

KAYSVILLE CITY COUNCIL

October 3, 2019

Minutes of a regular Kaysville City Council meeting held on October 3, 2019 at 7:00 p.m. in the Kaysville City Parks and Recreation Center at 85 North 100 East, Kaysville.

Council Members present: Mayor Katie Witt, Council Member Dave Adams, Council Member Larry Page, Council Member Michelle Barber, and Council Member Stroh DeCaire

Council Members absent: Council Member Jake Garn

Others Present: City Manager Shayne Scott, Finance Director Dean Storey, City Attorney Nic Mills, Secretary Stacie Harward, Community Development Director Lyle Gibson, Power Department Superintendent Gary Hatch, Information Systems Manager Ryan Judd, Police Chief Sol Oberg, Fire Chief Paul Erickson, Elaine Wilkinson, Shirley Bergstrom, Roy Wilkinson, Marilyn Boren, Jim Boren, Brett Garlick, Andre Lortz, Phil Holland, Dallin Hutchinson, Tracy Williams, Zane Larsen, Brian Bare, Cheryl Tarbet, Carole Walters, Madilyn Pitcher, Scott Pitcher, Robert Gilchrist, John Swan Adams, Scott Godfrey, Scott Baird, Henry Gardner, Frank Leaver, Steve Johnston, Camille Jepsen, Marcus Hayden, Cooper Davis, Sariah Francis, David Hayes, Ashley Alvord, Eliza Streadbeck, Koleman Stinger, Claire Scott, Gracie Rasmussen, Nephi Harvey, Linda Francis, Mike Flood, Laura Flood, Ben Leaver, G. Chinn, Aaron Wade, Mike Blackham, Bryan Hayes, Cheyann Fisher, Lydia Hebdon, Jonathan Ward, Jacob Willoughby, Brigg Lewis, Tim Hodges

OPENING

Council Member Barber opened the meeting.

RECOGNITIONS AND PRESENTATIONS

PROCLAMATION DECLARING OCTOBER 6-12, 2019 AS FIRE PREVENTION WEEK

Mayor Witt read a proclamation declaring October 6-12, 2019 as Fire Prevention Week and encouraged all citizens of Kaysville to be aware of their surroundings, look for ways out in the event of a fire or other emergencies, respond with the smoke alarm sounds by exiting the building immediately, and to support the Kaysville Fire Department Open House on October 9, 2019.

DONATION OF BALLISTIC PANELS TO THE POLICE DEPARTMENT – BLUE LINE LADIES

Cheyann Fisher and Lydia Hebdon, representing the “Blue Line Ladies”, a non-profit that raises money to provide better protective equipment for Police Officers, explained that it is their goal to provide every officer in the State of Utah with a trauma plate. This plate goes inside of their ballistic vests to add more protection. These plates protect from AR-15, AK-47, and more rounds than just the regular ballistic vest, which usually only protects from handgun rounds. This little bit of additional protection makes officers safer and able to go home at night to their families. This

is a very important cause for us and are grateful to have the support to be able to provide this to officers.

Chief Sol Oberg commented that he met with the Blue Line Ladies group about a year ago and it took a lot of work and fundraising on the “Blue Line Ladies” part to be able to provide this. It is a very selfless gesture towards our officers. Not all the time do police officers feel that someone cares about their wellbeing, and so it’s nice to have this group extending their hand for these officers.

SWEARING-IN OF NEW YOUTH CITY COUNCIL

Mayor Witt administered the Oath of Office to the new members of the Youth City Council.

POWER DEPARTMENT REPORT – GARY HATCH, POWER SUPERINTENDENT

Power Department Superintendent Gary Hatch presented a report of the Power Department. He explained that the Power Department currently has fifteen full-time employees. In 2018 the city had about 9,000 residential customers and 800 commercial customers in our system. The city saw a slight increase in growth from 2017 to 2018; with the amount of customers raising 1.6%, the system load increasing 3.6% and the system energy decreasing -1.22%. The reason why the system energy has decreased is due to weather, conservation efforts and residents having more energy efficient appliances, as well as more people installing solar systems on their homes. Some of the Power Department’s achievements from the year was the completion of pole inspections, where preventative maintenance or replacement was completed. An AMI meter project was implemented over the year. In 2018 their department received an RP3 Gold Award from Reliable Public Power, which recognizes public power utilities that exhibit operational excellence and demonstrates leading practices in reliability, safety, workforce development and system improvement. Their department also received a safety award from the Intermountain Power Superintendents Association, which is awarded for meritorious achievement in attaining a low accident frequency during the 2018 year. The city saw a decrease in the amount of outages we’ve had in comparison with previous years. Our department is continuing to continue to lower the amount of outages by continually trying to upgrade our power system. Through the AMI project they have been able to install over 6,000 meters, and have roughly over 3,500 left to install.

