

## KAYSVILLE CITY COUNCIL

June 4, 2020

Minutes of a regular Kaysville City Council meeting held on June 4, 2020 at 7:00 p.m. in the Business Resource Center of the Davis Technical College at 450 South Simmons Way, Kaysville, UT. A Kaysville Business Park Architectural Review Committee Meeting and Municipal Building Authority Board Meeting were held following the City Council Meeting.

Council Members present: Mayor Katie Witt, Council Member John Swan Adams, Council Member Michelle Barber, Council Member Andre Lortz, Council Member Tamara Tran, and Council Member Mike Blackham

Others Present: City Manager Shayne Scott, City Attorney Nic Mills, Finance Director Dean Storey, Recorder Annemarie Plaizier (via video conferencing), Information Systems Manager Ryan Judd, Information Technology Assistant Jordan Hansen, Police Chief Sol Oberg, Aggie Cook, Randi Von Bose, Seth Johnson, Jason Sanders, Dave Adams, Todd Shelton, Paul Waldrop, Seth Faerber, Dave Morton, Brad Winter, Brandon Barnedt, Mike Brown

### **PUBLIC HEARINGS**

#### **6:30 P.M. REDEVELOPMENT AGENCY BUDGET HEARING**

Finance Director Dean Storey explained that tonight there is a series of Public Hearings scheduled regarding the FY 2021 budgets. The Council will hear comment on these tonight, but no action will be taken until the next city council meeting where the modified tentative budgets and the city's consolidated fee schedule will be adopted.

Mayor Witt opened the public hearing.

There were no comments or questions from the public. Mayor Witt closed the public hearing.

Council Member Adams made a motion to close the public hearing for the Redevelopment Agency Budget Hearing at 6:32 p.m., seconded by Council Member Tran. The motion passed with a unanimous vote.

#### **6:35 P.M. MUNICIPAL BUILDING AUTHORITY BUDGET HEARING**

Finance Director Dean Storey said that the Municipal Building Authority was created as an entity to assist in municipal building projects. It accounts for the funds related to these projects as well as the debts associated with them. The FY 2021 budget is a transfer from the general fund of \$705,000. This budget only includes the debt service payments for the police station and city hall projects.

Mayor Witt opened the public hearing.

There were no comments or questions from the public. Mayor Witt closed the public hearing.

Council Member Lortz made a motion to close the public hearing for the Municipal Building Authority Budget Hearing at 6:37 p.m., seconded by Council Member Adams. The motion passed with a unanimous vote.

6:40 P.M. KAYSVILLE CITY COUNCIL BUDGET HEARING FISCAL YEAR 2021 – ENTERPRISE FUNDS INTER-FUND SERVICES AND TRANSFERS

Finance Director Dean Storey explained that it has been required over the last couple of years to hold a separate hearing related to the city’s enterprise fund activity. It is also a requirement that a notice be sent to all residents of the city, which was sent out a couple of weeks ago. This accounts for any activity between the enterprise funds and the general fund. There are two kinds of transfers: reciprocal transfers and non-reciprocal transfers. With the reciprocal transfer the enterprise fund will pay another fund in the city for activities or services. Reciprocal transfers are when cash is not transferred, but the value of services shows up under financial statements.

Mayor Witt opened the public hearing.

Aggie Cook says she is a resident of the city and is concerned about the city’s budget and fears the Council is wasting their time discussing events that are not in the Council’s oversight, and also letters of censure. Not everyone agrees with the Council’s actions and some are concerned about their constitutional rights.

There were no further comments or questions from the public. Mayor Witt closed the public hearing.

Council Member Tran made a motion to close the public hearing for the Kaysville City Council Budget Hearing FY 2021, Enterprise Funds Inter-Fund Services and Transfers at 6:44 p.m., seconded by Council Member Adams. The motion passed with a unanimous vote.

6:45 P.M. KAYSVILLE CITY COUNCIL BUDGET HEARING FISCAL YEAR 2021

Finance Director Dean Storey explained that this proposal is for the operating city council budget for the city. The total general fund budget is about \$14.7 million. At the Council’s direction, and taking into account potential fiscal impacts resulting from the coronavirus pandemic, Staff has kept the budget the same as the FY 2020 budget. Some minor adjustments were made at the recommendation of the Council, including a small market adjustment of 1% for employees. The total operating fund of the city is about \$49 million. One of the few exceptions where the budget has not remained the same as the previous year is in regards to property tax, which has increased about 2% from the previous year. This is attributable to new growth in the city. The city received updated numbers today from the Davis County Assessor’s office regarding assessed property tax values and those will be included in the modified budget. We have discussed going through the process of Truth in Taxation yearly to help educate the public on the process, which we can continue to move forward with this year at the Council’s discretion.

Mayor Witt opened the public hearing.

Randi Von Bose commented that these budget hearings are some of the most important things that the city council does for the city and thanked the Council for their work. Mrs. Von Bose said that she doesn't feel that a Truth in Taxation should be held this year because of the pandemic. It's unfair for the city to ask more money from residents, even in a small percentage, because so many are struggling. She had recently met with elementary school PTA presidents and was informed that the schools are struggling financially and are not sure how they will be able to purchase items for the students this upcoming year. More money shouldn't be asked from our residents at this time when it's not for essential items. The city should also not be spending more money until we know more about how our budget will be affected by the pandemic.

Seth Johnson said that he is also a resident of Kaysville and is disappointed with the Council's actions and feels they have lost the residents' trust. He supports the mayor and his First Amendment rights. Mr. Johnson asked if he could get a copy of the budget.

Mayor Witt responded that the budget has been posted online for review.

Jason Sanders said that he appreciates the service that the Council has provided the last couple weeks and it is unfortunate they have encountered so much negativity. It seems that tonight's meeting has turned into a campaign rally. Mr. Sanders said that he is proud of our city council and the stand they have taken to support the citizens of Kaysville and the rule of law. Mr. Sanders said that he agrees with Mrs. Von Bose's comments about the budget. Everyone is concerned and are tightening budgets right now. There seems to have been a lot more spending and many new projects under Mayor Witt's term.

Mike Brown said that he agrees with the comments that have been made and feels that the Council shouldn't be worrying about a censure, but rather should be focused on the city budget and other matters within the city. He would've liked to have seen the Council support small businesses though holding the UBR event. The censure vote on the agenda tonight is wasting the council's time.

