

CLEARFIELD CITY COUNCIL MEETING MINUTES
7:00 P.M. REGULAR SESSION
February 12, 2013

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

VISITORS: Andrea Friebel – Six Feet Below, Martha Matthews, Wade Schofield – Six Feet Below, Amanda Schofield – Six Feet Below, Diane Morton – Six Feet Below, Ashley Morton – Six Feet Below, Ally Morton – Six Feet Below, James Rasmussen – Six Feet Below, Adriana Contreras – Six Feet Below, Jesica Batty – Six Feet Below, Brandon Atkinson – Six Feet Below, Randi Reynolds – Six Feet Below, Matthew – Six Feet Below, Tiffany Browning – Six Feet Below, Bridgett Madsen – Six Feet Below, Kian Kupfer – Six Feet Below, Tom Patterson, Shannon Hamilton – Six Feet Below, Billy Gray – Six Feet Below, Alyssa Maw – Six Feet Below, Jason Hays – Six Feet Below, Jared Petersen – Six Feet Below, Paula Bell – Six Feet Below, Chris Wilson – Six Feet Below, Joe Evans – Six Feet Below, Jon Elmer – Six Feet Below, Javier Alvarado, Chris Olson – Six Feet Below, Shantell Olson – Six Feet Below, Sharon Heckerman – Six Feet Below

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

Councilmember LeBaron conducted the Opening Ceremony.

APPROVAL OF THE MINUTES FROM THE JANUARY 15, 2013 WORK SESSION, THE JANUARY 22, 2013 WORK SESSION, AND THE JANUARY 22, 2013 REGULAR SESSION

Councilmember Murray requested the January 15, 2013 work minutes be amended to reflect the inclusion of the following as part of her Projects and Goals Presentation; *Continue budgeting for a maintenance fund for City assets.*

Councilmember LeBaron moved to approve the minutes from the January 15, 2013 work session as amended, the January 22, 2013 work session, and the January 22, 2013 regular session as written, seconded by Councilmember Bush. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Murray, Shepherd and Young. Voting NO – None.

PUBLIC HEARING TO RECEIVE COMMENT ON PROPOSED AMENDMENTS TO TITLE 4 – BUSINESS AND LICENSE REGULATIONS AND TITLE 11 – LAND USE REGULATIONS OF THE CITY CODE REGARDING TATTOO OR BODY PIERCING ESTABLISHMENTS

Valerie Claussen, Community Development Manager, explained Community Development received an application for a text amendment request which would permit existing licensed tattoo establishments to relocate to another location, within the C-2, commercial, zoning district, not within 2000 feet of another same-type establishment. This request was deemed necessary by the applicants, because under current City Code the use was not permitted in any zoning district within the City. All existing tattoo or body piercing establishments were recognized as legal, non-conforming uses.

Ms. Claussen reported staff proposed three alternatives for consideration which would be applied City-wide and not just in this particular instance. She indicated both Title 4 and Title 11 would require modification. She stated there were currently three tattoo establishments located within the City and one additional establishment that had not renewed its business license.

Ms. Claussen presented and reviewed the three alternatives for consideration:

- Alternative A – permitted in C-2, commercial, with an approved Conditional Use Permit (CUP) and a separation requirement to not be located within 1/3 mile (1,760 feet) of another tattoo establishment and 880 feet of a payday lending, pawn, or sexually oriented business
- Alternative B – permitted in C-2, commercial, and M-1, manufacturing, with an approved CUP and a separation requirement to not be located within 1/3 mile (1,760 feet) of another tattoo establishment and 880 feet of payday lending, pawn or sexually oriented business
- Alternative C – permitted in M-1, manufacturing, with an approved CUP and a separation requirement to not be located within 1/3 mile (1,760 feet) of another tattoo establishment and 880 feet of payday lending, pawn, or sexually oriented business. A relocation provision for existing businesses to relocate to another property within the same zoning district in which it was originally located and any new tattoo establishments would be required to obtain a CUP in the M-1 zoning district in addition to meeting distance requirements (which would now require a change to draft language for a CUP).

