

Francis City Council Meeting
Thursday, November 14th, 2024, 6:00 p.m.
2319 So. Spring Hollow Rd. Francis, Utah

The meeting will be streamed via Francis City YouTube Channel
<https://www.youtube.com/channel/UC-9wahpEELShvGQZShXGIXg>
You can also comment by email to comments@francisutah.org

Staff: Mayor Forman, Councilmembers Sam Hunter, Clayton Querry and Clint Summers, City Planner Katie Henneuse, City Recorder Suzanne Gillett, and City Engineer Scott Kettle

Excused: Councilmember Shana Fryer

Others Attending: Kimberly Lawson, Scott Buchanan, Rich Christiansen, Austin Smoot, Rob Terry, Jordan Cullimore

1. Welcome, Call to Order and Pledge of Allegiance---The Mayor started the joint work session and asked Councilmember Hunter to lead in the Pledge of Allegiance. The Mayor excused Councilmember Fryer. He then turned the time over for a joint work session. The Mayor explained that they are dealing with a lot of land issues right now so its good to have the Property Rights Ombudsmen training to help add to the knowledge bank.

2. Joint Work Session---Property Rights Ombudsmen---Jordan Cullimore introduced himself and explained that he is the lead attorney. He then introduced Rob Terry, who worked with him as well. (See attached slide presentation)

He explained that the Property Rights Ombudsmen support local agencies and citizens by providing: Information and education to explain land use law and legal process. They are a Negotiation liaison between property owners and local or state officials. They provide Mediation of eminent domain and land use disputes, and they Research on specific issues of land use law and prepare Advisory Opinions that attempt to resolve the dispute in accordance with the prevailing law.

Jordan explained what they look at and the information that they provide. They do a lot of negotiations and mediation. He explained that the Property Rights Ombudsmen are there, and they can reach out to them with any situations they may have, and they will give you an honest take on things.

Rob explained that it can be challenging when there are government regulations. He reviewed the basics of Planning and the Land Use Law. The foundation for Land Use Law is LUDMA, it sets out the standards and regulations to protect the public and allow people to use their property rights. (See Utah Municipal Code 10-9a)

He explained the basic tools are your General Plan, and it sets out your visions and policies for the city. The most important part of the General Plan is that it is intended to be a living document. It should be

adaptable. Then you have your land use ordinances that regulate things like planning and zoning. The General Plan should be your North Star. Zoning is one of the very specific items. This controls the land uses, the density, and how many units are in each zone, and the point of zoning is to avoid conflict. You want the zoning to implement your General Plan.

Roles and responsibilities----The City Council is responsible to write the laws and regulations of the city as they serve as the legislative decision-making body for the local agency. This includes such decisions as General Plan and amendments, Land Use ordinances, regulations, and design standards (proposed and amending existing), Zoning (proposed amending existing), Annexation decisions, and Adoption of fee schedules. Utah Code 10-9a-3 and 3b detail the roles and responsibilities of local municipal government.

Planning Commissions are required by the state code, and they are an advisory role. Planning Commissions are pivotal for land use management in an advisory role, the Commission reviews and makes recommendations to the legislative body for: General Plan and amendments, Land use regulations (proposed and amending existing), Review of certain applications to address consistency with adopted land use regulations. Here are some certain actions they can take, but unless the Council has given them that authority, they cannot take any action. They make recommendations. Utah Code 10-9a-302 establishes the requirement for Planning Commissions.

Land Use Authority---A Land Use Authority: is a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or if the local legislative body has not designated a person, board, commission, agency, or body. If never given to anyone then it will remain the City Council. Utah Code 10-9a-10-30 provides the definition of a Land Use Authority. Not to be confused with an Administrative Land Use Authority.

Legislative vs Administrative Decision-making---Jordan felt that Rob did a great job laying out some of the foundational documents that you work on and also the primary roles and responsibilities. This gets into how you make those decisions. Jordan asked everyone if they felt like they had a good idea of what their roles were, administrative vs legislative. He said that they would jump in. Making good decisions is making legal decisions that protect and respect people's rights as well as the public's. That is how land use should operate. Trying to protect property rights along with public rights. Now we are going to get into who makes the decision. Making good decisions is making legal decisions. Decisions must be consistent with applicable state and federal law (cannot be illegal). It must be "reasonably debatable" that the decision could advance the general welfare or public interest. Respecting and understanding both sides.