DECLARATION OF ANY CONFLICTS OF INTEREST

No conflicts were disclosed.

CONSENT ITEMS

Council Member DeCaire made a motion to accept the following consent items:

- a. Approval of the Minutes of the September 5, 2019 meeting.
- b. Approval of Materials Purchase, trailer, for the Power Department.
- c. Award of Bid for trench paving for the Angel Street Ditch project.
- d. Approval of the Poll Workers for the 2019 General Election.

The motion was seconded by Council Member Barber.

Council Member Adams made a substitute motion to pull the following item for discussion:

c. Award of Bid for trench paving for the Angel Street Ditch project.
The motion died for lack of a second.

The vote on the motion was as follows:

Council Member Adams, nay
Council Member Page, yea
Council Member Barber, yea
Council Member DeCaire, yea

The motion passed with a vote of three to one.

ACTION ITEMS

AN ORDINANCE REPEALING AND REENACTING 7-4 OF THE KAYSVILLE MUNICIPAL CODE REGARDING OPEN BURNING

City Attorney Nic Mills explained that the current ordinance regarding Open Burning is unclear on what materials the City allows residents to burn. City Staff has noticed a small rise in unauthorized or illegal burns, and attributes this to residents either not being familiar with the current ordinance or not following the current ordinance due to lack of clarity in the ordinance. This action would also make several grammatical, technical, and formatting corrections to the ordinance.

Council Member Barber asked about how residents might be educated about these changes.

Nic Mills said that he would anticipate that it would be complaint-driven. If the Fire Department were to receive a complaint they would go speak with the resident about any violations and educate them about how to be safer. The biggest changes made to the ordinance was regarding what type of materials could be burned in a recreational fire.

Council Member Adams made a motion to approve an Ordinance Repealing and Reenacting 7-4 of the Kaysville Municipal Code Regarding Open Burning, seconded by Council Member DeCaire.

The vote on the motion was as follows:

Council Member Adams, yea
Council Member Page, yea
Council Member Barber, yea
Council Member DeCaire, yea

The motion passed unanimously.

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT WITH THE BOYACK PROPERTY AT 723 SOUTH ANGEL STREET

City Manager Shayne Scott explained that this item establishes a temporary construction easement

with the Boyack's at 723 South Angel Street, and allows the city to enter their property for means of backfilling the ditch, eventually adding curb, gutter, and sidewalk, and doing all other construction-like activities in this area. This temporary construction easement is not a property purchase, but simply being granted access to perform necessary work.

Council Member Adams asked where the pipe is buried.

Shayne Scott said that it is in the road.

Council Member Adams asked about the cost to move the pipe from the ditch to the roadway.

Shayne Scott responded that because it moved into the existing roadway, it will cost about \$62,000 to do that.

Council Member Barber asked about the timing to have the street improvements installed.

Shayne Scott responded that it was recommended by our engineer to wait until after winter to give the ground time to settle before installing sidewalks.

Council Member DeCaire made a motion to approve a Temporary Construction Easement Agreement with the Boyack Property at 723 South Angel Street, seconded by Council Member Barber

The vote on the motion was as follows:

Council Member Page, yea
Council Member Barber, yea
Council Member DeCaire, yea
Council Member Adams, nay

The motion passed with a vote of three to one.

PRELIMINARY PLAT APPROVAL FOR THE GREEN MANOR SUBDIVISION AT 1576 WEST 200 NORTH – PRIVET BARROW

Community Development Director Lyle Gibson explained that recently the Council voted to approve a rezone and development agreement at the subject property to accommodate the proposed development. The project includes twenty-one lots on three acres of property in a common open space subdivision layout, including open space parcels and private streets. The overall layout and number of lots has remained consistent with what was approved at rezone. The lots range in size from 3,600 square feet to 4,746 square feet. The road pattern is planned to connect at 200 North Street across from the Mountain Vistas Subdivision, and creates a circle back to the same point of entry. This entry includes a four foot wide center island which will be landscaped. The HOA will maintain all common areas, including the landscaping at the entry to the subdivision and along 200 North Street. All lots are for single family detached housing. As platted, the lots have a front-yard setback of 15 to 18 feet to the garage, 5 foot side-yards and fifteen foot rear yards. This is consistent with the approved development agreement and plans presented to the City Council during the rezone process. The plan includes trail access, seven guest parking stalls, perimeter

fencing, and provides potential access to future development of the property to the south. There is sufficient open space provided, based on the number and size of lots in accordance with the PRUD chapter of the city ordinances. The proposed preliminary plat plan has been reviewed by multiple agencies, including utility providers and public safety, and each reviewer believes that the general layout and number of lots can be serviced.

