

CLEARFIELD CITY COUNCIL MEETING MINUTES
6:00 PM WORK SESSION
October 8, 2024

City Building
55 South State Street
Clearfield City, Utah

PRESIDING: Mayor Mark Shepherd

PRESENT: Councilmember Karece Thompson, Councilmember Nike Peterson, Councilmember Tim Roper, Councilmember Megan Ratchford, Mayor Mark Shepherd, Councilmember Dakota Wurth

STAFF PRESENT: City Manager JJ Allen, Assistant City Manager Spencer Brimley, City Attorney Stuart Williams, Police Chief Kelly Bennett, Senior Planner Brad McIlrath, Public Works Director Adam Favero, City Recorder Nancy Dean, Utility Superintendent Kenny England, Public Works Deputy Director Braden Felix

VISITORS: Cole Ross, Craig Boal

DISCUSSION ON A DEVELOPMENT AGREEMENT FOR THE PROPERTY LOCATED
AT 20 WEST 300 NORTH

Brad McIlrath, Senior Planner, presented information about the property located at 20 West 300 North which was located in the TC zone, where the property owner wanted to develop a convenience store and car wash. He said the property was difficult to develop because of environmental matters. There was a restricted deed that had a 20-year term. It limited the work that could be done without full approval of BP Products. The legal nonconforming use was over 12 months old so the development was subject to the requirements of the TC zone in the Form Based Code. The developer presented a proposed Development Agreement (DA) for the Council to discuss. The Planning Commission recommended denial of the Development Agreement based on four findings:

1. Inconsistent with development standards and process of the Downtown Clearfield Form Based Code;
2. The DA did not include all the needed modifications from the FBC to facilitate the intended use;
3. Concern with potential liability that could come upon the City if it approved the DA prior to BP granting approval;
4. Lack of guarantee that the private improvements would be completed whether or not additional environmental issues were discovered.

Craig Boal from Snell & Wilmer Law Firm who represented the applicant was present to answer any questions. Councilmember Ratchford asked if the developer had considered the FBC additives. Mr. McIlrath said they submitted plans to the City and staff completed a courtesy review so they would know what needed to be included in the DA. The developer had been in contact with the City since the spring. Councilmember Ratchford asked if the proposed convenience store was similar to the few in the surrounding area. Mr. McIlrath said it would be

similar to Kings Market.

Councilmember Ratchford asked what made the property owner want to develop a convenience store when there were others in close proximity. Mr. McIlrath assumed it was because convenience stores typically liked to be located on corner properties but he had not had that discussion with the property owner. Councilmember Thompson expressed concern with FBC's contribution to the problem with the property being developed and thought a convenience store was the only use due to the restrictions. Mayor Shepherd disagreed. He thought the only problem with the property was the deed restriction. He thought if the applicant wanted to take the responsibility and hold BP harmless, BP would agree and allow redevelopment. Mayor Shepherd admitted the FBC was very specific and it was specific for a reason. Councilmember Thompson asked how much money the developer would have to spend to redevelop the property. Mayor Shepherd did not know the specifics, but confirmed development was still a possibility. Councilmember Thompson did not believe, based on market conditions, that it was clear cut. He was concerned about unique parcels in the FBC area. He would rather create revenue than have it sit in its current condition. He did not want to underestimate the environmental issues and how much they might cost to mitigate.

Mr. McIlrath explained some of the concerns expressed by the Planning Commission.

Councilmember Ratchford said she was concerned about creating a precedent by deviating from the FBC requirements.

Councilmember Peterson said the DA was asking the City to look at the development as legal nonconforming. She said historically the City had made decisions based on taking what it could get rather than fight for what was planned by developing the FBC. She provided an example of a property on Antelope Drive that Council had almost relented on and allowed to deviate from set standards. Even though it took some time, the recent development of that property was worth the wait. She was concerned about the City settling for what it could get on the property instead of what was good for the City. She said she was willing to wait a little longer. She appreciated that the staff's recommendation was denial recognizing the FBC that was in place. She thought the question was whether the intent of the FBC could be met if it could not meet the letter of the code. She felt the DA had nothing to do with the FBC.

