

CLEARFIELD CITY COUNCIL MEETING MINUTES
7:00 P.M. POLICY SESSION
September 27, 2016

PRESIDING:	Bruce Young	Councilmember
PRESENT:	Keri Benson	Councilmember
	Nike Peterson	Councilmember
	Vern Phipps	Councilmember
EXCUSED:	Mark Shepherd	Mayor
	Kent Bush	Councilmember
STAFF PRESENT:	Stuart Williams	City Attorney
	Scott Hodge	Public Works Director
	Spencer Brimley	Development Services Manager
	Greg Krusi	Police Chief
	Eric Howes	Community Services Director
	Curtis Dickson	Community Services Deputy Dir.
	Summer Palmer	Administrative Services Director
	Rich Knapp	Finance Manager
	Nancy Dean	City Recorder
	Annie Bradshaw	Administrative Assistant
EXCUSED:	Adam Lenhard	City Manager
	JJ Allen	Assistant City Manager
	Kim Read	Deputy City Recorder

VISITORS: Rodney Marchant, Kirk Middaugh – Davis County Beekeepers Association, Anna Wissel, Derrin Wissel, Jamie Lloyd – Weber State University student, Amanda Jack – Weber State University student, Mike Ford – Clearfield Business Park, Kathryn Murray – Planning Commission, Brady Jugler – Planning Commission, Tim Roper – Planning Commission, Kersten Felt – Davis County Beekeepers Association.

Nancy Dean called the meeting to order at 7:00 p.m.

NOMINATION AND APPOINTMENT OF AN ACTING MAYOR PRO TEMPORE

In accordance with City Code § 1-6-2E, "...in the absence of both the mayor and mayor pro tempore...the city council may elect one of its members to serve as the mayor pro tempore until either the mayor or the appointed mayor pro tempore returns."

Councilmember Peterson moved to nominate Councilmember Young as the Mayor Pro Tempore seconded by Councilmember Benson. The motion carried upon the following vote: Voting AYE – Councilmembers Benson, Peterson, Phipps and Young. Voting NO – None. Councilmember Bush was not present for the vote.

Councilmember Benson moved to appoint Councilmember Young as the Mayor Pro Tempore for the meeting taking place on Tuesday, September 27, 2016, seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Benson, Peterson, Phipps and Young. Voting NO – None. Councilmember Bush was not present for the vote.

Councilmember Peterson conducted the Opening Ceremony.

PUBLIC HEARING TO CONSIDER ZTA 1607-0003 AMENDING TITLE 11 LAND USE, TO CONSIDER SUPPLEMENTAL REGULATIONS FOR BEEKEEPING IN THE R-1, A-1 AND A-2 RESIDENTIAL ZONING DISTRICTS AND OTHER AMENDMENTS CORRECTING REFERENCES TO THE COMMUNITY DEVELOPMENT DIRECTOR AND COMMUNITY DEVELOPMENT DEPARTMENT

Staff prepared amendments to City Code Title 11, Land Use regarding beekeeping in residential zones. Other municipal ordinances were reviewed as part of drafting the amendments as well as consultation with the Davis County Beekeepers Association. Also included in the amendments are some minor housekeeping items referencing the community development director and community development department.

Spencer Brimley, Development Services Manager, informed the Council beekeeping was currently only allowed in the Agriculture Zone and there was currently no language relative to the keeping of bees. He reminded the Council it had directed staff to draft an ordinance and subsequent language specific to the keeping of bees as a permitted use in Residential Zones. He stated the Planning Commission heard the item on September 7, 2016 and recommended its approval with additional changes to the ordinance which had subsequently been included. He mentioned the Planning Commission Chair was in attendance to respond to questions or comments.

Councilmember Benson inquired what would happen during severe storms if the hives were damaged and what protocol would be followed.

Mayor Pro Tem Young opened the public hearing at 7:08 p.m.

Mayor Pro Tem Young asked for public comments.

IN FAVOR

Rod Marchant, Davis County Swarm Coordinator, responded to Councilmember Benson's question about hive damage by explaining most beekeepers kept spare broods or hives. He continued for those we didn't there were numerous other beekeepers that had hives that that would be available to collect the bees in the case of damage. He stated bees stayed fairly close to the hive. He added if the beekeeper was there to address problems with the hive the bees wouldn't leave the hive area. He added the pheromone of the queen bee would stay in the hive for 24 hours before the bees would begin to disperse. He emphasized the bees generally care for themselves and within two weeks a new emerging queen would be identified.

