

“WHAT’S PAST IS PROLOGUE” (CONTINUED)

http://www.kemmerergazette.com/v2_news_articles.php?heading=0&story_id=4012&page=72

(NOTE: By January 2016, the Kemmerer City Council had still not replaced Davidson. In the January 16 issue of the Gazette, Kemmerer’s Mayor Hopkins responded to questions about the vacancy, explaining “that they are in the process of changing the job description of the city administrator to ensure the parameters are where they should be before they hire someone. That way, he said, the city doesn’t risk having the administrator change too many things once hired.”

http://www.kemmerergazette.com/v2_news_articles.php?heading=0&page=72&story_id=4183

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Rebecca Davidson’s first day on the job was supposed to be May 11, but according to a story in the Times-Independent, she came to work a week early. She told the T-I, “We have a great staff here, and I’m also looking forward to getting to know the business owners and people in the community,” she said. “I’m really enjoying being here.” She told the T-I that, “infrastructure issues — particularly wastewater, sewer piping and a water tank project,” would be 2015 priorities. She also wanted, “to develop an outreach program to keep city residents well informed about city activities and projects,” by “stepping up use of social media such as Facebook, Twitter and the city’s website.”

There was no mention of “restructuring.”

Also moving to Moab was Tara Smelt, Davidson’s Director of Communications and Events in Kemmerer. Sometime that summer, Smelt left her job in Kemmerer and ultimately received two final payments from the City of Kemmerer for \$55,661.20 and \$3217.76 on July 27, 2015. A non-disclosure document prohibits the Kemmerer City Council from commenting on the payments.

http://www.publicnoticeads.com/WY/search/view.asp?T=PN&id=3478/8252015_22743645.htm

Less than a month after the new city administrator assumed her duties, the City of Moab moved quickly to employ the IT security services of a company called Tayo, Inc., “a corporation of Wyoming.” A draft agreement between the City of Moab and Tayo, dated June 4, 2015, appears in the GRAMA files. But according to City Recorder Stenta, the contract was not signed by the city. In an email to Tayo, Inc, Stenta explained that the city had, “a purchasing limit of \$6,999 before we have to go through a competitive process.” However, according to the web site, Transparency Utah, the City of Moab made two payments to Tayo, Inc in 2015, for \$6,529 and \$23,240.

(NOTE: A search of ‘business entities’ on the Wyoming Secretary of State web site listed only one company named ‘Tayo, Inc.’ The corporation was dissolved on January 5, 2013. Further it lists a principle address in Michigan and doesn’t appear to be the same Tayo, Inc. that contracted with the City of Moab. The Zephyr has made additional inquiries with the Moab City Recorder for clarification)

Some Moabites thought the new arrangement was a conflict of interest when a document recovered from the internet identified Tayo, Inc. as a Utah corporation, with a filing date of June 30, 2015, and with Tara Smelt as the “registered agent.” It identified the company’s address as a street address in Moab, Utah.

Also moving to Moab was Tara Smelt, Davidson’s Director of Communications and Events in Kemmerer. Less than a month after the new city administrator assumed her duties, the City of Moab moved quickly to employ the services of a company called Tayo, Inc... a Utah corporation, with a filing date of June 30, 2015, and with Tara Smelt as the “registered agent.”

<http://www.bizapedia.com/ut/TAYO-INC.html>

County Councilman Chris Baird later raised the conflict of interest issue himself to City Councilwoman Ershadi writing by email, “As you may know. An ongoing ‘conspiracy theory’ is that Rebecca (Davidson) is making room for her friends and colleagues in the City organization by eliminating locals. I don’t have an opinion on things like that one way or the other. But, when a local loses out, and a friend of Rebecca’s moves in, it doesn’t help relieve (sic) that concern. I’m sure you realize that Tara’s (Smelt) involvement can’t be played off as a mere coincidence.”

But City Recorder Rachel Stenta insisted there was no conflict and later explained that the same IT technician who had worked on Kemmerer City’s computers in 2014 was now involved in Moab’s computer security issues. “Niyo Pearson is our IT consultant,” Stenta explained. “He has formed Tayo Inc. with Tara Smelt who offers Communication services for hire. Tara lives here in Moab and Tara Smelt does not and has not provided any IT services for the City of Moab. Niyo Pearson was hired to assess our IT security issues and is highly specialized in his field.”

And Stenta, still bothered by County Councilman Baird’s remarks, emailed Ershadi, “I don’t think that Chris Baird and whoever he is speaking for is interested in the facts or the reality of this matter. I do think the County Council’s time and energy would be better spent looking within their own organization and taking care of their issues rather than slinging unfounded accusations at the City. It is sad for our Community that after all of these years our City/County Cooperation appears to be on a steep downward trajectory over a fabricated issue that is certainly not in the Community’s best interest to

perpetuate.”

