

AMERICAN FORK CITY COUNCIL
FEBRUARY 28, 2023
REGULAR SESSION MINUTES

Members Present:

Bradley J. Frost	Mayor
Kevin Barnes	Council Member
Staci Carroll	Council Member
Ryan Hunter	Council Member
Rob Shelton	Council Member (participated electronically)
Clark Taylor	Council Member

Staff Present:

David Bunker	City Administrator
Camden Bird	Assistant City Administrator
Terilyn Lurker	City Recorder
Patrick O'Brien	Development Services Director
Anna Montoya	Finance Officer
George Schade	IT Director
Cherylyn Egner	Legal Counsel
Cameron Paul	Police Chief

Also present: Brandon and Angela Mitchell, Tim Bahoravitch, Justin Baron, Phil Miller, Gary and Cher Brems, Trevor Sharp, Nan Kirkpatrick, Terry Mills, Collin and Rachel Lambourne, and seven additional residents.

REGULAR SESSION

The American Fork City Council met in a regular session on Tuesday, February 28, 2023, in the American Fork City Hall, 31 North Church Street, commencing at 7:00 p.m.

1. Pledge of Allegiance; Invocation by Council Member Hunter; roll call.
Mayor Frost welcomed everyone to the meeting. Those present recited the Pledge of Allegiance and Council Member Hunter offered an invocation. Roll call was taken.
2. Twenty-minute public comment period - limited to two minutes per person.
Brandon Mitchell indicated he was present to comment on the recent zone change approved at approximately 300 North County Boulevard. He lives adjacent to the proposed project and was there to join all his neighbors in opposing the three-story development on that corner. He asked the city to halt any action on supporting a multi-level building and that they consider invalidating the previous zoning vote as it was based on a false narrative that the developers contacted the property owners. He asked that the city shut down the project and reverse the previous decision.

Tim Bahoravitch indicated he was there to comment on the same project. He and his wife found that only a few of the neighbors received a notice of the January planning commission meeting in which this was discussed. Mr. Bahoravitch felt the city needed to notify the residents.

Justin Barron also expressed his concern about the project on 300 North and North County Boulevard. He did not feel a high-rise building belongs next to residential buildings, like the one across the street from this location. He asked that they consider limiting zone changes and future commercial projects next to residential neighborhoods to one-story buildings to create a buffer. Mr. Barron stated they have not met with the developer, as the developers have told the council they did. He thanked them for their service and time.

Nan Kirkpatrick commented she was a lifelong resident of American Fork, with her property extending from 300 West to 350 West. They do not want their property to be spot zoned and experiencing similar to what the previous speakers have said. The proposal was to change from R3-7500 to CC-2 zone. She stated that spot zoning is not a good practice and felt it violates their right as property owners. She noted they received notice from the planning office, and they were grateful for that notice. They met with planning staff and expressed their concerns and asked that their property not be changed to commercial property. Ms. Kirkpatrick asked that the council vote against changing the residential property to commercial property so they do not become a residential island between commercial properties.

Phil Miller stated he was there on behalf of Rosemarie Taylor, the chairman of the Beautification Committee. Ms. Taylor wanted the council to know that she and her husband have lived in their home for many years. She pled with the council to understand the impact it would have on the neighbors. The building on the corner south of them was an obstruction, but they learned to deal with it. She wondered if the neighbors had any say in the matter for the proposed structure on the southwest corner of 300 North County Boulevard.

3. City Administrator's Report
David Bunker had nothing to report.

4. Council Reports
Council Member Hunter mentioned long-time resident, Mary Frandsen, passed away only 7 weeks after her husband. He wanted to recognize those who have put a lot of time and energy and years of devotion into the community and offered his condolences to the Frandsen family.

Council Member Barnes thanked those who have come to express their concerns on 300 North. He wanted them to know the council was aware of what has happened

surrounding the zone change and said it is not a dead issue nor is it done. He stated it was this kind of input that makes this city better. They don't always have the answers, nor do they get all the information they should, but their comments have not fallen on deaf ears.

