

**MINUTES OF LAYTON CITY
COUNCIL WORK MEETING**

NOVEMBER 7, 2019; 5:33 P.M.

**MAYOR AND COUNCILMEMBERS
PRESENT:**

**MAYOR SCOTT FREITAG, JOYCE BROWN,
SCOTT CARTER, BRUCE DAVIS, TOM DAY, AND
JOY PETRO**

STAFF PRESENT:

**ALEX JENSEN, GARY CRANE, TERRY COBURN,
CHAD WILKINSON, TIM WATKINS, AND KIM
READ**

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

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

MAYOR'S REPORT

Alex Jensen, City Manager, informed the Council the Utah State Department of Environmental Quality (DEQ) had proposed an open house to keep residents informed of the remediation associated with the fuel vapors/spill near Sugar Street and Gentile. He reported tentative dates for the meeting were either Tuesday, November 19, or Wednesday, November 20, 2019. He stated the City had indicated the meeting could take place at City Hall, but proposed it take place at Layton Elementary. He indicated once a date had been selected, the Council would be notified to allow them the opportunity to attend if they desired. He mentioned the Health Department would also be in attendance.

**ESTABLISHING VOTER PARTICIPATION AREAS PURSUANT TO UTAH CODE
ANNOTATED §20A-7-401.3 – RESOLUTION 19-53**

Gary Crane, City Attorney, explained recent legislation had made changes to the referendum and initiative laws. He stated rather than having individuals vote from the City as a whole on a referendum, it required to designate eight voter participation areas of active voters. He emphasized the areas needed to be based on active voters which had voted in the previous election and indicated the Davis County Clerk had prepared a suggested map of the voter information areas. He reported Staff had reviewed the proposed areas and was recommending approval. He explained the next update would take place in 2022 based on voter participation.

Councilmember Brown asked if referenda or initiative was proposed, how would the participation areas be applicable. Mr. Crane believed a majority vote in each participation area would be required for the referenda or initiative to pass and indicated he would complete further research and report his findings.

Prior to the Council discussing the last item, Mr. Crane reported his findings the participation areas were applicable to signature gathering only.

**REZONE REQUEST – 1450 NORTH MAIN STREET REZONE – PLANNED HIGHWAY
COMMERCIAL (C-H) TO MIXED-USE (MU) – 1450 NORTH MAIN STREET – ORDINANCE
19-36**

Chad Wilkinson, Community and Economic Development Director, identified the location of the parcel proposed for rezone on Main Street. He explained this was associated with the existing development, The Villas on Main. He explained the proposal was to rezone the small parcel of property to eventually construct another structure as part of The Villas development. He stated the City was in support of the rezone as well as the Planning Commission and indicated the General Plan had identified the parcel as

Mixed-Use. He reported Staff had reviewed the rezone with the Planning Commission which unanimously recommended approval.

Councilmember Day asked if the same builders associated with The Villas on Main was involved with the proposed project. Mr. Jensen responded in the affirmative and stated they had originally attempted to acquire the property as part of the original project. Mr. Wilkinson shared some illustrations identifying how the proposed Mixed-Use of the project and pointed out the street level would have more of a commercial character than that of residential.

CONSIDERATION FOR A PROPOSED AMENDMENT TO TITLE 19, CHAPTER 19.02, SECTION 19.02.020 OF THE LAYTON MUNICIPAL CODE REQUESTING A CHANGE TO THE DEFINITION OF HOUSEHOLD PETS TO INCLUDE VIETNAMESE POTBELLED PIGS

Mr. Wilkinson informed the Council the proposed text amendment was citizen initiated and shared the proposed language which was patterned after North Salt Lake City's ordinance, that purebred miniature Vietnamese potbellied pigs and other similar purebred miniature pigs not exceeding identified standards would be included under the definition of household pets. He indicated Staff had gathered information from other communities in Davis County and along the Wasatch Front, regarding the keeping of pigs which could be organized into three categories:

1. Ordinances that specifically prohibit all pigs within the municipality;
2. Ordinances that allow pigs (regardless of variety) in specific areas of the City subject to lot standards, but that do not classify them as household pets; and,
3. Ordinances that allow Vietnamese potbellied pigs as household pets with limits on number and size.

