

CLEARFIELD CITY COUNCIL MEETING MINUTES  
6:00 P.M. WORK SESSION  
February 28, 2012

PRESIDING:	Don Wood	Mayor
PRESENT:	Kent Bush	Councilmember
	Mike LeBaron	Councilmember
	Mark Shepherd	Councilmember
	Bruce Young	Councilmember
EXCUSED:	Kathryn Murray	Councilmember
STAFF PRESENT:	Adam Lenhard	City Manager
	JJ Allen	Assistant City Manager
	Brian Brower	City Attorney
	Greg Krusi	Police Chief
	Scott Hodge	Public Works Director
	Eric Howes	Community Services Director
	Bob Wylie	Administrative Services Director
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder

VISITORS: There were no visitors.

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

DISCUSSION ON THE PURCHASE AGREEMENT WITH THE NORTH DAVIS FIRE DISTRICT (NDFD)

Adam Lenhard, City Manager, stated the agreement with the amended language regarding the Right of First Refusal had been received from the North Davis Fire District (NDFD). He read the amended language in the agreement to the Council which indicated the City could purchase the property at the then market value as determined by agreement of the parties or an appraisal. He pointed out the current market value determined by an appraisal was \$500,000 and the Council had agreed to sell the property for \$400,000, much less than the appraised value. He explained the potential problem associated with the language specific to the City purchasing the property in the future at the appraised value and the City's desire for the building to remain part of the municipal campus.

Mayor Wood stated he had discussed the issue with members of the Council currently serving on the NDFD Board. He continued the NDFD had interpreted the negotiations specific to this issue as the City's reluctance to sell the property. He suggested the City consider completing the sale at this time with the understanding that the future price could be negotiated.

Councilmember Shepherd commented that had been the City's intent. He commented the City had agreed to the selling price and believed the City would have the same opportunity in the future.

Councilmember LeBaron reported Gary Peterson, NDFD Chair, believed the City was not ready to sell the property based on the most recent added language specific to the Right of First Refusal clause. He commented the City should continue with the sale of the property.

Mayor Wood agreed but insisted the inclusion of the Right of First Refusal be included in the agreement. Brian Brower, City Attorney, expressed concern with the added language by the NDFD to the agreement specific to the potential future price being determined by an appraisal. He suggested the inclusion of a clause reflecting how the price would be determined if the parties couldn't agree. He continued it would be in the best interest of the City to have both parties select an appraiser and average the two to determine the selling price.

Councilmember Young was satisfied with Mr. Brower's suggestion and believed the future price should be proportionate to the current purchase price being settled upon by the entities. He pointed out Clearfield residents were already paying proportionately into the NDFD and shouldn't have to pay twice.

Councilmember Shepherd stated he agreed with the proposed language.

Councilmember Bush agreed with Mr. Brower's suggestion that two appraisals should be taken into consideration when determining the future price.

Councilmember LeBaron also expressed agreement.

Mr. Lenhard requested direction from the Council on whether it wanted to move forward in considering approval of the agreement during the scheduled policy session or suggest the possibility of a meeting with the NDFD to discuss the verbiage specific to the Right of First Refusal. Councilmember Shepherd didn't believe a meeting would be necessary. Mr. Brower also clarified language specific to a 90-year use of the property as a fire station. He commented the NDFD expressed confusion over the use of the language which was standard for such agreements and had been upheld in the courts as the Rule Against Perpetuities. Councilmember LeBaron pointed out the advantages of everyone agreeing to the particulars during a joint meeting and commented he didn't foresee the problem associated with the clause specifically the 90-year statute. Councilmembers LeBaron and Shepherd both reported the NDFD attorney didn't agree with the verbiage being included in the agreement. A discussion took place regarding negotiations and how the City should proceed.

Mr. Lenhard emphasized the amendments to the agreement had been modified and were different enough from what Council had authorized. Mr. Brower commented the Council could still move forward with approving the agreement with the proposed change that the City had the Right of First Refusal at fair market value as determined by agreement or two appraisals.

The Council was in agreement to proceed in authorizing the agreement during the policy session scheduled for later.

Mr. Brower added the City should additionally have something included on the property deed recorded at the Davis County Recorder's Office reflecting the City's Right of First Refusal to ensure it would take place in future years. He indicated that specific issue had not been previously discussed with the NDFD's attorney. The Council expressed agreement with Mr. Brower's suggestion.

