

AMERICAN FORK CITY
COUNCIL MEETING MINUTES
FEBRUARY 25, 2014

REGULAR SESSION

ATTACHMENT

The American Fork City Council met in a regular session on Tuesday, February 25, 2014 in the American Fork City Hall, 31 North Church Street, commencing at 7:30 p.m. Those present included Mayor James H. Hadfield and Councilmembers Carlton Bowen, Brad Frost, Robert Shelton, Jeff Shorter, and Clark Taylor.

Staff present: Associate Planner Wendelin Knobloch
City Administrator Craig Whitehead
City Attorney Kasey Wright
City Planner Adam Olsen
City Recorder Richard Colborn
City Treasurer Melanie Marsh
Finance Director Cathy Jensen
Fire Captain Ben Anderson
Fire Chief Kriss Garcia
Fire Marshal Doug Bateman
Fire Secretary Josette Walker
IT Specialist George Schade
Library Director Sheena Parker
Planning Commission Chairman John Woffinden
Police Chief Lance Call
Public Works Director Dale Goodman

Also present: Leif Nelson & family, Dale Gunther, Mrs. Elaine Hadfield, Curtis Payne, Dan Galli, Paulo Bangerter, Daniel J. McDonald, Kyle Barratt, and 15 additional persons.

Mayor Hadfield led the audience in the Pledge of Allegiance and Councilman Jeff Shorter offered a prayer.

PRESENTATION OF THE EMPLOYEE OF THE MONTH

Mayor Hadfield asked Captain Leif Nelson and his wife to join him, Chief Garcia, Fire Marshal Doug Bateman, and Craig Whitehead at the front. Captain Leif Nelson was recognized as the February 2014 Employee of the Month. Mayor Hadfield read a letter. There was general applause. Captain Nelson shook hands with the Council.

Mayor Hadfield invited the Scouts in attendance to come forward and introduce themselves.

Troop 813 Landon Bowen Jacob Wright

Troop 853 Channing Paxman

Troop 1090

Jayden Madigan

Mayor Hadfield wished them well along Scouting's path and when it was time for them to do an Eagle Project to let the City be a recipient of their service. The City staff would love to work with them.

TWENTY-MINUTE PUBLIC COMMENT PERIOD – LIMITED TO TWO MINUTES PER PERSON

A gentleman asked if this was the time to comment if they were here for an item on the agenda.

Mayor Hadfield answered that he would allow for short comments at the time the item came up for action.

CITY ADMINISTRATOR'S REPORT

Mr. Whitehead had nothing to report at this time.

COUNCIL REPORTS

Councilman Bowen reported that when the Honor Flight was on a previous agenda he did not know what that was going to be. The Honor Flight sponsored Veterans of WWII to get back to Washington, D.C. As he was listening to the presentation he was impressed but was kind of waiting for the shoe to drop where they were going to ask the City to help fund what they were doing, but that never happened. He was thankful for what they were doing.

Councilman Bowen reported on the budget presentation he gave at the work session last Thursday. He appreciated the opportunity to dig into the budget a little bit. It was intended to be forward looking. He reviewed some of the points that he brought up. He saw three pathways forward to increase funding for roads including, 1) Reprioritize existing spending to make roads a higher priority; 2) When savings were found through doing things more efficiently in City government, they should target a percentage of those savings toward increasing road funding; and 3) If there was surplus funds they should decide in advance a percentage of those funds to be targeted toward roads. He proposed 80 percent. He felt it was positive to have that interaction.

Councilman Bowen said he was going to continue to move forward. As he was preparing the presentation he was reminded why it was so important that the bond didn't succeed. That was a contentious issue but the City was \$56 million in debt. What stood out to him in the budget was the \$5 million that the City paid every year toward interest, without the bond passing. That was more than the police budget for one year. He was going to continue at every opportunity including tonight. With the police cars he felt that money would be better spent on roads. Any opportunity that they had to make roads a priority he was going to continue to proceed in that direction and he would not be distracted by things that might come about. It was not about him it was about what was best for the City.

