

Minutes of the Centerville **City Council** meeting held Tuesday, September 7, 2021, at 7:00 p.m. with participants present at Centerville City Hall, 250 North Main Street, and electronically via Zoom.

MEMBERS PRESENT

Mayor	Clark Wilkinson
Council Members	Tamilyn Fillmore William Ince Stephanie Ivie George McEwan Robyn Mecham

STAFF PRESENT

Brant Hanson, City Manager
Lisa Romney, City Attorney
Jennifer Hansen, City Recorder
Jacob Smith, Administrative Services Director
Nate Plaizier, Finance Director
Paul Child, Centerville Police Chief
Lt. Allen Ackerson, Centerville Police Department
Bryce King, Recreation/Events Coordinator
John Barton, Custodian

VISITORS

Interested citizens

PRAYER OR THOUGHT

Councilmember Ince

PLEDGE OF ALLEGIANCE

OPEN SESSION

Gina Hurst, Centerville resident, said it was her understanding the Planning Commission had set a goal to rewrite the General Plan. She asked the Council to consider sending a letter of intent (due September 30th) to apply for a grant from Wasatch Front Regional Council to fund the General Plan rewrite, and spoke of application strategies. If received, grant funds would be available in July 2022.

PUBLIC HEARING – ZONING TEXT AMENDMENT – INTERNAL ADU

Community Development Director Cory Snyder explained that Senate Bill 82 of the 2021 Legislative Session required cities to implement the allowance of interior accessory dwelling units (ADUs) as permitted uses within a municipality, with flexibility to regulate some conditions or terms. Mr. Snyder presented a proposed Internal Accessory Dwelling Ordinance, and explained the proposed owner occupancy requirement.

Responding to a question from Councilmember Fillmore, Mr. Snyder explained the proposed requirement to remove one or more elements making up an internal ADU upon termination of use as an ADU. He said unregulated second kitchens were not allowed in single-family homes in Centerville without filing an affidavit. Councilmember Fillmore suggested adding language to the ordinance explaining a homeowner could alternatively file for a second kitchen allowance. She said she wanted to make the ordinance as user-friendly as possible.

1 Mr. Snyder explained that the State recategorized internal ADUs as single-family dwellings
2 rather than two-family dwellings for purposes of the Construction Code, which removed many of
3 the former cost-prohibitive requirements to establishing an internal ADU.
4

5 Regarding parking, Mr. Snyder said the State allowed cities to require up to one off-street
6 parking space specifically for an internal ADU. He discussed with the Council the tension that can
7 develop in a neighborhood over parking issues.
8

9 The proposed ordinance forwarded by the Planning Commission defined an owner "as a
10 person occupying the premises as their sole primary residence and having at least 20% or greater
11 ownership interest in the property". Responding to a question from Councilmember Meham, Mr.
12 Snyder explained that staff had recommended requiring at least 50% ownership interest,
13 consistent with other City ordinances. Councilmember Meham said she would be comfortable
14 increasing the percentage to 50%. Mr. Snyder said the Planning Commission had discussed
15 scenarios in which several siblings may jointly inherit a residence with an internal ADU.
16 Councilmember Ivie said she felt the 20% ownership requirement, combined with allowed
17 absences, diluted the intent of owner occupancy.
18

19 Councilmember Ince asked if the City could exclude cul-de-sacs from the parking
20 requirements considering the fact that parking was at a premium in cul-de-sacs. Mr. Snyder said
21 he advised against the appearance of resisting the State. Responding to a comment from
22 Councilmember McEwan, Mr. Snyder reminded the Council they were required by the State to
23 annually adopt at least three moderate-income housing goals.
24

25 The Council and staff discussed setbacks and placement of ADU entries. Mr. Snyder
26 pointed out that impact fees would not be collected for ADUs.
27

