

CLEARFIELD CITY COUNCIL MEETING MINUTES
6:00 P.M. WORK SESSION
June 14, 2016

PRESIDING:	Mark Shepherd	Mayor
PRESENT:	Keri Benson	Councilmember
	Kent Bush	Mayor Pro Tem
	Nike Peterson	Councilmember
	Vern Phipps	Councilmember
	Bruce Young	Councilmember
STAFF PRESENT:	Adam Lenhard	City Manager
	JJ Allen	Assistant City Manager
	Stuart Williams	City Attorney
	Scott Hodge	Public Works Director
	Spencer Brimley	Development Services Manager
	Greg Krusi	Police Chief
	Eric Howes	Community Services Director
	Curtis Dickson	Community Services Deputy Dir.
	Summer Palmer	Administrative Services Director
	Rich Knapp	Finance Manager
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder

VISITORS: Buck Ekstrom, Justus Crawford, Jeff Schmidt, Dave Harris – HAFB, Shannon Smith – HAFB, Jarrod Case - HAFB

Mayor Shepherd called the meeting to order at 6:01 p.m.

PRESENTATION BY HAFB (HILL AIR FORCE BASE) ENVIRONMENTAL

Shannon Smith, HAFB Environmental, distributed handouts to the Council reflecting the location of the groundwater contamination plumes, the timeline associated with the restoration and other information specific to the contamination and restoration. She referred to the handouts and shared a presentation to the Council pointing out the following:

- The map makes the TCE plume appear as two separate plumes, but they related and are treated as one plume.
- The PCE plume was a shallow plume.
- Emphasized the plumes didn't impact the drinking water.

Ms. Smith reported since the last update with the City, a Record of Decision had been signed with the Air Force, the Environmental Protection Agency (EPA) and the Utah Department of Environmental Quality which outlined the requirements of the Air Force for treatment. She continued the Air Force had agreed to use Enhanced Reductive Dechlorination which would

allow the existing microbes in the contaminated water to be fed emulsified vegetable oil to stimulate growth to break down the TCE.

Councilmember Peterson asked if a homeowners would be obligated to disclose information that their home was located in an identified plume area upon selling. Mayor Shepherd responded homeowners would only be required to disclose factual information derived from specific testing at the home.

Ms. Smith reported results from the Enhanced Reductive Dechlorination were promising in that concentrations had been reduced but not at the desired level; therefore, reinjections of a higher concentration were taking place. Councilmember Young asked about the forecast relative to time for complete remediation. Ms. Smith responded the most current prediction for the PCE plume was 30 years and the shallow TCE plume was 51 years.

Councilmember Peterson asked what the ground water level was in the area. Scott Hodge, Public Works Director, responded the water table was fairly shallow in the area and Ms. Smith commented they had measured it at approximately 8 to 10 feet and it sloped to close 100 feet specifically for the plume area.

Jarrold Case, HAFB, mentioned the second half of the handouts were specific to the indoor air sampling and stated that was referred to as vapor intrusion. He emphasized the only exposure to residents was through evaporation through the soil into a home. He explained a vapor intrusion term and shared the process used for air sampling and reported no vapor intrusion was taking place in Clearfield, based on the sampling and reviewed the following conclusions with the Council:

- Collected groundwater samples
- Collected soil gas samples
- Collected indoor air samples

Mr. Case explained a clean water lense, which was uncontaminated rain water over the contaminated groundwater plume and referred to the handouts to illustrate this point, as well as sampling results.

Councilmember Benson arrived at 6:10 p.m.

Mr. Case announced no new air sampling would be taking place in Clearfield and emphasized if there was a need in the future it would again be implemented. He indicated residents would be receiving information explaining that point as well as a fact sheet explaining the findings.

Councilmember Phipps expressed his opinion that HAFB had been proactive in determining the effect of the contamination to residents and the local community prior to it being discovered by the public and complimented the Base for its efforts.

Ms. Smith and Mr. Case left the meeting at 6:18 p.m.