Mayor Hadfield expressed that the \$5 million just spoke of included principal and interest that they pay a year. It was not just interest.

Councilman Frost reported that they were invited as City officials to attend an open house for a new LDS Church facility that would affect about 2500 young single adults from about ages 18 to 30. It was in Lehi about 1100 East just off Pioneer Crossing. Everyone was welcome to come and participate in the activities regardless of their faith.

Councilman Frost reported that the Cemetery Relocation Team was made up of Councilman Taylor, himself, staff, and Dan & Karen Adams. Mr. & Mrs. Adams were part of the team so that as they looked for new cemetery property the Team would not lose the perspective of American Fork history.

Councilman Taylor commented that once in a while one runs into individuals who have a positive effect upon you over and over again, whether you know them or not. From the first time he met Captain Nelson that was how it has been. He was someone who represented American Fork City well with a strong consistent, friendly demeanor. He appreciated that.

Councilman Taylor reported that for the first time in five years the Golf Course had February play. The course was in tremendous shape and new asphalt has been placed around the course in different places. There would be a meeting at the Golf Course for the City Council on March 20.

Councilman Shelton reported that it was a great opportunity for the Learning Center to present to the American Fork Rotary Club their needs. As a result they were awarded a grant in the amount of \$550 for listening sets to be used by those learning to read. Also, a member of the Rotary Club left there and went to a local business and procured some donated table and chairs and another business cleaned those tables and chairs. Another business donated \$250.

Councilman Shelton echoed Councilman Taylor's comments regarding Captain Leif Nelson. He had such a caring heart.

Councilman Shelton reported that he met with two business owners in downtown American Fork regarding ideas and solutions to better that area.

Councilman Taylor reported on one more item and that was the grand opening for the new Chinese Temptasian Restaurant, 987 West 500 North, south of Costco. They appreciated being in American Fork.

Councilman Shorter had nothing to report at this time.

MAYOR'S REPORT

Mayor Hadfield reported that the Orange Chicken at Temptasian was not on the menu and one had to ask for it. It was to die for.

Mayor Hadfield reported that Saturday morning at 9:00 a.m. would be the second round of Pancakes and Politics at the Training Center at the American Fork Hospital. There would be three of the State House Representatives there as well as the State Senator that represented American Fork. They would report on the issues at the Legislature.

COMMON CONSENT AGENDA (*Common Consent* is that class of Council action that requires no further discussion or which is routine in nature. All items on the Common Consent Agenda are adopted by a single motion unless removed from the Common Consent Agenda by the Mayor or a Councilmember and placed in the action items.)

1. Approval of the February 4, 2014 special work session minutes.
2. Approval of the February 6, 2014 work session minutes.
3. Approval of the February 11, 2014 city council minutes
4. Approval of the City bills for payment and purchase requests over \$25,000. – *Cathy Jensen*

Mayor Hadfield reported that a change has been requested on page 4, line 1, to replace, “offline,” with, “after the meeting.”

Councilman Taylor moved approval of the common consent agenda items including a change in the February 11, 2014 City Council minutes on page 4, line 1, to replace, “offline,” with, “after the meeting.” Councilman Shelton seconded the motion. All were in favor.

ACTION ITEMS

CONSIDERATION AND ACTION ON ENTERING INTO A THREE YEAR VEHICLE LEASE WITH KEN GARFF FORD FOR FOUR POLICE PATROL VEHICLES – *Chief Call*

Mayor Hadfield explained that there was \$39,000 in Chief Call’s budget for vehicles this year. About \$50,000 would be addressed in next year’s budget and about \$50,000 in the next year.

Councilman Bowen asked if there was a more definitive answer on the average age of the vehicles in the police fleet.

Chief Call estimated it to be six to seven years and of the 41 vehicles, six were Harley Davidson motorcycles. There were 33 officers.

