

CLEARFIELD CITY COUNCIL
AGENDA AND SUMMARY REPORT
May 24, 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

Update on the General Plan Process

Discussion on Amendments to the Form Based Code Regarding Signs

(Any item not fully addressed prior to the Policy Session will be addressed in a Work Session immediately following the Policy Session)

****ADJOURN THE CITY COUNCIL WORK SESSION****

City Council Chambers
55 South State Street
Third Floor
Clearfield, Utah

7:00 P.M. POLICY SESSION

CALL TO ORDER:

OPENING CEREMONY:

APPROVAL OF MINUTES:

Mayor Shepherd
Councilmember Roper
October 26, 2021 – Work Session
May 3, 2022 – Special Session
May 3, 2022 – Work Session
May 10, 2022 – Policy Session
May 10, 2022 – Work Session

PUBLIC HEARINGS:

1. **PUBLIC HEARING TO REVIEW AMENDMENTS TO THE CR ZONE ALLOWING SINGLE-FAMILY DWELLINGS AS A PERMITTED RESIDENTIAL USE - WITHDRAWN**

BACKGROUND: The applicant has withdrawn the application for consideration.

2. PUBLIC HEARING TO REVIEW AMENDMENTS TO THE GENERAL PLAN AND THE REZONE REQUEST FROM COMMERCIAL TO MIXED USE AND C2 (COMMERCIAL) TO CR (COMMERCIAL RESIDENTIAL) FOR PROPERTIES LOCATED AT APPROXIMATELY 500 WEST 1700 SOUTH - **WITHDRAWN**

BACKGROUND: The applicant has withdrawn the application for consideration.

SCHEDULED ITEMS:

3. OPEN COMMENT PERIOD

The Open Comment Period provides an opportunity to address the Mayor and City Council regarding concerns or ideas on any topic. To be considerate of everyone at this meeting, public comment will be limited to three minutes per person. Participants are to state their names for the record. Comments, which cannot be made within these limits, should be submitted in writing to the City Recorder at nancy.dean@clearfieldcity.org.

The Mayor and City Council encourage civil discourse for everyone who participates in the meeting.

4. CONSIDER APPROVAL OF ORDINANCE 2022-11 AMENDING TITLE 1, CHAPTER 16- CODE ENFORCEMENT REGARDING REQUESTS FOR COMPLIANCE

BACKGROUND: During the 2021 City Council retreat direction was provided to amend the current code enforcement administration to replace the current “Notice of Violation (NOV) with a “Request for Compliance” (RFC). Additionally, during that meeting staff received direction that code efforts should be more reactive, responding to complaints or suspected violations, rather than being proactive. The proposed ordinance defines and initiates those changes.

RECOMMENDATION: Approve Ordinance 2022-11 amending Title 1, Chapter 16 – Code Enforcement regarding Requests for Compliance and authorize the Mayor’s signature to any necessary documents.

5. CONSIDER APPROVAL OF RESOLUTION 2022R-08 APPROPRIATING SEIZED PROPERTY FOR A PUBLIC INTEREST USE

BACKGROUND: The Police Department has seized property it would like to appropriate to investigations. The prosecuting entity has affirmed the item is no longer needed as evidence. State Law requires the City Council consider the appropriation of such property to be use for a public interest use.

RECOMMENDATION: Approve Resolution 2022R-08 Appropriating seized property for a public interest use and authorize the Mayor’s signature to any necessary documents

COMMUNICATION ITEMS:

Mayor's Report
City Councils' Reports
City Manager's Report
Staffs' Reports

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

Dated this 19th 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 Shephard and City Council Members
From: Spencer W. Brimley, Community Development Director
Meeting Date: Tuesday, May 24, 2022
Subject: Council Discussion - Clearfield City General Plan and next steps

Recommended Action

Staff is seeking to update the City Council on the status of the General Plan and discuss changes to obtain the necessary outcome. Staff is also looking for direction from the City Council to better understand how to obtain useful feedback and input to inform the General Plan update.

Description / Background

As best practice community General Plans are updated every 5-10 years. The last major update to the General Plan occurred within the last decade and is long overdue. The City has performed minor updates and edits as requested by the Council or made necessary by new requirements from the State Legislature. These changes along with the creation of downtown FBC zoning area have necessitated the recent request to perform a comprehensive update to the City's General Plan. A consultant was selected, and work commenced, however, as of April of this year staff has ended the contract and is seeking to partner with a new consultant to complete the needed work on the update. Additionally, the State Legislature has adopted new legislation that is to be incorporated into a municipal General Plan.

It is staff's opinion that the success of the update was limited due to the combination of a few things. First, the lack of public participation and feedback provided a very limited arena for context and insight into the community. Public outreach and engagement are important for any process and allows the consultant to better understand the community to inform their analysis. Second, VODA's approach to the update was to take all city documents, analyses and other information and blend that into comprehensive goals, ideas, and objectives. The first few meetings with the PC were spent discussing this consolidation of ideas and plans to come up with a broad, overarching policy for the General Plan. Third, the PC has never undertaken an update to the General Plan and some on the commission felt overwhelmed by the task and found it difficult to sift through the jargon and technical language proposed by VODA after their consolidation of information. Finally, the issues of poor data and lack of responsiveness to staff suggestions and edits stalled any progress and ultimately led staff to the conclusion that the partnership created was not producing the desired results and should be ended.

Staff has provided a general timeline of the project below. The timeline is meant to help the Council be aware of the length of this process and the elements that undermine the success. This project was commenced in September/October of 2020 with a completion date in and around May of 2021. The city received \$55,000 from the WFRC Transportation and Land Use Connection grant program (TLC) and matched with \$95,000 dollars.

Fall 2019:

- Clearfield City prepares the application for Transportation and Land Use Connection (TLC) funding with a match of \$95,000, and requests WFRC funding in the amount of \$55,000 to update the City General Plan.

Spring 2020:

- Clearfield City, in partnership with Wasatch Front Regional Council (WFRC), is awarded a TLC grant in the amount of \$150,000 (\$95K/\$55K) for the purpose of updating the Clearfield City General Plan.

Fall 2020 (August):

- Staff and WFRC selected VODA Landscape and Planning for the project and began work on the project in October 2020.

October 2020:

- Soon after the contract execution, staff and VODA met with the Council to discuss the process and scope. During the meeting the Council expressed a desire to have the Planning Commission play a more active role in the update and do more of the “heavy lifting”. Additionally, the City Council suggested many in the community were possibly suffering from “planning fatigue” and that efforts to obtain feedback would be better suited for the final product.
- Staff and the consultant undertook discussion and considered changes to the scope and approach to remove the public input and feedback and focus efforts on obtaining feedback from the Planning Commission (PC) with some public input to be received when a final version was prepared.

November 2020 – July 2021

- Monthly meeting with Planning Commission to evaluate and discuss elements to be updated and proposed changes to GP.
- Staff met bi-weekly with consultant to evaluate information to be presented to the PC and provided feedback prior to each meeting. These meetings were to encourage the PC to provide feedback and engage in the update process.
- Information provided during PC meetings made the commission feel presented to and not able to provide feedback. Commission members provided feedback on occasion outside of the PC meetings, that staff sought to incorporate in the process.

- Staff identified issues with the overall presentation of the document. Missing opportunities to showcase efforts and discuss catalytic opportunities undertaken by the City.
- Data became a concern for staff as it was not up to date and relevant for the coming years. Issues with COVID and the census data became a stumbling block for the consultant and limited staff confidence that the data would accurately portray the community for years to come.
- Received new requirements from the Legislature during the 2021 sessions.
- July 2021 was the end of the chapter-by-chapter analysis and VODA began to compile a full draft document.
- Staff provided monthly letters to the public to inform them about PC work sessions and to solicit participation. However, these did not yield any additional public participation

September 2021

- Consultant provided a full final draft document for staff to review on September 30, 2021
- Staff spent a month on the review of the draft plan and provided redlines to VODA on November 5, 2021. These were extensive and included content, grammar, graphics, and data.

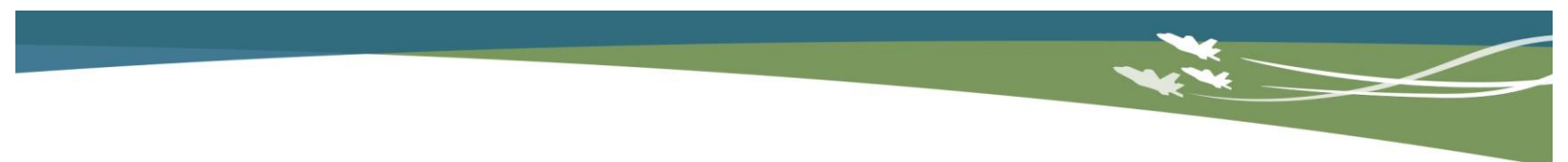
November 2021 – March 2022

- Staff provided full edits to the draft plan as well as recommended changes to the future land use map. Staff continued their review and exchanging of emails with VODA and WFRC working through language, images, poor quality writing, etc.
- Staff communicated with WFRC on these concerns and held several meetings with VODA and WFRC to identify the path forward to complete the update in the proper manner and with a document the city could be proud of that would last until the next update process.
- 2022 legislative sessions have created additional requirements for the city to respond to.

April 2022 General Plan project contract with VODA is closed out.

- After several meetings and discussions, it was decided to end the contract, and select a new consultant to help the City finish the project. WFRC is committed to provide financial support based on the needed scope, given the City's sizeable investment for this project, and the unfortunate failure to date.

Next steps: May 2022

- 
- Staff is drafting a revised scope to see work completed
 - WFRC will provide funding based on the needed scope
 - Staff believes public engagement is necessary to help the PC find success in the process
 - o Surveys, open house, etc.
 - Staff is seeking feedback from the Council on elements of the scope that are essential to them and will help to define what success looks like.

Corresponding Policy Priorities

- Providing Quality Municipal Services
- Improving Clearfield's Image, Livability, and Economy

Fiscal Impact

Clearfield has allocated \$95,000 to this project with all but a small portion of the money having been expended by the contract. The Consultant performed much of the work required by the scope minus the allotment of the budget for public outreach and the update to the Moderate-Income Housing Plan (approximately \$3,000).

As stated above WFRC is willing to commit funds to the city to see this project completed to the satisfaction of the City. Staff is working on an updated scope of work to identify the total costs necessary to see this take place. The scope of work is necessary to show all work that is to be done and point those costs to obtain the needed funding from WFRC.

Alternatives

- Keep the General Plan in its current form (out of date)
- Adopt the version of the General Plan provided by the consultant after final edits and corrections are completed by staff
- Hire a new consultant (along with WFRC assistance) to finish the process of updating the plan with all the requirements necessary for compliance with recent and past LUDMA changes
- Any additional options or considerations from the Council to complete the update

Schedule / Time Constraints

With the recent requirement from the state legislature regarding water and updates to the station area plan staff is hoping to move quickly.



List of Attachments

- Scope of Work

ATTACHMENT B

Scope of Work



PHASE I (~1 MONTH, SEPTEMBER 2020)

TASKS | KICKOFF

- Conduct Kick-Off Meeting
- Staff Coordination with Clearfield City
- Project Management
- Organization and Scheduling
- Stakeholder and Steering Committee Identification (The Steering committee would be an internal group specifically tasked with coordinating the GP process. The stakeholder group would be business owners, other entities (UDOT, UTA, etc) that may only need an update less frequently, or a direct interview.)

OBJECTIVES:

Project Visioning
Establishment of overall goals and objectives
Form Stakeholder Group
Steering Committee Formed
Develop Public Outreach Plan
Initial Introduction to City Council & Planning Commission

DELIVERABLES:

Public Outreach Plan
Initial meeting with Stakeholder Group
Work Session Presentations to Council & Commission

Phase 1 will focus on project organization and scheduling bimonthly recurring meetings for steering committee group and work sessions with City Council and Commission. Laying the groundwork with elected and appointed officials is also a vital task. Ensuring that the city council and planning commission members are involved and updated on the goals of the project will facilitate a smoother adoption process when action items for the General Plan are to be officially recognized. This phase will also include developing potential dates and strategies for the Public Outreach Plan.

PHASE II (~ 2 MONTHS, OCTOBER-NOVEMBER 2020)

TASKS | EXISTING CONDITIONS ANALYSIS

- Review Background Data
- Evaluate City/County Resources
- Assess Current Demographic Projections
 - housing analysis
- **Public Engagement #1(October)**

OBJECTIVES:

Identify Existing Conditions Constraints/Opportunities

Understand previous planning efforts, and documents
Develop Initial Updated General Plan Concepts & Small Area Plan locations
Branding Discussions to Clarify City Identity
Public & Stakeholder Discussion Development
Initial Feedback Presentation to Council

DELIVERABLES:

Existing Conditions Analysis
Economic Development Opportunity Concepts
Transportation Improvement Concepts
Updates to Moderate Income Housing Plans
Small Area Plan boundary mapping
Public Hearing Presentations to Council & Commission
Public Engagement #1

As a first step to better understand the assets, opportunities, and challenges that Clearfield City has, the second phase will focus on the gathering of information city-wide as well as research pertaining to individual neighborhoods. We will draw on our team's experience to perform analyses on current market conditions, land uses, as well as connectivity constraints and opportunities.

The other crucial step in Phase II is to further develop the Public Engagement Effort. Soliciting comments, feedback, and suggestions, from community members, local experts, and city personnel through stakeholder meetings, open houses, in-person interviews, and online methods will help the VODA team gain an accurate understanding of the existing conditions of the area, as well as the various goals and objectives that the interested parties have for the City.

PHASE III (~3 MONTHS, DECEMBER-FEBRUARY 2021)

TASKS | EVALUATE OPPORTUNITIES AND CONSTRAINTS

- Establish Goals and Objectives
- Define Area Recommendations
- Identify Implementation Strategies for further development
- Concept Refinement and Presentation
- Fiscal Evaluation of Recommendations
- Limitations Due to Existing Infrastructure and Zoning
- Establish Requirements for Optimal Mix of Uses
- Identify Land Use and Connectivity Needs, Existing and Future
- Parking Considerations

OBJECTIVES:

- General Plan Policy Development & Drafting
- Development of public and stakeholder support
- Update Council & Commission

DELIVERABLES:

General Plan Draft and Mapping
Public Engagement #2 (January)
Work Session Presentations to Council & Commission

The third phase focuses on developing strategies and policies for inclusion in the General Plan. Case studies and best practices are applied to the areas within the city boundary and the five central elements of the General Plan are drafted:

- Land Use
- Transportation
- Economic Development
- Open Space
- Environment

During this phase, the majority of the General Plan update will be drafted, including updating land use and transportation maps as required by state law, and SB34. Drafts of text and proposed recommendations will be reviewed and discussed with stakeholder group.

