

CLEARFIELD CITY COUNCIL
AGENDA AND SUMMARY REPORT
May 17, 2022 – POLICY SESSION

Meetings of the City Council of Clearfield City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207 as amended. In such circumstances, contact will be established and maintained via electronic means and the meetings will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

55 South State Street
Third Floor
Clearfield, Utah

6:00 P.M. WORK SESSION

Discussion on a Fee Waiver Request by the North Davis Fire District

Discussion on Appropriating Seized Evidence as Public Interest Use by a
Government Agency

Discussion on a Juneteenth Observance

Discussion on City Signage for City Hall, Cornerstone Park, and Steed Park

Monthly Reports

****ADJOURN THE CITY COUNCIL****

Dated this 12th day of May, 2022.

/s/Nancy R. Dean, City Recorder

The City of Clearfield, in accordance with the ‘Americans with Disabilities Act’ provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 801-525-2714, giving her 48-hour notice.



STAFF REPORT

TO: Mayor Shepherd and City Council Members

FROM: Spencer Brimley, Community Development Director
Stuart Williams, City Attorney

MEETING DATE: May 17, 2022

SUBJECT: Discussion Regarding the North Davis Fire District (NDFD) Request for a Waiver of Building Permit Fees

PURPOSE OF DISCUSSION

Staff seeks Council direction regarding a request made by the NDFD for the “waiver” of the building permit fees set forth in the City’s Consolidated Fee Schedule, as related to the specific impending construction of a new fire station within the city.

BACKGROUND

As you are aware, the NDFD is demolishing the existing fire station located at 88 East Center Street, Clearfield, and will be building a new state of the art fire station to help better serve their customers and improve the physical work environment for their employees.

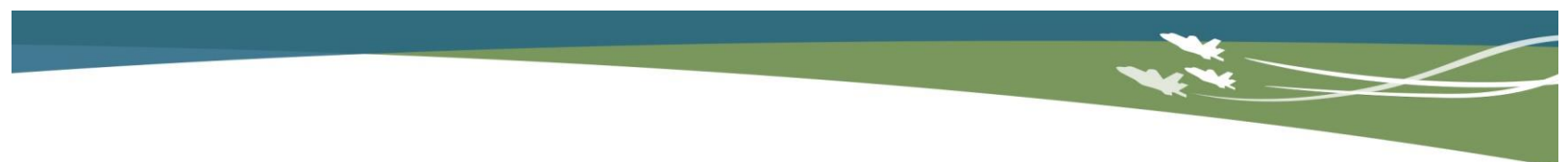
The NDFD and Staff are working collaboratively to ensure the project is successful and timely completed. During our discussions, the NDFD acknowledged and accepts that they will pay for all additional costs the city incurs from outside third parties during the review and approval of the building permit. However, the NDFD has asked that the city “waive” all required building permit fees.

Prior to further discussing the request made by the NDFD, Staff provides the following analysis of the legal processes currently outlined within those applicable codes related to such a request.

LEGAL ANALYSIS

1. Title 10, Chapter 1, Building Code and Regulations

- Clearfield City Municipal Code §10-1-3 makes a building permit required for any excavation, grading, fill or construction in the community.
 - As such, the NDFD is required to be issued a building permit.
- Clearfield City Municipal Code §10-1-1A adopts the International Building Code (IBC).
 - As such, the NDFD and the city are required to follow those codes and regulations found within the IBC.



2. IBC, Section 109

- Section 109.2 of the IBC requires that a fee for each permit be paid as required and in accordance with the fee schedule established by the city.
- Section 109.6 of the IBC allows for the building official to establish a refund policy.
 - Clearfield City Municipal Code §2-4-1 *et. seq.*, City Donation, acts as a “refund policy” in that it allows for the appropriation of city funds by the Council for any purpose that, in the judgment of the Council, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the city.
 - Note: any such donation requires a public hearing and supporting study prior to the donation being made.
 - The building official may only refund building permit fees pursuant to IBC Section 109.6 after a determination is made by the Council to donate the fees collected and appropriate them back to the NDFD.

3. City’s Consolidated Fee Schedule

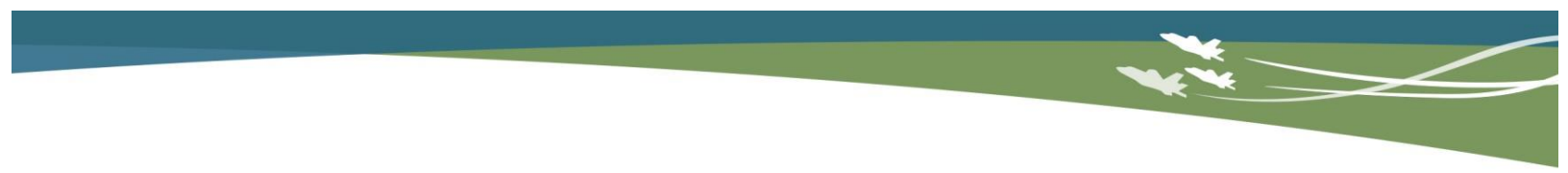
- Pursuant to Clearfield City Municipal Code § 2-5-1, staff’s best estimated amount of the building permit fees anticipated to be paid by the NDFD is approximately \$50,000 dollars.
 - Building permit fees are used to offset the internal city costs for performing inspections, plan review, etc.

4. Utah Code Ann. §15A-2-209

- The state requires that the city charge a 1% surcharge on all building permits.
 - The surcharge collected by the State is primarily used to (1) provide education to building inspectors, (2) provide education to individuals licensed in construction trades or related professions through a construction trade association or a related professional association, and (3) provide education and training through the Office of the Property Rights Ombudsman

CONCLUSION

The City cannot grant a “waiver” of the required building permit fee. However, the city may “refund” up to 99% of the total building permit fee paid to the city through the authority



granted to the building official after the City Council has taken the steps required to appropriate funds through a donation.

HEDGEHOG ANALYSIS

Staff has not performed a hedgehog analysis of the request made by the NDFD.

FISCAL IMPACT

Refunding the building permit fees to be paid by the NDFD will result in a loss of revenue to the city, depending on the total amount refunded, of up to approximately \$50,000 dollars.