He clarified Layton was one of the cities which allowed pigs in certain zones with a minimum lot size of 20,000 square feet.

He stated Staff had identified three issues associated with amending the code to allow the pigs as household pets:

1. As written, the proposed language would allow Vietnamese potbellied pigs in any residential zone, not only Residential, but including townhomes and apartment developments. He suggested the proposed language was too broad.
2. This would be a difficult provision for the City's Code Enforcement Officers to enforce and pointed out the officer would only be able to "guess" the weight of the animal.
3. The City receives requests to allow for a variety of types of animals on a regular basis and suggested the City would want to establish adequate standards relative to animals, many of which were traditionally identified as farm animals, and shared the chicken ordinance as an example.

He reported Staff had contacted Davis County Animal Control soliciting its opinion on the issue and it had expressed concern about allowing pigs without an appropriate minimum area for the animal. He stated the item came before the Planning Commission during its meeting on Tuesday, September 24, 2019, which recommended the item be denied by the City Council, and added it was not a unanimous vote, that it passed with a vote of 4-3. Staff was recommending the item be denied based on the reasons previously stated.

He asked if there were any questions.

Councilmember Day asked how many pigs would be allowed on a 20,000 square foot lot and Mr. Wilkinson responded the ordinance allowed one per half acre. He clarified other households pets would also be allowed on that same half acre.

Mr. Jensen added the animal control director also mentioned there was a certain behavior of pigs, regardless of the breed. Mr. Wilkinson reported the director mentioned the "rooting behavior" which caused significant damage to yards and indicated officers could identify backyards in which pigs had

lived just by that behavior alone. He believed the City's standard clearly defined a "farm" animal and "household" pet.

Councilmember Day stated he was at that Planning Commission meeting and witnessed the discussion. He believed the applicant would most likely stress the pig was an emotional support animal and requested Mr. Crane address that with the Council.

Mr. Crane reported a law passed during the last legislative session defined a "service" animal as only a dog. He stated there were two separate ADA (Americans with Disabilities Act) requirements:

1. A person has an affliction of some sort which could only be addressed by the animal.
2. The behavior of the animal or behaviors the animal is trained to do would assist the person.

He clarified the only offset would be if the animal was dangerous to persons or disruptive of property. He pointed out the previous illustration of the backyard reflected the result of "rooting" behavior.

Mr. Wilkinson emphasized the issue tonight was not whether the animal was a support animal; rather, it was whether the City would change its definition for household pets. He pointed out the action came about through a zoning enforcement action.

Mr. Jensen mentioned there were different definitions associated with the legal definition of a "support" animal compared to an individual's definition as a "support" or "comfort" animal and indicated the legal term required the animal to meet specific identified criteria and the animal needed to possess a demonstrated nexus to provide necessary comfort. He cautioned the Council in yielding to the argument of the applicant the pig was a support animal because it didn't meet the legal definition.

Mr. Crane pointed out the proposal tonight would be to change the ordinance for the entire City on what type of animal would be considered a household pet, which was a completely separate issue from whether a potbelly pig could be considered a "comfort" or "support" animal.

Councilmember Brown indicated she had been in contact with a resident which expressed concern with this particular animal being her "comfort" or "support" animal. The resident pointed out when individuals claimed these types of animals were "support" animals it eroded the validity of real legitimate "service animal" which have some type of certification or documentation. A discussion followed regarding the allowance of service animals.

AMEND TITLE 19, CHAPTER 19.06, TABLE 6-2 OF THE LAYTON MUNICIPAL CODE – BY AMENDING DWELLING, MULTIPLE UNIT FROM A CONDITIONAL USE TO A PERMITTED USE IN THE MIXED-USE (MU) ZONING DISTRICT – ORDINANCE 19-39

Mr. Wilkinson reported during a recent discussion with the Planning Commission, a question had been posed whether Multiple Unit Dwellings should be a Permitted Use, rather than a Conditional Use in the Mixed-Use (MU) Zone. He explained the reason for changing the allowance was based on the fact that Code currently had two very similar processes: the Development Review Process, in which every Mixed-Use development was required to be reviewed by the Planning Commission to be approved by the standards identified in the Mixed-Use zoning district. He clarified changes in the Mixed-Use zoning district now included items that addressed the impacts from these types of uses, such as building height, the allowed proximity to the property line, additional setbacks for buffering, etc.