Mayor Witt asked for public comment.

Zane Larsen said that he finds it odd that city ordinance dictates that accessory buildings cannot take up more than twenty percent of a piece of property, but the primary building can fill almost the entire lot. It seems inconsistent.

There were no further comments or questions from the public. Mayor Witt closed public comment for this item.

Council Member Barber asked about the easement on the eastern edge of the property, and if they would be allowed to put parking stalls and landscaping within the easement.

Phil Holland, the developer of this project, said that the owner of the gas line easement has reviewed this plan and they will have to sign the final plat to show their approval for the use of their easement. He could also receive written approval from them if needed. The pipeline easement will be kept free of most landscaping, and any trees will be planted outside the easement.

Council Member DeCaire made a motion to approve the Preliminary Plat for the Green Manor Subdivision at 1576 West 200 North for Privet Barrow, seconded by Council Member Page.

The vote on the motion was as follows:

Council Member Barber, yea
Council Member DeCaire, yea
Council Member Adams, nay
Council Member Page, yea

The motion passed with a vote of three to one.

A RESOLUTION ESTABLISHING FIBER REVENUE PARAMETERS

Shayne Scott explained that this Resolution would establish current objectives for how to handle fiber-related income and establish certain parameters and expectations for Staff and future Councils to follow when it comes to the fiber fund.

Mayor Witt said that with this resolution, once the bonds have been paid off and there is a fund of about two-million dollars, it is planned to no longer have a fiber utility fee for residents.

Mayor Witt asked for public comment.

Brett Garlick commented that he is grateful for our founding fathers who were wise enough to establish a democratic republic where citizens are represented by elected officials so that those

officials can do the hard work of gathering the information needed to make an unemotional, unbiased decision on many topics. Oftentimes voters take things emotionally or have a biased opinion based on someone else's opinion or misinformation. Mr. Garlick expressed his appreciation for all that have been involved in the fiber project and he feels that fiber will bring a lot of opportunities to the city. Some of which we don't even know about. When the project is finished we will look back and wonder why we didn't do this sooner. Fiber creates an opportunity for service competition and cost reduction, and will give opportunities for people to work virtually.

Zane Larsen said that in the proposed fiber revenue parameters it says that the rate reduction could be reduced after the bond is paid off. However, there is no definition of which bond. LightHub has the power to create bonds with no restrictions as to how much a bond could be for, what reasons to have a bond, or how many they could create.

Henry Gardner said that they was unaware of this fiber project until they'd received their opt-out form in the mail. Utopia was a financial disaster and asked what ties Kaysville fiber has to Utopia, if any.

Council Member Adams said that the former CEO of Utopia has been working as a consultant with the city for this project.

Henry Gardner asked who would be servicing the bond in terms of making the payments on the interest. Would it be the citizens? If there is a financial shortfall who will fund the payment on the bond? If the citizens are already happy with what service we already have, are we going to be forced make a monthly payment whether we wanted fiber or not? Why is this not going to vote?

There were no further comments or questions from the public. Mayor Witt closed the public comment for this item.

Finance Director Dean Storey responded that we have not issued any bonds for this project. If they do bond, it would likely be a revenue bond which revenue from the fiber utility would pay for those bonds.

Council Member Adams said that the order that the city has decided to proceed forward with this project is backwards. The fiber project hasn't been officially approved or funded, and yet we are already talking about what we will do with the profits. Council Member Adams said that he feels that we are arbitrarily setting the reserve fund rate and it is too high. Also, the forth bullet point listed in the resolution seems to be conflicting. It says that no rate reduction would happen until the debt is gone, but it also states that once appropriate rate adjustments are made, excess funds should be used to pay down debt as soon as possible.

Council Member Adams made a motion to table this item until we figure out if we are even doing the fiber project.

The motion died for lack of second.

Council Member Barber made a motion to table the Resolution Establishing Fiber Revenue Parameters, seconded by Council Member DeCaire.

Council Member Adams suggested implementing a time frame for how long it would be tabled.