We are talking about Legislative and Administrative. Legislative decisions generally involve making laws of general applicability, and are based on the weighing of a broad, competing policy consideration. Typical Legislative Decisions are adoptions and amendments of the general plan, Enactment and amendment of land use ordinances and development standards, Enactment of a zone map and approval of a zone change, Annexation decisions, and Likely development agreements. (From Ombudsman packet)

Legislative Decisions---Making laws and implanting your general plan and then also your zoning ordinances. All of that is legislative. Making new rules is a legislative decision. The only entity that can

make that decision is the City Council. Because you are making policy decision, the courts have said they are staying out of that process. What do we want our community to look like? When someone challenges those decisions a lot of states have left that up to local governments. The state can make those decisions, but they have left that to City Councils. The Council has a lot of discretion as to what people can do with their land. In that process it is important to remember that the advisory commission is the Planning Commission. In the decision-making process you need to remember who the advisory committee is and what they do.

Planner Henneuse informed everyone that at the top of her staff reports she always puts whether it is legislative or administrative decision.

Considerations when making Legislative decisions is the time when people should come and let it be known how they feel and where they want things. That is when you should be listening to the public and taking into consideration there options.

That law changes in the administrative process.

Administrative decisions generally involve applying existing codes to a particular development proposal, based on individual facts and circumstances. Typical Administrative Decisions: Subdivisions, Conditional use permits, Site plans, Building permits, Variances, Maybe development agreements. Legal Standard of Review: Decision must be consistent with applicable state and federal law, local ordinances, and any vested rights (cannot be illegal). Regarding factual determinations, and any other decision that rely on evidence or the exercise of discretion, the decisions must be supported with substantial evidence. (From Ombudsman packet)

Administrative Decision-making---So, Administrative is when people bring in an application and want to make sure the project complies with the rules already in place. Administrative is the Land Use Authority, you are just making sure they are doing things allowed on that property. City Council could also be your land use authority. State law does not require you to ever have a public hearing, but the City could have that in their code.

Engineer Kettle asked Jordan what they recommended on public hearings for an Administrative item. Jordan felt that everyone has there own opinion, but most of the time public hearings are counterproductive for administrative items because the public is not trained well enough to make those decisions. He gave an example of a gas station on the corner, and they are allowed there, you are not asking if it is ok, it is allowed, and they have everything they need to meet all of those requirements the land use authority needs to say yes. So, the public coming in and sharing their opinion, this is not the right place for it. If you can train the public well, then they may be helpful supplying information you don't have.

Antini asked after the decision is made what time is the best time for the public to be involved. She was told in the legislative decision-making process. Which is hard because no one cares during the legislative process. There is no silver bullet on how to do that. The only thing that can be done is trying to educate the people on the process.

Antini explained that the people didn't live here during that time. Jordan explained that she brought up a good point and are we considering future residences. It's hard to tell them specifically what is right and wrong. Rob said some examples he has used in the past are like sports and there are rules in place and regardless of when they joined the team the rules were in place. Sometimes the rules may change, but you have to follow the rules that are in place at the time whenever something is being done.

Jordan explained that you can't change the rules mid-stream. Once someone brings in their application then they are vested. You can't say woops we made a really bad choice, but for the next one you can change the rules before the application is brought in. Austin asked if there was a precedent because of that. Jordan explained his thoughts on it.

The Mayor didn't want to jump ahead, but the one thing they are dealing with is conditional use vs allowed use and how those things can be weighed and when they can or cannot be denied.

Jordan said they could use that as an example for annexations, but they will get into that later. Jordan said lets wrap up the decision making for the administrative process. Whereas before the court would look at the decision and say on the legislative side this does fit the public interest and on the administrative side, they would say is it legal and you are not only looking at Federal and State law, but you are also looking at your local ordinances. If the ordinance says this complies and you deny it you are making an illegal decision and anytime your making some sort of factual determination it can't just be that well we think this is the best choice, you have to be able to support the decision with factual information. You should have an opinion or some data to support your decision with good evidence from an expert. Versus just opposing because the public doesn't want it.