Later, Stenta asked Niyo Pearson to draft a letter to the Grand County Council, in response to Baird’s comments. Pearson’s draft letter, which bordered on the apocalyptic, included these remarks:

“Dear Members of the Grand County Council:

My name is Niyo Pearson and I am the Chief Technology Officer for Tayo, Inc. I am writing you in regards to some misinterpretations of both our business and our intentions. Tayo Inc. is a company founded on cybersecurity and communication as its core business. Our mission is to help nurture and grow cybersecurity as a culture for municipalities all across North America...

“...Every day, more and more medium and small sized municipalities are being targeted by ISIS, Anonymous, nation state hackers (China, Russia) in order to, but not limited to, inflict damage against the United States, understand the SCADA water and waste systems (military intelligence gathering) or leak city and citizen data to sell on the digital black market. The City of Moab, a UT customer, engaged us to help them review their security stance and compliance within all aspects of their internal and Internet facing systems.”

But later Stenta wrote Pearson, “At this point, there seems to be only one County Councilmember who is confused, so I’m not sure that presenting it to the County Council would clarify anything it may confuse them as to why they’re being addressed for City IT issues.” The letter was apparently never sent.

* * *

Despite the city’s commitment to Tayo, Inc, the company’s contact details continue to be baffling. In the June 4, 2015 draft contract with Moab City, Tayo, Inc is referred to as a “Wyoming Corporation,” though it’s not listed among ‘business entities’ on the Wyoming Secretary of State web site. And in another email recovered by the GRAMA search, Stenta states that, “Tayo Incorporated’s business address is 560 South Sandusky Ave., Tulsa, Oklahoma.”

But on the company’s web site, Tayo, Inc. offers virtually no information on its physical location; only a phone number with a ‘970’ area code suggests that the company might be in Colorado. And as we noted, Tayo, Inc is also registered as a Utah corporation, with a June 30, 2015 filing date and with Smelt as its registered agent.

The Zephyr tried to acquire just the basic details of the company and via an email address for Niyo Pearson, again acquired via the GRAMA rrequest, I contacted Mr. Pearson and tried to get a better handle on just who and where Tayo, Inc is. Noting the conflicting contact details listed in this story, I asked, “Is Tayo, Inc. in Moab a branch of your main office in Tulsa, do you have another office in Colorado, and how long has Tayo, Inc in Tulsa been in business?”

The next day, I received a letter from his attorney, Andrea Welter, who informed me the company was not obligated to provide ‘non-public information.’

I replied, “I’m not trying to obtain “non-public information.” But isn’t it possible to see who sits on its board of directors? Who its chief financial and executive officers are? And whether Tayo, Inc in Moab, Utah is affiliated with Tayo, Inc. in Tulsa? If nothing else, what public information about Tayo, Inc is available and could you send me that information?”

Welter responded, “Unfortunately, everything you requested below is non-public information which private companies are not required to disclose. I cannot assist you in your request.”

End of conversation.

Ultimately, one could only conclude that Tayo, Inc. is either a corporation based in Wyoming, Utah, Colorado or Oklahoma, or a combination of the four, with unknown corporate officers in unknown locations and with an unknown board of directors. Or it’s not a corporation at all, but a “partnership” as city recorder Smelt described the business relationship between Pearson and Smelt, with an office in Tulsa and one in Moab, with the partner who lives in Tulsa doing all the IT work for the City of Moab, while the partner who lives in Moab does no IT work for the city whatsoever.

Despite Tayo, Inc’s seeming lack of transparency, Moab City put its faith in that company to resolve IT security issues, real or possible and cited a lack of vigilance by the previous city manager. In an email to Ershadi, Stenta stressed the need to update the city’s computer security systems. Stenta wrote,



“The City contracted with ComputerWise (Mike Baird the City Manager’s husband) for IT consulting services beginning around 1999 through 2015. We did not procure a contract for those services, rather we were billed an hourly rate for time and materials as needed.

“An issue that we had for many years with our consultant, was that Computerwise utilized and installed software on city computers that was not legally licensed. Each time I brought it up as an issue that could negatively affect our organization, I was told by our City Manager that our budget could not accommodate the purchase of licensed software to bring us into compliance and that it was not a budgetary priority. City Manager Metzler also told me that she would really prefer not to know about the issue.

“When our new City Manager started this past April, I brought this issue to her attention, because as IT Manager it has been a stressful and awkward situation that I previously had no support in resolving. She asked that I resolve the situation immediately, as we are government and using pirated software was completely unacceptable.”

Later, Stenta explained, “she (Davidson) asked that I resolve the situation immediately...” And so the City of Moab turned to Tayo, Inc.