Councilmember Wurth agreed and questioned the concept of deviating from the FBC in such a way for a use that had been evidenced could not be supported economically. Councilmember Peterson agreed that Council was talking about a dramatic exception for a use that had not been successful on that property. She said if the Council was going to make deviations from the FBC it must ask how the City would be better or if the development would provide goods and services that benefited the City.

Councilmember Thompson pointed out that the reality was there were the same uses in that area but in fancier buildings. He said he wished the Council could close the gap with the developer. He said he was trying to look at it from a realistic standpoint, but the parcel was difficult for redevelopment.

Mr. McIlrath said the item would be voted on during the policy session on October 22, 2024.

DISCUSSION ON A ZONING TEXT AMENDMENT REQUEST BY CLEARFIELD CITY TO AMEND BUILDING MATERIALS STANDARDS IN TITLE 11 OF THE CLEARFIELD CITY CODE

Brad McIlrath, Senior Planner said staff was looking at zoning text amendments to the land use code to include language changes about building materials similar to what had recently been approved for the Form Based Code (FBC). He said staff looked at the standards and wanted to approach it from a different perspective by calling out what the City would not allow as opposed to identifying what was allowed. He reviewed the proposed changes with Council and said the Planning Commission had recommended approval for the proposed zoning text amendments.

Councilmember Peterson asked if, while Title 11 was being revised, a loophole in the Code regarding heights in residential infill could be reviewed and discussed in a future meeting.

DISCUSSION ON REGULATIONS FOR ACCESSORY DWELLING UNITS IN CLEARFIELD CITY

Brad McIlrath, Senior Planner, asked Council to consider what worked best for Clearfield when deciding how to permit Accessory Dwelling Units (ADU). Clearfield City had been permitting Internal Accessory Dwelling Units (IAUD) since September 2021. He reviewed updates needed for the Internal Accessory Dwelling Unit (IADU) Code based on updates to State Code in 2023. He informed Council that the legislature had prohibited municipalities from regulating:

- size in relation to primary dwelling;
- total lot size;
- street frontage;
- internal connectivity.

He reviewed the different types of ADUs. He said basement conversions were the most common in Utah. He reviewed the City's current code which specified the lot size for a property could not be less than 6000 square feet; the ADU had to be 50% or less square footage of the primary residence; separate living areas defined & required; and owner occupied. He reviewed requirements from other cities as well.

Mayor Shepherd did not oppose detached ADUs. He thought the same type of requirements that were addressed for sheds but must take into account parking requirements. He thought detached ADUs needed a required second lateral and pay impact fees. He suggested adjusting the impact fee, possibly based on bedroom count, because it was not the same impact as a single family home. He liked the idea of writing an ordinance that worked for Clearfield before the State Legislature addressed it and told the municipalities what to do. Councilmember Thompson repeated an idea about making the impact fee similar to that applied to an apartment. Councilmember Ratchford asked about ADA requirements. Mr. McIlrath said those were always required as part of the building code.

Councilmember Peterson thought it was an interesting thought to write it similar to what already

governed sheds. JJ Allen, City Manager, asked if there was a lot square footage threshold for ADUs. Mayor Shepherd did not think it was necessary to have a threshold because if it followed the shed ordinance it would have to comply with setback requirements which would determine whether it would fit on the lot. The Council appeared to think following with a shed-type standard would be more important than the square footage of the lot. Councilmember Ratchford asked if an ADU could be a shipping container. Councilmembers said it could not be a shipping container and needed to have a permanent foundation. Mr. McIlrath recommended including regulations for detached ADUs that matched the architectural details of the house. JJ Allen, City Manager, confirmed that Council was directing staff to prepare an ordinance for ADUs which paralleled in many ways with the shed ordinance. Council responded in the affirmative. Mr. McIlrath said they would take the IADU ordinance and rewrite it to address detached ADUs that reflected the present discussion.

DISCUSSION ON APPOINTING AN ALTERNATE MEMBER TO THE PLANNING COMMISSION

Brad McIlrath, Senior Planner, presented the names of the individuals that had been interviewed previously for vacancies on the Planning Commission (PC), and said Mayor Shepherd had recommended Nick Dragon as an alternate member. Councilmember Thompson originally wanted Kent Bush from last time. He also liked Elaine Nelson's experience and had rated her higher than Mr. Dragon. He expressed his hope for an individual that might have historical knowledge about the Planning Commission.

