

CLEARFIELD CITY COUNCIL MEETING MINUTES  
7:00 P.M. REGULAR SESSION  
June 28, 2011

PRESIDING:	Don Wood	Mayor
PRESENT:	Marilyn Fryer	Councilmember
	Kathryn Murray	Councilmember
	Mark Shepherd	Councilmember
	Doyle Sprague	Councilmember
	Bruce Young	Councilmember
STAFF PRESENT:	Adam Lenhard	Interim City Manager
	Brian Brower	City Attorney
	Greg Krusi	Police Chief
	Scott Hodge	Public Works Director
	Donna Russell	Acting Community Services Director
	Bob Wylie	Administrative Services Director
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder
EXCUSED:	Valerie Claussen	Acting Community Development Director

VISITORS: Barbara Perry – Planning Commission, Bruce Perry, Darren Carpenter – Planning Commission, Joy Brown – American Legion, Angie & Ashley Burton

Mayor Wood informed the citizens present that if they would like to comment during Citizen Comments or the Public Hearings there were forms to fill out by the door.

Councilmember Fryer conducted the Opening Ceremony.

APPROVAL OF THE MINUTES FROM THE APRIL 20, 2011 WORK SESSION, THE MAY 10, 2011 WORK SESSION, THE MAY 24, 2011 WORK SESSION, THE JUNE 8, 2011 WORK SESSION AND THE JUNE 14, 2011 REGULAR SESSION

**Councilmember Fryer moved to approve the minutes from the April 20, 2011 work session, the May 10, 2011 work session, the May 24, 2011 work session, the June 8, 2011 work session and the June 14, 2011 regular session as written, seconded by Councilmember Murray. All voting AYE.**

PRESENTATION TO DARREN CARPENTER FOR HIS SERVICE AS A MEMBER OF THE PLANNING COMMISSION

Darren Carpenter had served the City as a member of the Planning Commission and recently submitted a letter of resignation. The Mayor and City Council desired to recognize Mr. Carpenter for his service to the City.

Councilmember Sprague stated he had spent several years working with Darren Carpenter on the Planning Commission and indicated he would personally miss that working relationship. He expressed appreciation to Mr. Carpenter for his service to the City and commented he had done an excellent job in serving on the Planning Commission. He presented Mr. Carpenter with a framed certificate of appreciation on behalf of the City Council.

PUBLIC HEARING TO CONSIDER FSP 1105-0001, AN AMENDED SUBDIVISION PLAT, TO MERGE FOUR PARCELS INTO ONE PARCEL FOR THE TYTON CENTER SITE LOCATED ON 700 SOUTH

This item was a request by Corey Malan, on behalf of Kent Teichert, for an Amended Subdivision Plat to merge four parcels, approximately 0.98 acres total, into one parcel for the purposes of developing a commercial center. This site was located at 772 East 700 South (TINs: 12-068-0005 through 12-068-0008) and the property was in the C-2 (Commercial) zoning district. The Planning Commission held a public hearing on June 15, 2011 and recommended approval.

Adam Lenhard, Interim City Manager, explained the history of the property and reiterated four lots would be merged into one with the development.

Mayor Wood declared the Public Hearing open at 7:11 p.m.

Mayor Wood asked for public comment.

There was no public comment.

**Councilmember Sprague moved to close the public hearing at 7:12 p.m., seconded by Councilmember Fryer. All voting AYE.**

PUBLIC HEARING TO RE-OPEN AND CONSIDER AMENDING THE 2010/2011 FISCAL YEAR BUDGET

State Law required a public hearing before the City Council approved amendments to the City budget. Bob Wylie, Administrative Services Director, will be presenting amendments for the 2010/2011 fiscal year budget.

Mayor Wood declared the Public Hearing open at 7:13 p.m.

Mayor Wood asked for public comment.

There was no public comment.

**Councilmember Shepherd moved to close the public hearing at 7:14 p.m., seconded by Councilmember Young. All voting AYE.**

CITIZEN COMMENTS

There were no citizen comments.

APPROVAL OF A PLANNING COMMISSION APPOINTMENT

The Planning Commission currently had one vacancy. The Council discussed the issue during a work session on June 21, 2011.

Councilmember Sprague announced it was the Mayor's recommendation to appoint Barbara Perry to fill the vacancy on the Planning Commission for a term expiring in February 2014. He stated she was currently serving as an alternate member on the Planning Commission. He acknowledged Ms. Perry's attendance at the meeting.

Councilmember Murray pointed out Ms. Perry had just been re-appointed as an alternate member on the Planning Commission and inquired if she were going to be appointed to only fill the remaining term of Mr. Carpenter's vacancy.