28 Mayor Wilkinson opened a public hearing at 7:57 p.m.
29

30 Heather Makenzie Campbell said a home next to her property had a second kitchen. She
31 expressed the opinion that if a dwelling with an ADU were held by a trust with multiple owners, at
32 least one of the owners should occupy the home regardless of their ownership percentage. She
33 suggested the owner should occupy at least 50% of the floor space of the home. Ms. Campbell
34 said she believed on-site parking should be required for an ADU, or ADU occupants should at
35 least be prohibited from parking on the street in front of neighboring homes.
36

37 Mayor Wilkinson closed the public hearing at 8:02 p.m. City Attorney Lisa Romney
38 explained that State law prohibited cities from restricting the total lot size (beyond a minimum of
39 6,000 square feet), street frontage, or size of an internal ADU in relation to the primary dwelling.
40

41 Councilmember McEwan expressed the opinion that the proposed owner absence waiver
42 was too wide and open to abuse. Councilmember Fillmore said she believed the more accurate
43 control would be in the length of absence (three years and one month) rather than the reason.
44 Councilmember McEwan said the intent of allowing internal ADUs was providing the opportunity
45 for individual homeowners to augment their income. He said he would not want to enable a
46 business opportunity for a trust owned by multiple individuals to purchase a whole street of homes
47 and create ADUs without needing the dwellings to be owner-occupied for three years and one
48 month. Councilmember Fillmore said she wanted those who had already been quietly operating
49 ADUs in Centerville to be able to register their ADUs and operate openly. She said she would
50 prefer the ordinance begin less restrictive, with the ability to deal with problems as they came up.

1 Mayor Wilkinson said he knew of situations in which a trust owned a home for an elderly
2 occupant. Councilmember Mecham said she would be comfortable with changing the language
3 to require occupancy of an owner with at least 50% ownership in a property, or occupancy of a
4 participant in a trust owning at least 50%. She said she knew there were developers who would
5 jump at the opportunity to use the Internal Accessory Dwelling Ordinance as a business
6 opportunity. Councilmember Fillmore said she would be comfortable tightening the ownership
7 percentage to 50%, knowing amendments could be made if needed.
8

9 Councilmember Fillmore suggested reducing the proposed requirement that ground
10 entrances and coverings would be prohibited on a wall façade facing a perimeter lot line, unless
11 such wall façade was at least 10 feet from a perimeter, down to 8 feet from a perimeter, with
12 coverings at least 6 feet from any perimeter lot line. Mr. Snyder explained Construction Code
13 requirements for public safety access, and advised not reducing the 10-foot minimum.
14

15 The Council discussed acceptable causes for temporary owner absence, and whether or
16 not the owner should be allowed to rent out their portion of the dwelling in addition to the internal
17 ADU during their absence. Councilmember Ince pointed out that the purpose of requiring owner
18 occupancy was better maintenance of the home and property. Councilmember McEwan said he
19 felt the list of acceptable causes for temporary absence should be reduced.
20

21 Councilmember McEwan suggested removing designation of a "Unit B" from the address
22 of a property if an ADU were not in use. Mr. Snyder said the requirement to remove ADU elements
23 went to the definition of a dwelling. The Council and staff discussed possible internal ADU
24 scenarios. Ms. Romney suggested putting the ordinance in place to comply with State law, with
25 the intention to further discuss concerns within the next few months.
26

27 The Council discussed allowing internal ADUs in single-family homes in all zones, and
28 discussed possible concerns with staff. Councilmember Mecham suggested allowing internal
29 ADUs in all Residential-Low and Residential-Medium Zones.
30

31 Councilmember Ivie **moved** to adopt Ordinance No. 2021-18 regarding Internal Accessory
32 Dwelling Units, increasing required ownership of owner-occupant to 50%, adding Residential-
33 Medium to allowed zones, specifying the owner occupant was allowed one temporary absence,
34 and directing staff to bring the issue back in the next couple months for further discussion.
35 Councilmember Ince seconded the motion, which passed by unanimous vote (5-0).
36