Council Member Shelton reported the Beautification Committee had a lot of initiatives they are working on, such as creating a Facebook page and developing a relationship with the library where they have had monthly classes on different topics. He noted there was a great wealth of knowledge on the committee, and he looked forward to seeing what they accomplish.

Council Member Carroll had nothing to report.

Council Member Taylor appreciated the citizens emailing and showing up. The council does have methods to revisit the project to make it work and he would push for that. With the attention on the corner, he saw the signs on the existing building and mentioned to staff all the signs on the sides of that building was so out of place. He hoped to revisit and get tasteful elements in place for signs placed on buildings, and he committed to help do that.

5. Mayor's Report

Mayor Frost stated he has been watching and chasing the legislature for the last few weeks. He appreciated those who have been keeping them updated. He wanted the citizens to know they are engaged at the state level and that the citizens have great representation for American Fork. He added his voice of concern and let them know they are hearing what the citizens have said. There is always a conflict zone when they mesh two zones, and they are committed to find a good solution. They will keep everyone in the loop.

COMMON CONSENT AGENDA

(*Common Consent* is that class of Council action that requires no further discussion or which is routine in nature. All items on the Common Consent Agenda are adopted by a single motion unless removed from the Common Consent Agenda.)

1. Approval of the February 7, 2023, work session minutes.
2. Approval of the February 14, 2023, city council minutes.
3. Acceptance of an easement at 756 East Quality Drive, Lot #1 Utah Valley Business Park Plat "M".
4. Ratification of city payments (February 8, 2023, to February 21, 2023) and approval of purchase requests over \$50,000.

Council Member Carroll moved to approve the common consent agenda. Council Member Taylor seconded the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Staci Carroll, Council Member
SECONDER:	Clark Taylor, Council Member
YES:	Barnes, Carroll, Hunter, Shelton, Taylor

ACTION ITEMS

1. Review and action on a proposed zone change for property located at approximately 96 North 350 West, from the R3-7500 Residential zone to the CC-2 (Central Commercial) zone

Patrick O'Brien stated the applicants made a zone change request for 4 parcels in the R3-7,500 zone. Staff reviewed the application and had some concerns as it was disconnected from the rest of the CC-2 zone. They did reach out to the neighboring properties to see if there were interested in participating in the zone change, but they were not in favor. This would be a spot zone and there were additional issues such as the underlying land use designation does not conform to the zone requested.

Steve Sowby stated they only applied for the zone change for the property owned by Dusty Pyne; they did not want to change the zone on the Kirkpatrick's property as they were not the owner. To connect to the CC-2 zone, they had to make a flag connection to the zone. Mr. Sowby stated there was no rule against creating islands and that they were trying to connect this property to the CC-2 zone like it has been done multiple times throughout the city. With regards to the land use map, they were asked to provide an application to amend the land use map, but they did not as they could not do that as they don't own the property. Mr. Sowby commented that the zone change does not have to match the land use map and that they were going by the code the only way they could so Mr. Pyne could build a nice project. He pointed out there were other areas throughout the city where the zone did not match the underlying land use plan. He noted they appreciated the city's consideration.

Council Member Barnes stated he stopped by the Kirkpatrick's property earlier in the day. He has been around for a while and remembers there was an automotive repair shop in the area. Council Member Barnes commented that there was a lot of traffic back then. He understands the residents' concerns, but in his opinion, the project will not generate near the traffic as the other businesses there in the past. He expressed his opinion that the next to the Kirkpatrick's property would be more of an office and therefore traffic would be limited.

Mr. Pyne pointed out the four parcels of land they purchase last year and where the dance studio is located. He noted the property behind that would be a garage to house set pieces, the lot in the middle would be mainly parking, and the southern lot would be office warehouse space.

Council Member Hunter asked if it was possible to use a public right-of-way as the connection. Mr. Sowby said it has been done in the past. Cherylyn Egner, legal counsel, noted they still have a spot zone if they are using the road to connect to the CC-2 zone, which can be done but they must be able to clearly articulate the basis for it and it needs to be consistent with the underlying land use map.

Council Member Hunter expressed his concern with comments such as “it has been done in the past” as he can name several things that were done in the past that were stupid. If it is a bad decision, it is a bad decision, and if it makes sense, he wanted it to make sense. He did not like the idea of using the public right-of-way to connect the zone. He wants to protect the property of the neighbors.