Council Member Barber responded that one main question we have had from citizens was how the city would handle reducing and getting rid of the fiber utility fee in the end, and so this document was our effort to have something solid to give a sense of security. It is a way to show good faith to our residents who are making a choice on whether or not to opt-out right now. Therefore, she would only like to see this tabled until the next Council meeting.

Council Member Barber amended the motion to table the Resolution Establishing Fiber Revenue Parameters until the next City Council meeting, seconded by Council Member DeCaire.

Council Member Adams said that feels this should wait to be reviewed by the Council until after the October 31st opt-out deadline. This should be reviewed after we have seen the results from the opt-out survey.

Council Member Adams made a substitute motion to table the Resolution Establishing Fiber Revenue Parameters until after October 31st.

The motion died for lack of a second.

The vote on the original motion was as follows:

Council Member Barber, yea
Council Member DeCaire, yea
Council Member Adams, nay
Council Member Page, yea

The motion passed with a vote of three to one.

PROPOSED OPT-OUT FIBER POLICY

Shayne Scott explained that since tabling the Fiber Utility Fee and discussion at the previous City Council meeting, Staff and the Technical Advisory Committee have been working on a Fiber Survey and Opt-Out process. This Council item would officially ratify that form and the process surrounding the opt-out option for Kaysville City residents. The key aspects of this process include: mailing a survey and form to each utility customer/potential fiber customer, a deadline of October 31, clarity on what opting-out means for future fiber connectivity, and a one-time option.

Mayor Witt added that if we receive fifty-one percent or more residents who opt-out of fiber, the whole project will go away at that point.

Mayor Witt asked for public comment.

Tracy Willams asked why the city needs fiber, and why this was not brought before the citizens of to vote upon. The opt-out form has some points that are concerning to citizens, and some of it seems to be written more as a contract rather than trying to give an understanding as to what is being proposed. How will the fees be determined? There seems to be a lot of wiggle room on the opt-out policy. That's scary to people and comes off as strong-arming people. Two pages were

sent to residents together, and they seem to conflict with each other. Mr. Williams asked who wrote these documents, including the fiber revenue parameters?

Dallin Hutchinson said that he is concerned about the clause in the opt-out form that says that residents are agreeing by opting-out to disclose to a seller that they have opted-out of fiber. The seller's disclosure form is a state-mandated form and the city cannot trump that. Additionally, by making this requirement our properties will be stigmatized and it's not fair to those selling their homes. How does this work with landlords? Tenants are only temporary residents and what happens when the current tenant choses to opt-in and then the next tenant does not want to pay the fiber utility fee. Would that fee then fall upon the landlord to have to pay?

Scott Godfrey said that in a public or private business there are willing participants that invest in businesses as they see fit. If the business begins to fail, those who have invested in that business have a right to divest themselves as they see fit. In a public venture, such as fiber, there are both willing and unwilling participants. If this venture begins to fail, there is no mechanism for either willing or unwilling city residents to opt-out. All city residents are on the hook to pay for this project and see it through until its final end. The city needs to carefully consider what they are about to undertake. It will affect all citizens; both the willing and the unwilling participants.

Nephi Harvey said that the opt-out program uses defaults which have drawn a considerable number of objections. Opt-out samples are those where participants are contacted without volunteering to take part in the research and are excluded only when they say they are unwilling to participate. This approach is seen as problematic by many ethics committees because it undermines the principal idea that consent should be freely given. Participants must participate in a voluntary way, free from any coercion, such as a vote. This opt-out was devised as a way to manipulate the citizens of Kaysville. The citizens know and recognize this. It has been presented and written in a very careless way. It was sent to utility holders, but obligates property owners. It was sent out by illegal e-mail authority by two Council members without public discourse and public review to establish a billing policy. This is illegal. Is this a policy you are passing tonight?

Brigg Lewis said if when the bond gets paid off, it is very unlikely that the utility fees would be reduced or eliminated. There was a bond on the fire station which has since been paid off and yet the city is still collecting money for it. Mr. Lewis said that he would like to have fiber, but due to the lack of consistent information being given to residents from the city he will be opting-out completely and wants no part of where this is going. Every time we see a new list of potential costs for citizens it is different from ones before. They seem to always be increasing too. There have not been any clear answers to many of the questions he has tried to ask. If fiber breaks, who will fix it? It seems unlikely that if fiber were to go down in the middle of the night that someone would be there to fix it within the hour. If Comcast was his internet service provider they wouldn't come to fix it because they don't own the fiber. There are way too many issues that have never been cleared up. After having seeing what the city has done in the past, it's hard to put your trust in them.