PHASE IV (~2 MONTHS. MARCH-APRIL 2021)

TASKS | FINAL PLAN, REVIEW, AND, ADOPTION

- Final Plan Drafting & Presentation
- Revisions & Updates
- Plan Adoption Presentations

OBJECTIVES:

- Finalization of General Plan and Adoption
- Updates to public and stakeholder groups

DELIVERABLES:

- Final General Plan Document

Public Engagement #3 (March)

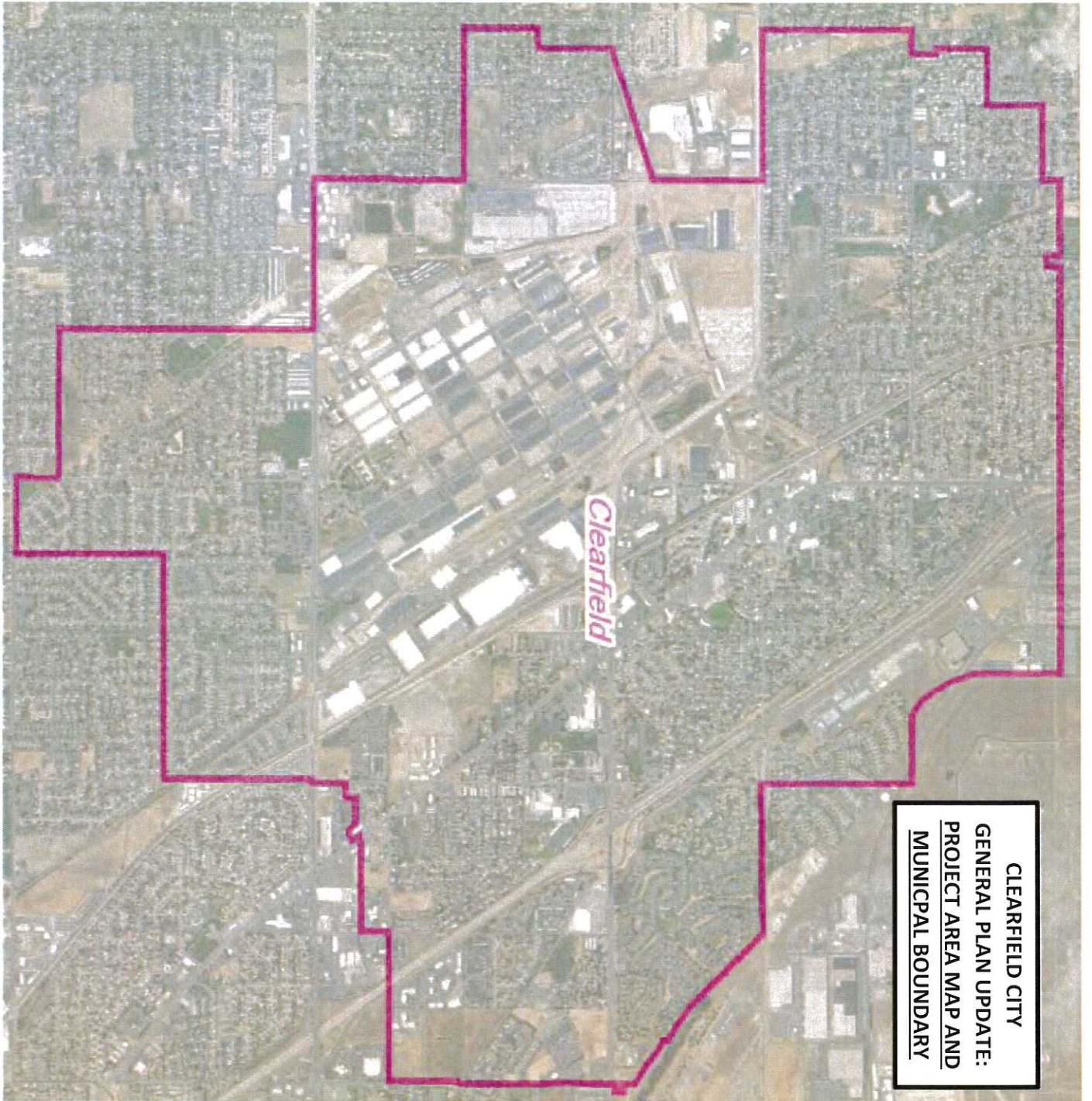
- Public Hearing Presentations to Council & Commission for Adoption

During Phase III, a draft of the General Plan will be reviewed by City staff, stakeholders, council and commission, as well as a third engagement with the public on what the proposed plan "is." This final draft will be available for comment and the VODA team will revise and update as needed.

Once both the General Plan documents have been developed, reviewed and revised according to stakeholder and steering committee input, our team will present the documents to Planning Commission and City Council for approval and adoption.

At adoption, the General Plan will include 'next step' recommendations and phasing plans that may include:

- Land Use Recommendations
- Housing Policy Recommendations
- Active Transportation Improvements
- Economic Development Strategies
- Open Space Recommendations
- Policy & Zoning Update Recommendations



ATTACHMENT C

Budget and Responsibilities

Budget

Fees for the above services are a lump sum of **\$150,000**

The contributions for the project to the CONSULTANT are as follows, but funds will be distributed through WFRC:

Transportation and Land Use Connection Program: \$55,000

Combined Local Governments: \$95,000

- (1) Completion: All work shall begin within seven (7) days of the notice to proceed and shall be completed by May 1, 2021.
- (2) Project / Contract Period: The project / contract will terminate on 7/31/2021 unless otherwise extended or canceled in accordance with the terms and conditions of this contract. If additional time is required beyond the project completion date, the WASATCH FRONT REGIONAL COUNCIL will prepare a "Contract Modification" at their reasonable discretion that will include remaining schedule and deliverables to completion for approval by the CONSULTANT.
- (3) Should additional services be required beyond this scope, CONSULTANT will provide them on a time and materials basis as approved and funded by the requesting local government. This will all be requested and agreed to outside the scope of this contract.

Responsibilities

- (1) Certification of Insurance: The CONSULTANT must file a current Certification of Insurance to WFRC prior to beginning work.

BUDGET ALLOCATION (1/1)

Fee Proposal		20-Jul-20	
Clearfield General Plan Update			
Task 1: Project Management, Coordination (8 Months)			
Kickoff meeting			
Team coordination, meetings, presentations			
Public Outreach Plan Finalization			
Stakeholder Meetings, Coordination, Interviews			
	HOURS	388.00	\$24,340.00
Task 2: Existing Conditions Analysis (2 months)			
Review and Reference Existing Plans			
Evaluate City Resources, Policies, Plan Vision			
Assess Demographic Projections, Focus Group Discussions			
Public Engagement #1			
	HOURS	348.00	\$24,680.00
Task 3: Evaluate Opportunities & Constraints (2.5 months)			
Infrastructure & Gaps Analysis, Market Study Updates			
Land Use, Economics, & Connectivity Needs			
Gather Best Practices & Case Studies			
Compile Existing Conditions Report, Presentation			
	HOURS	404.00	\$31,700.00
Task 4: General Plan Development (3 months)			
Finalize Goals & Objectives			
Define Area Recommendations			
Identify Implementation Strategies			
Public Engagement #2			
Plan Development, Policy, & Mapping Drafts			
	HOURS	428.00	\$42,160.00
Task 5: Final Plan Development & Adoption (2 months)			
Strategy Finalization, Prioritization			
Final Plan Drafting & Presentation			
Revisions & Updates			
Public Engagement #3			
Plan Adoption Presentations			
	HOURS	254.00	\$22,920.00
TOTAL HOURS		1568.00	
REIMBURSABLE COSTS - travel expenses, printing, binding, etc.			TBD
TOTAL FEE			\$145,800.00

Budget Allocated to Consultants:

Fehr & Peers	\$25,000.00	included in fee total above
Zions Bank Public Finance	\$20,000.00	included in fee total above

ATTACHMENT D

Local Government Understanding and Agreement

Local Government Information

Local Government:	City of Clearfield
Contact Address:	55 State St, Clearfield, UT 84015
Contact Email:	Spencer.Brimley@Clearfield.org

The LOCAL GOVERNMENT has reviewed the consultant's qualifications, scope of work, schedule, budget, and deliverables and agrees with such.

Further, the LOCAL GOVERNMENT is committed to working with both the CONSULTANT and the WFRC to make this effort a success.

Further, the LOCAL GOVERNMENT will provide all needed support and assistance as outlined in the scope of work.

Further, the LOCAL GOVERNMENT will provide post-project updates to WFRC regarding project related developments at major milestones or as requested by WFRC.

A LOCAL GOVERNMENT representative, listed above or otherwise modified in writing, will manage the project with support and assistance from WFRC and will provide periodic updates of the project's progress to the LOCAL GOVERNMENT governing body, appointed boards or commissions, and interested LOCAL GOVERNMENT stakeholders.

WFRC will compensate the consultant pursuant to the terms of the Agreement, with review and consultation from the LOCAL GOVERNMENT.

Finally, it is understood that the governing body of the LOCAL GOVERNMENT will in earnest consider the final products for formal adoption.

2 SEPT 2020

Date


Mayor Mark Shepherd



STAFF REPORT

TO: Mayor Shepherd and City Council Members
FROM: Spencer W. Brimley, Community Development Director
MEETING DATE: Tuesday, May 24th, 2022
SUBJECT: Discussion regarding Lotus Anthem Sign and Davis County Health Department Sign

RECOMMENDED ACTION

These signs are located within the Downtown FBC Area and could have additional repercussions. Staff is seeking City Council feedback regarding proposed signage to ensure conformance with goals and objectives of the FBC, but also be responsive to issues for signage as they arise.

DESCRIPTION / BACKGROUND

Staff has received several requests for signs that do not fully comply with FBC signage requirements.

SIGNS:

1. Davis County Monument sign: C-V Civic Center

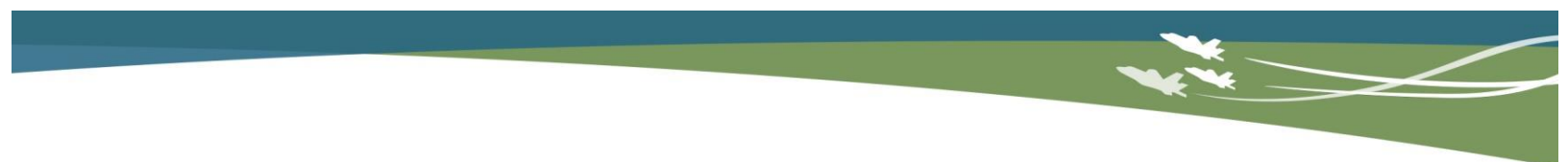
- a. Sign type is permitted but the proposed size is greater than would be allowed. will require some scaling back unless changes to the code are identified for staff to process. Davis County will be removing the EMC portion of the sign and would like to replace it with a simpler sign as an appropriate identifier. Staff believes the simpler sign is a better fit but given its size is not consistent with the currently adopted code.

2. Lotus Anthem Building sign/project: U-R Urban Mixed Residential

- a. Sign type is permitted but the size is greater than code would permit. The sign is meant to be an identifier for the building and project. Because of the angle to the street and the building Lotus would like to have something that projects rather than is flush mounted to be seen from both directions. The sign is flush mounted would be consistent with a wall sign and not require modifications. However, the proposed sign combines two sign types and makes this something unique that the code does not address.

CORRESPONDING POLICY PRIORITY (IES)

The proposed ordinance amendments meet the Policy Priorities of *Providing Quality Municipal Services* and *Improving Clearfield's Image, Livability, and Economy* in the following ways.



FISCAL IMPACT

Costs associated with City signs would be the only fiscal consideration. Community Services has been managing these signs. Questions about costs can be direct to Curtis Dickson.

ALTERNATIVES

Options for this discussion are:

1. Compliance with the FBC for each sign proposed
2. Allow for the consideration of needed modifications for each sign through the DA process with a new development agreement or addendum to outline needed requirements.
3. Allow regulations to be modified for one sign and not the other
4. Other options identified by the council as a means to proceed with approving the requested signs.

LIST OF ATTACHMENTS

1. Davis County Monument sign plan
2. Lotus Anthem Building sign plan

Davis County Health Department

Remove existing D/F monument sign & replace with new D/F monument sign.

Presented By



Salt Lake Region

Salt Lake Office
1605 South Gramercy Road
Salt Lake City, UT 84104
801-487-8481

Version:

OPY #_46912
Date: 04.13.2022

Address:

22 South State Street
Clearfield UT 84015

TYPOGRAPHY NOTE

All vertical typography dimensions specified in this package are based upon the measurement from the baseline to the cap-line of an uppercase letter 'i'. The height of descenders and ascenders, below and above the baseline and cap-line respectively, are not included in the measurements unless specifically noted.



COLOR MATCHING NOTE

Colors specified in this package are to match vendor supplied physical samples. Colors chosen based upon how they appear on a computer monitor or printed media are not guaranteed to match.

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This design does not constitute production ready artwork and is to be used exclusively for proofing and review purposes only.

**YESCO**
DESIGN
1605 South Gramercy Rd.
Salt Lake City, UT 84104
801.487.8481
www.yesco.com
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This drawing was created to assist you in visualizing our proposal. The original ideas herein are the property of YESCO LLC. Permission to copy or revise this drawing can only be obtained through a written agreement with YESCO.

The colors shown are only approximated on any computer monitor, inkjet or laser print. The final product may vary slightly in color from your computer monitor or print.

This sign is installed in accordance with the requirements of Article 600 of the National Electrical Code and / or other applicable local codes. This includes proper grounding and bonding of the sign.

Revisions

No.	Date / Description
1	---

Approval

A/E Sign / Date

Client Sign / Date

Landlord Sign / Date

Davis County Health Department

22 South State Street
Clearfield UT 84015
Acct. Exec: Ben Olson
Designer: Ryan Francis
Orig: 04.13.2022

OPY_46912 R0

scale: as noted

LOC 0.1

 LOTUSTM ANTHEM



Identity
Signs

Salt Lake, UT | Seattle, WA
801.748.4750
sales@idsignco.com

Job # 17150

Client
Lotus

Address
450 S. State St.
Clearfield, UT

Property Owner
Allie Platt

Zone
Residential

Date | Revision | Drawn by
3.17.22 | Permit | B

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Identity Signs

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Sales Person
Kyle Germer

Project Manager
Brooke Davie

Designer
Bella

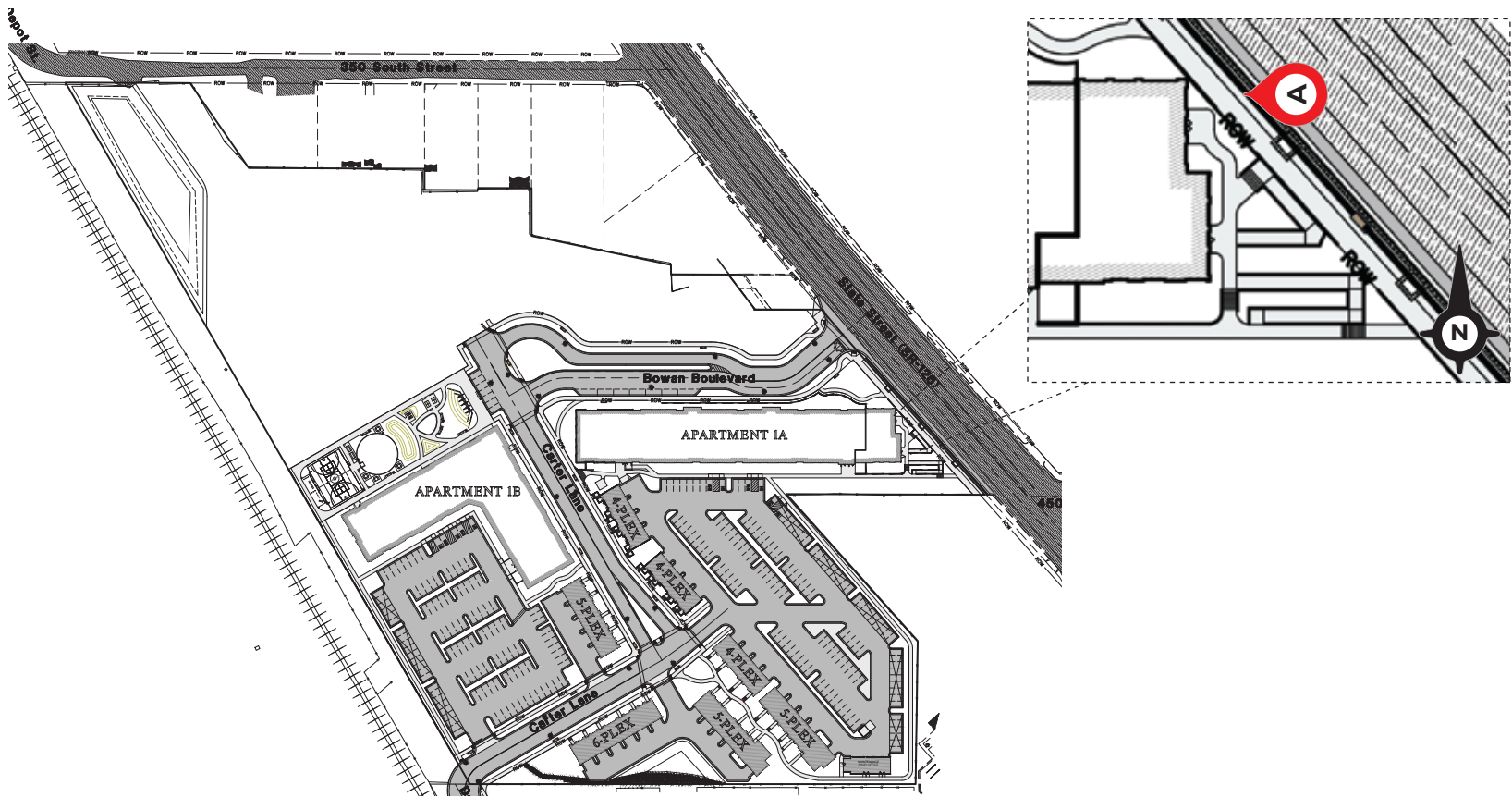
VICINITY MAP



PROPERTY MAP



SITE PLAN



SIGN LEGEND



Exterior Lit Sign

qty 1

52.5ft²

D/S



Identity
Signs

Salt Lake, UT | Seattle, WA
801.748.4750
sales@idsignco.com

Job # 17150

Client
Lotus

Address
450 S. State St.
Clearfield, UT

Property Owner
Allie Platt

Zone
Residential

Date | Revision | Drawn by
3.17.22 | Permit | B

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Sales Person
Kyle Germer

Project Manager
Brooke Davie

Designer
Bella

A

Exterior Lit Cabinet Sign

Description

12" deep lit cabinet sign w/ lit elements and lit push thru acrylic elements. To be mounted to existing brackets