ALTERNATIVES

Subject to alternative direction given by Council, Staff presents the following alternatives:

1. Direct Staff to inform the NDFD that a waiver of the building permit fees is not possible, and that Council does not seek to refund any of the building permit fees to be collected by the city.
2. Direct Staff to inform the NDFD that a waiver of the building permit fees is not possible, but that Council will consider a refund of __% (or \$_____) of the total available 99% of the building permit fees that are available to be refunded.
3. Provide staff with alternative direction.

SCHEDULE / TIME CONSTRAINTS

Although the city is under no legal obligation to consider or grant a refund of any type, Staff seeks to provide timely and clear direction to the NDFD regarding the will of Council so that the NDFD can proceed as they so desire.

LIST OF ATTACHMENTS

- Clearfield City Municipal Code, §10-1-1 *et. seq.*, Building Code and Regulations
- International Building Code, Section 109
- City's Consolidated Fee Schedule (building permit only)
- Clearfield City Municipal Code §2-4-1 *et. seq.*, City Donation

Clearfield City Municipal Code, §10-1-1 *et. seq.*, Building Code and Regulations

TITLE 10 BUILDING REGULATIONS

CHAPTER 1 BUILDING CODE AND REGULATIONS

SECTION:

[10-1-1: Codes Adopted](#)

[10-1-2: Administrative Code](#)

[10-1-3: Building Permit](#)

[10-1-4: Subsurface Water](#)

[10-1-5: Off Site Improvements](#)

[10-1-6: Appeals](#)

[10-1-7: Penalty](#)

10-1-1: CODES ADOPTED:

The following codes are hereby adopted as the rules, regulations and standards for the construction, occupancy, alteration, repair, remodeling and maintenance of all structures and buildings, all of which have been printed as a code, in book form, and at least one copy of which has been filed for use and examination by the public in the office of the city recorder:

A. The most current edition of the international building code (IBC), including appendix J, promulgated by the International Code Council (ICC), and amendments adopted under the Utah building standards act rules ("rules") together with standards incorporated into the IBC by reference, including, but not limited to, the most current edition of the international energy conservation code (IECC) promulgated by the ICC and the most current edition of the international residential code (IRC) promulgated by the ICC and adopted by the state of Utah;

B. The most current edition of the national electrical code (NEC), as published and promulgated by the National Fire Protection Association and adopted by the state of Utah;

C. The most current edition of the international mechanical code (IMC), as published and promulgated by the ICC, together with all applicable standards set forth in the most current international fuel gas code (IFGC) and adopted by the state of Utah;

D. The most current edition of the international plumbing code (IPC), as published and promulgated by the ICC and the amendments adopted under the rules in section R156-56-707 and adopted by the state of Utah;

E. The most current edition of the international property maintenance code (IPMC), as published and promulgated by the ICC and adopted by the state of Utah;

F. The most current edition of the international fire code (IFC), as published and promulgated by the ICC and adopted by the state of Utah. The language hereinafter is in addition to the language in the published codes:

1. Flammable Or Combustible Liquids: The limits referred to in section 3404 of the 2006 international fire code in which the storage of flammable or combustible liquids is restricted are hereby established as follows:

a. The storage, use or dispensing of flammable or combustible liquids in outside aboveground tanks is prohibited within the following limits:

(1) All residential areas within the city limits.

(2) Amounts greater than two thousand one hundred (2,100) gallons of class I, II, IIIA, and IIIB liquids is prohibited in all commercial and agricultural zones within the city. Amounts less than two thousand one hundred (2,100) gallons shall be stored, used or dispensed in accordance with section 3404 of the 2006 international fire code, as amended.

2. Liquefied Petroleum Gases: The limits referred to in section 3809 of the 2006 international fire code, in which storage of liquefied petroleum gas is restricted, are hereby established as follows:

a. One hundred twenty five (125) gallons' water capacity in all residential zones within the city limits.

b. One thousand (1,000) gallons' water capacity in all commercial and agricultural zones within the city.

c. Two thousand (2,000) gallons' aggregated water capacity at any one installation in any industrial/manufacturing zone within the city limits.

3. Explosives And Blasting Agents: The limits referred to in section 3304 of the 2006 international fire code, in which storage of explosives and blasting agents is prohibited, are hereby established as follows:

a. No blasting agents or explosives may be stored, used, manufactured or dispensed, except as provided for by chapter 33 of the 2006 international fire code.

4. New Materials, Processes Or Occupancies: The building official, the fire chief and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in the international fire code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons;

G. The most current international existing building code (IEBC), as published and promulgated by the ICC and adopted by the state of Utah;

H. The 1997 uniform code for the abatement of dangerous buildings, as published and promulgated by the International Conference of Building Officials; and

I. All other amendments to the above codes promulgated in the Utah uniform building standards act rules by the state building codes commission and the state fire prevention board. (Ord. 2008-05, 7-22-2008)

10-1-2: ADMINISTRATIVE CODE:

A. Adopted: Except as amended herein, the 1997 uniform administrative code is adopted establishing rules, regulations and standards for the administration and enforcement of all codes mentioned in this title, all of which rules and regulations have been printed as a code, in book form; one copy thereof has been filed for use and examination by the public in the office of the city recorder.

B. Fees: All building and other applicable fees shall be assessed as adopted in the most recent consolidated fee schedule for Clearfield City. (Ord. 2008-05, 7-22-2008)

10-1-3: BUILDING PERMIT:

A. Required: The building official shall require the issuance of a permit for any excavation, grading, fill or construction in the community.

B. Review: The building official shall require review of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslides. If a proposed site and improvements are in a location that may have mudslide hazards, a further review must be made by persons qualified in geology and soils engineering and the proposed new construction, substantial improvement or grading must: 1) be adequately protected against mudslide damage; and 2) not aggravate the existing hazard. (Ord. 2008-05, 7-22-2008)

10-1-4: SUBSURFACE WATER:

A. Administration: The administration of this section will be the responsibility of the building official or his designated representative and his approval will be a condition precedent to the issuance of any building permit. It will be the duty of the building official or his representative to investigate the standards set forth in this section, together with any and all other standards which may be included in the future pertaining to drainage of subsurface waters and to recommend in writing to the city council whether the proposed improvements should be allowed upon the said properties and shall further recommend any additional requirements which he believes to be in the best interests of the city to ensure that there is no damage to persons or property within the area of the proposed improvement. Such recommendations might include the use of subdrains to lower the water table or other methods which the building official or his designated representative determines would be in the best interest of the residents of the city, said residents to include both those in the area at the present time as well as others who may be in this area at some time in the future.