Mr. Marchant believed beekeepers were very conscientious and protective of their respective hives. He explained he had been keeping some hives in Clearfield and commented those were his best hives and had been doing very well. He emphasized there was a ten foot radius from where the bees exit the hive and forage on flowers or trees that are close by.

He reported beekeepers generally keep their hives secured in protected areas so they don't often get blown over in wind storms. Mr. Martin stated he had only been stung when helping to relocate a hive and emphasized most honey bees were very calm only getting "hot" when disturbed.

Mr. Martin expressed his opinion beekeepers were in favor of an ordinance allowing bees and announced the only objectionable requirement was that of placing the hive in a fenced yard and suggested a side yard on some properties might be a better location for some hives. Mr. Martin reported he had addressed 19 swarm calls in Clearfield.

Kirk Middaugh, Davis County Beekeepers Association, expressed appreciation to staff and members of the Planning Commission for their efforts and consideration in establishing beekeeping guidelines. He mentioned the City had followed what other municipalities had done and suggested the process was responsible and reasonable to the zoning ordinances.

Mr. Middaugh expressed concern specific to the fencing requirement for residential lots smaller than one-quarter of an acre. He continued there was a variety of ways in which beekeepers could situate or position a beehive and shared a personal example specific to bees and fencing. He pointed out the investment cost for beekeeping and suggested requiring fencing on smaller residential lots was excessive and requested the Council reconsider that requirement.

Anna Wissel, resident, expressed appreciation to the City for implementing a beekeeping ordinance; however, she expressed concern regarding the fencing requirement included in the proposed ordinance. She stated her property was 0.2 acres in size. She continued she lived on a corner lot with very little backyard. She reported her hive was currently located on the side yard, thirty five feet west of the sidewalk and fifteen feet south from the property line and twenty five feet east from the property line. She stated her hives met the spacing requirements but didn't comply with the enclosed fencing requirement. She explained it would be awkward to fence that portion of her yard and further explained specifics of her property. She also requested the Council reconsider the fencing requirement.

There being no further comments, **Councilmember Peterson moved to close the public hearing at 7:21 p.m. seconded by Councilmember Benson. The motion carried upon the following vote: Voting AYE – Councilmembers Benson, Peterson, Phipps and Young. Voting NO – None.** Councilmember Bush was not present for the vote.

PUBLIC HEARING TO CONSIDER FSP 1608-0001 AMENDING THE WILCOX FARMS AMENDED FINAL SUBDIVISION PLAT FOR LOTS 8 AND 9 (THE AMENDMENTS WILL BE KNOWN AS THE CLEARFIELD BUSINESS PARK FINAL SUBIDIVISON PLAT) LOCATED AT APPROXIMATELY 939 AND 919 WEST 1600 SOUTH

The request to amend the subdivision plat would accommodate a proposed multi-tenant commercial building complete with site improvements located at 939 and 919 West 1600 South. The building was currently single story with approximately 21,900 square feet. The amendment would be known as the Clearfield Business Park Final Subdivision Plat.

Mayor Pro Tem Young opened the public hearing at 7:25 p.m.

Spencer Brimley, Development Services Manager, explained the amendment would create 12 units for a business condominium development. He stated since the request was amending an existing subdivision it required Council approval. He indicated the Planning Commission heard the item during its meeting on Wednesday, September 7, 2016 and recommended approval. He also noted the Planning Commission had considered and approved the site plan for the development contingent upon the subdivision being completed. He stated the site plan was consistent with Clearfield City codes and regulations.

Councilmember Peterson asked what year the General Plan had been changed to reflect residential use on the parcels being addressed. Mr. Brimley didn't know when that took place. He explained the property was zoned commercial and there was no residential component in the proposed development. He explained that the condominium would allow for individual ownership by multiple businesses. Councilmember Peterson asked if the development would then be retaining the same zoning as the property east of it. Mr. Brimley stated the property would retain its commercial zoning.

Mayor Pro Tem Young asked for public comments.

There were no public comments.

Councilmember Benson moved to close the public hearing at 7:26 p.m. seconded by Councilmember Phipps. The motion carried upon the following vote: Voting AYE – Councilmembers Benson, Peterson, Phipps and Young. Voting NO – None. Councilmember Bush was not present for the vote.

CITIZEN COMMENTS

There were no citizen comments.

APPROVAL OF CLEARFIELD CITY'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REPORT FOR PROGRAM YEAR JULY 1, 2015 TO JUNE 30, 2016

The City Council received a copy of the 2015/2016 Community Development Block Grant (CDBG) Consolidated Annual Performance Evaluation Report (CAPER). The public was given

the opportunity to review the plan in the Community Development Department from August 24, 2016 to September 9, 2016. No public comments were received.