Ms. Claussen mentioned additional text amendment elements would be required, specifically, the definitions in the supplementary standards as well as providing local and state health

requirements prior to business licensing. She added the text amendment specific to business licensing would require a provision that the applicant would need to demonstrate compliance with land use regulations. Ms. Claussen also reported the Planning Commission recommended Alternative A, based upon the City's Master Plan & Vision 2020, and that recommendation was before the Council for consideration.

Councilmember LeBaron requested clarification that Alternative C would still allow for an existing tattoo establishment in a C-2 zone to relocate to another C-2 zone; however, any new tattoo establishment would then be required to locate in the M-1 zone. Ms. Claussen responded in the affirmative.

Mayor Wood declared the public hearing open at 7:16 p.m.

Mayor Wood asked for public comments.

Christian Olsen, Clearfield, stated as a local contractor he had completed repairs to the building at Mr. Kupfer's expense. He continued the lease agreement would require the owner of the building to pay for improvements and not the business owner. He expressed his opinion Six Feet Below was a viable business in the City.

Andrea Freibel, Clearfield, stated she had worked at Six Feet Below shortly after it opened and reported she had witnessed the owner making repairs to the building, as opposed to the landlord. She emphasized the tattoo industry was highly regulated by the County Health Department and also the State of Utah. She encouraged the Council to allow the relocation.

Joe Evans, Clearfield, agreed with previous comments and stated he also worked at Six Feet Below for two years. He believed it would be in the best interest of those involved to allow the relocation. He expressed his opinion Six Feet Below would remain viable even if the City didn't allow the relocation.

Kian Kupfer stated he was the current owner of Six Feet Below and reported he had improved his business by providing services which generated revenue for Clearfield City. He indicated some of his clientele came from neighboring states to access the services the business provided. He stated he strived to improve the image of professional tattoo establishments as well as his own business. He desired to display a positive image and have others believe tattoo establishments could be considered "professional" in nature and expressed his support of either Alternative A or C.

Councilmember Bush moved to close the public hearing at 7:23 p.m., seconded by Councilmember Shepherd. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Murray, Shepherd and Young. Voting NAY – None.

CITIZEN COMMENTS

Martha Matthews, Goldstone Place, reported she had witnessed a violent attack of a small dog by two larger dogs allowed in the apartments by the management of Goldstone Apartments. She expressed her opinion the owner couldn't manage or control the large dogs. She believed the small dog didn't require medical attention but expressed her concern the next time an attack happened it could be against a small child. She expressed her opinion all apartments within the City shouldn't be allowed to have tenants who own large dogs given the close living quarters. She stated the large dogs were beautiful to admire; however, she didn't believe the apartment facility should allow large dogs since there is no private open space to accommodate them.

Ms. Matthews also expressed concern about the installation of a fire hydrant near Goldstone. She stated since the installation, she could visually see floating particles in her tap water and expressed concern about possible contamination which had resulted in her using bottled water.

Mayor Wood suggested she visit with Scott Hodge, Public Works Director, regarding the water issue and reported he would visit with Brian Brower, City Attorney, regarding the City's involvement with the dog issue.

Ms. Matthews expressed frustration with her experience in communicating her concerns regarding dog issues with Davis County Animal Control. She also inquired as to who would investigate an animal attack of a child. Mr. Brower explained if sufficient evidence were collected following a dog attack the police department would complete an investigation.

APPROVAL OF ORDINANCE 2013-02 APPROVING AMENDMENTS TO TITLE 4 – BUSINESS AND LICENSE REGULATIONS AND TITLE 11 – LAND USE REGULATIONS OF THE CITY CODE REGARDING TATTOO OR BODY PIERCING ESTABLISHMENTS

Brian Brower, City Attorney, emphasized the importance of establishing the reasons and justifications for amending the business license and land use regulations. He complimented the community development department staff for its preparation of the detailed report. He pointed out the Council, as the legislative body, could regulate particular types of uses but it was imperative to identify reasons and justifications for establishing the regulations.

Mayor Wood stated he was in favor of Alternative C for reasons stated earlier in the work session. He believed individuals in attendance at the work session had also expressed support for that option.

