MINUTES OF LAYTON CITY COUNCIL WORK MEETING — **DECEMBER 16, 2021; 5:31 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, DAVID PRICE, KATIE ELLIS, ED FRAZIER, PAUL APPLONIE, CHAD WILKINSON, AND TORI CAMPBELL**

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

Mayor Petro opened the meeting.

AGENDA:

COUNCIL MEMBER REPORT

Councilmember Morris mentioned two other cities, Cedar Hills and Santa Clara, had decided to participate with UTOPIA. He reported Layton still had the most subscribers but believed West Valley City would probably surpass that. He concluded it was very successful.

Alex Jensen, City Manager, mentioned the overall revenue was significantly increasing. He mentioned confirmation hearings specific to the FCC (Federal Communications Commission) Chairwoman had recently taken place during which she had referenced the success of UTOPIA within Utah as an example for expanding high-speed telecommunications for benefitting the public. Councilmember Thomas complimented Mr. Jensen for his leadership in working through challenges early on resulting in a successful endeavor. Mr. Jensen expressed appreciation for the Council’s support.

Councilmember Bloxham mentioned the audit committee had met earlier in the afternoon and reported the independent auditor had bestowed an exceptional rating to Layton City. He summarized the discussion that took place during that meeting and stated it would be presented in the Council Meeting following the Work Meeting. Mayor Petro reiterated that the City was in a great financial position and complimented Staff.

Councilmember Morris also stated the LPC (Legislative Policy Committee) was preparing for the upcoming Legislative session. Mr. Jensen mentioned any issues or concerns the Council might have should be forwarded to him or Gary Crane, City Attorney, to be discussed with the legislative delegation. Mayor Petro added the Special Meeting with the legislators was scheduled for Thursday, January 13, 2022.

REVIEW OF PROGRESS ON LAYTON CITY/KAYS CREEK IRRIGATION COMPANY AGREEMENT FOR THE TRANSFER OF THE PRESSURIZED IRRIGATION SYSTEM FROM KAYS CREEK IRRIGATION COMPANY TO LAYTON CITY

Mason Kjar, Assistant City Attorney, reported Kays Creek Irrigation had agreed to adopt the Agreement which was forwarded to them; however, a few changes were recommended by legal Staff and reviewed them with the Council.

He explained when the Agreement referenced “the transfer of the pressurized system” it should include all of Kays Creek rights including accounts receivable. He also explained to allow Staff the authority to make changes to Exhibit B which identified each shareholder and the respective water shares. He informed small discrepancies regarding the amount of water shares owned by each shareholder were anticipated and Staff needed the ability to work through those without proceeding through the formal approval process with both Kays Creek and the City. He concluded these changes would be required to be in writing, reflecting signatures from each administrator.

Mr. Kjar complimented Stephen Jackson, City Engineer, for his work and contribution to the Agreement.

He asked if there were any questions and there were none.

Mr. Jensen reported the vote turned out 90% in favor of the Agreement by the shareholders.

COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2021

Tracy Probert, Finance Director, announced Robert Wood, auditor, was in attendance to present the Comprehensive Annual Financial Report (CAFR) with the Council and reviewed it with the Council highlighting the following specific to the General Fund:
Revenues

- Sales Tax
- General Fund which included funds received from the Federal Government (CARES Act)
- Franchise Tax
- Telecommunications

He reported the City initiated the first tranche of ARPA (American Rescue Plan Act) Funds and indicated those had not been included in this report.

Mr. Probert continued to review the CAFR highlighting the following:
Expenditures

- Wages and open positions

He reviewed the Enterprise Funds and mentioned projects had been identified which would be completed with fund balance in the water fund. He also pointed out the City's portion of the sewer fund hadn't experienced a rate increase in over 20 years and reminded the Council the recent rate increases, which almost doubled the rate, had been implemented by North Davis Sewer District (NDSD). He stated the reserves specific to the sewer fund were decreasing. He mentioned there were identified street lighting projects which would be completed using some of that fund balance. He reported the pension plan was calculated within the Emergency Medical Fund and that was responsible for the high fund balance to that account. He continued to review the remaining Enterprise Funds and other Governmental Funds.

Mr. Probert turned the time over to Mr. Wood, the outside auditor for the City. He reported the City had received the designation of excellence in reporting from the GFOA (Government Finance Officers Association) specific to the CAFR for over 20 years. He directed the Council to the firm's audit report which reflected the City received the highest recommendation for the audit. He mentioned two compliance issues were identified and noted the following:

1) The City's General Fund balance was higher than the allowed 35% and expressed confidence the City would appropriate excess funding to complete needed projects.
2) Davis Metro Narcotics Strike Force went over budget and explained it had received a Federal Grant (revenue), however, expenses weren't amended appropriately. He assured the Council it was more of an accounting error as opposed to overspending.

He complimented the City Manager, Mayor, and Council for the way they each care about the City and the budget and stated the City met the compliance requirement.

DISCUSSION – TITLE 9.44.070, CITY PARKS

Gary Crane, City Attorney, introduced Katie Ellis, Assistant City Attorney, to the Mayor and Council. He reminded the Council of a discussion in a previous work meeting regarding photography within City parks during which the Council recommended commercial photography be prohibited. He informed the Council during the process of drafting an ordinance, Staff had identified similar situations in which other entities had implemented prohibition, which subsequently resulted in a lawsuit. He reported, in these previous circumstances when a lawsuit was filed, the municipality generally lost and suggested the City consider options other than totally prohibiting the public's first amendment rights on public land.

Ms. Ellis spoke to the Council on free speech and explained public parks were considered a public forum and stated it was difficult to prohibit. She provided some suggestions and ideas which could be considered and a discussion centered on photography as a form of free speech followed.