Zane Larsen said the public is here tonight to speak to the Council and have you listen to us. The opt-out form is very disingenuous. Throughout many meetings the Council has stated that they want to hear from residents, but the city is only giving people one month to opt-out. That is not enough time to hear from the people, and for some this is their first time that they've even heard about this project. The city has done a poor job informing residents. This opt-out process isn't a

true survey because it has an objective. It's a pseudo legal document and the city has no authority to prejudice the sale of homes. It's clear to citizens that it's a way for the city to get what it wants because people who would want fiber internet have internet already and are actively seeking for something better.

Cheryl Tarbet said that she has lived in Kaysville for over forty years. Since moving here the city has gotten four bonds. One of them has been paid off but the citizens are still paying for it. We have also had a 100% tax increase, and it just keeps going. The City needs to take care of the needs of its residents. There are still a lot of people who know nothing about this project and they will end up being opted into something that they do not use or want, and they shouldn't have to pay for it. The opt-out letter was sent out before the Council approved it, and it looks like blackmail. The government has taken more of our money for things that we do not want. There should have been a vote, and this opt-out process is not a vote but is extortion.

Scott Baird said that he fully supports fiber but does not know if he wants to opt-in because there are a lot of questions that have not been answered. Is there going to be a dedicated line to the home or will it be shared? We need to have transparency around the technical aspects of this project. Is there a project manager, and if there is why are they not treating it as a project? Where is the implementation plan? What is the maintenance plan? What are the plans for customer service? Why do we not have the information for all of this? It will help people to determine whether or not they want to opt-in. There needs to be further information given about all of the financial aspects, not just for how much it will cost residents but also how much it will cost for the city.

Tim Hodges said that tonight this item is being reviewed for approval of the proposed opt-out fiber policy, and yet the opt-out form has already been mailed out to citizens. The opt-out form is asking residents to give up their legal rights, especially with the disclosure provision. This isn't something that is required by State Statute to be disclosed to someone purchasing a home. The form should be revamped and mailed again with the updated provision. Earlier this year the city approved \$200k to be used to get this project to the ballot, but that never happened. The city says that they will drop the project if more than 51% of residents opt-out. However, that is not legally binding. A vote would be. All projects have risk and can fail. Fiber projects have failed multiple times in other cities and has probably failed more than it was successful. If this moves forward and we put a bond in place, then we will still have to pay towards that bond even if the project fails. People think that if they opt-out then they will never have to pay. But if fiber fails, the bond will still have to be paid for somehow. Taxpayers will have to pay the obligations. That's where the voters should be deciding if we should finance this risky project. This project hasn't been done right and has been legally insufficient since the beginning.

Mayor Witt closed public comment for this item.

Council Member Adams asked about the legality of the opt-out document and of sending the opt-out document without first approving it. What if it's not approved tonight? The Council needs to stop moving forward with things before they've been officially approved. Could Comcast or Centurylink be on the fiber network?

Mayor Witt responded that they could if they wanted to be.

Council Member Adams said that he feels that they won't choose to run on a network that is owned and operated by someone else. If the city decides to go through with this we will have a thirty-year bond that we will be married to forever. Comcast and Centurylink will go away and we will be left with the "mom and pop" internet service providers to choose from. We will not have the big service providers unless you choose to opt-out and run on the current system. American Fork created "AF Connect" and it didn't go well.

Shayne Scott said that it's the role of the City Council to establish a policy which Staff can follow, and that is what we are asking for approval of tonight. We are not asking the Council to accept the letter that was mailed out. Approving the policy tonight is a reaffirmation to the community that the Council is taking the opt-out process seriously and that those who do choose to opt-out will be accepted and removed from the fiber project.

Council Member Barber asked for clarification on why there are price ranges listed on the survey.

Dean Storey responded that after the previous Council meeting the Technical Advisory Committee felt it appropriate to go with an opt-out policy. As we put together the financial model, the range was written to present a price range depending on how many people opt-out. We won't know the final cost until we have all the data from the opt-out process.

Council Member Barber asked about maintenance of the fiber network. Who is responsible for any outages?

Shayne Scott said that it hasn't been determined yet. One of the benefits of the Interlocal with LightHub is that we could perhaps do maintenance as a cooperative with other cities. If we decide to not partner with LightHub, we could do maintenance internally within the city or consult with outside consultants.

Council Member DeCaire asked if in the case where there is a tenant and landlord, who assumes the financial risk: the tenant or the property owner.

Shayne Scott said that on the opt-out form residents must disclose if they are a tenant. If they are, they must also have the property owner acknowledge it as well on the same form.

