

Minutes of the meeting of the Logan Municipal Council convened in regular session on Tuesday, September 21, 2010 at 5:30 p.m. in the Logan Municipal Council Chambers, 290 North 100 West, Logan, Utah. Chairman Jay A. Monson conducting.

Council members present: Chairman Jay A. Monson, Vice Chairman Herm Olsen, Holly H. Daines, and Dean W. Quayle. Administration present: Mayor Randy Watts, City Attorney Kymber Housley and City Recorder Teresa Harris. Councilmember Laraine Swenson participated electronically.

The Logan Municipal Council (Herm Olsen, Jay Monson and Dean Quayle) met at 4:00 p.m. and toured the Bio Fuel Research Campus at the Logan Sewer Lagoons and observed the projects that are ongoing.

### **OPENING CEREMONY.**

Councilmember Olsen announced that today, September 21, 2010 is International Peace Day. He introduced Tom Schroeder with Cache Valley Peace Works, an ecumenical and secular group that speaks out against war and for peace. Mr. Schroeder gave an opening thought and Councilmember Olsen gave the opening prayer.

Chairman Monson welcomed those present. There were approximately 17 citizens in the audience at the beginning of the meeting.

**Meeting Minutes.** Minutes of the Council meeting from September 7, 2010 were reviewed and approved with minor corrections.

Councilmember Quayle asked that from the council meeting held on September 7, 2010 and the discussion regarding the canal, he feels that Logan City needs to announce the priorities regarding the canal. He feels that water should be restored as soon as possible to the Northern canal in the most economical manner. Also, restore and protect the Canyon Road properties, save and protect our power generation.

**Meeting Agenda.** The meeting agenda was approved. Chairman Monson announced at tonight's meeting there would be two public hearings.

### **QUESTIONS AND COMMENTS FOR MAYOR AND COUNCIL.**

Citizen Reed Andreason lives at 942 North 350 West in the Springcreek Retirement Community. He said in his neighborhood there is a concern regarding the unfinished sidewalk, curb and gutter from 310 West on 10<sup>th</sup> North out to Ashbury Court. There is an open ditch, limbs that need to be trimmed; a pipe that needs repair and the entire area needs to be cleaned. There is no sidewalk there which is a concern for the children who walk to school. He is also concerned about a new residential area on 400 West and 1200 North. There are very tall weeds in this area and he suggested the owners of this property keep the weeds mowed down because of the fire hazard and it would also improve the area. The sidewalk issue is the one he is most concerned about. He complimented the

City on the improvements that have been made on 600 West from Center Street South with new curb, gutter and sidewalk.

Street Manager Jed Al-Imari stated that through CDBG funds there is approximately \$80,000 dollars that has been spent on sidewalk repairs and another \$60,000 will be spent this year. Work will begin on the area that Mr. Andreason referred to on 10<sup>th</sup> North from 300 West to 400 West beginning July 1, 2011.

Citizen Del Hall lives on Winwood Avenue. He is concerned about the renovation of the golf course clubhouse and the costs involved with this renovation. He is also concerned about the “perks” that City employees receive with free golf, pool and recreation center pass.

Human Resource Director Greg Cox addressed the Council regarding the letter from Mr. Hall. He stated the employee wellness program was implemented several years ago and the free passes for golf, the recreation center and the outdoor pool are offered with along with the employee participation in the wellness program. He said it’s not unusual for companies to give “perks” in the job they work. Most City employees do not use the free passes although they are entitled to them. This program has been very positive for the employees and their families. The employee has to work four hours per week and participate in the wellness program to receive the passes. The golf pass is for golf only and does not include a golf cart or food.

## **MAYOR/ STAFF REPORTS.**

### **Presentation: Results from the Citizens Academy – Tami Pyfer.**

Former City Councilmember Tami Pyfer addressed the council regarding the recent Citizen Academy. She said that on December 15, 2009, the City Council approved a trial run of the Citizen Academy with a budget of \$2,000 for materials and other costs. The first session was held March and April of 2010 and there were 14 participants. There were five sessions conducted, two hours each plus a field trip. The total amount spent was \$187.57 of the \$2,000 allotted. The areas addressed were: Budget, Taxes, City Services, Political Processes, Citizen Involvement and the Role of Municipal Government. The benefit to the participants is they learned how to access information on City issues, learned ways to increase their involvement in City government and the City developed a network of interested and engaged citizens who can provide ongoing feedback and input on City issues.

