

**MINUTES OF LAYTON CITY
COUNCIL MEETING**

NOVEMBER 18, 2021; 7:01 P.M.

**MAYOR AND COUNCILMEMBERS
PRESENT:**

**MAYOR JOY PETRO, ZACH BLOXHAM, DAWN
FITZPATRICK, CLINT MORRIS, AND DAVE
THOMAS**

EXCUSED:

COUNCILMEMBER TOM DAY

STAFF PRESENT:

**ALEX JENSEN, GARY CRANE, STEVE GARSIDE,
TERRY COBURN, STEPHEN JACKSON, DAVID
PRICE, KEVIN WARD, NATALIE THOLEN, AND
KIM READ**

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

Mayor Petro opened the meeting and welcomed the public. Councilmember Morris led the Pledge of Allegiance and offered the invocation.

MINUTES:

MOTION: Councilmember Fitzpatrick moved and Councilmember Morris seconded to approve the minutes of:

**Layton City Council Work Meeting – July 15, 2021;
Layton City Council Meeting – October 7, 2021; and
Layton City Council Strategic Planning Work Meeting – October 21, 2021.**

The vote was unanimous to approve the minutes as written. **Councilmember Day was not present for the vote.**

MUNICIPAL EVENT ANNOUNCEMENTS:

Councilmember Thomas informed the Council of the Holiday Lighting Ceremony scheduled for Monday, November 22, 2021, beginning with a program in the Layton High Auditorium at 6:00 p.m., which will be followed by turning on the Christmas lights in Commons Park around 7:00 p.m. He mentioned hayrides would be available on Tuesday, December 7, from 6:00-8:00 p.m. near the Starkey ball field parking lot.

Councilmember Fitzpatrick announced she had attended the Museum Board Meeting earlier in the day and its new display was entitled “Layton Trains” in conjunction with the Davis Arts Council’s Polar Express activity.

Mayor Petro announced the following:

- Interfaith Concert was scheduled for this Sunday, November 21, at Layton High School Auditorium beginning at 7:00 p.m. She mentioned the lighting of the Nativity at the LDS Seminary would follow the concert.
- Davis Arts Council would be hosting the ‘active pages’ program telling the story of the Polar Express in Commons Park. She stated this was a free event; however, pre-registration was required. The event was scheduled for three nights: November 30, December 1, and 2. She added the Layton Rotary Club would be selling hot chocolate in the park.

Councilmember Bloxham announced the Davis Arts Council would again be offering DAC the Halls Christmas Concert at Layton High School's Auditorium on Saturday, December 11, at 7:00 p.m. He stated Caleb Chapman's Crescent Super Band would be performing.

PRESENTATIONS:

YOUTH COUNCIL SWEARING IN

Sharla Esplin, Youth Advisor, introduced advisors Karen Smith and Natalie Stratton. She announced the following participants with the Youth Council and requested they come to the front of the Council Chambers: Youth Mayor Everest Stratton, Youth Mayor Pro Tem Kira Baldwin, Youth City Recorder Dannelia Borja, Youth City Manager Bryson Esplin, Youth Publicity Chair Jordyn Andreasen, Youth Publicity Co-Chair Ellie Bischoff, Youth Service Director Will Day, Youth Members: Emery Ingebretsen, Erin Harding, and Rin Houghton.

Kimberly Read, City Recorder, Administered the Oath of Office to members of the Youth Council.

RECOGNITION OF COMMUNITY EMERGENCY RESPONSE TEAM (CERT) GRADUATES

Fire Chief Kevin Ward, explained the purpose of the CERT Program and acknowledged the importance of having trained volunteers within the City which could be relied on during emergency and/or crisis situations. He introduced Natalie Tholen, Public Education Specialist, which led the nine training modules for the volunteers and informed the Council, the City was fortunate to have Ms. Tholen as a class instructor and announced she had been recognized by the State of Utah for her involvement in the CERT and Fire Corps Programs. He expressed appreciation to and identified the other instructors of the City's CERT Program: Floyd Gowans, Michael Tholen, Bruce Talbot, Jessie Seager, Sandra Moss, and Carol Childers. The following CERT graduates were acknowledged by the Mayor and Council: Mark Vanderdoes, Cody Wilson, David Merkley, Wynn Harrison, Cheryl Cummings, Dorothy Cummings, Jonathon Moser, Annette Christensen, Dave Nielsen, Viola Elder, Christopher Elder, Devin Neff, Tara Jensen, Camille Tueller, Adam Harmon, Benjamin Shipp, and Scott Ellis.