Council Member Barber made a motion to approve the proposed Opt-Out Fiber Policy, seconded by Council Member DeCaire.

Council Member Barber said that the city is looking at active dedicated lines to each home in the city. That is what has been budgeted for and we will look at the most cost-effective way to provide this service.

Council Member Page said that this has been a confusing process and it has been going on for over a year. It's not perfect. The percentage of registered voters in Kaysville is 65%. The highest number of voters that came out for an election was 51%, and our average is around 20%. Votes can be a decision of the minorities for the majorities. That is something he is not in favor of. One good thing with this opt-out process is it allows more people to get involved and make a decision. We are trying to create a transparent way for people to make that decision.

Council Member Adams said that the real-estate clause in the opt-out form is a problem and it forces people to disclose this.

Nic Mills said the intent was to have an advisory language on the opt-out form that would allow people to recognize that this might impact the value of their home in the future and this might be something they will want to disclose in the future. It was not the intent, and the City couldn't enforce, a disclosure statement as people sell their homes.

Council Member Adams asked about those who don't respond to the opt-out letter and said that he feels that the city should wait until they've gotten 90% of the responses back before making a final decision. It's not the people's fault that they haven't heard or been educated on this. The City should be doing a better job getting word out. This is a big enough project that we need to ensure we receive as many responses back as is possible.

Mayor Witt asked Dean Storey to address the fire station bond.

Dean Storey said that there are several ways to finance government projects. A typical way is to create a Municipal Building Authority. The Building Authority constructs the facility and then the city leases that facility to use the facility until the debt is paid off. Once the debt is paid off that facility is transferred to the city. This is how we've done many projects and it's very typical in the financing business. The police station was done the same way, as is the city hall renovation. It is under a lease arrangement so the city makes a lease payment to the Building Authority to pay that debt. There is no process for the residents authorizing those bonds. The authorization for that comes through the lease agreement. Once the bond is paid off, or the lease payments have been completed, then that money is freed up for other uses.

Council Member Adams asked if the city had to raise taxes to do the fire station bond.

Dean Storey responded that the city did not. The money is still being collected just like any general fund expense. The City Council goes through a budget process each year and allocates revenue towards different projects. During that budget process the Council decided to allocate the money for a lease payment.

Council Member Barber said that there have been some questions about the reconnection fees. Basically it is the difference of paying up front once, paying later one time, or paying the fees over a period of time. The price of construction is based on paying your portion of the infrastructure one time versus residents who will be paying over time. The total number opting-out will determine that cost.

Council Member Adams made a substitute motion to deny the proposed Opt-Out Policy based on questionable legality of the language in the opt-out form.

The motion died for lack of a second.

The vote on the original motion was as follows:

Council Member Adams, nay
Council Member Page, yea

Council Member Barber, yea
Council Member DeCaire, yea

The motion passed with a vote of three to one.

REFINANCING POLICE STATION BOND – A RESOLUTION OF THE CITY COUNCIL OF KAYSVILLE CITY, UTAH AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT BY AND BETWEEN THE CITY AND THE MUNICIPAL BUILDING AUTHORITY OF KAYSVILLE CITY, UTAH (THE “AUTHORITY”), AND A GROUND LEASE AGREEMENT; AUTHORIZING THE ISSUANCE AND SALE BY THE AUTHORITY OF ITS LEASE REVENUE BONDS, SERIES 2019, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$4,400,000 AND RELATED MATTERS

Dean Storey explained the current interest rate environment provides us an opportunity to consider refinancing the Police Station bond in order to obtain lower interest rates and reduce overall costs. Staff has negotiated with potential bond buyers and have received a preliminary indication from Chase Bank to purchase bonds at approximately a 1.8% true interest cost depending on final underwriting and proposed call features. This proposal includes a reduction from our current interest rate of 2.86% and preliminary calculations estimate a Gross Present Value savings of approximately \$220,000 and an average cash flow savings of approximately \$21,000.

Council Member Page asked if we decide to refinance this bond, are we starting or adding time to the time-frame of the bond.

Dean Storey said that they have ten years left on the bond and the timing won't be affected by refinancing.

Council Member Adams asked what the cost will be to refinance the bond.

Dean Storey said that between financial advisory fees, bond council and trustee services it's about \$60,000. There would be no underwriting fees on these bonds.

Council Member DeCaire made a motion to approve the refinancing of the Police Station Bonds, seconded by Council Member Page.

The vote on the motion was as follows:

Council Member Page, yea
Council Member Barber, yea
Council Member DeCaire, yea
Council Member Adams, yea

The motion passed unanimously.