Todd Shelton said that he is in support of Mayor Witt. He attending the UBR revival on Saturday in Grantsville as a business owner. Over the last few months they have been struggling to keep people fed. There needs to be more revenue coming in and more support from the city. This event could have been held in Kaysville and could have been a positive thing. It would have shown the Kaysville businesses that the city supports them. The Council should have rallied around the mayor, but instead are limiting the freedom of speech and the freedom to assemble.

Paul Waldrop said that he is a resident of the city and supports the Council. He feels that the mayor made the decision to support the event because she was politically motivated for her congressional candidacy. With the state relaxing social distancing rules it has caused our coronavirus cases to increase drastically. Holding this event would have put people in danger and would've harmed our city. The city council is acting responsibly, and the mayor is not.

Seth Faerber said that he is also a Kaysville resident and feels that there have been some speak tonight who don't live in the city. He appreciates what the Council has done by restricting this event from taking place and for standing up for what is right. We have rules in place for a reason and we all need to follow those rules. Cancelling this event was the right decision to make.

There were no further comments or questions from the public. Mayor Witt closed the public hearing.

Council Member Adams made a motion to close the public hearing for the Kaysville City Council Budget Hearing FY 2021 at 6:59 P.M., seconded by Council Member Lortz. The motion passed with unanimous vote.

### **OPENING – 7:00 P.M.**

Council Member John Adams opened the meeting.

### **DECLARATION OF ANY CONFLICTS OF INTEREST**

Mayor Witt read a written statement. In 1847 a group of saints came west to Utah looking for freedom. Our state was founded on the promises afforded by God and our Constitution. Our country's Constitution was in place to give the settlers a way to have this opportunity for freedom. Mayor Witt said that when she became mayor she swore an oath to uphold the Constitution, and not red-tape or permits. The First Amendment was very important in her home growing up and it is something that is worth standing up for. For herself, she will always defend the Constitution and the rights it affords. The reality of reopening America and restoring our rights has become emotionally charged and scary for some. It's become even more charged because of the government keeping us indoors for months. When the Utah Business Revival group first approached her asking to exercise their First Amendment rights here in Kaysville while helping small businesses, the choice was clear to her. We all have a choice between freedom and fear, and she will always choose freedom. The response she received was surprising because she assumed everyone felt the way she did to uphold the Constitution. Those who were threatening destruction of taxpayers' money and hurting businesses who wanted to peacefully assemble was over the line. The UBR event was relocated to Tooele and more than 1,000 people showed up of their own free will; nobody was forced to attend. Everyone tried to follow social distancing regulations, and it was a chance to show our small businesses our support. When the arguments against the free exercise of the First Amendment in Barnes Park started three weeks ago, the Council said we couldn't possibly allow a group of people to gather to protest. Then on June 1<sup>st</sup>, a joint statement of Kaysville Elected Officials went out supporting mass gatherings and protests. Now our Council is getting ready to consider the most political document to ever come through this body. Mayor Witt stated that besides hurting feelings, she felt she did nothing wrong. There is simply a difference of opinion. If the document is approved, there could be unintended consequences of this action. The first being that it could lead to more censures if there are other disagreements over really any issue. This action also implies your title or any actions you take in office cannot be mentioned in any political campaign. Under that theory, Council Member Adams should be censured for his support of a candidate. Mayor Witt stated that she has nothing against his showing support for a candidate and he shouldn't be censured for it. However, it shows how such a political document can be crafted and that is a dangerous road to go down. If the media reports are true, and the die is cast on this vote, she will be disappointed. Unfortunately, this won't be the first time that a political opponent and liberal groups have called on her to quit, and she won't. She took an oath to uphold the Constitution, and ran for mayor on the commitment of making government more efficient and responsive. While the Council may vote today to curtail rights, and for bigger and more powerful government, on the issue of upholding our constitutional freedoms she will stand pat.

## CONSENT ITEMS

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

- a. Approval of the Minutes of May 7, 2020.
- b. Approval of purchase for Ermco transformers – Power Department.
- c. Approval of purchase for power poles – Power Department.

The motion was seconded by Council Member Lortz.

The vote on the motion was as follows:

Council Member Adams, yea  
Council Member Barber, yea  
Council Member Lortz, yea  
Council Member Tran, yea  
Council Member Blackham, yea

The motion passed unanimously.

### D. A RESOLUTION AUTHORIZING THE CITY COUNCIL TO CENSURE KATIE WITT, AUTHORIZING THE MAYOR PRO-TEM TO ISSUE A PUBLIC LETTER OF CENSURE, AND RESPECTFULLY REQUESTING THAT MS. WITT RESIGN

Council Member Barber said that she feels it appropriate to have Mayor Witt remain in the meeting while this item is discussed. The letter of censure included with this item was carefully crafted to be presented as professional and not personal. Above all the Council wanted to respect the office that we all hold here. Council Member Barber commented that before tonight she had felt that Mayor Witt and the city had been through enough and there are more important issues to focus on in the world right now. As elected officials we represent Kaysville and the citizens who elected us. Council Member Barber commented that she hopes that this item can be conducted as professionally and thoughtfully as possible.

Council Member Adams commented that Candidate Moore is a good friend of his and before he endorsed him as a candidate he had contacted the mayor to let her know that he meant no disrespect by doing so. He also told the mayor that he would not do anything to hurt her campaign out of respect for her position. Whether you're an elected official or not you can endorse someone's political campaign without it being a censurable item. He is proud to be on the city council and is impressed with the way the Council has handled the events of the last month. The council members have been professional, have followed protocols and have been above board on all accounts. It was his hope that when the concert was relocated and the mayor apologized that they all could move on from this and get back to working on the city. Unfortunately that was not the case. Within days of the mayor's apology to the Council, her campaign for congress released a radio ad promoting her involvement with the concert, and referenced the city council as 'government bureaucrats who pulled the plug on constitutional rights'. It also mentioned turning on sprinklers, shutting off power and involving the police, and that it was the mayor who 'stood up to oppressive government officials'. Council Member Adams stated that he had received emails in the last few days asking the Council to not censure Mayor Witt based on the merit that she was only trying to uphold the Constitution. Thank you to those who sent those emails and for speaking up and