Councilman Taylor moved to authorize the Mayor to enter into a three year lease agreement with Ken Garff Ford for the acquisition of four police patrol vehicles and adoption of Resolution No. 2014-02-07R. Councilman Shelton seconded the motion.

Councilman Shelton noted that the interest was a very low 1.2 percent.

Councilman Frost felt strongly that this was a matter of public safety. These were good basic cars.

Councilman Bowen said that this was basically committing the City to \$150,000; \$39,000 this year and \$50,000 in each of the next two budgets. He has seen the police cars driving around and he did not think they were that old. He also saw the roads and 80 percent, according to the Public Works Director, were that old. He felt that roads were a higher priority rather than keeping the police cars super new.

Councilman Bowen moved an amendment to the motion to allocate \$36,000 to the capital projects budget and leaving \$3,000 in the police budget for vehicle maintenance for this year and also to transfer the \$50,000 in each of the following two years' budgets to the capital projects fund.

Councilman Shelton noted that was not what was on the agenda for action.

Mayor Hadfield asked if there was a second to the amendment. There was not. He declared the motion dead for the lack of a second.

Mayor Hadfield called for a vote on the original motion.

Voting on the original motion was as follows: Aye, Councilmembers Taylor, Shelton, Shorter, and Frost. Nay, Councilman Bowen. The motion carried.

REVIEW AND ACTION ON THE APPROVAL OF THE AWARDING OF A CONTRACT FOR THE 2014 ANNUAL PAVEMENT STRIPING PROJECT TO ALL STAR STRIPING, LLC – Dale Goodman

Mayor Hadfield reported that there was a change to no deadline as to the date of completion of the work. Crosswalks and schools zones needed work done prior to school starting again in the fall.

Councilman Bowen noted that the winning bid was quite a bit lower than everyone else and it was reported that the City had worked with All Star Striping in the past and that they did a good job. He thought that was great.

Councilman Shorter moved to accept the bid submitted by All Star Striping, LLC for the 2014 Annual Pavement Striping Project in the amount of \$45,591.90, and authorize staff to proceed with the preparation of contract documents. Councilman Taylor seconded the motion.

Mayor Hadfield asked if there was discussion on the motion. There was none.

All were in favor.

REVIEW AND ACTION REGARDING A FIRST AMENDMENT TO THE IRU AGREEMENT FOR DARK FIBER WITH VERACITY NETWORKS, LLC – George Schade

This item was removed from the agenda at the request of the petitioner.

REVIEW AND ACTION ON AN APPEAL OF A DENIAL BY THE PLANNING COMMISSION OF A SITE PLAN FOR AN ASSISTED LIVING FACILITY LOCATED AT 932 EAST 700 NORTH IN THE RA-1 RESIDENTIAL AGRICULTURAL ZONE – Candalight Properties

Mayor Hadfield invited Candalight Properties to present their appeal.

Curtis Payne explained that after the split vote at the Planning Commission they believed they were denied primarily on the ¾ mile issue. Since then they had done research and felt that the ¾ mile issue was inappropriate. He asked the Council's consideration for approval.

Mayor Hadfield explained that one of the issues that the Planning Commission had concern with was the Single Family Conversion Plan. He asked if that had been satisfactorily addressed.

Mr. Curtis responded that they had submitted a new Single Family Conversion Plan that they believed provided the requested information.

Mayor Hadfield added that as of February 19, 2014, Candalight Properties has requested approval for a reasonable accommodation. He asked if it was believed by Candalight Properties that it met all of the requirements.

Mr. Curtis answered that they believed so.

Mayor Hadfield asked City Attorney Kasey Wright what "reasonable accommodation" meant.

Kasey Wright did not think he could define it in this meeting. He felt that the Council understood the legal requirements and they could make their own determination.

