

CLEARFIELD CITY COUNCIL MEETING MINUTES  
6:00 P.M. WORK SESSION  
April 8, 2014

PRESIDING:	Mark Shepherd	Mayor
PRESENT:	Keri Benson	Councilmember
	Kent Bush	Councilmember
	Ron Jones	Councilmember
	Mike LeBaron	Councilmember
	Bruce Young	Councilmember
STAFF PRESENT:	Brian Brower	City Attorney
	Greg Krusi	Police Chief
	Scott Hodge	Public Works Director
	Eric Howes	Community Services Director
	Scott Hess	Development Services Manager
	Rich Knapp	Administrative Services Director
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder
EXCUSED:	Adam Lenhard	City Manager
	JJ Allen	Assistant City Manager

VISITORS: Kathryn Murray

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

DISCUSSION ON APPLYING FOR NON-PROFIT ART STATUS

Eric Howes, Community Services Director, reminded the Council of a previous discussion relative to establishing a foundation which would support arts and recreation programs for the City. He stated he was prepared to share information from completed research and would be looking for direction from the Council. He indicated it was important to designate a name and determine the format of the governing body for the foundation. Mr. Howes proposed the foundation be named, The Clearfield Foundation for Arts, Parks and Recreation. The Council expressed approval for the proposed name.

Mr. Howes shared possible options for the organization of the governing body. He reported the West Valley City Council served as the Board of Directors for its foundation and shared other examples of possible board options to be considered. Brian Brower, City Attorney, mentioned it took West Valley three times before it convinced the IRS (Internal Revenue Service) the foundation should receive a non-profit status. He suggested a mixture of City Council, staff and community members for the City's board.

Councilmember Bush inquired what the main function of the Board would be and believed once that was identified the Council could then determine the structure of the Board. Mr. Howes responded its main function would be to support arts, parks and recreation within the City and the foundation would be an avenue to provide a non-profit entity which could accept donations and receive a tax break. Mr. Brower pointed out once the foundation was established any donated funds would exclusively belong to the it to be used as its board of directors saw fit; the City wouldn't have any authority as to how the funds were spent.

Councilmember LeBaron inquired if the funds from the non-profit foundation would be different from those generated by the potential RAP (Recreation, Arts and Parks) tax and because of the specific delineation suggested the board consist of a mixture of Council and staff.

Councilmember Young commented he wasn't in favor of appropriating funds recognized from the RAP tax to the non-profit. Mr. Brower believed both sources would be supporting programs offered by the City; the difference being the revenue source and a discussion took place regarding how each organization and funds could specifically be used. Mr. Howes emphasized the importance in establishing control of the Board when it was initially organized.

Councilmember Benson asked if there were other municipalities other than West Valley which had created a non-profit arts foundation. Mr. Brower didn't know if there were others; he was aware that West Valley had and obtained information from its attorney's office. He expressed agreement with Mr. Howes having representation from the City Council on the Board would insure the most control. Mayor Shepherd proposed a mixed representation of City Council, staff, Parks and Recreation Chair and/or citizens. Councilmember Young expressed agreement with that suggestion.

Mr. Howes stated the Council would also need to establish bylaws and articles of incorporation for the organization which would also specify the number of Board members. Mr. Brower suggested a board consisting of an odd number and proposed a body of five or seven members.

Councilmember Bush suggested soliciting members from within the community and shared possibilities. Mayor Shepherd expressed agreement there were members of the community with a passion for the arts or familiarity with nonprofits. Councilmember Bush inquired if the board would need to be adopted by resolution or ordinance and whether the bylaws would become part of City Code. Mr. Brower cautioned the Council about involving the elected body with the approval process and suggested the Council approve a resolution authorizing staff to form the corporate entity and allowing the board to approve all articles associated with the entity. He expressed concern for having three members of the City Council on the board and asked Nancy Dean, City Recorder, if that would require noticing requirements specific to Open Meeting Law. Ms. Dean responded she would need to research City Code specific to this purpose, but believed other requirements specific to minutes would be necessary. Councilmember Young suggested, given that scenario, the board consist of two councilmembers, one member from the Parks & Recreation Commission, one member from staff and one member from the community at large. A discussion took place about that proposal and the Council directed staff to proceed.

## DISCUSSION ON A PROPOSED TEXT AMENDMENT REGARDING NON-DEPOSITORY LENDING ESTABLISHMENTS

Scott Hess, Development Services Manager, reminded the Council the City adopted an ordinance regulating payday lending establishments with the intent it would cover all similar lending establishments. He explained title lending was different from payday lending. He stated he attempted to locate findings as to why these types of businesses wouldn't benefit the City. He explained how title loans worked for the consumer using the example of a car valued at \$10,000.

He proposed a zoning text amendment specific to non-depository lending establishments, a term identified by the State, which would encompass all businesses which did not operate as a Federally Insured Deposit Institution (FDIC), did not accept deposits and solely distribute money as a product. He continued this would be specific to all title lenders and payday lenders. He stated pawn shops were regulated by a separate ordinance.

Mr. Hess stated non-depository lending establishments clustered around areas which were adjacent to military bases and explained the following reasons:

- Young families in tight financial situations
- Borrowers did not pose a flight risk or could easily move, most airmen are stationed at a base for at least 24 months
- Military will make sure debt is paid in full

He pointed out the demographics of Clearfield City were similar to the above mentioned reasons such as low income and young families making it a desirable location.

He reported the City currently had nine non-depository institutions located on State Street between its two McDonald's restaurants, one on the north end of the City and the other on the south.

Mr. Hess proposed changing the term "payday lending" to "non-depository lending establishments" in the current ordinance; which only allowed one establishment per 10,000 residents (this would equal three total). He indicated this would create a number of legal non-conforming uses. He pointed out the proximity variance identified in the ordinance most likely wouldn't allow any to move to another location within the City. He emphasized once an existing business left the City, the ordinance wouldn't allow new ones to come in. He expressed his opinion the findings included in the staff report supported the amendment and believed the City wouldn't be challenged. He stated the zoning text amendment would come before the Council for consideration on Tuesday, April 22, 2014.

Brian Brower, City Attorney, believed when the ordinance was adopted in 2012 it addressed predatory lending related to payday lending and title loan companies weren't an issue. Mr. Hess explained the history associated with legislation specific to the two types of businesses and indicated they were defined individually at the State level, therefore requiring cities to regulate those types of businesses. Mr. Brower reiterated the City's justification for the zoning text amendment: clustering and the number of businesses allowed based on population.

Mayor Shepherd stated the City was saturated with these types of businesses and believed the reason payday lending businesses started near air bases was to assist the airman that only got paid once a month. Councilmember LeBaron believed the amendment was a long time coming. Councilmember Jones inquired if the language in the ordinance would be more specific to predatory lending companies and expressed concern the terms “non-depository” or “not FDIC insured” could include mortgage companies. Mr. Hess responded the ordinance included a list and also referred to State Code and the fact that mortgage companies were already highly regulated.

Mr. Hess read from the current definition which identified each type of business which the City desired to regulate. Mr. Brower stated he would work with Mr. Hess on the proposed language for the zoning text amendment.

The meeting adjourned at 6:35 p.m.

**APPROVED AND ADOPTED**  
**This 22<sup>nd</sup> day of April, 2014**

**/s/Mark R. 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, April 8, 2014.

/s/Nancy R. Dean, City Recorder