37 **PUBLIC HEARING – ZONING CODE AMENDMENT – FENCES**

38

39 Recently, the City Council directed the Planning Commission and staff to review and
40 recommend potential changes for fencing limitations, specifically for situations involving corner
41 lots along side street frontage. Mr. Snyder explained the Planning Commission recommendation.
42

43 Mayor Wilkinson opened a public hearing at 8:47 p.m., and closed the public hearing
44 seeing that no one wished to comment. Councilmember Fillmore expressed concern that fences
45 allowed by the proposed amendment would break up the aesthetic of a neighborhood.
46 Councilmember Ivie said that personally living on a corner lot, she appreciated the idea of being
47 able to fence off her yard. Councilmember McEwan said he was comfortable with the four-foot
48 and six-foot height restrictions.
49

50 Councilmember Fillmore **moved** to deny the recommendation to accept Ordinance No.
51 2021-19. The motion failed for lack of second. Councilmember Ivie **moved** to approve Ordinance
52 No. 2021-19, with the 12-foot sight triangle amended. Councilmember Mecham seconded the
53 motion, which passed by majority vote (4-1), with Councilmember Fillmore dissenting.

**REQUEST FOR DEFERRAL OF PUBLIC IMPROVEMENTS – 20 SOUTH 400 EAST –
KARI AND DUSTIN MONTOYA**

Public Works Director Mike Carlson explained that Kari and Dustin Montoya owned a home and related property at 20 South 400 East. They requested deferral of installation of public improvements along the frontage of the property. Under existing City Ordinance, unless otherwise deferred by the Council, the property owner must install all required public improvements associated with a property in order to obtain a building permit. Mr. Carlson recommended the Council deny the deferral request for reasons of public safety.

Kari Montoya, applicant, said she and her husband inherited the property when her father passed away in 2019. She said it was her father's plan that she and her husband would demolish the existing home and build their dream home on the property to keep the property in the family. Ms. Montoya reported the home had been demolished, and said she was excited to move forward with the process. She gave the following reasons for requesting a deferral for installation of sidewalk: they did not want to be the first residents on the street to have sidewalk; grading the elevation change for sidewalk would be a large financial burden; most properties in the neighborhood did not have sidewalks, and seven properties had been granted deferrals for installation of sidewalk. Ms. Montoya stated that in a Facebook poll, a majority of respondents indicated they did not care if the property had sidewalk installed, and said a property owner in the neighborhood with sidewalk and absence of sidewalk on adjacent properties, reported no one walking down the street left the street to walk on the short portion of sidewalk. She requested the Council approve the request for deferral of installation of sidewalk.

Councilmember Ivie expressed the opinion that sidewalks were not part of the feeling of the historic neighborhood, and said she would vote in favor of approval. Councilmember McEwan commented that sidewalks were a desirable improvement in the creation of walkable communities. Mr. Snyder repeated Mr. Carlson's statement that the subject property was a corner lot off of a main street, and providing sidewalk for pedestrians around the intersection was a safety concern. He pointed out that the City had not made the decision to eliminate the requirement for sidewalk in the historic neighborhood, hence staff's recommendation to require the improvement one property at a time.

Councilmember Fillmore said she understood the pedestrian safety argument in favor of requiring sidewalk considering the location of the subject property. The Council reviewed a map of the historic neighborhood and locations of existing sidewalk deferrals. Councilmember Ivie commented there were not many pedestrians around the subject property, and said since the corner had never had sidewalk, she did not believe additional hazard would be created by allowing the deferral. Councilmember McEwan questioned whether the historical argument applied to the new-build situation.

Councilmember McEwan **moved** to direct staff to prepare and bring back documents for deferral of public improvements for property located at 20 South 400 East. Councilmember Ivie seconded the motion, which passed by majority vote (3-2), with Councilmembers Ince, Mecham, and Ivie in favor, and Councilmembers McEwan and Fillmore dissenting.