B. Permission Required For Improvements: It shall be unlawful for any person to make any improvements upon their ground where subsurface water exists without obtaining the written permission of the building official. This requirement shall include, but not be limited to, subdividers, persons developing ground for industrial and/or commercial purposes and homeowners constructing improvements upon their own property.

C. Minimum Standards Maintained: Before written permission is issued, the building official shall ensure that the following minimum standards are maintained:

1. Test Holes: All persons shall dig test holes upon said properties to a depth sufficient to determine the extent of the subsurface water table in the proposed development, to include the depth thereof and any other information regarding same which may be required by the city.

2. Footings: All footings shall be at least two feet (2') above the highest water table elevations and the type of house construction or other development shall be governed by this standard. Otherwise, a foundation drain shall be installed around footings and drained into a positive drainage system.

3. Inspection Of Table: In areas where soil conservation maps indicate high water tables and in all other questionable areas that might be designated as high water tables by the building official, no building permits will be issued without water table inspection during high water table season.

4. Table Elevations: All applications must supply data as to water table elevations.

5. Land Developers:

a. Drainage Easements: The land developer shall provide drainage easements along side or front lot lines as may be required for drainage purposes; the size of said easement shall be determined by the building official and shall, in all events, be a minimum of seven feet (7'). The building official shall recommend whether the drainage easement shall be separated from other utility easements or shall be used concurrently with said easements.

b. Drainage: The building official shall require the land developer to provide for adequate and proper drainage of subsurface water from the land being developed. A registered engineer must engineer and plan all subsurface drain lines and two (2) copies of the plan for such drain lines must be submitted to the building official for his approval and for approval by the city engineer. No ditch or canal shall be approved as suitable for the use of subsurface water drainage without the written permission of the appropriate canal company or of the water users for such use. No ditch or canal shall be used for subsurface water drainage unless adequately improved to handle such water as might be reasonably expected to flow from the canal and ditch water, subsurface runoff water, subsurface water drainage and other water expected to reach such canal or ditch. No ditch, canal or other open waterway shall be permitted within property dedicated or to be dedicated for public use. The land developer shall remove such waterways from property to be so dedicated before the submission of the final plat.

6. Grading: All grading of any kind shall be done so as to ensure that the drainage is away from the proposed improvements and in such a manner as to prevent any conveying or trapping of water adjacent to the basement and foundation walls of the improvement.

D. Failure To Comply: The building official is hereby given authority to revoke any building permits and/or certificates until the applicant shall comply with the provisions of this section. (Ord. 2008-05, 7-22-2008)

10-1-5: OFF SITE IMPROVEMENTS:

A. Purpose: The purpose of this section shall be to promote the health, safety, convenience and general welfare of the present and future inhabitants of the city to facilitate orderly growth and development of the city; and to establish the rights, duties and responsibilities of subdividers, contractors, builders and owners with respect to land, subdivisions, buildings and construction of streets, gutters, sidewalks, curbs, sewers, culinary water facilities, storm drains and other off site improvements.

B. Conditions For Permit Or License: Conditions for a permit or license for building or improvements must include establishing a bond for off site improvements.

C. Granting Permit Or License: No city officer or agent shall grant any permit or license in any commercial, residential, industrial, manufacturing or other zone for the construction of any building or the commencement of any improvements to any lot, tract or property where the same would be in violation of title 12, chapter 9 of this code.

D. Fees: A fee shall be charged for installation of off site improvements in accordance with the city's current consolidated fee schedule. The full amount shall be collected when the permit

is issued and shall be paid in cash or check. The contractor shall have one year from completion of the project to have all off site improvements installed and accepted by the city. Failure to do so will result in the forfeiture of the fee. (Ord. 2008-05, 7-22-2008)

10-1-6: APPEALS:

Any person disputing the building official's application or interpretation of any code adopted by this chapter shall have a right of appeal pursuant to the provisions of this section.

A. Filing; Information: The person filing the appeal (appellant) shall file an appeal with the city recorder. The appeal must be in writing and must include:

1. The name, address and daytime telephone number of the appellant;
2. The date of the decision from which the appeal is made;
3. A description of all facts and circumstances giving rise to the decision and the appeal, including all relevant documents, plans and drawings submitted to the building official and all relevant documents, plans and drawings received from the building official;
4. A copy of the written decision from which the appellant is appealing. If no written decision exists, the appellant shall submit an affidavit describing the decision; and
5. A description of the relief requested, including a description of the decision the appellant feels should have been made.

B. Time Limit For Filing: Appeals must be filed within thirty (30) days of the date of the decision from which the appeal is taken.

C. Incomplete: Appeals which do not contain all of the information described in subsection A of this section shall be deemed incomplete and shall be returned to the appellant. The appellant shall then have an additional thirty (30) days to submit a complete appeal.

D. Notification; Response: Upon receiving an appeal, the city recorder shall notify the building official that an appeal has been filed and the building official shall have twenty (20) days to respond. Responses shall be in writing and may be accompanied by any additional documents, plans or drawings which were not submitted with the original appeal and which the building official believes will be beneficial in explaining the original decision. The response, if any, shall be submitted to the city recorder.

E. Failure To Respond: If the building official fails to submit a response within twenty (20) days of receiving notice of the appeal, the city recorder may presume that the building official will not file a response.

F. Referral To Planning Commission: Within thirty (30) days of receiving an appeal, the city recorder shall refer the appeal and any response to the planning commission for a hearing. The planning commission shall convene a hearing on the appeal within thirty (30) days after the matter is referred to them by the city recorder.

G. Hearing Notice: The planning commission shall give the appellant at least ten (10) days' notice of the time and place of the hearing.

H. Hearing Procedure: At the hearing on the matter, the appellant shall have a right to: 1) be represented by an attorney at his own expense; 2) present evidence and call witnesses regarding the appeal; and 3) cross examine any witnesses called by the city in support of the original decision.

I. Written Decision: The planning commission shall issue a written decision to the appellant, building official, and city recorder regarding the appeal within thirty (30) days of the date of the hearing.

J. Limited Authority Of Planning Commission: The planning commission shall have no authority to hear appeals regarding the administrative provisions of the codes. The planning commission shall have no authority to waive any of the requirements of any of the codes.