Commissioner Christiansen asked if he could elaborate on this a little bit, he thinks that people are used to evidentiary standards with criminal court or civil court so, Jordan asked if there was an attorney in the room. He was told yeah maybe. Commissioner Christiansen asked if he could elaborate on what it means between insubstantial vs substantial evidence, what's the threshold, what is the quantity of evidence they need to have?

Jordan replied that's a good question. So, you talk about preponderance and clear and convincing evidence like 50%, but your not supposed to attach percentages, but you have a lot of evidence. Substantial is somewhere over here; for example, you have two city engineers, and one says one thing and the other says something else. Or you have sewer lines, and one says you need this size of pipe, and the other one says no you need this size of pipe. Then if you have good creditable relevant expert evidence that goes in both directions then the decision maker gets to choose which one to allow, that is substantial evidence. So, the key here is you are relying on good creditable evidence. So, first and foremost you need to follow what your ordinances say in your development standards. But you have to rely on some good evidence, but you get to decide which expert you listen to. He asked Commissioner Christiansen if that helped, yes it was helpful.

Commissioner Christiansen then asked if this in the venturi standard then they can vote either way so if they say yes or no, we are subject to the same standard on administrative decisions. Jordan said if you

make an administrative decision to deny, then you should have some evidence of why you are going to deny. If you're going to approve you are going to need substantial evidence for that as well.

Rob explained that you want to have some type of map or metric you can go to so if someone asked why you did what you did, he explained that if you have a map to show what you are doing and how it fits or doesn't fit. You need some sort of metric. He explained that is why you have to have substantial evidence.

Jordan explained the considerations when making Administrative Decisions. The Land use authority must apply the "plain language" of land use regulations to a land use application. If an application meets the requirements, it should be timely approved. Where a regulation "does not plainly restrict the land use application," or could reasonably be read to support different interpretations, the use authority must interpret and apply the regulations "favor" the proposals in the land use application. The land use authority must support its decision with "substantial evidence." Evidence, as a general matter, must be factual, credible, and relevant. Substantial evidence is evidence that a "reasonable mind would accept as adequate to support a conclusion."

Sometimes you get into conversations about how to read the code and when two people interpret things differently then that's ambiguous right and if you have an ambiguous provision that can be read two different ways by two people, often and in certain areas of the law you interpret the law in favor of the enforcer, but when you are talking about property rights you are going to interpret things narrowly and in favor of the property owner. So, the courts have said that zoning ordinance laws allow free use of land. Jordan's message here is to say what you want to say in your ordinances. Some cities try to leave things vague so they can make decisions when something comes before them, but that is very risky, because if you do that and it goes to court you will lose, because you should have been in favor of the property owner. The best lesson and practice is to be very specific in your ordinances. Having substantial evidence and being factual, credible, and relevant. You need to rely on the most creditable evidence. It is up to the decision maker to weigh that evidence and make the best decision.

The Mayor responded, "so can you make a distinction"? It seems that more than likely at least in his mind that the requirements to substantial evidence is going to come into play more often when you have denied something. If you have an allowed use, and there is an administrative decision to be made if you are approving it, then it is probably because there is substantial evidence that it meets the code. If the Planning Commission had reviewed it and it meets the code, then it is approved. Then no one should come in and say we need substantial evidence.

Jordan responded sometimes it's very black and white, when you can go out and measure the height of a house and you can see if it's 35 feet or not.

The Mayor responded yeah versus a time when maybe you would deny a project for a land use that's substantial evidence may come into play more often than not because the applicants will come in and say you denied me, and I believe that I provided substantial evidence, and you should have approved the project. He asked if he was understanding that correctly.

