

MINUTES OF THE TOWN COUNCIL
MEETING
OF THE TOWN OF CLARKSTON

December 7, 2021
7:00 P.M.

Town Council Meeting held at the Clarkston Town Hall, 50 South Main, Clarkston, UT

Attendance: Mayor N. Craig Hidalgo

Councilmembers: Jessica Buttars, Mylind Fawcett,
Nichole Sparks, Dan Smith

Town Clerk: Kristi Hidalgo

Public Attendance: Garth Day, Campi Sparks, McCall Stephensen

1. CALL TO ORDER

Mayor Hidalgo called the Clarkston Town Council to order at 7:00 p.m. Councilmember N. Sparks led the Pledge of Allegiance and offered Reverence to begin the meeting.

Mayor Hidalgo addressed the minutes of the Clarkston Town Council Meeting held November 2, 2021. Councilmember N. Sparks motioned for the Clarkston Town Council to approve and adopt the minutes of November 2, 2021. Councilmember M. Fawcett seconded the motion. All in favor "Aye". Motion carried

2. NEW BUSINESS

State Code 10-9A-504 Temporary Land Use Regulation – Mayor Hidalgo stated that Clarkston Town had received a request for a subdivision which has initiated a review of the current Clarkston Town Subdivision Ordinance to ensure that the Subdivision Rules and Regulations are adequate for the town. Mayor Hidalgo stated that the Subdivision Ordinance is very antiquated and needs to be revised. Mayor Hidalgo turned the time over to Councilmember N. Sparks to discuss proposed revisions to the Clarkston Town Subdivision Ordinance. Councilmember N. Sparks said that Clarkston Town Attorney Seth Tait sent Mayor Hidalgo a subdivision checklist of what should be included in a subdivision ordinance. See Attachment A. Councilmember N. Sparks stated that she went through the checklist and compared it to the current Clarkston Town subdivision ordinance and found the following deficiencies:

- Clarkston Town Code does not include the circumstances that do not require a landowner to follow the application and approval process. The exceptions are as follows:
 1. When dividing or partitioning agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance.

2. When adjusting the boundary between two adjoining unsubdivided properties, so long as no new parcel is created and the adjustment of the boundary does not violate any land use ordinance.
3. A recorded agreement between two owners of adjoining lots that have been subdivided and which adjusts their mutual boundary, so long as no new lot is created and the adjustment does not violate any land use ordinance.
4. Joining of a subdivided parcel to another parcel of property that has not been subdivided, so long as the joinder does not violate any land use ordinance.

- Subdivision Ordinance Violation: Amend from the following:

11-1-7: VIOLATION:

No person shall subdivide any tract or parcel of land located wholly or in part in the Town, except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the Planning Commission, nor offer for recording in the Office of the Town Clerk, any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title. Violation of this section will result in a Class C misdemeanor for any landowner and a Class B misdemeanor for any person who receives payment or anything of value for the subdivided land. (Ord. 18-07, 10-2-2018)

To the following:

11-1-7: VIOLATION:

A person who subdivides a parcel in violation of the State or City Code is guilty of a class B misdemeanor under City Code and a civil infraction under State Code. Additionally, no further land use permits, including building permits, may be issued for any parcel that has been illegally subdivided.
(Utah Code Ann. 10-9a-611)

- Checklist for filing subdivision applications: Councilmember N. Sparks said that the current Subdivision ordinance does not have a clear application process for subdivisions and proposed that a precise checklist of the application process be included in the subdivision ordinance.

Councilmember N. Sparks explained the subdivision application process to the Council. Initially the developer comes to the LUDMA Commission with a sketch plan. A sketch plan just shows what the proposed development would look like. It is an informal meeting where the LUDMA Commission looks at the plan and may provide comments regarding current zoning. The next step is the preliminary plat plan. That is when the developer starts putting money into the project. The preliminary plat plan is a map of the proposed subdivision prepared in accordance with the requirements of the subdivision ordinance and

must be reviewed by the town attorney and the town engineer. Once the preliminary plat is approved it goes to the final plat. The final plat is a subdivision map that is accurately surveyed and such survey markers in the ground so the blocks, lots, and other divisions can be placed on record at the County Recorder's Office. The final plat is also reviewed by the town attorney and the town engineer. Once the final plat is approved it goes to the Town Council for final approval.

