

CLEARFIELD CITY COUNCIL MEETING MINUTES  
6:00 P.M. WORK SESSION  
March 3, 2020

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
	Kelly Bennett	Police Chief
	Adam Favero	Public Works Director
	Braden Felix	City Engineer / Deputy PW Director
	Eric Howes	Community Services Director
	Spencer Brimley	Community Development Director
	Brad McIlrath	Senior Planner
	Tyler Seaman	Building Official
	Shane Crowton	Code Officer
	Juan Salazar	Code Officer
	Trevor Cahoon	Communications Coordinator
	Rich Knapp	Finance Manager
	Nancy Dean	City Recorder

VISITORS: Kevin Ireland – The Utah Air Show Foundation, Ruth Jones, Kristi Bush, Roger Timmerman – Utah Infrastructure Agency, Josh Chandler – Utah Infrastructure Agency, Laura Harvey – Utah Infrastructure Agency

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

DISCUSSION ON SPONSORSHIP REQUEST FOR WARRIORS OVER THE WASATCH AIR AND SPACE SHOW

Kevin Ireland, Utah Air Show Foundation, remarked every even year the State hosted the Warriors Over the Wasatch Air and Space Show at Hill Air Force Base. He added it was the largest event in the State of Utah with a fifty million dollar economic impact. He reviewed the program and what spectator's should look forward to experiencing as part of the show. He explained that the Utah Air Show Foundation raised seventy-five percent of the funds needed to

make the show a success. He indicated all of the funding for the event came from the northern part of the Wasatch Front and asked the City to assist in supporting the event.

JJ Allen, City Manager, informed the Council that a sponsorship for the Utah Air Show was currently not in the budget. He added if the Council wanted to authorize a donation there would need to be a budget amendment. Councilmember Peterson asked what funding sources were available. Mr. Allen commented he had reviewed the budget and identified funds in the CED Administration division that could be used by forgoing a budgeted conference and other items. He indicated there was no plan to attend the conference this year so there would be no impact to divert the funding to the Air Show. Mayor Shepherd suggested a \$10,000 sponsorship and indicated a desire to see the Air Show sponsorship become a regular budget item in the future.

Councilmember Peterson asked how parking would be managed. Mr. Ireland indicated the plan was to push people to ride the train and then shuttle them to the show on buses. He added it would be the same plan as the last show, which proved to be successful.

Mr. Allen asked the Council if it was comfortable with a \$10,000 sponsorship. There was consensus from the Council on providing a \$10,000 sponsorship. Councilmember Peterson asked that the City address how to harness its exposure from the Air Shows soon.

#### QUARTERLY CODE ENFORCEMENT UPDATE

Tyler Seaman, Building Official; Juan Salazar, Code Officer; and Shane Crowton, Code Officer, reviewed the 2019 year-end statistics for code enforcement in the City. Mr. Crowton reported from January 1, 2019 to December 31, 2019 there had been a total of 1,282 cases. He reviewed the different cases by type and location with the Council. He highlighted the cases by status for open, default, and compliance.

Mr. Crowton shared before and after results of several properties in the City. He described efforts of the staff to raise the bar on code compliance messaging and improved resident awareness. He indicated staff was working to eliminate discrepancies and make improvements to City Code for any regulations or graphics which might be outdated or need clarification.

Councilmember Bush asked what type of cases were being found at the Freeport Center. Mr. Crowton indicated the cases were mainly on undeveloped property with weeds on the outside boundaries, some parking issues, and doing business where it shouldn't be done.

Mr. Crowton stated he last reported only 63 percent of cases were resulting in compliance but the City was now seeing 92 percent of the cases resolved and in compliance. Councilmember Bush asked how default cases were processed. Mr. Crowton explained if a case went into default a tax lien was placed on the property. He indicated tax liens would also be used to recover the costs of abatement.

The Council commended the efforts from code enforcement staff.