Spencer Brimley, Development Services Manager, explained the report explained what had been accomplished during the year with CDBG funding. He reminded the Council the City was an entitlement City and highlighted the following projects/services which benefitted Clearfield residents:

- 300 West street improvement project
- Family Connection Center
- Davis Community Learning Center
- Safe Harbor

Councilmember Benson asked how residents were made aware of the Down Payment Assistance Program. Mr. Brimley responded the Down Payment Assistance Program was administered through Davis County Housing Authority. Councilmember Benson asked if the recipients were requesting assistance in the amount of \$3000. Mr. Brimley responded the \$3000 was the typical request.

Councilmember Benson moved to approve Clearfield City’s Community Development Block Grant (CDBG) Consolidated Annual Performance Evaluation Report for program year July 1, 2015 to June 30, 2016 and authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Benson, Peterson, Phipps and Young. Voting NO – None. Councilmember Bush was not present for the vote.

APPROVAL OF ORDINANCE 2016-06 AMENDING TITLE 11 LAND USE PROVIDING REGULATIONS FOR BEEKEEPING IN THE R-1, A-1 AND A-2 RESIDENTIAL ZONING DISTRICTS AND OTHER AMENDMENTS CORRECTING REFERENCES TO THE COMMUNITY DEVELOPMENT DIRECTOR AND COMMUNITY DEVELOPMENT DEPARTMENT

Councilmember Young asked how the City determined the number of hives allowed on lots. Spencer Brimley, Development Services Manager, responded staff researched the ordinances of other municipalities and determined that Clearfield had a number of smaller lots so it was decided to limit the number of hives based on acreage while still trying to allow residents the opportunity for beekeeping.

Councilmember Peterson pointed out Section B titled Hives on Lots stated, “No hives *should* be located in a front yard.” She stated the term “should” was arbitrary and suggested the word needed to be changed to “shall.” She expressed the desire to ensure the ordinance was fair for all parties. She also noted that same section required fencing and indicated a request had been made from the public to consider other options such as screening the hives in lieu of fencing. She asked how the Planning Commission made the determination to include a fencing requirement in the ordinance. Tim Roper, Planning Commission Chair, responded the Commission included the fencing requirement as a way to generally protect the hives and public and not have the hives placed in open spaces. He also noted the discussion among the Commission members about

fencing occurred after the public hearing had been closed so the public was not able to ask the Commission to consider alternatives to the requirement.

Councilmember Phipps asked if other municipalities required fences around hives. Mr. Brimley explained each city handled beekeeping regulations a little differently. He continued other cities didn't have the same concerns as Clearfield about the existence of smaller lots which made an argument for creating some separation between hives and property lines. He stated flyway areas would also help to create separation as well as minimize people coming in contact with hives. He indicated the intent was to mitigate any possible mishaps between people and bees.

Councilmember Phipps expressed concern for the perception of harm individuals might feel when they see beehives in yards. Mr. Brimley stated an educational component for residents about beekeeping was essential as a way to mitigate any misconceptions. He mentioned the Davis County Beekeeping Association provided a great program educating people and getting them involved in beekeeping. He acknowledged some of the regulations might appear to be too strict to some but the City's responsibility was to address the concerns for the City as whole.

Councilmember Peterson expressed concern that the provision allowing adjustment of hives to a property line with a written waiver from an adjoining property owner could become problematic if the property owners began to have any type of dispute and the waiver was withdrawn. She suggested striking that particular language in the ordinance. She added she would be more comfortable if the language left the discretion up to the zoning administrator but cautioned that still appeared to be arbitrary. She preferred stating the specific regulation and not allowing it to be subject to interpretation.

Councilmember Young indicated he felt some sort of screening of the hives was warranted to protect the hives from being disturbed and causing harm. He questioned whether that screening needed to be a fenced yard. Mr. Brimley explained the ordinance included a regulation for a "flyway area." He continued the flyway area was an area surrounding the hive that consisted of a solid wall, fence dense foliage or combination of any one of those items that ensured the bees flew up and out instead of at someone or something. He stated the flyway area was meant to keep bees leaving the hive above six feet.

