

CLEARFIELD CITY COUNCIL MEETING MINUTES
6:00 P.M. WORK SESSION
January 26, 2021

City Building
55 South State Street
Clearfield City, Utah

No physical meeting location was available for the public due to the statewide public health emergency which might present a substantial risk to the health and safety of others. The meeting was held for the public electronically via Zoom Meeting address:

Zoom Meeting
<https://us02web.zoom.us/j/83823792550>
Meeting ID: 838 2379 2550

PRESIDING:	Mark Shepherd	Mayor
PRESENT:	Kent Bush	Councilmember
	Nike Peterson	Councilmember
	Vern Phipps	Councilmember
	Tim Roper	Councilmember
	Karece Thompson	Councilmember
STAFF PRESENT:	JJ Allen	City Manager
	Summer Palmer	Assistant City Manager
	Stuart Williams	City Attorney
	Kelly Bennett	Police Chief
	Eric Howes	Community Services Director
	Adam Favero	Public Works Director
	Braden Felix	City Engineer/PW Deputy Director
	Spencer Brimley	Community Development Director
	Brad McIlrath	Senior Planner
	Rich Knapp	Finance Manager
	Trevor Cahoon	Communications Coordinator
	Nancy Dean	City Recorder
	Wendy Page	Deputy Recorder

VISITORS VIA ZOOM: Timpanogos Room, Paul Poteet, Loyal Hulme, Mike Lloyd

Mayor Shepherd called the meeting to order at 6:04 p.m.

Pursuant to the State of Utah Public Health Order 2020-17, dated October 14, 2020, and in conjunction with the State of Utah's ongoing declaration of a statewide public health emergency, Mayor Shepherd read a declaration made on January 5, 2021 that resulted in the following: (1) the City would not be providing an anchor location for City Council or other board meetings for the next 30 days, (2) Although no other physical meeting location would be available for the

general public, the City Council or other board members might or might not appear in person at the City building subject to compliance of social distancing and mask requirements, (3) the public's participation in the City Council or other board meetings might present a substantial risk to the health and safety of others, and (4) the public's participation in the City Council or other board meetings would only be available through Zoom and/or Facebook Live.

DISCUSSION ON THE FINAL SUBDIVISION PLAT FOR THE HART AT CITY CENTER LOCATED AT APPROXIMATELY 311 EAST 200 SOUTH (TINS: 12-001-0186 AND 12-007-0112)

Mayor Shepherd reported staff had continued to meet with the developer since the last work session on January 19, 2021. Brad McIlrath, Senior Planner, stated The Hart at City Center was located at approximately 311 East 200 South. He noted the applicant, Liberation Development Investments LLC, was joining the meeting to hear the information shared. He reviewed the subdivision plat that was recommended for approval by the Planning Commission. Mr. McIlrath indicated originally it was proposed for a private right-of-way; however, the applicant currently wanted to propose something different based upon the concerns from the Council expressed during the work session on January 19, 2021.

Mr. McIlrath highlighted the following background regarding the development:

- Site plan approval was granted on December 2, 2021. Final land use approval was pending subdivision approval and site plan revisions.
- Properties were located in the Urban Core Commerce (U-C) zone.
 - Multi-family building types were allowed in the U-C zone on secondary streets.
- The proposed street would be a continuation of Marilyn Drive which was a secondary street.
- Downtown Clearfield Form Based Code (FBC) required the construction of the street regardless of the building type of development.
 - FBC called for a Neighborhood Street

Mr. McIlrath mentioned the required Neighborhood Street was contradictory to the private access road initially proposed. He acknowledged the applicant had agreed to put in the Neighborhood Street as required by FBC. He reviewed FBC sections that had been studied for further analysis which included Chapter 2 – Zoning Districts, Chapter 4 – Street and Block Network, and Chapter 5 – Street and Streetscape Standards.

He pointed out that Chapter 4 of FBC allowed disconnected streets to take the following forms:

- Stub Streets
- Half Streets
- Cul-de-Sac Streets

Mr. McIlrath mentioned the cul-de-sac street was not an option because the proposed street was too long; however, the standards for stub streets were allowed under the following conditions:

1. Where adjoining areas were not subdivided, streets in new subdivision and developments should extend to the boundary line of the tract to make provision for the future connection of streets into adjacent areas.