K. Fee Required: The appellant shall be required to pay the fee specified by the city's fee schedule at the time the appeal is filed with the city recorder. If the planning commission overturns the original decision of the building official, the fee shall be refunded to the appellant. (Ord. 2008-17, 12-9-2008)

10-1-7: PENALTY:

A. Misdemeanor: Any person who shall violate any of the provisions of the codes and standards hereby adopted or fail to comply therewith; or who shall violate or fail to comply with any order made thereunder; or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder; or any certificate or permit issued thereunder and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a class B misdemeanor, punishable as provided in section [1-4-1](#) of this code. The imposition of one penalty for a violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

B. Applicability: The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Ord. 2008-05, 7-22-2008)

International Building Code, Section 109

SECTION 109 FEES

[A]109.1 Payment of fees

A *permit* shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a *permit* be released until the additional fee, if any, has been paid.

(AJ109.2Schedule of permit fees.

On buildings, structures, electrical, gas, mechanical, and plumbing systems or *alterations* requiring a *permit*, a fee for each *permit* shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

[AJ109.3Building permit valuations.

The applicant for a *permit* shall provide an estimated *permit* value at time of application. *Permit* valuations shall include total value of work, including materials and labor, for which the *permit* is being issued, such as electrical, gas, mechanical, plumbing equipment and pennant systems. If, in the opinion of the *building official*, the valuation is underestimated on the application, the *permit* shall be denied, unless the applicant can show detailed estimates to meet the approval of the *building official*. Final building *permit* valuation shall be set by the *building official*.

(AJ109.4Work commencing before permit issuance.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary *permits* shall be subject to a fee established by the *building official* that shall be in addition to the required *permit* fees.

[AJ109.5Related fees.

The payment of the fee for the construction, *alteration*, removal or demolition for work done in connection to or concurrently with the work authorized by a building *permit* shall not relieve the applicant or holder of the *permit* from the payment of other fees that are prescribed by law.

[AI109.6Refunds.

The *building official* is authorized to establish a refund policy.

City's Consolidated Fee Schedule (building permit only)

BUILDING PERMIT AND DEVELOPMENT FEES		
The City may reduce building permit and development fees for public infrastructure projects for local governmental entities upon request to the Community Development Director. Fees charged should, at a minimum, cover administrative and direct costs incurred as determined by the Community Development Director.		
General - building valuation:		
	From \$1 to \$500	\$23.50
	From \$501 to \$2,000	\$23.50 plus \$3.05 each additional \$100 or fraction thereof
	From \$2,001 to \$25,000	\$69.25 plus \$14.00 each additional \$1,000 or fraction thereof
	From \$25,001 to \$50,000	\$391.75 plus \$10.10 each additional \$1,000 or fraction thereof
	From \$50,001 to \$100,000	\$643.75 plus \$7.00 each additional \$1,000 or fraction thereof
	From \$100,001 to \$500,000	\$993.75 plus \$5.60 each additional \$1,000 or fraction thereof
	From \$501,000 to \$1,000,000	\$3,233.75 plus \$4.75 each additional \$1,000 or fraction thereof
	From \$1,000,001 up	\$5,608.75 plus \$3.65 each additional \$1,000 or fraction thereof
Pools, tubs and spas:		
	Public	\$150 each
	Private	\$47 each
Landscape sprinkling system		\$47 each
Plan check fee:		
	Commercial:	
	65% of the building permit fee for building value of \$1 - \$100,000	
	60% of the building permit fee for building value of \$100,001 - \$500,000	
	50% of the building permit fee for building value of \$500,001 and greater	
	Use of outside consultants for plan checking	Actual Cost. Actual costs include administrative and overhead costs
	Residential and pools	20% of the building permit fee
	Residential "Identical Plans"	\$47
Plan check deposit required for new construction:		
	Residential	\$100
	Commercial	\$250
Off-site Bonds:		
	Residential	\$2,000
	Commercial	As per City Engineer's cost estimate
Permit inspection fees:		
	Outside normal business hours (minimum charge of two hours)	\$47 per hour
	Re-inspection	\$47 per hour
	Inspections for which no fee is specifically indicated (minimum charge of .5 hours)	\$47 per hour
	Additional plan review required by revisions (minimum charge of .5 hours)	\$47 per hour
Home daycare or preschool plan check and inspection fee		\$25 each
Street Cut Permit (Excavation Permit):		
	Lateral excavation (roads older than 1 year)	\$60 / lane cut
	Lateral excavation (roads newer than 1 year)	\$120 / lane cut
	Longitudinal excavation (roads older than 1 year):	
	First 660 lineal feet	\$120
	Each additional 660 lineal feet or fraction thereof	\$240
	Longitudinal excavation (roads newer than 1 year)	
	First 660 lineal feet	\$240
	Each additional 660 lineal feet or fraction thereof	\$240
	Excavations off improved right-of-ways	\$60

BUILDING PERMIT AND DEVELOPMENT FEES		
Bond per lateral excavation		\$1,000
Bond per unlimited number of lateral excavations		\$15,000
Bond for longitudinal excavation for 100 lineal feet or fraction thereof		\$2,000
Demolition permit (including inspections)		\$150
State Surcharge	A 1% state surcharge may be applicable to building permit fees	
Water Meter Fees:	Cost	Installation Fee
5/8" x 3/4" Meter	\$208	\$25
1" Meter	\$292	\$25
1-1/2" Meter	\$530	\$25
2" Meter	\$700	\$25
2" Compound Series Meter w/2 Orion Transmitters	\$1,945	Per City Public Works Hourly Rate
3" Compound Series Meter w/2 Orion Transmitters	\$2,263	Per City Public Works Hourly Rate
4" Compound Series Meter w/2 Orion Transmitters	\$3,528	Per City Public Works Hourly Rate
6" Compound Series Meter w/2 Orion Transmitters	\$4,927	Per City Public Works Hourly Rate
1-1/2" Turbine Meter	\$800	Per City Public Works Hourly Rate
2" Turbine Meter	\$875	Per City Public Works Hourly Rate
3" Turbine Meter	\$987	Per City Public Works Hourly Rate
4" Turbine Meter	\$1,448	Per City Public Works Hourly Rate
6" Turbine Meter	\$3,413	Per City Public Works Hourly Rate
Telecommunications franchise application fee		\$500
Sewer Connection Fees		
Each connection to the city sanitary sewer system including each new subdivision, mobile home park, trailer park, camping park or any other multiple use operation		\$500
Additional connection fee per lot within the subdivision, mobile home park, trailer park, camping park or other multiple use operation		\$25
Building Permit - New Construction Water Fee		
Fee for water usage during construction of new residential units, fee charged per unit		\$50