WORK ITEMS

PROPOSED CHANGES TO PROCUREMENT THRESHOLD

Shayne Scott explained that after some discussion at the Department Head level, City Staff is proposing to increase the “Council Approval” threshold from \$25,000 to \$50,000. This will result in a more efficient purchasing process. Right now we have to wait for Council meetings to authorize any expenditure over \$25,000. This can result in late payments and inefficient project management. A few times there has been something that could not wait and the Council has to be solicited via email to receive approval on an expenditure in order to keep a project moving forward. This should not happen often. The proposed changes will simply change the Council threshold from \$25,000 to \$50,000.

Council Member Barber asked if this would affect the timeline or process for project bidding.

Shayne Scott responded that it would not.

Council Member Adams stated that the change order threshold, which includes any additional work or corrections to existing contracts, is also being changed. Council Member Adams stated that when he first started on Council they had changed this threshold from \$50,000 to the \$25,000 to help slow down spending. The Council also used to get a packet of claims to review every meeting, which we don’t anymore. The \$25,000 threshold is a very responsible level and we shouldn’t be doubling it to \$50,000.

Council Member DeCaire made a motion to move this item to an Action Item.

Motion died for lack of a second.

Council Member Page made a motion to leave the Procurement Threshold as it is, seconded by Council Member Adams.

Council Member Page said that this is not the city’s money that we are dealing with but the citizen’s money. Having a lower threshold might not be as efficient but it will help keep city accountability in place.

The City Council decided not to take action on this item.

CONSIDERATION OF AN ORDINANCE AMENDING THE CITY’S RECORDS LAW

Nic Mills explained that occasionally city employees and officials receive correspondence regarding city issues. Often these communications are sent to official city e-mail accounts and devices, but occasionally they are not. Regardless of where the correspondence is received, city business may be subject to government records laws. This ordinance would provide direction and policy on how this communication would be processed.

Council Member Adams commented that he feels that this amendment would stifle communication with the elected body. Enough communication has been curbed off in the past and we need to foster more communication with our constituency.

Nic Mills responded that the GRAMA and State Records Committee would likely require that if you are conducting city business through a personal cell phone or email that they will require the city to produce those.

Council Member Adams asked what would be defined as “city business”.

Nic Mills responded that an example of this was in another jurisdiction where city councilmen were discussing an item that was being voted upon during the meeting on their personal cell phones. When those records got GRAMA requested, the records official responded that they could not receive the records because it was a personal cell phone. However the Records Committee said that it does not matter. The record would still need to be turned over because they were discussing items on the agenda during a meeting.

Council Member Page asked if any other city had adopted something similar to this.

Nic Mills said that he didn’t do a survey of other municipalities, but Staff felt that it was appropriate to bring this to people’s attention and summarize the case law to make it concise to say that this information would be required to be produced if a GRAMA request is submitted.

Council Member Adams asked if State law already covers this matter.

Nic Mills said that State law treats this as a very general topic. You would have to go through the Record’s Committee case law to really define how one might interpret that law.

Council Member Adams said that he fears that there would be targeting of elected officials or city employees if this were to be put into place.

Council Member Page said that he feels that this shouldn’t be put into place until it becomes state mandated.

Council Member Barber said this is convenient summation of all of those different laws that will be in effect. This is a good thing to be aware of, but is not something we should amend our ordinances for.

Mayor Witt said that while these records are something that could have a GRAMA request for anyway, she would prefer to see things written out very clearly so the whole process is better understood by all involved. Mayor Witt suggested taking some more time to think more about this item.

CALL TO THE PUBLIC

Zane Larsen said that he agreed with Council Member Page’s comment regarding not having a very high voter turnout. Government is the wrong entity to supply fiber service because it’s requiring people to sign up for something with incomplete information. There’s no way out of not responded to the opt-out form because the government is forcing people to respond to it.

Nephi Harvey said he is offended by what the Council is doing because he feels they are claiming

to listen to the residents, but have already made up their minds before coming to their Council meetings. That's why the vote was so important to all of the residents because it was the resident's voice. The opt-out letter is a farce.

Tim Hodges said wanted to caution the Council with how they are proceeding forward with this fiber project. So many times things are sent to people in the mail that are just thrown away, and those who don't respond will automatically be opted-in. We should distinguish between those who respond that they have opted-in, and those who were opting-in by default. Those opted-in by default didn't make the choice. With this many tax dollars and a thirty year endeavor is on a line, this should be going to vote. We don't know where technology will be in thirty years.