Ms. Pyfer continued saying that moving forward she would like to continue with the Citizens Academy as a Council initiative and schedule the next session in February or March 2011. She feels the Citizens Academy would be especially helpful to those who are running for office. Group size is very important and she recommended a class size of 20-25 people. She has contacted the Utah League of Cities and Town about providing some of their materials for future sessions. She will advertise when the next session is scheduled.

Chairman Monson said the Council supports the Citizens Academy and it will be Council sponsored. On behalf of the Council, he thanked Tami for holding the Citizens Academy and feels it should continue.

## **City/Canal Match Determination – Mark Nielsen.**

Public Works Director Mark Nielsen said that tonight Zan Murray with JUB Engineering will discuss the match the City received for the canal project. He reminded the Council that an environmental study is still being completed and the analysis could change. He said the preference he recalls that the Council has recommended is to protect the hydro power at all costs.

Mr. Murray said the presentation he will give tonight is a breakdown of potential costs to the City. He figured Logan's share based on the value of the benefits of increased storm water capacity from the project, which according to preliminary estimates could cost around \$27 million dollars. The Natural Resources Conservation Service (NRCS) granted emergency funding of \$19.3 million to Cache County earlier this year to possibly modernize the Logan-Hyde Park-Smithfield Canal, known as the upper canal. The separate costs are to build storm drain channels through Logan City that would provide benefit to the canals and the improvements that are made. The direct costs for Logan City would be the incremental costs to enlarge the system that is being proposed or used to converge the existing infrastructure. The benefit Logan City receives is an amount of money to be spent if both infrastructures are built separately. When it accepted the \$19.3 million in federal money, Cache County agreed to the project's local "sponsor" and took responsibility for getting permits and providing a 25 percent match of the total cost of the project. The preliminary cost of the project is between \$26 million and \$27 million. Logan, North Logan, Hyde Park and Smithfield would agree to contribute to the match of approximately \$6.6 million. Canal shareholders would cover 61.2 percent of the match (\$4.8 million) dollars with Logan, North Logan, Hyde Park and Smithfield paying the remaining 38.8 percent (\$2.2 million).

Mr. Murray continued saying that as they looked at the analysis for the project, they assume the worst case scenario is during the summer months.

Councilmember Swenson asked in figuring the costs of the match of the project for Logan City, if we were constructing an independent storm drainage selection system instead of using the canal, this would be a much greater cost.

Mr. Murray said as they looked at the analysis for the project they had to recognize that during the summer months there is only so much additional capacity. The example project that was used assumed there was no irrigation water in the canal and there was additional storm water capacity in the canal for City use. Therefore, they calculated an equivalent pipe size to carry the additional storm water. He assumed that the worst case scenario would be in the summer months. A storm water system is rarely used all year round.

Councilmember Olsen asked if this methodology would be applicable with any of the four alternatives being considered.

Mr. Nielsen responded yes, and the benefits and direct costs would change dramatically depending on the alternative.

Mr. Murray said this methodology will take more time to evaluate.

Chairman Monson said that he recently attended a session at the ULCT Conference and he asked a representative from the Utah Geological Survey about the ground water in Logan and what it would do if all the canals were piped. The representative responded that the aquifers in Logan that go out to Nibley, College Ward, Youngward and the West side of Logan would dry up because they are replenished by the canals.

Mr. Nielsen said there are several models and the best model correlation is the one from USU. Only a small portion of the canals are piped. We have 10-11 canal companies in Logan. There are a lot of canals that will infiltrate water and he would go to USU and have them run the model. He would hope that someone would do that with this analysis and the study. He asked the Council if there are other topics regarding the canal that he can address in the future. The draft environmental EIS will be published later this year or early 2011 and his suggestion is when this comes out that the Council review this information and from there make a decision on the alternative and also gather public input.

Mayor Watts said the environmental process is the most important part and we weigh in on those facts to see what the direction will be. His concern is to restore the Canyon Road hillside; it cannot stay the way it is now. Whether it goes back to irrigation or not, the hillside needs to be stabilized and restored.