Councilmember Murray commented she read the petition by Six Feet Below's management that requested relocation. She expressed her opinion after considering the reason for moving and the proposed new location, it was in the best interest of the City to allow Six Feet Below's request to relocate. She added the business was trying to upgrade its appearance and continue its viability with the move. She expressed her opinion Alternative C was the best option because it aligned

with Vision 2020, the City's Strategic Plan, specific to upgrading the City's limited C-2, commercial, corridor and not limiting commercial development to one specific use.

Councilmember Shepherd pointed out there were a significant number of people in attendance at the meeting and complimented those individuals for sharing their opinions during the public hearing. He expressed appreciation to the attendees.

Mr. Brower pointed out the Planning Commission's recommendation and the ordinance prepared for the Council opted for Alternative A. He counseled that if the motion were to deviate from that recommendation the City Council would need to provide particular verbiage addressing its change to Alternative C and ordering changes to the proposed ordinance that would reflect the new alternative wherever necessary for implementation. Ms. Claussen asked if the Council would continue to require a Conditional Use Permit (CUP) for relocation under Alternative C. The consensus was the requirement for a CUP would remain. She asked that the motion include language that would require a CUP.

Mr. Brower pointed out the proposed ordinance established that any legal nonconforming use status which currently existed could be lost in a few different ways. Ms. Claussen emphasized the proposed ordinance would be more restrictive than typical abandonment clauses. She continued the proposed ordinance attached abandonment of the use to the status of the business license. She stated if the business license lapsed the use would be abandoned and any business would be forced to move to the M-1, manufacturing, zone. Mayor Wood wanted to make sure businesses were notified of business license renewals in sufficient enough time to stay current. Ms. Claussen indicated business license renewal notifications allowed sufficient time.

Councilmember Murray asked if a legal nonconforming use would keep its classification and its authorized CUP if it moved to a different location in the same zone. Ms. Claussen stated under the ordinance an existing legal nonconforming use would remain entitled if it located within the same zone but any new business would be required to locate in the M-1, manufacturing, zone. Mr. Brower added the legal nonconforming use status applied to the "use" and if a particular establishment had legal nonconforming use status, and then moved across the street, it would maintain legal nonconforming use status in the same zone. Ms. Claussen emphasized the "grandfathering" of the existing four businesses would allow each of them continuation of the legal nonconforming use in a different location.

Councilmember Murray pointed out Title 11 had a list of businesses which were permitted in a particular zones. She stated under current law tattoo establishments were not a permitted use in any zone. She asked if tattoo establishments would be permitted uses after the adoption for the proposed ordinance. Ms. Claussen stated the proposed ordinance would only allow tattoo establishments in the M-1, manufacturing, zone with a Conditional Use Permit (CUP).

Councilmember Bush expressed thanks for those residents attending the City Council meeting and complimented them for their input.

Councilmember Shepherd moved to approve Ordinance 2013-02 approving amendments to Title 4 – Business and License Regulations and Title 11 – Land Use Regulations of the City Code regarding tattoo or body piercing establishments with Alternative C replacing Alternative A and allowing staff to make necessary corrections to the language of the ordinance in order to clarify the deviation from the Planning Commission’s recommendation, inclusion of today’s date and the requirement for a Conditional Use Permit, and authorize the Mayor’s signature to any necessary documents. He stated the regulations were necessary in accordance with Vision 2020, the City’s strategic plan, which identified a need to not cluster similar types of businesses given the limited amount of commercial space available for development in the City, suggestions by the staff including the staff report, and the intensive investigation and recommendation by the Planning Commission. Seconded by Councilmember LeBaron. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Murray, Shepherd and Young. Voting NAY – None.

APPROVAL OF RESOLUTION 2013R-02 AUTHORIZING THE DISPOSAL OF UNCLAIMED PROPERTY

The Clearfield City Police Department is required to dispose of unclaimed property. In the past the Council has approved the disposition of unclaimed property to bona fide charities.