exercising your First Amendment rights by contacting him. Council Member Adams stated that he loves this country and is grateful for his ancestors who helped to found the country. He is deeply offended that anyone would accuse him on not upholding the Constitution, especially coming from the mayor. The proposed concert was never about the Constitution. The Constitution and its amendments are not a free-pass to do whatever you want, just because you want to do it. Laws, permits, regulations work in tandem with the Constitution, otherwise chaos would ensue. Our issue with the concert was always because of the lack of permits and the blatant disregard for the health of others. We, as elected officials, do not have the unilateral authority to decide what laws we do or do not observe. If anything, it was the mayor who did not uphold the Constitution because of dictatorship verbiage. When he asked the mayor what made her think she could allow this event to happen, she responded it was because she could do what she wanted to because she was the mayor. On May 19<sup>th</sup> an email was sent from the city manager to the city council, mayor, city attorney, and police chief explaining that we might need to be prepared for a mass gathering in our park. The city manager proposed that a media alert be sent out suggesting the possible use of sprinklers and shutting off the power if a gathering should occur. In response to the email, Council Member Barber suggested it would be most appropriate to wait before sending a media alert. Council Member Lortz agreed and said it would be best to discuss this at council meeting. Council Member Blackham also agreed and then called the city manager and asked to wait. However, within minutes of this email being sent, the organizer of the Utah Business Revival group had this email in his possession and the proposed media alert was published in the Salt Lake Tribune shortly thereafter. How can the mayor expect her council to trust any of their future correspondence with her, or trust that she has the city's best interest in mind when she would betray the city manager so quickly and to a man that she barely knows with the UBR. How can the mayor still claim that this was not political when she used these issues from an internal email, which was instantly refuted by the city council, to highlight in a campaign ad? As for the 'oppressive government officials', Council Member Adams stated that he doesn't not feel that this is what the council is, and it is disappointing that the mayor her campaign does. These are the reasons why he supports censure of Katie Witt and also why he requests that she tender her resignation.

Council Member Blackham commented that he had been thinking about this issue a lot and has received hundreds of emails about this. Council Member Blackham stated that he is disappointed in the way the mayor has handled this issue, and is in support of the censure. Our ordinances state that the city joins with Davis County in supporting a health department for the county. The health department is empowered to adopt, enforce and implement health rules and regulations. It is part of our city and we needed to show our support when they stated that holding this event was inappropriate and unsafe. Our health department body is in place to help us with such technical issues as this, and we rely on them and their expertise. We need their help and their expertise, as well as their wisdom on scientific facts. If they are saying it is not safe to hold a gathering like that, we need to support their reasoning. Currently there are more than three-hundred reported new cases every day of COVID. It was irresponsible to continue forward with the event and it is deeply offensive to say that the council does not uphold our Constitution and don't support our businesses. When the time comes, our council will do whatever they can do to help these businesses get through this. If Mayor Witt wants to resign then he would support her, but would not ask her to do it at this time. The censure is proper in this case because it was a misuse of the ordinance and it was something that could've been stopped early on.

Council Member Lortz said that before the meeting started he hadn't planned to make any comments on this issue because he feels that enough has been said and was ready to move on.

However, it's been disappointing to hear the assumptions made by both residents and non-residents about the personal character of all parties involved, as well as the accusations made about the council themselves. Nobody knows all of the facts behind the story. The council has spent many hours discussing and trying to come up with a solution in order to hold this event. We were met time and time again from the UBR stating that they would have no discussion about it, and that they hold their events without permits. They continue with their events without any care regarding regulations, safety or health. They do whatever they want to do. To say the UBR's actions are supporting the First Amendment is untrue. The right to express your views stops when you inflict anything on someone else's rights. Looting, throwing bricks at police, harming other's property is not protected by the First Amendment. Neither is demeaning or disparaging other people for political purposes. We need to reflect on what has happened and consider what is most important. Are we truly trying to better our nation, or are we trying to divide our nation? This doesn't have to be divisive and we don't have to be angry about it. There is a disagreement between the mayor and council, and we tried to work it out privately. When it became public people started to take sides, and that's where the problems arose. It is the same with many other issues that are here in the United States right now. People aren't trying to learn or find a compromise. Right now we need all of us to come together and help each other in order to be stronger. That is how we will beat the virus and the economic challenges we are facing right now. Council Member Lortz said that when he and the council were demeaned publically in the media for a political campaign, clearly the fault is not understood of what went wrong. Council Member Lortz said that it is appropriate to do a censure.

Council Member Tran said that she was hoping that we could move past this item tonight. However, she is disappointed in Mayor Witt because she has had several opportunities to do the right thing by calling off the event. Or by asking the UBR to go through the proper approval process. Rather the mayor used her position to try to override the due process. This whole thing could have been handled much differently. Instead of pitting the world against the council, the mayor took every opportunity possible to talk about her campaign. The council was prepared to let this matter go until Mayor Witt read her statement tonight. We can stand up for our beliefs without making it personal. Council Member Tran said that as an immigrant she has a deeper appreciation of the freedoms within the United States. To imply that any of the council does not uphold the Constitution and don't support the First Amendment is unfair and untrue, and is a personal attack. It is disappointing that this has been brought to this level, and therefore she would support the censure. In the Council's Code of Conduct, it is one of our duties, as elected officials, to work for the common good of Kaysville and not for any private or personal interest. It also states that we will ensure that fair and equal treatment is given to all persons, claims and transactions coming before Kaysville. By stating that she would override the denial of a permit for the event is abusing her position as mayor. The concert being allowed was for her own purposes for her campaign. Council Member Tran said that she owns her own small business and is in support of other businesses. When she had contacted the director of the UBR and asked how many businesses were registered for the event and how many of them were from Kaysville he couldn't give her an answer. As it was one of the main purposes of holding the event, he should have been able to give an answer about the businesses they were supporting. While she supports the right to protest, this event was more than just a protest and it got media attention, which is what their intention was. It is disappointing that Kaysville has been drug through the mud over this and the mayor was seemingly willing to sacrifice the residents, community and her own fellow councilmembers over it. We all need to commit to continue to do what is best for Kaysville and we need to uphold the law. In the Code of Conduct it also states that members will comply with

the laws of the nation, state of Utah, and city of Kaysville in the performance of their public duties. Our personal opinions and whims need to be set aside because we are representing the city. We have been elected by the residents to protect public health and to uphold the ordinances and laws. The whole situation has been disappointing and embarrassing. Council Member Tran said that she has been willing to forgive multiple times and let things go, but Mayor Witt has continued to pit all of us against each other, and that's not what Kaysville is about.