Councilmember Swenson said that before any decision is made the Council needs to understand the exact costs of stabilizing the hillside and the value of the hydro power, future projects and capacity.

Councilmember Daines asked is stabilizing the hillside being considered in the EIS.

Mr. Nielsen responded no, it is not.

Councilmember Swenson said it was her understanding that the money is to be used to mitigate the natural disaster that occurred and stabilize the hillside.

City Attorney Kymber Housley said the money specifically cannot be used to stabilize the hillside and this is a specific stipulation. It can be used to put the canal back or reroute the canal but not to stabilize the hillside. We did go after grant money to stabilize the hillside and did not get the grant for that purpose. There would be an indirect benefit in putting the canal back where it was and obviously they would have to stabilize the hillside to do that.

### **Banners on Main Street – Mayor Randy Watts.**

Mayor Watts said regarding the banner over Main Street, he has talked with Community Development Jay Nielson, UDOT and City Forester Joe Archer who is the one who hangs the banners. Also in the process he has involved Logan City's Risk Manager Bryce McEuen. Mayor Watts has made the determination that he is not willing to put the banner poles back up on Main Street.

Logan City Risk Manager Bryce McEuen addressed the Council regarding the banner. He has done a risk analysis and said there were several unique things with the banner and the liability. In hearing from UDOT, they don't want the banner to go back up over Main Street because of their safety concerns. Under Utah law, the owner of any public right of way has the duty to maintain a reasonably safe condition. Prior incidents of the banner were indicative to what could happen in the future. He stated that the Logan City Police Department recently received a grant to reduce distracted driving on Main Street in Logan and putting up a banner does distract driving. He has looked at options for the banner that reduce the risk. He feels there should be consistency throughout the City and the focus should be on safety with the employees and the employer to be responsible and safety conscience at all times. He feels the alternative of the side street banners should be considered.

Chairman Monson asked about the digital signage is this one of the options and isn't this considered more of a distraction for drivers. He is also only aware of one problem that occurred with the banner being Main Street and it did not cause an accident and no one was injured.

Mr. McEuen responded there have been incidents where tools and equipment fell down while crews were putting up the banner and this could cause a serious problem.

Chairman Monson said the Council is trying to respond to the Chamber of Commerce and the other groups who use the banners. The side banners are more expensive and the nonprofit groups cannot afford them. He respects the City's position and feels the Council is "between a rock and a hard place" in responding to the nonprofit groups and why the banner cannot go back over Main Street. He said that representatives from UDOT have come to him personally and said if the City came forward and said this is a "cherished tradition" in Logan and we have safety measures for the banners and met the specifications that there are other ways to solve the problem other than saying no more banners. He is not personally convinced that we have explored all options.

Mr. McEuen said that UDOT is being more safety conscience about what they do because of the judgments they have paid out in the millions of dollars.

Councilmember Monson said the Council wants Main Street to be the safest it can be.

Councilmember Daines suggested doing some brainstorming and come up with a creative solution to purchase banners and help the nonprofit groups and move forward. She would be willing to talk with people and get their ideas about funding the banners and what can be done.

Mr. Housley said there is an immerging trend with sign regulation in the City right of ways. This will be frustrating for many people but with a changing society, the Council needs to recognize that when dealing with risk management it's not just the physical risk to individuals but also preventing potential litigation. One thing that is being challenged, especially across the Wasatch Front is sign regulation and dealing with City's that permit some signage in the right of ways. A complete ban on nongovernmental signage in the right of way is fine but once you start making exceptions for non profits or for other types of events it goes to content regulation. If we start making exceptions the courts are saying

that non profits have no greater right to free speech than anyone else. It has been encouraged that banners and any sign in the right of way not be allowed. The side street banners are also included in this regulation of signage. Even with a variance they can only be government sponsored advertisement and events and UDOT will require this to happen. This is his legal opinion.

Mayor Watts said he is hopeful that we can move ahead with this issue. A lot of money is being spent installing black coach lighting and making sidewalk improvements. He is willing to move ahead and look at other options regarding side street banners and how they can be funded.

Councilmember Daines said the Council doesn't typically use their entire budget and maybe the Council can consider using these funds to help with the cost of side street banners. She feels if it's not going to happen then we need to move forward and find a win-win for everyone.