Voltage

Square Feet of Proposed Sign

52.5

Sign Weight

450LBS

Elevation

N

Sq Ft Allowed by City

000

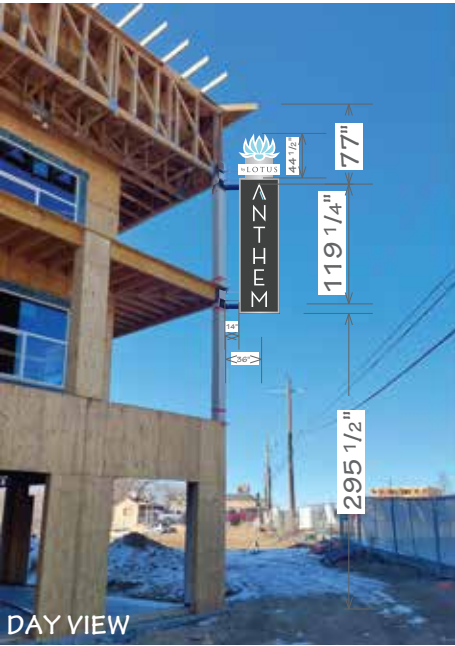
EXISTING CONDITIONS



Site Notes/Prep

Brackets to be moved down a few inches

SIGN RENDERING

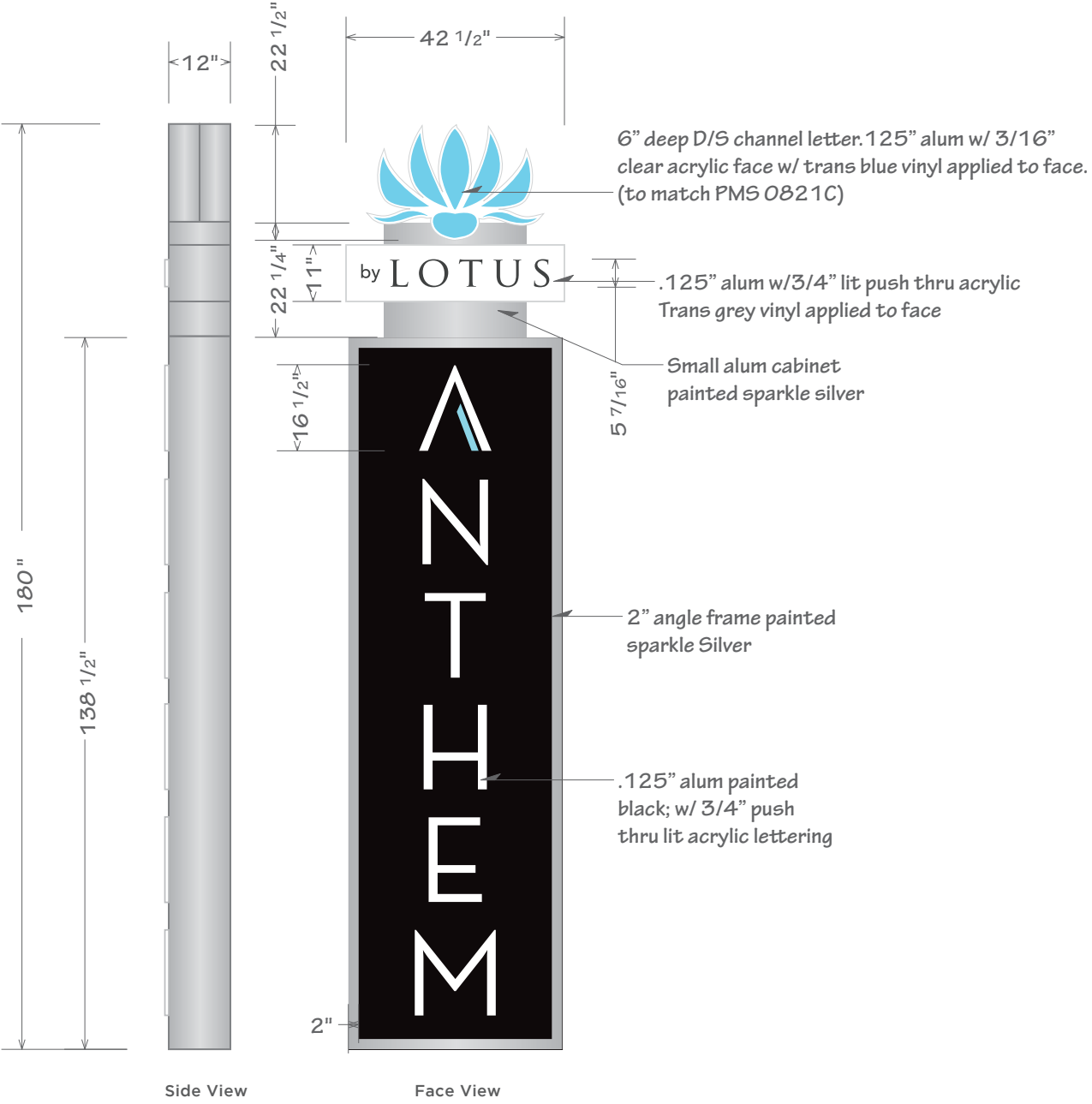


DAY VIEW



NIGHT VIEW

SIGN SPECIFICATIONS



Side View

Face View

Client

Lotus

Address

450 S. State St.
Clearfield, UT

Property Owner

Allie Platt

Zone

Residential

Date | Revision | Drawn by

3.17.22 | Permit | B

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Sales Person

Kyle Germer

Project Manager

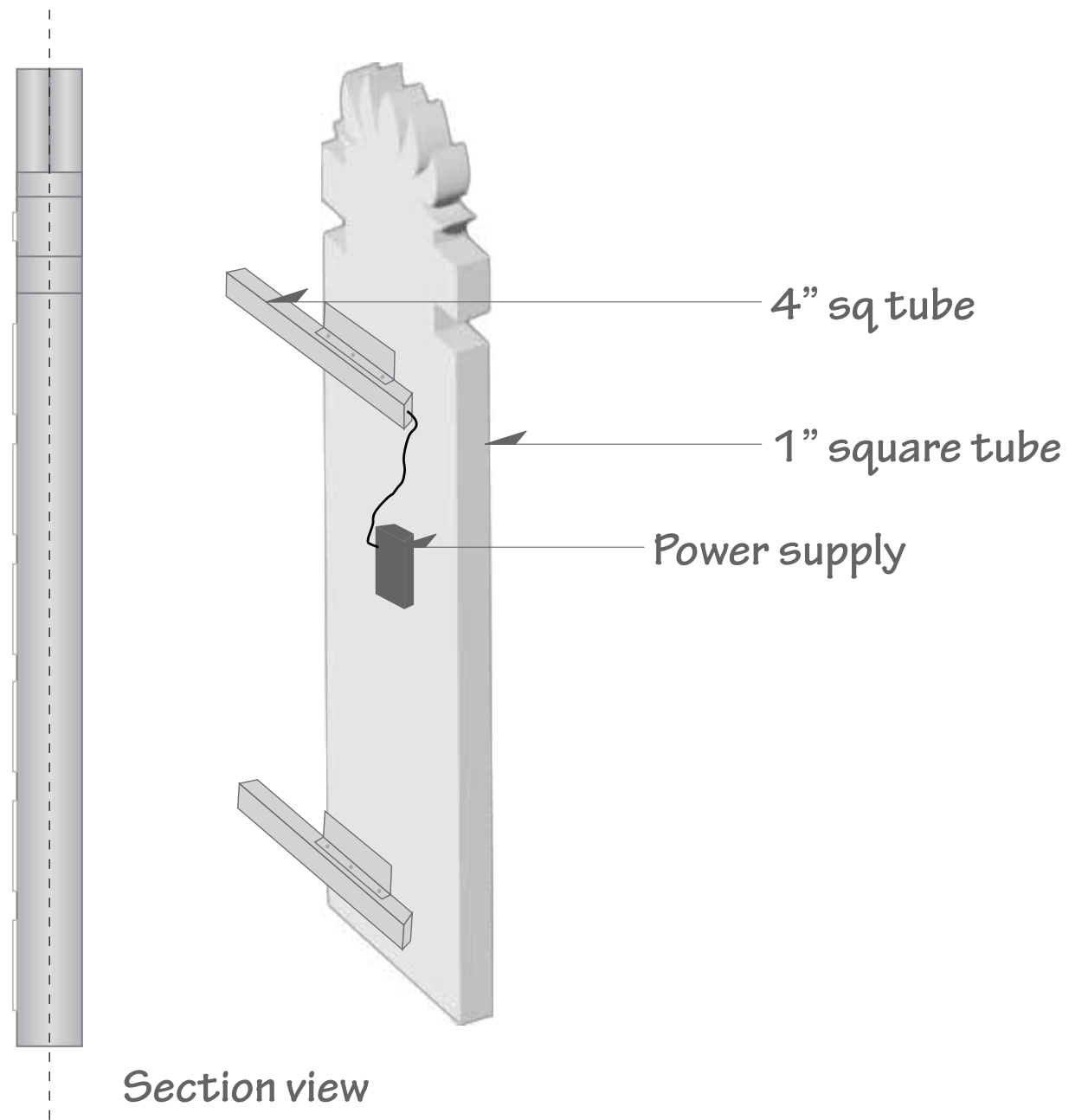
Brooke Davie

Designer

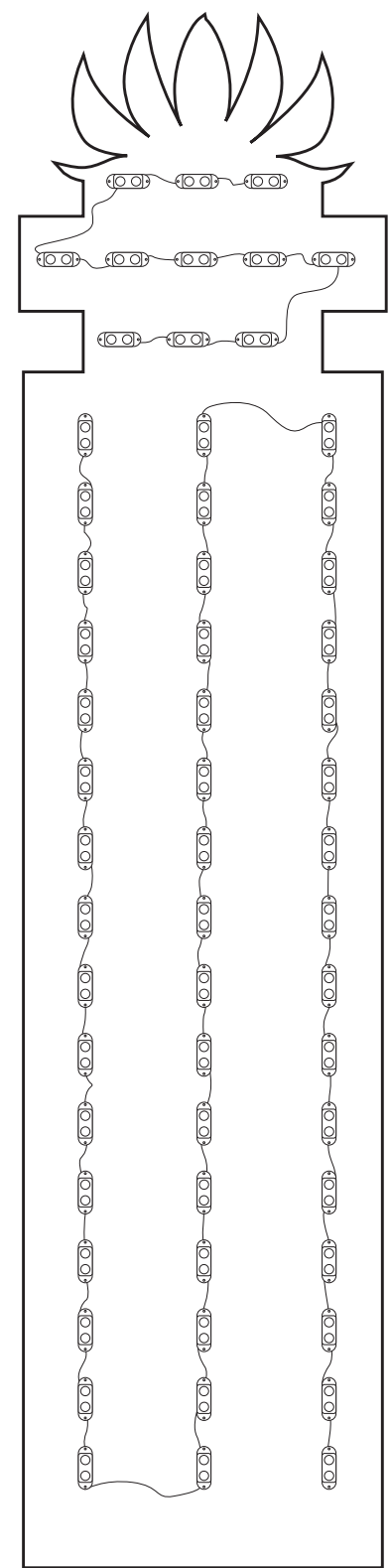
Bella

Page 3 of 4

ATTACHMENT DETAIL - FIG. A



ELECTRICAL DETAIL - FIG. B



This Sign will be installed in strict compliance with the US National Electrical Code (Article 800) and with local government code within the jurisdiction of the Sign Project. All parts of this electrical, illuminated Sign will be properly grounded and bonded (as required).



ELECTRICAL NOTES

Sign company DOES NOT provide primary electrical to sign.
Power to the sign must be done by a licensed electrical contractor to licensed electrician.
Each sign must have:

1. A minimum of one dedicated 120V, 20A circuit
2. Junction box installed within 6 feet of sign
3. Three wires: Line, Ground, Neutral





Identity
Signs

Salt Lake, UT | Seattle, WA
801.748.4750
sales@idsignco.com

Job # 17150

Client
Lotus

Address
450 S. State St.
Clearfield, UT

Property Owner
Allie Platt

Zone
Residential

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

City Building
55 South State Street
Clearfield City, Utah

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
	Stuart Williams	City Attorney
	Kelly Bennett	Police Chief
	Adam Favero	Public Works Director
	Eric Howes	Community Services Director
	Spencer Brimley	Community Development Director
	Brad McIlrath	Senior Planner
	Rich Knapp	Finance Manager
	Nancy Dean	City Recorder
EXCUSED:	Summer Palmer	Assistant City Manager
VISITORS:	Chuck Cowley – Cowley Real Estate Partners, Todd Weiler – Cowley Real Estate Partners, Kathryn Murray	

Mayor Shepherd called the meeting to order at 6:00 p.m.

DISCUSSION ON THE FISCAL YEAR 2022 CAPITAL CONSTRUCTION PROJECTS

Eric Howes, Community Services Director, explained there were many budgeted capital construction projects for the Fiscal Year 2022 (FY22). He stated staff combined all the smaller projects together into one large project to garner more interest and better pricing. He noted the combined budget for all the projects totaled \$922,000, which was intended to be a not to exceed amount. He indicated the following ten projects were included in the staff report:

- Clearfield City Hall – west entrance remodel, multi-purpose room kitchen remodel, and tile re-grouting.
- Clearfield Aquatic and Fitness Center (CAFC) – sidewalk repair, replace electronic sign board, outdoor vehicle gate/fence repair, partial interior door slab replacement, daycare area countertops.

- Steed Park – roof and siding replacement, commercial range hood replacement, ballfield and pickleball court sound systems, north Steed restroom renovation, parking lot curb and gutter, asphalt, and striping, and pickleball complex pavilions and bench installations.
- Fisher Park – ballfield sound system
- Two outdoor digital marquee monument signs and landscaping at Steed Park and Cornerstone Park.
- Kiwanis Park – restroom renovation of exterior and interior.
- Islandview Park – restroom renovation exterior and interior, and disc golf course installation.
- Central Park – restroom utility and pad site prep.
- Barlow Park – dog park equipment installation.
- Trail side fitness equipment installation.

Mr. Howes asked if there were any questions about any of the projects or plans.

Councilmember Bush wondered why the Veterans Monument was not listed with the projects. Mr. Howes answered it would be part of the City Hall west entry remodel project.

Councilmember Bush asked what kind of pavilions would be located at Steed Park for the pickleball courts. Mr. Howes responded there were two places for larger pavilions which would include a few tables but were primarily there to provide shade to observe or could be used as an area for tournament registrations.

Councilmember Phipps asked if there were plans for a marquee as part of the City Hall project. Mr. Howes responded it would be part of the project, but the marquee currently located out front would be moving because it was on the property of the North Davis Fire District. He continued there were other locations where electronic signs would be installed at the CAFC, Steed and Cornerstone Parks.