Clearfield City Municipal Code §2-4-1 *et. seq.*, City Donation

CHAPTER 4 CITY DONATIONS

SECTION:

[2-4-1](#): Purpose

[2-4-2](#): Net Value

[2-4-3](#): Criteria

[2-4-4](#): Intangible Benefits

[2-4-5](#): Public Hearing

[2-4-6](#): Study Required

[2-4-7](#): Exemption

[2-4-8](#): Appeals

2-4-1: PURPOSE:

It is considered a Clearfield City purpose to appropriate money for any purpose that, in the judgment of the City Council, provides for the safety, health, prosperity, moral well being, peace, order, comfort, or convenience of the inhabitants of the City subject to the following sections of this chapter. (Ord. 2006-13, 9-26-2006)

2-4-2: NET VALUE:

The net value received for any money appropriated shall be measured on a project by project basis over the life of the project. (Ord. 2006-13, 9-26-2006)

2-4-3: CRITERIA:

The criteria for a determination under this section shall be established by the City Council. A determination of value received, made by the City Council, shall be presumed valid unless it can be shown that the determination was arbitrary, capricious, or illegal. (Ord. 2006-13, 9-26-2006)

2-4-4: INTANGIBLE BENEFITS:

The City may consider intangible benefits received by the City in determining net value received. (Ord. 2006-13, 9-26-2006)

2-4-5: PUBLIC HEARING:

Except those donations that qualify as exempt pursuant to section [2-4-7](#) of this chapter, prior to the City Council making any decision to appropriate any funds for a purpose under this section, a public hearing shall be held. Notice of the hearing shall be published in a newspaper of general circulation at least fourteen (14) days prior to the date of the hearing, or, if there is no newspaper of general circulation, by posting notice in at least three (3) conspicuous places within the City for the same time period. (Ord. 2019-08, 3-12-2019)

2-4-6: STUDY REQUIRED:

Except those donations that qualify as exempt pursuant to section [2-4-7](#) of this chapter, a study shall be performed before notice of the public hearing is given and shall be made available at the City for review by interested parties at least fourteen (14) days immediately prior to the public hearing, setting forth an analysis and demonstrating the purpose for the appropriation. In making the study, the following factors shall be considered:

- A. What identified benefit the City will receive in return for any money or resources appropriated;
- B. The City's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well being, peace, order, comfort, or convenience of the inhabitants of the City; and
- C. Whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the City in the area of economic development, job creation, affordable housing, blight elimination, job preservation, the preservation of historic structures and property, and any other public purpose. (Ord. 2019-08, 3-12-2019)

2-4-7: EXEMPTION:

A donation that is included in a final adopted budget that is made pursuant to the Uniform Fiscal Procedures Act, title 10, chapter 6, Utah Code Annotated, which includes the name or other specific description of the donation shall be deemed to have been given the consideration and a public hearing as described above, and thus exempt of the required public hearing and study outlined in sections [2-4-5](#) and [2-4-6](#) of this chapter. (Ord. 2019-08, 3-12-2019)

2-4-8: APPEALS:

An appeal may be taken from a final decision of the City Council, to make an appropriation. The appeal shall be filed within thirty (30) days after the date of that decision, to the District Court. Any appeal shall be based on the record of the proceedings before the legislative body. A decision of the City Council shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal. (Ord. 2006-13, 9-26-2006; amd. Ord. 2019-08, 3-12-2019)



STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Chief Kelly Bennett
MEETING DATE: May 5, 2022
SUBJECT: Appropriation of seized evidence as public interest use by a government agency

RECOMMENDED ACTION

Approve Resolution R2022-R08 and appropriate evidence seized in a crime to public interest use.

DESCRIPTION / BACKGROUND

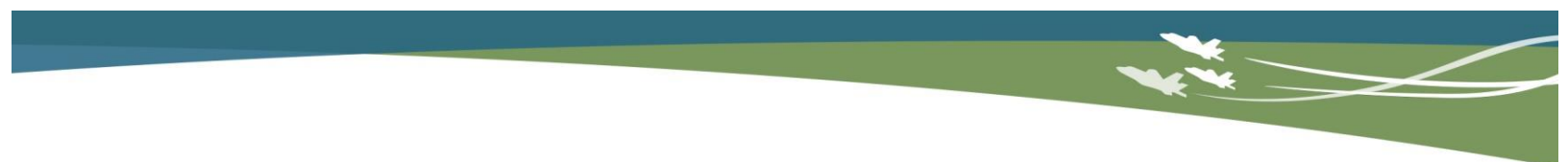
In December of 2019, the Clearfield Police Department conducted a child pornography investigation and subsequently the suspect was arrested, convicted, and sentenced for possessing child pornography (Clearfield Police Case Number 19-12663). During the investigation, dozens of child pornography images were found on an Xbox gaming device (stored on the hard drive). The Xbox was seized and booked into the Clearfield Police Department Evidence Room. Since the case was adjudicated, the Davis County Attorney's Office has authorized the destruction of the Xbox.

Pursuant to Utah Code Annotated § 24-3-103, if the rightful owner is not entitled to lawfully possess the property, the law enforcement agency may apply the property to a public interest use. Additionally, before the property can be applied to a public interest use, the agency's legislative body shall give permission to apply the property to public interest use and approve of the designation of the public interest use.

The police department would like to remove and destroy the hard drive as directed by Utah Code and then use the "shell casing" of the Xbox in proactive investigative operations. The police department has seen an increase in auto burglaries throughout the city. The detective division will use the Xbox shell as a "decoy" item with a GPS transmitter attached to the device. The Xbox will be placed into a vehicle and will be tracked if the item is unlawfully removed from the vehicle. This is a common practice of law enforcement agencies and is a proactive strategy; focusing on areas where an increase in crime is occurring. The police department is requesting the appropriation of this item for public interest use.

