

CLEARFIELD CITY COUNCIL MEETING MINUTES  
6:00 P.M. WORK SESSION  
August 7, 2018

PRESIDING:	Mark Shepherd	Mayor
PRESENT:	Kent Bush	Councilmember
	Nike Peterson	Councilmember
	Vern Phipps	Councilmember
	Tim Roper	Councilmember
	Karece Thompson	Councilmember
STAFF PRESENT:	JJ Allen	City Manager
	Summer Palmer	Assistant City Manager
	Brie Brass	Assistant City Attorney
	Scott Hodge	Public Works Director
	Greg Krusi	Police Chief
	Eric Howes	Community Services Director
	Spencer Brimley	Community Development Director
	Rich Knapp	Finance Manager
	Trevor Cahoon	Communications Coordinator
	Nancy Dean	City Recorder
	Wendy Page	Deputy Recorder

VISITORS: Mike LeBaron, Jared Hadley

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

DISCUSSION ON THE BID AWARD FOR THE 1425 WEST STREET ROADWAY IMPROVEMENT PROJECT

Scott Hodge, Public Works Director, stated the City recently bid a project to replace a waterline on 1425 West. He indicated other work for the project included installing two new fire hydrants; a new water service line from the new water main to each water meter; a new storm drain at the street intersection of 975 South and 1425 West; repairing damaged sections of curb, gutter, and sidewalk; and adding new asphalt pavement surface the full width and length from 725 South to 975 South on 1425 West. Mr. Hodge reported seven bids were received with the low bid of \$458,363.65 coming in below the engineer's estimate of \$515,000. He identified Marsh Construction as the lowest responsible bidder and indicated the City had worked with that contractor previously.

Councilmember Bush wondered about the current storm water flow. Mr. Hodge responded currently the storm water surface flowed to the intersection then the radius turned and it went into a box across the street. He explained a storm drain would now be installed at the intersection to circumvent the flow and get it over to Jacobsen Park.

Councilmember Bush wondered if a start date had been established. Mr. Hodge indicated the City had been in communication with Marsh Construction but a start date would not be determined until after the bid was awarded; however, the City would like to have the asphalt completed prior to November. He continued it was planned for the Council to consider the award of bid on August 14, 2018. He added afterward the preconstruction meeting would be scheduled promptly so the work could begin as soon as possible to meet the desired time schedule.

Councilmember Bush asked if there would be a neighborhood meeting scheduled. Mr. Hodge answered the City already held a neighborhood meeting a few weeks ago. He noted before the project began notices would be delivered to all the residents in the project area with construction dates and contact information.

Councilmember Phipps wondered about the process for determining which areas of curb, gutter, and sidewalks were to be replaced. Mr. Hodge responded staff had walked the project area and damaged areas were determined. He explained the City only removed trees when it was a nuisance and the root system was disruptive causing damage to the existing curb, gutter, and sidewalk. He added there were some trees which would be removed and the property owners had been notified. Mr. Phipps stated he was glad residents had been contacted and would not be surprised by the removal of trees.

Councilmember Thompson questioned what led to fire hydrants needing to be replaced. Mr. Hodge indicated the existing hydrants were over 30 years old; consequently, with the installation of a new 8-inch waterline to replace the 6-inch line it would be best to replace hydrants to meet fire standards. He stated the hydrants would be salvaged but any working parts would be reused.

#### DISCUSSION ON AN AMENDMENT TO THE UTAH COMMUNICATIONS AGENCY NETWORK (UCAN) AGREEMENT

JJ Allen, City Manager, stated there was an existing communications tower which was on City land but was owned, maintained, and operated by Utah Communications Agency Network (UCAN). He explained UCAN was a public entity which used the tower for emergency communications. He mentioned the City also had some equipment on the tower for its own network. Mr. Allen reviewed the history of negotiations between the former City Manager, Adam Lenhard, UCAN, and T-Mobile to allow for co-location of T-Mobile's equipment on the tower and a portion of the monthly rent to be provided to the City. He indicated the amendment sent by UCAN for approval needed a few corrections. He identified the amendment should be numbered as two because there was already an amendment to the original agreement. Mr. Allen commented once the corrections were made the agreement would need to be considered in an upcoming policy session.

Councilmember Bush wondered about the payment calculations and if it had been decided whether rent would be paid monthly or annually. Mr. Allen explained the rent would be escalated with a two percent increase annually. He noted annual payments would be easier, but acknowledged it had not yet been discussed with UCAN.