Kim Read, Deputy City Recorder, responded she would indeed fill the remaining term of the vacancy.

**Councilmember Murray moved to approve Mayor Wood's appointment of Barbara Perry, current alternate member of the Planning Commission, to fill the vacancy on the Planning Commission with a term expiring February 2014 and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Fryer. All voting AYE.**

Mayor Wood expressed appreciation to Ms. Perry for her service to the City.

Mayor Wood suggested combining agenda items number six, seven and eight in one motion for approval. Brian Brower, City Attorney, suggested item number six be addressed separately as he believed an argument could be made a public hearing should be held by the City Council prior to the disposition of the property even though an exchange would be taking place. He suggested the public hearing and approval for agenda item number six take place during the next City Council meeting.

Mr. Brower reminded the Council an ordinance had been adopted which specified any parcel of property valued over \$75,000 was of significance and estimated the dollar value of said property would probably be well over that amount. He continued another argument which could be made as to why the public hearing was not required was due to the fact an exchange of 2.152 acres of property was being traded for 2.152 acres of property. Mayor Wood pointed out the exchange also included new improvements being completed by the School District which would be an enhancement to the property received by the City.

Mr. Brower read from the State Code regarding the need for a public hearing prior to disposing of property. He inquired about the public hearings conducted during Planning Commission meetings. Councilmember Sprague clarified public hearings were held during Planning Commission meetings. Mayor Wood expressed his opinion the City wasn't actually disposing of property; rather, an exchange was taking place. Mr. Brower commented the City could argue it had granted the opportunity for the public to voice their opinion during the Planning Commission public hearings. Mayor Wood concluded a public hearing should be conducted during a City Council meeting to avoid any deception. Mr. Brower apologized for the oversight and suggested the agenda item be tabled.

Nancy Dean, City Recorder, revealed a public hearing took place during the June 14, 2011 City Council meeting; however, it was to consider the amended subdivision plat to merge and re-subdivide two parcels for the School District's new Wasatch Elementary School site. Mayor Wood recounted during that public hearing it was emphasized an exchange of parcels would occur. Ms. Dean remarked the public hearing was not noticed as a disposition of property. Councilmember Sprague expressed concern about tabling the item to allow for a public hearing delaying the project. Ms. Dean read from the background of the supporting documentation provided for the June 14, 2011 meeting.

Ms. Dean continued to research the notice from that meeting.

APPROVAL OF FSP 1105-0001, AN AMENDED SUBDIVISION PLAT, TO MERGE FOUR PARCELS INTO ONE PARCEL FOR THE TYTON CENTER SITE LOCATED ON 700 SOUTH AND APPROVAL OF THE CHRISSAM MEADOWS PHASE 5 SUBDIVISION FINAL ACCEPTANCE AND RELEASE OF ESCROW

In accordance with Title 12, Chapter 9, of the Clearfield City Code, the city engineer had completed the final inspection of the ChrisSam Meadows Phase 5 Subdivision and found all improvements to have been installed correctly. The warranty period had expired and the city engineer recommended final acceptance of the improvements for perpetual maintenance and a release of the escrow by the City Council.

**Councilmember Shepherd moved to approve FSP 1105-0001, an Amended Subdivision Plat, to merge four parcels into one parcel for the Tyton Center site located on 700 South**

**and to approve the ChrisSam Meadows Phase 5 Subdivision final acceptance and release of escrow and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Young. All voting AYE.**

APPROVAL OF TWO CHANGE ORDERS TO THE CONTRACT WITH POSITIVE POWER FOR LIGHTING PROJECTS FUNDED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT

The City received funds from the American Recovery and Reinvestment Act Energy Efficiency and Conservation Block Grant to upgrade the energy systems in some of its existing buildings. Positive Power was the contractor working on the lighting upgrades and found it necessary to include work that was not authorized in the original contract. The company submitted two change orders in order to complete all the necessary work.

Mayor Wood commented information was provided in the agenda packet explaining the change orders and pointed most of the changes allowed for dual switching opportunities. Councilmember Young inquired about those issues being missed in the initial survey. Mayor Wood believed there was some oversight in the original survey. Donna Russell, Acting Community Services Director, responded the original survey overlooked the dual switches.

**Councilmember Young moved to approve amendments to the contract with Positive Power for lighting upgrades through Change Order Number One in the amount of \$1,380 and Change Order Number Two with a Not To Exceed amount of \$1,262 and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Fryer. All voting AYE.**

Mayor Wood inquired if Mr. Brower had additional information regarding agenda item number six. Mr. Brower responded the notice didn't explicitly refer to an exchange of property; however, the posted agenda did. He believed it was specifically referenced and based on the previous discussion believed an argument could be made as to whether the City was divesting itself of an asset. He stated he was now comfortable with the City Council proceeding and taking action on agenda item number six and believed the public had been given the opportunity to be heard regarding the property exchange. He apologized for the confusion during the meeting.

