

CLEARFIELD CITY COUNCIL MEETING MINUTES  
6:00 P.M. WORK SESSION  
April 23, 2013

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

VISITORS: Mark Altom – Davis County Treasurer, Jonathon Lee – Davis County Clerk/Auditor’s Office

Mayor Wood called the meeting to order 6:03 p.m.

DISCUSSION ON ZONING TEXT AMENDMENT (AGRICULTURE RECREATION USE)

Valerie Claussen, Development Services Manager, explained the Community Development Department had received a request for a zoning text amendment to permit agricultural recreation in the C-2, Commercial zone. She mentioned this use was permitted in the A-1 and A-2, Agriculture zone. She explained the amendment also proposed supplementary standards because that use currently did not have any set standards for that type of use and the new standards would also be applicable for that use in all zones.

Ms. Claussen stated the proposed changes would establish the use as conditional in the C-2, Commercial zone; Chapter 3 would include additional verbiage which reflected supplementary standards would be found in Chapter 13; and, Chapter 13 would create supplementary standards intended to establish the expectation of the use and encourage predictability in spite of the temporary nature of most agri-tainment type activities.

She reviewed the supplementary standards which included:

- a minimum requirement of 10 acres and the recreation use must be related to the agriculture which occurred on the site
- an operational plan required which would describe mitigation plans for control of dust, litter, noise, manager contact information and the planned activities and hours of operation and the number of days and use on the site
- site plan required reflecting the location of activities, traffic, circulation and access to the site and a demonstration of compliance specific to any setbacks as well as parking
- provisions for joint/shared use parking

Ms. Claussen reported there were some items which would be left to the discretion of the Planning Commission which would be considered as part of the process for issuing a Conditional Use Permit (CUP). She identified some of the discretionary items as possible considerations such as operational hours (especially when in proximity to residential areas), additional screening or fencing, joint/shared use of parking, as well as any additional temporary signage.

Ms. Claussen pointed out the proposed changes were consistent with the General Plan as the C-2 zoning district was intended to promote commercial uses and stated agri-tainment was a hybrid of commercial and agricultural uses. She believed the proposal was consistent with Vision 2020 because it provided opportunities for a positive impact within the community economically and socially. She stated no public comment had been received and no additional public comments were made during the Planning Commission's public hearing. She reported the Planning Commission recommended approval of the proposed text amendment for supplementary standards for agricultural recreation use permitted in the C-2, Commercial zone district with an approved CUP.

Councilmember Young inquired why it stipulated a minimum size of ten acres. Ms. Claussen responded her research identified ten acres as a suggested minimum suitable size to accommodate both the agri-tainment activity and any necessary parking. Ms. Claussen explained that the minimum size requirement was designed to prevent agri-tainment uses such as petting zoos or rodeos from being allowed on smaller parcels.

Mayor Wood commented that although he respected the Planning Commission's opinion and recommendation, he did not support the proposed ordinance. He expressed his opinion that the ordinance, while general in language, was directed specifically to the use of one parcel of property, specifically in the Legend Hills area and that one individual who wanted to run an agri-tainment business in that area was the catalyst for the proposed text amendment. He commented the Legend Hills area was one of the few remaining undeveloped areas of significant size in the City which was currently zoned C-2, Commercial and could meet the ten acre minimum size requirement. Ms. Claussen responded staff recommended the ten acre requirement of continuous property. She clarified the ten acre requirement would also be applicable to any agriculturally zoned property.

Mayor Wood commented it was one specific individual who initiated the proposed text amendment in order to bring a corn maze into the Legend Hills area. He explained the City recently invested several hundreds of thousands of dollars in infrastructure improvements such as widening University Park Boulevard and the installation of water lines which could provide support for future commercial development at Legend Hills. He stated he could not support the proposed ordinance. He also mentioned that during the upcoming policy session the CDRA would be considering the allocation of an additional \$65,000 to a study of retail potential directed at the same acreage in the Legend Hills area that the proposed text amendment would allow to be used for agricultural recreational opportunities. Mayor Wood indicated that considering the big picture, or general scheme of things, it just didn't make any sense to him for the City to approve the proposed text amendment. He expressed his concern that a corn maze could be a deterrent to potential commercial development which could often be pushed forward on very short, but critical time frames which might affect the success of bringing in a new commercial development. Mayor Wood concluded by indicating that these several concerns he expressed were his, just one person's opinion.