HEDGEHOG ANALYSIS

There is not a hedgehog analysis.



CORRESPONDING POLICY PRIORITY (OR PRIORITIES)

The use of the gaming device helps the police department provide quality municipal services through proactive investigations. There is an increase in auto burglaries, and this allows the police department to be proactive and concentrate on areas of the city where there is an increase in theft investigations. As we continue to address crime and at times the increase in crime, the police department wants to create a place where people want to be.

FISCAL IMPACT

There is no fiscal impact.

ALTERNATIVES

Purchase a used gaming device for proactive investigative enforcement.

SCHEDULE / TIME CONSTRAINTS

If approved, the property will be transferred to the police department for use in proactive investigative enforcement.

LIST OF ATTACHMENTS

Resolution 2022-R08

Utah Code Ann. § 24-3-103

Effective 5/5/2021

24-3-103 Disposition of property.

- (1) If a prosecuting attorney determines that seized property no longer needs to be retained for court proceedings, the prosecuting attorney may:
 - (a) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;
 - (b) petition the court for an order transferring ownership of any weapons to the agency with custody for the agency's use and disposal in accordance with Section 24-3-103.5, if the owner:
 - (i) is the individual who committed the offense for which the weapon was seized; or
 - (ii) may not lawfully possess the weapon; or
 - (c) notify the agency with custody of the property or contraband that:
 - (i) the property may be returned to the rightful owner if the rightful owner may lawfully possess the property; or
 - (ii) the contraband may be disposed of or destroyed.
- (2) The agency shall exercise due diligence in attempting to notify the rightful owner of the property to advise the owner that the property is to be returned.
- (3)
 - (a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the rightful owner.
 - (b) The law enforcement agency shall determine a reasonable cost to extract the data.
 - (c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.
- (4)
 - (a) Before an agency may release seized property to a person claiming ownership of the property, the person shall establish in accordance with Subsection (4)(b) that the person:
 - (i) is the rightful owner; and
 - (ii) may lawfully possess the property.
 - (b) The person shall establish ownership under Subsection (4)(a) by providing to the agency:
 - (i) identifying proof or documentation of ownership of the property; or
 - (ii) a notarized statement if proof or documentation is not available.
- (5)
 - (a) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.
 - (b) The agency shall:
 - (i) retain a copy of the receipt; and
 - (ii) provide a copy of the receipt to the owner.
- (6)
 - (a) Except as provided in Subsection (6)(b), if the agency is unable to locate the rightful owner of the property or the rightful owner is not entitled to lawfully possess the property, the agency may:
 - (i) apply the property to a public interest use;
 - (ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or
 - (iii) destroy the property if the property is unfit for a public interest use or for sale.
 - (b) If the property described in Subsection (6)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 24-3-103.5.

- (7) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:
 - (a) permission to apply the property or the proceeds to public interest use; and
 - (b) the designation and approval of the public interest use of the property or the proceeds.
- (8) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Amended by Chapter 230, 2021 General Session

RESOLUTION NO. 2022R-08

A RESOLUTION OF THE CITY OF CLEARFIELD CITY COUNCIL GRANTING PERMISSION FOR THE CLEARFIELD POLICE DEPARTMENT TO APPROPRIATE CERTAIN PROPERTY IN ITS POSSESSION TO PUBLIC INTEREST USE.

WHEREAS, the Clearfield City Police Department has acquired possession of an X-box gaming system, serial # 046904572416, with no internal hard drive, as evidence of a crime and has received confirmation from the prosecutor that the item is no longer needed as evidence;

WHEREAS, the prosecuting entity have affirmed that the item is no longer needed as evidence; and

WHEREAS, the City Council finds that the X-box could be put to beneficial public use through using the item as a “bait” item in proactive investigative operation.

BE IT RESOLVED, therefore, by the City Council of the City of Clearfield City that, pursuant to Utah Code Ann. § 24-3-103, the property identified may be appropriated for public interest use through using the item as a “bait” item in a proactive investigative operation.



STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Ricki Miller, Human Resource Manager and Summer Palmer, Assistant City Manager
MEETING DATE: May 17, 2022
SUBJECT: Observance of Juneteenth

RECOMMENDED ACTION

Staff recommends council follow the lead of the Federal, State and County Governments in observing Juneteenth as a holiday in Clearfield.

DESCRIPTION / BACKGROUND

In his [Proclamation](#) made on June 18, 2021 declaring Juneteenth a National Holiday, President Biden remarked,

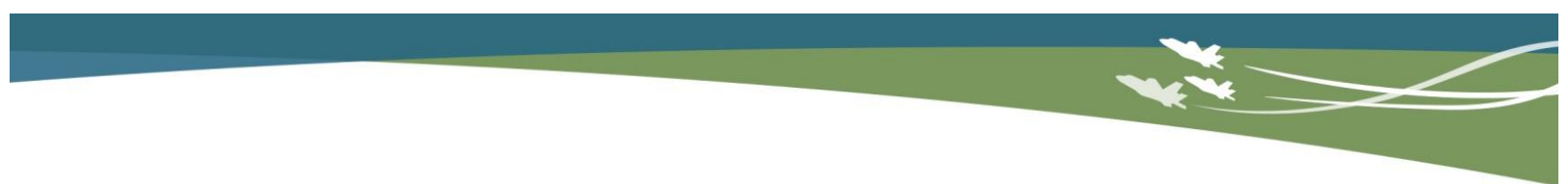
"On June 19, 1865 — nearly nine decades after our Nation's founding, and more than 2 years after President Lincoln signed the Emancipation Proclamation — enslaved Americans in Galveston, Texas, finally received word that they were free from bondage. As those who were formerly enslaved were recognized for the first time as citizens, Black Americans came to commemorate Juneteenth with celebrations across the country, building new lives and a new tradition that we honor today. In its celebration of freedom, Juneteenth is a day that should be recognized by all Americans. And that is why I am proud to have consecrated Juneteenth as our newest national holiday.

I call upon the people of the United States to acknowledge and celebrate the end of the Civil War and the emancipation of Black Americans and commit together to eradicate systemic racism that still undermines our founding ideals and collective prosperity."

As a note, many Americans observed Juneteenth prior to this Proclamation in [celebration of freedom](#) and ancestral sacrifice, while also taking the opportunity to inspire change and hope for the future.

