MINUTES OF LAYTON CITY COUNCIL STRATEGIC PLANNING WORK MEETING — **JANUARY 13, 2021; 2:00 P.M.**

MAYOR AND COUNCILMEMBERS PRESENT: **MAYOR JOY PETRO, ZACH BLOXHAM, TOM DAY, DAWN FITZPATRICK, CLINT MORRIS, AND DAVE THOMAS**

STAFF PRESENT: **ALEX JENSEN, GARY CRANE, MASON KJAR, TRACY PROBERT, STEPHEN JACKSON, TERRY COBURN, PAUL APPLONIE, WES ADAMS, AND KIM READ**

The meeting was held at Fire Station 51, 530 North 2200 West, Layton, Utah.

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

DISCUSSION – LAYTON CITY WATER SYSTEM AND MASTER PLAN

Alex Jensen, City Manager, expressed appreciation to the Staff participating in today's meeting and introduced Wes Adams, Water Superintendent, to the Council.

Councilmember Day arrived at 2:03 p.m.

Mr. Jensen expressed his opinion the City's water system was the most important system within the City. He indicated there were some opportunities which the City should consider taking advantage of at this time. He also pointed out the City had recently contributed significant funds toward the system and informed the Council the replacement value of the water system alone was $265 million which illustrated the importance of continuous maintenance. He announced the City's water system was one of the very best systems in the State and reported it continued to receive the highest ratings possible on an annual basis. He stated the following topics would be discussed during the meeting:

- Utah's Water Law
- Water Master Plan
- Transition to Rate Structure
- Importance of the Water Asset
- Proposed Agreement with Kays Creek Irrigation

Mr. Jensen informed the Council, the City had, for a number of years, always had an eye to the future regarding the obtaining of water resources and shared an example to illustrate that point.

Mason Kjar, Assistant City Attorney, shared a presentation identifying the framework which guided the State's water laws. He stated all waters in the state belonged to the State and no one could claim ownership of water; thus the State regulated the use of the water resource. He provided a definition specific to the term "prior appropriation" which stated the first person to put the water to good, obtained the first claim to the water. He also explained how forfeiture of water resources could be implemented, which was usually a seven-year timeframe; however, municipalities had sometimes up to 50 years. He also provided a definition for "pioneer water rights". He shared some examples of water rights and uses with the Council which illustrated how valuable water was in the State of Utah.

Mr. Jensen emphasized the City was cooperatively working toward obtaining access to water shares and different water sources and expressed concern about the risk of losing some available opportunities in obtaining needed water.

Stephen Jackson, City Engineer, reminded the Council, the City had commissioned a Water Master Plan and Rate Study by Bowen Collins and Associates to identify the best use of the water resource in Layton City. He reported the Firm considered the following:

- Existing water system
- Supply and demand projections
- Peak supply and demand projections
- Distribution system evaluation
- Recommended system improvements

Mr. Jackson reviewed the illustration of the City's existing water distribution system included in the Water Master Plan. He reviewed statistics specific to the culinary Water System which was estimated at a replacement value of $265 million.

Mr. Jackson shared a map which identified existing secondary water trunk lines within the City and the respective secondary water sources with the Council and also identified the areas within the City which were dependent upon culinary water for outdoor water use. He informed the Council of the available option for consideration:

1. Continue with providing culinary water only
2. Hybrid of culinary and secondary water
3. Provide secondary where feasible and transfer some culinary users to secondary

He reported it was determined to be cost prohibitive to complete the needed infrastructure in order to provide secondary water to areas where it wasn't currently available. He added there also wasn't enough water to transfer those residents to a secondary system.

Mr. Jackson also reviewed the existing secondary/irrigation water lines within the City and identified the following: Holmes Reservoir, Adams Reservoir, Hobbs Reservoir, DWCCC (Davis Weber Counties Canal Company) Church Street Reservoir which held a total of 708 acre feet of water. He informed the Council, at the time the Master Plan was completed, the City owned 571 shares and as of January 12, 2021, owned 813 shares.

Mr. Jackson reported culinary water use statistics with the Council and identified the water demand areas in the City. He continued to review the population and demand projection which identified the amount of water needed for both culinary and secondary use required at buildout. He pointed out historic uses and resources to identify supply and demand for future years. The Study concluded demand would exceed the City's water supply by 2035 if it implemented a culinary only water system. He also shared an example if the City implemented to a secondary water scenario, culinary water would go unused. He reported the Study concluded optimizing both the culinary and secondary water systems would result in a small surplus of both water resources.

Mr. Jackson reviewed the estimated annual increases to drinking water rates for Weber Basin Wholesale Water with the Council and explained how those rates were determined. He identified estimated costs for water recognized from the Bear River Water project and stated the City was trying to avoid having to purchase this water resource due to the expense.

