

Minutes of the meeting of the Logan Municipal Council convened in regular session on Tuesday, October 18, 2011 at 5:30 p.m. in the Logan City Municipal Council Chamber, 290 North 100 West, Logan, Utah. Vice Chairman Dean Quayle conducting.

Council members present at the beginning of the meeting: Vice Chairman Dean Quayle, Holly Daines, Laraine Swenson and Jay Monson. Administration present: Senior Attorney Lee Edwards, Public Works Director and Acting Mayor Mark Nielsen, Finance Director Richard Anderson and City Recorder Teresa Harris. Excused: Chairman Herm Olsen, City Attorney Kymber Housley and Mayor Randy Watts.

### **OPENING CEREMONY.**

Councilmember Laraine Swenson gave the opening prayer and led the audience in the pledge of allegiance.

Vice Chairman Quayle welcomed those present. There were approximately 10 citizens in the audience at the beginning of the meeting.

**Meeting Minutes.** Minutes of the Council meeting from October 4, 2011 were reviewed and approved with minor changes.

**Meeting Agenda.** Vice Chairman Quayle announced at tonight's meeting there would be two public hearings.

Councilmember Swenson asked that under Other Considerations the following be added to the agenda: Lighting on 10<sup>th</sup> West, possible moratorium on building heights and a rezone of 600 East 100 North.

**Meeting Schedule.** Vice Chairman Quayle 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, November 1, 2011.

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

No questions or comments for the Mayor or Council.

### **MAYOR/ STAFF REPORTS.**

#### **Freedom Fire Report 2011 – Russ Akina.**

Parks & Recreation Director Russ Akina gave a report of the 2011 Freedom Fire event that was held in July at Utah State University Romney Stadium.

Mr. Akina introduced those who served on the Freedom Fire Steering Committee and are in the audience this evening: Holly Fjeldsted, Michael Huff and Mike Bankhead from the USU Caine College of the Arts.

Mr. Akina said there was an approved budget of \$250,000 for the 2011 Freedom Fire event. Expenses were \$250,000; Revenue \$189,198.44; Sponsorship Revenue \$69,500; Difference in Revenue & Expenses \$60,801.56 and Ticket Attendance: 13,025. The committee came to the Council because they wanted to have a bigger show and wanted to get more people into the stadium. They came up short on ticket sales but from the sponsorship standpoint they exceeded their revenue projection and that is an area they will focus on as they look at future shows.

Mr. Akina proposed the following for the 2012 Freedom Fire Event.

- Requesting a Budget in the amount of - \$200,000
- Recommended Ticket Prices Reduced from \$10 - \$45 in 2011 to \$10 - \$25
- Ticket sales target for 2012 will be 17,000 compared to 14,000 in 2011
- Meet with Eric Frandsen of the Radio Group to discuss and obtain a commitment to broadcast portions of the show with Al Lewis and partnering to enhance 2012 sponsorships
- Pursuing Cache County to fund Freedom Fire 2012 with RAPZ funding
- It is anticipated that by reducing costs, working in partnership with Cache Valley Radio Group, and incorporating RAPZ funding, the show is expected to pay for itself within one – two years.

Mr. Akina said the \$10 tickets sold the best but did not sell out. He said they don't believe the tickets alone will cover expenditures even if they reduce a request for budget. They want to make the ticket prices more attractive and increase ticket sales by 4,000.

Councilmember Monson said there were a lot of young families that told him they could not afford to attend because of the tickets prices. He suggested a family ticket price or a lower ticket price for children.

Councilmember Swenson suggested tier pricing and sell tickets to Logan City residents at a discounted price and those living in the County at a higher ticket price. If we do receive RAPZ funding then all ticket prices could be the same.

Councilmember Daines said increasing sponsorship and reducing expenses is going to be the key. She is willing to support the event again for another year with the reduced budget but if we can't come close to breaking even in 2012, then we need to reevaluate at that point.