### **COUNCIL BUSINESS.**

**Meeting Schedule.** Chairman Monson announced that regular council meetings would be held the first and third Tuesdays of the month at 5:30 p.m. The next regular council meeting is Tuesday, October 5, 2010.

### **Consideration of a proposed resolution supporting the Creation of a Countywide Library System in Cache County – 10-56 – Jay Monson**

Chairman Monson said the Council is proposing a formal resolution supporting the Creation of a Countywide Library System in Cache County. This will be on the November ballot as an opinion poll that people will respond to and state if the citizens want to move forward with a Countywide Library System.

Mayor Watts stated that the beauty of government is the citizens get to decide with their vote if they want a Countywide Library system.

Chairman Monson said the County is planning to separate out the voting districts and it will be easy to see what communities support the library and which do not. If Logan City does not approve in their vote then of course we won't do this as a City.

Councilmember Daines clarified that if this were passed and Logan repealed their tax then it's anticipated that the new tax implementation by the County would be approximately the same for Logan residents.

Chairman Monson responded that it would be initially. On a fact sheet for the library that has been distributed, it shows that everywhere there is a countywide system the tax levy is about half of what we now pay in Logan. When there is a countywide system and more people pay into it, the cost goes down.

**ACTION.** Motion by Councilmember Daines seconded by Councilmember Quayle to approve Res. 10-56 as presented. Motion carried by roll call vote:  
Laraine Swenson, voted yes

Holly H. Daines, voted yes  
Dean W. Quayle, voted yes  
Herm Olsen, voted yes  
Jay A. Monson, voted yes

**Board Appointment: Renewable Energy and Conservation Advisory Board (RE CAB) – Jay Monson.**

Councilmember Swenson stated that Karen Wolfe is very qualified to serve on this board. She said RE CAB is a very viable and active board.

Councilmember Olsen commented that Ms. Wolfe is a resident of Logan City and said that we need to be mindful that those serving on boards and committees should, unless it's a special circumstance, live in Logan City.

**ACTION.** Motion by Councilmember Swenson seconded by Councilmember Olsen to ratify Karen G. Wolfe to the Renewable Energy and Conservation Advisory Board which is a three year term. Motion carried by roll call vote:

Laraine Swenson, voted yes  
Holly H. Daines, voted yes  
Dean W. Quayle, voted yes  
Herm Olsen, voted yes  
Jay A. Monson, voted yes

**Community Development Block Grant (CDBG) Funding – Logan City and Cache County – Jay Monson.**

Chairman Monson said that he served on the CDBG committee this year and he is concerned about the recent ruling that Bear River Association of Governments (BRAG) also received CDBG money. Logan City has received CDBG money for the past six years and we have never worried about City/County. But now a good share of the CDBG money serves many patrons that live outside of Logan such as the Cache Valley Food Pantry and English Language Center. Logan City is spending money and funding things outside of Logan City. The money that BRAG receives cannot be spent for any programs inside Logan City and he does not understand this and is very concerned.

Councilmember Swenson said she doesn't understand this either and she feels it's problematic.

Community Development Director Jay Nielson said this isn't new information and what has been stated by Chairman Monson is correct. This was done last year and is a decision made by the State representatives for HUD. He and Mayor Watts met with HUD last year to try and repair the inequity. They held firm on the basis that cities and counties fund non profits and they very often do not meet the HUD goals. Their concern is the use of federal monies for non profits to sustain them in their operational area and that is not the intended use of the money.

Chairman Monson said when the CDBG committee reviewed the applications they were mindful of what they were applying for and that it could not be used to sustain a nonprofit.

Mr. Nielson said in the future he would like to do a presentation on the overall CDBG program and how the funding is determined. He said the battle was fought and we lost and revisiting the battle with HUD will probably not work.

Councilmember Olsen said if we were to notify those entities that have received monies in the past in anticipation of a restriction of their benefits, would they be able to apply for money through the County?

Mr. Nielsen said they cannot apply for funding through BRAG only through Logan City. He said the point to all of this and what the State is trying to say is that we give away far too much of our money to the nonprofits.

Chairman Monson said this is the citizen's money and we need to remember this and help citizens who can't help themselves.