Council Member Barber commented that she is proud of the council. We have diverse opinions and perspectives, and we have people who are willing to work hard. The council's Code of Conduct was passed in 2015 and Mayor Witt was part of the creation of that document and knows it well. We have wanted to be able to find a balance of being able to represent the city, and find a way to continue to move forward from this. Yet Council Member Adams was called out by the mayor for supporting a candidate and that was hurtful and unnecessary. The position of mayor doesn't vote or set policy. The role of the mayor is to lead and represent, be respected, to unify our council in working together for our city. It's not for working for outside interests or things beyond the scope of our city. Calling the council horrible things makes me question whether Mayor Witt even wants to be our mayor. Council Member Barber said that if the mayor decides to remain in her position, she hopes that the mayor would aim to have that unity, loyalty and trust through the whole city. Council Member Barber apologized to the residents for this unnecessary division that was brought to our city.

Council Member Lortz made a motion to approve a Resolution authorizing the City Council to censure Katie Witt and authorizing the mayor pro-tem to issue a Public Letter of Censure, seconded by Council Member Blackham.

Council Member Lortz commented that he had removed the request for the mayor's resignation because the mayor must decide to tender her resignation on her own.

Council Member Blackham added that at this point he feels that it's not the right time to ask for the mayor's resignation.

Council Member Barber said that she hopes that Mayor Witt has heard what the Council has said tonight.

Council Member Tran said that a censure doesn't have much recourse to it. However it does reflect the council's feelings in this matter. The mayor has a right to be here if she chooses to not resign. Council Member Tran said that she hopes that the mayor would work to establish trust with the council and community again, and tries to mend relationships.

The vote on the motion was as follows:

Council Member Barber, yea  
Council Member Lortz, yea  
Council Member Tran, yea  
Council Member Blackham, yea  
Council Member Adams, yea

The motion passed unanimously.



Mayor Witt commented that, as Council Member Lortz had mentioned, not everyone has all of the information about this situation. The council's commitment to Kaysville is admirable and appreciated. However, Mayor Witt stated that she disagrees with the action of censure that the council has made tonight. There seems to be a double standard. Had this been another group submitting this request, such as a group advocating for the Black Lives Matter movement, the Council might have acted differently.

## **ACTION ITEMS**

### **ORDINANCE AMENDING TITLE 2, CHAPTER 2, SECTION 12 REGARDING TERMINATION OF ELECTRICAL SERVICE**

Nic Mills explained that currently Staff spends a significant amount of time personally informing power customers prior to the termination of their power service. Under the current code, employees will place a red tag on the door of homes before termination of power service to notify residents of their delinquent utility account. There have been some months where employees must visit hundreds of homes to deliver a red tag notice. This amendment to the code does several things. First, it updates the methods that the Power Department can use to effectuate notification prior to termination. Second, it allows during summer months for less-restrictive notification procedures. Staff has surveyed other power suppliers and feels that these proposed amendments generally reflect the current policy regarding shut-off procedures in the market. Based off of comments made in the Council's previous meeting where this item was discussed, the language in 10-2-12(4) was adjusted.

Mayor Witt asked for public comment on this item.

Randi Von Bose commented that she hopes that the city will continue to give as much notice possible to our residents before terminating their power, and appreciates the city's efforts in keeping things more streamlined. Mrs. Von Bose added that she was appalled by what just occurred here by our mayor. She is grateful that those from the UBR who were here tonight could see that Kaysville is full of great people. The mayor has allowed this to happen to the city and there were several citizens who signed the request for censure that was written by the citizens. The mayor has misused our trust and tried to highjack the due process of the city. Both the council and the citizens of the city both deserve an apology from the mayor as she has ruined the city's reputation and has not taken responsibility for it.

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

Council Member Lortz asked about the timing for noticing residents before termination of their power.

Nic Mills responded that once someone is sent their utility bill they are given thirty days to pay it. If payment is not received, another thirty-day notice is sent. If the bill is still delinquent, a third notice is sent and ten additional days are given for payment to be made. A final notice is given before the power is shut off. The changes being proposed tonight is not changing the notification timing, but rather is not requiring that staff hang red-tag notices on doors.

Council Member Lortz made a motion to approve an Ordinance amending Title 2, Chapter 2, Section 12 regarding Termination of Electrical Service, seconded by Council Member Tran.

The vote on the motion was as follows:

Council Member Lortz, yea  
Council Member Tran, yea  
Council Member Blackham, yea  
Council Member Adams, yea  
Council Member Barber, yea

The motion passed unanimously.

REZONE OF APPROXIMATELY 2.04 ACRES OF PROPERTY AT 711 EAST CRESTWOOD ROAD FROM THE R-1-8 (SINGLE FAMILY RESIDENTIAL) TO THE A-1 (LIGHT AGRICULTURAL) ZONING DISTRICT – RUSTIN JESSEN

Lyle Gibson explained that Rustin Jessen owns the property located at 711 East Crestwood Road. It is approximately 2.04 acres and Mr. Jessen is requesting a rezone from R-1-8 to A-1 in order to allow for more ability to use the property for agricultural purposes. The existing R-1-8 zone is primarily for single family residential lots on 8,000 square feet of property or larger. The requested A-1 zone still allows for single family residential use but has more agricultural allowances and requires at least 40,000 square feet in size for the property.

Rustin Jessen added that this property has been used as a light agricultural use in the past. When the neighboring property was developed, this property was a part and parcel with everything else there. Mr. Jessen added that he appreciated the council and feel they are representing the city.

Council Member Tran asked if roosters would be prohibited.

Lyle Gibson responded that roosters are allowed in the proposed A-1 zone.

Council Member Adams asked if public notice was required for this rezone proposal.

Lyle Gibson responded that public notice was sent out to the neighbors regarding this request and Staff had received a couple of comments and questions from the neighbors as a result. Most of the questions were in regard to the general maintenance of the property, as well as what animals would be allowed.

Council Member Blackham added that in the past people have tried to develop this property, but because of some fuel lines which run through it, it makes it very difficult to do so.

Council Member Adams made a motion to approve a request to rezone approximately 2.04 acres of property at 711 East Crestwood Road from the R-1-8 (Single Family Residential) to A-1 (Light Agricultural) zoning district for Rustin Jessen, seconded by Council Member Lortz.

Council Member Barber commented that this is a fantastic use of the area and will help make our

community better.