Dan Galli with Candalight Properties, commented that through the whole process they had been working and modifying and coming back with new things and they were happy to do that. A lot had been said and a lot of items had been brought to the table by Mr. McDonald and he would like to note that according to the way they read the City's code they were really coming down to one issue and that was the ¾ mile. They believed they had addressed that

Paulo Bangerter, representing a large group, stated that the developer misrepresented the law.

1. The City's Code was good.
2. The ¾ mile was one issue of dozens

Mr. Bangerter expressed that the scope of the proposal was massive. It was 40 feet in the air and would change the character of the City. They bought their homes with the anticipation of quite enjoyment with reliance upon sound zoning. He searched far and wide to find the best legal advisor on these issues, not just to meet his needs but someone who really knew. They found perhaps the foremost expert in this area of the law in the western United States and that was Dan McDonald.

Mr. Bangerter continued that it was not much of a split decision, two in favor and six against. He urged that the Council uphold the decision of the Planning Commission. He introduced Dan McDonald.

Dan McDonald stated that as he was reviewing packet information for tonight, one thing that he did not see was the brief they submitted to the Planning Commission. He provided a copy to the Councilmembers.

Mayor Hadfield believed they had seen this prior to the last Planning Commission meeting.

Dan McDonald stated that it was submitted on February 5, 2014. He continued that he had represented cities, counties, developers, and residents all throughout the western United States on these issues. He had trained many others on the Fair Housing Act. He happened to have been the attorney that represented the City of St. George in the very most recent Fair Housing case that went before the United States Court of Appeals for the Tenth Circuit. In July of 2012 that decision, the Cinnamon Hills decision, fairly drastically altered the landscape of Fair Housing law in the entire Tenth Circuit. There were fundamental misunderstandings regarding the City's obligations to the requirements under the law.

Mr. McDonald explained that upon application the City's responsibility was to uphold the law and apply the Zoning Code equally. As they reviewed the Code they identified nine violations of the law that this application faced.

1. The City's Code prohibits four or more unrelated persons living in a single family dwelling. They propose to have 16 patients and 6 live in staff. That could not happen unless they fell under the conditional use criteria that created a privilege for those with disabilities. There were certain steps that needed to be followed.
 - a. Cannot change the character of a single family residence. He thought that 22 bedrooms changed the character.
 - b. The parking plan for this was unlike any residential dwelling in the surrounding neighborhood.
 - c. It was required that they demonstrate that they met the definition of a "Residential Health Care Facility" which required a "family type arrangement under the supervision of a house family or manager." Twenty-two kitchenettes was not a family type arrangement nor were six live in staff.
 - d. The site plan has to include a plan showing how the structure would be converted back to a single-family home. There were no such renderings or site plan.
 - e. They must have a written agreement to the effect that the dwelling would not be converted to a use other than a conventional one-family dwelling which was in a form that could be recorded at the Office of the Utah County Recorder. There was no agreement currently in that form. There was just a letter.
 - f. Three-quarter mile requirement. He had not seen any letter that addressed this issue. The City's staff report states that the proposed facility was within $\frac{3}{4}$ of a mile of two facilities.
 - g. According to the General Plan, Land Use Recommendations (North East Residential Planning District), "The primary objective of the Land Use Plan is the preservation of the area's residential character..." It went on to state, "Construction of LDS Church Temples frequently encourages a desire for development of certain commercial uses in the 'Shadow of the Temple.' However, the plan proposes that no commercial activity be located within the vicinity of the Temple." The proposed use was one of a commercial nature and violated the General Plan.
 - h. The Specific Plan Recommendation for this Plan District provided that, "The area should continue as a low density residential area..." and, "...requests for approval of... changes to the zoning ordinance, which would have the effect of permitting high-density or commercial uses should be rejected." This was a high-density project. From census data the average household size in American Fork was 3.46 persons. The proposed project was almost eight times that density.