APPROVAL OF THE PROPERTY EXCHANGE AGREEMENT WITH THE DAVIS SCHOOL DISTRICT RELATING TO THE RECONSTRUCTION OF WASATCH ELEMENTARY SCHOOL

This agreement specifically addressed the property exchange of the City's Central Park to the Davis School District and a portion of the Wasatch Elementary School site to the City for the new location of Central Park. The exchange was identical with both parcels a size of 2.152 acres.

The Davis School District would be responsible for the demolition and the reconstruction of both parcels.

**Councilmember Sprague moved to approve the Property Exchange Agreement with the Davis School District and its accompanying Quit Claim Deeds making possible the reconstruction of Wasatch Elementary School and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Shepherd. All voting AYE.**

Mayor Wood suggested agenda items number 10, 11 and 12 be combined in one motion for approval. Mr. Brower pointed out agenda item number 12, specific to agreements with Union Pacific (UP), allowed for some latitude during the negotiation process. He reminded the Council this had been previously reviewed during a work session and clarified the City was requesting some changes from the standard UP contract. He continued the requests were the same changes which UP had allowed on a previous railroad crossing agreement/permit. He pointed out the City was working with a different contract administrator for this agreement and stated approval had not yet been granted. He stated although the requests were reasonable and would be advantageous to the City; it would not be prudent to allow the requests to delay the project preventing work to begin this construction season. He clarified the recommendation was for the Council to approve the agreements as is, recognizing if UP was agreeable to proposed changes, the Council was also granting permission to make the necessary changes to the contract.

Ms. Dean clarified the Utah Transit Authority (UTA) contracts had been approved by (UTA) as they were presented to the Council in their packets.

Mayor Wood proposed combining approval of agenda items 10 and 11.

APPROVAL OF AN AGREEMENT WITH THE UTAH TRANSIT AUTHORITY (UTA) REGARDING THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A 12-INCH SANITARY SEWER LINE IN CONNECTION WITH THE 200 SOUTH ROADWAY PROJECT AND APPROVAL OF AGREEMENTS WITH THE UTAH TRANSIT AUTHORITY (UTA) REGARDING THE RELOCATION OF UTILITY LINES ALONG 700 SOUTH IN PREPARATION FOR THE CONSTRUCTION OF THE SR (STATE ROAD) 193 EXTENSION PROJECT

The City was ready to begin work on the 200 South Roadway project which would include the replacement of City utility lines along the street. The project included the construction of a new 12-inch sanitary sewer line which would pass through the Utah Transit Authority's (UTA's) right-of-way. The construction of that sewer line would make it necessary to enter into an agreement with the UTA to allow for the construction, operation and maintenance of said sewer line.

The Utah Department of Transportation (UDOT) was preparing for the construction of the SR (State Road) 193 Extension project. There were utility lines along 700 South which needed to be relocated in connection with the expansion and UDOT had asked the City to manage that portion of the project. Relocating the utility lines required the City to work in the Utah Transit Authority (UTA) right-of-way. These agreements authorized the construction, operation and maintenance of the affected utility lines.

**Councilmember Young moved to approve the Utah Transit Authority (UTA) Contract Number DR/D/2240/P authorizing the construction, operation and maintenance of a 12-inch sanitary sewer through its Right of Way along 200 South and to approve the Utah Transit Authority (UTA) Contract Numbers SO/D/2227/P, DR/D/2232/P, SO/D/2220/P, SO/D/2219/P, SO/D/2221/P and SO/D/2218/P and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Fryer. All voting AYE.**

APPROVAL OF AGREEMENTS WITH THE UNION PACIFIC RAILROAD REGARDING THE RELOCATION OF UTILITY LINES ALONG 700 SOUTH IN PREPARATION FOR THE CONSTRUCTION OF THE SR (STATE ROAD) 193 EXTENSION PROJECT

The Utah Department of Transportation (UDOT) was preparing for the construction of the SR (State Road) 193 Extension project. There were utility lines along 700 South which needed to be relocated in connection with the expansion and UDOT had asked the City to manage that portion of the project. Relocating the utility lines required the City to work in the Union Pacific Railroad right-of-way. These agreements authorized the construction, operation and maintenance of the affected utility lines.