He informed the Council the Planning Commission believed an adequate process was already in place in regards to the Development Review Process, which was very similar to the Conditional Use Process, and believed it was an appropriate way to review developments. He reported Staff had studied the Mixed-Use TOD (Transit Oriented Development) zone and a conversation with the Planning Commission had taken place about whether changing multi-family to a permitted use in the MU-TOD zone; however, specific standards hadn't yet been adopted regarding adjacent single family zones.

He stated Staff recommended the Council approve multiple dwelling units as a permitted use instead of a conditional use in the Mixed-Use zone. He reported the Planning Commission also unanimously recommended approval.

Councilmember Brown had requested clarification regarding the participation areas previously discussed during the first agenda item. Mr. Crane clarified the participation areas were applicable to signature gathering only.

REPEALING AND REENACTING TITLE 19, SECTION 19.08.080, SECTION 19.08.090 AND SECTION 19.08.130 OF THE LAYTON MUNICIPAL CODE BY AMENDING DESIGN STANDARDS AND REGULATIONS WITHIN THE PRUD OVERLAY ZONE – ORDINANCE 19-02

Mr. Wilkinson informed the Council that in addition to discussing the PRUD Ordinance with the City Council, Staff had also been reviewing the PRUD Ordinance with the Planning Commission. He reported it unanimously forwarded a recommendation of approval during its meeting on Tuesday, October 22, 2019, for a new PRUD Ordinance

Mr. Wilkinson stated the Council had requested Staff hypothetically apply the standards proposed in the new PRUD ordinance to real sites and developments to support the proposed revisions. He shared an example of an R-1-8 development reflecting a comparison between the current ordinance and the development with a PRUD. Councilmember Day asked if the PRUD development qualified for the bonus density and Mr. Wilkinson responded in the affirmative. He reviewed some of the amenities which could be included as open space amenities. He emphasized the PRUD ordinance should be considered a “tool” relative to development which provided for greater flexibility with location of buildings on property. He emphasized the PRUD should encourage imaginative and efficient utilization of land and reviewed the tools recognized by the implementation of the PRUD ordinance:

- Preservation of sensitive lands: wetlands, slopes, fault lines, and open space or agricultural use through a transfer of development rights. He stated this was reflected in the recently adopted General Plan.
- Regulation of building materials and fencing materials.
- Trade-off of density to increase quality.

He referred to the text changes for the proposed ordinance to illustrate the level of changes made to the ordinance and indicated it had been a comprehensive change to the ordinance and reviewed a few of them with the Council:

- He reminded the Council it had requested Staff specify an increase to the quality of open space, requiring it to be more usable and he shared some examples of what would no longer be allowed. He added the quality of open space would allow smaller percentages than the current thirty percent minimum.
- Side yards and rear yards would no longer count toward minimum open space requirement.
- Constrained lands would also no longer count toward the minimum open space.
- Open space would need to be accessible to all residents within the development.
- Detention areas toward open space must be usable recreation areas.
- Providing better clarification on types of fencing and building materials for consideration for Density Bonus.
- Porches which make up for the loss of private open space and increasing the appearance of the residences.
- Preserve agricultural uses
- Provide walkability standards
- Capped the number the attached units within the PRUD at thirty percent.
- Items originally included for the Density Bonus were now minimum standards.
- PRUD was only applicable to single family residential zones.
- Establish a minimum size for PRUD’s.

- Implementation of tools for agriculture preservation.
- More information would be required prior to the zone change such as building elevations and landscape plans.

He shared some illustrations and identified some of the required items with the Council and reviewed the language in the proposed ordinance.