**INTERLOCAL COOPERATION AGREEMENT WITH DAVIS COUNTY AND DAVIS
COUNTY CITIES FOR UPDES GENERAL PERMIT**

Ms. Romney presented an Interlocal Cooperation Agreement with Davis County and Davis County Cities to jointly provide storm water education and materials. She said staff recommended adoption of Resolution No. 2021-25. Councilmember Ivie **moved** to adopt Resolution No. 2021-25 approving the Interlocal Cooperation Agreement between Davis County and Davis County

Cities for UPDES General Permit. Councilmember Meham seconded the motion, which passed by unanimous vote (5-0).

STORM WATER FACILITIES MAINTENANCE AGREEMENT – THE HIVE

City Attorney Lisa Romney explained that the proposed Storm Water Facilities Maintenance Agreement was required in accordance with Section 4.2.5 of the UPDES Permit for MS4 Systems, which required the City to provide a regulatory mechanism for post-construction storm water control measures on private properties that discharge into the City's MS4 System. The Agreement would be recorded against the subject property and would run with the land as an on-going obligation. The Agreement would also require the property owner to provide the City with an annual maintenance certification.

Councilmember McEwan **moved** to approve the Storm Water Facilities Maintenance Agreement between Centerville City and CW The Hive, LLC for The Hive development project. Councilmember Ivie seconded the motion, which passed by unanimous vote (5-0).

CDBG SUBRECIPIENT AGREEMENT WITH DAVIS COUNTY FOR ADA PEDESTRIAN RAMPS

The City applied to Davis County for the 2021 CDBG Program to receive funding for improvements to ADA pedestrian ramps within the City. Ms. Romney explained as part of the application process, the City was required to approve and enter into the proposed Subrecipient Agreement with Davis County for CDBG Program funds. The proposed project would consist of installation of approximately 18 ADA pedestrian ramps on 400 East from Parrish to Chase Lanes and from Porter Lane to Tobe Drive.

Councilmember McEwan **moved** to approve Resolution No. 2021-36 approving the Subrecipient Agreement with Davis County for CDBG Program funds for ADA pedestrian ramps in the amount of \$75,000. Councilmember Ince seconded the motion, which passed by unanimous vote (5-0).

MUNICIPAL CODE AMENDMENTS – GOLF CARTS – CMC 14.07.240

On August 3, 2021, the City Council discussed proposed Ordinance No. 2021-17, which would allow golf carts on City streets under limited circumstances. Based on City Council direction, the matter was tabled for further information and research by staff. Ms. Romney reported staff were unable to find any city ordinances in Davis County permitting the use of golf carts on city streets. She said proposed Ordinance No. 2021-17 was revised based on Council discussion.

Police Chief Paul Child said he thought the proposed ordinance had good language, and expressed support for prohibiting use on streets with greater than 8% grade. Chief Child expressed concern that the ordinance would open up a can of worms, and said his department would do their best to enforce if the ordinance passed. Councilmember Meham suggested the ordinance should include a requirement that carts must have four wheels.

Councilmember Fillmore said she would consider allowing golf carts to cross busier streets. Chief Child stated he had safety concerns with golf carts crossing busy streets such as Main Street or Parrish Lane. Councilmember McEwan said it was an issue of acceleration.

Chief Child explained the impetus behind bringing the matter to the Council. Councilmember Ince shared a situation he recently witnessed involving children operating a

1 motor-augmented bicycle, and said his opinion had changed and he no longer felt inclined to
2 encourage operation of golf carts by children on City streets. Councilmember Mecham said she
3 would be comfortable not approving the ordinance because of her understanding that police
4 officers had discretion when responding to individual situations. She said she believed there was
5 no reason to adopt the proposed ordinance if the minimum driver age in the ordinance remained
6 16. She said her concern was with younger children driving golf carts on City streets.
7