Brigg Lewis said the elected officials should be required to have city cell phones and be required to wear them twenty-four hours a day. Also, those who don't respond to the opt-out form should not be opted-in by default because it's unfair to them.

Jacob Willoughby said that the fiber project is important to him and is about choice because he is restricted to only one internet service provider where he lives. There isn't another provider for him to choose to try to obtain faster speeds. If he were able to have a faster internet connection he would be able to telecommute and not have to drive to Lehi to work every day. The fiber project process has been very rocky but it's going in the right direction. People now have the choice to completely opt-out and that was not something that was in the original plans. That came about because of resident feedback. It seems that the Council is trying to ensure that a bond wouldn't be detrimental to citizens, and maybe we need to take a little more time to ensure that happens or find a way to mitigate that risk. The bond is covered by those who opt-in and is completely independent of other expenses. He has been encouraging his neighbors to submit their form, no matter if they decide to opt-in or opt-out, because it's important that people participate and give their choice.

COUNCIL MEMBER REPORTS

Council Member Adams asked if the Technical Advisory Committee was going door-to-door.

Mayor Witt responded that they are not. There is an independent group who are in favor of fiber who are going to resident's homes. They have nothing to do with the city.

ADJOURNMENT

Council Member DeCaire made a motion to adjourn the City Council meeting at 9:36 p.m., seconded by Council Member Barber and passed unanimously.

KAYSVILLE CITY
MUNICIPAL BUILDING AUTHORITY BOARD MEETING
October 3, 2019

Minutes of a Kaysville City Municipal Building Authority Board Meeting held on October 3, 2019 at 9:37 p.m. in the Kaysville City Parks and Recreation Center at 85 North 100 East, Kaysville.

Board Members present: Katie Witt, Dave Adams, Larry Page, Michelle Barber and Stroh DeCaire

Absent: Jake Garn

Others Present: City Manager Shayne Scott, Finance Director Dean Storey, City Attorney Nic Mills, Secretary Stacie Harward, Community Development Director Lyle Gibson, Information Systems Manager Ryan Judd, Police Chief Sol Oberg, Elaine Wilkinson, Shirley Bergstrom, Roy Wilkinson, Brett Garlick, Andre Lortz, Dallin Hutchinson, Tracy Williams, Zane Larsen, Brian Bare, Cheryl Tarbet, Carole Walters, Madilyn Pitcher, Scott Pitcher, Robert Gilchrist, John Swan Adams, Scott Godfrey, Scott Baird, Henry Gardner, Frank Leaver, Steve Johnston, Camille Jepsen, Marcus Hayden, Cooper Davis, Sariah Francis, David Hayes, Ashley Alvord, Eliza Streadbeck, Koleman Stinger, Claire Scott, Gracie Rasmussen, Nephi Harvey, Linda Francis, Mike Flood, Laura Flood, Ben Leaver, G. Chinn, Aaron Wade, Mike Blackham, Bryan Hayes, Jonathan Ward, Jacob Willoughby, Brigg Lewis, Tim Hodges

OPENING

Chairperson Witt opened the meeting by welcoming those present.

CONSIDERATION FOR ADOPTION OF A RESOLUTION OF THE MUNICIPAL BUILDING AUTHORITY OF KAYSVILLE CITY, UTAH, AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$4,400,000 AGGREGATE PRINCIPAL AMOUNT OF LEASE REVENUE BONDS, SERIES 2019; AND RELATED MATTERS

Finance Director Dean Storey explained that the Council just approved a resolution to refinance the Police Station Bonds. With that approval the Municipal Building Authority also needs to consider adopting a parameters resolution for the same.

Board Member DeCaire made a motion to approve the adoption of a Resolution of the Municipal Building Authority of Kaysville City, Utah for the refinancing of Police Station Bonds, seconded by Board Member Barber.

Board Member Adams asked how much is left to pay on the Police Station bond.

Dean Storey responded that there is about \$4,000,000 left. We are only bonding for what is necessary to refund the bonds.

Jonathan Ward, with Zion's Public Finance, said that only the maximum outside parameter is built in so that we don't have to come back to Council repeatedly when there are unexpected eventualities. Unless there are savings or is a benefit to the city then the city will not proceed with refinancing a bond.

The voting on the motion was as follows:

Board Member Adams, nay
Board Member Page, yea
Board Member Barber, yea
Board Member DeCaire, yea

The motion passed with a motion of three to one.

ADJOURNMENT

Board Member Barber made a motion to adjourn the Kaysville City Municipal Building Authority 9:41 p.m, seconded by Board Member Adams and passed unanimously.