

CLEARFIELD CITY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY  
MEETING MINUTES  
6:00 P.M. WORK SESSION  
July 8, 2014

*(This meeting was held prior to a City Council work and policy session.)*

PRESIDING:	Bruce Young	Chair
PRESENT:	Keri Benson	Director
	Kent Bush	Director
	Ron Jones	Director
	Mike LeBaron	Director
	Mark Shepherd	Director
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
	Scott Hess	Development Services Manager
	Rich Knapp	Administrative Services Director
	Kim Dabb	Operations Manager
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder

VISITORS: Kathryn Murray

Chair Young called the meeting to order at 6:00 p.m.

DISCUSSION ON THE LISTING AGREEMENTS WITH NEWMARK GRUBB ACRES

JJ Allen, Assistant City Manager, stated the City Council and CDRA would consider approval of proposed listing agreements for the three parcels of property across the street from the City building. He reminded the Council the CDRA owned two of the parcels: the pine tree parcel and the property in which Rocket Fuel Coffee was located, the old Taco Time property. He mentioned the City owned the Clearfield Auto Parts parcel. He reported the combined parcels were a total of 2.3 acres and would be known as Clearfield Center.

Mr. Allen stated the City would enter into a Listing Agreement with Newmark Grubb Acres and Ryan Flint would be the City's agent. He highlighted the following changes to the Agreement:

- Instead of a one year term, the City would be limiting it to six months, following which the term would change to a month to month basis with a cancellation term of 30 days.
- Provision that the parcels would need to be marketed together to a developer with a bonafide project which would redevelop the property in its entirety. He emphasized the

City desired a project more substantial than just occupying the Auto Parts building or Taco Time building.

- The City Council and the CDRA Board would need to approve the proposed project.
- The commission for the sale was based on the going rate of six percent to be equally divided with the buyer's broker or four percent if Mr. Flint brings the buyer to the City. If the City decided to convey the property without a sale to incentivize the development, then the commission to the broker would be a flat \$18,000.
- The addition of a list of excluded parties with which the City had previously discussed the possible sale of the property for different projects. Any of the listed participants who brought viable projects that the City chose to move forward with would be a separate transaction and no commission would be paid to Mr. Flint. Adam Lenhard, City Manager, requested Wasatch Advantage and Holmes Homes, and any of their respective affiliates, be included in the list of excluded parties.

Mr. Allen asked if there were any questions from the Board regarding the proposed agreement. Director Shepherd inquired if Mr. Flint and Newmark had accepted the edits. Mr. Allen responded they had accepted the City's proposal. Director Benson inquired if the current tenants were aware the City was actively marketing the parcels. Mr. Allen stated both tenants were currently leasing the facilities on a month to month basis and the City would be marketing the parcels.

Director Benson asked if the City would be able to recoup its costs associated with the original purchase of the parcels. Director Shepherd was hopeful that would be the result. Brian Brower, City Attorney, emphasized the lease agreements with the current tenants made it very clear that at any time the City could terminate the lease. He mentioned the City paid more than it wanted when it purchased the auto parts building and believed the City lease revenue had offset those original costs.

Mr. Allen also informed the CDRA it currently owned a retail pad fronting State Street in front of Kent's grocery store, 588 South State Street. He reported the City recently received an inquiry from a broker representing a sandwich shop. City staff believed now might be a good time to market the property. He stated a separate listing agreement for that parcel was also on the agenda and would come before the Board for consideration.

Mr. Allen reviewed specifics to the listing agreement:

- Instead of a one year term, the City would be limiting it to six months, following which the term would change to a month to month basis with a cancellation term of 30 days.
- The CDRA Board would have the right to approve the tenant or retailer which would occupy the space.
- The same language regarding the commission was included with the exception if the property was to be conveyed without a sale, the flat fee would be \$5,000.

Director LeBaron expressed concern that a possible building in the parking lot would limit visibility to other businesses in the shopping center's parking lot. Mr. Allen couldn't speak to that speculation; however, it was the City's intent to bring business to the City and synergy to the downtown area.

Mr. Lenhard disclosed Ryan Flint was his neighbor and announced he had purposely not involved himself in any discussions regarding the parcels or Listing Agreements. Mr. Allen reported Mr. Flint was currently serving on the City's Economic Development Task Force and believed him to be trustworthy. Director Shepherd mentioned Mr. Flint had a vested interest in Clearfield as he was affiliated with Legend Hills and listed properties in that area.

#### DISCUSSION ON A LOAN AGREEMENT WITH CLEARFIELD STATION LLC

JJ Allen, Assistant City Manager, distributed the Clearfield Station Loan Agreement handout which reflected comments generated by staff. He stated the developer had not yet seen any of the comments and reviewed them with the Board:

- The amount of the requested loan had not yet been identified.
- The inclusion of a required promissory note on every advance.
- The promissory note would have an accompanying amortization and repayment schedule.
- Each promissory note should also identify the collateral.
- Lender's position on the pledged collateral shall be either first or second position.

Adam Lenhard, City Manager, mentioned the CDRA had previously been in the loan business and there were loan funds that were never recovered. He believed significant funds had been written off because proper checks and balances were not in place. He stated Davis County had recently established a very sophisticated business loan fund and the City would be leaning on that expertise of "best practices" to be included in the agreement to ensure the City's taxpayer dollars were not at risk unnecessarily.

- Requirement for personal guarantee by either John Thackeray or Kevin Garn, or both. He explained this was necessary because in the event the business didn't repay the funds personal assets could be pursued. He stated this would provide another layer of protection for the CDRA.

Mr. Allen reviewed the additional five documents used by Davis County for lending and a discussion took place. He mentioned Thackeray-Garn was familiar with the forms used by the County.

Director LeBaron stated he wanted something in place in case the development wasn't successful. A discussion took place regarding the CDRA's position for collateral. The Board was willing to take second position for collateral. Mr. Allen believed there were significant issues which needed to be addressed in section 3, paragraph b, specific to disbursement and repayment of funds. He stated it would be his recommendation for one lump disbursement with an amortization schedule because it would be much easier for the City to manage. He would be proposing a ten year term requiring a minimum payment regardless of whether the tax increment had been triggered.

Mr. Allen stated he would send a revision with the reviewed edits of the Loan Agreement to the developer.

**Director Shepherd moved to adjourn as the CDRA and reconvene as the City Council in a work session at 6:36 p.m., seconded by Director Benson. All voting AYE.**

**APPROVED AND ADOPTED  
This 12<sup>th</sup> day of August, 2014**

**/s/Bruce Young, Chair**

**ATTEST:**

**/s/Nancy R. Dean, Secretary**

I hereby certify that the foregoing represents a true, accurate, and complete record of the Clearfield Community Development and Renewal Agency meeting held Tuesday, July 8, 2014.

/s/Nancy R. Dean, City Recorder