Jordan responded saying that's a good observation and it depends on which relationship you are talking about. If it is the city and the applicant, you deny you want to make sure you have on the record very clear and useful substantial evidence for denying. At the same time if you have a controversial land use that you have a lot of people come out for that you have approved, there may be neighbors that want to challenge it you need to still have that clear substantial evidence in the record which is required across the board. You want to show your work, this is why we made the decisions that we made, here are the codes we reviewed, this is the interpretation, here are the requirements that we put in place, and here is the evidence that supports those requirements. From a practical standpoint, if it's a pretty non-controversial thing you are approving there is probably not many people who will be challenging that. Or if you have an applicant who wants their use, and you are denying then you want to make sure you are very clear and decrease your exposure to the risk.

Commissioner Christiansen had a couple of quick questions. He was looking through the advisory opinions and it seems that pretty recently a lot of the advisory opinions in Summit County are the citizens suing their government for approving conditional use permits as they were not accurate, is that a fair statement? Jordan told him that it comes and goes and it's usually in the high growth areas of which Summit County is one of and it's becoming more and more of a thing as growth increases and people are moving closer and closer together you will see more of those things. Commissioner Christiansen said we are in a situation where we might get sued either way. Is suit evidence that supports either approving or denying a conditional use permit? He was told no there shouldn't be from a legal standpoint.

Rob said if he could just add that over the years since he has worked with so many conditional use permits and communities, he has seen communities make decisions to limit the amount of conditional uses out there to try and be more proactive as far as trying to have as much as they can in black and white as possible. So that there is permitted uses, and these are non-permitted because the broader the scope that you have, these are permitted but they are conditional right then you get into that area where you have to have a lot of really good evidence for why you are going to approve with certain conditions or deny.

Conditional use permits can be challenged a lot because there is some subjectivity on how you impose conditions, and you want to make that process as objective as possible. In other words, where someone will look at and see that yes, it is the right decision. The whole premise behind a conditional use permit is backing it up in our codes. We have permitted uses and non-permitted uses and usually you have a list of residential uses and then all other uses, so that means you have those permitted uses you can also have a list of unusual uses like airports, religious uses, churches, but it is something you want in a residential area, people like having churches in residential areas but they have unusual characteristics. Recreational facilities, schools, hospitals, drug centers, be careful with those, child care facilities, gas stations, gun clubs, junk yards and landfills. Those are all things that we typically need a place for, but where we typically have them, they have unusual characteristics. So, the idea behind a conditional use permit is maybe we need to impose additional requirements on them. Like Rob said, a lot of jurisdictions will tell you to move away from conditional use permits, especially if every time one comes in you are imposing the same conditions, then you should probably put that in your ordinances and make sure you do all these things because that permitted use has to meet all of the requirements before they are approved. If you have things you don't deal with a lot, then maybe it makes sense to do the conditions. He explained the process you would have to go through to do that.

Rob shared some examples from Herriman City that he had. Examples of Standards that May Address Potential Detrimental Effect's: Impacts to street service levels and/or traffic patterns, Impact's on adequacy of utility systems and service delivery, Impacts on connectivity and pedestrian/bicyclist safety, Impacts related to unreasonable or atypical noise, odors and other environmental impacts such as dust, fumes, smoke, vibrations, chemicals, toxins, heat, etc., Impacts related to hours of operation, Impacts related to signs or exterior lighting and compatibility, Impacts related to provision of emergency services. So, you have to have these standards in your ordinances. Then if there is a standard that says you can consider these things then in light of that standard and the evidence, then you can impose a condition, but if not, you cannot impose that condition. It has to be related to a standard in your ordinance and it has to be supported by substantial evidence, and that's where people often get into trouble right, is they impose conditions that don't relate to one of their standards or isn't supported by evidence. So, when making decisions on conditional use permits you want to make sure you're going through that process very carefully. Does it comply with the code, have we identified reasonably anticipated detrimental effects and do we feel like we need to you don't have to mitigate them.

But if we do want to mitigate them, is there a standard that allows us to and the requirement we're imposing as a result of that standard, is it supported by substantial evidence? So, show your work if you are going to impose conditions because if you're just saying this doesn't look the way I want it to and the way I want it to look would require these conditions then you're going to get in a lot of trouble and those are the ones that I'm going to get challenged for.

Jordan asked if there were any questions.