Councilmember Peterson agreed with appointing Mr. Bush but was concerned about asking him to be an alternate with all he had done for the City over the years. She would rather consider looking at him as a regular member. Councilmember Peterson expressed her concerns about the way the PC currently operated. She thought there was a concerning lack of understanding of what the role of a Planning Commissioner was and where the rules did and did not apply. She said the meetings were very long, which was needed occasionally, but a lot of time was being spent discussing things that were not their responsibility. She was afraid that allowing those types of discussions was setting a precedence and encouraging the Planning Commission to legislate on matters that were not in their purview and exceed bounds of conditional use permits which was not allowed. She recognized there were people on the Commission who loved the City and were enthusiastic but had a noticeable lack of understanding for where their bounds were. She thought there was currently a significant lack of depth of experience and training on the Planning Commission. Mr. Allen asked if she would rather not fill the position. Councilmember Peterson commented there was currently a full-time alternate so the Commission was not deficient. She wondered if the Council could support them in some way.

Councilmember Roper pointed out that when the past chair, Chris Uccardi left the position, it had lost a strong chairperson. Mayor Shepherd was concerned about the strength of the chair and their comfort with the guidelines and parameters of the Planning Commission, but also strong enough to stop the Commission when needed. He thought waiting to appoint an alternate would yield the exact same thing. Mr. Allen said every city dealt with the same issues.

Councilmember Peterson said the Planning Commission was a body that made

recommendations to the Council and they appeared to be struggling with that role. She wondered what could be provided to assist and support them. Mr. McIlrath explained the efforts that had been made to assist the chair and vice-chair in developing the skills to run a meeting. Mayor Shepherd and Councilmember Ratchford volunteered to assist in training. Mayor Shepherd explained why he had recommended Nick Dragon.

Councilmember Ratchford moved to adjourn the work session and reconvene in the policy session at 7:05 p.m., seconded by Councilmember Wurth.

RESULT: Passed [5 to 0]

YES: Councilmember Peterson, Councilmember Ratchford, Councilmember Roper, Councilmember Thompson, Councilmember Wurth
NO: None

Mayor Shepherd excused Councilmember Wurth at 7:34 p.m.

Mayor Shepherd reconvened the work session at 7:34 p.m.

UPDATE ON THE 975 SOUTH & 1480 WEST PROJECT

Braden Felix, Deputy Public Works Director, provided an update on the 975 South project to the Council, explaining there were higher than anticipated change orders but between the project and the reconstruction on 350 South they were still under budget with both projects. Adam Favero, Public Works Director said his department had noticed there was not a lot of road base on older roads. He said as staff moved forward they would investigate that condition.

DEPARTMENT UPDATES

CHELEMES WAY TRAFFIC CALMING

Braden Felix, Deputy Public Works Director, introduced the subject which was due to a recent tragedy. The City understood that speed was not a contributing factor but still wanted to be mindful of it. He explained that the City had hired WCG Engineers to study traffic calming in that area and they had provided a two-phase recommendation. Since the tragedy, Utah's Local Technical Assistance Program (LTAP) had reached out to the City and offered to look at the roadway and determine any safety recommendations, separate from WCG's analysis. As a State-funded program, a traffic engineer would be paid for by UDOT but any data collection would be paid by the City. He let Council know that staff had recently hired WCG Engineers to help the City prepare its Transportation Master Plan. He said they had talked to them about the possibility of including Chelemes Way again.

Councilmember Peterson wanted to make sure that Chelemes Way was included in the Transportation Master Plan because it was a bypass for major collectors. She expressed her opinion the assistance from LTAP was not necessary in addition to the Transportation Master Plan. Mr. Felix said it might cost more but staff could approach them to do it. Councilmember Peterson thought it should be added even if it increased the cost. She also recommended that if

they could not include Chelemes in the Master Plan, then the City could consider utilizing the LTAP resource. She said having good data showed a responsiveness of the City to safety concerns. Council agreed.

WATER FLUORIDATION

Adam Favero, Public Works Director, said it had been brought to staff's attention by Weber Basin that there had been a recent court ruling in California which found that fluoridated water at .7ml/ml posed an unreasonable risk of reducing the IQ of children which required the EPA to engage with regulatory response. He said Weber Basin had been following it very closely and recommended that the Davis County Health Department pause fluoridating the water until it could be resolved. Mr. Favero said a couple of cities had responded saying they would follow the Health Department's recommendation, but staff wanted to get Council's thoughts. He reminded Council that the introduction of fluoridation had been voted on by the public twice. He asked for Council's thoughts since any regulatory changes from the EPA would take time.