Council Member Shelton gave a public disclosure that he may have a conflict with this action item, but he did not feel it would keep him from voting. He noted he met with Patrick O'Brien on this prior to see if there was state code that prohibited spot zoning. He felt there was miscommunication on the land use designation issue and noted they could ratify that with a land use change, which he did not have a problem with. He did not see it was a spot zone issue or land use issue as that can be fixed.

Council Member Carroll commented this is about what was wise for the city. She thought spot zones were bad planning and that they needed to look at the underlying land use. She felt that the high-density land use created a buffer between commercial and lower-density residential. However, the commercial zone they are proposing is close to the CC-2 zone. Council Member Carroll commented that the one thing giving her a hiccup is that a portion has already been used as commercial for many years. She understands they don't want to be next to a commercial zone, but they have had that situation going on for a long time. Council Member Carroll stated if the property had not already been used as a commercial property for 30 years, then it would have been no.

Council Member Taylor stated just because something has been done before doesn't mean it should be done again. He was grateful for the Kirkpatricks and commented they were in a tough spot with the commercial surrounding them. He felt this would be a quality project, but landing on a decision would be difficult. He stated the zone connection through the street did not make a difference to him.

Council Member Shelton moved to adopt Ordinance No. 2023-02-06 approving the zone change for ABE Properties, located in the area of 96 North 350 West from the R3-7500 Residential Zone to the Central Commercial (CC-2) zone contingent upon an application on a land use map amendment. Council Member Barnes seconded the motion.

Ms. Egner expressed her concern that it was contingent of the application; it needs to be contingent upon the approval of the land use amendment. From a legal perspective, her

preference would be to table action on this item and allow the land use amendment to go through first, otherwise, it would appear they are dictating to the Planning Commission what direction to go.

Council Member Shelton replied that he did not mean for it to force the Planning Commission to approve the land use map. He intended to say “approval” and not “application.”

Council Member Shelton amended the motion to approve the zone change for ABE Properties, located in the area of 96 North 350 West from the R3-7,500 Residential zone to the Central Commercial (CC-2) zone contingent upon the approval of a land use map amendment reflecting commercial. Council Member Barnes seconded the amended motion.

When asked about the property sandwiched between two of the parcels, Mr. Pyne stated he offered to buy the property, but the owner declined; the property owner indicated he was okay with the plans that Mr. Pyne had.

Council Member Barnes stated it appeared that most of the concern of the planning commission was of the land use designation and not that they were opposed to the project, to which Mr. O’Brien clarified it was a mix of the underlying land use and spot zoning.

Council Member Taylor stated his biggest concern was the Kirkpatricks, however, he was unsure how it would be detrimental now. Mrs. Kirkpatrick stated it left them in between two commercial properties. They use the pasture for horses and their concern was light pollution and garbage trucks who are there at 2 o’clock in the morning. Council Member Taylor noted that could be addressed at site plan approval.

Council Member Hunter stated that he tried to be mindful of the rights of the property, but his concerns were starting to be diminished knowing the dance studio has been there for 30 years or so.

Ms. Egner re-stated her concern that they need to articulate a clear basis for why they are approving a spot zone and amending the general land use map. They need to have findings very clearly articulated so they do not find themselves in the middle of a lawsuit. She once again suggested they table the item and bring this forward again when this has been before the planning commission for a land use map amendment.

Council Member Shelton added to his motion the findings that the property already had a structure with a commercial use for some time; that the CC-2 zone is the most reasonable zone for the parcel as it talks about facilitating orderly development while minimizing the adverse impact on residents as found under Section

17.4.403(A) Intent; that Section 17.4.403(B)(1) Residential Structures, provides that said structure existed as a residence prior to the effective date of this chapter, also customary residential accessory structures (such as a detached garage, etc.) when appurtenant to and on the same lot as the residence; and that Section 17.4.403 lists a lot of the findings as to why it fits the CC-2 zone and for changing the land use. Council Member Barnes agreed to the amendment.