Councilmember Thompson asked if the numbering on the list of projects was in ranked order. Mr. Howes answered the list was in random order. He explained after the contract was negotiated it would be prioritized. It would then allow more flexibility when working through the projects and negotiations with the contractor so more projects could be completed with the budgeted funds and rolled over from each project.

Mayor Shepherd spoke about how the Fire District planned to pay for any costs for the movement of the sign because it needed to be removed as renovations were done by the District; however, the City would be paying for any of the upgrades that would be associated with it.

Councilmember Peterson asked about the improvements for the dog park at Barlow. Mr. Howes indicated the equipment would be purchased with other budgeted funds. He noted the FY22 capital projects would only include the installation. He acknowledged the equipment would be ordered soon and should be ready to be installed by the time it came to that portion of the work.

Councilmember Bush commented the Central Park capital project did not include the cost of the restroom. Mr. Howes responded the budget did include the restroom and it would be purchased

by the City with the State's contract pricing; however, it would not be available as quickly as anticipated because of current supply chain issues. He explained there were other projects that were not included with this bidding process that were larger scale and could be done separately. He noted the bidding process was similar to what the City had done previously with McKinstry.

Councilmember Bush asked why the Kiwanis Park projects did not mention the toy installation. Mr. Howes noted it was a different budget and was already in the process of being selected.

Councilmember Phipps questioned how the contract would work since there seemed to be a large set of skills necessary to accomplish all the projects. Mr. Howes explained how it would work and how staff had followed the parameters set by the State in seeking bids. He added the lowest responsible bidder was Cinnamon Creek Construction and they had completed work for the City before. He noted the contractor would lead the work but could have sub-contractors for up to 49 percent of the project and at least 51 percent of the work needed to be completed by Cinnamon Creek Construction.

Mr. Howes noted if the Council was comfortable with the process the bid award would be considered on November 9, 2021.

Mayor Shepherd excused himself from the remaining discussion and turned the rest of the work session over to Mayor Pro Tem Phipps.

DISCUSSION ON MEMORANDUM OF UNDERSTANDING WITH COWLEY REAL ESTATE PARTNERS FOR LAKESIDE SQUARE DEVELOPMENT

Spencer Brimley, Community Development Director, stated staff had met with Cowley Real Estate Partners in order to discuss the development of the area known as Mabey Pond. He explained staff and the developer had discussed the process and the anticipated need for a development agreement for the development of the site. He noted staff had reviewed a draft agreement and in consideration of the developer's timetable for acquisitions felt it would be more efficient to enter into a Memorandum of Understanding (MOU) with the developer.

Mr. Brimley indicated the draft MOU had been included with the staff report and it outlined generally each phase of the proposed project. He pointed out that the staff report included in the fiscal impact session possible incentives because typically a project of similar size and complexity would have incentives included. He stated the parcel numbers, concept site plan, and Form Based Code (FBC) modifications were attachments to the MOU. He noted staff wanted to ensure all the aspects presented previously in a work session on October 19, 2021 with the Council were included before it was considered for formal action. He acknowledged the Council would be considering the MOU in a virtual special session at noon on October 27, 2021.

Councilmember Bush recalled Mabey Pond had property lines from some of the adjacent property owners that extended out in the water. He wondered if the City would need permission from property owners to use the pond. Mr. Brimley noted as part of the MOU there was a license agreement to manage that in the future because the City was not to that point yet. Eric Howes, Community Services Director, explained there was currently a lease agreement for access on the

south end, but other areas might need to be vetted. Mr. Brimley acknowledged those issues could be vetted in the future and there might need to be additional discussions with those property owners.

Councilmember Phipps expressed concern about using an MOU because he did not want it to be used against the City or too open ended. Stuart Williams, City Attorney, explained all the firm commitments would be finalized in a development agreement. He noted the developers' or the City's needs might change as the process moved forward to a development agreement.

JJ Allen, City Manager, added the MOU was not a contract or agreement but it was a meaningful step in that direction. He continued the MOU would provide a level of comfort, but the City acknowledged not all the facts were certain so more information would come forward as the process moved along.

Councilmember Phipps had anticipated seeing wording that the parties would work together for a development agreement. Mr. Allen mentioned it was included in the whereas statements, and in the paragraph at the top of the page with the signatures.

Councilmember Phipps recommended a language change to the title "schedule and term of memorandum." Mr. Allen noted the title could be changed to address the development agreement and MOU timeline. Mr. Brimley agreed.

Councilmember Peterson commented the MOU was right in line with what was discussed previously, and she currently had no concerns.

Mr. Williams stated if there were wording changes needed, they should be addressed so the changes could be made before tomorrow's meeting where action would be taken.

Councilmember Phipps stated he did not need a title change but felt it was a little misleading as stated. There was a discussion about changing the title to "Term of Memorandum and Schedule of Development Agreement." Councilmember Phipps expressed his desire not to make it too difficult but if the change was easy, it would be welcomed.

Councilmember Roper acknowledged he had no issues with the document as it was or if it were to be changed as Councilmember Phipps suggested.

Councilmember Phipps stated there had been ample time for the Council to review the MOU and the changes that were included in the packet. He indicated the City was agreeing to the FBC amendments and the fact that there could be more.

Councilmember Peterson expressed her feeling that the MOU did not read in such a way that things were set in stone but rather it provided a good direction. She anticipated the final punch list of FBC alterations would be included in the development agreement and could be discussed further at that point. Mr. Williams noted the MOU was not binding and had been carefully worded.

Councilmember Peterson asked for clarification to ensure the document was not legally binding. She mentioned she would not be willing to sign off on a development agreement which had not been fully vetted. Councilmember Phipps acknowledged the developer wanted to move forward so they would like to have some protections in place before the development agreement could be fully vetted. Mr. Williams stated the MOU provided flexibility on both sides.

Todd Weiler, attorney for the developer, added the changes the developer was asking for were to make the project more aesthetically pleasing and ensure residents were happy. He noted none of the amendments were simply from a desire of the developer to reduce the requirements of the City.

Mr. Allen mentioned last week staff met with the potential office user and it was a very productive and encouraging meeting. Councilmember Peterson stated there was excitement in general to have the project moving forward.

Councilmember Thompson moved to adjourn the work session at 6:31 p.m. and reconvene at 7:00 p.m. in policy session, seconded by Councilmember Roper. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

CLEARFIELD CITY COUNCIL MEETING MINUTES
6:30 P.M. SPECIAL POLICY SESSION
May 3, 2022

City Building
55 South State Street
Clearfield City, Utah

PRESIDING:	Tim Roper	Mayor Pro Tem
PRESENT:	Kent Bush Nike Peterson Vern Phipps	Councilmember Councilmember Councilmember
ATTENDING VIA TEAMS:	Karece Thompson	Councilmember
EXCUSED:	Mark Shepherd	Mayor
STAFF PRESENT:	JJ Allen Stuart Williams Kelly Bennett Adam Favero Rich Knapp Lee Naylor Eric Howes Jayden Martin Nancy Dean Joannie Strong	City Manager City Attorney Police Chief Public Works Director Finance Manager Accountant Community Services Director Communications Coordinator City Recorder Deputy City Recorder
ATTENDING VIA TEAMS:	Summer Palmer	Assistant City Manager

Mayor Pro Tem Roper called the meeting to order at 6:34 p.m.

Mayor Shepherd was excused from the meeting

APPROVAL OF ORDINANCE 2022-10 AMENDING THE CONSOLIDATED FEE
SCHEDULE TO ESTABLISH DROUGHT EMERGENCY WATER RATES

Recently Governor Cox declared a state of emergency due to the continuing drought conditions in Utah. Weber Basin Water Conservancy has asked local water users to reduce water consumption significantly to preserve water. The rates are proposed to change in an effort to conserve water and cover costs.

JJ Allen, City Manager, introduced the ordinance stating it had been discussed at length and read through the ordinance. He mentioned that the record low water levels, soil moisture, and

prolonged dry conditions were identified in Governor Spencer Cox's Executive Order 2022-04 – Declaring a State of Emergency Due to Drought. Mr. Allen emphasized the importance of water conservation to avoid the potential negative fiscal impact of violating the imposed water restrictions set forth by the Weber Basin Water Conservancy District. Each of the councilmembers expressed their agreement on the need for water conservation along with the need to educate the residents.

There was a discussion on the equitable nature of the multi-family unit rates in comparison to single family units. Rich Knapp, Finance Manager, reviewed the rates and confirmed that the rates were equitable.

Councilmember Phipps questioned the effective date of the ordinance and Stuart Williams, City Attorney, confirmed the ordinance would be retroactive with an effective date of May 1, 2022.

Councilmember Peterson moved to approve the Ordinance 2022-10 amending the Consolidated Fee Schedule to establish drought emergency water rates with the addition of language stating the effective date was retroactive to May 1, 2022, and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Phipps. The motion carried upon the following vote: Voting AYE – Councilmembers Peterson, Phipps, Bush, Roper, and Thompson. Voting NO – None.

Councilmember Peterson moved to adjourn the special policy meeting and reconvene in City Council work session at 6:55 p.m., seconded by Councilmember Bush. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Phipps, Roper, Peterson, and Thompson. Voting NO – None.

The minutes for the CDRA are in a separate location

CLEARFIELD CITY COUNCIL MEETING MINUTES
WORK SESSION
May 3, 2022

City Building
55 South State Street
Clearfield City, Utah

PRESIDING:	Tim Roper	Mayor Pro Tem
PRESENT:	Kent Bush Nike Peterson Vern Phipps	Councilmember Councilmember Councilmember
ATTENDING VIA TEAMS:	Karece Thompson	Councilmember
EXCUSED:	Mark Shepherd	Mayor
STAFF PRESENT:	JJ Allen	City Manager
	Stuart Williams	City Attorney
	Kelly Bennett	Police Chief
	Adam Favero	Public Works Director
	Braden Felix	City Engineer/PW Deputy Director
	Eric Howes	Community Services Director
	Curtis Dickson	Community Services Deputy Dir.
	Rich Knapp	Finance Manager
	Lee Naylor	Accountant
	Nancy Dean	City Recorder
	Joannie Strong	Deputy City Recorder
ATTENDING VIA TEAMS:	Summer Palmer	Assistant City Manager

Mayor Pro Tem Roper called the meeting to order at 6:56 p.m.

DISCUSSION ON THE FISCAL YEAR 2023 (FY23) BUDGET

Rich Knapp, Financial Manager, presented the tentative budget for the Fiscal Year 2023 (FY23), indicating that the Council would need to consider its adoption in the Policy Session scheduled for May 10, 2022. He reviewed the changes to the budget since the last meeting which included the following:

- An increase of \$13,750 for automatic license plate readers (LPR) – 5 Cameras with a yearly cost of \$2,500 per camera
- A \$31,000 decrease in dispatch landline
- A \$40,000 decrease in dispatch software annual maintenance

There was a discussion about what automatic license plate readers were and how the number of cameras needed was determined. Chief Bennet explained the location of the readers was the determining factor for the number of cameras needed and that the readers would help identify stolen vehicles, and vehicles associated with criminal activity. JJ Allen, City Manager, expressed his concern with the escalation of the operating budget and was only comfortable with new requests if there would be an offset in expenditures. Chief Bennett reviewed the cuts he would be making to offset the cost.

Mr. Knapp also explained that it might be necessary to roll the purchase of vehicles from Fiscal Year 2022 (FY22) to FY23 since they might not arrive until the fall. He then covered the garbage and recycling collection rates noting an 11 percent increase to the City from Waste Management in July 2022. Mr. Knapp presented the current charges for trash containers, clean-up dumpsters, and recycling. There was a discussion surrounding the cost of the service to the City and a need to cover administrative costs in the rate as well. There was consensus that the proposed changes to the rates beginning July 1, 2022, would be set as follows:

	Current Charge	Proposed Charge
First Trash Container	\$16.75	\$16.75
Additional Trash Container	\$10.00	\$10.50
Clean-up Dumpsters	\$100	\$134
Recycling 0% to 74%	\$4.95	\$5.50

Following the discussion surrounding the rates, Mr. Knapp covered information needed for the budget which was still pending:

- Property tax
- Health insurance
- Liability & property insurance
- North Davis Fire District (NDFD) dispatch services contract
- Personnel requests
- Compensation adjustments

A discussion ensued regarding property tax revenue and the cost of health insurance. Mr. Allen stated more information would be provided on property tax revenue when it became available in June. Mr. Knapp mentioned that the health insurance was currently estimated to be a 20 percent increase.

Mr. Allen reviewed new staff requests that included:

- Two Utility Maintenance Specialists - \$144,000
- Patrol Officer - \$98,000
- Full Time Dispatch - \$50,000 (net)
- Conversion from part time to full time for the following:
 - IT Specialist in the Police Department - \$50,000 (net)
 - Utility Maintenance Specialist - \$41,000 (net)
 - Administrative Assistant in Community Services - \$42,000
 - Marketing Coordinator in Community Services - \$42,000

- Mental Health Officer - \$98,000

He noted that the positions were not plugged into the budget yet and anticipated adopting the tentative budget next week excluding those items.

There were no additional questions surrounding the tentative budget.

Councilmember Phipps moved to adjourn the work session and reconvene as the CDRA in work session at 7:43 p.m., seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, and Roper. Voting NO – None.

The meeting reconvened at 7:44 p.m.

CLEARFIELD CITY COUNCIL MEETING MINUTES
7:00 P.M. POLICY SESSION
May 10, 2022

City Building
55 South State Street
Clearfield City, Utah

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
	Allison Barnes	Assistant Attorney
	Kelly Bennett	Police Chief
	Adam Favero	Public Works Director
	Braden Felix	City Engineer/PW Deputy Director
	Eric Howes	Community Services Director
	Curtis Dickson	Community Services Deputy Dir.
	Spencer Brimley	Community Development Director
	Brad McIlrath	Senior Planner
	Rich Knapp	Finance Manager
	Lee Naylor	Accountant
	Shaundra Rushton	Communications Manager
	Nancy Dean	City Recorder
	Joannie Strong	Deputy City Recorder

VISITORS: Nadene Davis, Lauren DeSpain, Chad Mortensen, Zach Gaines, Camree Marsden, Abby Maass, Kolby Jackson, Fred Jackson, and Jenna Nelson

Mayor Shepherd called the meeting to order at 7:00 p.m.

Mayor Shepherd informed the audience that if they would like to comment during the Public Hearing or Open Comment Period there were forms to fill out by the door.

Councilmember Bush led opening ceremonies.

Councilmember Phipps arrived at 7:07pm.

APPROVAL OF THE MINUTES FROM THE NOVEMBER 9, 2021, WORK SESSION

Councilmember Thompson moved to approve the minutes from the November 9, 2021, work session as written, seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

SWEARING-IN OF NEW CLEARFIELD POLICE OFFICERS BRAYDEN JACKSON AND MITCH PARKER

Police Chief Kelly Bennett introduced the officers and provided information regarding the department's motto; Service, Honor, Integrity, Excellence, Leadership and Dedication (SHIELD). He mentioned National Police Officer's would take place the week of May 15, 2022, through May 21, 2022, and provided information related to the week.

Nancy Dean, City Recorder, administered the Oath of Office to the new Clearfield Police Officers Brayden Jackson and Mitch Parker.

PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON THE 2022/2023 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ONE-YEAR ACTION PLAN

The One-Year Action Plan is necessary for Clearfield City to qualify for Community Development Block Grant (CDBG) funds through the Department of Housing and Urban Development (HUD). The plan covers the program year July 1, 2022, to June 30, 2023. A 30-day comment period commenced March 22, 2022, and residents were given the opportunity to review and comment. No public comments had been received.

Allison Barnes, Assistant Attorney, reviewed the Community Development Block Grant (CDBG) Action Plan. She expressed that it was expected Clearfield City would receive approximately \$199,497 in CDBG funds for July 1, 2022, to June 30, 2023, and highlighted the following funding summary for the 2022/2023 plan year:

- Open Doors - \$9,974.85; Circles Program for low-income families to obtain job skills.
- Davis Community Learning Center - \$9,974.85; Helps to fund two part-time Family Support Specialists (FSS) at Holt and Wasatch Elementary. The FSS work directly with school principals and families in need or crisis to address needs and provide assistance.
- Safe Harbor - \$9,974.85; Case management, self-sufficiency support, educational and supportive groups, life skills classes, and connections to other resource agencies.
- Housing Rehabilitation - \$94,673.20; Funds would be used towards a housing rehabilitation program for Clearfield residents.
- Down Payment Assistance - \$35,000; Funds would be used towards the down payment assistance program for Clearfield residents.
- Administration - \$39,899.40; Funds would be used for administrative expenses for staffing, noticing, and advertising of programs.