#### DISCUSSION ON THE COMMUNITY ARTS BUILDING

Eric Howes, Community Services Director, reminded the Council when the budget was reopened the Council approved funding for four items at the Community Arts Building:

- Electrical panel
- Painting
- Carpet
- Signage

He expressed his opinion there would be sufficient funds to complete the electrical upgrade at this time and was proposing that project be postponed until the entire building electrical upgrade could be funded. He believed funds could be better used toward new seating in the little theatre. He stated staff had completed some research specific to seating and reported on the findings. He indicated there would not be sufficient funds to install raked seating and suggested the City complete the seating upgrade without it being "raked." He mentioned he was hesitant to complete the signage component until the official name of the facility had been determined. He emphasized the painting and carpet upgrades could be completed with the appropriated funds. A discussion took place specific to naming the facility and Mr. Howes stated the facility had been previously identified as the Clearfield Community Arts Center when the assessment was completed.

Councilmember Young inquired if there were other infrastructure improvements which needed to be completed using funds from the energy grant. Mr. Howes stated the windows and soffit would need to be upgraded; however, there wouldn't be sufficient funds to complete all of those improvements. He reported he had submitted a request that the remaining funds from the Energy Grant be used for window replacement but hadn't been notified whether that would be allowed.

Councilmember Young inquired how the identified projects had been prioritized when the budget was reopened. Mr. Howes responded it had been the City's intent to initially complete aesthetic improvements inside the building with funding from the budget and address the other needs as funding became available. Mayor Wood stated City staff from the parks department had been used to complete some of the improvements. Mr. Howes reported on the savings recognized by using City staff as opposed to paying a contractor.

Councilmember Bush inquired what kind of signage was intended for the facility. Mr. Howes located a visual illustration which was included in the study to show how signage would be used on the building. A discussion took place specific to the signage possibilities.

Councilmember Shepherd asked if the carpet would remain or be reused if the seating being proposed was later replaced and the City later decided to install raked seating. Mr. Howes responded he didn't believe that could be accommodated and explained what would be entailed with the installation of raked seating and didn't believe that would happen for a very long time. He believed an alternative option should be considered. Mayor Wood pointed out the theatre would be the focal point of the arts center and believed it would be central to the center's success.

Councilmember LeBaron asked if there were any safety issues to be concerned about if the City chose not to complete the electrical upgrade at this time. Mr. Howes responded the main reason not to complete the electrical upgrade was the need to remove walls in the future. He expressed his opinion that would be a better time for that project. He emphasized the current electrical needs were being met and safety was not being compromised by postponing the upgrade.

Councilmember Young suggested partnering with local schools for use of their theatrical amenities for the City's theatrical productions. He believed that would allow the City to benefit from appropriating the funds to better use because those facilities were already in place. Mayor Wood stated the cost to use Clearfield High's auditorium was significant and reported there were still issues specific to the sound system even after the most recent upgrade completed by the School District. He believed the City would be better served by not having to pay for a facility.

Mayor Wood explained the background associated with his suggestion to complete the seating upgrade in conjunction with the carpet upgrade. Councilmember Bush expressed agreement with Mr. Howes' recommendations. Councilmember LeBaron was also in agreement.

A discussion took place regarding the name of the facility. The Council agreed naming the facility the Clearfield Community Arts Center.

DISCUSSION ON THE CONCEPTUAL DESIGN FOR LANDSCAPING OF THE OVERPASS

Mayor Wood reminded the Council of previous discussions regarding the landscaping of the overpass. Mr. Howes distributed some handouts reflecting the original conceptual design for the landscaping. He reported he had entered into discussions with some local landscaping vendors and reported on the communication problems with the vendors; therefore, he had asked the City staff to design and present a landscaping concept.

He distributed a handout reflecting the three goals desired for the landscaping:

- Aesthetically pleasing
- Drought tolerant
- Low maintenance

He emphasized the design concept accomplished all three of the goals and expressed confidence both sides of the bridge on the eastern side could be completed with the appropriated funds. He proposed hiring some part-time staff to complete a significant portion of the labor. He reported the suggested irrigation system consist of a drip system as opposed to broadcast irrigation in addition to the maintenance requirements of the suggested plants.

Councilmember Bush inquired how the City would address weed control. Mr. Howes responded weed control would initially be significant until the plants were established and reported because of the kinds of plants selected, a broadleaf herbicide would help with weed control. He added none of the proposed plants were on the State's noxious weed list and emphasized the design was only conceptual in nature. He briefly reviewed the plants and their characteristics with the Council pointing out the needs of the plants and how those would be considered during the planting. The Council expressed positive feedback for the City's plan when compared with that of the design firm.

Mr. Howes pointed out the original plan submitted by the design firm included a spray irrigation system which would have increased the cost of the project significantly.

Councilmember Bush inquired if volunteers could be used in the initial planting. Brian Brower, City Attorney, commented human resources was in the process of completing a volunteer policy. Mr. Howes added volunteers might be utilized in the planting but pointed out there were some aspects of the project he would want experienced workers completing.

The meeting adjourned at 6:52 p.m.

**APPROVED AND ADOPTED**  
**This 27<sup>th</sup> day of March, 2012**

**/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, February 28, 2012.

/s/Nancy R. Dean, City Recorder