**Councilmember Shepherd moved to approve the Union Pacific Railroad Agreement Numbers 02664-15, 02664-28, 02664-24, 02664-26 and 0262274 with authorization for the City Attorney to negotiate any changes deemed necessary to protect the City's interest in the project and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Sprague. All voting AYE.**

APPROVAL OF RESOLUTION 2011R-10 PERMITTING THE CLEARFIELD CITY POLICE DEPARTMENT TO DISPOSE OF UNCLAIMED PROPERTY

The Clearfield City Police Department periodically was required to dispose of unclaimed property. These 23 bicycles had not been claimed after attempting to find the lawful owner(s). In the past, the Council had approved unclaimed bicycles to be donated to charities. Deseret Industries and the Davis County Children's Justice Center are presently the only two groups that would accept the bicycles from the Police Department.

**Councilmember Fryer moved to approve Resolution 2011R-10 permitting the Clearfield City Police Department to dispose of unclaimed property by donation to the Deseret Industries and/or the Davis County Children's Justice Center and authorize the Mayor's**

**signature to any necessary documents, seconded by Councilmember Young. The motion carried upon the following vote: Voting AYE – Councilmembers Fryer, Murray, Shepherd, Sprague and Young. Voting NAY – None.**

**APPROVAL OF RESOLUTION 2011R-12 ACTING AS THE GOVERNING AUTHORITY OF THE NORTH DAVIS FIRE DISTRICT ADOPTING AND CERTIFYING ITS TAX RATE FOR THE 2011 TAXABLE YEAR**

The Clearfield City Council acted as the governing authority for the North Davis Fire District (NDFD). The Administrative Control Board of the NDFD desired to establish a certified tax rate of 0.001316 for the 2011 taxable year for the purpose of funding operating expenses and capital improvements and to provide fire protection, emergency medical and ambulance services and consolidated 911 and emergency dispatch services.

Councilmember Murray stated although the rate appears to be higher than last year, this was the rate received from the County. Councilmember Shepherd explained the NDFD took a significant hit specific to re-evaluated properties.

**Councilmember Fryer moved to approve Resolution 2011R-12 acting as the governing authority of the North Davis Fire District (NDFD) and adopting and certifying a tax rate of 0.001316 for the Fire District 2011 taxable year and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Sprague. The motion carried upon the following vote: Voting AYE – Councilmembers Fryer, Murray, Shepherd, Sprague and Young. Voting NAY – None.**

**APPROVAL OF RESOLUTION 2011R-11 ADOPTING AMENDMENTS TO THE 2010/2011 FISCAL YEAR BUDGET**

Bob Wylie, Administrative Services Director, presented and explained the proposed amendments to the budget.

**Councilmember Young moved to approve Resolution 2011R-11 adopting amendments to the 2010/2011 fiscal year budget and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Fryer. The motion carried upon the following vote: Voting AYE – Councilmembers Fryer, Murray, Shepherd, Sprague and Young. Voting NAY – None.**

**COMMUNICATION ITEMS:**

*Mayor Wood* – nothing to report.

*Councilmember Fryer* – nothing to report.

**Councilmember Murray** – reminded the Council work would begin on the float for the Fourth of July parade on Saturday, July 2, 2011, at 8:00 a.m. and requested the councilmembers bring hammers, staple guns, scissors, pencils, etc. She reported the theme for the float was “Gone Fishin’.” She stated Mayor Wood would be participating with the construction of the Council’s float this year. She invited the councilmembers’ children and grandchildren to ride on the float during the Fourth of July parade.

**Councilmember Shepherd** – nothing to report.

**Councilmember Sprague** – nothing to report.

**Councilmember Young** – nothing to report.

**Adam Lenhard, Interim City Manager** – announced a dinner social activity with one of the Community Services Director finalists was scheduled for Saturday, July 2, 2011, at 4:30 p.m. at the same location as the social activity which took place on Monday, June 27, 2011.

**STAFFS’ REPORTS:**

**Nancy Dean, City Recorder**

1. Informed the Council no meetings were scheduled for Tuesday, July 5, 2011 and July 12, 2011.
2. Reported Declaration of Candidacy begins Friday, July 1, 2011 and would continue through Friday, July 15, 2011.

**Councilmember Young moved to adjourn as the City Council and reconvene as the Community Development and Renewal Agency at 7:49 p.m., seconded by Councilmember Sprague. All voting AYE.**

*\*\*The minutes for the CDRA are in a separate location\*\**

**APPROVED AND ADOPTED**

**This 26<sup>th</sup> day of July, 2011**

**/s/Don Wood, 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 28, 2011.

/s/Nancy R. Dean, City Recorder