DISCUSSION ON AMENDMENTS TO TITLE 11, CHAPTER 11D, SECTION 11F  
RELATED TO EXTERIOR BUILDING STANDARDS AND ENACTING  
MANUFACTURING AND INDUSTRIAL DEVELOPMENT STANDARDS TO TITLE 11,  
CHAPTER 18 IN THE CITY'S CODE

Brad McIlrath, Senior Planner, indicated as part of the development and design of the proposed Lifetime Products distribution building the project architect had requested changes to the City's standards that would create separate industrial site and building standards. He stated the City Code current design standards were geared more toward commercial site and building standards and were proposed to remain in the City Code for commercial development. He added the project architect was proposing the same standards that Syracuse City had adopted for its industrial areas but Clearfield staff believed those standards to be overly broad so adjustments were made, which would be presented to the Planning Commission on March 4, 2020. He mentioned most modern distribution warehouses and industrial developments utilized tilt-up concrete designs and the variety of building materials required in the M-1 Zone created an inconsistent design that was not seen elsewhere along the Wasatch Front. He reviewed examples of industrial building design in some of the surrounding communities. He mentioned that the R-2 and R-3 (multi-family residential) zones referred to the Design Standards chapter in Title 11 and were currently held to the standards of commercial sites. He commented it might be necessary to create separate design standards for that type of use in the future.

Councilmember Peterson asked how many potential areas outside of the Form Based Code area would fall under the Design Standards chapter in Title 11. Mr. McIlrath responded vacant properties zoned for multi-family residential outside of the Form Based Code were limited.

Mr. McIlrath indicated the current M-1 Zone building standards, applicant proposed standards, and planning staff proposed standards had all been provided with the Planning Commission staff report. He presented the differences being proposed by staff as opposed to what was being proposed by the applicant:

- Differentiation between required standards and guidelines
- Parking Requirements
- Landscaping
- Outdoor amenities
- Screening of Outdoor Refuse and Garbage Collection Containers – this requirement was standard throughout City Code and needed to be kept consistent.
- Architectural Form and Detail – material emphasis on the corners
- Color and Materials

Mr. McIlrath discussed the specifics of screening outdoor refuse and garbage collection containers. He stated Lifetime wanted to be able to continue dumpster use as it currently operated inside Freeport Center, which was with no enclosure. Mr. McIlrath explained that Lifetime had designed bays along the north and south side of the buildings and suggested that the dumpsters might only be used on the south side. He stated there was no way to prohibit that except by ordinance. Councilmember Bush asked if Lifetime wanted to have dumpsters at bays all the time or just bringing them to the bays periodically to dispose of trash. Mr. McIlrath responded Lifetime would like to use both methods. He commented it was important to keep the

same look throughout the City especially along SR 193. Councilmembers Roper and Peterson agreed that there was a desire to have the entire City look nice especially along SR 193.

JJ Allen, City Manager, asked Mr. McIlrath to explain the reason why staff brought the discussion to the Council prior to the Planning Commission's review. Mr. McIlrath stated the Planning Commission would be reviewing the proposed zoning text amendments and holding a public hearing on March 4, 2020. He indicated the City Council would hold its public hearing on the proposed amendments to Title 11, Chapter 11D, Section 11F next week on March 10, 2020 because the policy session scheduled for March 24, 2020 was cancelled because of the caucus meetings. He commented the current discussion was intended to be informational only; however, it would be discussed in greater detail during the work session on March 10, 2020 when the Planning Commission's recommendation was available for review.

Councilmember Phipps asked if the proposed amendments were a result of Lifetime not liking what was currently in City Code. Mr. McIlrath responded that was correct. Councilmember Phipps asked if the version prepared by staff addressed the needs of Lifetime. Mr. McIlrath explained staff reviewed the proposal submitted by Lifetime and worked to find common ground that both parties could agree upon. Mayor Shepherd expressed his concern with the proposed amendments only addressing the needs of one property owner, the property's frontage was adjacent to SR 193, and the building was proposed to be the length of one-quarter mile with little more than paint for variation along the frontage. He expressed understanding for the need to control the costs associated with constructing the facility but the building was located on a major thoroughfare through the City. Mr. McIlrath explained the proposed standards would require differentiation on corners and at entrances. Mayor Shepherd was hesitant to allow too many changes to the current ordinance without articulating the aesthetics of the buildings impact to the corridor. Mr. McIlrath explained there would be a retaining wall along the northeast corner of the site as well as landscaping requirements along the frontage that Lifetime would need to meet. He described the landscape design for the site.