8 Councilmember Fillmore pointed out operation of golf carts on City streets was currently
9 illegal, and said she did not like the idea of selective enforcement. She said she would rather be
10 as clear as possible with the message sent. Councilmember McEwan said he believed it was
11 important to give officers discretion to allow them to do their jobs effectively and not create
12 animosity. He said he agreed with Councilmember Fillmore that the officers needed the correct
13 tools to be able to exercise discretion.
14

15 Councilmember McEwan said he thought 18 as a minimum driver age made sense
16 because of individual liability. He pointed out that parents would be the responsible party with any
17 minimum age under 18. Councilmember Fillmore said she would be comfortable with 15 because
18 15 was learner permit age.
19

20 Councilmember McEwan **moved** to approve Ordinance No. 2021-17 with redlines
21 presented, with minimum age reduced from 16 to 14, and specifying that the vehicle must have
22 four wheels. Councilmember Ivie seconded the motion, which passed by majority vote (4-1), with
23 Councilmember Ince dissenting.
24

25 **MUNICIPAL CODE AMENDMENTS – BUDGET AND TAX LEVY – STATUTORY** 26 **UPDATES** 27

28 Ms. Romney presented Municipal Code amendments proposed to bring Centerville
29 ordinances into compliance with recent State law amendments. Councilmember Ivie **moved** to
30 approve Ordinance No. 2021-20 amending various provisions of Title 5 (Revenue and Finance)
31 to bring such provisions into compliance with State law. Councilmember Mecham seconded the
32 motion, which passed by unanimous vote (5-0).
33

34 **SUMMARY ACTION CALENDAR** 35

- 36 1. Purchase of (3) Ford Police Interceptor Utility (PIU) vehicles and (1) unmarked
- 37 2. Purchase of two budgeted Water Department trucks with shells and in-bed toolboxes
- 38 3. Purchase of the budget item Caterpillar Model CB2.7 Paving Compaction Roller and
39 trailer
40

41 Councilmember Ivie **moved** to approve all three Summary Action items. Councilmember
42 Fillmore seconded the motion, which passed by unanimous vote (5-0).
43

44 **FINANCIAL REPORT** 45

46 Financial statements for July 2021 were included with the meeting agenda on
47 NovusAgenda.
48

49 **MINUTES AND ACCEPTANCE** 50

51 Minutes of the August 3, 2021 Work Session, Council Meeting, and Closed Session;
52 August 7, 2021 Special Council Meeting; August 17, 2021 Council Meeting; and August 24, 2021
53 Canvass of Election were reviewed. Councilmember Ivie **moved** to accept the minutes as

1 presented. Councilmember Mecham seconded the motion. Councilmember McEwan said he
2 received citizen comments after the August 7, 2021 Special Council Meeting expressing concern
3 that where they lived in the community would determine how seriously their comments would be
4 considered. The motion passed by unanimous vote (5-0).

5
6 **CITY COUNCIL REPORT**

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8 Councilmember Mecham provided an update regarding UTOPIA/UIA.
9

10 **MAYOR'S REPORT**

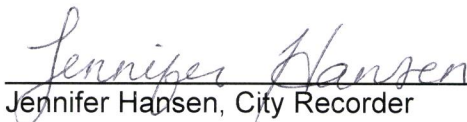
11
12 The Council discussed the upcoming CenterPoint Theatre Gala. It was suggested the
13 RDA should have the opportunity to symbolically vote in favor of supporting the Gala every year.
14

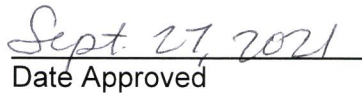
15 **CITY MANAGER'S REPORT**

16
17 Mr. Hanson expressed appreciation to staff and the Council for discussions that took place
18 during the meeting.
19

20 **ADJOURNMENT**

21
22 At 10:15 p.m., Councilmember Ivie **moved** to adjourn the meeting. Councilmember
23 McEwan seconded the motion, which passed by unanimous vote (5-0).
24

25
26 
27
28 Jennifer Hansen, City Recorder


Date Approved

29
30
31 
32
33 Katie Rust, Recording Secretary