## DISCUSSION ON ESTABLISHING REGULATIONS FOR PUBLIC ART PROJECTS

Brie Brass, Assistant City Attorney, stated an ordinance was drafted regarding public art and murals following a previous discussion by the Council. She indicated a mural ordinance had been prepared since the Council had previously discussed and seemed favorable to allowing murals but was uncertain if there was enough support for a public art ordinance. She explained the discussion was planned so staff could receive feedback on the drafted language, its placement in code, and whether or not there was support for having the ordinance.

Ms. Brass reviewed the mural ordinance along with its proposed application and permit process which included having a public opinion notice and City staff administering the application, similar to its process for a sign application. She noted the public opinion would simply be for public awareness and involving the public in the process. She acknowledged previously the Council expressed an interest in limiting text on murals and wondered if that was still its desire.

Trevor Cahoon, Communications Coordinator, commented the application administration could be done in various ways; however, the main difference between having the mural ordinance under Title 11 or in a new title would be the involvement of the Planning Commission. Ms. Brass noted similar to a sign application, a mural application could be appealed. Councilmember Bush wondered how a mural application could be appealed. Ms. Brass shared the example of an application getting denied and explained there would be a process in place which allowed the Planning Commission to review the application process to determine if procedurally it had met all the requirements. There was a discussion about the possible options, concerns, and advantages of having the mural ordinance subject to land use regulations if it were added to Title 11 or the possibility of creating a new title for the mural ordinance. Councilmember Bush expressed his opinion that a mural ordinance should not be included with Title 11 Land Use.

Councilmember Peterson expressed her concern about requiring a public meeting as part of the application process. She noted unrealistic expectations could be set, especially if its purpose was only for notification rather than the possibility of changing the outcome. She felt it would be a disservice to invite input that would not be able to influence a decision. Mayor Shepherd agreed if a mural was a legal authorized use and it met the requirements of the law, then the application could be handled administratively and notification made to the Council by staff. There was a discussion about the notification process and purpose for it. Councilmembers Bush and Peterson expressed an interest in requiring notifications be made to surrounding neighbors, but did not favor holding a public meeting for mural announcement nor think it was necessary.

Councilmember Bush stated it had been discussed previously if murals would be allowed in all areas of the City. He asked if a resident were to paint a scene on their barn, shed or detached garage would he/she be required to follow an application process. Ms. Brass indicated currently there was not a process in place; however, if the mural ordinance was codified then, yes, there would be a process to follow. Councilmember Bush had questions about sections of the drafted ordinance which initiated a discussion about murals, its application process and ramifications as noted:

- *Locations* – the Council talked about acceptable locations and whether or not it would be possible to delineate areas where murals should be allowed or restricted. Councilmember

Peterson expressed her feeling she would rather have murals be in commercial areas rather than residential. Councilmember Bush mentioned he did not have a problem with them anywhere.

- *Fees* - there was dialog about whether or not an application fee could be waived, specifically for residential murals.
- *Applications* – the Council conversed about the purpose of the application process and if the proposed steps were desired both for residential and commercial murals. Mayor Shepherd commented he thought the application process was necessary for all murals because it allowed the City to know what was coming whether it was commercial or residential. Councilmember Roper agreed he was fine having an application process for murals whether it was residential or commercial property.
- *Notification area* – it was discussed whether or not the proposed 300 feet notification area was too large. Councilmember Bush recommended residential areas should have mural notification limited to adjacent properties; yet, agreed for commercial areas 300 feet seemed reasonable.
- *Extreme cases* – there was conversation about instances where a mural could be considered offensive such as political figures, hidden messages, acts of violence, or obscenity. Ms. Brass suggested the State limited some content; however, public figures referenced in an unfortunate light or violent scenes which did not incite immediate violence might not be considered obscene and would be protected by the First Amendment.
- *Text restrictions* – there was dialog about restricting text on murals and the impacts it would have on the mural planned for the Americold building. Councilmember Bush asked if a signature of the artist and the date of the work would be considered text. Ms. Brass suggested language could be drafted to restrict text except for a signature and date by the artist. Mr. Cahoon commented if text was restricted, the mural planned for Americold could not include the City’s logo or be a welcome to Clearfield sign.
- *Materials* – mural materials, proper applications, and preferred distances from the surface were discussed. Ms. Brass stated the proposed ordinance was written to allow for hand-painted or tiled surfaces. She offered the language could be rewritten to limit material types, allow them with restrictions for safety, or specify the manner in which those materials would be applied. Councilmember Peterson requested the ordinance be written in such a way to allow for administrative review by the City’s building inspector if materials were used other than paint or a tiled surface. Ms. Brass asked if the Council was in favor of allowing other materials to be used for mural art. Councilmembers Roper, Peterson and Bush all commented favorably about allowing other materials in art murals. Councilmember Bush suggested he would be comfortable allowing art materials to protrude up to 6 inches rather than the proposed 3 inches, if the building inspector was comfortable with its installation and there were no safety concerns.
- *Longevity* – the term for maintenance or upkeep of a mural in the draft ordinance was specified as five years. There was a discussion about the length of time a mural should remain and consequences if it was dilapidated or removed before the five years was over. There was no consensus on whether or not five years was too long of a time period. Councilmember Peterson expressed her desire that language be included to allow for remediation or removal of a mural if it were abandoned or rundown. Ms. Brass noted the abatement process could also be included with the application.