DISCUSSION ON THE COMPENSATION PLAN

Summer Palmer, Administrative Services Director, reminded the Council she had given them each a packet which included the updated recommendation from McGrath and the budget numbers associated with implementation of the proposed compensation for the current year. She asked if there were any questions which needed to be addressed regarding the recommendation or the budget prior to it being considered for approval by the Council and there were none.

Ms. Palmer stated the recommendations would be implemented the first week in July, if approved by the Council, and stated McGrath's recommendations to the Policy and Procedure Manual would be incorporated in the City's current manual rather than having two separate documents.

DISCUSSION ON AN AMENDED FINAL SUBDIVISION PLAT FOR CLEARFIELD VILLA SUBDIVISION LOT 1

Spencer Brimley, Development Services Director, explained the property owner of 555 North Main, the Set Price Auto property, had also purchased two more lots north of that property and was proposing to consolidate the properties into one lot. He informed the Council that the action would increase the size of the parcel from .18 acres to approximately one third of an acre. He reported the Planning Commission had recommended approval for the preliminary subdivision plat and the Council would consider final subdivision approval during its meeting on Tuesday, June 28, 2016.

Mr. Brimley pointed out the following conditions requested by staff:

- Fencing of the property to separate the residential from the commercial uses.
- Amending Site Plan to meet landscaping and other requirements.
- Responsibility to maintain easements to the property.

Councilmember Peterson clarified where the existing garage was located and asked about the number of curb cuts on North Main. Mr. Brimley responded there was one curb cut which would continue to be used and explained how consolidating the lots would allow the property owner more convenient utilization of the properties.

DISCUSSION ON THE STORM WATER MANAGEMENT PLAN

Scott Hodge, Public Works Director, informed the Council that when the Environmental Protection Agency (EPA) implemented the Clean Water Act approximately 10 to 11 years ago the City was required to begin regulating storm water. He stated at that time the City adopted a Plan as part of that requirement and announced the current proposal was the second update of the Plan. He indicated approximately every five years the EPA identified new rules and regulations and those would be included in the update. He reported the State of Utah was responsible for enforcement of the EPA's policies which had been forwarded to the City. He indicated the amended Plan needed to be in place by July 1, 2016 and stated there was another deadline for additional action by the City in September, at which time the Council would be considering

another document. He pointed out nothing had been eliminated, the original requirements were still included in the Plan, and emphasized the EPA continued to add additional requirements.

He clarified the Storm Water Management Plan was a living document which identified best practices which would be implemented. He stated audits would take place from time to time and suggested it could be a painful learning process to go through. He emphasized the Plan included best practices from neighboring communities which had experience with the audit process.

Mr. Hodge mentioned as part of the Plan the City was required to conduct training outreach to not only City employees but members of the Community. He reported that requirement had been completed by Dan Schuler, Storm Water Inspector, attending and presenting information during the City Council Open Houses.

Councilmember Phipps clarified the Plan reflected what the City was currently doing in addition to the new regulations. Mr. Hodge expressed his opinion the City would be required to treat storm water sometime in the future to reduce contaminants and shared some examples.

DISCUSSION ON THE INTERLOCAL AGREEMENT BETWEEN DAVIS COUNTY CITIES AND DAVIS COUNTY FOR THE UPDES (UTAH POLLUTION DISCHARGE ELIMINATION SYSTEM) GENERAL PERMIT

Scott Hodge, Public Works Director, explained each jurisdiction within Davis County belonged to a coalition which provided training for best management practices to combine efforts to comply with the Storm Water Management Plan. He explained the educational efforts to fourth grade students sponsored by the Coalition in addition to producing television commercials with the We All Live Downstream campaign. He explained the agreement acknowledged participation in the coalition as well as addressing specifics which each entity would agree to do.

Mr. Lenhard pointed out the City would be required to provide training and outreach, as well as to meet all obligations identified in the agreement on its own if it didn't participate with the coalition in the agreement and suggested that would be a burden.

Mr. Hodge distributed an outline which identified specifics of the UPDES program completed by the coalition to the Council.