Mayor Shepherd opened the public hearing at 7:16 p.m.

Mayor Shepherd asked for public comments.

There were no public comments.

Councilmember Thompson moved to close the public hearing at 7:17 p.m. seconded by Councilmember Roper. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON AMENDMENTS TO THE MASTER DEVELOPMENT AGREEMENT (MDA) FOR THE CLEARFIELD STATION PROJECT LOCATED AT APPROXIMATELY 1250 SOUTH STATE STREET (TINS: 12-0066-0138, 12-882-0001, 12-882-0004, AND 12-882-005)

The Master Development Agreement (MDA) for the Clearfield Station project located at approximately 1250 South State Street was adopted in 2020. It set forth the terms under which the development would proceed and the responsibilities of each party. One of the first major steps for the project would be the installation of the underground utilities and surface improvements in the rights-of-way to make the development pad sites ready for immediate construction. The amendments to the MDA outline a phased approach to the installation of the public infrastructure consistent with available funding.

Spencer Brimley, Community Development Director, reviewed the proposed amendment to the Master Development Agreement (MDA) for the Clearfield Station project. The amendment outlined a phased approach to the installation of the public infrastructure. Mr. Brimley stated the proposed phased approach had been vetted and was determined to be the best approach to allow for the continuation of the project due to the funding constraints. The amendment acknowledged the insufficient funds for the design and construction of the public infrastructure as originally planned, and stated that as additional funding was obtained, it would be applied to the continued construction of the public infrastructure in a prioritized order. The amendment included Ordinance 2022-12.

Mr. Brimley stated that on April 20, 2022, the Planning Commission unanimously forwarded a recommendation of approval to the City Council to amend the Master Development Agreement between Clearfield City, Utah Transit Authority (UTA), and Clearfield Station Partners, LLC for the project as outlined.

Mayor Shepherd opened the public hearing at 7:20 p.m.

Mayor Shepherd asked for public comments.

There were no public comments.

Councilmember Roper moved to close the public hearing at 7:21 p.m. seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

OPEN COMMENT PERIOD

Nadene Davis, a Clearfield City resident, commented on code enforcement stating she was ashamed of the appearance of the City. She mentioned how residents weren't informed of their responsibilities and how the City Code wasn't being enforced. She expressed the need for Code Enforcement to post a note on residents' doors informing them of the issue, a deadline to correct the issue, and a consequence for not following through. Ms. Davis mentioned her concerns regarding the weeds surrounding walkways along with the water shortage.

APPROVAL OF AND CONSENT TO THE MAYOR'S PROPOSED APPOINTMENTS TO FILL THE VACANCIES ON THE PLANNING COMMISSION

The Planning Commission had several vacancies needing to be filled and the City Council interviewed individuals to fill the vacancies on April 26, 2022. Mayor Shepherd recommended appointing Lauren DeSpain to fill the regular member vacancy and Chad Mortensen and Zach Gaines to fill the remaining term for the alternate member vacancies.

Councilmember Phipps moved to approve and consent to the Mayor's proposed appointment of Lauren DeSpain as a regular member of the Planning Commission with a term expiring February 2026, Chad Mortensen as an alternate member of the Planning Commission with a term expiring February 2027, and Zach Gaines as an alternate member of the Planning Commission with a term expiring February 2027; and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Bush. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

Nancy Dean, City Recorder, administered the Oath of Office to the new Planning Commission members Lauren DeSpain, Chad Mortensen, and Zach Gaines.

Spencer Brimley, Community Development Director, gifted the commissioners a notebook and a book about the basics of land use in Utah.

Mayor Shepherd thanked Ms. DeSpain, Mr. Mortensen, and Mr. Gaines for their willingness to serve.

APPROVAL OF THE 2022/2023 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ONE-YEAR ACTION PLAN

Councilmember Thompson commented on his desire to see the community reach out to congress to do more to help the community. "there is a lot of talk on how we help our community especially in the form of revenue I just hope that the community would reach out to Congress to do more ..."

Councilmember Thompson moved to approve the 2022/2023 Community Development Block Grant (CDBG), and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Roper. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

APPROVAL OF ORDINANCE 2022-12 AMENDING THE MASTER DEVELOPMENT AGREEMENT (MDA) FOR THE CLEARFIELD STATION PROJECT LOCATED AT APPROXIMATELY 1250 SOUTH STATE (TINS: 12-066-0138, 12-882-0001, 12-882-0004, AND 12-882-0005)

There were no additional comments regarding Ordinance 2022-12.

Councilmember Roper moved to approve Ordinance 2022-12 amending the Master Development Agreement (MDA) for the Clearfield Station Project located at approximately 1250 South State (TINS: 12-066-0138, 12-882-0001, 12-882-0004, and 12-882-0005), and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Bush. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

ADOPTION OF THE TENTATIVE BUDGET FOR FISCAL YEAR 2023 AND SETTING A PUBLIC HEARING FOR AUGUST 9, 2022, TO RECEIVE PUBLIC INPUT ON THE BUDGET

The Tentative Budget as presented to the Council for adoption was a balanced budget for all funds. Presently, the certified tax rate had not been received from Davis County; however, the City was anticipating maintaining its certified tax rate so the truth-in-taxation process was required.

Rich Knapp, Financial Manager, presented the tentative budget for Fiscal Year 2023 (FY23) to the Council. He explained State law required the adoption of a tentative budget; however, the following items were still unknown:

- Certified tax rate and assessed valuation
- Final Property and Liability Insurance
- Fiscal Year 2022 projects that might need to be reallocated to Fiscal Year 2023
- Several staff requests not included
- Beginning fund balances

Mr. Knapp highlighted the City's revenue sources and how the funds were spent. He reviewed the revenues, operating expenditures, capital expenditures, and the changes in available cash for the General Fund, Community Development Renewal Agency (CDRA), Capital Projects, Water, Sewer, Storm Water, and Garbage.

Mr. Knapp reviewed the following changes from the Fiscal Year 2022 budget to Fiscal Year 2023:

- Increase to sales tax budget - \$845,000
- Increase to property tax - \$142,000
 - Staff recommended the City maintain the same property tax rate as last year
- Ten to twelve percent increase in health insurance premiums
- Personnel market/merit increases
- Removal of a vacant part time Court Clerk position

He summarized the major projects that were included in the FY23 budget as follows:

- New water, sewer, storm projects - \$1.7 million
- New street reconstruction projects - \$1.5 million
 - Has money from dedicated sources and set aside from prior years
- Street surface treatment - \$515,000
- Facility projects - \$400,000
- New park projects - \$223,000
 - Replacement of Thornock Park Playground - \$70,000
- Arts Center landscaping - \$80,000

Government Finance Officer Association (GFOA) recommended the City maintain two months of operation expenditures in its unrestricted funds. Mr. Knapp noted the available General Fund cash was projected to be 24 percent by the end of FY23 which would maintain 91 days of operation expenditures. He pointed out that the City's measure for sustainability ensured the General Fund ongoing revenue minus operating expense had a net surplus of \$115,000. Mr. Knapp announced the plan to approve the final budget in late August.

With the sustainability number (ongoing revenue over ongoing expense) was over \$100,000 in the positive. JJ Allen, City Manager, noted his intention to have a discussion with the Council regarding the personnel requests and come back with a recommendation soon. He thanked Rich Knapp, Lee Naylor, and the department heads for their work on pulling together a sustainable budget.

Councilmember Phipps expressed his objection to maintaining the certified tax rate and his concern that revenue gained by paying off the General Obligation bond was now serving the General Fund. He noted the reason he was originally in favor of continuing to receive that revenue was the understanding the revenue would be restricted to one-time capital expenditures not ongoing expenses. He expressed his opinion it was a troublesome approach. He expressed concern for the ongoing cost of personnel and that his term for sustainability was long term budgeting. He commented the budget did not address the personnel impact of the long-term effects of growth and the difficulties of being asked to do more work with fewer resources.

Councilmember Thompson referred to Councilmember Phipps comment that maintaining the certified property tax rate was not a viable engine to fund operations. He noted residents were taxed on 55 percent of their property value, which did not even keep up with the impact of inflation on City services. He asked how to approach personnel needs without looking at the revenues that funded operations rather than underserving residents.

Councilmember Phipps explained the philosophy associated with property tax as related to fairness. He commented the tax was based on the value of something that the owner had no control over and varied from year to year. He recently learned there were some methods that did work to protect the elderly from that challenge. He did not want to see property taxes become a detriment to those on fixed incomes remaining in their homes.

Councilmember Peterson moved to adopt the Tentative Budget for Fiscal Year 2023 and set a public hearing for August 9, 2022, to receive input of the budget, seconded by Councilmember Bush. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Roper, and Thompson. Voting NO – Councilmember Phipps

UPDATE ON THE FISCAL YEAR 2022 FINANCIAL STATUS

Rich Knapp, Finance Manager, provided an overview of the financial status for the third quarter of Fiscal Year 2022. He reviewed the revenues, operating expenses and money spent on capital projects for the water fund, and mentioned that revenues were down four percent from last year due to water usage being down. Mr. Knapp provided a summary of the General Fund listing all the sources that comprised its revenue sources. Councilmember Phipps recommended clarification on the Miscellaneous portion of the General Fund in which Mr. Knapp stated it that number reflected proceeds from the bond to pay for the Clearfield Station.

Mr. Knapp highlighted the following key revenues:

- Sales Tax for July through March - 12 percent higher than last year and 26 percent higher than two years ago
- Energy Tax - seven percent higher than last year, but not back to prior years
- Building Permits - not as high as last ¾ of year but still over budget at 138 percent
- Excavation Permits - \$125,000 less than last year (UTOPIA)
- Federal grants and transfers high \$2.76 million
 - Part of bond pay off
- Clearfield Aquatic and Fitness Center (CAFC) – year end projection higher than any prior year actual
- Water Charges down four percent
- Water use down four percent from last year; slightly higher than two years ago

He reviewed the summary for all funds including personnel, materials & services, capital outlay, debt service, and transfers. Mr. Knapp noted that everything on the expense side was tracking as projected or lower than expected. He highlighted some key expense numbers including the following:

- Bond payoff
- Part time wages overall had only spent 55 percent of budget through April

Mr. Knapp mentioned an 8.5 percent inflation rate in March for the economy which was the highest inflation since 1981 and that wage growth wasn't chasing inflation. He reviewed the quarterly point of sales taxes and trend in Clearfield and noted it was positive.

Councilmember Thompson inquired about the impact on the budget if building permits tapered down. JJ Allen, City Manager, and Mr. Knapp concurred that other relatable aspects of the budget would decrease with the tapering of the building permits to help offset. Mr. Knapp added that the budget was conservative regarding the building permit revenue.

COMMUNICATION ITEMS

Mayor Shepherd

1. Summarized his attendance at the Defense Alliance Meetings in Connecticut which focused on nuclear deterrence.
2. Mayor Shepherd mentioned an invitation to the Dirty Bird opening.
3. Reported on his opportunity to welcome home the 388th squadron from their deployment.

Councilmember Bush provided information on the North Davis Kiwanis Club pickleball tournament on Saturday May 21, 2022 at Steed Park and noted he had the link and registration was \$30 per person.

Councilmember Peterson reported on the positive feedback received from the green arrow left turning light at 193 and 1000 East.

Councilmember Phipps

1. Attended the Centennial Committee Meeting and announced that on July 17, 2022, there would be a significant celebration at the City building.
2. Reported on his attendance at the Restoration Advisory Board meeting and noted the methane issue in Clearfield was decreasing.

Councilmember Roper

1. Reported on the Wasatch Integrated board retreat. He mentioned a community concern that the landfill had approximately 20 years of service left and the board was looking at ways to extend its service availability. Councilmember Roper mentioned a survey that Wasatch Integrated had put out to evaluate the interaction with each City. He encouraged touring the facility.
2. Announced that Dave Thomas would be virtually speaking to the Youth Commission on May 11, 2022 and extended an invitation to join.

Councilmember Thompson attended a conference about the Economic Social Governance (ESG) and proposed changes to its credit rating system. He stated it was an important matter to follow because of the impact it could have on Utah by making it necessary to borrow money at higher rates.

STAFF REPORTS

JJ Allen, City Manager

1. Congratulated new officers and new Planning Commission members.
2. Announced National Public works week next week.
3. Mentioned 500 West and the Clearfield Station demolition.
4. Noted that the Top 5 report was moved to next week and wanted to include a Centennial update for the Council.

Nancy Dean, City Recorder –reviewed the Council’s schedule:

- Work Sessions on May 17, 2022, May 24, 2022, June 7, 2022 (may change), and June 14, 2022
- Policy Sessions on May 24, 2022, June 14, 2022, and June 28, 2022 (CDRA budget hearing needed to be set for June 28, 2022)

- No meeting on 5/31

Councilmember Bush moved to adjourn as the City Council and reconvene as the CDRA in work session at 8:31 p.m., seconded by Councilmember Phipps. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Phipps, Roper, Peterson, and Thompson. Voting NO – None.

The minutes for the CDRA are in a separate location

CLEARFIELD CITY COUNCIL MEETING MINUTES
6:00 P.M. WORK SESSION
May 10, 2022

City Building
55 South State Street
Clearfield City, Utah

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

VISITORS: Jenna Nelson, Greg Day (258 Development)

Mayor Shepherd called the meeting to order at 6:00 p.m.

DISCUSSION ON THE GENERAL PLAN AMENDMENT FOR THE FUTURE LAND USE MAP FROM COMMERCIAL TO MIXED USE AND THE REZONE REQUEST FROM C-2 (COMMERCIAL) TO C-R (COMMERCIAL RESIDENTIAL) FOR PROPERTY LOCATED AT APPROXIMATELY 500 WEST 1700 SOUTH; AND A PROPOSED ZONING TEXT AMENDMENT TO THE C-R (COMMERCIAL RESIDENTIAL ZONE) TO ALLOW SINGLE-FAMILY USE

Brad McIlrath, Senior Planner, reported on an application from 258 Development requesting an amendment and rezone to develop properties located at approximately 500 West 1700 South to allow for commercial buildings along the frontage of Antelope Drive and 500 West and a small-lot single-family subdivision. He stated that the General Plan designation was currently C2 (Commercial) and the request was to amend the designation to mixed-use to allow the C-R

(Commercial Residential) zone. He reviewed the developers concept plan which included the following:

- 32 small-lot single-family home pads
- 1 conceptual 6,000 square foot commercial building
- 1 conceptual 10,000 square foot office building

Mr. McIlrath stated that the type of development was not permitted in the C-2 zone but could be allowed with modifications to the C-R zone or other zoning options and that the applicants were requesting amendments to the C-R zone as well to accommodate the proposed development. He showed the Council an ariel view of the subject properties noting that not all the property shown would be developed. Mr. McIlrath informed the Council that Greg Day with 258 Development was present and could answer any questions he could not.

Mr. McIlrath presented street view images of the following areas to provide better perspective of the area and proposed development:

- Antelope Drive
- 500 West
- 1900 South and Jenny Lane

He showed the Council side by side images of the General Plan and the zoning for the property, along with an image of the concept plan and reviewed the concept plan. Mr. McIlrath noted that the applicant's focus was on the concept plan; however, they were open to alternatives. He reviewed the staff analysis and findings with the Council which included the following:

Staff Analysis

- The requested amendments were inconsistent with the General Plan with the area having a future land use designation of Commercial.
- With other zones that could be used for the same purpose, staff currently did not find it necessary to change the General Plan designation to Mixed-Use or rezone the properties to the C-R zone.