On August 25, Stenta sent Davidson an email re: “Emergency Purchase.”

Stenta informed Davidson:

“Given that the above system was maintained and developed by our independent consultant, in order to inventory and assess our overall system, it was necessary to hire a different consultant to give us an accurate accounting of system design, vulnerabilities and access control.

“During this inventory process, critical issues were discovered. Security issues which left City water systems, Narcotics Task Force operations and City databases exposed and at risk to security breaches. In order to assess the severity, I authorized additional consulting hours and broadened the scope of work for the consultant. Further investigation revealed major security issues that warranted immediate action to safeguard the City’s water supply as well as law enforcement activities.

“In my opinion, as per Moab Municipal Code Section 2.28.045(D), the security situation that existed constituted an “emergency situation involving a threat to public health, welfare or safety”. Once the issues were identified, I could not go through a competitive process to procure consulting without further exposing the vulnerabilities of our critical systems and jeopardizing the safety of our water and law enforcement systems. I did ensure that the services and hardware were competitive and as favorable to the City as possible by utilizing the State Contract for hardware purchases.

“Our previous consultant was charging \$90.00 per hour and the consultant I hired for the emergency charges \$60.00 per hour. These expenditures are currently at \$53,000 and I estimate another \$25,000 to complete the process. After the upgrades are completed, the RFP will be advertised and an IT consulting contract will go before City Council. I request that during the budget process we create a centralized IT de-

The question is whether the City of Moab, just three weeks after Davidson became its city administrator, should have entered into a ‘master agreement’ for computer services with a company, Tayo, Inc, that as of the date the contract was signed, June 4, 2015, did not even exist as a Utah corporation, whose co-owner, Tara Smelt, turned out to be Davidson’s Director of Communications and Events, in Kemmerer, Wyoming, and who, at the time the contract was signed, was still apparently employed by the City of Kemmerer.

partment budget to accommodate these and all IT related expenditures for the City of Moab.”

On September 22, 2015, the Moab city council agenda summary includes staff reports presented by Rebecca Davidson and Rachel Stenta, on city IT stating, “A few months ago, we identified some critical security and legal compliance issues in our IT infrastructure. The security issues were very high risk and required immediate action to protect the city.”

They subsequently called for large increases in the city IT budget, including an extra \$110,000.00 for 2015-16. And on October 28, three months ago, Stenta wrote, “I am in the process of preparing a Request for Proposal (RFP) for IT consulting services – to conduct a competitive procurement process that we have not previously been able to engage in.” *The Zephyr* asked Stenta, via a January 28 email, for the status of the RFP but as this story prepares to post, she has not replied.

As noted, an examination of expenses by the City of Moab, as documented on the web site: <http://www.utah.gov/transparency/index.html>, show that Moab paid Tayo, Inc. a total of \$29,770.30 for just two invoices submitted June 30th and September 8th, 2015. And clearly dramatic additional charges are yet to come.

In the *previous four years*, ComputerWise charged the City of Moab \$35,216. And finally, no serious cyber issues have been reported to or by the former IT consultant in the past 15 years.

And just eight weeks after Rebecca Davidson left her city manager duties in Wyoming, Kemmerer City terminated the services of Niyo Pearson as its IT support technician and, as Kemmerer City Recorder Glenda Young stated, the city “never used or talked to” Pearson again.

Whether the City of Moab needed a systems upgrade, or whether the city was unprotected from cyberattacks by “ISIS and nation state hackers” is not the main point here. Improvements may indeed be in order.

The question is whether the City of Moab, just three weeks after Davidson became its city administrator, should have hired the services of a company, whose co-owner, Tara Smelt, turned out to be Davidson’s Director of Communications and Events, in Kemmerer, Wyoming, and who, at the time the arrangement was made was still apparently employed by the City of Kemmerer. Further, it paid Tayo, Inc almost \$30,000, four times the maximum allowed by the city without conducting “a competitive procurement process.” Finally, what is Tayo, Inc’s customer history? These are issues that need to be resolved.

A LETTER FROM THE CITY ATTORNEY

On January 25, *The Zephyr* received a letter from Moab City Attorney Christopher McAnany, responding to at least some of the questions I had posed to him and to City Manager Rebecca Davidson, earlier in the month. McAnany advised me that his letter would be, “in lieu of any further response from Ms. Davidson,” though in fact there had been no response from Davidson at all.

McAnany confirmed that there had been no peer review or third party scrutiny when the City of Moab responded to *The Zephyr’s* GRAMA request. He wrote, “The City Recorder made an initial determination as to those documents which were responsive to your request, and subject to production under the law. In doing so she asked that all City Council members produce all responsive records for her to review.” In other words, Rachel Stenta advised the council, mayor and city manager what subjects *The Zephyr* was pursuing and they in turn independently determined which emails they thought

appropriate.