Mr. Akina said a good quality show comes with expenses but the committee will do all they can to make improvement and make it happen. The American Festival Chorus will perform again in 2012.

The Council agreed there should be a Freedom Fire event in 2012 and continues looking for ways to improve and reduce costs.

Councilmember Quayle asked about combining with the Cruise-In event and combining the two concerts.

Mr. Akina said they have contacted the Cruise-In committee and will communicate with them on dates of when events will be held. The police and fire department have stated they don't have the resources to do both the fireworks and the Cruise-In events on the same night.

Mark Nielsen announced the 100 East road (East of the Tabernacle) will be paved and open in two weeks.

### **COUNCIL BUSINESS.**

Vice Chairman Quayle announced that Council Candidate Tom Jensen is in the audience tonight.

He also announced that a Candidate Debate will be held on Wednesday, October 19 in the City Hall Council Chambers from 4:00 to 6:00 p.m. The public is invited to attend.

Vice Chairman Quayle announced that a Citizens Commission has been formed consisting of Blythe Ahlstrom, Barbara Price, Gary Carlston, Brent Hoggan and Alan Hinckley. The commission will review the rezone of 1000 North 600 East. The committee has met once and will meet again on November 3, 2011.

### **ACTION ITEMS.**

**PUBLIC HEARING - Budget Adjustment FY 2011-12 appropriating: \$42,006 for lease interest payments inadvertently omitted from the FY 2012 adopted budget \$2,906 for the Bullet Proof Vest Grant – Resolution 11-78 – Richard Anderson.**

Vice Chairman Quayle opened the meeting to a public hearing.

There was no public comment and the hearing was closed.

**ACTION.** Motion by Councilmember Daines seconded by Councilmember Monson to approve Res. 11-78 as presented. Motion carried unanimously.

**Consideration of a resolution approving recertification of the Logan Municipal Justice Court – Resolution 11-76.**

**ACTION.** Motion by Councilmember Monson seconded by Councilmember Daines to approve Res. 11-76 as presented. Motion carried unanimously.

**Municipal General Election – Consideration of a resolution approving polling locations and poll workers for the November 8, 2011 Municipal General Election – Resolution 11-77.**

**ACTION.** Motion by Councilmember Daines seconded by Councilmember Swenson to approve Res. 11-77 as presented. Motion carried unanimously.

**PUBLIC HEARING - Consideration of a resolution to permit the Parks Department to designate sidewalks in the Hyrum Gibbons Mount Logan Park accessible to dogs on a leash – Resolution 11-79.**

Vice Chairman Quayle opened the meeting to a public hearing.

Vice Chairman Quayle said this is not a resolution allowing dogs in City parks but is a proposed resolution allowing leashed dogs on the walkway within the Hyrum Gibbon Mount Logan Park.

Councilmember Monson said he was appalled at the last council meeting to learn from a parks and recreation employee who reported on the dog waste at City parks. He is disappointed that people do not clean up after their dogs anywhere in the City. He proposed an amendment to Resolution 11-79 stating that for a period of a one year trial period the Council will permit the Parks and Recreation Department to designate sidewalks in Hyrum Gibbons Mount Logan Park for access to dogs on leash in accordance with existing City ordinances and park rules, including a rigorous campaign to educate and inform all citizens of current law and requirements that dog owners remove dog waste immediately from all City parks, trails, and sidewalks and dispose of such in appropriate trash can receptacles, said campaign using city web sites, mailing, and in cooperation with public media, Neighborhood Councils, Logan City Youth Council, and other appropriate organizations.

Councilmember Swenson said that a lot of people do clean up after their dogs and the ones that don't know they are suppose and choose not to clean up. She will vote against the proposed resolution but will support the amendment made by Councilmember Monson. She suggested the trial period go from now until June 1, 2012. Her concern is if this comes back that the resolution should state that leashed dogs be allowed in all City parks and not just the Hyrum Gibbons Mount Park. She doesn't want Mount Logan park to become the City "dog park" and she feels the problems will be greater if this happens. She doesn't feel a trial will show anything and it has already been stated there is a problem at this park.