Mr. Jensen pointed out the "all culinary" model reflected the City would be required to purchase additional water in 2035 and that was the reason why the City had implemented the hybrid model. He also pointed out the small increases and costs the City had been absorbing, not adjusting the rate structure to pass them onto the resident and concluded this practice wouldn't be able to continue.

Terry Coburn, Public Works Director, pointed out the City tried to use its full allotment of water from Weber Basin Water without going over and using the secondary water to make up the difference. A discussion identifying the water resources that filled the reservoirs took place and Mr. Jackson indicated they each had their respective water rates and mentioned studies had been completed regarding possible expansion of the reservoirs in order to obtain additional needed water and reported the cost verses the benefit wasn't needed.

Councilmember Fitzpatrick believed the residents should be made aware of the pass through expenses associated with water costs to the City from Weber Basin and other water suppliers to justify the rate increase and the discussion continued.

Mr. Jackson reminded the council of identified culinary system capital improvements needed for the City's infrastructure and identified estimated costs associated with them. He also reviewed the proposed secondary water project improvements and the respective estimated costs. He emphasized the secondary system benefitted every water user within the City because it lowered the overall cost for building out the entire City's water system.

Councilmember Fitzpatrick asked if there were any new projects identified since the Water Master Plan was completed and Mr. Jackson believed the Water Master Plan had adequately identified needed projects.

Mr. Jensen reported the State required cities to establish rates based on a ten-year time period ensuring they captured costs necessary for the respectively identified projects. He emphasized the residents should consider it was part of the "system" collectively and pointed out the rates had been established fairly and equitable among both the culinary and secondary water users.

Mr. Jackson reviewed the itemized and estimated replacement value of the City's water distribution network and a discussion took place regarding the difficulty in obtaining permission for well drilling. He complimented Wes Adams, Water Superintendent, for the way in which he monitored the City's use of Weber Basin water to ensure the City doesn't exceed its allotment. Mr. Adams indicated the Church Street well was due to be refurbished and Mr. Jackson added once a well was refurbished it operated more efficiently and provided more water than when it was originally drilled.

Mr. Jackson shared some illustrations of the two million gallon Valley View water tank and pump station facility and the Oak Ridge water tank. Mr. Coburn pointed out the City also owned a four million gallon water tank underneath a sports field at Clearfield High School. He also shared photos illustrating water leaks and repairs. He reviewed the recommended Capital Improvement Budget of approximately $3.5 million for the culinary system and over $1 million for the secondary water system.

He announced the consultant had also recommended an annual budget for the City's culinary system based on its replacement value and reviewed those specific with the Council. He also identified the budget recommendations for the secondary water capital improvements. He reminded the Council, Zions Public Finance had also completed the Culinary and Secondary Water Rate Analysis for the City.

Tracy Probert, Finance Director, clarified Mr. Jackson's presentation illustrated the City's complex and valuable asset and emphasized a good water system costs money and indicated the Zions study had considered numerous items in its analysis to support the City's water system. He reminded the Council of the culinary water financial coverage projections and identified the projected operational expenses of the System for several future years and the revenue, that included the proposed rate increases, reflected the City was still efficient with its operational costs. He explained the rates had provided an adequate system, while not being cost prohibitive to the resident. He reminded the Council, the City considered the water system as a whole, as opposed to separate culinary or secondary systems.

He reviewed the suggested rate increases specific to the culinary system, by meter size, and the respective year in which the rate was implemented. He also provided a base rate comparison with other municipalities in both 2017 and 2020 which reflected the City was still toward the bottom of the lists for both comparisons. He concluded other entities had also completed the required analysis which identified the need for rate increases as well. He also mentioned the previously identified water resources available to the City benefitted the residents with lower rates.

He reported the water revenue increase resulted in higher revenues; however; that was based on more water usage as opposed to the rate increase. He stated if the last increase had been implemented during an average water year, the City would have been within 3% of what was projected. He concluded this scenario justified the proposed rate increase was on target based on the results of the analysis.

In conclusion:
Goal of the study was to establish rates that were:

- Sufficient to operate, maintain, and expand the City's top rated system
- Affordable for users
- In line with state conservation requirements
- Minimized the need for debt
- Provided adequate reserves
- Secured water needs for the future

Councilmember Fitzpatrick inquired if the last rate increase, which was estimated to net the 3% would be adequate and Mr. Probert responded these rate increases were based on current circumstances at the time and suggested revenues wouldn't be adequate if there were increases to the City by its suppliers.

Councilmember Bloxham inquired if other municipalities implemented water rate increases every year. Mr. Jackson stated he didn't have that knowledge; and reported it was the consultant's recommendation to implement small increases every year. Councilmember Bloxham stated it would be his preference to implement small increases, whether it be for property tax, street lighting fee, utility rates, etc., as the cost of doing business and suggested that philosophy might be easier to explain to the resident than what had been done in the past and a discussion followed.