DISCUSSION ON THE CITY ENGINEER REQUEST FOR PROPOSAL (RFP)

Scott Hodge, Public Works Director, announced the City recently completed a Request for Proposals (RFP) for a contracted City Engineer. He reported six consultants submitted proposals which were reviewed by the evaluation committee. He distributed the tabulation sheet used by each member of the committee to rate the submissions and stated the top three; CEC, Jones & Associates and Hill & Argyle (H&A Entellus), were invited to interview on Thursday, June 16, 2016. He stated once the committee had made a selection the Council would consider approval of the appointment and a contract would be executed. He mentioned CEC was the City's current engineer and its contract would expire the end of June.

DISCUSSION ON THE CONSTABLE SERVICES REQUEST FOR PROPOSAL (RFP)

JJ Allen, Assistant City Manager informed the Council that the City contracted for certain services in the Court and reviewed those services with the Council. He indicated the contract would expire the end of June and completed the RFP process. He reported the only submission was by the City's current provider, Constable Services of Utah, which reflected a slight increase in fees. He stated the Council would be asked to consider approval of the award of bid during its meeting on Tuesday, June 28, 2016.

Councilmember Phipps asked if the hours were consistent from week to week. Mr. Allen responded the bailiff hours were predictable but some of the work, such as serving warrants, was more variable and explained how they were paid for serving warrants.

DISCUSSION ON SECONDHAND SMOKE AND THE NUISANCE ORDINANCE

Stuart Williams, City Attorney, stated he had been asked to share a presentation on secondhand smoke and ordinances and laws pertaining to that issue in order to get direction from the Council. He reminded the Council a resident had expressed concern during the citizen comment portion of a previous meeting about the issue and indicated that resident was also in attendance. He reported he couldn't find another City within the State of Utah or the United States which had a criminal regulation governing smoking inside a private residence emitting secondhand smoke outside to a neighboring property or yard. He indicated he had also communicated with the State Tobacco Prevention organization soliciting its knowledge regarding the specific complaint and was told it was likely that such a regulation would be difficult to enforce.

He shared information specific to adoption of the Utah Clean Air Act and the reason it could be enacted and enforced was because of its benefit to the general public. He informed the Council that the State of Utah was one of the leaders when it came to regulating secondhand smoke and indicated the Utah Clean Air Act did allow for a private right of action. He referred to the statute and believed its intent was more specific to rental dwellings/units, condominiums, etc. He believed it provided an avenue for the resident to seek legal redress through the court process as a civil issue and not a criminal issue. He clarified the Health Department would be the enforcement body and reviewed other smoking laws with the Council.

Mr. Williams expressed his opinion if the City implemented an ordinance specific to secondhand smoke the City would need to be prepared to defend it constitutionally and a discussion took place. The Council concluded legislation would be difficult to enforce.

DISCUSSION ON PROPERTY LOCATED AT 329 NORTH MAIN

JJ Allen, Assistant City Manager, shared a visual illustration identifying the location of the vacant gas station on the corner of 300 North and North Main. He stated in 2011 the property was sold to the current owner and explained at that time British Petroleum (BP) placed a restriction on the deed which included several items. He continued one of those was that for 20 years after 2011, a gas station could not operate at that location. He reported the biggest obstacle

was the restriction specific to excavation which stated no soils could be disturbed on the property.

He reported over the years the City had received inquiries specific to that site; however, the excavation issue had deterred the progress of future development for the site. Adam Lenhard, City Manager, reported the underground tanks did leak; however, environmental studies phase I and phase II reflected no contamination had taken place. Mr. Allen added the Department of Environmental Quality (DEQ) had provided the property owner with a “letter of no further action required”.

Mr. Allen stated in further review of the deed restriction he discovered the excavation restriction had no expiration to it and explained there was a process which could be followed in that instance; a request needed to be made to BP that it either release or waive that restriction.

Mr. Allen informed the Council that the purpose for the current discussion was there was a proposal from the national pizza chain, Marco’s Pizza. He stated the franchisee wanted help from the City to obtain approvals for development of the site.

Councilmember Peterson moved to adjourn the work session and reconvene in a City Council policy session at 6:55 p.m., seconded by Councilmember Bush. All voting AYE.

The work session reconvened at 8:29 p.m.