Councilmember Peterson acknowledge she liked having separate industrial standards. She referred to the section on primary materials. She expressed concern with capping the use of the second primary material at fifteen percent. Mr. McIlrath added the fifteen percent cap was for the front of each exterior wall while street facing exterior walls only required ten percent. Mayor Shepherd expressed concern that the windows on the building could be used as the second material capped at either ten or fifteen percent depending on their location.

Councilmember Peterson asked how many feet before the façade would need to be broken up by another material. Mr. McIlrath responded one hundred feet (100'). He stated the City's current standards required additional variations to façades.

Mayor Shepherd expressed concern that the front of the building was on the south side, as well as most of the design and variation so they were not easily seen. Mr. McIlrath explained the front would be on the south because that was how it would be accessed. Summer Palmer, Assistant City Manager, asked how the berm would affect the view of the building. Mr. McIlrath explained there was no berm, but rather a retaining wall that would mask half of the building. He added

there would be a significant amount of landscaping to meet Code so the bays might be less viewable over time.

Councilmember Roper commented it appeared to be a lot of changes that would apply to only one business. Mayor Shepherd stated the proposed ordinance would apply along 1000 West, the corner west of the Lifetime location, and a small area along Antelope Drive. He suggested that sites with street frontage needed to look good as well.

Mr. McIlrath explained the Planning Commission approved the site plan in February with the condition that the building had to comply with the existing standards at the time, or the new standards, if adopted by the Council. Councilmember Bush expressed concern for some of the ambiguity of the proposed ordinance. He commented he didn't have a problem with separate standards for commercial and industrial buildings but wanted to see most of the commercial standards in the industrial regulations.

#### DISCUSSION ON THE PROPOSAL AWARD OF THE PARTNERSHIP FOR DEPLOYMENT OF CITYWIDE FIBER TO THE PREMISES (FTTP) PROJECT

Summer Palmer, Assistant City Manager, stated the Council directed staff during the January 28, 2020 work session to move forward with contract negotiations with the highest scoring vendor, UIA (Utah Infrastructure Agency), to develop a fiber network in the City. She indicated the cost for completing the buildout of the fiber network in the City was estimated at \$12,719,900, which included design, engineering, construction, sales/marketing, and installation for 35 percent of the residential addresses in Clearfield. She pointed out that those costs would be funded through a bond and the City would be pledging its Energy Sales and Use Tax for payment of the bonds. She continued UIA would then independently finance any additional installations beyond the first 35 percent without a City backstop obligation.

Councilmember Bush asked how many residents responded to the survey on establishing a fiber network in the City. Ms. Palmer stated there were over 800 respondents to the survey. Councilmember Bush asked what population numbers would be used to determine how many service addresses were needed to address the City's backstop obligation. Roger Timmerman, UIA, explained the City's obligation was tied to a dollar amount so as the population contracting for network services increased the City's risk would reduce.

JJ Allen, City Manager, explained the City knew there was a financial backstop as it explored the possibility of establishing a fiber network. He stated there had not previously been a discussion that the financial backstop would be secured through a bond wherein the City pledged its Energy Use and Sales Tax further reducing its future bonding capacity for the duration of the bonds. Councilmember Peterson expressed her discomfort with pledging the City's future bonding capacity to secure the fiber network. Mr. Allen agreed that needed to be weighed against how much value there was to provide a fiber network for the community. He explained the City had additional revenue sources that could be used to secure bonding for other needs. Rich Knapp, Finance Manager, reported the City still had a capacity for bonding using other sources of revenue as the pledge but he suggested being cautious with maxing out its debt capacity as a whole. Mr. Allen explained over time the impact would be less because of the growth in the

City's revenue stream. Councilmember Peterson asked if the City's bond rating would be affected by the transaction. Mr. Knapp responded the bond rating would not be affected. Councilmember Peterson asked if there was a reduction in the pledged source as the principal of the bond reduced. Ms. Palmer stated the advantage to the arrangement was the City was not paying for the growth in the system over the 35 percent not any buildout or additions to the network.

Mayor Shepherd asked about the viability of the network as technology expanded over the life of the bonds. Mr. Timmerman explained there was significant historical data that supported increased demand over time. He anticipated that trend to continue because consumer habits supported the future of the technology. Mayor Shepherd acknowledged the potential for growth over time.