The vote on the motion was as follows:

Council Member Tran, yea  
Council Member Blackham, yea  
Council Member Adams, yea  
Council Member Barber, yea  
Council Member Lortz, yea

The motion passed unanimously.

REZONE OF APPROXIMATELY 1.47 ACRES OF PROPERTY AT 1413 WEST WEBB LANE FROM R-1-20 (SINGLE FAMILY RESIDENTIAL) TO THE R-1-14 (SINGLE FAMILY RESIDENTIAL) ZONING DISTRICT TO INCLUDE THE PRUD (PLANNED RESIDENTIAL UNIT DEVELOPMENT) OVERLAY ZONE – MIKE HARDIN

Lyle Gibson explained that the property at 1413 West Webb Lane currently exists as a single flag lot with one home on nearly 1.5 acres of ground. Mike Hardin is requesting a rezone to the property to give more flexibility with possible future development. The difference between the R-1-20 and R-1-14 zones is the minimum lot size allowed, where the R-1-20 requires lots of at least 20,000 square feet, and the R-1-14 allows lots to be 14,000 square feet in size or larger. Both of the R-1-20 and R-1-14 zones have the same allowed uses, same height requirements and setbacks. The PRUD is being requested in connection with the R-1-14 zone to allow for flexibility in developing the property. The concept provided by Mr. Hardin indicates a lot on the far south end of the property which would be accommodated as a flag lot subdivision. This would make the existing single flag lot into a double flag lot where the access driveway would be encompassed by two eighteen-foot wide flag stems to access the lots. If the zoning moves forward and the type of development is desirable, the final details of this would be confirmed through the subdivision process. Final application of the PRUD overlay zone would take effect only after approval of an acceptable final plat. During the Public Hearing held during a Planning Commission meeting, there was much concern expressed from the public as to what may be allowed under the request. Per that discussion and the comments made by the Planning Commission, a new exhibit has been prepared to better show what is being requested. The exhibit indicates the new lot on enough area that it could work under the existing R-1-20 zone, but the PRUD overlay would still be necessary for a flat lot. Also, to provide information regarding concerns from the public regarding flooding of the property, the applicable FEMA flood map is being presented tonight as well and indicates that no plain is over the Hardin's lot.

Council Member Blackham stated that he lives near this property and had received several questions from his neighbors about this development. Most neighbors stated that they were okay with the subdivision, but wanted assurance that only one additional lot with one home would be built.

Lyle Gibson responded that he feels that because of the layout of the property, the applicant could remain in the R-1-20 zone and still be able to accomplish what they are asking for. If the Council chooses, they could still approve the PRUD overlay zone so that a flag lot could be developed, but not approve the R-1-20 zone request.

Council Member Barber said that she would have preferred to have the applicant here tonight to ask his opinion regarding the possible denial of the request to rezone to the R-1-14 zone.

Council Member Adams asked if a PRUD is approved, would it allow the applicant to build two homes on the property.

Lyle Gibson responded that it would not. If they wished to do that they would have to come back to the Council for approval.

Council Member Blackham made a motion to approve the request to rezone approximately 1.47 acres of property to include the PRUD overlay zone for Mike Hardin, but to deny the request to rezone the property from R-1-20 to R-1-14. The motion was seconded by Council Member Tran.

The vote on the motion was as follows:

Council Member Blackham, yea  
Council Member Adams, yea  
Council Member Barber, yea  
Council Member Lortz, yea  
Council Member Tran, yea

The motion passed unanimously.

REZONE OF APPROXIMATELY 23.0 ACRES OF PROPERTY AT 1300 EAST 1084 NORTH TO INCLUDE THE PRUD (PLANNED RESIDENTIAL UNIT DEVELOPMENT) OVERLAY ZONE, AND CONSIDERATION OF A DEVELOPMENT AGREEMENT FOR A COMMON OPEN SPACE SUBDIVISION WITH PRIVATE STREETS – TALBOTS AND MORTON DEVELOPMENT GROUP

Lyle Gibson explained that this property located at 1300 East 1084 North was recently rezoned by the city council to the R-1-8 zoning district with a limitation allowing no more than eighty-two units to be developed. With that zone and understanding the number of units that would be allowed, the developer has put together additional details for the way the property would be developed and has indicated so within the development agreement. The proposal would have single family detached homes on lots abutting private streets. The new private streets would tie in at two locations to the Highway 89 frontage road, currently under construction. The larger lots in the subdivision are found along the northern boundary adjacent to the existing neighborhood, as well as to the east against the Wilderness Park. The Planning Commission held a Public Hearing for this item in April of 2020 and unanimously recommended approval of the PRUD with a development agreement that offered an acceptable solution to manage parking to keep clear road access for emergency services, larger easements be offered to ensure utility providers had sufficient space to serve the development, and that specific improvements be included within the development agreement to indicate how the open spaces would be used to benefit the development. In addition to working to address items brought up by the Planning Commission, based on interest expressed by the city council during the rezone consideration, the developer has been working with the secondary water provider in the area and UDOT to determine the feasibility of providing services to this development. Extending the system to this area requires a connection to the system

on the east and west end of the development, and would likely require individual pumps or a larger pump station to be installed. The ordinance does not require use of a secondary water system for irrigation east of Highway 89, but the Council may request this or other desired items as a condition of the rezone approval within the development agreement.

