plat would create a lot that would contain .317 acres of property, or 7,100 square feet, which would meet the requirements of the R-1-6 zone that was just approved. He said the remaining portion of the lot would remain at an appropriate size of 13,811 square feet, which met the requirements of the R-1-10 zone. Bill said the Planning Commission recommended approval and Staff supported that recommendation.

**Mayor Stevenson opened the meeting for public input.** None was given.

**MOTION:** Councilmember Davis moved to close the public hearing and approve the amended final plat as presented. Councilmember Brown seconded the motion, which passed unanimously.

**DEVELOPMENT AGREEMENT AND REZONE REQUEST – DEWAAL/SMOOT – R-1-8 (SINGLE FAMILY RESIDENTIAL) TO R-M1 (LOW/MEDIUM DENSITY RESIDENTIAL) – APPROXIMATELY 333 SOUTH FORT LANE – RESOLUTION 16-32 AND ORDINANCE 16-20**

Bill Wright said Resolution 16-32 and Ordinance 16-20 involved a request by the applicant and owner for property located at approximately 333 South Fort Lane. The request was to rezone the property from R-1-8 to R-M1, which was a low to medium density residential zone. Bill identified the property on a map. He indicated that there were apartments to the north, single family to the south and commercial to the west. The rezone would allow for the development of a townhome project on the property. Bill said the development agreement would allow for up to 7 townhomes on the property. He displayed a conceptual drawing of a 4-unit building on the property and indicated that it could go up to 6 units; if 7 units were constructed it would be two separate buildings. Bill said the development agreement mainly addressed the maximum number of units. He said the Planning Commission recommended approval and Staff supported that recommendation.

Councilmember Petro said apparently there was a storm drain that ran in the driveway of the Twin Trees Apartment complex. The storm drain ran to the south along the property line and collected in a ditch that ran along the north side of this property. She said there had been some concerns expressed that that be addressed.

Bill said that would be addressed through the development review process. He said they would have to make sure that water in the ditch was conveyed across the property correctly.

**Mayor Stevenson opened the meeting for public input.** None was given.

**MOTION:** Councilmember Brown moved to close the public hearing and approve the development agreement and rezone request as presented, Resolution 16-32 and Ordinance 16-20. Councilmember Day seconded the motion, which passed unanimously.

**DEVELOPMENT AGREEMENT AND REZONE REQUEST – SUMNER G MARGETTS & COMPANY, INC./MZ ENTERPRISES – R-S TO R-1-6 – 191 EAST PHILLIPS STREET – RESOLUTION 16-38 AND ORDINANCE 16-19**

Bill Wright said this was a development agreement and rezone request represented by Resolution 16-38 and Ordinance 16-19 for property located at 191 East Phillips Street. Bill said this property had been before the Council in the last couple of years for a PRUD rezone; at that time the Council remanded it back to the Planning Commission and the developer. That developer decided not to pursue that PRUD rezone and was no longer involved in the property.

Bill said a new developer, represented by Mr. Craig North, had come forward and was proposing a more traditional single family development. The conceptual plan presented to the Planning Commission included a road that would connect Phillips Street up to 975 South, and would have a traditional layout of single family homes. The lots were much larger in size than the R-1-6 zone required. The developer was requesting the R-1-6 zone to allow for smaller frontages on the lots, a better layout of the subdivision, and allow for the public detention that was required.

Bill said the Planning Commission reviewed a conceptual drawing that contained 7 lots. The comments from residents were very favorable for this traditional subdivision proposal. He said Mr. Jerry Madsen owned property to the north at the end of 975 South and had a cul-de-sac to access his property. That property owner and the developer of this property had been in discussions to reach an agreement on access to this property. He said there was a possibility of there being two cul-de-sacs, which would allow access to the Madsen property as well. If an agreement was reached, it could possibly allow for 8 lots on the proposed development property and allow for access to the eastern portion of the Madsen property to allow for possible future development.

Bill said the Planning Commission recommended approval of the rezone request and Staff supported that recommendation. Staff also felt that a development agreement was appropriate to address some of the issues that were brought forward during the Planning Commission meeting. Bill said if an agreement was reached between the developer and Mr. Madsen for access onto the property from the north, it would require some changes to the development agreement, which currently indicated that there would be a maximum of 7 lots on the property. With two cul-de-sacs there could possibly be a maximum of 8 lots. Language would also need to be changed in the development agreement relative to the road off of Phillips Street. Details of the changes were discussed in the earlier Work Meeting. He said with the changes to the development agreement, Staff recommended approval of the development agreement and rezone request.

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

Jerry Madsen, 135 East 975 South, said he would not like a through street from Phillips Street to 975 South. He said he was in disagreement with Planning Staff in that a permanent cul-de-sac was just that, permanent. Mr. Madsen said the developer, Mr. North, had been very good to work with; they had been trying to come up with something that would please everybody and they were narrowing in on that.

**MOTION:** Councilmember Brown moved to close the public hearing and approve the development

agreement and rezone request as presented, including changes to the development agreement in Sections 4.2, 4.4 and 4.5, that would leave options open as discussed this evening, Resolution 16-38 and Ordinance 16-19. Councilmember Day seconded the motion, which passed unanimously.

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

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Thieda Wellman, City Recorder