Mr. Akina clarified this would be parks that have intersecting sidewalks throughout the park. He said there is a clause in the proposed resolution regarding compliance that if there is not compliance during the trial period and if staff and animal control does not find compliance, that access will be terminated.

Councilmember Swenson feels it should be based on the fact that the Parks and Recreation staff feels there is a reduction in animal waste found in the park.

Councilmember Daines said we also need to have enforcement from animal control with dogs off leash and park users not cleaning up after their dog. There should be more education and possibly a phone number posted in the park where people can report a violation to animal control officers.

Councilmember Monson suggested a poster contest to educate people on this issue.

Councilmember Swenson would like a time period and a measure of compliance included in the resolution.

Mr. Akina feels a six month trial period is enough time to gather information and see if there are going to be problems. Most people use the park from the Spring to Fall months.

Councilmember Swenson suggested a deadline of the end of June 1, 2012 and stated that compliance has to be an improvement over what is occurring now and if the time period is extended further that dogs in parks be opened to all City parks. She feels people should have a place where they can take their family, eat and play and not have to deal with dogs in the park.

Senior Attorney Lee Edwards said currently the penalty is an infraction, with a minimum fine of \$15 and maximum of \$50 dollars. It would require an amendment to the current ordinance to change the fine amount.

Councilmember Swenson said animal control has a lot of calls and they first talk to people and give them a verbal warning, it usually takes a second contact before the person is given an actual ticket.

Councilmember Daines suggested reviewing police resources and possibly have someone reassigned to help with animal enforcement

Logan resident Joe Tennent addressed the Council and said he and his family often walk on sidewalks throughout Logan and several times they come across dog waste. He feels if dogs are allowed in the park that people will be discouraged from going to the park with their family. His children are afraid of dogs and parks should be for people and not dogs.

Vice Chairman Quayle closed the public hearing.

Councilmember Daines said she supports the idea of adjusting/increasing the current fine so people will comply.

Mr. Edwards will work with Police Chief Gary Jensen and will bring a proposed amendment to the current ordinance back to the Council with an increase of the fine.

**ACTION.** Motion by Councilmember Swenson to amend the proposed amendment submitted by Councilmember Monson to add the following wording: for a period of time until June 1, 2012. The proposed amendment continues from Councilmember Monson which reads: ....including a rigorous campaign to educate and inform all citizens of current law and requirements that dog owners remove dog waste immediately from all City parks, trails, and sidewalks and dispose of such in appropriate trash can receptacles, said campaign using city web sites, mailing, and in cooperation with public media, Neighborhood Councils, Logan City Youth Council, and other appropriate organizations. Also, that the trial period will be deemed successful if the Parks staff finds that compliance has increased during the trial period (June 1, 2012) seconded by Councilmember Monson to approve the amendment to Res. 11-79. Motion carried unanimously.

**ACTION.** Motion by Councilmember Daines seconded by Councilmember Monson to approve Res. 11-79 as amended. Motion carried 3-1 (Swenson voted nay).

## **WORKSHOP ITEMS.**

**Budget Adjustment FY 2011-12 appropriating: \$2,000 for funds donated for the purchase of football helmets; \$5,000 for the SAFG Grant to assist the police department with costs of fighting drugs; \$26,511 for the reimbursement of fire related expenses for fire deployments – Resolution 11-81 – Richard Anderson.**

Mr. Anderson explained the proposed budget adjustment.

This will be an action item and public hearing at the November 1, 2011 council meeting.