DISCUSSION ON PROPERTY LOCATED AT 329 NORTH MAIN, CONTINUED

Mr. Allen distributed design concepts to the Council and shared the business’s website with the Council. He explained how remodeling had taken place at one of the businesses and reported he and Adam had visited and eaten lunch at one of the locations and both liked the pizza. He reported the proposed owner would keep all remaining buildings in place. He added the proposal was to add to the existing buildings with BP’s permission.

He informed the Council that the franchisee had made a request for a significant amount of money from the City to help locate at that site and staff presented a counter offer. He reported the counter offer was \$75,000 over the course of ten years, post-performance similar to tax increment based on the property tax and the sales tax revenue generated by the business at the site, plus another \$50,000 through the facade and site improvement grant. The owner responded back to the City that the proposed incentive wasn’t enough and Mr. Allen suggested offering \$125,000 up front to help offset initial construction/remodeling costs and requested feedback from the Council. He reviewed the options for consideration and suggested the Council ask itself what it might be worth to help something happen at that location. The following options were offered:

- Do nothing.
- The soft offer of tax increment and facade improvement grant equivalent to \$125,000.
- The current request of \$125,000 up front.
- Outright purchase the property and lease it to the proposed business.

A discussion took place regarding the presented options and Mayor Shepherd pointed out the City already had a letter from the State of Utah which indicated there were no issues with the property. He believed the property met the definition of “blight” and suggested the City would need to be involved to get BP to release the deed restriction. He expressed his opinion the best option for the City would be to demolish the buildings and the discussion continued.

Councilmember Young believed the issue with BP needed to be pursued; however, he expressed his opinion the City should not be in the property of owning property long term. He stated he would be in favor of Mr. Allen’s proposal of placing a deed restriction if the City contributed to the development of the property because of the assumed risk on behalf of the City if the business venture wasn’t successful. Mr. Allen pointed out once the property was “rehabbed” it had marketing potential and the discussion continued.

Councilmember Phipps asked how interested the business owner was in that particular site. Mr. Allen believed the owner was very serious since discussions were continuing regarding possible incentives. The discussion continued regarding the purchase cost of the property compared to other commercial parcels in the vicinity and the presented options.

Mayor Shepherd expressed his opinion the \$125,000 incentive post performance, in conjunction with a ten year lien against the property, minimizing risk to the City, would best meet the needs of the business in addition to fixing a blighted property within the City. Councilmember Bush inquired if the RDA could appropriate funds in that manner. Mr. Allen suggested using some of the limited funds from project area eight and combining that with general CDRA funds to make the proposal viable. He added the proximity to HAFB (Hill Air Force Base) was one of the deciding factors in pursuing that particular location providing another option for the lunch hour. Members of the Council expressed comments and opinions that the pizza restaurant would be successful at that location.

Councilmember Benson requested clarification on how things would proceed with the project if the City purchased it outright, specifically if it would bear the responsibility of requesting removal of the deed restriction. Mr. Allen responded Marco’s Pizza was prepared to move forward by requesting permission from BP to accomplish its business model. He suggested directing Marco’s Pizza work with BP in obtaining permission to renovate the site and the City could continue to work on its own with BP to permanently release the deed restriction.

Councilmember Benson inquired what would happen if the City was unable to secure the release of the deed restriction. Mr. Allen responded the restriction would remain in place which would require BP’s permission anytime construction activity was contemplated on the property.

Councilmember Young stated he wasn’t in favor of the City purchasing the property and Councilmember Phipps agreed.

Mr. Allen concluded the Council would be comfortable with the \$125,000 up front to be used toward reimbursement for actual costs with the security of a trust deed. The Council directed staff to work in that direction.

Councilmember Phipps inquired about the proposed timeline for the project. Mr. Allen responded the contract with Marco's Pizza Corporate required them to open 13 more stores in the region by 2018. He stated based on the owner was highly motivated and hoped to be open sometime next spring.

The meeting adjourned at 8:50 p.m.

APPROVED AND ADOPTED
This 26th day of July, 2016

/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, June 14, 2016.

/s/Nancy R. Dean, City Recorder