Councilmember Petro asked how the ordinance had addressed detention basins and a discussion followed. Mr. Wilkinson indicated language had specified the detention basin needed to be “Usable” open space. Councilmember Petro expressed concern what would classify as “usable” relative to open space and a discussion continued. Mr. Wilkinson added the developer would need to demonstrate it was usable. Mr. Jensen stated the developer would also need to identify landscaping products. Mr. Wilkinson pointed out the City didn’t want to become too restrictive with the “tools” available to the PRUD as it would eliminate the intended flexibility of the ordinance.

Councilmember Brown clarified the City wouldn’t steer developers to producing a PRUD product with the maximum housing. Mr. Wilkinson believed developers would inquire whether the City would allow a PRUD development and Staff would then provide them information specific to the tools of a PRUD development.

Mr. Wilkinson spoke to the minimum required area, three acres, for an allowed PRUD and explained this could adequately provide usable open space and also provided an adequate number of residents to participate in the HOA and the discussion continued. He explained how a small lot development, separate from the PRUD, could be accommodated within the City. Mr. Wilkinson clarified Staff was making additional changes for consideration of approval by the Council specific to the C-TH (Condominium-Townhome) Ordinance, and a Small Lot Development Ordinance.

Councilmember Petro asked if the ordinance addressed individual water meters for these types of developments since the City has experienced developments with multiple buildings for one meter. Mr. Jensen stated the City had required one master meter when the development was considered a “private” development and explained Staff wouldn’t maintain “private” systems. Councilmember Petro expressed concern with how the water bills would be calculated for individual homes within the private development being billed for one large master meter. A discussion followed.

Councilmember Brown asked if these developments were informing potential residents of the meters since several homes on one water meter would obviously hit the Tiers more often. Mr. Jensen would follow up with Tracy Probert, Finance Director, regarding the issue.

A discussion took place regarding CC&R’s (Covenants, Codes and Requirements) and Mr. Wilkinson indicated additional language would be included in the Ordinance as it pertained to maintenance of open space and any easement. He emphasized the City wasn’t responsible for enforcing CCR’s specific to any private development. Mr. Crane identified where municipal easements were located specific to private developments.

Mr. Wilkinson complimented his Staff, mentioned Tim Watkins and Brandon Rypien by name, for their efforts on the PRUD ordinance and mentioned the input provided by the Planning Commission and City Council had been valuable to Staff. He indicated the proposed ordinance had been applied to some real parcels within the City to get an idea of how it could be applied and suggested the ordinance would be a real benefit to the City and residents.

Councilmember Day continued to express concern with the density allowed within some developments and a discussion followed. Mr. Wilkinson responded Staff had looked at designs and stated it was difficult to get to ten percent and suggested the reality of the open space was about twelve percent because of land configuration. He added a development in a neighborhood-agricultural parcel with the additional eight percent requirement, would end up at twenty percent, which was exactly what the City

was asking for and the discussion continued.

Councilmember Day also expressed concern with the twenty percent masonry product on the front of the house and suggested it be more than that since hardy board would meet that requirement and it resembled siding. He expressed agreement with the detention basins being addressed, but was concerned with the fencing requirement.

Mr. Wilkinson pointed out the Council would be asked to approve a zone change in conjunction with approval of the PRUD. Mr. Jensen emphasized development moving forward would be based on this new ordinance and suggested if the PRUD ordinance was too onerous it would discourage the use of good PRUD developments consisting of open space amenities and walkability for residents. He added Staff believed there should be an option dictated by the market.

Councilmember Day continued to express his desire to increase the open space requirement from ten percent to fifteen percent. He believed the Land Use Authority wasn't always the City Council and Mr. Wilkinson responded the PRUD ordinance reflected the City Council would be the authority.

Councilmember Carter requested clarification regarding the masonry product on columns and side façade on a corner lot and Mr. Wilkinson stated terminology would address that and read from the ordinance. Councilmember Carter asked if manufactured stone would be acceptable and Mr. Wilkinson responded in the affirmative.

Councilmember Petro left the meeting at 7:02 p.m.

Mr. Jensen suggested the City's ordinance shouldn't restrict building products that people desire and that developers want to use.

Councilmember Petro re-joined the meeting at 7:05

The meeting adjourned at 7:05 p.m.

Kimberly S Read, City Recorder