Dave Morton, with Morton Development Group, said that they wanted to make sure that they vetted out the concerns that the Planning Commission had. They have worked with the fire chief and staff to be able to provide fire breaks along the eastern and southern borders of the property. They have followed the Planning Commission's recommendation for a ten-foot public utility easement, have widened their private roads to thirty-feet to allow for parking on one side, and have added some additional parking along the western open space area. They have continually been coordinating with UDOT and the City regarding the expansion of Highway 89. Also based on the council's recommendation, they have conducted a secondary water analysis to make sure that option is completely vetted. This property has some very unique attributes. It has an aqueduct line to the east. A minor fault line has been found through a fault study, which runs through the eastern portion and has created a no-build zone alongside it. The development is also being affected by the expansion of Highway 89 as well as a transmission power line running to the west of the property. As the developers, they have attempted to make these unique attributes into strengths. Since the rezone was approved, they have created a more detailed plan. They have created an open space area to the east, alongside the fault line. This open space also fronts some of the largest lots in the project and will prove to be a beautiful area for people to utilize. The trail system will be interconnected and the amenities to that will be simple, with mostly trees and landscape grass being planted. They have tried to make most of the lots face east and west so homeowners can appreciate the view of the city. The open space area to the west was created because of the power lines. The lots on the western side will be smaller and there will be an open space area to be more for young families to use and enjoy. It will also provide a buffer between the subdivision and Highway 89. There will be additional parking just south of the open space area. They are asking for a slight variation on the frontyard setback, so some homes would have their garage set back twenty feet from the property line, and the front portion of the habitation will be set back at fifteen feet. They are asking for this variation for architectural and aesthetic reasons. Not all of the homes will sit that close to the front property, but it gives them some flexibility on the design. A lot of time has been spent working with Weber Basin Water District in regards to secondary water. Weber Basin has indicated that they do not have sufficient storage and/or pressure to provide services to this development. They then approached Davis and Weber Counties Canal Company and found that they have two service lines in this area; one that is east of the project and one on the northwest side. This development could potentially be provided with a connection approximately three-hundred feet away, but they will face some issues with right-of-way if they do install the connection. They don't believe there is sufficient room for the line that they would have to install, meaning that they would have to go outside of the right-of-way to make the connection. It would be very difficult for them to get through private property and UDOT property in a sufficient way. Even if they could attach to the secondary water system, all of the homes would be required to have pump stations, which requires maintenance and upkeep. They feel they have tried to find a way to provide secondary water, but feel that it cannot be done in a timely manner or economically. In discussing this with the city it seems that there is sufficient capacity to allow for culinary water to be able to irrigate.

Council Member Adams asked about backflow systems.

Lyle Gibson responded that the components feeding the irrigation systems would have a backflow prevention device on them in order to prevent contamination and bacteria from irrigation type uses.

Council Member Adams asked about the Public Works input on this.

Lyle Gibson responded that backflow systems are not as common in Kaysville because we have required secondary water providers for irrigation systems. In general, our Public Works is comfortable with backflow preventers, but it will add to their work load as they have to ensure that the systems are being checked periodically.

Council Member Tran asked about maintenance on the backflow systems.

Council Member Blackham responded that because lawn has the ability to have pesticides and fertilizers put on it, it's considered a high-hazard. If a backflow preventer is put on it, it has to be one that can be tested and those must be tested annually. The homeowner would be required to have the test done, and then the report must be sent to the city which is included in the city's report given to the state. That report is to make sure our water system is approved and passed by the state, and as part of it the city has to show passing test from every backflow preventer in our city. If the homeowner doesn't send in their annual report then it would be up to the city to find the homeowner and make sure they get the test done.

Council Member Adams said that in the development agreement under Item 6, Secondary Water, it says that the developer will continue to investigate this possibility. It seems that the developer has done so and therefore this language should be removed now

Dave Morton responded that right now UDOT is in the process of redoing Highway 89 and they hope to lay asphalt for the frontage road in mid-July. We are in the process of having engineering done and contracting for the streets and utility connections. If we are required to provide secondary water, it is a major timing issue to try to provide the right-of-way for the connection line three-hundred feet from the property. The second challenge is having to provide a mechanical pump station at every pump.

Council Member Adams asked if there was a way to require the HOA to cover the costs incurred to the city because of having to make sure the backflow systems are annually inspected.

Nic Mills responded that it is potentially something that could be written into the development agreement.

Council Member Adams said that it would be nice to be able to quantify the cost and be able to include that into the development agreement. The council could also consider making it the responsibility of the HOA to collect those annual reports from homeowners, or to pay to have the testing done for all of the homes.

Council Member Barber asked about water shares.

Dave Morton said that the water shares have already been submitted by the land owner for this development and they already know there is sufficient water to provide for the development. There could be other solutions that could be considered, specific to utilizing culinary water. As we move

forward we will continue to look for other solutions as well.

Council Member Tran made a motion to approve the request to rezone approximately 23.0 acres of property at 1300 East 1084 North to include the PRUD (Planned Residential Unit Development) overlay zone and consideration of a development agreement for a common open space subdivision with private streets for the Talbots and Morton Development Group.

Council Member Adams said that he feels it would be appropriate to remove Item #6 of Section 2A in the development agreement regarding secondary water because he feels that they have sufficiently investigated the viability of secondary water. Also, he would suggest adding something to the development agreement which states that either the HOA pay for the annual backflow testing to be done on the homes, or make them responsible for that annual report and maintenance of the backflow systems.

Council Member Barber said that it isn't clear how that would be enforced. It would be best to speak with our Public Works Director to get his insight in this before finalizing the development agreement.

Shayne Scott said that he feels that our Public Works Director would likely feel comfortable with the Council approving this as its being presented today.

Council Member Tran amended her motion to approve the request to rezone approximately 23.0 acres of property at 1300 East 1084 North to include the PRUD (Planned Residential Unit Development) overlay zone and consideration of a development agreement for a common open space subdivision with private streets for the Talbots and Morton Development Group, with the removal of Section 2A(6), "Secondary Water". The motion was seconded by Council Member Adams.

Council Member Barber said that she was involved in the discussion when the council decided to change the secondary water requirements for developments east of Highway 89 and has had a lot of the same concerns mentioned tonight, especially because of the cost. Weber Basin has sound reasoning regarding the implications that would happen if you tried to force secondary water on such a high slope where there isn't water pressure. While having culinary water as irrigation water is not ideal, it seems that the best option as the developer has done what we have asked them in investigating the possibility of secondary water.

Council Member Blackham said that this developer has done a good job in speaking with the neighbors and explaining what their development plans were. Council Member Blackham added that he still has concerns with the secondary water and therefore had approached Davis & Weber Counties Canal Company to ask about servicing this area. He was told that if they could get the pressure irrigation through Benchland, then they would be able to service it. Davis & Weber Counties Canal is asking this developer to loop the system. Council Member Blackham said that he understands that this area is difficult and there is not a lot of right-of-way, but feels that it's not impossible to have a pressure irrigation system installed. Council Member Blackham said that he is also concerned with the reduced setbacks and feels that approving them would be in direct violation of city ordinances. Our ordinances state that no building shall be closer than twenty feet to any street improvement. These ordinances have been written for a reason and we should follow them. Council Member Blackham added that the amenities for the open space areas need to be

clearer in the development agreement.