### **Review of Daycare Policy in Residential Zones – Mike DeSimone.**

Community Development Director Mike DeSimone gave a report on what is allowed regarding daycares in a residential zone. The Land Development Code identifies three categories of Family Day Care facilities based on occupant load. A Family Day Care/Preschool houses up to 8 clients, a Family Group Day Care/Preschool houses up to 16 clients, while a Commercial Day Care houses more than 17 clients. The system Logan uses to categorize each of these three types of Day Care facilities is based on the State of Utah's Day Care licensing categories.

Councilmember Daines feels that 16 day care clients in one neighborhood is too many for a neighborhood and this should be eliminated. She feels that up to 8 should require a conditional use permit and anything over 8 in a residential area should not be permitted. Neighborhoods are concerned about increased traffic and she feels no more than 8 should be allowed in a residential area.

Mr. DeSimone said the numbers he has mentioned is based on the same numbers of State of Utah standard. The Planning Commission suggested that neighborhoods document what is happening with cars, etc in a day care area and they will review these areas. We don't have to follow the State guidelines.

Councilmember Daines said if someone is running a large enough operation requiring a second staff member, it should be located in a commercial zone and not in residential.

Councilmember Swenson suggested a change that no permit is required for up to 4 clients and 5-10 or 12 would require a conditional use permit in a residential area.

Councilmember Daines said she supports this suggestion if it were only up to 8 clients.

Mr. DeSimone stated that most of the residential day care areas are located on the West side of Logan.

Councilmember Swenson said that last approval for a day care was in a cul-te-sac which is a very small road and neighbors are concerned about the traffic. She feels we need to

make a change and 16 clients being babysat in a neighborhood is a business and it should not be allowed in a residential zone and should be considered commercial.

Mr. DeSimone said there have been conditions on the last two day cares that were approved. They looked at the roadway for traffic and staggered drop off and pick up times.

Councilmember Swenson recommended that for fewer than 4 children no permit is required in the Neighborhood Zones of NRC, NRCS, NROC, NRE and NRW and with a conditional use permit for 5-12 clients in the remaining Neighborhood Zones.

Councilmember Daines suggested the number be changed to 5-8 clients and not go above 8 clients.

Mr. DeSimone will prepare a draft from the suggestions made tonight. He will report back to the Council and will also go the Planning Commission for their recommendation and review.

**Consideration of a proposed text amendment to the Land Development Code (LDC) allowing a mortuary (no chapel, minor parking) in the Town Center (TC) zone – Ordinance 11-82 – Russ Holley.**

Senior Planner Russ Holley addressed the Council regarding an ordinance amending the Land Development Code allowing Serenicare, a mortuary (no chapel, minor parking) in the Town Center (TC) zone. Staff finds the request is inconsistent with the purposes and intent of the General Plan, specifically Chapter 3.5 Town Center which states “In order to maintain downtown as the central hub for Logan and Cache Valley, the Town Center will have a mix of retail, office, residential, and civic uses in addition to entertainment and cultural activities”. The Town Center goes from 200 South to 500 North and up to 200 East.

Logan’s two current mortuaries’ are located in the Town Center zone and have been there for a length of time and will remain. The requested mortuary is for a location at 126 East 400 North in a multi tenant building. Located next to the proposed area is Einstein’s Bagel and Jamba Juice. Serenicare Mortuary processes the deceased body, performs office work and all other services take place elsewhere. Staff recommended denial based on the findings that they lack daily foot traffic and is incompatible to a restaurant and retail area. On October 13, 2011, the Planning Commission, by unanimous vote, recommended that the Municipal Council deny a motion for text amendment to allow Mortuaries “minor parking and no chapel” in the Town Center Zone.

Councilmember Monson said there are a lot of people that cannot afford a large funeral and he would like to know what Serenicare charges for their services. He feels there is a need for people who want a smaller service. He worries about monopolies in Cache Valley and he would like to see alternatives for people.

Councilmember Daines said there are other locations in Logan that Serenicare could consider other than the Town Center.

This will be an action item and public hearing at the November 1, 2011 council meeting.