Councilmember Hunter said he had a question. In your statements you said we as a city in our code we have to allow a certain building to be built, but you say it has to meet all of our codes, he was told yes, but if it doesn't meet all of our codes is that grounds to deny a conditional use permit? He was told if it doesn't meet your codes you are required to deny it. We are required. You are required so there's a provision in state law that says a local government must follow the mandatory provisions of its ordinances, it goes both ways. The property owner has to follow the local ordinances, and the city has to follow the local ordinances so if a use is being proposed that does not comply with the plain language requirements in your ordinance you can deny it. Councilmember Hunter asked and we can legally do that that, he was told yes. He feels we are going to get push back and he was told yes, and now let's say you are looking at it and you say oh man our code doesn't allow this but you know this actually would be a good thing for our community or I don't think this is the right balance I think this is restricting property rights too much then you can go through the legislative process to change your ordinances and then the applicant can come back and they can go through the process again and get it approved that way, but as far as the rules say, so you bring up a good point, you cant add rules to the code but you can't also take rules out of the code without going through the formal process of changing things.

Antini asked so what if the application is already submitted. Can you change rules while the application is still pending? She was told not if it is a permitted use. But if the city changes the rules during the process, then property owner can change to the new rules if they like them better. But you have to allow what is already submitted to move forward. Vested rights protect the property owner not the city.

The Mayor said this is similar to the gas station. It's in a commercial zone but it conditioned, it's a conditioned use rather than an allowed use. That's where he thinks the real challenge comes in with the conditional use permit, because it seems that from at least what he has heard so far is that in order to flat out deny the use because even though it's a conditional use to deny that use you would have to have the substantial evidence of that the impact cannot be mitigated based on the things in the code right, but it can't be subjective.

Jordan said yeah and that's what we haven't talked about yet right, is how do you deny a conditional use permit right. So, let's say you identify reasonably anticipated detrimental effects number one if you can't identify detrimental effects then you don't get conditions. But if you are able to identify detrimental effects that relate to the standards and your ordinance and you can't reasonably mitigate those detrimental effects then state law says you can deny the application, but if you can come up with or even the applicant can propose reasonable conditions to mitigate, mitigate meaning not eliminate, but lessen right if they can they can propose conditions or you can come up with conditions that kind of mitigate them and lessen the impact of those unusual characteristics then you are still in that realm of you are obligated to approve and they are entitled to approval. It's only in the case when you actually can look at it and say hey there's detrimental effects here that it doesn't matter what condition we impose they're going to be like really, they're going to have a substantial and detrimental effect to the neighboring uses and, in that case, you can deny it. For many, many years we have never had an example of a court upholding the denial of a conditional use permit.

Just a couple of years ago for the first time the court upheld the denial of conditional uses permit in the Springdale area. Jordan said he didn't know why the zoning was the way it was, but it was a parking lot for people to park at for Zions in the middle of this residential neighborhood so they looked at it and said that the traffic coming in and out the surrounding uses and the land use authority looked at it and said there was no way to mitigate this so it doesn't have the substantial and detrimental effect on the surrounding uses so we are going to deny it and the court upheld it and said that was ok.

Commissioner Christiansen asked if it ever considered the value of the surrounding areas. Jordan said that it's normal for homeowner's to say now you drop a parking lot in middle here we have a million cars now my house is worth a million dollars and now it's worth \$600,000 because of the impact. Jordan said that can be a consideration. Jordan said I think you're on shaky ground if you make that the only consideration, because you want to focus on the use. But community members feel they are in first place. There's nothing that says you can't take into account that, but he would probably make sure you have a lot more than that because there are certain areas of land use that will actually say that economics cannot be a sole reason.

Planner Henneuse stated that you have to have substantial evidence for all that to happen. She was told exactly. If you put a conditional use in your ordinance, then expect it to be approved.

Austin Smoot said, so it's a difference of it's zoned a certain way, and the applicant comes in and its permitted and it doesn't matter what anybody thinks or how mad the neighbor is, your good to go as long as you can meet all of our conditions. It's not like a straightforward to go, the Council still has to review and give it a proper thumbs up. Jordan said your right saying there's only one time where the

Council denied something, and he was told there were a couple of times. Jordan explained how he would treat the situation.