Council Member Tran said that we have passed a regulation that says that secondary water isn't required for lots east of Highway 89, and because of that what is being proposed is acceptable. This is a great development for what challenges they are facing.

Council Member Adams commented that he has been impressed with the way this development has been done, and the developers have been great examples of excellent stewards. This subdivision will be a good contribution to the city, but he feels conflicted with the secondary water requirement. Council Member Adams added that he would like to see that enough parking is created so that cars are not being forced to park in the road.

The vote on the motion was as follows:

Council Member Adams, yea  
Council Member Barber, yea  
Council Member Lortz, yea  
Council Member Tran, yea  
Council Member Blackham, nay

The motion passed with a vote of four to one.

## **WORK ITEMS**

### **KAYSVILLE FIBER RFP RESULTS DISCUSSION**

Council Member Lortz said that tonight the Technical Advisory Committee wanted to discuss where we are at in regards to the Kaysville Fiber Project. At the last council meeting the council was shown two presentations from the top two bidders for our Requests for Proposals. We included a scoring sheet which showed how each of those RFP's that were received were rated. In that rating process we had seven citizens, three staff members and two council members involved. It was very much weighted towards the residents input. To help with the discussion about the proposals, the Technical Advisory Committee has put together a summary highlight with the key points of the proposal. A lot of the things that were in the old plan are no longer there. This is not a utility or an opt-out program, but rather an opt-in subscriber model.

Council Member Barber said that one of the most common comments they have heard from residents is their wanting to be more involved in the process, and the committee has tried to do that. This is why we are spending a lot of time in many meetings to review and discuss every step. The fiber project is based on years of working on it and trying to make it right for Kaysville. They have received a lot of citizen input and a lot of interaction with the public, which has helped with the integrity of this process. None of the proposals received were rescored, and only financial elements within the proposals were adjusted based on further clarification.

Brad Winter, one of the fiber committee panelist, commented that originally his involvement in this project was selfish because he lives in an area of the city where they have severely limited internet providers and broadband options available and he feels that the prices for internet are more expensive in his area because of this. It has been very frustrating and he was very excited to hear



about this project and be part of these discussions. Mr. Winter added that he has also been pleased with the council and their responsiveness to the citizens. This newly revised plans has addressed many of the concerns of the citizens, and helps address a program that will best help the citizens in our city. He has been excited to have the opportunity to be part of a local government program that will be beneficial to the city and appreciates the city actively trying to encourage freedom as well as create an environment to allow relative monopoly in the area. Mr. Winter added that he was glad to see the city not try to rush into a solution.

Paul Waldrop, a fiber committee panelist, said that he has never been against a fiber to the home project, but when the original fiber plan was proposed he had very big concerns about it. One of his concerns was because originally he had been told that it was to be voted on by citizens, and then it was suddenly not. He was also very concerned with the way the plans were to be managed because it seemed there was a conflict of interest. There weren't enough checks and balances. As the committee has been working on a new plan, he wanted to volunteer for the committee so that he could contribute his knowledge in construction codes and processes. Mr. Waldrop said that he is in full support of this new plan which allows everyone to choose if they want fiber, and gives the opportunity for the city to learn how to better manage this by having people hired through the process to manage it. In time they can decided who could be hired to work on a more permanent basis with the city. When this goes to the ballot in November, we will vote as to whether the people will have fiber and be able to choose their plan. If they don't want fiber then they have that freedom to choose to not have it. This is something that many have worked very hard on and he appreciates the city's openness, honestly, and being forthright in their efforts. Everything has been transparent and has been posted online, which is something that is very important for our citizens.

Council Member Adams asked why the city hadn't considered a plan similar to Utopia. Why are we doing all of this precursor to getting a bond when we don't know what the citizens vote will turn out to be?

Council Member Lortz responded that they had looked at doing Utopia's model and found that it would cost significantly more money than the city owning the network ourselves. We felt that the amount that the city would save was worth exploring doing it on our own. We wanted to put the work in now so that we have certainty. We now know what it's going to cost. We've proven that this model will cost of several million dollars less over thirty years for the residents of Kaysville. It's worth doing the work before a vote so we can make sure it will be the right thing. We want to show the value that this project can deliver if we go after it.

Council Member Barber said that as part of the feasibility investigation there were several key identifiers that set us apart from other cities. One of those is that Kaysville owns its own power department. We already have all the permitting we need for power, and we have our easements and right-of-ways needed. Pairing that with our demographics and interests, it makes more sense to have a city-owned network.

Council Member Adams asked what would happen if this were to get voted down by citizens.

Council Member Barber responded that the city wouldn't do the fiber project.

Council Member Lortz said that if this is voted down then we are not going to turn around and get it voted by the council anyways. It is the city's commitment to try to put forward the best project

to give the best value long-term. These kinds of decisions come along infrequently, but they are important and that's why so much time has been taken to vet through this. This is an opportunity to do something really worthwhile for the long-term.

Council Member Tran said that initially there was going to be an upfront cost. How will that work in this model?

Council Member Lortz responded that the pricing has now been combined to make it simple. We will give people the option to pay their infrastructure up front if they want to do that, but the plan is to have a monthly fee that would be equivalent to what people are paying now for their internet services, but for a better product. Everyone will pay the same amount whether they decide to join on the first day or later on.

Council Member Barber commented that we have seen and heard our residents and what they want for fiber. We are taking what they have said and are now are looking for a fiber plan that will most benefit the city.

Council Member Lortz reviewed with the city council the bid process and the differences with the two proposed bids from the highest bidders.

Mayor Witt thanked Council Member Lortz and Council Member Barber for their hard work and help in getting us to this point.

Council Member Barber made a motion to extend the meeting past 10:00 p.m., seconded by Council Member Adams. The motion passed with a unanimous vote.

### **CALL TO THE PUBLIC**

Jessica Rawson thanked the city council, mayor, Technical Advisory Committee and the citizen panel for their countless hours dedicated towards exploring fiber to the city. The way the city has handled this and presented it to the citizens in a transparent way, as well as addressing the concerns of citizens, has been very impressive. The recent pandemic forcing people to work and attend school from home has solidified the need for better internet access. Allowing for an open network will bring more of a competitive market, which will allow for better services at a less expensive rate. Ms. Rawson commented that she hopes that more residents will try to get involved in trying to help get this to pass the citizen vote in November. Residents need to also be more involved with reviewing the General Plan by going to the city's website. Ms. Rawson thanked those who helped to prevent the UBR concert. It was not in the best interest of our residents and citizens, and agrees with the points that were laid out in the letter of censure. The mayor's actions were egregious and her response has shown that she hasn't learned from what has happened. She has put her political agenda above the city that she was elected for. She has abused her power of office. Ms. Rawson encouraged the mayor to apologize and take responsibility for her actions.

