

CLEARFIELD CITY COUNCIL MEETING MINUTES
6:00 P.M. WORK SESSION
November 22, 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
EXCUSED:	Karece Thompson	Councilmember
STAFF PRESENT:	JJ Allen	City Manager
	Summer Palmer	Assistant City Manager
	Shawn Robinson	Assistant City Attorney
	Kelly Bennett	Police Chief
	Adam Favero	Public Works Director
	Eric Howes	Community Services Director
	Curtis Dickson	Community Services Deputy Dir.
	Spencer Brimley	Community Development Director
	Brad McIlrath	Senior Planner
	Nancy Dean	City Recorder
	Chersty Titensor	Deputy Recorder

VISITORS: Susie Becker – Zions Bank

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

DISCUSSION ON THE FIRST ADDENDUM TO THE LOTUS ANTHEM DEVELOPMENT AGREEMENT FOR THE PROPERTY LOCATED AT 240 EAST 350 SOUTH (TIN: 15-072-0001

As presented at the City Council Policy Session on November 8, 2022, the applicant was seeking the inclusion of two (2) additional modifications from the Downtown Clearfield Form Based Code (FBC). The additional modifications were based upon a review from the project architect and were intended to address minor design elements of the townhomes while maintaining consistent siting and square footages of the units. The addendum also outlined the total number of units that would be constructed in phases two and three of the development as well as the final date for purchase of the property from Clearfield City to facilitate development.

- Requested Modification to the Form Based Code:
 - Townhouse Building Type – Maximum Building Width: 12 units

- Required Occupied Space: 20 feet deep and 30 feet wide on all full floors of front load, front entry units.
- Front Build-to Zone: 5'6" setback for park facing units (proposed matching the setback of apartments on the south side of the park).
- Phase 3-unit count reduction from 54 units down to 47 units. Phase 2-unit count from 16 units to 19 units. Developer to close on the purchase of the property for both phase 2 and phase 3, on or before January 31, 2023. Developer reserved the right to perform on either phase 2 or phase 3 in no particular order or sequence.

Mr. McIlrath informed the Council that the applicant requested one more change to the addendum. He stated it was not a code change, but language in the development agreement would be submitted to request a reduction to the number of units

Mayor Shepherd expressed his opinion that he liked the front-loaded version better but didn't like the setback. The townhome project was to have looked different than the apartment setups. Mr. McIlrath gave an explanation of the reasons for the request to reduce the setback. Discussion was held on the accommodations given by the Council previously. Councilmember Peterson expressed concern about the pinch point between the townhouse buildings and expressed her concern about crowding the buildings. Mr. McIlrath offered some suggestions the applicant could consider if the Council required a higher setback. Councilmember Peterson asked where the pedestrian walkways were on the edge of the project. She offered that without those there was no connectivity. A discussion was held about whether accommodating the solar panels was the original reason for approving the "L" in the project. Summer Palmer, Assistant City Manager, reminded the Council it was approved to mirror the look of the other project; the developer thought that would look better around the park. Councilmember Peterson expressed a slightly different opinion regarding the park. She was more concerned about the housing type with the setback because the northwest corner was so crowded. She recommended the developer needed to demonstrate to the Council how the deviations they requested would work. She pointed out deficiencies of no connectivity, incredibly crowded, a pinch point between two buildings, and the setback for the housing type.

Councilmember Bush asked about the open area at the entrance from State Street. Mr. McIlrath wasn't sure. Councilmember Bush questioned whether they could put additional units at the entrance. Mr. McIlrath informed the Council that it was not feasible.

Councilmember Peterson said they were willing to look at the request, but the developer had not demonstrated that the concessions they asked for met the conditions of the intent of the Form Based Code and considered them a dealbreaker. There was a discussion about the required setbacks and it was determined that the FBC said if the unit did not face a street setback it had to be at least ten feet. Mr. McIlrath pointed out that because the City allowed the L-shape and allowed that number of townhomes to be connected, the City wanted them to be setback from the park to reinforce the single-family nature of the townhome project and provide a front yard feel. Mayor Shepherd stated the City had given many accommodations to the developer to this point. Mr. McIlrath expressed his opinion that the City would want consistency between the two Lotus projects.

DISCUSSION ON BUSINESS LICENSE FEE STUDY AND THE GOOD LANDLORD PROGRAM

Zions Public Finance, Inc. (“ZPFI”) was retained by Clearfield City to complete an analysis of business licensing fees to meet the requirements of Utah law as established by Utah Code Annotated §10-1-203. Additionally, the City requested ZPFI analyze the current Good Landlord Program for the City and provided the City with suitable options to replace the program, given the changes to the statute that reduced the effectiveness of the original program.