- Applicants detailed plan for protecting future residents of the development from hazards: The current subdivision ordinance does not require this.
- Addresses of all owners of record of real property adjacent to the parcel of land proposed for subdivision: Councilmember N. Sparks stated that right now there isn't anything in the subdivision ordinance requiring the developer or the town to notify those residents that would be directly impacted by the proposed subdivision.
- A Title Report provided by a title company : The current subdivision ordinance does not require a title report.
- A Tax Clearance from the Cache County Treasurer indicating that all taxes on the property have been paid: The current subdivision ordinance does not require a Tax Clearance.
- Administrative Processing Fee and Subdivision Fee Structure: The current subdivision ordinance states that fees need to be paid but a fee structure has never been established for subdivisions. Councilmember N. Sparks stated that the fees need to be clearly defined and paid before proceeding on to the next step of the application process. Councilmember N. Sparks recommended making the Administrative Processing Fee non-refundable on the Master Fee Schedule.
- The Zoning Administrator (LUDMA Commission) sends the application and all supporting documents to the town engineer, town attorney and others: Councilmember N. Sparks stated that this needs to be added to the subdivision ordinance. The developer does not have the right or authorization to send anything to the town attorney or engineer.
- Staff Report: The Zoning Administrator (LUDMA Commission) prepares a report that analyzes each requirement for the subdivision under the town code. Councilmember N. Sparks provided a sample staff report from Cache County for the Council to review. **See Attachment B** A staff report is not required by the current subdivision ordinance. Councilmember N. Sparks said that The LUDMA Commission would prepare the report and asserted that the sample Cache County Staff Report puts into perspective just what it is going to require to ensure subdivisions are done right. It is a very detailed report and will require a lot of time and work.
- Town Council to review and approve the preliminary plat and the final plat: Councilmember N. Sparks stated that the current subdivision ordinance only requires that the Town Council review and approve the final plat. Councilmember N. Sparks strongly recommended that the Town Council review and approve the preliminary plat as well because the developer invests a lot of money into the project between the preliminary plat and the final plat. Councilmember D. Smith agreed.

- Development Agreement – The LUDMA Commission should address if it is feasible to require the developer to complete all public improvements for the subdivision before the recording of the Final Plat and before the issuance of building permits for individual lots. If not, Improvement security and the amount would need to be addressed. If a security will be used, the decision should require the applicant to enter into a Development Agreement with the Town in conjunction with the security for improvements. Councilmember N. Sparks referenced Clarkston Town Code 11-2-4-C2 and stated that currently the town doesn't require payment of a bond until the final plat approval. Councilmember N. Sparks believes that the Town needs to enter into an agreement with the developer that specifies when the subdivision fees will be paid. A signed Development Agreement approved by the Town with the help of the Town Attorney and Town Engineer. Councilmember N. Sparks strongly recommended that this be included in the subdivision ordinance. Mayor Hidalgo and Councilmember D. Smith agreed.

Councilmember N. Sparks concluded that there are a lot of large parcels of land in town that have the potential of being subdivided and it doesn't take long for developers to realize that our subdivision ordinance is not equivalent to what other municipalities are requiring and the Town can be taken advantage of. Councilmember N. Sparks asserted that the Town Councils intent is not to stop subdivisions it is to make sure they are done right and don't put a burden on the Town. Mayor Hidalgo reported that State Code 10-9A-504 allows municipalities to enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities for a six-month duration. See Attachment C Mayor Hidalgo said that the Council could adopt a temporary Land Use Regulation prohibiting any type of development for six months granting the Council some time to update the Subdivision Ordinance. Mayor Hidalgo stated that he doesn't believe that is necessary at this point. If the developers don't cooperate with the Town, then a temporary land use ordinance could be adopted by the Council at any time. The Council did not make a decision at this meeting. Mayor Hidalgo asked the Council to review State Code 10-9A-504 and recommended tabling this discussion until the next Town Council Meeting to be held on January 4, 2021. The Council unanimously agreed.

4. DEPARTMENTS

Mayor Hidalgo – Fire Department – Mayor Hidalgo had nothing to report.

Councilmember N. Sparks – November Warrant List – Councilmember N. Sparks presented the Warrant List for November 2021. Councilmember D. Smith motioned for the Clarkston Town Council to approve the Warrant List as read. Councilmember J. Buttars seconded the motion. All in favor “Aye”. Motion carried

LUDMA - Councilmember N. Sparks reported that there was nothing on the agenda for the December LUDMA Meeting so had been cancelled. The next LUDMA meeting is scheduled for January 10, 2022.

Youth Council – Councilmember N. Sparks stated that the Youth Council sponsored Santa visit on the firetruck would be Saturday December 18, 2021. The Youth Council also have placed a mailbox over at the Fire Department for children to drop off their letters to Santa.

Councilmember M. Fawcett – Water Department – Councilmember M. Fawcett reported that the Covid-19 Local Assistance Grant that Clarkston, Newton and Trenton Towns applied for to build another water storage tank and conduct a preliminary study on digging a deep source well was denied.

Water System Notice of Violation – Clarkston Town Water System is required to take a minimum of 12 chlorine residuals per month in the distribution system per Rule R309-105-10(1)(c). Disinfectant residual results for this system were not reported to the Division of Drinking Water (DOW) for the July 1, 2021 to August 31, 2021 compliance period. In accordance with Rule R309-400, failure to take these samples and report them to DOW has resulted in the addition of 15 Improvement Priority System (IPS) points to this water system's IPS report for every month that the Division did not receive chlorine residual data. Clarkston Town Water System staff must notify all the water system's consumers of this violation. Councilmember M. Fawcett informed the Council that Clarkston notice of this violation would be sent out in the December Newsletter. Mayor Hidalgo stated that the public health and safety of the residents were never at risk.