Brandon Barnedt commented that he cares deeply for the city and would have liked to have participated as a fiber panelist. He cares about supporting the small businesses and didn't care much about the UBR concert. He was most bothered by was the way the whole situation was handled. The way the public has been treated by the mayor and the UBR group was disgusting. When he took a stand on social media he was called all sorts of names and it was uncalled for. He

knew that when he took a stand he would be told he wasn't for businesses in Kaysville, so the day he posted his petition against the concert he also started a group where people could go and support and spotlight businesses in the city. He was also appalled that the mayor he voted for would treat the people of the city this way, and the mayor owes the residents an apology. After hearing what the mayor has said tonight she should resign.

Dave Adams disrupted the meeting.

Council Member Barber made a motion to remove Dave Adams from the meeting, seconded by Council Member Lortz. The motion passed with a unanimous vote.

### **COUNCIL MEMBER REPORTS**

Council Member Barber commented that she has been so disappointed with our mayor's actions over the past few weeks, and was even more disappointed when the mayor compared the concert to the Black Lives Matter movement tonight. Council Member Barber said that over the last week she has been trying to be a better advocate for people who needed a voice and was so taken aback by the mayor's comment and she is embarrassed she didn't say anything at the time. That mayor's comment was more offensive than anything that she has put the city through to this point, and it was completely inappropriate. We can all commit to doing better. There are people out there who have much harder things to deal with, and the mayor has shown that she does not represent Kaysville by her comments.

Council Member Lortz said that the Power Department is working on finishing the metering project. They are also almost finished with the LED street light replacement project as well. The city recently had a power outage and our crews were quick to resolve the problem and get power turned back on, and we are appreciative of their efforts.

Council Member Adams commented that he wanted to express appreciation for our police and firefighters. He is in awe of what they have to do every day, as well as the sacrifices they make protecting us and our families.

### **ADJOURNMENT**

Council Member Barber made a motion to adjourn the City Council meeting at 10:05 p.m., seconded by Council Member Lortz and passed unanimously.

**KAYSVILLE BUSINESS PARK ARCHITECTURAL REVIEW COMMITTEE MEETING**

Chairperson Witt opened the Kaysville Business Park Architectural Review Committee meeting at 10:05 p.m.

**CONSIDERATION OF COVERED PARKING (CARPORT) STRUCTURES AT 610 NORTH 900 WEST (LOT 117B) FOR THE KAYSVILLE PROFESSIONAL BUILDINGS COMPLEX**

Lyle Gibson explained that this property located at 610 North 900 West contains 1.75 acres and is currently nearing completion of a second office building towards the east end of the property. The current proposal is to build carport structures over the existing parking area between the new building and the train tracks. In addition to the regulations of the Light Industrial (LI) zoning district, property in the Kaysville Business Park is subject to covenants that have additional requirements and considerations. Staff is recommending approval of the request for construction of the carport structures as proposed based on their location and compatibility with the regulations of the Kaysville Business Park. These are unique structures to the business park, but based on their location they will have little to no impact on the overall aesthetic of the park.

Board Member Blackham said that he did contact the Fire Chief to find out if he had any issues in being able to protect the existing buildings with these structures in place, and he did not. Council Member Blackham also asked Lyle to contact the adjacent property owners to see if they had any issues with these proposed structures and they did not.

Board Member Barber made a motion to approve the covered parking (carport) structures at 610 North 900 West (Lot 117B) for the Kaysville Professional Buildings Complex, seconded by Council Member Tran.

The vote on the motion was as follows:

Board Member Barber, yea  
Board Member Lortz, yea  
Board Member Tran, yea  
Board Member Blackham, yea  
Board Member Adams, yea

The motion passed unanimously.

Board Member Lortz made a motion to adjourn the Kaysville Business Park Architectural Review Committee Meeting at 10:09 p.m., seconded by Board Member Tran and passed unanimously.

KAYSVILLE CITY  
MUNICIPAL BUILDING AUTHORITY BOARD MEETING  
June 4, 2020

Minutes of a Kaysville City Municipal Building Authority Board Meeting held on June 4, 2020 at 10:09 p.m. in the Business Resource Center of the Davis Technical College at 450 South Simmons Way, Kaysville, UT.

Board Members present: Chairperson Katie Witt, John Swan Adams, Michelle Barber, Andre Lortz, Tamara Tran, and Mike Blackham

Others Present: City Manager Shayne Scott, City Attorney Nic Mills, Finance Director Dean Storey, Recorder Annemarie Plaizier (via video conferencing), Information Systems Manager Ryan Judd, Information Technology Assistant Jordan Hansen, Police Chief Sol Oberg, Brandon Barnedt

**OPENING**

Chairperson Witt opened the meeting by welcoming those present.

**FURNITURE PURCHASE FOR KAYSVILLE CITY MUNICIPAL BUILDING**

Lyle Gibson explained that the construction work for the renovation and addition to the Kaysville City Municipal building is anticipated to be completed in July of this year. This item is for the approval of the purchase of furnishings for the building, such as chairs, tables, desks, cubicles, etc. The total purchase price for the furnishings is \$213,909.73. The estimated cost for furnishings at the onset of this project was \$202,173. This represents a roughly 6% increase over the original estimate.

Board Member Adams asked if the furniture was budgeted for.

Board Member Barber responded that it was budgeted as part of the project.

Board Member Tran asked if there had been a bid put out for the furniture.

Shayne Scott responded that we have a working state contract for the furniture. We don't put out a bid for items such as furniture because that is something the state does for us.

Board Member Blackham made a motion to approve the furniture purchase for the Kaysville City Municipal Building, seconded by Board Member Adams.

The vote on the motion was as follows:

Board Member Lortz, yea

Board Member Tran, yea  
Board Member Blackham, yea  
Board Member Adams, yea  
Board Member Barber, yea

The motion passed unanimously.

**ADJOURNMENT**

Board Member Barber made a motion to adjourn the Kaysville City Municipal Building Authority Board Meeting at 10:13 p.m., seconded by Board Member Adams and passed unanimously.