Jordan said to assume if you put a conditional use in your ordinance it is going to be approved. If you don't want that anywhere in that zone, then take it out. If you treat it as a conditional use, then you can impose a few conditions on it.

Councilmember Query said if you find a city code that you feel negates that conditional use you have to deny it. Jordan responded that it's just not what you feel, but what you know.

Councilmember Query asked what's ambiguous? Jordan said that's a great point and it goes back to their prior conversation. If it can be read to approve the application, then you should be approving it. That's why he says if it's clear that the application violates that permission that's when you're on solid ground that you need to deny the application. Councilmember Query asked, but that doesn't have to be like you're talking about a metric like say you can't have this within 1,000 feet of this. Can I say you shall not allow this if this happens. Is that like ambiguous or is that plain speech? Jordan responded that it sounds plain, but it's hard to answer those questions theoretically because again the plain language clearly restricts it is the best way to put it. So plain language clearly restricts. Plain language is the first thing that you look at.

There was a very brief discussion on variances.

Planner Henneuse said let's say you have five parts of your code that say one thing, but you have another sentence somewhere there says something different, doesn't align, do you hang your hat on the one that doesn't align, or do you follow the four or five that do? Jordan explained it was a good question, but way too hypothetical to give a clear answer to be honest. Jordan explained there's this process you go through and interpret the interpretation, and you try to look to the plain language if the plain language is clear then you go with that right if there's ambiguity then you move on. Planner Henneuse said plain language is the first thing you look, and she was told yes, and you try to make sure that all you can reconcile all of the provisions and make everything meaningful then you go with that interpretation. If you have that situation Jordan said his first advice would be to change it quick, but for that application for which you have to make a decision I mean honestly and sincerely I would say consult your attorney and have them come up with interpretation that you can apply. Which then is that substantial evidence that your using for your administrative decision. Planner Henneuse thanked Jordan for the explanation.

Commissioner Christiansen bought up the decision in the Springdale situation. His recollection is there was part of the code in the Springdale city code that talked something about considering peoples ability to use and enjoy their property and they didn't really couch arguments in terms of property value, but the arguments in terms of how privacy would be destroyed and certain things that would detrimentally affect their ability to use their property. Is that kind of fair? Jordan responded I think so and let me caveat this just being frank. The land use community was incredibly surprised by that decision. He feels that most land use practices would have said that application based upon prior practice and what we understood State law to be should have been approved. There's nothing to say that if they went to the Supreme Court they might not agree. But yes, there is that one case.

Commissioner Buchanan said we were talking about potential detrimental effects, how is it established that something is a potential detrimental effect. He was told with substantial evidence. That's what is required. Every finding that you make that we talked about considering conditional use permit needs to be supported by some good evidence, so reasonably anticipated detrimental effect is not clear and obvious right, you need to support it with some good evidence for why whatever characteristic we are talking about is a detrimental effect.

Commissioner Buchannan said so when it comes to collecting evidence that supports two sides of that equation, with respect to the gas station and the feeling that in the hypothetical there might be a feeling that this isn't the right location for it. Who's job is it to collect that evidence in support of both directions if that makes sense.

Jordan explained that ultimately the land use authority, the decision maker, they have the obligation to support their decision with substantial evidence. It is appropriate to ask the applicant to go and gather some evidence for you to make a decision.

Rob gave an example of lighting and the things that could be done to mitigate things with the lighting. You could also ask for traffic studies and mitigate that. Within reason you can ask them to bring evidence. The Mayor asked if you could impose a stricter standard. The local agency can work with the developer. The Mayor asked if they meet the current code, can I require more strict standards? No, you cannot impose a stricter standard, you could propose mitigating that though. Rob explained an example of how they dealt with the lighting on another project, and everyone tried to act in good faith, so the ultimate decision made did go beyond, but they pointed to the reasons why.

Engineer Kettle asked about collector roads and if the city could require them. Jordan explained how things would work. You are talking about exactions. So, the situation described is you can require them to do it, but not pay for it all. Jordan said the way you capture individual developments you can only require them to install what is required for their project. Legally you could look at the master plan and say hey there is a collector road here. But if there plan doesn't show it, they are still entitled to approval, but you can work together. But you can only charge impact fees.