Water Tank Water Meter – Councilmember M. Fawcett reported that the water meter up at the water tank that measures the volume of treated water had failed and needs to be replaced. Water Operator Bryan Goodsell has ordered a new one, but it hasn't been delivered yet. Councilmember M. Fawcett stated that until the meter is replaced it will result in an additional 15 Improvement Priority System (IPS) points added to Clarkston Towns IPS report per month. Councilmember M. Fawcett concluded that 150 points on the IPS report makes our water system decertified.

Councilmember D. Smith – Roads Department – Councilmember D. Smith informed the Council that the snowplow and road grader are serviced and ready to go for the winter.

Air Compressor – Mayor Hidalgo reported that he had secured three bids for the purchase of a new air compressor. He got a bid from Harbor Freight, Industrial Tool & Supply and Lowes. Mayor Hidalgo and Roads Supervisor David Hale determined to purchase the air compressor from Industrial Tool & Supply because it appeared to be better quality and is built in the USA.

Councilmember J. Buttars – Cemetery Department – Cemetery Expansion – Councilmember J. Buttars reported that she had ordered one hundred (100) markers to mark the new section of the cemetery. Councilmember J. Buttars stated that a utility locating company would have to be hired to find exactly where the power line runs between the old section of the cemetery and the new section of the cemetery.

Spatial Generations Cemetery Software Agreement – Councilmember J. Buttars reported that to update to the new web-based cemetery software it would cost \$4,700 for the

existing cemetery and an additional \$925 for the new section of the cemetery. To purchase a large new cemetery map for display would cost \$235. There would be an annual System Use Fee of \$500.

Cemetery Sprinkling System - Councilmember J. Buttars stated that she got an email from Canyon Landscaping regarding a sprinkling System bid for the cemetery. Mayor Hidalgo will contact this company and set up an appointment to meet with them and secure a bid for this project. At the September 7, 2021 Town Council Meeting the Council decided to get a bid on installing a sprinkler system in the new section and completely automating the sprinkling system for the entire cemetery. The old section and the new.

Discussion on Resident and Non-resident Cremation Lot Sale Pricing – At the October 19, 2021 Town Council Meeting the Council discussed that the Southwest hill of the cemetery is designated solely for cremains burials only (Ord. 17-09) but are plotted for full body burials. The Council determined that the Southwest hill should be plotted as half lots for cremation plots. Cremations don't need the larger lots. The Council discussed what would be charged for the cremation lots on the Southwest hill and decided on the following:

- Resident – Cremation Lot - \$175 and a \$50 Perpetual Care Fee (Total - \$225)
- Non-resident – Cremation Lot - \$475 and a \$50 Perpetual Care Fee (Total - \$525)

4. RELEVANT BUSINESS

Next Meeting – The next Town Council Meeting will be held on Tuesday January 4, 2021 at 7:00 pm.

Public Comment – Garth Day stated that he worked for Heritage Land Development as a Consultant Planner. Mr. Day said that he has a background in public planning. He has been both a Box Elder County and Cache County Planner. Mr. Day specified that he is assisting Darrin Michaelis with the development of the Willis Acres Subdivision because Mr. Michaelis felt like the town didn't know what to do. Mr. Day stated that he helped Mr. Michaelis prepare the Preliminary Plat and have submitted it. Mr. Day said that as he listened to the discussion tonight, he wanted to make the Council aware of the fact the engineer that designed the preliminary plat went through the Clarkston Town Subdivision Ordinance and the ordinance is a little antiquated and should be updated. Mr. Day stated that he works for developers, but he also works for a lot of cities and offered his assistance with updating the subdivision ordinance and developing a fee schedule. Mr. Day recommended the following:

- Pass the engineering and attorney fees on directly to the developer. No fee structure for that. The Engineer and attorney would just bill the developer through the town.
- Bonding or escrow on roads – Mr. Day Stated that this is very important because the roads will belong to the town and the town needs to make sure they are built to the standards established. Mr. Day recommended not doing any kind of bonding. He said that to go directly for an escrow. Make the developer put the

money up in an escrow account. It's the developer's money but it is in an escrow account and controlled by the town. That way the town can guarantee that improvements get done correctly.

- Require a warranty period – Hold back 10% for one year to make sure the improvements made don't fail. If they do the developer is on the hook for that. That is a protection for the town.
- Amend Clarkston Town's New Road Construction Ordinance to require roads to be asphalted (3 inches), not chip and sealed.

Councilmember M. Fawcett – Publicly thanked Councilmember N. Sparks and Councilmember J. Buttars for their service to the community. Their term of office expires January 1, 2022.

5. ADJOURN

There being no further business to come before the Council, Councilmember N. Sparks motioned that the Clarkston Town Council Meeting adjourn. Councilmember J. Buttars seconded the motion. All members present voted "Aye". Motion carried. The meeting adjourned at 8:00 pm.

Krista Hidalgo
Town Clerk