Councilmember Thompson asked whether the ruling was binding in Utah. Stuart Williams, City Attorney, said the EPA had taken up the ruling and would decide whether they wanted to appeal the ruling and do studies to confirm the findings. Councilmember Thompson wondered if Weber Basin was getting ahead of itself legally because it had been approved by voters. Mayor Shepherd thought there could be backlash if it was paused since it was approved by voters. He thought the Health Department would provide direction and it could possibly be put on the ballot again, or the County Commission could choose to override it. Mr. Williams thought there were emergency mechanisms that could be initiated if it had been decided there were health risks, but the City could rely on the experts for that determination. Mayor Shepherd did not think it was Council's call to make. Councilmember Peterson appreciated the subject being brought to the Council's attention. Mr. Favero brought up the issue that if Weber Basin chose to pause fluoridation, the City would still be required to fluoridate the water, but the City did not have the infrastructure to do so. Mayor Shepherd said once a decision was made and if it fell upon the City to fluoridate, they would need to determine whether the City could pay for the infrastructure or inform the residents of the cost of building the infrastructure and any potential impact to taxes, or no longer fluoridate the water.

STATION AREA PLAN TOUR/EVENT

Brad McIlrath, Senior Planner, invited everyone to a Progress Tour of the Clearfield Transit-oriented Community on October 15, 2024 at 9:15 a.m. He said key stakeholders, local media, and entities that had provided funding had been part of the process and had been invited.

YOUTH COURT

Kelly Bennett, Police Chief, said he had been approached by the Syracuse Youth Court coordinator to ask if Clearfield City was interested in joining the Syracuse Youth Court Program. He reminded Council that Clearfield City previously had a youth court program that ended in 2009. He said the West Point Junior High, Syracuse High School, Syracuse Junior High were part of the program with Syracuse City. He said the City would have to provide a

school resource officer to attend youth court and at the end of the year the City would be invoiced for the City's participation. He said the youth court accepted low-level misdemeanors and traffic violations which would be lost from the Clearfield Justice Court. He said higher violations were referred to juvenile court and if the City participated with Syracuse, they would need to come up with some type of procedure to share information. Additionally, the City would have to provide an adult advisor. It appeared the consensus was that the Council was not interested in participating in the program.

TRAIN QUIET ZONE

JJ Allen, City Manager, acknowledged residents' outcry about the trains recently sounding their horns as they came through the area. He explained the Quiet Zone had been in place since 2007 and the FrontRunner was the catalyst for its establishment. He said it was one of the largest quiet zones in the country. He said Woods Cross was the lead agency representing the cities on the original north line of the FrontRunner. Woods Cross had been working with the deficient cities but was surprised by the notification from the Federal Railroad Administration on September 30, 2024, suspending the Quiet Zone until crossings in the Quiet Zone were compliant with federal regulations. .

The four crossing that were still deficient:

- SLC - 1000 W
- NSL – Main Street
- Layton – Hill Field Road
- Layton – Gentile Street
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Mr. Allen pointed out that the needed corrections were in progress, but a couple of them could take up to 18 months to compete. He said for now the City could only wait and see. He said once more clarity was obtained, there might be a possibility of creating a separate Quiet Zone but the City would need to look into the process. Mayor Shepherd recommended a Facebook post that explained everything. Mr. Allen mentioned an email he received that included a draft press release. Mayor Shepherd expressed the importance of being transparent with the residents and letting them know efforts were being made to resolve the issues.

Councilmember Thompson moved to adjourn at 8:13 p.m., seconded by Councilmember Ratchford. The meeting was adjourned.

**APPROVED AND ADOPTED
This 26th day of November 2024**

/s/ Mark R. Shepherd, Mayor

ATTEST:

/s/ Nancy R. Dean, City Recorder

I hereby certify that the forgoing represents a true, accurate, and complete record of the Clearfield City Council meeting held Tuesday, October 08, 2024.

/s/ Nancy R. Dean, City Recorder