Councilmember LeBaron sought to clarify whether Mayor Wood's concern was that when a higher and better opportunity presented itself, such property might not be available because it was already being used for another specific purpose, such as a corn maze. Mayor Wood remarked that was a potential problem. He commented the City had no control over negotiations with any potential developer, the property owner and those involved with any temporary use of the property for things such as a corn maze. He expressed concern that the unavailability of the property within a certain time frame might drive a developer to go elsewhere or create a demand from the owner of an agri-tainment enterprise to be made whole on his or her investments in the property. Mayor Wood also pointed out that the City had previously expended a significant amount of political capital relocating another potential encumbrer to the development of that particular parcel of property and that the proposed text amendment could potentially create or allow for another encumbrer to the commercial development of the Legend Hills area.

Councilmember Murray emphasized the proposal was not for a change of the zone. Mayor Wood pointed out the proposal was for a text amendment change in the City Code that would allow something that was not currently allowed in the commercial zone. Councilmember Young expressed his opinion that he thought agricultural recreation use was good in the agricultural zones rather than in the C-2 zone. Councilmember Murray mentioned that she had talked to staff about some of her concerns with the proposed text amendment. She noted that staff had explained to her that the agriculture recreation use would be temporary in nature, meaning there was nothing permanent about it. She expressed her understanding based upon the discussion with staff that a more permanent development opportunity would likely have priority over the temporary, seasonal use. Mayor Wood asked Ms. Claussen to explain how a proposed more permanent use would have priority over any temporary use which was already in place. Ms. Claussen responded the Conditional Use Permit (CUP) would only be valid for the length of time specified in any agreement executed by the necessary parties. Mayor Wood emphasized the City would not have any control over any contractual arrangements between the landowner and the

users. Ms. Claussen stated the City would have control over the validity of the CUP as long as the executed agreement was in place and valid. Brian Brower, City Attorney, elaborated on some of the concerns previously expressed by pointing out that the City would have no control over the terms of the agreement between the land owner and user. He pointed out that a property owner could, for example, enter into a ten year agreement for an agricultural recreation use which could potentially affect commercial development. Mayor Wood echoed that the City would have no control over such an agreement for an agricultural recreation use.

Councilmember Young suggested the question under consideration, what the Council should be looking at, was what should the nature of the C-2, Commercial zone be within the City. He indicated the Council should ask itself whether the City's vision included having farms in the C-2 zone. Mayor Wood believed it was difficult to see commercial property, and even a stretch for the Legend Hills property, which is currently zoned as C-2, being used now for a legitimate, continuing agricultural use as evidenced by just driving by the property any time during the past eight to ten years. Ms. Claussen mentioned that beehives were kept on the property periodically. Mayor Wood pointed out that such activity was likely being done by the property owner because it would then allow the property to be given greenbelt status by the County Assessor. Mayor Wood expressed his opinion the proposed text amendment did not serve the best interests of the City. He pointed out he was elected to represent the best interest of the community as a whole, not just the interests of one particular individual. Mayor Wood indicated that was his opinion, but that he would like to hear the opinions of the rest of the councilmembers.

Adam Lenhard, City Manager, asked if the applicant had appeared at the Planning Commission meeting. Ms. Claussen responded in the affirmative. Mayor Wood stated he had expressed his opinion to one particular member of the Planning Commission who indicated he or she was unaware of the capital investments made in the Legend Hills area by the City. He stated the commissioner indicated that knowledge of the proposed retail leakage study and previous significant public improvement expenditures directed at promoting the economic development of the Legend Hills area might have created a different perspective when considering whether or not to recommend adoption of the proposed text amendment to the Council.

Mr. Brower expressed his opinion that while it wasn't inappropriate at all for the Council to discuss and consider how the proposed text amendment might affect the limited number of remaining parcels within the City it would be applicable to, he also recommended that the Council should consider the broader, more general view of whether it wanted to include the agriculture recreation uses or operations in the C-2, Commercial zone. He suggested that if a motion were made to deviate from the Planning Commission's recommendation, that broader view should be expressed in reflecting the Council's determination, if that were indeed the direction the Council wanted to go.