Councilmember Young asked if the flyway area was defined in such a way that the area would be enclosed. Mr. Brimley stated the definition was consistent with State Statute and what other municipalities were using. Councilmember Phipps clarified that a flyway area established a screened area at least ten feet in each direction. Mr. Brimley responded that was an accurate understanding of the flyway area. Councilmember Phipps commented requiring a fenced yard and a screened flyway area seemed redundant. Councilmember Benson suggested striking the fenced yard requirement and leaving the flyway area as a way to provide a protective barrier between the hive and any unintended mishap. Mr. Brimley reminded the Council there currently was an educational gap in Clearfield about bees that might create additional concerns from some residents. Councilmember Phipps noted that a resident might feel less anxiety about a hive as long as there was some sort of barrier around it.

Mr. Brimley stated the first draft of the ordinance allowed beekeeping in the rear yard but the Planning Commission was asked to consider allowing hives in the side yard to address the issue of different lot configurations. He continued the Planning Commission determined that additional enclosure would be necessary if beekeeping was also allowed in side yards which prompted the fencing requirement.

Councilmember Phipps referred to the flyway area of the ordinance and mentioned that the current language only required the flyway area if the hive was located along a property line or within five feet of a property line. Councilmember Young asked if the ordinance could be changed to require either a fenced yard or a flyway area. Mr. Brimley explained the language could be modified in the ordinance to require either a fenced yard or a flyway area. Councilmember Phipps mentioned he would be comfortable with that change.

Councilmember Benson asked if the City had received any complaints regarding hives in yards. Mr. Brimley explained code enforcement had been called and asked if there were regulations regarding residents keeping hives in yards but there had been no complaints. Councilmember Benson commented it appeared the need for a fence was redundant. She stated she was comfortable with striking the need for a fence.

Councilmember Peterson stated she was in favor of requiring a fence or a flyway area. She continued she wanted the flyway area to have distinct screening. Councilmember Benson supported that position. Councilmember Peterson asked if staff was comfortable with changing the requirement to either a fence or a flyway area. Mr. Brimley stated staff was comfortable with that change. Tim Roper, Planning Commission Chair, mentioned that the Planning Commission's discussion was not specific to securing the entire yard just securing the hives in some way. Councilmember Peterson asked if the language change would meet the intent of the Planning Commission. Mr. Roper stated he believed the change would fully meet the intent of the Commission.

Councilmember Peterson addressed changes being made to other areas of the code. She asked if those changes were substantive. Mr. Brimley explained those changes were not substantive. He stated position titles had changed and the code needed to reflect those changes. Councilmember Young stated some of those proposed amendments referred to the discretion of the city as opposed to the discretion of a position. He asked if that had any legal implications the Council should be concerned about. Mr. Brimley explained the organization of the City determined how discretion would be applied to specific parts of the code so there was no concern about the legal implication of using a broader term.

Councilmember Phipps commented the intent of the ordinance was to make it clear that a particular position in the City had been appointed to use discretion in particular parts of the City Code. He suggested making that point clear as part of the vote.

Nancy Dean, City Recorder, provided amended language to the beekeeping portion of the ordinance based on the Council's discussion and direction.

- A sentence is proposed to be added to the ordinance that states, “Hives shall be maintained either in a fenced yard or in accordance with the requirements set forth in 11-13-36(E) of this chapter; and,
- City Code § 11-13-36(E) is proposed to state, “Flyways: A hive shall be placed on property so the general flight pattern of bees is in a direction that will deter bee contact with humans and domesticated animals. If any portion of a hive is located within fifteen (15) feet from an area which provides public access or five (5) from a property line on the lot where an apiary is located, as measured from the nearest point on the hive to the property line, a flyway barrier at least six (6) feet in height shall be established and maintained around the hive except as needed to allow access. Such flyway shall consist of a solid wall, fence, dense foliage or a combination thereof, which extends at least ten (10) feet beyond the hive in each direction so that bees are forced to fly to an elevation of at least six (6) feet above ground level over property lines in the vicinity of the apiary.

Councilmember Phipps moved to approve Ordinance 2016-06 amending Title 11, Land Use providing regulations for beekeeping in the R-1, A-1 and A-2 residential zoning districts and other amendments correcting references to the community development director and community development department with the following amendments,

- 1. A sentence is proposed to be added to the ordinance that states, “Hives shall be maintained either in a fenced yard or in accordance with the requirements set forth in 11-13-36(E) of this chapter; and,**
- 2. City Code § 11-13-36(E) is proposed to state, “Flyways: A hive shall be placed on property so the general flight pattern of bees is in a direction that will deter bee contact with humans and domesticated animals. If any portion of a hive is located within fifteen (15) feet from an area which provides public access or five (5) from a property line on the lot where an apiary is located, as measured from the nearest point on the hive to the property line, a flyway barrier at least six (6) feet in height shall be established and maintained around the hive except as needed to allow access. Such flyway shall consist of a solid wall, fence, dense foliage or a combination thereof, which extends at least ten (10) feet beyond the hive in each direction so that bees are forced to fly to an elevation of at least six (6) feet above ground level over property lines in the vicinity of the apiary;**

and, authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Benson, Peterson, Phipps and Young. Voting NO – None. Councilmember Bush was not present for the vote.