- *Site plan* – staff and Council reviewed the proposed language which specified that full sized copies of the site plan were required in the permit application section. Councilmember Bush suggested the words full sized should be removed and ask for copies that were scaled to size. Spencer Brimley, Community Development Director, indicated site plans were typically 24-inch by 36-inch and he did not need that size of a site plan for a mural; however something drawn to scale would be preferred. There was a discussion about the purpose and need for various copies of a site plan. Mr. Cahoon explained the site plan was to provide an aerial view of the project area. He noted it was important to know the façade planned for the mural because front facing facades were being restricted.
- *Concept plan* – Ms. Brass realized a mockup of the mural may need to be required and had not been listed as part of the application process. Mayor Shepherd felt it should be included. Mr. Cahoon mentioned a written description was requested; however, a mockup had not been mandated as part of the application process. Councilmember Phipps remarked it could be problematic and eliminate some of the artist’s creativity if a proposed draft was required beforehand. Mr. Cahoon indicated a concept plan would be a fair thing to ask from the artist rather than a mockup. Councilmember Phipps agreed that would be a better option.
- *Public meetings* – the consensus of the Council was to not have any public meetings to receive comments about proposed murals; rather, adjacent neighbors would receive notification.
- *Method of public notification* – there was a discussion about the method of public notification and what the City would require as proof that neighbors had been notified properly. Councilmember Peterson suggested the applicant could be required to provide copies of flyer notifications along with stamped addressed envelopes for staff to mail.
- *Completion dates* – it was recommended the City specify a time period and or deadline for mural completion. Mr. Cahoon mentioned typically weather would prevent murals from being painted between the months of November and March. There was a discussion about an acceptable time period. The consensus of the Council was to allow 60 days for a project to be completed.
- *Language clarifications* – there were minor language references and formatting changes requested by the Council in the abatement section and on the application.

Councilmember Phipps wondered if there was a need to have an Arts Commission. Mr. Cahoon stated when drafting a public art ordinance was discussed previously with the Council, the possibility of having an Arts Commission had been mentioned. He explained an Arts Commission was typically effective when public art funding was available or made possible by municipalities. He continued staff felt the mural application process could be handled administratively; however, if the Council wanted to create a fund for art in the future by ordinance or policy then an Arts Commission could be established. There was a discussion about the purposes and roles of an Arts Commission. The consensus of the Council was to not create a commission at this time and allow the mural application process to be handled administratively.

Councilmember Phipps asked if there was an exemption from the application process if the City were to desire to place a mural on City owned property. JJ Allen, City Manager, advised there had been an artist contact the City desiring to paint a mural on its trail tunnel. There was a

discussion about the application process and its relevance for the City and if the Council should be the body to provide final approval of art on its own properties. Ms. Brass recommended if the City was the property owner, it should go through the application process to have the artwork applied to its property, whether by its own means or through an artist. She added that way the City would be aware and able to provide approval for the art, because it would be the property owner's responsibility to maintain it.

There was an additional discussion about the purposes of an Arts Commission and the funding methods. Mr. Cahoon stated there was a wide range of options available for setting up a fund and even possibilities for grant matching which could be considered if it were desired.

Councilmember Bush wondered if the mural ordinance should be limited to murals or if statues should also be included as art types. Mr. Cahoon answered if the mural ordinance were drafted in its own title then it could be updated or changed in the future with other forms of art. He continued the title could be named Public Arts and Beautification which could govern all public art type ordinances or funding methods.

Councilmember Thompson questioned if limiting text would cover any or all languages. Ms. Brass replied yes all characters would be limited except a signature line.

Ms. Brass asked if the Council would prefer to have the mural ordinance be in its own title. The consensus of the Council was to create a new title for the mural ordinance. Mr. Allen wondered when the ordinance would be ready for the Council to review and consider. Ms. Brass indicated it could be ready for a discussion at the next available meeting.

**Councilmember Bush moved to adjourn at 7:16 p.m., seconded by Councilmember Thompson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.**

**APPROVED AND ADOPTED  
This 28<sup>th</sup> day of August, 2018**

**/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, August 7, 2018.

/s/Nancy R. Dean, City Recorder