During the 2022 Legislative Session, the Utah State Legislature passed [HB0238](#) designating Juneteenth a Utah State holiday and in March of 2022 the [Davis County Commission](#) approved the addition of Juneteenth to the county's holiday schedule. Many local entities including, Farmington, Layton, Centerville, West Bountiful, South Weber, Weber County, Weber School District and Davis School District have also added the holiday and plan to observe it by closing their workplaces on that day.

Observance of the holiday would include being closed to the public annually on June 19th and adding an additional paid holiday to the list of observances in the Policy and Procedure Manual.



Our current holiday schedule includes the following twelve holidays:

- New Year's Day
- Martin Luther King Jr. Day
- Presidents Day
- Memorial Day
- Independence Day
- Pioneer Day
- Labor Day
- Veterans Day
- Thanksgiving
- Day after Thanksgiving (in leu of Columbus Day)
- Christmas Eve Christmas Day

Juneteenth would be the City's 13th official holiday.

CORRESPONDING POLICY PRIORITY (IES)

Providing quality municipal services – Adding another holiday means that there would be one less day to accomplish some of our work. Obviously, public safety would continue to operate 24/7, and the Clearfield Aquatic and Fitness Center would also be open on the holiday, but other operations would not.

Improving Clearfield's image, livability, and economy – Clearfield can “lead out” in the state with our recognition of our city's diverse population and the importance of this observance. More importantly, we should consider what message will be sent (whether intentionally or not) if Clearfield chooses to not recognize the day.

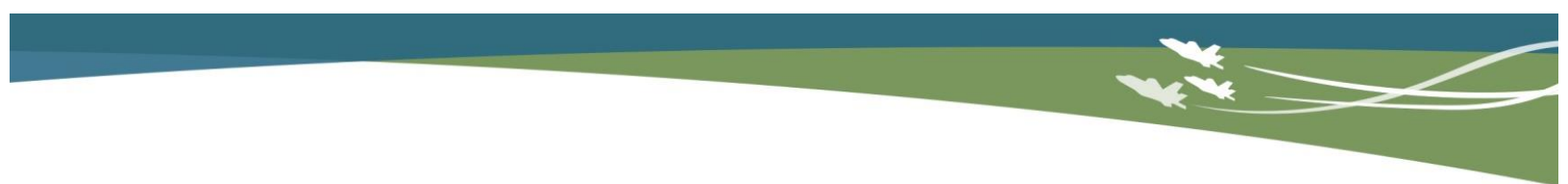
Maintaining a highly motivated and well-trained workforce – The additional holiday would enhance the benefits side of our total compensation offerings to our employees. And while initially Clearfield might be one of the “early adopters” if this holiday is added, we expect that it won't be long before it is the norm among public entities.

HEDGEHOG ANALYSIS

Scores in the “High Value” category of the Hedgehog Model.

FISCAL IMPACT

The financial impact is minimal, around \$6,000 annually depending on how many staff members work the day. In addition, if the city buildings are closed and employees are not at work there could be some service disruptions and loss of work time. However, we would make sure to notify residents about the closures if approved.



ALTERNATIVES

- Council could make a proclamation recognizing the holiday but not observe the day with closures.
- Council could direct staff to substitute a current paid day off or holiday, for this holiday.

SCHEDULE / TIME CONSTRAINTS

As the holiday is next month, this is a timely decision. Additional notice should result in fewer disruptions to our residents and employee work schedules.

LIST OF ATTACHMENTS

- None



STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Spencer W. Brimley, Community Development Director
MEETING DATE: Tuesday, May 17th, 2022
SUBJECT: Discussion regarding new city signage at three locations in the city.

RECOMMENDED ACTION

Staff is seeking City Council feedback and direction regarding new monument signs in various locations in the City.

DESCRIPTION / BACKGROUND

Community Services is seeking to install new monument signs in three locations within the City. The locations are as follows: the front lawn of City Hall, Steed Park and Cornerstone Park. This discussion is meant to help Community Services fine tune the design and receive direction on signage to limit revisions. The conceptual sign is inconsistent with Clearfield City Code and also required some discussion on how best to regulate these signs, if they are to be allowed at the proposed locations. These signs would provide information to the public, through an electronic message center (EMC), as well as act as city indicators for entry or gateway areas to the city. The EMC would be surrounded by a monument sign with city logo and architectural feature.

Staff will provide an analysis via presentation during the work session. The concept plans have been included as an attachment to this report.

SIGN LOCATION:

1. City Hall (front lawn): C-V - Civic
2. Cornerstone Park (South Main and Gordon): R-1-8 - Single Family Residential
3. Steed Park (100 West & 300 North): P-F - Public Facilities

FISCAL IMPACT

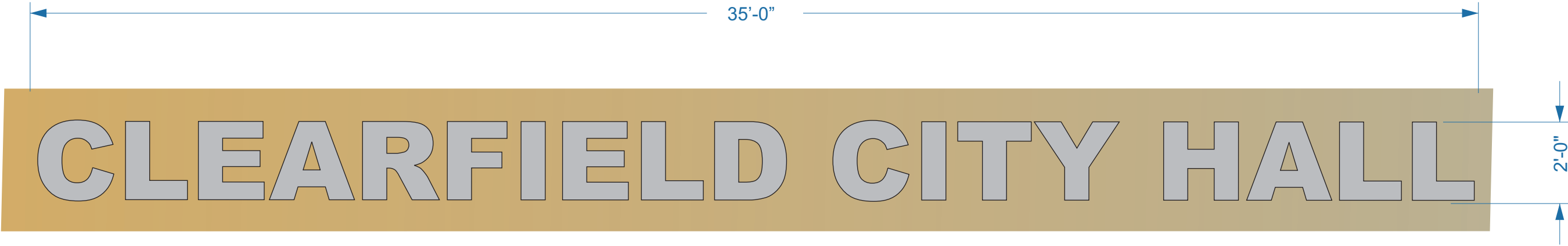
Costs associated with City signs would be the only fiscal consideration. Curtis Dickson is handling this project for Community Services and can speak to the costs and any other fiscal impacts.