Councilmember Thompson commented he didn't see as much of a risk to the City because new development was demanding the technology and infrastructure. Councilmember Roper agreed and said the economic development needs of the City necessitated moving forward with building the network. Councilmember Phipps commented there were two risk categories: financial and technology. He commented fiber allowed information to travel at the speed of light and the things that constrained it were the software and hardware, which would only improve over time. He added the financial risk was not long term. Mr. Allen added the financial risk was only an issue if the City planned to tap the Energy Sales and Use Tax for something else and right now there did not appear to be anything that would require that, but that pledge would exist until the bonds were paid.

Mr. Allen asked about the timeline for starting the project. Mr. Timmerman explained the detail, design, and engineering work would start immediately then construction would begin four to five months out and be completed in approximately eighteen months.

The Council took a break at 7:55 p.m.

The meeting resumed at 8:05 p.m.

DISCUSSION ON AN INDUCEMENT RESOLUTION EXPRESSING INTENT TO ISSUE PRIVATE ACTIVITY BONDS TO LOTUS MARQ LLC FOR ITS DEVELOPMENT PROJECT LOCATED AT APPROXIMATELY 442 SOUTH STATE STREET

Summer Palmer, Assistant City Manager, stated the developers of the Lotus project requested the City partner with them to issue \$35,000,000 worth of Private Activity Bonds (PAB) to reimburse certain qualified expenditures incurred by the developer with respect to acquisition and construction of the project. She explained that Clearfield was not the only entity that could assist with the issuance of bonds. She continued the City was not pledging any revenue source for the bonds and the debt service was the responsibility of the developers. She informed the Council that the PABs were issued for the benefit of private entities on a tax-exempt basis. She noted the owner or buyer of the tax-exempt bond did not pay federal income tax on the interest received on such bonds; consequently, tax-exempt bonds bore lower interest rates than bank loans or taxable

bonds. She reviewed the following benefits for the developer if the City was willing to issue PAB:

- Lower interest rates than conventional loans of comparable maturity. Higher loan amounts (greater leverage) due to lower interest rates.
- Access to greater variety of financing tools.
- Access to equity from four percent Low-Income Housing Tax Credits (“LIHTCs”).
- Easier and quicker path to obtain necessary authorization to proceed.

Ms. Palmer reported there would not be any financial impact associated with taking the action nor would the City’s bonding capacity be impacted. Rich Knapp, Finance Manager informed the Council that it was necessary to acknowledge the bonds in the City’s Comprehensive Annual Financial Report (CAFR) but the note would say the bonds were not a liability on the City. Ms. Palmer added one of the benefits to the developer was a lower interest rate, which gave more buying power with every dollar. She added that became a benefit to the City as well.

Councilmember Thompson asked how the PABs helped Lotus access equity from LIHTC credits. Ms. Palmer explained Lotus already received LIHTC credits and wouldn’t need that benefit from the bonds. Councilmember Thompson asked if the LIHTC determination was at the City Area Median Income (AMI) or the County AMI. Mayor Shepherd responded the County AMI was used.

Mr. Allen stated staff was approached by Lotus with the idea of using PABs for the project in November 2019, following which an email was sent to the Council explaining the bonds. No negative feedback was received from the Council so staff felt it was okay to support Lotus in the endeavor.

Councilmember Peterson referred to the resolution’s broad language about low income housing. She stated the Council had a lot of discussion with Lotus about the project not being low income housing but rather workforce housing. She asked if there were anything in the language that opened the door to low income housing. Ms. Palmer explained the language was specific to State Code but Lotus had already qualified for the bonds based on their plans. She added the bond funding created a better chance for the City to get the better project.

#### DISCUSSION ON AMENDMENT NO. 4 TO THE INTERLOCAL AGREEMENT WITH DAVIS COUNTY FOR ANIMAL SERVICES

Kelly Bennett, Police Chief, explained the City entered into an Interlocal Agreement with Davis County for Animal Control Services and amendment number four would update the rates for the upcoming year. He indicated the service contract would be complete at the end of 2020. He stated the County was working with cities to address the future of animal control services and how they would be administered in the future.