Mayor Petro expressed appreciation to the graduates for participating in the CERT program.

PROCLAMATION – SMALL BUSINESS SATURDAY

Mayor Petro read the Proclamation designating Saturday, November 27, 2021, as Small Business Saturday.

CITIZEN COMMENTS:

Amy Motta, 1174 Milton Avenue, SLC, Humane Society volunteer, requested the Council consider adopting a humane pet store ordinance prohibiting the sale of puppies in pet stores sourced from puppy mills. She shared some facts and statistics associated with these types of breeders and explained how large chain pet stores obtain puppies from these sources. She informed the Council, Utah had chosen to not adopt a state ban; therefore, the Humane Society was working with individual cities in adopting such an ordinance.

Annalilia Perez, 189 South Main, Cedarwood Mobile Home Park, was again requesting assistance in facilitating communication with Mr. Michael McConkie. She stated she had made herself available to him and continued in attempting to contact him by text messages with no success in over a month. She informed the Council she had to be out of her mobile home by March, but didn't know how to move forward due to lack of communication from either Mr. Winkel or Mr. McConkie. She expressed her lack of confidence with any information provided by Mr. McConkie.

Sam Trujillo, 189 South Main, Cedarwood Mobile Home Park, explained the challenges associated with planning to relocate or move his mobile home without updates or acknowledgement by Mr. McConkie.

Louise Brown, 343 South 750 East, distributed a handout and explained the reason why the Cedarwood Mobile Home Park residents continued to come and address the Council regarding the guidance and relocation for these residents. She believed City Leaders and Staff had set precedent that assistance would be provided by the City. She also provided a brief timeline and history of events with several City Staff which all indicated it was Mr. Winkel's responsibility to relocate the residents of the mobile home park. She continued to express concern time was quickly approaching in which the residents would have to move from the mobile home park within three months or less. She inquired whether the City was willing to step up and provide assistance to the residents.

Mayor Petro stated the City would continue to press Mr. Winkel to work toward a solution. She also indicated she would personally visit the residents to gain an understanding of each resident's concerns and/or issues to help facilitate relocation. She emphasized the City was limited, as a governmental body, as to what it could do and suggested it might appear as if nothing was moving forward; however, she reassured the residents the City was being proactive.

Ms. Brown also reported no interpreter or translator had been provided, as promised by Mr. Winkel, when he visited with the residents and those meetings were supposed to take place at their homes, not at the office on site, as had taken place. She pointed out the residents were being asked to make life changing, financial decisions without any translation.

Mr. Jensen stated there had been ongoing discussions, as recently as yesterday, with the owner and potential developer addressing the issues just described by Ms. Brown. He stated he had extended invitations to Ms. Brown, and others, to provide an update regarding the status of the owner's, developer's, and City's efforts associated with the mobile home park. He mentioned the challenges identified by the developer to create a fair resolution for each resident.

CONSENT AGENDA:

MOTION: Councilmember Fitzpatrick moved to remove item B from the consent agenda and be considered separately. The motion was seconded by Councilmember Morris which passed unanimously. **Councilmember Day was not present for the vote.**

ADOPTING THE DAVIS COUNTY 2021 NATURAL HAZARD PRE-DISASTER MITIGATION PLAN UPDATE, AS REQUIRED BY THE FEDERAL DISASTER MITIGATION AND COST REDUCTION ACT OF 2000 – RESOLUTION 21-46

Steve Garside, Management Services Director, explained Federal Law required the Plan to be adopted every 5-years in order for residents to access FEMA funds in the event of a disaster. He pointed out the document was over 300 pages with approximately 11 pages specific to Layton City and was continually being updated. He summarized the document included an inventory of potential hazards and identified how the City anticipated to mitigate and prepare for those hazards and probable impacts. Staff recommended adoption.

INTERLOCAL COOPERATION AGREEMENT BETWEEN DAVIS COUNTY CITIES AND DAVIS COUNTY FOR THE UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES) GENERAL PERMIT – APPROVAL AND ADOPTION OF CITY'S UPDATED STORM WATER MANAGEMENT PROGRAM – RESOLUTION 21-51

Terry Coburn, Public Works Director, introduced the agenda item and explained the resolution authorized the City's joint participation in the Storm Water Management Program with Davis County and other participating cities. Additionally, it also authorized the adoption of the City's Storm Water Management Program (SWMP).