Councilmember Murray explained conditions she was personally aware of regarding other seasonal commercial ventures in buildings, such as haunted houses. She continued some types of temporary uses such as these allowed landowners and building owners to receive some revenue

while a building sat vacant or until more permanent development took place. In response to Councilmember Murray's thoughts, Councilmember Young again expressed his opinion that the issue was more of a land use issue and whether the proposed use was appropriate for the C-2, Commercial zone. Councilmember Murray emphasized the property was still being given greenbelt status. She stated if the proposed temporary use were surrounded by traditional commercial uses she would definitely not support it. Councilmember LeBaron stated that if the text amendment were approved, the use would have to be allowed in any C-2, Commercial zone across the entire city that met the ten acre minimum requirement. Councilmember Murray pointed out there was probably not another area in the City that could meet the ten acre requirement. Councilmember Young indicated the ten acre minimum requirement didn't make sense to him anyway and then reminded the Council the question should be whether this use was appropriate for C-2, Commercially zoned parcels. He asked what the term "greenbelt" designation meant for the property. Councilmember Murray responded that she believed it allowed for agricultural uses and further indicated that the proposed text amendment didn't seem to be clearly advantageous from either side—whether for or against it. Ms. Claussen and others added that the term "greenbelt" referred to a particular tax designation that allowed the property owner to demonstrate so much of the property was being used for agricultural uses; therefore, it could be taxed at a lower rate. Ms. Claussen also mentioned the greenbelt issue was an entirely different zoning/land use issue from the matter at hand and even questioned whether it was allowed in the C-2 zone.

#### DISCUSSION ON THE WILCOX FARMS PROPERTY REZONE

Valerie Claussen, Development Services Manager, explained the public hearing would be opened and continued until the May 14, 2013 City Council meeting. She stated the dates had been designated and the required noticing had taken place specific to the public hearing. She reported the issue was scheduled to be addressed during the Planning Commission's meeting on Wednesday, May 1, 2013.

#### DISCUSSION ON THE NORTH DAVIS CONDO PLAT

Valerie Claussen, Development Services Manager, reminded the Council the agenda item had been continued from the March 26, 2013 City Council meeting. She stated all engineering comments had been addressed and an approval letter issued by the city engineer. She explained the request was for a final subdivision condominium plat for an existing dental office. She continued the building would be divided into four condominiums sharing front reception, parking lot, landscaping and other common areas. She pointed out the Master Plan and zoning were commercial and the condo plat was consistent with both. She added building code requirements had been met to the satisfaction of the city engineer and building official. She stated there were private CC&R's (Covenants, Conditions and Restrictions) because of the common areas that were subject to City review. She reported no public comment had been received and the Planning Commission had recommended approval of the Final Subdivision Plat.

DISCUSSION ON SR 193 EXTENSION DEDICATION PLAT

Valerie Claussen, Development Services Manager, shared an illustration reflecting the road which was proposed to be deeded to the City and reminded the Council of the background and previous work session discussions regarding the transfer of its ownership. She pointed out the road was privately maintained providing access to Jenmar and Morgan Pavement. She stated the plat would enable the City to accept the road as a public street and emphasized its necessity in conjunction with the SR 193 Road Extension Project. She pointed out where the road was located on the illustration in conjunction to the frontage road providing access. She stated the public works director and city engineer reviewed the road and plat and recommended approval. Ms. Claussen referred to the illustration and pointed out where the fire access would be located through Morgan Pavement which would otherwise dead end at Morgan Pavement.

Ms. Claussen reported the Planning Commission had approved the street dedication on the condition that UDOT would complete requested improvements particularly along the frontage road and that the City would ensure the public safety in the area would be maintained particularly the two way traffic. She continued concern had been expressed specific to whether the narrow road and the on street parking would still be able to allow for two way traffic after it became a public street. Ms. Claussen indicated Mr. Morgan was present during the Planning Commission's meeting and spoke to the existing conditions in the immediate area. She reported no other public comments had been received and the Planning Commission had recommended approval of the street dedication plat.

Mayor Wood inquired if the improvements identified to be completed by UDOT were specific to curb and gutter. Scott Hodge, Public Works Director, responded the only area UDOT would be required to complete curb and gutter would be where the proposed frontage road was parallel to the new SR 193 extension, also known as 700 South.