Findings:

- The proposed General Plan and zoning map amendment were inconsistent with the land use guidelines, goals, and objectives of the Clearfield City General Plan.
- The use of the C-R zone to establish small lot-single family neighborhoods was inconsistent with the current purpose and permitted uses of the zone.
- The General Plan was previously amended to allow for greater use of the R-1-6 zone for residential single-family infill development and as an alternative to multi-family residential.
- The R-3 zone had been used by the City Council to provide small-lot single-family developments consistent with market demands absent a zoning district designed for that specific purpose. The R-3 zone could be used in conjunction with the C-2 zone and with a development agreement to allow for a similar development pattern proposed by the applicants.

Mr. McIlrath reported that on April 20, 2022, the Planning Commission forwarded a recommendation of denial to the Council.

There was a discussion on whether the Council should entertain changes to the General Plan land use designation on Antelope Drive before looking at the area as a whole and its highest and best use. It was suggested that the request before the Council needed to be addressed in a timely manner.

There followed a discussion about whether the C-R (Commercial Residential) zone was the highest and best use for the property. The rear portion of the property bordered residentially developed property. There was a discussion that it might be appropriate to allow the rear portion to be residential, however, it was noted the C-R zone was not the best use for the property. A discussion surrounding alternative options ensued. Greg Day, developer, expressed his appreciation to the Council and his desire to bring a high-quality development to the City in the best possible way. He stated that he was willing to withdraw his application and resubmit under a different zone. He appreciated the Council's feedback on the highest and best use of the property.

Councilmember Roper moved to adjourn at 6:22 p.m., seconded by Councilmember Thompson. The motion carried upon the following vote: Voting AYE – Councilmember Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

FW: Kilfoyle rezone

Brad McIlrath <Brad.McIlrath@clearfieldcity.org>

Tue 5/17/2022 9:42 AM

To: Nancy Dean <nancy.dean@clearfieldcity.org>; Joannie Strong <Joannie.Strong@clearfieldcity.org>

[Here is their withdrawal request.](#)



Brad McIlrath, AICP

Senior Planner

55 South State Street

Clearfield, UT 84015

801-525-2784

brad.mcilrath@clearfieldcity.org

From: Gregory Day <gregoryb81@gmail.com>

Sent: Tuesday, May 10, 2022 6:52 PM

To: Brad McIlrath <Brad.McIlrath@clearfieldcity.org>

Subject: Kilfoyle rezone

Brad-

I would modify our application on kilfoyle. I realize this may a step back.

I will call you tomorrow to discuss.

Thanks

Greg

--

Greg

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Thanks, Your friendly neighborhood IT Dept.



STAFF REPORT

To: Mayor Shephard and City Council Members
From: Spencer W. Brimley, Community Development Director
Meeting Date: Tuesday, May 24th, 2022
Subject: Notice of Violation (NOV) to Request For Compliance (RFC)

Recommended Action

Approve Ordinance 2022-11 amending Title 1, Chapter 16 – Code Enforcement Regarding Requests for Compliance.

Description / Background

Code enforcement has been housed in the community development department for approximately 5 years. Prior to the move to civil enforcement, code enforcement was managed by the Clearfield City Police Department and was handled in a manner consistent with criminal enforcement for violations. The move to civil enforcement has provided a different approach to enforcement and has simplified the process as it relates to working with residents, business, and property owners.

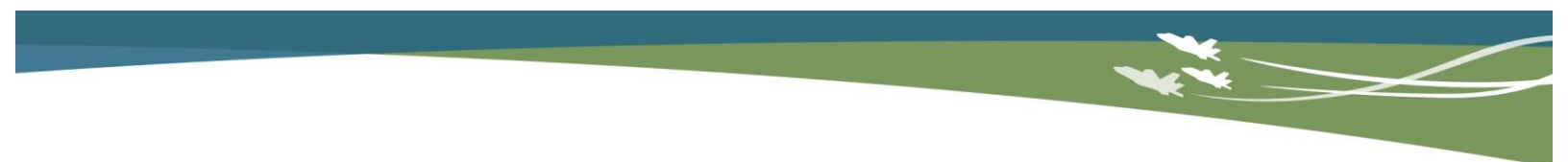
During the 2021 council retreat, direction was provided to amend the current code enforcement administration replacing the current “Notice of Violation (NOV)” with a “Request for Compliance” (RFC). Additionally, during that meeting, staff received direction that code efforts should be more reactive, responding to complaints or suspected violations, rather than being proactive. Some of the additional changes that have been implemented since the 2021 Council retreat are as follows:

1. Code supervisor reviews each “NOV” and Default prior to them being sent
2. Weekly meetings with code staff to discuss issues, concerns or other areas of enforcement that may need additional attention
3. Code staff working to assist with business license and rental license compliance (Follow up on expired or licenses that have not been renewed)
4. Staff taking time to speak with residents when complaints arise to help correct issues before they become out of control
5. Ideas for educational approaches and campaigns, previously considered, but not implemented. (staffing turnover implications)

Corresponding Policy Priorities

The proposed ordinance amendments meet the Policy Priorities of *Providing Quality Municipal Services* and *Improving Clearfield’s Image, Livability, and Economy* in the following ways:

- Providing Quality Municipal Services by improving the approach and management of code enforcement efforts through necessary City code amendments.

- 
- Improving Clearfield's Image, Livability, and Economy by encouraging property owners, businesses, and residents to work collaboratively with the city and other community partners to create a place where people want to be.

Hedgehog Score

The effort associated with the proposed amendments were a direction provided to staff at a previous council retreat. This item was not run through the hedgehog scoring, but if that is a desire of the council, staff can perform the requisite analysis and provide the score as needed.

Fiscal Impact

The proposed changes have no direct fiscal impact that staff can see.

Alternatives

Staff are willing to accept any additional changes or suggestions as it relates to the current code approach, and proposed changes to the code enforcement standards.

Schedule / Time Constraints

Staff are working with our current software provider (Mikey) to get forms and templates updated with RFC language. Staff will continue to use NOV until approval of the draft changes has been finalized and all forms and documents are updated and loaded into software.

List of Attachments

- Updates to Title 1-16 for changes from NOV to RFC

CLEARFIELD CITY ORDINANCE 2022-11

AN ORDINANCE AMENDING TITLE 1, CHAPTER 16 – CODE ENFORCEMENT, GENERAL OF THE CLEARFIELD CITY CODE

PREAMBLE: This Ordinance amends Title 1, Chapter 16 – Code Enforcement in the Clearfield City Code.

BE IT ORDAINED BY THE CLEARFIELD CITY COUNCIL:

Section 1. Enactment:

Title 1, Chapter 16 – Code Enforcement is hereby amended to read as follows:

ARTICLE A. GENERAL

- 1-16A-1: Purpose And Scope**
- 1-16A-2: Existing Law Continued**
- 1-16A-3: Remedies Not Exclusive**
- 1-16A-4: No Mandatory Duty To Enforce**
- 1-16A-5: General Enforcement Authority**
- 1-16A-6: Authority To Inspect**
- 1-16A-7: False Information**
- 1-16A-8: Failure To Obey A Subpoena**
- 1-16A-9: Acts Include Causing, Aiding, And Abetting**

1-16A-1: PURPOSE AND SCOPE:

A. Purpose: The purpose of this chapter is to provide for a comprehensive Code enforcement system that uses a combination of judicial and administrative remedies to gain compliance with selected Municipal ordinances.

B. Authority: The enactment of this chapter by the City is made, in part, pursuant to authorization found in sections 10-8- 84, 41-6a-207 and 41-6a-214, Utah Code, as amended, and in concert with the constitutional issues described in *Tate v. Short*, 401 U.S. 396 (1971), and subsequent U.S. Supreme Court decisions.

C. Scope: The provisions of this chapter may be applied to seek remedy for any and all violations of this Code. It has been designed to provide optional remedies for the City to use in achieving compliance with this Code. However, failure to comply with an action brought forth pursuant to this chapter may require the City to file a judicial action to gain compliance.

1-16A-2: EXISTING LAW CONTINUED:

The provisions of this chapter do not invalidate any other title or ordinance but shall be interpreted in conjunction with the rest of this Code as providing remedies for the enforcement of this Code.

1-16A-3: REMEDIES NOT EXCLUSIVE:

The City has sole discretion in deciding whether to pursue administrative, civil or criminal remedies for the violation of the provisions of this Code. (Ord. 2018-03, 3-27-2018)

1-16A-4: NO MANDATORY DUTY TO ENFORCE:

A. Prosecutorial Discretion: In establishing the remedies and procedures provided in this chapter, the City recognizes the principles of prosecutorial discretion in the context of the Code enforcement proceedings described in article B of this chapter.

B. No Civil Liability: It is the intent of the City that in establishing performance standards or establishing an obligation to act, that these standards shall not be construed as creating a mandatory duty for purposes of tort liability if the officer or employee fails to perform his or her directed duty or duties.

1-16A-5: GENERAL ENFORCEMENT AUTHORITY:

Whenever an enforcement official finds that a violation of this Code has occurred or continues to exist, the enforcement official has the authority and power necessary to gain compliance with the provisions of this Code through the administrative procedures of this Code, or otherwise as permitted under State law. These powers include the power to commence administrative or criminal enforcement procedures, issue a request for compliance, inspect public and private property, abate violations upon private property, and use whatever judicial and administrative remedies are available under this Code and applicable State law.

1-16A-6: AUTHORITY TO INSPECT:

A. Any City enforcement official is authorized to enter upon any property or premises to perform inspections, examinations and surveys as may be necessary in the performance of that enforcement official's duties. This may include, but not be limited to, the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon probable cause.

B. The enforcement official may obtain a search warrant to allow the enforcement official to enter the property.

1-16A-7: FALSE INFORMATION:

Pursuant to authorization found in section 76-8-506, Utah Code, as amended, it shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with a City employee when in the performance of his or her official duties.

1-16A-8: FAILURE TO OBEY A SUBPOENA:

Pursuant to authorization found in section 54-7-23(2), Utah Code, as amended, it shall be unlawful for any person to refuse or fail to obey a subpoena issued for a Code enforcement hearing.

1-16A-9: ACTS INCLUDE CAUSING, AIDING, AND ABETTING:

Whenever any act or omission is made unlawful in this title, said unlawful act or omission shall include causing, permitting, aiding, or abetting such act or omission.

ARTICLE B. ADMINISTRATIVE CODE ENFORCEMENT

- 1-16B-1: Procedures**
- 1-16B-2: Definitions**
- 1-16B-3: Service Of Process**
- 1-16B-4: Request for Compliance**
- 1-16B-5: Responding Or Not Responding To A Request for Compliance**
- 1-16B-6: Compliance Inspections; Notice Of Compliance**
- 1-16B-7: Code Enforcement Hearings**
- 1-16B-8: Default Judgments**
- 1-16B-9: Administrative Hearing Officer**
- 1-16B-10: Code Enforcement Orders**
- 1-16B-11: Failure To Comply With Code Enforcement Order**
- 1-16B-12: Appeal Of Code Enforcement Order**
- 1-16B-13: Recordation Of Notices And Orders**
- 1-16B-14: Prohibition Against Issuance Of Municipal Permits**
- 1-16B-15: Performance Bonds**
- 1-16B-16: Abatement And Emergency Processes**
- 1-16B-17: Nonemergency Abatement**
- 1-16B-18: Demolitions**
- 1-16B-19: Non-Property Related Emergency License Suspension Or Revocation, Emergency Cease And Desist Orders**
- 1-16B-20: Civil Penalties And Injunctions**
- 1-16B-21: Recovery Of Fees And Costs**
- 1-16B-22: Code Enforcement Funds And Accounting**

1-16B-1: PROCEDURES:

The City Manager is authorized to develop policies and procedures relating to the administrative hearing procedures, scope of hearings, subpoena powers, and other matters relating to this article.

1-16B-2: DEFINITIONS:

The following words and phrases, whenever used in this chapter, shall be used and construed as defined in this section, unless a different meaning is specifically defined elsewhere in this chapter and specifically stated to apply:

ABATEMENT: Any action the City may take to remove or alleviate a violation, including, but not limited to, demolition, removal, repair, boarding up, securing or replacement of property.

CODE ENFORCEMENT ORDER: An order issued by a Hearing Officer under this article. Also "order".

CODE ENFORCEMENT PERFORMANCE BOND: A bond required by a Hearing Officer under this chapter and posted by a responsible person to ensure compliance with this Code.

CODE ENFORCEMENT TAX LIEN: A lien recorded with the County Recorder and the County Treasurer to facilitate collection of outstanding civil penalties, administrative fees, and costs.

DAY OR DAYS: Unless otherwise expressly provided, count every day, including intermediate Saturdays, Sundays, and legal holidays as defined by the Utah Rules of Civil Procedure, but if the last day is a Saturday, Sunday or legal holiday, the period will continue to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

DISCOVERY: The formal process of exchanging information between the parties about the witnesses and evidence to be presented at trial. The purpose of discovery is to make the parties aware of the evidence that may be presented at trial. The process prevents "trial by ambush", where one side does not learn of the other side's evidence or witnesses until the trial.

EMERGENCY ORDER: A Code enforcement order issued under sections 1-16B-16 and/or 1-16B-19 of this article calling for emergency action in advance of any due process hearing opportunity.

ENFORCEMENT OFFICIAL: A person authorized by the City Manager to issue and pursue a request for compliance under this article.

FEE SCHEDULE: The most recently adopted Clearfield City consolidated fee schedule.

GOOD CAUSE: Incapacitating illness or accident, death of a parent or sibling, lack of proper notice, or unavailability due to unavoidable and unpreventable emergency or circumstance.

HEARING OFFICER: The person appointed by the City Manager to preside and conduct a Code enforcement hearing under this article. The Hearing Officer may be a department head, other than the enforcement official or his or her supervisor, or a non-City employed person with requisite skill and experience.

IMMINENT HAZARD: Any condition that creates a present and immediate danger to the public health, safety, or welfare.

LEGAL INTEREST: Any interest that is represented by a valid document or instrument, such as a contract, deed of trust, quit claim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien, or other similar instrument.

NOTICE OF COMPLIANCE: A document issued by the City, confirming that the responsible person has remedied the Code violations set out in a request for compliance, paid all fees, penalties and costs assessed and otherwise fully complies with the requirements of a Code enforcement order.

REQUEST FOR COMPLIANCE: A written notice prepared and issued by an enforcement official that informs a responsible person of Code violations and orders them to take certain steps to correct the violations.

PERFORMANCE BOND: A bond posted by a responsible person to ensure compliance with this Code, applicable State titles, a judicial action, or an administrative enforcement order.

PERSON: A human being and a corporate entity. For this purpose partnerships, limited liability companies and business trusts, in addition to corporations, are deemed to be persons.

PRIMA FACIE EVIDENCE: Evidence that is sufficient to establish a fact or raise a presumption unless disproved or rebutted.

PROPERTY OWNER: The record owner of real property based on the records of the Davis County Recorder.

PUBLIC NUISANCE: See title 5, chapter 1 of this Code and the Utah Code.

RESPONSIBLE PERSON: Any person(s) responsible for allowing, permitting, causing or maintaining a violation of this Code. Such responsible person may include, but not be limited to, the property owner and/or the person in possession of real property; and the person committing the conduct violating this Code.

TORT LIABILITY: An act or omission that gives rise to injury or harm to another and amounts to a civil wrong for which courts impose liability.

TREBLE COSTS: A term that indicates triple the amount of the actual/compensatory costs to be awarded to the City.

1-16B-3: SERVICE OF PROCESS:

- A. Method: Whenever service of a request for compliance, responsive pleading, order or other document is required to be given under this article, the document shall be served by any of the following methods:
 - 1. Regular mail, first class postage prepaid, to the last known address of the responsible person(s);
 - 2. Posting the notice conspicuously on or in front of the property. If not inhabited, the notice must also be mailed as in subsection A1 of this section. The form of the posted notice shall be approved by the enforcement official or his or her designee; or
 - 3. Personal service pursuant to Utah Rules of Civil Procedure.
- B. Date Of Service: Service by regular mail in the manner described above shall be deemed served on the third day after the date of mailing. Date of service by publication will be twenty-four (24) hours following the last publication.
- C. Serving Some, But Not All, Responsible Persons: The failure to serve some but not all responsible person(s) shall not affect the validity of any proceedings as against those persons properly served.
- D. Valid Service: If service complies with the requirements of this section, it shall be deemed a valid service even if a party claims not to have received the service and it shall not affect the validity of any proceedings taken under this title.
- E. Constructive Notice Of Recorded Documents: Whenever a document is recorded with the County Recorder as authorized or required by this title or applicable State codes, recordation shall provide constructive notice of the information contained in the recorded documents.