Planner Henneuse said what if with the same scenario it has to be more of a legislative decision like an annexation and through that negotiation you require them to do the collector road. Jordan explained the scenario and how things would work out.

Where does the over whelming benefit come into play? Jordan explained there is nothing anywhere in the law that says they cannot say that. He then gave a few details about what could happen.

Engineer Kettle discussed scenarios that could happen with annexations. Rob explained there is a big difference between coming in and saying we are not comfortable with annexing certain territory without the infrastructure needed versus them coming in and saying, we will annex you only if you provide the infrastructure. Jordan said you just need to be responsible.

Councilmember Querry asked on an annexation, could you just tell them no, we just don't want our town that big, so we are not interested in annexing. Jordan told him that has never happened, but right know it is a legislative decision. Again, this is always a learning process, and he explained where they could run into some concerns.

Jordan told the Council thanks for having us. The Mayor and Council thanked them for coming.

Council and staff took a break before moving on.

3. Consent Agenda---Approval of check register dated November 14th, 2024, and minutes from October 10th, 2024---Councilmember Querry asked about the generator and Engineer Kettle responded.

Councilmember Hunter motioned to approve the minutes and the check register. Councilmember Summers seconded the motion. The Mayor and Councilmembers Hunter, Querry and Summers all voted in favor; motion passed unanimously.

4. Public Comment---None

5. Public Hearings

A. Subdivision Title 17 Ordinance 2024-10—The Mayor explained that these are the subdivision changes that were talked about earlier in this meeting. He turned the time over to Planner Henneuse.

Planner Henneuse explained what the new laws were and what they required. She read and reviewed the changes. (See attached staff report) City Council cannot be the Land Use Authority. They are trying to take the City Council out of those Administrative decisions and the Planning Commission can no longer approve the final.

The Mayor asked if the Council could approve the final then and he was told no. She explained how the process was going to work and most of the heavy lifting is going to be Planning Commission. This is for subdivisions only. She explained that they had to follow an expedited time line. She explained what those times were. Public hearings are discouraged now. Her recommendation is not to require a public hearing, because it causes a lot of problems. They have to provide all of the requirements up front. They need to be clear on exactly what they need from the beginning. From now on concept plans are optional for subdivision plans. They can request a pre-application meeting with staff.

She explained they have elected to follow a whole new process for everything. So, it is a standard process. This new process lends itself to more flexibility. This need to be implemented and approved by the end of the year.

She then reviewed the items that were not required to be changed, but they felt some changes needed to be made. She explained the changes that have been made. She explained that she worked quit extensively with Attorney Christopherson and Engineer Kettle. She shared some slides that are attached to the staff report and she explained how everything would work.

The Planning Commission reviewed this last month and they are forwarding it to the City Council with a positive recommendation. Staff recommends the proposed updates and to make changes if needed. The majority of the update must be approved to be in compliance with State law.

The Mayor would like something that keeps track of the time lines. Planner Henneuse explained that everything has to be in writing, and she feels that a tracking sheet would help. She explained they will be taking every one of the 40 days to make sure things are done correctly.

Councilmember Summers wanted to know what her biggest concern is with this. Planner Henneuse feels that this process in general is a good thing. It will be more streamline, and everything laid out from the beginning. She explained that she feels pretty comfortable, but there will always be a learning curve and inevitably they will probably find something that will need to be changed.

Councilmember Summers motioned to approve Ordinance No. 2024-10 the Subdivision Ordinance. Councilmember Hunter seconded the motion. The Mayor and Councilmembers Hunter, Querry and Summers all voted in favor; motion passed.

B. Noise Disturbance Ordinance 2024-11---The Mayor explained this is due because of his recommendation. He explained some of the issues that the City had this summer, so he asked Planner Henneuse and Attorney Christopherson to look at things and review the code.

Planner Henneuse explained what the Planning Commission wanted changed. She explained all the changes and the violations for the changes made. (See attached staff report).

Councilmember Summers asked if they had a stop work order and if they were applying for an exception would they still have to wait, and he was told yes.