- a. Stub streets shall be provided at intervals no greater than the maximum block length and width specified in Section 4.3 Block Requirements.
2. Half Streets were prohibited unless approved by the Clearfield City Engineer in unusual circumstances where they were deemed essential and where satisfactory assurances were provided for dedication of the remaining half of the street.
 - a. Proposed half streets shall have no less than one-half of the right-of-way dedicated and constructed. The half street shall include the vehicular and pedestrian realm elements for the portion of the right-of-way dedicated and constructed, as specified by the Street Type (Chapter 5.0).

Mr. McIlrath reviewed the original private street proposal submitted and the portions of the FBC used for regulation of the proposal. He explained based upon conversations with staff, the applicant agreed to provide the Neighborhood Street rather than the private access. He stated the developer's engineer had drawn up a concept of the stem portion or narrow section, but the other areas would have the full 57-foot right-of-way. Mr. McIlrath reviewed the proposed concept for the Neighborhood Street which included five feet of sidewalk on a portion of the east side and four feet of sidewalk for the southern portion; 2.5 feet of curb and gutter on the east side; 26 feet asphalt pavement, 2.5 feet of curb and gutter on the west; and an additional 1.5 feet beyond the curb and gutter on the west to comply with clear distancing standards. He noted FBC called for five-foot sidewalks so there would need to be a development agreement in place if the four-foot section of sidewalk were allowed.

Councilmember Peterson questioned what the total proposed width would be. Mr. McIlrath responded the total width of the property owned by the developer for the narrow portion was 41.5 feet; consequently, the street width would only be that wide rather than the standard 57 feet. He reported on-street parking would only be allowed in the area where there were full improvements.

Mr. McIlrath noted staff had reviewed several options while working with the applicant to find a practical solution. He mentioned staff had reviewed the town square and municipal center areas and found there could be impacts to the area east of the City Building and Art Center if all future roads were developed because currently that area was not wide enough to be consistent with the neighborhood streets. He explained initially during discussions between staff and the applicant the thought was that a private street with access road standards would fit best into the town square area with the least amount of impact for the area. He added allowing a private access would decrease the City's responsibility for its maintenance.

Mr. McIlrath highlighted the following from the Planning and Engineering background and analysis if the road were developed as private or public street:

Private Street:

- Clearfield Towne Square and Municipal Center had private accesses.
- Private streets would continue with that management.
- Private streets would require the least amount of area and least impact on properties in the area.

Public Street:

- Neighborhood Street.
- Pedestrian connection on east and full vehicular access.
- Full improvement for majority of property.
- Curb and gutter on both sides for storm water runoff.
- Access to public utilities up to meters.
- Gate was prohibited on public streets per FBC Section 5.2.1 (2).

Mayor Shepherd stated he had spent time yesterday talking to staff regarding the following concerns:

- Stubb street and gate proposed was a concern with the private access; therefore, the new proposal for a public street would fix that issue because a gate would be eliminated.
- The half-street was a concern because it was outside of FBC unless approved as an exception. He mentioned the other half of the street area was owned by the Nations for Christ Church and so the remaining portion of the street would likely never be developed.
- If the half-street were allowed, the developer had asked for an allowance in the sidewalk on the east side to give them the additional 1.5 feet on the west side to meet the clear vision standard. Allowing for a deviation from the five-foot sidewalk seemed contradictory to what had been required of all other developers in the FBC area to date.
- The project could set precedent for other FBC projects with a half-street and worried there was not enough time to evaluate additional impacts for other areas.

Mayor Shepherd recognized the developer had been through the City's process required for land use. He continued it was a challenging issue with a few options to either allow a half-street or table consideration so the developer could inquire if the Nations for Christ Church would be willing to sell the neighboring property for the required street.

Councilmember Peterson acknowledged the private access for Clearfield Towne Square and the Municipal Center were done prior to FBC. She indicated when FBC was created the standards were deliberately improved. She noted FBC called out Neighborhood Streets as the appropriate type of street for the proposed development. She pointed out the proposed private street for the project which had gone through the land use process thus far had not met the FBC standard. She appreciated the work from staff that went into finding out if there was a way for the project to move forward. She expressed her opinion that the initial proposal and the new concept proposed during the current meeting violated FBC and the Council had no authority to approve it or grant exceptions. Councilmember Peterson voiced her concern that the proposal should have included a development agreement from the beginning and anything going forward would need one or the FBC would be violated.

Councilmember Thompson arrived at 6:31 p.m.