Spencer Brimley, Community Development Director, informed the Council that the City had not changed its business license fees since 2008 and it was probably an appropriate time to adjust the fees. The proposal used the following items in the analysis of fees:

- Employee labor
- Indirect/department overhead
- Training
- Supply and study costs

Mr. Brimley presented recommendations for fee changes to the Council for consideration. Councilmember Peterson asked what tier of businesses were involved in the recent changes of types of businesses not needing to be licensed. Mr. Brimley explained those that met the three criteria: no customers visiting the home; business would not create dust, noise, odor or other detrimental impacts; and no outdoor storage. Discussion was held about various fees and their impact. There was dialogue about whether business classifications needed to be revisited. Mr. Brimley explained the efforts that had been made by City staff to address that issue. Susie Becker, Zions Bank, suggested the groupings should be bigger and any statistical outlier be thrown out; too small of groupings did not have statistical accuracy. The correlation between the amount a business utilized City resources (i.e. planning, licensing, police department, legal, and customer service, etc.) and fee amounts was discussed. Mr. Brimley reviewed police calls. He explained staff felt strongly that the fees should be consistent with the demand and cover the costs associated with the service.

Councilmember Peterson asked what type of notice a business would receive if the adoption of the increase in fees was approved, and whether the business would get the study to explain increases. Mr. Brimley informed the Council that the City was going to a new software that could communicate directly with the licensee but if the Council recommended, staff could provide face-to-face contact. Councilmember Peterson expressed concern the impact of increasing fees would have on retaining and attracting businesses to the City. Mayor Shepherd recommended reviewing fees charged by surrounding cities but also pointed out the fact that the fees had not been reviewed for fourteen years. Ms. Becker offered insight from her experience working with other cities that some had wanted economic growth so bad that they didn’t change their fees, others placed a cap on any increases and wouldn’t raise more than 20-50 percent, impose a certain amount, or even put a maximum to any increase. Councilmember Peterson was concerned for retail and wanted to know the comparisons involved in the process.

Councilmember Roper pointed out that the market might support increases, but he wanted to know what was right for businesses in Clearfield so the City could avoid further impacting businesses negatively during the current difficult economic environment. He would consider a gauged approach of gradually increasing the fees.

Mr. Brimley reviewed fees charged by neighboring cities in Davis County. Discussion was held to determine how the City could enhance economic development and cover costs but not increase fees too high to detract businesses. Mr. Allen stated he understood that the Council had discretion to determine which type of businesses they would want to subsidize or those they would want to charge up to a maximum fee. Shawn Robinson, Assistant City Attorney, informed the Council that he believed they had the discretion, but there would need to be language stating the reason for any disparity in fees charged (i.e. increase in police calls, etc). Ms. Becker shared she had seen other cities articulated that they were offsetting business license fees for businesses that produced sales tax revenue. Mayor Shepherd recommended in any situation where the increase was dramatic, the increase would need to be phased. Mr. Brimley pointed out the economic impact and costs for additional services needed from the City for specific business types. Mr. Allen asked if it would be beneficial for Staff to look at specific business types that generated sales tax revenue to determine whether fees should be subsidized or increased gradually over time. Council agreed to have Staff review and return with a proposal.

Mr. Brimley recommended the discussion on the Good Landlord Program (GLP) were limited until staff came back with the fee analysis. He wanted the Council to understand that the City could charge a disproportionate fee with the GLP. He stated the program could still generate substantial revenue based on proposed increases without it; however, the revenue would still be less than what had currently been collected. Encouraged Council to review the study.

Mayor Shepherd stated if the GLP demonstrated that it promoted a reduction in calls then he would support keeping it, but without that he considered it not worth the effort and time to administrate. Councilmember Peterson liked one of the options in the report which allowed the ability to waive fees or have some discretionary latitude with fees if they were to enter a remediation program and agreed to address any issue so police or code enforcement were not being used. Mr. Brimley informed the Council that West Valley City used that approach. He pointed out on page 21 what was being collected. He stated the cost was not equal with the work involved. He pointed out there was a cost for managing, training and overseeing different aspects that was required while the State continued to erode what was once a program that required more accountability. Mr. Allen acknowledged that Council seemed to support the termination of the GLP but it would be reviewed at a later date.

Councilmember Bush moved to adjourn at 6:55 p.m., seconded by Councilmember Roper. The motion carried upon the following vote: Voting AYE – Councilmember Bush, Peterson, Phipps, and Roper. Voting NO – None. Councilmember Thompson was not present for the vote.

APPROVED AND ADOPTED
This 13th day of December, 2022

/s/ Mark Shepherd, Mayor

ATTEST:

/s/ Nancy R. Dean, City Recorder

I hereby certify that the foregoing represents a true, accurate, and complete record of the Clearfield City Council meeting held Tuesday, November 22, 2022.

/s/ Nancy R. Dean, City Recorder