LIST OF ATTACHMENTS

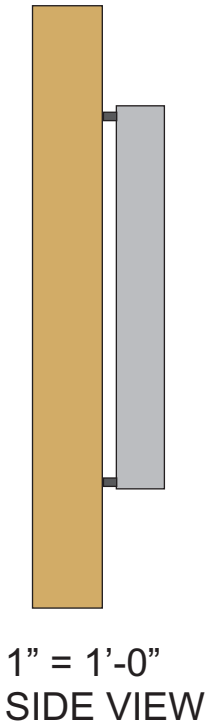
1. Clearfield City Signs



Client: CLEARFIELD CITY	CONTACT:	SALES APPROVAL:	SURVEY NAME & DATE	CUSTOMER APPROVAL	NAME	DATE	INITIAL	
Address:	PHONE:	Designer: KJ		PERMIT DATE	LANDLORD APPROVAL	NAME	DATE	INITIAL
	EMAIL:	Sales: JB						
File Name: CLEARFIELD CITY MONUMENT 2-24-21								



3/8" = 1'-0"



SPECIFICATIONS

MFR & INSTALL (1) SET
NON-ILLUMINATED
REVERSE CHANNEL LETTERS

FACES:.063 BRUSHED SILVER
RETURNS: .040 BRUSHED SILVER 3" DEEP

CONCEPT

SPECIFICATIONS

MFR & INSTALL
(1) MONUMENT SIGN &
EMC DISPLAY W/REVERSE
CHANNEL LETTERS

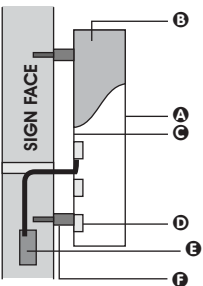
CABINET: ALUMINUM CONSTRUCTION
PAINT COLOR TBD

TOP PORTION: ① BRUSHED SILVER

LETTERS: REVERSE CHANNEL HALO
ILLUMINATED RGB

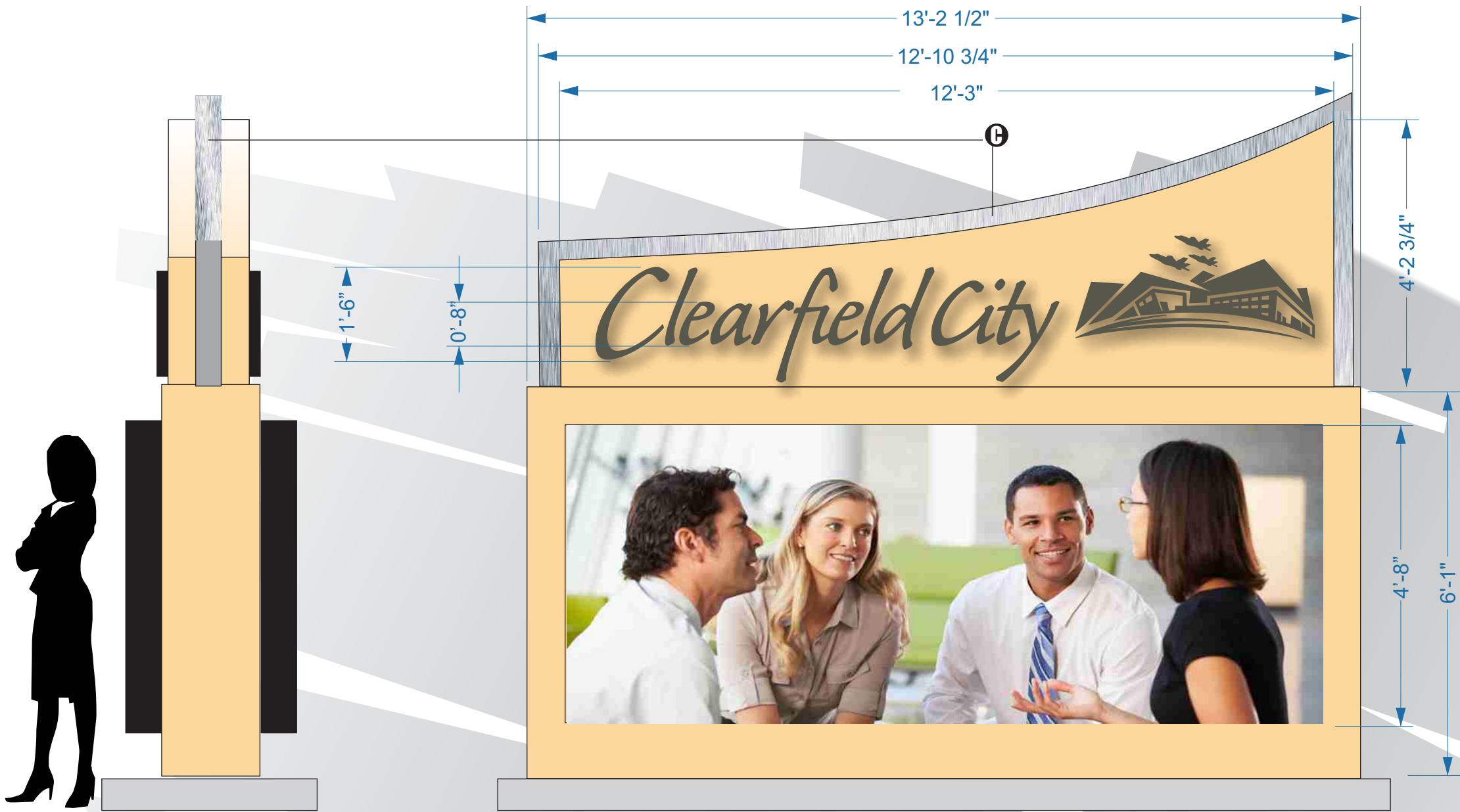
- ① FACES: .063 ALUMINUM PAINTED DURANODIC
- ② RETURNS: .040 ALUMINUM 3" DEEP PAINTED P1
- ③ BACKS: 3/16" CLEAR LEXAN
- ④ ILLUMINATION: RGB LEDs
- ⑤ POWER SUPPLY: REMOTE HOUSED IN POWER SUPPLY BOX
- ⑥ MOUNTED WITH STANDOFFS 2" FROM FASCIA

- VISIBLE DISCONNECT SWITCH AT SIGN
- 120V SERVICE SUPPLIED BY OTHERS



TYPICAL SECTION VIEW
NTS

EMC: DAKTRONIC 16mm 80x225



1/2" = 1'-0"



NIGHT VIEW NTS