APPROVAL OF AMENDMENTS TO THE WILCOX FARMS AMENDED FINAL SUBDIVISION PLAT FOR LOTS 8 AND 9 (THE AMENDMENTS WILL BE KNOWN AS THE CLEARFIELD BUSINESS PARK FINAL SUBDIVISION PLAT) LOCATED AT APPROXIMATELY 939 AND 919 WEST 1600 SOUTH

Councilmember Peterson moved to approve the amendments to the Wilcox Farms Amended Final Subdivision Plat for Lots 8 and 9 (the amendments will be known as the

Clearfield Business Park Final Subdivision Plat) located at approximately 939 and 919 West 1600 South and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Benson. The motion carried upon the following vote: Voting AYE – Councilmembers Benson, Peterson, Phipps and Young. Voting NO – None.
Councilmember Bush was not present for the vote.

COMMUNICATION ITEMS

Mayor Pro Tem Young – Expressed appreciation to City staff for its efforts associated with the recent wind storm. He mentioned he noticed staff working late into the night.

Councilmember Benson

1. Informed the Council that she had witnessed earlier in the evening a cub scout troop thanking the City's police officers for everything they do in conjunction with their jobs. She stated they had brought treats to the department and it touched her heart.
2. Announced she had attended a transportation meeting held in West Point and had expressed concern about State Street near North Davis Junior High. She also reported following the meeting, meters had been set up to count cars to assist in determining needs for the area.

Councilmember Peterson

1. Updated the Council on the North Davis Fire District's (NDFD) purchase of its new ladder truck that was expected to be received sometime in November.
2. Recognized Spencer Brimley, Development Services Manager, JJ Allen, Assistant City Manager, and Stacy Millgate, Business License Official, for being recognized by the State of Utah for implemented changes which resulted in the City being recognized as a "Business Friendly City."
3. Expressed appreciation to everyone involved with the Emergency Preparedness Fair.
4. Thanked the Police Department, Fire Department, Public Works, and other staff for their help during the recent wind storm. She stated she happened to be driving in the middle of the storm and mentioned how prudent it was that some of the City's stop lights were powered by emergency generators. She stated Clearfield was the easiest part of her commute because of that decision given the significance of the power outages.

Councilmember Phipps

1. Reminded the Council of previous discussions regarding the expansion of Wasatch Integrated and announced another presentation had been shared during the committee meeting in the evening. He stated more detailed information had been shared and suggested having an in depth discussion regarding the issue during a future work session. He clarified committee meetings took place at 4:30 on the fourth Tuesday of every month and the first Wednesday of every quarter a formal Commission meeting was held at which time voting on issues took place. He announced the Commission would be voting on whether to issue a Request for Proposal (RFP) for development at its meeting scheduled for November 2, 2016. He requested direction from the Council on how the City wanted to approach the issue.
2. Announced an open house was scheduled at the Energy Recovery Facility on Tuesday, October 18, 2016, beginning at 5:00 p.m. to witness the current processes. He suggested the Council plan to attend that event.
3. Also expressed appreciation to City staff regarding their professionalism during the recent wind storm. He mentioned he was proud to see the City come together during a crisis situation and suggested it was a manifestation of the effectiveness of a well-oiled machine and mentioned the sacrifice of staff that worked long hours during the crisis.

STAFF REPORTS

Nancy Dean, City Recorder

1. Informed the Council of the following meeting schedule:
 - Work Session scheduled for Tuesday, October 4, 2016
 - Policy Sessions scheduled for Tuesday, October 11, 2016 and Tuesday, October 25, 2016

Stuart Williams, City Attorney – acknowledged Annie Bradshaw, Administrative Assistant, for her assistance during the meeting.

There being no further business to come before the Council, **Councilmember Benson moved to adjourn at 8:28 p.m., seconded by Councilmember Peterson. Voting AYE - Councilmembers Benson, Peterson, Phipps and Young. Voting NO – None.** Councilmember Bush was not present for the vote.

**APPROVED AND ADOPTED
This 25th day of October, 2016**

/s/Mark R. Shepherd, 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, September 27, 2016.

/s/Nancy R. Dean, City Recorder