Mr. McDonald continued that these violations must be overcome or demonstrate to the Council that they were entitled to a waiver or an accommodation from all of those criteria. The question was have the applicants met their burden under federal law and to do that they had to demonstrate that the accommodation was necessary and reasonable to afford an equal housing opportunity to a person with disabilities. The definition of “reasonable accommodation” had been answered by the Tenth Circuit. Here, there was no other comparable housing opportunities, boarding houses, fraternities, etc., that was allowed in the zone. Therefore it would be impossible for the applicant to meet that requirement under federal law. That was a huge barrier. There was no evidence that the City’s Ordinance acted as a barrier.

Mayor Hadfield asked Mr. McDonald to summarize.

Mr. McDonald commented that the Planning Commission made specific findings that the applicant did not show an accommodation was necessary or reasonable under federal law. It did not just boil down to the ¼ mile rule. There was nothing in the record that showed the scope and the size of the accommodation was reasonable. He added that the City had a fantastic ordinance because it was proactive and did what City’s should do. The City should not be afraid to enforce it. His experience was that they were getting the “camel’s nose in the tent” and it would set a precedence. He asked if there were any questions.

Councilman Shorter asked what if it was only an eight person facility. He felt they needed to go somewhere. The population was ageing. Was this about any type of group home or just this giant one that seemed to be out of compliance?

Mr. McDonald expressed that was a good question. He could only address an eight resident home based on the evidence that came in with an eight home application. There were eight person group homes all throughout the state. Some cities have an eight person allowance built right into their Ordinance.

Mayor Hadfield reported that when American Fork City wrote its Ordinance eight was the rule and Beehive Homes helped develop that Ordinance. With that came one live-in residential couple to accommodate those that resided in the Beehive Home. That was successful. With legislative support that number was changed from eight to 12 and then to 16 and that was where they were today.

Kasey Wright made it clear to all that the Mayor and Council had received a legal opinion on this and that they had been informed on the law. Mr. McDonald has made his opinion and the Council had heard both arguments. It was the City’s position, without going into details, that there may be elements from both that may be accurate, and Mr. McDonald could probably with two hours preparation come back and argue just as persuasively the other side of this argument. His recommendation to the Council was to rely on the legal opinion that they had been provided as it pertained to the law. On things outside of the law, base their actions on the best information that they had.

Mayor Hadfield commented that the intended piece of ground was in the County for a number of years. When it was annexed into American Fork City there were residents on Queens Drive that wanted to retain animal rights. The RA-5 Residential Agricultural zone was put in place in that

area. The City took it in as the County had it. He believed the City allowed assisted living in any zone. Across the street to the west was an Institutional zone which also had a number of group homes which was controlled by the State of Utah. One of those group homes had persons who were dangerous to themselves and to the public. That area was enclosed with a large fence.

Mayor Hadfield commented that he had always heard, "What was going to happen to my neighborhood when this was let to happen?" He did not get those comments when the LDS Temple came to town. There was disruption of traffic, large parking lots with a lot of stripes, and a lot people coming and going at all hours of the day and night. He did not hear those comments when the LDS Temple came to town. It was better than the previous feedlot. With that came some responsibilities. The developer had an obligation to prove it was reasonable and he had an obligation to prove that it was needed. He was the property owner and he had certain developable rights and as such there must be certain considerations.

Adam Olsen responded that the area was in the RA-1 zone and was placed in that zone due to animal rights but also to be able to stay on septic systems at the time.

Mayor Hadfield expressed that there were many who were on a septic system. The City has acquired the water rights from the Manila Water Company and as a result installed a waterline and that was one of the deciding factors when the LDS Temple located there. They owned the property used it as a welfare farm. He asked the Council where they wanted to go from here and if there were questions.

Councilman Bowen asked that if they approved this if they were approving the Conversion Plan too, or just the site plan with the Conversion Plan Agreement to be worked on in more detail later.