Mr. Nielsen said there are very precise guidelines for the use of federal money and they are trying to tighten the use of this money so the nonprofits focus on their goals.

Councilmember Daines said maybe we need to look at how other cities use these funds and move towards a citywide fund that benefits everyone across the board in Logan City such as replacing and repairing sidewalks and explore different options for the use of this money and where it will do the best good.

Councilmember Swenson asked if we use the money for only municipal projects would the ruling change or would there be an opportunity to appeal.

Mr. Nielson responded no, HUD would be completely satisfied if we were to use the money for municipal projects.

#### **OTHER COUNCIL BUSINESS.**

Chairman Monson said we haven't had a report from the Youth City Council for awhile and asked when they might be coming to a Council meeting.

Councilmember Daines responded that school has been out for the summer and now with school back in session she will find out when they will report.

Chairman Monson announced the *Best of Utah Tour 2010* that will be held on Monday, October 4. This is a daylong tour of some of the best development projects that Utah has to offer along the Wasatch Front. This event is organized by local professional planners, Cache County, Cache Valley Transit District and Logan City. The tour departs sharply at 7:00 a.m. from the rear parking lot of the Cache County Administration building. The tour will end back in Logan at 5:30 p.m. The cost for lunch is \$5.00 and those interested can pay on the bus. Drinks and snacks are provided. To participate call Marsha at 755-1640 or Debbie at 716-9021 no later than September 29.

Chairman Monson asked about the Welcome to Logan Sign Contest that is being held. He feels there are misconceptions about the sign contest and what the City is looking for. He is impressed with the applicants.

Mr. Nielsen stated the sign contest is a partnership with the Herald Journal and Logan City. The Parks & Recreation Department funded a first, second and third prize winners to stimulate more submissions. This was an attempt to get specific ideas and as many as possible about what the ideas are from the community. There were a total of 40 applications and voting is being held on the Herald Journal website. The winners are decided by the Herald Journal staff and will be announced in the newspaper. The terms of the contest were there was no obligation on the part of Logan City to use any of these projects but all the ideas will all be gathered together and given to the consultants who will review these suggestions and bring the Council a proposal. It will then go back to the public again with expanded ideas. The Council will ultimately decide how much is spent and to what extent on the final design of the project. A consultant will be hired because of staffing and there is significant value on having outsiders step in and look at the project objectively.

Chairman Monson said that paying \$20,000 for a consultant is a lot for just a simple Welcome to Logan sign. He wants the sign to be simple and nothing grandiose.

Councilmember Swenson said she supports this project and spending \$20,000 for a consultant. Especially since the City spent \$30,000 for a City logo.

Councilmember Olsen said several people have told him that \$20,000 is too much to spend on a consultant.

Finance Director Richard Anderson clarified that we did not spend \$30,000 for a City logo. The money was also spent for a City brochure. Approximately \$2,000 was spent on the logo.

Mayor Watts said there is a cost in doing things right and representing what Logan is really about and we want something that will last for years to come.

Mr. Nielson said that everything we do in the City is designed by a consultant such as roads and buildings. An entrance to the City deserves the same sort of design effort so it's done right.

Councilmember Olsen said maybe this is something that is not needed right now.

Councilmember Daines feels this might be something we don't want to fund right now but we should have a plan and a vision in place when we are ready.

## **ACTION ITEMS.**

**PUBLIC HEARING: Budget Adjustment FY 2010-11 appropriating: \$16,315 for the Justice Court grant; \$26,409 for the Safety grant; \$10,282 for the Byrne JAG grant; \$7,000 for the youth tackle football program; \$275,000 for the creation of Assessment Area #1 – 10-55.**

Mr. Anderson stated the \$275,000 for the creation of Assessment Area #1 is for the budgetary side of the equation.

Mr. Housley said the Council still needs to appoint the Board of Equalization for the Assessment Area and that will be decided at the October 5, 2010 council meeting. These meetings will begin October 18 and there will be three consecutive meetings of one hour each. The Council should consider having two staff members, and one council member up to three council members. The Council should take a look at their schedules and he recommended that only one Council member and two staff members sit on the board. The Council will make the final approval.

Chairman Monson opened the meeting to a public hearing.