Councilmember Peterson suggested because the proposal as presented was in violation of FBC it should either be tabled or denied. She commented if there was a desire from the applicant to resubmit the application or enter into a conversation about a development agreement with the Council that could be an available option. She recognized there had been a year of time and resources which had gone into the project thus far; however, the proposed Final Subdivision Plat

did not meet the City's standards. She expressed her opinion the Council should not be considering the project as proposed.

Councilmember Phipps reported there had been a lot of thought put into the standards that were included in the FBC. He wondered if extreme circumstances were meant to allow for a variance because the developer did not own the property to develop the entire standard width of a road. He mentioned he had voted against every change of the FBC thus far. He reasoned the FBC was established and designed purposefully to match the Council's vision for future. He noted the proposed project did not meet the City's long-term plans, it would set precedent, and it violated the concept of the City having ordinances for which it was accountable.

Councilmember Peterson stated the project seemed to be trying to wrap an ordinance around a project rather than allowing the FBC to set the standard as it was designed. She noted there could be barriers that developers faced in meeting the standards; however, the developer should bear the responsibility to solve the issue. She acknowledged the City had provisions for certain circumstances where a second look might be warranted where strict application of the Code might not be possible; however, if a developer did not want to acquire additional property or assemble parcels that would match the scale of a proposal that should not meet the standard of an unusual hardship; it would be a self-imposed hardship. She expressed her opinion the property was developable and economically viable. She stated the proposal presented did not meet the City's standard and it should not be the City's encumbrance to solve the problem. She reiterated it should not be the City's obligation to find every relaxation or flex point to allow something to be developed.

Councilmember Bush commented it was difficult to fit a square peg into a round hole and alterations to the FBC were similar to carving off the edges so the square peg would fit into the round hole; but, it would never be a perfect fit.

Councilmember Roper expressed his opinion FBC had been created to stand on its own and he did not feel the Council should deviate from it.

Mayor Shepherd wondered what the setback was from the property to the east. Mr. McIlrath responded the building was close to the property line, but it had an overhang and the fence was on the property line. Mayor Shepherd asked what the setback would need to be. Mr. McIlrath explained the current property to the east was legal non-conforming; therefore, development on the proposed parcel would not dictate what happened on the other side of the property line.

Mr. Allen asked if there was an interest from the Council to entertain the new proposal. He recognized if there was an interest then consideration of the final subdivision plat could be tabled to allow the proposal to be fully vetted. He agreed a development agreement would be the right tool to accomplish it, but more time would be necessary to get it prepared. He acknowledged there appeared be consensus from the Council that the plat should not be approved as proposed. There was a discussion about the approach that should be taken going forward and whether the proposed changes to the application and a development agreement should be vetted by the Planning Commission before the Council considered it.

Councilmember Peterson mentioned she was nervous to bypass the traditional process and felt it was not appropriate for the Council to be making changes to the Final Subdivision Plat or adding lots of conditions at this point to tidy up the deal. She recognized it would cause more time but felt circumventing the processes in place would be a disservice to the applicant and also bypassed the protections that were in place to guide the process and protect the City. She suggested it would be a poor precedent to bypass the processes in place. She indicated it was unfortunate the current application got to this point before it was determined there were substantive changes that were necessary; however, it would be appropriate to have the changes vetted by following the appropriate processes.

Mr. Allen acknowledged the developer might desire to acquire the additional properties which would change the application altogether. There was a discussion about the purposes of FBC and having standards in place to guide development.

Loyal Hulme, legal counsel for the developer, asked if Mayor Shepherd would allow comments from the development team about questions raised during the discussion concerning the acquisition of property which had been addressed by the developer with the neighboring property owners earlier in the day. Mayor Shepherd stated he would allow the comments. Mr. Hulme acknowledged the developer had been through the land use process with an understanding that both the Planning Commission and staff were comfortable with the proposal containing a private access road. He noted the preliminary subdivision plat with the private access was unanimously approved by the Planning Commission. He mentioned due to preliminary approvals the developer had not reached out to the neighboring property owners until recently to vet other options. He stated the property owners did not have any intentions on selling the property to the developer, so there was a willingness to concede on the part of the developer and build the Neighborhood Street as a resolution. Mr. Hulme explained there was only 41.5 feet available to develop the road and it was an unusual situation abutting a religious institution, but it was not a short cut or something that would be inappropriate to build a neighborhood street with anticipation that when the properties around it developed the remainder of the road could be completed. He reported staff had been pushing hard for the applicant to develop every inch of property it owned; therefore, they would be happy to develop every bit of the 41.5 feet however the Council saw fit. He indicated the City's FBC provided options to deal with those types of situations. Mr. Hulme noted either the developer could build the neighborhood street as a half street or the Council could allow for a variance and either option would work as a solution. He mentioned a development agreement could be crafted so it did not create precedent because it was such a unique circumstance. He pointed out that the City's engineer had requested 13 feet of travel along the street in either direction. Mr. Hulme expressed his opinion once the facility was built it would spur commercial users to develop around it.