### **Canal County Emergency Watershed Project – Mark Nielsen.**

Public Works Director Mark Nielsen gave a power point presentation to the Council on the Cache County Emergency Watershed Project.

#### **Benefits:**

- Restore the irrigation system to original service levels.
- Additional availability in canals for conveying storm water.
  - Provides an increased capacity storm water channel for use by Logan City along the Logan Northern alignment.
  - Does not increase significantly our ability to meet design standards for storm water.
  - Eliminates some storm water maintenance by covering canal through Logan.
- Perpetual capacity for the Cities to use the canal for conveying storm water.
  - Provision that the Cities will be given access to all easements and canal property proves Logan opportunities we have not had previously.
  - Significant improvements in canals north of Logan required realizing this benefit.
- Ability to provide and receive water for culinary water right exchanges. His view is this is part of our irrigation shares and it doesn't change whether this project is built. We still have to come up with adequate water shares to get more exchanges.
- Other Benefits are better county wide water management, water for future development, valley wide economy and fisheries.

#### **Sources of Funding, there are four sources of funding:**

- NRCS \$19,350,000 – Cannot cover permits, licenses, property rights, cost overruns.
- Utah DWR \$5,875,000 – Cannot cover property acquisition.
- Other – Amount unknown at this time. All things that are not covered by NRCS or the DWR and that amount is estimated at \$250,000,000 and cost estimate is low for the City at this time.
- Technical Assistance - \$1,300,000 – No match required. Allocated to Cache County for the design.
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#### **The maximum project cost:**

- Project costs based on NRCS 75% funding \$25,800,000.
- Utah DWR additional funding based on not using DWR funding for match on Canyon Road properties - \$784,300.
- Other costs ?? - \$300,000
- Design and Construction Oversight - \$1,300,000
- Total Available Costs - \$28,184,300.

Mr. Nielsen said that Logan will not go above this amount and what is available has been identified.

### **Estimated Logan Costs:**

Immediate Costs: Parcels on Canyon Road - \$784,300, 15% match on DWR Loan - \$154,800, \$145.34 per share for onetime payment of \$30,667.

Long Term Costs: Annual Payments for 22 years to Cache Highline for DWR bond payment - \$39,873; \$37.44 increased cost per share increased annual canal dues (Total annual payment of \$15,800).

Total property purchase on Canyon Road is \$2,357,964. The demolition of the homes is \$140,000 and the relocation allowances are \$140,000 for a Total Property Acquisition of \$2,637,964. These amounts are assuming all of the property owners want to sell; these numbers will vary and will have to be negotiated. We are also still looking at other options and ways to structure with the lower canal. The goal is to get to a signed agreement as soon as possible. Meetings are held every week with the canal company and other cities. He feels there are better options we can consider and he will bring those to the Council for their review at the November 1, 2011 council meeting.

### **OTHER CONSIDERATIONS.**

Councilmember Swenson asked about the decorative lighting on 10<sup>th</sup> West. She received a letter from Logan resident Alan Hinckley that stated it was the neighborhoods impression that the decorative lighting that was presented in a meeting would be installed along 10<sup>th</sup> West and that is not what is happening. She contacted Mark Nielsen who stated that because of the large power poles that are there it was less expensive to hang the lights on existing power poles.

Mr. Nielsen said in the environmental phase of the 10<sup>th</sup> West project it was very preliminary and the sketch he recalls being shown at the meeting did have the decorative poles.

Councilmember Swenson said her concern is when someone sees a plan and it's presented that we lose credibility when the project changes.

Mr. Nielsen responded the only area that was discussed for lighting was the neighborhood area from 200 South to 600 South. He can understand the perception that "we don't do what we say". In the environmental phase nothing is really decided until it goes out for bid and that is when things change.

Councilmember Monson asked can there be a compromise and have decorative lighting installed along the frontage road.

Councilmember Swenson said the power poles are big and ugly and she feels the neighborhood has already been damaged with these power poles. She feels they are neighborhood unfriendly and the neighborhood was expecting decorative lighting.