Mr. Sowby asked for instructions on what to include in the land use map amendment application. Ms. Egner expressed her preference that they do not include the road, so it does not set precedence for the future.

Mayor Frost called for a vote on the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rob Shelton, Council Member
SECONDER:	Kevin Barnes, Council Member
YES:	Barnes, Carroll, Hunter, Shelton, Taylor

2. Review and action on approval of a first amendment to the lease agreement between American Fork city and GSTC Foundation for the golf practice facility at Fox Hollow Golf Course.

Council Member Carroll moved to approve the first amendment of the lease agreement between American Fork City and GSTC Foundation for the golf practice facility and authorize the city to execute the agreement. Council Member Hunter seconded the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Staci Carroll, Council Member
SECONDER:	Ryan Hunter, Council Member
YES:	Barnes, Carroll, Hunter, Shelton, Taylor

3. Review and action on a resolution approving adjustments to charges for special events.

Mr. Bunker explained the special events permit requires aspects of an event to be evaluated for services from various city personnel and the impact it will be on all the departments. As they evaluated the charges for the events, they found they are subsidizing the events and staff evaluated the charges and are recommending the proposed.

Council Member Taylor moved the adopt Resolution No. 2023-02-10R approving amendments to update the fees for special events. Council Member Hunter seconded the motion.

There was a lengthy discussion on how the fees were calculated. It was explained the expenses incurred for special events include staff overtime wages, vehicles, and

equipment costs. Staff was meticulous in calculating the proposed changes. It was noted the general fund still subsidized the special events as there were things like administrative reviews that were not included in the calculations. Chief Paul explained his methodology on calculating his costs and provided information on what other communities are charging.

Mayor Frost called for a vote on the motion. Voting was as follows:

RESULT:	APPROVED [4 TO 1]
MOVER:	Clark Taylor, Council Member
SECONDER:	Ryan Hunter, Council Member
YES:	Staci Carroll, Ryan Hunter, Rob Shelton, Clark Taylor
NO:	Kevin Barnes

4. Review and Action on the Award of the 18" Culinary Water Line Project - Segment 4 Construction to Condie Construction Company LLC.

Mayor Frost explained this was added to the agenda because time was of the essence for the contractor to procure the material.

Council Member Carroll moved to accept the bid submitted by Condie Construction Company for construction of the 18-inch Culinary Water Line Project – Segment 4 in the amount of \$5,680,720.10. Council Member Hunter seconded the motion. Voting was as follows:

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Staci Carroll, Council Member
SECONDER:	Ryan Hunter, Council Member
YES:	Barnes, Carroll, Hunter, Shelton, Taylor

5. Consideration and action to enter into a closed session to discuss items described in Utah State Code 52-4-204 and 52-4-205.

Council Member Hunter moved to enter into a closed session at 8:41 p.m. Council Member Carroll seconded the motion.

Mayor Frost explained they would meet in a downstairs work room and after the closed session ends the meeting would adjourn from that work room.

Mayor Frost called for a vote on the motion. Voting was as follows:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ryan Hunter, Council Member
SECONDER:	Staci Carroll, Council Member
YES:	Barnes, Carroll, Hunter, Shelton, Taylor

The American Fork City Council met in a downtown workroom at 8:50 p.m. to discuss the sale of real property. Those present included Mayor Frost, Council Member Barnes, Council Member Carroll, Council Member Hunter, and Council Member Taylor. Council Member Shelton participated electronically. Also present included City Administrator David Bunker, Legal Counsel Cherylyn Egner, Development Services Director Patrick O'Brien, and City Recorder Terilyn Lurker.

The closed session was audio recorded as required by state law.

Council Member Hunter moved to end the closed session portion of the meeting and return to open meeting at 9:52 p.m. Council Member Barnes seconded the motion.

Voting was as follows:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ryan Hunter, Council Member
SECONDER:	Kevin Barnes, Council Member
YES:	Barnes, Carroll, Hunter, Shelton, Taylor

6. Adjournment.

Council Member Hunter moved to adjourn the meeting. Council Member Taylor seconded the motion. All were in favor.

The meeting adjourned at 9:52 p.m.



Terilyn Lurker, City Recorder