Chief Bennett reviewed the 2019 County wide statistics for animal care and control services. He highlighted some of the County's goals for 2020 and justifications for increased costs which included:

- Continued improvements in efficiencies with a focus on length of stay.
- Increasing the general health of the animal population.
- Continue increasing the participation of the community by expanding volunteer and foster programs.
- Hold a Davis County specific adoption event.
- Continue collaboration and planning efforts with the shelter stakeholders and cities to build the shelters awareness and role in the community.

Chief Bennett stated the City had 1,175 calls for service in 2019 and there were 14 citations issued. He explained the animal control officers were mainly working with residents to bring them into compliance with Code, rather than issuing citations. He mentioned the City's 2020 obligation to the County would be \$137,695.51 for service calls, \$2,472 for wild animal pick up, and \$6,802.03 for capital projects so the total increase for the year would be \$24,879.82.

Chief Bennett pointed out the Interlocal Agreement was based on the 2020 calendar year so there would likely need to be a budget amendment for fiscal year 2020 (FY20) because the increased rates had not been available during the City's budgeting process.

#### DISCUSSION ON THE INTERLOCAL AGREEMENT WITH SYRACUSE CITY FOR COST-SHARING OF A ROAD CONSTRUCTION PROJECT LOCATED ON 1000 WEST BETWEEN ANTELOPE DRIVE AND STATE ROAD 193

Braden Felix, City Engineer/Deputy Public Works Director, stated the road of 1000 West was shared between Syracuse City and Clearfield City in various locations. He explained the road was in need of many improvements including road resurfacing, smoother transitions across the railroad tracks, new curb and gutter, new ADA-compliant pedestrian ramps on sidewalks, and a new asphalt surface treatment. He pointed out Syracuse City had agreed to do the design through their own resources and asked that the City participate in paying for the construction of the improvements within its boundaries.

Mr. Felix mentioned both cities had determined to work together on the project with Syracuse as the lead agency to pay the contractor and Clearfield would reimburse Syracuse for the agreed upon amount after the completion of work. He reported the project was anticipated to begin in March of 2020 and continue until completed by late summer of 2020. He continued the current plan was to do work during the nights to reduce traffic impact. Mr. Felix added the City had budgeted \$375,000 for its portion of the project in Fiscal Year 2020.

He mentioned Syracuse City solicited bids which were opened earlier in the day so as soon as the results were available staff would share that data with the Council. He asked if there were any questions about the cost-sharing agreement. Mr. Felix stated the Cost Sharing Agreement was planned for consideration on March 10, 2020 and Syracuse City would also be considering it that night.

Councilmember Bush asked if the project would include any waterlines. Adam Favero, Public Works Director, explained Syracuse would be connecting to the City's existing sixteen inch (16") waterline on Antelope that would connect to their new water tank site in the Freeport Center. He added that Syracuse would be upgrading sewer lines as well.

Mayor Shepherd asked that this item be added to the work session agenda on March 10, 2020 to review the final numbers.

#### DISCUSSION ON THE BID AWARD FOR THE TOWERS AT LEGEND HILLS CULINARY WATER AND STORM WATER PIPING PROJECT

Adam Favero, Public Works Director, stated the City solicited bids for the Towers at Legend Hills Culinary Water and Storm Water Piping Project. He indicated the approximate location of the project would be 1850 East 1400 South. He reviewed the scope of work which included upgrades to the City's culinary water system as well as adding storm drain lines to the City's storm drain system for current and future growth.

Mr. Favero indicated the project was not scheduled to start until a future date in the Water Capital Facilities Plan, but due to the new development taking place in the Legend Hills area, the project became a priority. He pointed out the project would be done in two phases. He reported Phase A would be upgrading the current sixteen inch (16") culinary waterline in the area to an eighteen inch (18") main line and installing a new eighteen inch (18") storm drain line. He added Phase B would be the installation of the remaining new storm drain infrastructure and staff had been working with Bravada 193 to establish what would be needed. He mentioned Phase B details would be presented to the City Council at a later date.

Mr. Favero indicated the lowest responsible bidder was Great Basin Development from Mantua for a bid amount of \$428,129. He stated staff was recommending contingency and engineering costs of \$86,625.80 for a total project price of \$514,754.80. He explained there were enough funds budgeted in the water and storm enterprise funds; however, there were limited contingency and engineering funds available in the water fund so there was the possibility the project might come in over budget.