Mr. Hulme indicated the developer's willingness to enter into a development agreement. He stated the applicant was in a difficult position. He noted the Planning Commission had approved the plat but if the Council took the position that a Neighborhood Street was needed the developer would stipulate to it; but, the only way to accomplish it was by building a half street at the current time. He stated any other option would limit the development of the property because of the limitation on access unless a variance from the FBC were allowed or the half street were built under the current FBC standards. He suggested if the City were to deem the property

undevelopable there would be repercussions; outside of that option there were two options remaining either building a half street or offering a variance if the City's position were to require a Neighborhood Street. Mr. Hulme stated the language was not meant to be aggressive; rather, suggest there were two great options available to solve the problem. He expressed his opinion the changes presented should not have a need to be reviewed by the Planning Commission because he had seen changes made frequently at this level by entering into a development agreement. He explained the development agreement process could be done simply and provide the City the protections it needed. Mr. Hulme stated the developer could work with the City's attorney to draft a development agreement that would articulate the uniqueness of the property. He reiterated the developer felt good about the proposal and thought it was an elegant solution for the City too.

Mayor Shepherd appreciated the information and said it helped clarify the efforts made to acquire the neighboring property. He noted it was time to begin the policy session. Mr. Hulme requested some additional time during the policy session to expound on the history which might be helpful in the decision-making process and perhaps more ideas could be offered.

Councilmember Thompson moved to adjourn and reconvene in policy session at 7:03 p.m., seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmember Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

The meeting reconvened at 8:27 p.m.

DISCUSSION ON UPDATES TO THE CITY'S FINANCIAL MANAGEMENT PRACTICES

Rich Knapp, Finance Manager, stated the City had financial policies which were enacted at the staff level; however, it would be good to formalize financial management best practices which could be adopted by the Council. He suggested the financial management practices, rather than policies, once established could be reassessed and readopted annually.

Councilmember Peterson expressed thanks for staff's efforts.

Mr. Knapp explained the drafted financial management practices that were included with the staff report contained a few sections to focus on and headers only for sections which were planned to be discussed in future meetings. He explained having financial practices which were formalized would provide guidance as well as assist the City with its bonding. He noted staff hoped to have the practices ready in June for adoption.

Councilmember Phipps wondered how staff wanted to address some items with the document language he discovered during its review. Mr. Knapp responded those items pertinent to a group discussion could be addressed during the meeting. He stated the objective for the discussion would be to review the sections on contingency reserves and balanced operating budget.

Councilmember Bush asked what dollar amount the City currently had that was over the 25 percent of contingency reserves allowed by law. Mr. Knapp answered there was just over \$3 million. He continued staff planned to recommend a budget amendment in the spring to use the

excess reserves to pay off the 2018 Series Bonds and if the Council approved it, the contingency reserves would be below the maximum 25 percent.

Councilmember Peterson asked if future staff reports would articulate which practice from the document was being utilized. Mr. Knapp responded it would be a good practice moving forward; however, it might be more applicable for those staff reports that were related to financial or budgeting matters.

Councilmember Phipps acknowledged after a review of his prepared comments there were a few that should be discussed with the group. He suggested there should be something in the document, perhaps the introduction, which indicated the policy was approved by the elected officials. Mr. Knapp responded there was language which indicated the practices had the Council's discretion. Councilmember Phipps commented one of the audiences for the document would be newly elected officials.

Councilmember Phipps identified the following bullet point in the contingency reserves section:

“The City Council may authorize the use of reserves to address an unforeseen emergency, or to offset revenue decreases due to a significant economic downturn to maintain strategic essential services. At the time this authorization is given, a plan of increasing fees or taxes and/or decreasing expenditures shall also be approved to replenish the reserves within three fiscal years.”

He questioned if this would be a new practice. Mr. Knapp responded it was a new proposal.