1-16B-4: REQUEST FOR COMPLIANCE:

- A. General: An enforcement official has the authority to commence an administrative Code enforcement process through the issuance and service of a request for compliance. Whenever an enforcement official determines that a violation of this Code has occurred and/or continues to exist, the enforcement official may issue a request for compliance. The request for compliance shall include the following information:
 - 1. Name of property owner;
 - 2. Street address of violation;

3. Date violation observed;
 4. All code sections violated and description of condition of the property that violates the applicable codes;
 5. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;
 6. Specific date to correct the violations listed in the request for compliance, which date shall be at least fourteen (14) days from the date of service;
 7. Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the request for compliance, which may include, but are not limited to, criminal prosecution, civil penalties, revocation of permits or licenses, recordation of the request for compliance, withholding of future Municipal permits, abatement of the violation, costs, administrative fees, and any other legal remedies;
 8. The amount of the civil penalty on each violation and that the penalty will accrue daily until the property is brought into compliance;
 9. That only one request for compliance is required for any 12-month period, and that civil penalties begin immediately upon any subsequent violations of the notice. The responsible person may request a hearing on the renewed violations by following the same procedure as provided for in the original notice;
 10. The following procedure to request a hearing: The request for hearing shall be made in writing and filed with the City Recorder within ten (10) calendar days from the date of service. The request shall contain the case number, the address of the violation, and the signature of the responsible party and a Hearing Fee of \$150.00 that is refundable if the violations are determined to be unfounded.
 11. The consequences for failure to request a hearing, including that failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the action.
- B. Service: The request for compliance shall be served by one of the methods of service listed in section 1-16B-3 of this article.
- C. More Than One Notification: More than one request for compliance may be issued to the same responsible person, if it encompasses different dates, or different violations. For a request for compliance
- D. Related to weeds, the enforcement official is not required to make more than one notice for each annual season of weed growth for weeds growing on a property.

- E. No Criminal Authority: An enforcement official has no authority to issue a criminal citation or information, but may refer a violation of this Code through the Police Department to the City Attorney's Office for the screening of criminal charges.

1-16B-5: RESPONDING OR NOT RESPONDING TO A REQUEST FOR COMPLIANCE:

- A. Suspension And Possible Dismissal Of Penalties For Prompt And Continuing Remediation Of Violations: Any and all accrued penalties associated with the violations described in the request for compliance shall be suspended if:
 - 1. The responsible person causes violations described in a request for compliance to be corrected;
 - 2. The responsible person requests an inspection from the City within the time specified in the notice following service of the request for compliance; and
 - 3. A notice of compliance is issued in response to that request for an inspection.

This suspension of penalties will continue and will be dismissed if during the twelve (12) months immediately following the date of the notice of compliance there is no recurrence of substantially the same violation.

- B. Penalties Continue To Accrue: If a responsible person fails to correct the violations described in a request for compliance within the time specified in the request for compliance, or the responsible person commits or allows substantially the same violation within the succeeding twelve (12) months following issuance of a notice of compliance, all penalties that began to accrue daily on the date of the first request for compliance shall be owed in full to the City and shall continue to accrue for each and every subsequent day of continuing violation.
- C. Criminal Prosecution Possible: Failure to remedy the violations described in a request for compliance is a Class B misdemeanor and may be prosecuted as such.
- D. Penalty Suspension After Hearing: Notwithstanding subsection B of this section, the Hearing Officer may order accrued penalties and costs to be dismissed, in whole or in part, or suspended.
- E. Request A Hearing: If the responsible person(s) served with a request for compliance disputes the legal or factual bases of the violations described in the request for compliance, the responsible person(s) may request a Code enforcement hearing before a Hearing Officer.
- F. Failure To Respond To The Request for compliance; Default Judgment: A responsible person who fails to request a hearing or remediate the violation and request an inspection

by the City within the time specified in the request for compliance will be subject to the entry of default judgment upholding the request for compliance and directing and imposing the actions, penalties, fees and costs associated therewith. This default judgment will be final and non-appealable.

- G. Civil Penalties Accrue Daily: Unless suspended or reduced as otherwise provided in this article or in a Code enforcement order, civil penalties accrue daily and as authorized pursuant to section 10-3-703, Utah Code, as amended no civil penalty for a single-family dwelling shall exceed allowable amounts as outlined in the above Utah Code reference for civil penalties.
- H. Extension Of Time: A responsible person may request an extension of the time specified for remediating Code violations set out in the request for compliance by submitting a request in writing to the Code Enforcement Division at the address and telephone number shown on the request for compliance at any time within the specified time after service of the request for compliance stating and affirming as follows:
 - 1. The responsible person waives any right to request a hearing to dispute the request for compliance;
 - 2. The responsible person is actively engaged in remediation activities; and
 - 3. The claimed inability to complete remediation activities in time to request an inspection within the time specified is the result of specified and adequately described factors and forces outside of the control of the responsible person.
- I. Shortening Of Time: The normal time to respond to a request for compliance may be shortened by administrative directive of the City Manager in response to the need for more rapid response and abatement.

1-16B-6: COMPLIANCE INSPECTIONS; NOTICE OF COMPLIANCE:

- A. Duty To Request Inspection: It shall be the duty of the responsible person(s) served with a request for compliance to request an inspection by the City when the described violation has been corrected. Upon request of a responsible party, the City shall perform an inspection as soon as practicable to determine whether the violations described in the request for compliance have been corrected. If following a requested inspection the City declines to issue a notice of compliance, the responsible person(s) have a duty to request a re-inspection once further remediation work is completed. A re-inspection fee will be due and payable.
- B. Enforcement Official To Direct Inspections: It is the duty of the enforcement official who issued the request for compliance or an authorized designee to perform or cause to be performed any and all compliance inspections.

- C. Notice Of Compliance: If the City determines that the violation(s) described in a request for compliance is fully remediated, a notice of compliance shall be issued.
- D. Effect Of Notice Of Compliance: The notice of compliance shall be deemed effective upon the date the inspection resulting in the notice of compliance was requested, and, except as provided in subsection 1-16B-5B of this article, no further penalties shall accrue for any fully remediated violation.
- E. Denial Of Notice Of Compliance: After an inspection, if the City denies a request for a notice of compliance, the City shall serve the responsible person with a written explanation setting forth the reasons for the denial.
- F. Challenge To Noncompliance Determination: If a responsible person believes that a City decision not to issue a notice of compliance resulting from a requested inspection is in error and that the inspection should have resulted in a notice of compliance, that person may request a Code enforcement hearing to challenge the inspection result.
- G. Effect Of Code Enforcement Order: If a Code enforcement order upholds some but not all violations described in a request for compliance, such an order has the effect of amending the request for compliance as to any further inspections or reviews, and any future requests for a notice of compliance.
- H. Prima Facie Evidence: It is prima facie evidence, meaning evidence that is sufficient to establish a fact or raise a presumption unless disproved or rebutted, that the violation is continuing if no inspection or review is requested.
- I. Re-Inspection Fees: Re-inspection fees shall be assessed to the responsible person named in a request for compliance if more than one inspection or review is necessary to confirm full remediation of the violations described in the request for compliance.

1-16B-7: CODE ENFORCEMENT HEARINGS:

- A. Purpose: The City finds that there is a need to establish uniform procedures for Code enforcement hearings conducted pursuant to this article. It is the purpose and intent of the City to afford due process of law to any person who is directly affected by a Code enforcement action. Due process of law includes notice, an explanation of the accusations, and an opportunity to be heard prior to imposition of a penalty. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly review and resolve issues raised in any request for compliance.
- B. Request For Code Enforcement Hearing:
 - 1. A responsible person has the right to request a Code enforcement hearing by filing a written request and paying the required filing fee, if the request is filed within the time specified in the request for compliance for compliance and follows one of the following:

- a. Service of a request for compliance;
 - b. Service of a notice of abatement;
 - c. Notice of itemized bill for costs as outlined in subsection 1-16B-17E of this article;
or
 - d. A refusal by the City to issue a notice of compliance following an inspection.
2. As soon as practicable after receiving a request for hearing, the City Manager or his or her designee shall arrange for and appoint a Hearing Officer, and the Hearing Officer will schedule a date, time, and place for the hearing, and will serve written notice of the same to all responsible persons.
3. Failure to timely request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the City's action set out in the request for compliance. Such a failure to request a hearing will result in a default judgment being entered upholding the request for compliance and assessing accrued fees, penalties and costs.

C. Procedures At Code Enforcement Hearings:

1. Informal In Nature: Code enforcement hearings are intended to be informal in nature. The formal Utah Rules of Evidence and Discovery do not apply; however, an informal exchange of relevant documents and other evidence may be required at the discretion of the Hearing Officer.
2. Discovery Requests: Discovery requests must be in writing directed to the opposing party. Failure to timely request discovery shall preclude a continuance to enable additional discovery or investigation.
3. Personal Information Protected: A complainant's personal identifying information is protected and shall not be released unless the complainant is a witness at the hearing.
4. Burden Of Proof:
 - a. The City bears the burden of proof at a Code enforcement hearing requested to substantively challenge a request for compliance.
 - b. At a hearing challenging the denial of a notice of compliance the responsible person(s) will bear the burden of proof and persuasion with respect to the claim that a notice of compliance should be issued.
 - c. In a Code enforcement hearing requested to review the costs associated with an involuntary abatement, the responsible person has the burden of proof that one or more costs were improper or excessive.

- d. In any hearing on a motion to set aside a default judgment, the responsible person has the burden of proof to show good cause.
- 5. Standard Of Proof: The standard of proof to be used by the Hearing Officer in deciding any issue at a Code enforcement hearing is the preponderance of the evidence. A preponderance of the evidence shows what is more likely than not.
- 6. Activities Allowed To Support Case: Each party shall have the opportunity to cross examine witnesses and present evidence in support of his or her case. If approved in advance by the Hearing Officer, testimony may be given by telephone or other electronic means.
- 7. Hearings Open To Public: All hearings are open to the public. Hearings shall be recorded to enable verbatim transcripts to be prepared as needed.
- 8. Representation By Attorney: The responsible person may be represented by an attorney. If an attorney will be representing the responsible person at the hearing, notice of the attorney's name, address, and telephone number must be given to the City's Code Enforcement Program Office at least seventy-two (72) hours prior to the hearing. If timely notice is not given, and an attorney appears for a responsible person, the hearing will be continued at the City's request, and any costs of the continuance will be assessed to the responsible person.
- 9. Fee Refund If Violation Dismissed: If the Hearing Officer dismisses the request for compliance entirely, the hearing fee shall be refunded to the responsible person who paid it.
- D. Failure To Attend Code Enforcement Hearing: Any responsible person named in a request for compliance who fails to appear at a duly noticed hearing is deemed to waive the right to a hearing, which will result in a default judgment entered for the City as to that responsible person.

1-16B-8: DEFAULT JUDGMENTS:

- A. Entry Of Default Judgment; Hearing Officer To Issue: If a responsible person fails to timely request a Code enforcement hearing or, once requested the responsible person fails to attend the hearing, default judgment will be entered by the Hearing Officer imposing the relief requested in the request for compliance and assessing fees, costs and penalties as appropriate. The enforcement official shall seek the appointment of a Hearing Officer to review and enter the default judgment.
- B. Effect Of Default Judgment: Except as provided for in subsection D of this section, a default judgment is a final order and may not be appealed through the City or through the courts. Following the issuance of a default judgment, the City may forthwith proceed to involuntarily abate a real property violation and may commence a collection action in

District Court to recover accrued and unpaid fees, penalties and costs approved in the default judgment.

- C. Service Of Default Judgment: A copy of a signed default judgment shall be served on all applicable responsible persons promptly following signing by the Hearing Officer.
- D. Motion To Set Aside Default Judgment: Within fifteen (15) days following service of a default judgment in favor of the City, a responsible party may prepare and submit a written request that the default judgment be set aside. The moving party will have the burden of proof and persuasion. The Hearing Officer may set aside the default judgment if good cause is shown. If the Hearing Officer decides to set aside a default judgment, the Hearing Officer shall cause a Code enforcement hearing to be scheduled and noticed according to the requirements of this article.
- E. Decision Of Hearing Officer Final: The decision of a Hearing Officer to decline or set aside a default judgment is final and non-appealable.

1-16B-9: ADMINISTRATIVE HEARING OFFICER:

- A. Authority To Hold Hearings: The Hearing Officer has the authority to hold hearings, determine if violations of this Code exist, order compliance with this Code, and enforce compliance with this Code as provided in this article.
- B. Authority To Continue Hearings: The Hearing Officer may continue a hearing to a later time or date.
- C. Subpoenas: The Hearing Officer, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness for the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, as provided in Utah Code, shall be borne by the party requesting the subpoena.
- D. Continuing Jurisdiction: The Hearing Officer has continuing jurisdiction over the subject matter of a Code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing a Code enforcement order, by using any remedies available under the law; all to aid in obtaining compliance with that order, which includes the right to authorize the City to enter and abate a property violation; modifying a Code enforcement order; or, where extraordinary circumstances exist, granting a new hearing. The Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to effect compliance with the Code enforcement order.
- E. Involuntary Abatement: The Hearing Officer may order the City to enter the property and abate all violations, which may include, but is not limited to removing animals or other property in violation of this Code.

- F. License/Permit Revocation: The Hearing Officer may revoke a permit or license, including but not limited to those permits and licenses described in sections 1-16B-10, 1-16B-14, and 1-16B-19 of this article.
- G. Conditional Penalty Abatement: The Hearing Officer may condition the total or partial assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines.
- H. Performance Bond: The Hearing Officer may order the responsible person to post a performance bond to ensure compliance with the order.

1-16B-10: CODE ENFORCEMENT ORDERS:

- A. Stipulated Agreement: The City may enter into a stipulated agreement with the responsible person(s) to resolve the issues of a request for compliance without a hearing. This agreement shall be accepted by the Hearing Officer and entered as the Code enforcement order resolving the request for compliance. Entry of this agreement as a Code enforcement order shall constitute a waiver of the right to a hearing and waiver of the right to appeal to District Court.
- B. Issuance Of Order: Within thirty (30) business days after completion of the Code enforcement hearing, the Hearing Officer shall issue a Code enforcement order that affirms, modifies or rejects the request for compliance, in whole or in part. The Hearing Officer may reduce, not increase, the total amount of fees, penalties and costs that are due pursuant to this article and on the City's fee schedule.
- C. Enter And Abate: The Hearing Officer may order the City to enter the property and abate all violations, which may include removing animals kept in violation of this Code.
- D. Animals: The Hearing Officer may revoke a kennel permit, an animal license, or the right to possess animals as provided in this Code.
- E. Ability To Complete Compliance: As part of the Code enforcement order, the Hearing Officer may condition the total or partial assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines.
- F. Subsequent Hearings: The Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Code enforcement order.
- G. Performance Bond: The Hearing Officer may order the responsible person to post a performance bond to ensure compliance with the order.
- H. Final Order: The Code enforcement order shall become final on the date the Hearing Officer signs the order.

- I. Service: The Code enforcement order shall be served on all parties pursuant to section 1-16B-3 of this article.

1-16B-11: FAILURE TO COMPLY WITH CODE ENFORCEMENT ORDER:

If the responsible person fails to comply with the terms and deadlines set forth in the Code enforcement order, the City may use all appropriate legal means to enforce the Code enforcement order and to recover the fees, penalties and costs associated therewith.