Councilmember Peterson asked if the City had previously worked with the contractor. Mr. Favero stated the City had not worked with the contractor before but the references were checked and it appeared to be a reputable company.

#### DISCUSSION ON REZONING PROPERTIES IDENTIFIED IN THE CITY'S FORM BASED CODE LOCATED IN THE VICINITY OF THE CORRIDOR OF STATE ROUTE 126 (STATE AND MAIN STREET) FROM 800 NORTH TO 1000 SOUTH AND IN THE VICINITY OF THE CORRIDOR OF STATE ROUTE 193 (700 SOUTH) FROM 1000 EAST TO THE RAIL CORRIDOR.

Brad McIlrath, Senior Planner, explained on February 11, 2020 the City Council approved amendments to the Form Based Code. He reported the zoning map for the Form Based Code was included with the amendments adopted, so in order to align the zoning districts, rezones were being considered for a specific set of properties. He mentioned the implementation of the zones

came as a result of a recommendation from the Downtown Clearfield Small Area Plan adopted by the Clearfield City Council in March of 2017, as well as part of the amendments to the Form Based Code. Mr. McIlrath explained the proposed changes were consistent with the City's General Plan.

Mr. McIlrath explained there were a few property owners that attended the Planning Commission meeting on February 19, 2020 and asked for changes to the proposed zoning amendments:

- 869 East 700 South – Staff proposal was to change the zoning to Gateway Corridor Commerce (CC), but the property owner wanted to keep it Town Mixed Commerce (TC) or change it to Town Neighborhood Residential (TR) to allow for residential development.
- 270 East 200 South – Staff proposal was to change it to Town Neighborhood Residential (TR), but the property owner mentioned it had been a commercial use for many years so she proposed rezoning it to Urban Core Commerce (UC) to have the use and zoning match.
- 671 East 700 South – Staff proposal was to change the zoning to Town Neighborhood Residential (TR), but the property owner wanted to keep it Town Mixed Commerce (TC).

Mr. McIlrath reported the Planning Commission reviewed the rezone request and public comment and forwarded a recommendation of approval for the proposed Zoning Map amendments with the following changes:

- The property located at 210 East 200 South was to be included in the UC (Urban Core Commerce) zone instead of the TR (Town Neighborhood Residential) zone; and
- The properties located from 800 East to 657 East on 700 South were to be included in the CC (Gateway Corridor Commerce) zone instead of the TR (Town Neighborhood Residential) zone.

Mr. McIlrath stated staff had since identified the following alternatives to the recommendation from staff and the Planning Commission:

- Properties between 800 East and 709 East on 700 south could remain in the TR (Town Neighborhood Residential) zone and the properties addressed as 657, 672, and 699 East on 700 South would be included in the TC (Town Neighborhood Commerce) zone.
- Properties between 800 East and 709 East on 700 South could be included in the CC (Gateway Corridor Commerce) zone instead of the TR (Town Neighborhood Residential) zone as 657, 672, and 699 East on 700 South would be included in the TC (Town Neighborhood Commerce) zone.

He explained staff's alternative would provide some residential possibilities along the north side of 700 South as recommended in the Downtown Clearfield Small Area Plan and the adopted Form Based Code. He indicated it would require the remaining properties to be developed commercially in the CC (Gateway Corridor Commerce) zone as proposed.

Mr. McIlrath mentioned the rezones were scheduled for a public hearing on March 10, 2020 but if the Council needed more time for review or discussion it could table the public hearing and set a future date and time before taking action.

There was a discussion on the zones being proposed for various areas and the potential uses that would be allowed in each zone.

Councilmember Thompson mentioned that there were six cases against form based codes in multiple states that had been adjudicated. He expressed his concerns that the City's Form Based Code area was hampering fair housing because a majority of the City's minorities, as well as single mothers were already living throughout the FBC corridor according to census data. He explained minorities and single mothers were a protected class under the Fair Housing Act. He stated he would hate to have cases brought against the City's FBC because there was a disparate impact to those protected classes. He referred to the displacement of residents at the Clearfield Mobile Home Park who were 28 percent minority and displaced. He reviewed the three thresholds in the Fair Housing Act that needed to be met in relation to the Code. He suggested the case law should be studied and applied creating a need to amend certain aspects of the FBC to protect the City. He expressed concern that development in the corridor would be producing high level rents. He expressed a need to get the look and feel the City needed without having a level of strictness that was disparate and affecting a protected class. He expressed his opinion that currently the City was unprotected. He suggested a pause in the process to make sure the City was complying with federal law.