Mr. Crane further clarified how photography and free speech were associated with one another and the discussion continued. Mr. Jensen believed there were options for Staff to identify a viable solution.

David Price, Parks and Recreation Director, informed the Council, Staff was still committed to finding solutions to the issue and expressed confidence in presenting recommendations during a future meeting and the discussion continued.

AGREEMENT BETWEEN LAYTON CITY AND HOLMES CREEK IRRIGATION COMPANY REGARDING THE HOLMES CREEK RESERVOIR OUTLET PIPE – RESOLUTION 21-56 – FROM THE HOLMES CREEK RESERVOIR OUTLET STRUCTURE (2600 EAST) TO GENTILE STREET (1800 EAST)

Stephen Jackson, City Engineer, shared a visual illustration and stated Holmes Creek Irrigation had identified the need to replace the reservoir outlet pipe due to its age and maintenance issues. He mentioned this project was a critical component to the City's Water Master Plan. He reported the Holmes Creek Irrigation Board had discussed the possibility of replacing a portion of the pipe or replacing the entire pipe. He informed the Council, the City currently owned 179 shares of Holmes Creek Irrigation and received a dividend check in February 2021, and Staff proposed to reinvest the funds into the irrigation system. He mentioned the City's Master Plan reflected a 24 inch diameter pipe connecting from Holmes Creek Reservoir to Andy Adams Reservoir. He reviewed the proposed costs associated with the project and also reviewed specifics of the agreement associated with shared costs and responsibilities with Holmes Creek Irrigation. He pointed out the City would engineer the design and construction management services and would own and maintain the reservoir outlet pipe. He clarified Holmes Creek Irrigation would own, maintain, and operate reservoir outlet pipe control structure and emergency relief valves (control of the water from the reservoir).

He asked if there were any questions.

Mayor Petro inquired if the proposed size of the pipe for the project was what had been reflected in the Water Master Plan and Mr. Jackson responded in the affirmative. A discussion took place specific to clarification of costs and responsibilities respective to each entity with Mr. Jackson reiterating the City was purchasing and providing the materials with Holmes Creek funding and completing the installation. He clarified the project would allow for the system to be pressurized as opposed to a gravity fed system.

Councilmember Day asked who would oversee the project and Mr. Jackson responded that would be the City's responsibility and indicated that was included in the Agreement as part of the engineering and construction management services. He mentioned the proposed cost for the pipe would remain the same for another week, with construction anticipated to begin this winter to be completed for the April water season. He expressed his opinion this was a good investment to the system.

AGREEMENT FOR THE PURCHASE OF LAND BETWEEN LAYTON CITY AND TYLER EARL – RESOLUTION 21-57 – 1369 EAST HEATHER DRIVE

Mr. Price shared a map reflecting property the City would like to purchase for the purpose of creating an entrance for a park trailhead. He shared a brief history associated with the parcel and explained it was part of land erosion which took three homes and stated it was not considered a buildable site. He reported a negotiation process had taken place with the seller and had come to an agreement for the purchase price. He pointed out the parcel shared a common boundary with the South Fork Park open space and would allow the City to provide a neighborhood access to that area. He informed the Council of the agreed upon price and believed it was a fair price.

Councilmember Day requested clarification regarding the other parcels and Mr. Price identified those which were still privately held and pointed out the property adjacent to the one proposed to purchase was currently owned by Layton City.

Mayor Petro stated she was in favor of the purchase.

DISCUSSION – AMERICAN RESCUE PLAN ACT (ARPA)

Alex Jensen, City Manager, informed the Council, Mr. Jackson was prepared to speak to different projects: sewer, water, broadband and possibly expanding to transportation which would be eligible for American Rescue Plan Act (ARPA) funding. He mention it was Staff’s desire to fund projects which would benefit the community in the long run, such as infrastructure. Councilmember Morris believed the City needed to create an official plan and Mr. Jensen responded funds had to be appropriated by the end of 2024 and spent by the end of 2026. Councilmember Thomas inquired whether the City could begin work earlier and then designate the funding for that project and Mr. Probert responded there were federal requirements associated with using the funding and clarified the City would want to designate the funding moving forward.

Mr. Jackson mentioned Staff had suggested using some of the funding toward the 2700 West project; however, because of the federal requirements, determined it wouldn’t be feasible; however, Staff had also identified a section of 2700 West to West Hill Field Road which he believed included eligible utility work which he believed would qualify for ARPA funding. He mentioned the City had applied for ARPA funding through the state and was unsuccessful in receiving any funding. A discussion took place regarding the lack of available construction materials and employees to complete the projects by designated deadlines.

Mr. Jackson reviewed some examples of possible projects which would be eligible to be completed with the ARPA funding:

- Automatic meter reading for culinary water and a discussion took place regarding disconnection for non-payment. Mr. Jackson mentioned the data residents would be able to receive in conjunction with these monitors.
- Councilmember Fitzpatrick mentioned the metering of secondary water and Mr. Jackson wasn’t sure if the ARPA funding was eligible for this use.
- A new drinking water well
- Telemetry upgrades used to monitor wells, pressures, and pumps
- Sewer project on Gentile Street near the golf course
- Water lines on Antelope Drive from University Park Boulevard east toward Lowe’s
- Storm drain projects in the Laytona subdivision
- Sandridge booster station and new tank
- Backup generators for well houses and pumps which were funded this year

He stated the approximate cost to complete the identified projects was $15,000,000 and asked if there were any questions. Mr. Jensen mentioned some of these projects had been included in Master Plans and concluded if any of them could be completed using ARPA funding, the City could appropriate those revenues for other important projects which weren't ARPA eligible.

MAYOR'S REPORT

No Mayor's report was shared.

The meeting adjourned at 6:55 p.m.

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Kimberly S Read, City Recorder