There was no public comment and the hearing was closed.

**ACTION.** Motion by Councilmember Olsen seconded by Councilmember Quayle to approve Res. 10-55 as presented. Motion carried by roll call vote:

Laraine Swenson, voted yes

Holly H. Daines, voted yes

Dean W. Quayle, voted yes

Herm Olsen, voted yes

Jay A. Monson, voted yes

**PUBLIC HEARING: Consideration of an ordinance prohibiting the possession and use of a substance commonly known as Spice – 10-53.**

Chairman Monson opened the meeting to a public hearing.

There was no public comment and the hearing was closed.

Mr. Housley announced a change to the ordinance to add subsection B that adopted terms as defined in State Code that we can prosecute on the basis of consumption.

Cache County Attorney James Swink addressed the Council and said he met with the Regional Council and Representative Jack Draxler who is our State representative. He encouraged the Cities do to something with this issue and he wasn't certain whether anything would come out of the legislature on the Spice issue. He said anything Logan City does will dramatically help the County in addressing this issue. The Board of Health will act on this next month and will ban the sale of Spice. Other cities across the County are also looking at this ordinance.

Councilmember Olsen said we are all concerned about the public health community and he is concerned in hearing what the doctors who are dealing with people affected by taking Spice and having problems. He asked why we have such an issue here and not all along the Wasatch Front. He is also concerned about the legislature not acting on this issue. It has been indicated that someone can change the formula of the current Spice so it does not fall under the current ordinance. He feels we need to be cautious about believing this is the final ordinance we will adopt on Spice.

**ACTION.** Motion by Councilmember Quayle seconded by Councilmember Daines to adopt Ord. 10-53 as presented. Motion carried by roll call vote:

Laraine Swenson, voted yes

Holly H. Daines, voted yes

Dean W. Quayle, voted yes  
Herm Olsen, voted yes  
Jay A. Monson, voted yes

**Consideration of a proposed vacation of 700 North Right-of-Way between 800 East and 1200 East at Utah State University – 10-33.**

Public Works Director Mark Nielsen clarified that chip and seal, curb, gutter and any road maintenance other than just basic painting and cleaning has been removed from the proposal.

**ACTION.** Motion by Councilmember Swenson seconded by Councilmember Monson to adopt Ord. 10-33 as presented. Motion carried 4-1 (Olsen).

Laraine Swenson, voted yes  
Holly H. Daines, voted yes  
Dean W. Quayle, voted yes  
Herm Olsen, voted no  
Jay A. Monson, voted yes

**WORKSHOP ITEMS.**

**Budget Adjustment FY 2010-11 allocating: \$155,358 for Cost of Living Adjustments – 10-58 – Richard Anderson.**

Finance Director Richard Anderson explained the proposed budget allocation. This is not an increase to the budget and is for a cost of living adjustment for City employees. It is proposed that Logan City employees will receive a 1.5% increase. Employees have not received a pay increase for the past two years.

This will come back as a public hearing and Action Item at the October 5, 2010 Council meeting.

**Consideration of a proposed ordinance amending Title 10 of the Logan Municipal Code (Regulation of Private Booting Practices) setting maximum Authorized Fee consistent with State Law – 10-57 – Kymber Housley.**

City Attorney Kymber Housley explained the proposed amendment. This is to adopt the State schedule and change the maximum authorized fee for removing a boot(s) from a vehicle which shall not exceed the amount set by State law.

Councilmember Olsen said he is becoming more and more reluctant to surrender to the State, their judgment for ours. He feels that things should be addressed at a local level.

Mr. Housley said looking at this from the citizen's standpoint, the continued changing of the ordinance and fees regarding booting do create confusion. He feels we should be on the same level as the State.

This will come back as an Action Item at the October 5, 2010 Council meeting. No public hearing is needed for this proposed ordinance amendment.

**OTHER CONSIDERATIONS.**

Councilmember Olsen asked if the parking restriction notices on 300 North have gone out to residents.

Mr. Nielsen responded the notices have gone out and he has received phone calls. The effective date is November 1, 2010. Parallel parking is available and they will need to look at other parking options.

There being no further business to come before the Council, meeting adjourned at 7:50 p.m.

**ADJOURN.**

Teresa Harris, City Recorder