Mayor Hadfield responded that all the City was saying, in accordance with the Ordinances, was that should this group home project fail, that in this zone it could be nothing more than a single-family dwelling. How was that done? In many cases a lot of promises were made but as soon as a property sat vacant for a while and the first renter came along, all of a sudden it was an apartment for students at the university or some other reason. The applicant has said that they would remove the kitchenettes, convert the suites back to basic bedrooms, remove the handrails in the halls and bathrooms, remove the dumpster enclosure, and remove any other commercial application.

Councilman Bowen commented that Mr. McDonald thought that the Conversion Agreement was unenforceable, so he was wondering if the City approved the site plan if it was possible to put some dates or do what was necessary to make that conversion plan enforceable.

Mayor Hadfield noted that for the applicant to do anything else they would need to have a business license and the City would not allow a business license to be issued in a residential zone.

Councilman Frost asked of Candalight Properties that as people came to live in their facility if they waived all rights to their cars.

Mr. Payne answered that they did not contractually bind them to not drive. He had stated before that he was on the State Board of the Utah Assisted Living Association so he was an authority on assisted living. He related that he only knew one person in assisted living that had a car for a brief period of time. He stated that every single resident in assisted living was disabled. It was not independent living.

Mayor Hadfield reported that Mira Vista was the community's first large group home and the requirement was two parking stalls per resident and it was enforced. At Mira Vista now there were a lot of empty parking spaces. It was only really full during holiday visiting times. The parking requirements have since been reduced for assisted living facilities.

Councilman Shelton commented that as he looked at all the different legal opinions he came down to where it was a list of those disabilities. He found it difficult to say that the ¼ mile accommodation was needed to allow someone to feed themselves and things of that nature. He had volunteered in similar type facilities for many years. He was glad that someone was doing this. A lot of those facilities could still accommodate without 22 kitchenettes. They could still accommodate without a lot of stuff that was in the proposal. He looked for the burden of proof from the petitioner. That was what he would need to have to be able to vote in favor.

Mr. Payne addressed a couple of rebuttals to statements made by Mr. McDonald. He explained that the case regarding Cinnamon Hills was for troubled youth. They wanted to locate on the top floor of a hotel. The American Fork Code said 16 not 4 or more. He spent a lot of money to make sure it met the requirement of residential character. The front façade was no different than a 5,000 square foot home, two-story with a basement. The conversion plan did not contain much as there was not much to draw on a conversion plan. A kitchenette in a room was to help the resident feel more independent and comfortable in their room. A full-time master chef prepared all of their food.

Regarding the ¼ mile issue, Mr. Payne explained that they had submitted what they believed was a request for a reasonable accommodation. They owned the property and they wanted to build an assisted living facility on the property. There was not another assisted living facility within ¼'s of a mile. There was a home for youth sex offenders within ¼'s of a mile but he did not think that any relevance to their project. There was another that housed women with drug and alcohol abuse problems that was not in the City limits but fell within ¼'s of a mile. They were not within ¼'s of a mile of another assisted living facility. It was extremely difficult to find a location. Mr. Payne stated that they believed their request was reasonable and necessary.

Mayor Hadfield noted that a letter had been provided to the Council dated February 19, 2014 that requested a reasonable accommodation. He asked if that letter was also provided to the Planning Commission.

Mr. Payne answered that it was not. It was drafted after the Planning Commission's denial.

Mayor Hadfield asked Planning Commission Chairman John Woffinden if the Planning Commission discussed a reasonable accommodation.

Chairman Woffinden answered that there was some discussion.

Councilman Frost reported that he attended that Planning Commission meeting and watched how they agonized through these very same things. The only new things were those things submitted afterwards. He expressed a very strong belief in the Planning Commission. It was really easy for him when things come up to read through what they were seeing, and see how they were methodically going through it, and come to decisions. It meant a lot as it was their focal point in the City. He was not prepared to look at it any different. If there was no other discussion he was prepared to make a motion.