1-16B-12: APPEAL OF CODE ENFORCEMENT ORDER:

- A. Judicial Review: Any person adversely affected by any final Code enforcement order issued following a Code enforcement hearing, except an enforcement order upholding the denial of a notice of compliance, may file a petition for review of the Code enforcement order in the District Court within thirty (30) days after the date of the Code enforcement order.
- B. No Judicial Review:
 1. The decision of a Hearing Officer upholding a denial of a notice of compliance is final and non-appealable.
 2. A default judgment and a decision by a Hearing Officer to deny a motion to set aside a default judgment are final and non-appealable.
- C. Exhaustion Of Administrative Remedies: No person may challenge in District Court a Code enforcement order until that person has exhausted his or her administrative remedies.
- D. Obtaining The Administrative Record For Judicial Review: Within thirty (30) days after submitting a petition for review in the District Court, the party petitioning for judicial review shall request a copy of the record of the Code enforcement hearing, including transcripts if required by the District Court. The City shall not submit copies of files or transcripts to the reviewing court until the party petitioning for judicial review has paid all required copying and transcription costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within sixty (60) days after the petition for review was filed shall be grounds for dismissal of the petition. The City shall have an additional sixty (60) business days from the date of request to prepare and submit the requested file and/or transcript.
- E. Possible Remand Back To City: If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, and there is no other reliable record of the Code enforcement hearing otherwise available, the District Court may, in its discretion, remand the matter back to the City for a supplemental proceeding to create a usable record.
- F. District Court Review On The Record: The District Court's review is limited to the evidence in the record of the Code enforcement order that is being reviewed, and not a new

trial or hearing on the facts or evidence. The court shall not accept nor consider any evidence that is not part of the City's record.

G. Scope Of District Court Review; Burden Of Proof: The District Court shall:

1. Presume that the Code enforcement order(s) on review is valid; and
2. Review the record to determine whether or not the evidence available to the Hearing Officer shows that the order was arbitrary, capricious, or illegal.
3. The petitioner for review has the burden of proof before the District Court.

1-16B-13: RECORDATION OF NOTICES AND ORDERS:

- A. Purpose: The City finds that there is a need for alternative methods of enforcement for violations of this Code that are found to exist on real property. The City further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation and Code enforcement orders. The recordation against the subject property shall be in addition to criminal, civil, or any other remedies established by law that may be pursued to address the violation.
- B. Authority: The enforcement official is authorized to record the request for compliance, default judgment, and/or the Code enforcement order against the subject property in the Davis County Recorder's Office.
- C. Procedures For Recordation:
1. If a violation continues to exist on real property after the deadline established in the request for compliance, and no request for a Code enforcement hearing has been filed, the enforcement official may record the request for compliance and/or default judgment order.
 2. The recordation shall include the name of the property owner, the parcel number, the legal description of the parcel, a copy of the request for compliance, and a copy of the Code enforcement order.
 3. The recordation is not a lien against the property but acts as a notice to future interested parties concerning any continuing violation found upon the property.
- D. Notice Of Recordation: A notice of the recordation shall be served on the responsible person(s).
- E. Cancellation Of Recorded Notice Or Order: If a notice of compliance is issued, the enforcement official may record the notice with the County Recorder's Office. Recordation of the notice of compliance shall have the effect of updating and nullifying the previously recorded request for compliance or Code enforcement order to which it applies.

1-16B-14: PROHIBITION AGAINST ISSUANCE OF MUNICIPAL PERMITS:

During the pendency of any unresolved request for compliance, the City may withhold from the responsible person(s): a) business licenses; b) permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, and permits pertaining to the use and development of the real property or the structure; and c) other permits or licenses that may otherwise be sought from the City. The City may withhold requested permits until a notice of compliance is issued.

1-16B-15: PERFORMANCE BONDS:

- A. As part of any notice, order, or action, the Hearing Officer has the authority to require responsible persons to post a performance bond to ensure compliance with this Code, applicable State codes, or any judicial action.
- B. If the responsible person fails to comply with the notice, order, or action, the bond will be forfeited to the City. The bond will not be used to offset the other outstanding costs and fees associated with the case.

1-16B-16: ABATEMENT AND EMERGENCY PROCESSES:

- A. Abatement Of Violation: Any condition caused, maintained, or permitted to exist in violation of any provisions of this Code may be involuntarily abated by the City pursuant to the procedures set forth in this article.
- B. Enforcement Official Authority: The enforcement official is authorized to enter upon any property or premises to involuntarily abate any violation of this Code consistent with the provisions of this article. The enforcement official may assess all costs incurred by the City for the abatement to the responsible person(s) and use any remedy available under the law to collect such costs. If additional abatements for the same or substantially similar Code violations are necessary within one year of the date of any default judgment or Code enforcement order, the enforcement official may assess treble costs against the responsible person(s) for the subsequent abatement(s).
- C. Requirements For Involuntary Abatement:
 - 1. Whenever the enforcement official determines that an imminent hazard exists, with approval from the City Manager or his or her designee, the enforcement official may issue an emergency order directing one or more of the following actions be taken:
 - a. Order the immediate vacation of any owners, tenants and occupants, and prohibit occupancy until all imminent hazards have been corrected;
 - b. Post the premises as unsafe, substandard, or dangerous;

- c. Board, fence, or secure any building or site;
 - d. Raze and grade the premises to the extent necessary to remove any imminent hazard to the general public;
 - e. Make emergency repairs; or
 - f. Take any other action appropriate to eliminate or protect the public against an imminent hazard.
- 2. This emergency order, together with a request for compliance, shall be served on the responsible person(s) in accordance with section 1-16B-3 of this article, at or before the time the ordered actions are to take place.
 - a. The enforcement official has the authority, based on probable cause, to direct City personnel, including those contracted to perform work at the direction of the City, to enter the property without a search warrant or court order to accomplish the above listed acts to abate the imminent hazard.
 - b. The responsible person shall be liable for all costs associated with the abatement of the imminent hazard. Costs may be recovered pursuant to this article through procedures set forth herein or through a court of competent jurisdiction.
 - c. The enforcement official shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard.
 - d. The enforcement official may also pursue any other administrative or judicial remedy to abate any remaining violations.
- D. Notice: After an emergency abatement, the City shall notify the responsible person of the abatement action taken, the itemized costs, and the location of any seized and removed personal property. This notice shall be served as soon as possible, but no more than ten (10) business days of completion of the involuntary abatement.
- E. Request For Hearing: The responsible person(s) may request a Code enforcement hearing pursuant to and in accordance with section 1-16B-7 of this article to challenge the costs of an involuntary abatement. If timing of the emergency actions results in the notice of abatement being issued and served prior to a requested Code enforcement hearing under the request for compliance, the hearing on the merits of the request for compliance can be consolidated with any requested hearing under this subsection to challenge a cost or abatement action.

1-16B-17: NONEMERGENCY ABATEMENT:

If the responsible person fails, within the time provided in the Code enforcement order, to abate a property related violation after a Code enforcement order or default judgment is issued directing that such abatement take place, the City may abate the violation.

- A. Right Of Entry; Performance By Contractor: City personnel, or a private contractor acting under the direction of the City, may enter upon private property in a reasonable manner to abate any Code violation as specified in a Code enforcement order.
- B. Abatement By Responsible Person: If the City undertakes preparatory or other steps to perform an involuntary abatement pursuant to a Code enforcement order or on an emergency basis, but the responsible person proceeds on his own to abate the violation before the City completes the actual abatement, the City may still assess all costs incurred by the City in undertaking preparatory or other steps to abate the violation to the responsible person(s).
- C. Itemized Account: When the abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the City. The report shall contain the names and addresses of the responsible person, the owner of each parcel, and the tax parcel numbers.
- D. Notice: The enforcement official shall notify the responsible person(s) of the abatement action taken by the City. The notice shall be served within ten (10) business days of completion of the abatement and shall include a description of the work performed and an itemized accounting of costs, and shall demand full payment of all abatement costs, within twenty
- E. (20) days of the date of the notice, to the City.
- F. Abatement Cost Hearing: Within ten (10) days of the notice provided for in subsection D of this section, the responsible person(s) may request a Code enforcement hearing pursuant to and in accordance with section 1-16B-7 of this article, to contest the costs of the abatement, and the Hearing Officer shall schedule and hold such a hearing according to the requirements of this article.

1-16B-18: DEMOLITIONS:

- A. Authority: Whenever the enforcement official, building official, or Fire Marshal determines that a property or building requires demolition, any one of them may demolish or remove the offending structure, exercise any and all powers listed in section 1-16B-16 of this article once appropriate notice has been given to a responsible person pursuant to the Uniform Abatement of Dangerous Buildings Code or Fire Codes as required in the Utah Code. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this title.

- B. Procedures: Once the enforcement official has determined that the building official or the Fire Marshal has complied with all of the notice requirements of the applicable law, the property will be abated pursuant to the abatement remedy. Other applicable remedies may also be pursued.

1-16B-19: NON-PROPERTY RELATED EMERGENCY LICENSE SUSPENSION OR REVOCATION, EMERGENCY CEASE AND DESIST ORDERS:

- A. Authority: With approval from the City Manager or his or her designee, an enforcement official may issue an order suspending or revoking a license or permit and/or an emergency cease and desist order on an emergency basis if:
1. Credible facts known by, or presented to, the enforcement official show an imminent hazard; and
 2. The imminent hazard requires immediate action by the City.
- B. Requirements: In issuing an emergency order, the enforcement official shall:
1. Limit the emergency order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;
 2. Issue a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the enforcement official's utilization of emergency proceedings; and
 3. Serve the emergency order together with a request for compliance on the persons who are required to comply with the order.

1-16B-20: CIVIL PENALTIES AND INJUNCTIONS:

- A. Assessment:
1. Any person violating any provision of this Code may be subject to the assessment of civil penalties for each violation, except civil penalties shall not be assessed when a criminal case has been filed for the same violation.
 2. Interest at the default rate provided in the Utah Code shall be assessed on all outstanding civil penalties, costs and/or unpaid fee balances, compounded monthly, until the penalties have been paid in full.
 3. Civil penalties for violations of any provision of this Code or Utah Code shall be assessed pursuant to the City's consolidated fee schedule or as otherwise expressly provided in this Code.

4. If a responsible person fails to comply with a request for compliance within the time stated, civil penalties shall accrue as of the date of the request for compliance and shall continue to accrue and be owed to the City for each and every subsequent day of violation.
- B. Failure To Pay Penalties: The failure of any person to pay civil penalties assessed within the specified time may result in the City pursuing any legal remedy to collect the civil penalties as provided in the law.
- C. Civil Injunctions: In addition to any other remedy provided under this Code or State codes, including criminal prosecution or administrative remedies, any provision of this Code may be enforced by injunction issued in the District Court upon suit brought by the City.

1-16B-21: RECOVERY OF FEES AND COSTS:

- A. Purpose:
 1. The City finds that there is a need to recover costs incurred by enforcement officials and other City personnel who spend considerable time inspecting and re-inspecting properties throughout the City in an effort to ensure compliance with this Code.
 2. The City further finds that the assessment of costs in addition to penalty assessments is an appropriate method to recover expenses incurred for actual costs of abating violations, performing re-inspections, retaining attorneys, preparing for and conducting hearings, title searches, and any additional costs incurred by the City for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil penalties.
- B. Assessment Of Re-Inspection Fees: Notification of re- inspection fees and costs shall be described on the request for compliance.
- C. Filing Fees: A request for hearing for any of the permitted purposes under this article shall be accompanied by a filing fee as prescribed in the City's consolidated fee schedule.
- D. Failure To Timely Pay Filing Fees And Costs: The failure of any person to pay assessed costs or filing fees by the deadline specified in this Code or in a City invoice will result in interest at the default rate provided in the Utah Code being added and compounded monthly. Failure to pay a filing fee when due will result in no hearing being scheduled.
- E. Statement Of Intent Regarding Recovery Of Code Enforcement Penalties And Costs Through Liens And Collection Actions: The City finds that recordation of Code enforcement tax liens will assist in the collection of penalties, fees and costs and otherwise achieve compliance with this Code. The City further finds that collection of civil penalties and assessed costs is important in deterring future violations and maintaining the integrity of this Code. The procedures established in this article shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of this Code.

F. Procedures For Tax Liens Without A Judgment:

1. The City Manager or his or her designee is authorized to record with the County Treasurer a Code enforcement tax lien against real property for the accrued fees, penalties and costs incurred during a City performed abatement.
2. The failure of any person with a legal or financial interest in the property to actually receive the notice of Code enforcement tax lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding penalties, costs and fees associated with an abatement.

G. Cancellation Of Code Enforcement Tax Lien: Once payment in full is received for the outstanding penalties and assessed costs, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the City shall either record a notice of satisfaction against the same property or provide the property owner with the notice of satisfaction to be recorded. The notice of satisfaction shall include the same information as provided for in the original Code enforcement tax lien. Such notice of satisfaction shall cancel the Code enforcement tax lien.

H. Procedures For Tax Liens With A Judgment: Once a civil judgment has been obtained from the appropriate court approving fees, penalties and costs against the responsible person(s), the City may record that judgment as a Code enforcement tax lien against any real property owned by the responsible person(s).

I. Recovery Of Costs Through Judicial Writ: After obtaining a civil judgment awarding fees, penalties and/or costs, the City may enforce the judgment by use of all appropriate legal means, including, but not limited to, garnishment of wages and accounts and foreclosure on real and personal property.

1-16B-22: CODE ENFORCEMENT FUNDS AND ACCOUNTING:

A. Abatement Fund: There is hereby established a revolving fund to be known as the "Abatement Fund" to defray costs of administrative and judicial abatements. The fund shall be reimbursed by collection from the property or property owner or responsible person as specified in this title and by the courts. The City shall establish accounting procedures to ensure proper account identification, credit, and collection. This fund may be operated and used in conjunction with procedures ordered or authorized under the abatement provision of this title.

1. Repayment To The Abatement Fund: All monies recovered from the sale or transfer of property or by payment for the actual abatement costs shall be paid to the City, who shall credit the appropriate amount to the Abatement Fund.

B. Code Enforcement Enhancement Fund: Administrative fees and administrative costs, except for actual abatement costs collected pursuant to this chapter, shall be deposited in the "Operations Fund", as established by the enforcement official for the enhancement of

the City's Code enforcement efforts and to reimburse City departments for investigative costs and costs associated with the hearing process. Fees and costs deposited in this fund shall be appropriated and allocated in a manner determined by the enforcement official. The City shall establish accounting procedures to ensure proper account identification, credit, and collection.

- C. General Fund: Civil penalties collected pursuant to this chapter shall be deposited in the General Fund of the City. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the City Manager and the City Council. The City shall establish accounting procedures to ensure proper account identification, credit, and collection.

Section 2. Repealer: Any provision or ordinances that are in conflict with this ordinance are hereby repealed.

Section 3. Effective Date: These amendments shall become effective immediately upon passage and posting.

Passed and adopted by the Clearfield City Council this 24th day of May, 2022.

CLEARFIELD CITY CORPORATION

Mark R. Shepherd, Mayor

ATTEST:

Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:



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

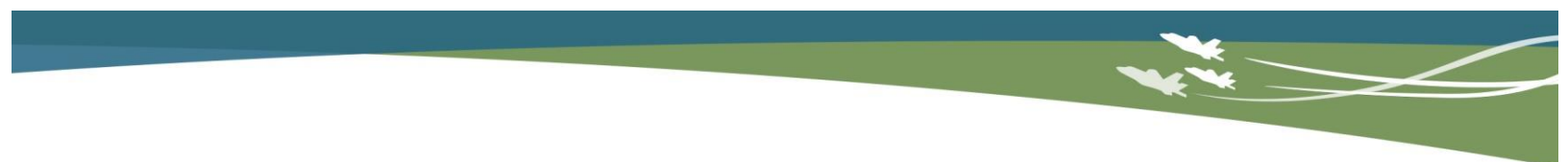
In December of 2019, the Clearfield Police Department conducted a child pornography investigation and subsequently the suspect was arrested, convicted, and sentenced for possessing child pornography (Clearfield Police Case Number 19-12663). During the investigation, dozens of child pornography images 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

CLEARFIELD CITY RESOLUTION 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; and

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 interest use through using the item as “bait” in a proactive investigative operation.

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

Dated this 24th day of May, 2022.

CLEARFIELD CITY CORPORATION

Mark R. Shepherd, Mayor

ATTEST:

Nancy R. Dean, City Recorder

VOTE OF THE COUNCIL

AYE:

NAY:

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