EASEMENT AGREEMENT BETWEEN LAYTON CITY AND UTAH DEPARTMENT OF TRANSPORTATION – RESOLUTION 21-50 – 1705 WEAVER LANE

David Price, Parks and Recreation Director, announced the resolution would authorize an easement agreement with UDOT (Utah Department of Transportation) for the purpose of a trail to be located along the West Davis Corridor. He stated the Kay's Creek Estates Homeowners' Association had dedicated 16.51 acres of property to the City with a deed restriction that the property was to be maintained as open space or as a City park. UDOT desired to obtain a perpetual easement for the proposed trail which would be part of 10 miles of new trail which will connect the existing Emigration Trail to Legacy Parkway Trail from West Point City to North Salt Lake. He stated the City was willing to grant the easement for the purpose of construction and maintaining the trail facilities and recommended approval.

MOTION: Councilmember Bloxham moved to approve the Consent Agenda as presented. Councilmember Fitzpatrick seconded the motion, which passed unanimously. **Councilmember Day was not present for the vote.**

AUTHORIZING THE ACQUISITION OF INTERESTS IN REAL PROPERTY FOR THE CONSTRUCTION OF A TRAFFIC TURN LANE LOCATED ON THE SOUTHWEST CORNER OF FLINT STREET AND GENTILE STREET BY NEGOTIATION OR BY EMINENT DOMAIN – RESOLUTION 21-34

Gary Crane, City Attorney, informed the Council the resolution would allow Staff to proceed in acquiring property for construction of a traffic turn lane on the southwest corner of Gentile and Flint Streets. He reviewed those things the City was required to do in order to obtain the acquisition of the property and clarified adoption of the resolution only allowed Staff to move forward with negotiations. He reported the City had always been successful in the past with negotiating a reasonable fair price for parcels or property, eliminating the use of eminent domain.

Mr. Crane shared a brief history associated with the City acquiring property along Gentile Street in previous years, avoiding this particular parcel, and also shared other efforts in delaying the need to acquire this property. He mentioned the number of cars frequently stacked at the intersection and concluded the City could no longer delay the right hand turn lane and therefore had entered into negotiations with the property owner. He also mentioned the City's Engineering Staff had thoughtfully considered options to minimize the amount of property needed and shared some examples.

He identified the two circumstances in which the City could acquire property: it had to be necessary for the good of the public and fair compensation, based upon an appraisal, would need to be made to the property owner. He emphasized approval of this resolution didn't authorize the City to file condemnation action for the property which would require additional approval on behalf of the Council.

Debbie Barlow, 529 West Gentile, Property Owner, reported there were 136 driveways which entered onto Gentile Street from Main Street to Bluff Street. She suggested eliminating the center median in Gentile Street and installing a three-way stop would alleviate the traffic issues at the intersection. She also suggested increasing the speed limit on Layton Parkway and decreasing the speed limit on Gentile would encourage motorists to travel Layton Parkway. She believed this should be postponed until the West Davis Corridor was completed to identify whether any positive impact was recognized. She informed the Council she had commissioned her own traffic study which took place Mother's Day weekend, probably the busiest weekend of the year, and reported the intersection had received a grade of C, which she believed proved her point other options should be considered. She requested the Council postpone this action until completion of the West Davis Corridor to determine whether it benefitted the east/west traffic flow on Gentile.

Robert Mansfield, Ms. Barlow's legal counsel, expressed concern whether proper notice had been made to the property owner informing her of the public meeting. He stated the impacts to the property owner would be significant and indicated she should receive compensation for the value of the property and any resulting

damages to the remaining property, known as severance damages and explained what some of those could be. He also requested acquisition of the property be postponed until completion of the West Davis Corridor.

Mr. Crane expressed agreement with the attorney the issue would be discussed again in the future and reported a traffic study had also been completed on behalf of the City which reflected the current need for this property at this time. He explained the study indicated the damages would continue to increase by postponing this action and the value would also be negotiated based on appraisals, and all those issues addressed by Mr. Mansfield would be considered.