Brian Brower, City Attorney, pointed out previously the donations had been distributed on an equally rotating basis. He continued staff expressed preference to donate to one specific charity, the Davis County Children’s Justice Center, in which the proceeds from the sale of the property would be donated to the Center. Chief Krusi explained the Justice Center auctioned bicycles received from several entities which proceeds were used to support programs and fund training for local law enforcement officers.

He indicated if the Council were in agreement, future resolutions addressing the property would be drafted reflecting the Children’s Justice Center as the specific charity. Each Councilmember expressed support of staff’s recommendation specific to designating any future donations be made to the Children’s Justice Center.

Councilmember Young moved to approve Resolution 2013R-02 authorizing the disposal of unclaimed property and authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Bush. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Murray, Shepherd and Young. Voting NAY – None.

APPROVAL OF A REQUEST FROM CHEVRON TO CONSENT TO THE ASSIGNMENT OF THE CITY'S EASEMENT ACROSS THE NORTHWEST PRODUCTS PIPELINE SYSTEM TO TESORO

Chevron was in the process of conveying the Northwest Products Pipeline System to Tesoro and requested its easement with the City for the pipeline be transferred to Tesoro. The transfer of ownership was expected to take place sometime in April of 2013. Brian Brower, City Attorney, explained the City had been a grantor of the easement to Chevron and as it had expressed a desire to divest itself of the interest in the pipeline and associated easements, required the City to grant that authorization.

Councilmember LeBaron moved to approve the request from Chevron to consent to the assignment of the City's easement across the Northwest Products Pipeline System to Tesoro and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Shepherd. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Murray, Shepherd and Young. Voting NAY – None.

COMMUNICATION ITEMS:

Mayor Wood

1. Informed the Council he had received notice the Davis Education Foundation Gala was scheduled for Friday, April 26, 2013. He reported the City would be hosting North Davis Junior High staff at the City's table and indicated an invitation had been extended to Principal Hansen.
2. Stated he had attended a grand reopening event at Chancellor Gardens to view the recent renovations. He expressed his opinion the facility was beautiful and mentioned the improvements were comparable to that of a five-star hotel.
3. Reported he and City staff would be meeting with developers involved with the City to determine their long term goals for future development in the City.

Councilmember Bush

1. Stated he had attended the ribbon cutting ceremony for the Little Theatre and indicated the Storytelling Festival was very entertaining.
2. Reported he had attended the Utah League of Cities and Towns day at the State Legislature with the Youth City Council.
3. Wished everyone in attendance a Happy Valentine's Day.

Councilmember LeBaron

1. Informed the Council he had attended the ribbon cutting ceremony for the Little Theatre located at the Community Arts Center. He expressed appreciation to City staff for its efforts associated with the renovation.
2. He reported the Storytelling Festival was a great event.

Councilmember Murray – nothing to report.

Councilmember Shepherd

1. Reported the Sign Committee had met and recommendations would be coming before the Planning Commission and Council for consideration.

2. Reiterated comments by Councilmember Bush regarding the Little Theatre ribbon cutting and the Utah League of Cities and Towns hosting the YCC at the Utah Legislature.

3. Shared an update regarding the Wing and Music Festival. He stated several individuals on the committee were still seeking sponsors for the event. He expressed his opinion it would be a great event for the City. He stated a number of bands had committed to performing during the event.

Councilmember Young – Reported the Youth City Council (YCC) had visited the George Wahlen Veteran’s home in Ogden.

Adam Lenhard, City Manager – nothing to report.

STAFFS’ REPORTS:

Nancy Dean, City Recorder –Informed the Council of the following meeting schedule: work session scheduled for Tuesday, February 19, 2013, policy session with a work session beginning at 6:00 p.m. on Tuesday, March 5, 2013, work session scheduled for Tuesday March 19, 2013 and regular policy session on Tuesday March 26, 2013.

There being no further business to come before the Council in policy session, **Councilmember Murray moved to adjourn the policy session and reconvene in a work session at 8:00 p.m., seconded by Councilmember LeBaron. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Murray, Shepherd, and Young. Voting NO – None.**

**APPROVED AND ADOPTED
This 26th day of February, 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, February 12, 2013.

/s/Nancy R. Dean, City Recorder