Councilmember Thomas asked if the City's costs would be covered with the proposed 10% rate increase. Mr. Probert responded the City would need to continue re-evaluating and completing the analysis annually to determine if that small increase would be sufficient to cover increased costs. Mr. Coburn added the state required certain classifications for employees to work with and operate the City's water system and reviewed those with the Council. He suggested Layton residents recognized lower homeowner insurance premiums based on the rating of the City's water system.

Mr. Jensen believed the model had proved to be an excellent tool at predicting usage and revenues in recent years and suggested the 10% increase would allow the City to do what was needed and suggested Councilmember Bloxham's proposal was politically safe and the discussion continued.

Councilmember Fitzpatrick pointed out Staff hadn't followed the consultant's recommendation for the rate increases which would result with a specified amount of revenue and suggested the future analysis might reflect an even greater increase. She suggested a good balanced approach and requested Staff's opinion with what was truly needed. Mr. Jackson responded the Plan completed by the consultants was based on the replacement costs for the City's system. He suggested there were too many variables related to maintenance and/or repairs which was too difficult to pinpoint an exact amount of needed revenue. He informed the Council, the City had always operated conservatively and believed adjustments could be needed, although he agreed, the amount was on the low side.

Mr. Jensen clarified the City had implemented what the Council had adopted, which was different than what had been suggested by the Study. He pointed out there were costs associated with assuming the older infrastructure associated with some of these irrigation companies. He emphasized the City didn't want to take away the water resources from farmers or agriculture users; however, he believed the City had the capacity to better maintain and distribute the water more efficiently.

Gary Crane, City Attorney, provided a brief history pertaining to the City and Kays Creek Irrigation Company and also explained the history behind the agreement between the City and Weber Basin regarding secondary water users within the City. He reported the time had come for Kays Creek Irrigation Company to either expand its organization/ownership or integrate with the City by a transfer of its system. He reported the City had initiated discussions pertaining to agreements for both the Weber Basin secondary system and Kays Creek system.

He explained the Kays Creek system included Hobbs Pond Reservoir and Andy Adams Reservoir which not only provided great recreation opportunities but also significant water resources. He announced Kays Creek water shares were some of the earliest historical shares in Davis County and explained the benefits of retaining ownership of those shares. He pointed out the City and Kays Creek Irrigation Company both shared mutual concern of the future of water. He provided the following facts and information:

- Currently 95% of the system was pressurized
- Costs to maintain aging infrastructure on the east bench would increase. Repair costs had been included in the City's budget in anticipation of the transfer
- Building new infrastructure would be expensive
- Risks of forfeiture increase as the system becomes pressurized
- State mandates were going to increase costs and mentioned this included the metering of secondary water
- Management of the system into the future was tenuous and identified the current boardmembers
- Personnel for maintenance in the future
- Billing was becoming more difficult and expensive and explained the benefits with the City collecting payment
- City's ownership of capacity in the system would grow as development occurred
- Debt to DWR (Division of Water Resources) for developing the pressurized system which the City would assume
- The dams were a valuable resource to the City and the benefit of the water remaining in the City were exceedingly significant

Mr. Crane announced the proposal and indicated it would come before the Council for approval and explained the challenges. Both entities would be working toward this simultaneously and he reported to date, the shareholders appeared in favor of the agreement:

- Kays Creek would transfer ownership and responsibility for the pressurized system to the City
- Kays Creek would take responsibility for the remaining agricultural customers and for management of the reservoirs
- All water shares, rights in the easements, property, and assets owned by Kays Creek directly involved in the pressurized irrigation system must be conveyed to Layton City
- All easements, property, and assets relating to the provision of ditch water and the open irrigation system will continue to belong to Kays Creek
- The City would take responsibility for providing water to Kays Creek's 3,784 current customers on the pressurized secondary water and looking forward to servicing 2,100 additional customers
- Shareholders on the pressurized system must vote to terminate their respective shares
- Kays Creek will retain ownership and responsibility for maintaining the reservoirs. at a point agreed upon, when Kays Creek becomes essentially a pressurized system, the dams and remaining property and water rights would be transferred to the City

A discussion took place regarding costs to the City in managing Kays Creek Irrigation system compared to the benefit to the City in obtaining the shares. Mr. Crane continued to point out that 95% of the system currently pressurized. That system would be transferred to the City. Councilmember Fitzpatrick expressed concerns specific to the costs for the water system and the problems associated with the reservoir, monitoring the mineral problems, and the metering of the system. A discussion took place regarding the previously identified concerns.