Councilman Shorter explained that overall he looked at it and thought of six new jobs and it was a property that had home on it. He liked the concept of it looking like a house rather than some square building like the Training School. The applicant kept coming back cutting different things trying to get it passed rather than to step back and come up with something that might be more acceptable. What was trying to be accomplished was a great idea and he didn't mind it even being where it was proposed. He just worried about the size and not so much about the $\frac{3}{4}$ mile. He would not be opposed for it to come back through the process again just not piecemeal.

Dan Galli stated that the trend with assisted living was to go bigger and bigger and bigger. Most of the new assisted living facilities in the world were at least 100 units. For them to be able to accommodate a residential style they need at least sixteen. They could not make smaller than 16 units work.

Councilman Bowen thought this would be a great addition to our community. He understood that there were concerns on both sides, but these lots had sat vacant and stare across at the LDS Temple parking lot. He thought the facility that was proposed to be built was great and those residing there and their families would appreciate it. He did not see what the problem was. He was willing to make a reasonable accommodation because he thought it would be good for our City.

Mr. Payne commented that it had been mentioned that it go back to the Planning Commission to rehash some things. They had been through this cycle quite a few times cutting off and cutting off just because everybody kept beating on them to do this or do that. He asked if the Council had something specific in mind they wanted to accomplish. He believed it came down to the $\frac{3}{4}$ mile issue and the conversion letter. He believed the conversion letter could be taken care of. They were asking for a decision on their appeal. They were not asking to go through and hash it again for five more years and spend another half-million dollars. They needed help here.

Councilman Frost expressed that he did not feel that they had been beaten up. If anything he felt the applicant came in with a Billy-club and they were very good at telling the City how it needed to change its Ordinance. In the end the zoning and laws were established way before now on sound principles to govern our little City in the way they saw fit. They used the Planning Commission to help and guide them through the process. He felt it was a slippery slope if they were to waive the $\frac{3}{4}$ mile and he was not comfortable in doing that. It was there for a very good purpose.

Mr. Payne responded that the whole purpose of a reasonable accommodation was that it didn't currently fit in the standard. It wasn't that it was right or wrong it just didn't fit their scenario. It did not matter if it was a slippery slope or not. It was a reasonable accommodation because it

currently didn't fit. He believed they put together enough information that it was reasonable to say that their facility could be built there.

Councilman Frost thought it was reasonable for the applicant to believe that it needed to be profitable. He did not think the City needed to change its zoning to make the applicant a profit. He felt the Ordinance was very sound and the numbers, how the land was bought, the conditions, and whether it was upon approval or not was totally up to the applicant.

Councilman Shelton felt they had been through this and it was time to come to a decision and go in whatever direction at that point.

Councilman Shelton moved to deny the appeal based on the finding that he did not see disability being provided and a need for reasonable accommodation to meet that disability.

Councilman Shelton felt they needed to be careful when they looked at the law and allow exceptions. He thought exceptions needed to be exceptions. Part of his mentality on that came from serving on the Board of Adjustment for eight or ten years where there were very specific criteria that had to be met to get exceptions to the Ordinances. The test needed to be met and it had not been.

Councilman Frost seconded the motion.

Mayor Hadfield asked if there was discussion on the motion.

Councilman Bowen wanted to discuss it. This was a hard issue for him because there were legitimate interests on both sides. He came down on the side of property rights and it was important that when someone owned land they had the right to control it. He understood there was zoning and what not. This was residential and he thought it fit within the zone and particularly on the street it where it was proposed to be located. There were certain rights that came with owning property.

Councilman Shelton responded that when talking about property rights there were also rules, laws and ordinances to help govern those rights and they had to abide by that. He did not feel that they met that test to allow that exception. He believed in property rights to the fullest extent but that power had to be controlled within the laws that were written. It came down to a matter of opinion and to a judge who might have to make a decision.

Voting was as follows: Aye, Councilmembers Shelton, Frost, and Taylor. Nay, Councilmembers Bowen and Shorter. The motion carried.