Councilmember LeBaron requested clarification specific to the access road being requested by the City. Ms. Claussen indicated several discussions had taken place over the previous eighteen months regarding the South Main Street closure and possibilities regarding the frontage road. She continued based upon those discussions the City had concluded this was the best alternative and therefore had requested the road be dedicated to the City as a public street as that seemed to be the only feasible alternative to allow for completion of the highway project. Councilmember Bush inquired if the proposed street had been built to City standards. Mr. Hodge responded it had other than some areas missing curb and gutter. He also mentioned the road base thickness was appropriate for City standards. He continued to explain the proposed development and reconfiguration of the City's Public Works' Shop and Park's facilities and how curb and gutter installation would be completed in conjunction with that project. Councilmember LeBaron reported on Planning Commissioner Butcher's concerns regarding the narrow road and any on street parking relative to safe passage. Councilmember LeBaron suggested that due to the road's width, it could be posted by the City as a "No Parking" area in order to promote safety.

Brian Brower, City Attorney, expressed concern about having the City adopt and put in place conditions to provide for safety on the public road and more specifically a requirement placed upon itself that “the City was to ensure public safety . . .” as was reflected in the Planning Commission’s recommendation. Mr. Brower indicated that the safety issues could be addressed as was suggested earlier, by making parking on that street illegal, and that having the City impose a condition upon itself wasn’t necessary. Councilmember LeBaron said he understood and agreed. Mr. Brower suggested any proposed motion by the City Council, should it be so inclined, might include some modified verbiage regarding the condition to ensure public safety. He emphasized it was not his intention to disregard or circumvent the Planning Commission’s recommendation to the City Council; however, he expressed his opinion that the City had a need to limit any potential liability on its own behalf in this regard.

DISCUSSION ON INFORMATION RECEIVED FROM THE DAVIS COUNTY  
TREASURER

Mark Altom, Davis County Treasurer, and Jonathon Lee, Davis County Finance Director, distributed a handout reflecting Utah State Code specific to Payment to Taxing Entities by County Treasurer and a spreadsheet reflecting property tax distributions for entities within Davis County. Mr. Altom shared a presentation clarifying the calculation and distribution of real property taxes on assessed values. He reviewed State Code and standard practices and the figures associated with negative distributions of tax revenue with the Council. Mr. Altom referred to the spreadsheet and pointed out that Clearfield City was the only taxing entity that had a negative distribution of its 2012 tax revenue. He indicated the cause was due to the activation of the ATK EDA (Economic Development Area). He stated distributions were made based on 100 percent of the taxable property value and not adjusted for redevelopment agencies until later. He explained when the values were adjusted for the redevelopment agency it caused a negative distribution for the City.

Mayor Wood asked if the explanation meant there was an excess distribution of tax revenue to the City which was now being recovered. Mr. Altom stated he would not identify the issue as an excess distribution because it was considered a distribution subject to final distribution that would be adjusted. He explained every entity affected by an RDA (Redevelopment Agency) was subject to the standard practice of a final distribution that could be adjusted accordingly. He reported the negative distribution funds for Clearfield totaled approximately \$147,985.

Bob Wylie, Administrative Services Director, referred to the information identified on the spreadsheet specific to the base property values. He noted a reduction in Clearfield’s base property values directly proportionate to the increase in RDA Values. He asked if the County moved only the growth in revenue when it calculated RDA revenues. Mr. Altom responded values were set by the County Assessor and there was lower real property value in 2012 for Clearfield than what was assessed in 2011.

Councilmember Young expressed his understanding that assessed values were determined prior to setting the certified tax rates. Mr. Altom agreed values were determined prior to rates being set. He added values were determined in June 2012 but the certified tax rate was based on a three year average of equalization value and a five year average of collection rate rather than calculated on a year to year basis. Councilmember Young commented the practice could create a lag in negative values. Mr. Altom agreed. Mr. Lee added Freeport Center had appealed its rate and its value dropped significantly. Mr. Altom commented veteran and low income abatements also affected distributed amounts.

Mayor Wood commented a taxing entity was given a certified tax rate but could not count on actually receiving the anticipated revenue because of various distribution adjustments. Mr. Altom stated there were distribution adjustments but it should even out over time because of the lag associated with the three and five year averages discussed earlier. Councilmember Young stated statistically a taxing entity would expect to recognize increases to revenue based on the three and five year averages. Mr. Altom clarified the revenue increase could be recognized if a taxing entity were experiencing new growth because the new growth calculation was separate from the certified tax rate calculation.

The meeting adjourned at 6:58 p.m.

**APPROVED AND ADOPTED**  
**This 14<sup>th</sup> day of May, 2013**

**/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, April 23, 2013.

/s/Nancy R. Dean, City Recorder