Councilmember Fitzpatrick informed the Council she traveled the road frequently and regularly and believed the issue regarding the flow of traffic was more directly related to the train and didn't believe a turn lane would solve the traffic problems on Gentile Street. She also suggested the City consider removal of the median and agreed with Ms. Barlow the City should take a wait and see approach and disagreed this was in the public good at this point in time.

Councilmember Morris expressed agreement with Councilmember Fitzpatrick's remarks and believed Staff had previously indicated that once the West Davis Corridor was completed, traffic on Gentile would be reduced by as much as 40%.

Alex Jensen, City Manager, emphasized the resolution wouldn't dictate anything other than authorizing the continuation with discussions with Ms. Barlow and Mr. Mansfield regarding the acquisition of property. He clarified it didn't dictate anything related to cost, price, timing, design, etc. He stated the City didn't have a history of asking for property that wasn't needed and indicated the need for this project was identified over 15 years ago and suggested this was one piece in a long term strategy regarding Gentile Street. He pointed out approval of the resolution didn't bind the Council or Ms. Barlow to any future decisions.

Mayor Petro read a statement from Councilmember Day expressing his opposition for the acquisition of the right of way for the right hand turn lane. He expressed his opinion the train traffic blocking the road was to blame for traffic delays. He also suggested elimination of the center concrete median would provide the needed traffic lane for a more normal functioning intersection.

Mayor Petro also expressed her opinion the train was the issue associated with impeding traffic flow on Gentile Street.

Mr. Crane suggested the Council be informed of the results from the City Engineer's traffic study justifying the need for the property and explained the importance of that information. He also expressed the City's desire to continue negotiating with Ms. Barlow and suggested the Council eliminate the eminent domain language in the resolution, allowing Staff to continue negotiating for the purchase of the property. He also pointed out this would allow an appraisal of the property so the Council would know the value, while at the same time gaining more knowledge regarding the need for the proposed improvements. He emphasized Staff wouldn't be allowed to continue with negotiations if the Council didn't approve the resolution.

Councilmember Morris requested further clarification and Mr. Crane explained that based on comments expressed by members of the Council, during the meeting, it questioned the validity of the public purpose for the property; therefore, he could no longer continue negotiations with the property owner. He informed the Council it hadn't received information from the City Engineer justifying the need for the road improvements to clarify the public purpose for the property.

Councilmember Fitzpatrick proposed tabling the item for two weeks, until the next City Council Meeting on Thursday, December 2, 2021, and a discussion followed.

Mr. Mansfield emphasized if eminent domain language was removed discussions between the City and Ms. Barlow would no longer be needed because she had no intention of willingly selling any property and stressed the acquisition would only take place in an eminent domain context. He requested the Council take no action on the agenda item and the discussion continued.

Councilmember Bloxham referenced his interaction with Ms. Barlow, earlier in the day, specific to negotiations, and inquired if the discussion had taken place in good faith. Mr. Mansfield responded all previous negotiations between City Staff and Ms. Barlow had taken place under the threat of eminent domain. Mr. Jensen emphasized the language included in the resolution was dictated by State Statute and further clarified the City's position and indicated at no time did Staff threaten eminent domain with Ms. Barlow.

The Council continued to discuss options specific to the resolution before them for approval. Councilmember Bloxham cautioned the Council in making a decision without considering data from the City Engineer regarding the need for the proposed road improvements. Councilmember Fitzpatrick also suggested any information pertaining to trains using the tracks, including FrontRunner, would be helpful to the Council in making a determination.

MOTION: Councilmember Fitzpatrick moved to table approval of Resolution 21-34 until Thursday, December 2, 2021, requesting the City Engineer provide additional information justifying the public need for the acquisition of interests in real property for the construction of a traffic turn lane located on the southwest corner of Flint and Gentile Streets. Councilmember Morris seconded the motion, which passed with the following vote: **Voting AYE – Councilmembers Bloxham, Fitzpatrick, Morris, and Thomas. Voting NO – None. Councilmember Day was not present for the vote.**

PUBLIC HEARINGS:

There were no public hearings.

UNFINISHED BUSINESS:

Councilmember Fitzpatrick expressed concern regarding the crossing guard located near Layton Elementary on Gentile Street.

Mayor Petro would also like the City Engineer to provide information regarding the justification specific to the implementation of the current intersection configuration at Flint and Gentile Streets.

The meeting adjourned at 8:46 p.m.

Kimberly S Read, City Recorder