REVIEW AND ACTION ON SUBDIVISIONS, COMMERCIAL PROJECTS, CONDOMINIUMS, AND PUD'S INCLUDING 1) PLAT APPROVAL; 2) METHOD OF SATISFACTION OF WATER RIGHTS REQUIREMENTS; 3) POSTING OF AN IMPROVEMENT BOND OR SETTING OF A TIME FRAME FOR IMPROVEMENT INSTALLATION; AND 4) AUTHORIZATION TO SIGN THE FINAL PLAT AND ACCEPTANCE OF ALL DEDICATIONS TO THE PUBLIC AND TO HAVE THE PLAT RECORDED

- a. Review and action on the Final plat of American Fork Commercial Center Plat M Amended, consisting of six lots, located in the vicinity of 265 North Meadow Lane (750 West) in the SC-1 Planned Shopping Center zone – Woodbury Corporation

Mayor Hadfield explained that this was a request by Woodbury Corporation in the area of Gordman's and was for financing purposes. The Planning Commission recommended approval. There were no engineering questions.

Councilman Taylor moved to approve the final plat of American Fork Commercial Center Plat M Amended consisting of six lots, located in the vicinity of 265 North Meadow Lane (750 West) in the SC-1 Planned Shopping Center zone and to authorize the Mayor and City Council to sign the plat and accept the dedications. Councilman Shorter seconded the motion. All were in favor.

- b. Review and action on an Ordinance approving a commercial site plan for "Building #2" on North Pointe Business Park Plat D Lot #4 located at 1367 South 630 East, in the PI-1 Planned Industrial Zone. – American Crafts

Mayor Hadfield reported that this would be a large office warehouse for American Crafts. He asked if there were questions.

Councilman Shelton moved to adopt Ordinance No. 2014-02-06 approving a commercial site plan for "Building #2" on North Pointe Business Park Plat D Lot #4 located at 1367 South 630 East, in the PI-1 Planned Industrial Zone with instructions to the City Recorder to withhold publication of the ordinance subject to:

- **Posting of a performance guarantee to ensure the timely construction of required public improvements.**
- **All conditions as identified in the February 5, 2014 Planning Commission minutes.**

Councilman Bowen seconded the motion. All were in favor.

CONSIDERATION AND ACTION ON ENTERING INTO AN EXECUTIVE SESSION TO DISCUSS THE PROFESSIONAL CHARACTER AND COMPETENCE OF AN INDIVIDUAL – Mayor Hadfield

Councilman Shelton moved to enter into an executive session at 8:57 p.m. to discuss the professional character and competence of an individual. Councilman Shorter seconded the motion. All were in favor.

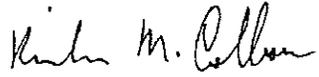
The City Council entered into an executive session at 9:00 p.m. (See ATTACHMENT 1)

The executive session concluded at 9:07 p.m.

Councilman Shorter moved to return to regular session at 9:07 p.m. Councilman Shelton seconded the motion. All were in favor.

ADJOURNMENT

Councilman Taylor moved adjournment at 9:07 p.m. Councilman Shorter seconded the motion. All were in favor.

A handwritten signature in cursive script that reads "Richard M. Colborn".

Richard M. Colborn
City Recorder

**AMERICAN FORK CITY
MAYOR'S AFFADAVIT
James H. Hadfield, Mayor**

I, Mayor James H. Hadfield, do solemnly swear and affirm that the sole purpose of the executive session of the American Fork City Council on Tuesday, February 25, 2014, was to discuss the professional character and competence of an individual.

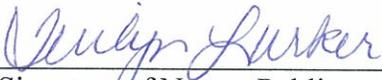


James H. Hadfield, Mayor

State of Utah
County of Utah

Subscribed and sworn to before me this 26 day of February, 2014.





Signature of Notary Public

My Commission Expires: 2/4/16