Councilmember Peterson asked whether the reserves would be replenished to the 25 percent maximum reserve level or to a level equaling what had been expended. Mr. Knapp responded the goal would be to maintain a contingency reserve at a level between 20 to 25 percent of the General Fund revenues as stated in the opening paragraph of the section.

There was a discussion about the proposed practice of replenishing the reserves and the desired timing for doing so. There was consensus of the Council the practice would be good to keep in the document. Mr. Knapp indicated the number of years to replenish the funds could be adjusted if desired.

Councilmember Phipps questioned if the term “structurally balanced” that was included in the last bullet point of the contingency reserves section was valid terminology. Mr. Knapp answered it was language quoted from the Government Finance Officers Association's (GFOA's) best practices. He elaborated that structurally balanced referred to the exercise that was completed during the budgeting process to ensure the recurring revenues are covering the recurring expenses. He explained it was the hardest number to hit each year.

Councilmember Phipps commented he had anticipated seeing something included in the document about fiscal risks that were common to the City. He acknowledged each city had its own risks that would impact fund availability or unexpected expenses such as aging infrastructure or fluctuations in sales tax. Mr. Knapp responded there was not a specific section where those types of things were addressed directly; however, there were things identified throughout the document that referenced unseen events or sales tax which was discussed further

in the revenues section. He acknowledged it would be a good thing to watch for during the process.

Councilmember Phipps expressed his opinion it would be good to include a section specific to risk. JJ Allen, City Manager, stated perhaps the focus should be on areas that Clearfield was uniquely susceptible for risks. Mr. Knapp cautioned it would be important to pay attention to the audience which might support being more general rather than drawing attention to the City's weaknesses. Summer Palmer, Assistant City Manager, liked the idea but felt it might be better suited for discussions prior to the budgeting process. Councilmember Phipps appreciated the reference to the audience and understood the need for generality.

Councilmember Phipps wondered if an audit committee would play a role in the financial management practices. Mr. Knapp answered yes, and the audit committee was addressed in the internal control section which had not been included with the materials for the current discussion. He explained the City planned to establish an audit committee which would be adopted by Resolution and its role would be detailed further in its charter.

Councilmember Phipps ~~had indicated~~ a list of items not necessary for a group discussion ~~that he indicated~~ would be ~~provided~~ sent to staff ~~via email~~ for ~~their~~ review.

Mr. Allen mentioned staff intended to go through the financial management practices document piece by piece; therefore, only the headers had been disclosed until more in-depth discussions could be scheduled.

Mr. Knapp indicated there was a best practice for strategic plans. Mr. Allen stated he had been a fan of strategic plans but there was a lot of effort to maintain the City's document itself. Mr. Knapp pointed out the financial management practices document did not have to include strategic planning, or it could keep it general listing a few key tools utilized in strategic planning. Councilmember Phipps stated the document could identify the key concepts the City used for strategic planning to keep it more general. Mr. Allen acknowledged the City's policies and tiered priorities were very fluid and the hedgehog methodology had been tools to guide the City's strategic planning, but currently those were not all in a tidy document.

Councilmember Peterson agreed with Councilmember Phipps that it would be a good idea to call out a few key tools the City used for strategic planning.

Mr. Knapp asked if there were any issues with the following statement of the balanced operating budget section:

"The City Manager may institute a cessation during the fiscal year on hiring, promotions, transfers, and capital equipment purchases. Furloughs may also be implemented. Such action will not be used arbitrarily and without knowledge and support of the Mayor and Council and will allow for exceptions in appropriate areas to comply with emergency needs such as a loss or decline in a major revenue source or natural disaster."

Councilmember Phipps wondered if there should be some prioritization on actions to be taken because an outsider might interpret the document as providing unilateral authority to the city manager without any guidance. Mr. Allen anticipated those types of considerations would be discussed with the Council and be decided as a group. Councilmember Roper noted the document contained best practices, but each situation would be unique so prioritization in the document might not be necessary. Mr. Knapp felt the language captured the best practice that the city manager would not act without consulting the legislative body. He stated the document provided some options if things were to go bad. He acknowledged the intent was for the City to be nimble and able to respond quickly if something bad were to happen. Ms. Palmer said the language identified those decisions were in house and the City did not need to work with unions or others.

Councilmember Bush questioned if the other sections would be discussed in a future meeting. Mr. Knapp responded yes.

Councilmember Thompson moved to adjourn at 8:52 p.m., seconded by Councilmember Roper. The motion carried upon the following vote: Voting AYE – Councilmember Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.