Mr. McIlrath explained there had recently been changes to State Law that mandated cities encourage development along transportation corridors, not limit the types of housing allowed, and not regulate the type of housing for developers. Councilmember Thompson expressed his concern with the City having established a list of acceptable building standards and whether those standards could be seen as restrictive. Mr. McIlrath explained the Constitution allowed local municipalities to impose and enact standards for health, safety, and the general welfare of the community. He indicated those types of decisions had been challenged and the right for communities to make those determinations was upheld by the United States Supreme Court. He explained the City had conducted a market study prior to developing the FBC and identified particular housing opportunities that were not previously available. He stated the City's intent with the FBC was to create opportunities where people could live within close proximity of transportation opportunities, as well as shopping. He explained there needed to be more housing provided to bring the prices down because the demand was greater than the market supply. Councilmember Thompson suggested the challenge was the City was controlling the market because of the aesthetic standards being imposed that were inflating the market. He expressed his opinion that Senate Bill 34 was not necessarily speaking to affordability or inclusion. He expressed his concern with creating a segregated effect and suggested the acquisition of the Clearfield Mobile Home Park was the beginning of the displacement of individuals as development began to occur with new aesthetic standards. He stated his intent was to protect the City.

JJ Allen, City Manager, commented he appreciated the perspective. He reminded the Council that it had already adopted the FBC and zoning was now inconsistent with the set standard. He suggested moving forward with making the zoning consistent with the adopted FBC then study the issue to determine if additional amendments were needed.

Mayor Shepherd commented any further amendments would be specific to the Code itself not zoning. Councilmember Peterson expressed concern that the discussion was beyond the scope of the agenda. She reiterated that FBC had been passed by the Council and was the code of the City.

She had no concerns with discussing additional amendments to the code in the future. Councilmember Thompson commented the upzoning was the last piece of the puzzle and it was important not to finalize those aspects until the disparate impact had been studied. He stated he always questioned the aspects of zoning because the City was affecting people's lives. He suggested zoning was an administrative act. Spencer Brimley, Community Development Director, stated zoning had always been controlled by the legislative body. There was a discussion on land use and the process to create and amend zones and standards associated with those zones, all of which were determined by the legislative body. The legislative body made those determinations following an opportunity for the public to provide input.

Councilmember Peterson expressed her opinion that the FBC process had not been discriminatory but rather inclusive. She stated FBC was more about what the building looked like than what was inside. She suggested the intent was to create a welcoming place. She added that FBC was less regulatory for businesses and welcoming to an urban environment. Councilmember Thompson commented it didn't feel inclusive when a person was priced out of the market. Mayor Shepherd expressed his opinion that the City did not control the market. Councilmember Thompson countered that aesthetic standards controlled the pricing, which controlled the market. Mayor Shepherd disagreed. He reiterated the market controlled the rents.

Mayor Shepherd responded to earlier comments about the displacement of individuals at the Clearfield Mobile Home Park. He stated only about 50 of the homes in the park were habitable. He commented he met individually with each resident about the process and the City assisted each one to find a better situation.

Mr. Allen explained the City had recently amended its FBC, which included slight variations to the names of the zoning districts. The intent of the rezone request was to address the discrepancies in the zoning from the previously adopted version of the FBC. He stated a public hearing was scheduled before the City Council regarding the request on March 10, 2020. He continued the only question to be addressed during that hearing was whether the zoning should be changed. He explained any discussions on the standards of the FBC would need to be addressed separately.

**Councilmember Peterson moved to adjourn at 9:41 p.m., seconded by Councilmember Roper. All voting AYE.**

**APPROVED AND ADOPTED  
This 12<sup>th</sup> day of May, 2020**

**/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, March 3, 2020.

/s/Nancy R. Dean, City Recorder