Mr. Crane continued to review the following:

- A new board of directors would be organized, wherein a certain number of members would represent the City's pressurized irrigation interest, and a certain number of members of the board would represent the remaining agricultural users' interest in the company. Votes relative to these two different interest would have to be weighted so that the appropriate group would have weighted vote on the issues regarding their respective interests.
- Kays Creek would continue to have the responsibility to deliver water from its reservoirs into the pressurized system, and to their remaining shareholders who are not on that system. The City would continue to be shareholders in Kays Creek and a formula for how the City and the remaining shareholders would pay Kays Creek for the supply of water would be negotiated
- The City must have authority to declare a water emergency or a water shortage to determine how the water is to be distributed or diverted in order to satisfy the needs of both the pressurized and non-pressurized users
- The City would be responsible for all billing of its pressurized users and may set the rate for those pressurized users
- Kays Creek would continue to bill the agricultural users
- The City and Kays Creek must agree in advance to how fees will be set and how the expenses incurred by Kays Creek for maintenance of the dams and for water supply would be determined

Mr. Crane identified the following items needed to take place:

- An independent study had been completed showing the costs of constructing and maintaining Kays Creek's system into the future
- The process of educating Kays Creek shareholders and Board was well underway and the response has been largely positive. He indicated this had been planned for last spring; however, COVID delayed this action
- Draft an agreement (Kays Creek and the City have been working on a draft)
- Change Kays Creek's bylaws to accomplish the terms of the agreement
- Develop proposal for handling shareholders who have more water than their land required
- Calculate cost of maintaining the dams
- Figure out a formula for determining cost of the water supply
- Calculate the yearly assessments.

Mr. Crane believed development had paid most of the pressurized secondary water system costs. Mayor Petro requested further clarification about the City owning the reservoirs and Mr. Crane responded that would eventually take place once there were no more ditch users. Mr. Jensen believed the ditch users were obtaining their water from the open ditches which was run-off water as opposed to water coming from the reservoirs. Mr. Crane responded the water in open ditches was run off water from the creek. Councilmember Day pointed out the ditch users out west owned water shares and were entitled to that amount of water from the dam whether they received the water from an open ditch or pressurized system and a discussion followed.

Mr. Crane indicated Kays Creek was moving forward towards the agreement and requested direction from the Council if it wanted him to move forward with discussions toward an agreement. He believed the majority of those involved on behalf of Kays Creek were supportive; however, there were a lot of questions which needed to be addressed and the discussion continued. Councilmember Day expressed concern in assuming the liabilities associated with the debt of the irrigation company. Mr. Jensen expressed agreement with that concern; however, he pointed out the overall value of the water resource as an asset would be beneficial long term. Mr. Jackson also pointed out if Kays Creek Irrigation ever became insolvent, the City would become responsible in order to continue with maintaining its eastern system, and the discussion continued.

Councilmember Fitzpatrick stated she would like a more defined understanding of true costs to the City for taking over the irrigation company's system to ensure the City was financially prepared to assume the system and debt. Mr. Jensen announced Staff would proceed with discussions and keep the Council updated.

Councilmember Bloxham asked if there was any other entity which could possibly be interested in assuming the Kays Creek Irrigation system. Mr. Crane responded Weber Basin would be interested in the water; however, it wasn't interested in maintaining the system. He clarified the burden of the system would fall to the City. Mr. Jackson suggested the majority of residents believe their secondary water was provided through Layton City and believed there would be a benefit to the City once it became the premier quality water supplier to its residents. A discussion took place regarding the other irrigation companies and secondary water resources and providers.

The Council directed Staff to proceed and Staff responded it would work to better identify actual costs associated with the proposal, while simultaneously working on an agreement to bring back before the Council.

A discussion took place regarding whether the Council wanted to direct Staff to move forward in implementing the proposed final water rate increase. Mr. Probert responded if the Council was in favor of moving forward with the increase, an ordinance would need to be prepared to adjust the rates in the Consolidated Fee Schedule and indicated amendments to the budget had already been noticed. Mr. Jensen clarified this action would require a public hearing to amend the budget specific to the additional revenue. The Council expressed its desire for the public to have an opportunity to weigh in and participate.

Mr. Jensen suggested the Council be prepared to act and make decisions in an appropriate time frame. He explained the challenges associated in prolonging the decision specific to the rate increase was critical. He pointed out the City had invested significant funds in preparing a Plan identifying the rate increases, followed by adoption in a public process and emphasized the City had been transparent during the entire process. A discussion took place and Mr. Probert stated a public hearing would be noticed. Councilmember Bloxham reminded the Council the water rate increase had been removed from the budget and it was now considering it now be included in the budget.

The meeting adjourned at 5:50 p.m.

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Kimberly S Read, City Recorder