Light and Power Director Jeff White responded that when the initial plan was discussed the light poles were going in on the East side of 10<sup>th</sup> West. There were issues with working on these and keeping the power on while replacing the lines. They also

considered the growth in the Southwest area of Logan and this area will also need a future power substation. They cannot put light poles along the curb similar to what is found in Downtown Logan. UDOT requires a clear zone of 23 ft. of the travel lane.

Mr. Nielsen said we can consider decorative lighting along the sidewalk area on the frontage road.

Councilmember Swenson feels that someone should talk with the 10<sup>th</sup> West neighborhood get their input. She does not recall approving the power poles to go all along 10<sup>th</sup> West.

Mr. Nielsen will talk with the neighbors and get their input.

Mr. White said this is a very well lit area along 10<sup>th</sup> West and will make driving along this road a lot safer.

Councilmember Daines said we need to be careful what appears in plans if it's not final, because people assume that's what they are getting.

A second item Councilmember Swenson proposed is a moratorium on the height of buildings over 40 ft. and until the Council has a chance to review the Code, she feels other areas could be affected. We need to relook at the way we do setbacks and would like to have a moratorium in place before anything else comes forward.

Mr. Edwards said this is a Land Use regulation on an existing area and requires a public hearing. It also needs to go through the Planning Commission. For it to be in process, it would require a text amendment and to initiate and cannot be done orally.

Councilmember Swenson would like this to be considered at the next Planning Commission meeting that a request from the Council for a six month moratorium on buildings until the Code is reviewed.

Councilmember Monson feels the Council needs to refer to the recommendation from Envision Utah and Envision Cache Valley which calls for higher buildings. When it comes to buildings, he would rather go up than out.

Councilmember Swenson said the General Plan allows for an 88 ft. building next to a family home. Currently we don't have compatibility and we need to be sensitive to the neighborhoods and what is adjacent to a tall building. She feels the current plan does not promote sensitivity.

Councilmember Daines, Quayle and Monson all agreed they would like to study the building height issue further.

Mr. DeSimone will come back to the Council with a proposed moratorium as a Workshop Item at the November 1, 2011 Council meeting.

Councilmember Swenson also suggested the Council consider rezoning the 600 East 1000 North back to where it was so the neighborhood has an opportunity to give their input, she feels this is the right thing to do. She would like it to go back to the Planning Commission to consider as a rezone.

Councilmember Daines said if the proposed project is withdrawn she would agree but if that doesn't happen it would be a disadvantage to the few property owners that are left because they would could not sell for the higher density.

Councilmember Swenson said if the proposed project does not go forward something else will go in and again there would not be an opportunity for the neighborhood to give their input. She feels a rezone would be a protection and the right and fair thing to do.

Councilmember Monson said he doesn't know how we can go back and change the rezone. He said the Council legally approved this area.

Councilmember Swenson said the Council legally approved but she feels they did not ethically approve.

Mr. DeSimone said Staff is bringing forward the zoning map and will break it out parcel by parcel and the Council will readopt the zoning map. The Planning Commission needs to approve first and it will come to the Council.

Councilmember Daines said the current project was tabled until December 2011 pending a traffic study and to look at the height issue.

Mr. Nielsen responded if the traffic study comes back with changes to this area they will look at those suggestions and it all depends on the basis of what is needed.

There were not three head nods from the Council. Councilmember Swenson's suggested rezone of 1000 North 600 East will not be pursued.

Councilmember Monson asked about the 1000 North 600 East intersection and what can be done. He said this is not a good intersection and feels this should be moved up on the priority list of what needs to be done when it comes to road improvements.

Mr. Nielsen said a traffic signal or a roundabout would work in this area. It will be addressed during the next fiscal budget year.

## **ADJOURN.**

There being no further business to come before the Council, meeting adjourned at 7:55 p.m.

Teresa Harris, City Recorder