Regarding the restructuring of city government, McAnany claimed that all discussions by the City Council were conducted in “executive session,” including the “reorganization of departments,” and he noted that the closed session were conducted, “as allowed by Utah law.” And McAnany wrote, “The City does not comment publicly on employment status of individual employees, but I can tell you that all matters with the employees affected by the Council decision have been settled to the satisfaction of the parties.” And he noted that the lack of paperwork was, “not unusual.”

Regarding the IT security contract that was signed just three weeks after Davidson assumed her duties, McAnany explained that, “The contract was executed on an emergency basis because of the discovery of a serious computer security issue in the City’s systems.” There was nothing in the GRAMA documents that claimed a “serious computer issue” had become an “emergency.” in early June. Stenta noted the potential for problems and in late August, as noted, she requested emergency funding.

The fact that Tayo’s co-owner, Tara Smelt, was Davidson’s former Communications Director in Kemmerer, and who in fact was still employed in Wyoming, was not an issue. McAnany wrote, “...we are not aware of any conflict of interest as to this project.”

Finally McAnany went to some length to explain the City Council’s intent when it offered Davidson the position. He wrote, “When Ms. Davidson was hired the City Council gave specific direction as to a number of priorities and changes that it wanted to implement.” His comments indicate that at the time Davidson was offered the job, the council made it clear that they expected her to implement certain “priorities and changes.” And McAnany admitted that such changes could result in, “painful personnel decisions,” but that ultimately they were “for the overall good of the organization.”

“Whatever bad things are being said by the critics of Ms. Davidson,” McAnany concluded, “the fact is that she was carrying out the express direction given to her by the elected leaders on the City Council.”

No one would argue that. But what it means, in the end, is that the council had personal “priorities,” way back in March 2015, including the restructuring of city government, and hired Rebecca Davidson, with her aggressive management style, to implement those priorities. Restructuring as a public issue, for public discussion and debate was never considered.

Then, over the next six months, the council, mayor and city manager moved quietly forward, *and exclusively*, in a series of “executive sessions,” behind closed doors, to craft and shape its reorganization plans, leaving the staff and the citizens of Moab oblivious to their work, until the evening of September 22, when they approved their plan unanimously and, 16 hours later, began to implement it, via the city manager, with the dismissals of Davey and Olsen.

“WHAT’S PAST IS PROLOGUE?”

The government of the City of Moab and its elected representatives and the people who work as administrators, are there to serve the citizens who live and work in the community. And that government must be accountable to the People. Greater change has affected Moab City Hall in the past eight months than in the previous decade. There are questions, broad and specific, that need to be asked, and *answered* more transparently than they have so far.

**When a community, large or small, goes to the polls to elect their representatives, they vote with the hope and the belief that they are choosing the best of us...
We hope in short to elect,
“the better angels of our nature.”**

* When the Moab City Council moved forward to hire a new city administrator, what were the qualities in Rebecca Davidson that made her the council’s choice among 57 applicants?

* Was the council aware of the litigation in Timnath and was it aware that the ‘non-disparagement’ agreement prohibited city officials from providing any information about Davidson’s tenure there?

* With that in mind, how did the city properly vet Ms. Davidson? Did the city ever receive the copy of the “supplemental audit from the Town (of Timnath),” mentioned by city recorder Stenta? According to Stenta, the document “cleared (Davidson) of any allegations or wrong doing” Was that document sent to the city? If so, why was it not included in the GRAMA request?

* Did the council investigate Davidson’s tenure in Kemmerer? Is there any written documentation? If so, why wasn’t it included in the GRAMA request?

* Was the council aware that a priority for Davidson in Kemmerer was to dramatically ‘restructure’ its government, a process that led to the departure of more than 20 of its employees in just three years?

* Was the City of Moab aware that Davidson had made criminal allegations against two of Kemmerer’s staff, forcing an investigation by the Wyoming Division of criminal Investigations, and that in both cases, the county attorney declined to prosecute and the cases were closed?

* Was ‘restructuring’ a priority for the Moab City Council before Davidson was offered the job? If so, was her aggressive management style in Kemmerer the reason she was selected?

* If restructuring Moab City was a topic of discussion, how and where was it discussed? In the GRAMA request, there isn’t a single document or evidence of any written correspondence between the council members or with the city manager, discussing the idea or its implementation. How was this complex change discussed and debated? If it was conducted behind closed doors, in executive session, can the City Council explain the need for absolute secrecy for a decision that had the potential to affect its entire staff?

* Did the council meet with the staff during the summer months to discuss restruc-