Councilmember Querry wanted to know if there was someone who just wanted to pour a pad, would they have to follow this, and he was told yes.

The Mayor explained there may be a time when they need to do something, but on very rare occasions.

Planner Henneuse explained the decibel measurements.

The Mayor asked for the 70 decibel and the 55 decibel measurements. It's something that is standard and common. Engineer Kettle explained that they have tried to follow other codes. Planner Henneuse said she measures from the property line. The Mayor asked what property line is that from? The Mayor is trying to understand how to have this reasonable and controlled.

There was a brief discussion on decibel measurements.

The Mayor opened the public hearing.

Audi Smoot said that maybe you can change the time frames. He also asked about the trash and fines. Is it per building, per lot, per home? Is that on a specific job they would get a stop work order, or how would that be handled. He feel that sometimes with the elements they can't control everything.

Planner Henneuse explained that they would go to the general contractor. There was discussion about whether it affected all projects going on or just the one. She explained that as the code enforcement officer she has seen a big decline with charging for violations. She explained that she had talked with Attorney Christopherson, and he was good with it.

The Mayor feels that per project, per permit needs to be clarified.

Planner Henneuse read her staff report and what she proposed saying.

Public hearing was closed.

Councilmember Query feels we need to be discretionary and make sure we are good on the decibel.

The Mayor feels that we need to table and research the levels and make sure we are in line with where we want to be.

Mayor Forman motioned to table. Councilmember Query seconded the motion. The Mayor and Councilmembers Hunter, Query and Summers all in favor; motion passed.

6. Discussion, Updates and Approval on Potential Action Items

A. Planning Commission Re-Appointments---The Mayor explained that we have two Planning Commission re-appointments.

Planner Henneuse explained that Commissioners Justin Ciampi and Rich Christiansen have been on the Planning Commission for 2 years and both of them are up at the end of December and they have each done one term. Would you like to re-appoint them both?

Mayor Forman agreed and motioned to approve Justin Ciampi and Rich Christiansen for another term on the Planning Commission. Councilmember Hunter seconded the motion. The Mayor and Councilmembers Hunter, Query and Summers all voted in favor; motion passed.

7. Council Business

A. Council Reports---None

B. Planner Reports---Planner Henneuse explained that they have a potential request from Webster Construction, and she explained that they were approved for 16 townhomes, and they have built 8 and they don't want to do the other 8. They would like to change the agreement and build three single family homes instead of the townhomes. She explained that she has talked with Engineer Kettle and Attorney Christopherson about it, and she was told they would have to update the development agreement.

Austin said they built 8 and they are not affordable, and as they look at it, they are just sitting there, and Rusty has had to rent three of them. He said he would lose a half a million dollars and they would like to cut their losses now. So, they want to go from 8 to 3. With what Ivory is doing they have a lot more density there. What Ivory is doing makes more sense so they would like to build the single-family homes.

The Mayor asked about how big the lots would be. Austin said they would have to leave a certain amount of open space. They would like to get three in, but it will be kind of tough with three. So probably a 1/3 to a half-acre lot. It will depend on the fence lines.

The Mayor wanted to know what that process looks like, and he was told they would need to apply for a plat amendment, and they would have to make that application; they can't even consider it without an application.

Next the RV Campground Code they wanted to cap at two, so Planner Henneuse spoke with Attorney Christopherson, and he recommends leaving the code as is so there will be no cap.

Last she showed a book called Ground Rules and explained to the Council that it is a good resource, and she has five copies so please pick one up.

C. Engineer Reports---Engineer Kettle explained Enbridge is replacing the gas line and going all the way down river road. The power line on Foothill is being upgraded and the pumps are supposed to be coming in the next few weeks so they can get that all figured out. He also explained what is going on with the Foothill lift station. He explained that the well runs the city for the winter months, so they are good for right now.

D. Mayor Reports---None

7. (As Needed) Closed Executive Session to Discuss Pending or Reasonably Imminent Litigation, Purchase, Exchange, or Lease of Property and/or the Character, Professional Competence or Physical or Mental Health of an Individual.

8. Adjourn---*Councilmember Hunter motioned to adjourn. Mayor Forman seconded the motion. Meeting adjourned.*