

PLAIN CITY COUNCIL  
MINUTES OF REGULAR MEETING  
NOVEMBER 5, 2015

The City Council of Plain City convened in a regular meeting on Thursday, November 5, 2015, in the Plain City Hall beginning at 7:00 p.m.

Present: Mayor Bruce Higley, Councilmembers LaFray Kelley, Joel Maw and Mike McKean.  
Excused: Councilmember Kris Carrigan and Natalie Hale  
Staff: Diane Hirschi  
Also present: Cecil Satterthwaite, Randy Marriott, Jeni Hadden, Brad Jensen, Jeremy Crowton, Cheri Sparks, Blake Neil, John Leonardi, Andrew Scott, Jarom Scott, Jerry Preston, Art Dover

Call to Order: Mayor Higley  
Pledge of Allegiance: Diane Hirschi  
Invocation/Moment of Silence: Councilmember McKean

Approval of Minutes

**Councilmember Maw moved to approve the minutes from October 15, 2015 as presented. Councilmember Kelley seconded the motion. Councilmembers Kelley, Maw and McKean voted aye. The motion carried.**

Comments: Public

Jeni Hadden reported that she has been attending the Planning Commission meetings. Since the Council will make the ultimate decision on Kent's, she wanted to know how the City Council feels about it. She noted that it probably doesn't affect anyone here, but wanted the council to know it affects her family.

Presentation/Discussion: Plain City Sewer Upgrade – Cecil Satterthwaite and Randy Marriott

Cecil Satterthwaite gave the council a map showing the basic proposal for running sewer from Box Elder County to our lagoon system. He is asking for the City's partnership so get sewer available in the north end of Plain City through another County. He noted that they would set up a special district and run the pipes in Box Elder County and then Plain City would treat the sewer. Cecil noted that it would benefit Cecil and Randy economically and it would benefit the City with revenue to upgrade the facilities. He reported that nothing is set in stone, he just wanted to see if the city was interested in working together. Councilmember Maw asked where they were crossing the rail trail. It looked like it was around 4000 N. Councilmember McKean asked what upgrades need to be made to the sewer and how many lots were coming from Box Elder. Cecil reported that within the next 30-50 years (depending on the market), there would be about 2200 units. Councilmember McKean asked when they want to start. Cecil reported that this is the first step. If the city is interested, a special improvement district would need to be set up and drawings would be drafted. He is hoping to start within the next year. It was noted that the city would collect service fees and impact fees from anyone within the district. It was asked how many Plain City residents would be within the district. Cecil doesn't know off the top of his head. Councilmember Kelley reported that the city can't make a profit on sewer. It was noted that the revenues collected would help pay for any upgrades that need to be done. Councilmember McKean asked them what their plan B is. It was reported that they would go with Willard and Perry sewer but that is very expensive. Randy Marriott said that he wasn't sure where it would come out by the rail trail but needs to get sewer up to England Meadows and Stillcreek. Another benefit to the city would be able to eliminate a lift station at Grouse Meadows. There was a discussion about North Plain City Road being at capacity. Brad Jensen, City Engineer, noted that there is a lot of infiltration at that lift station. He noted that this proposal would relieve some of the sewer from North Plain City Road. He also added that it is always good to eliminate a lift station. Councilmember McKean asked what the cost of this would be. Randy noted that hopefully there will be a payback agreement with the city. Also the city will be able collect part of the fees. There was a question about split billing and impact fees between counties. It was noted that it depends on how the special district is set up. Our legal counsel will be involved with that. Billing was mentioned. Randy said the city could do the billing or Marriott Construction could. Councilmember Kelley asked if the city would maintain the lines. Randy mentioned that the special improvement district would. Brad Jensen reported that all of this looks good on paper but more information will need to be gathered. Randy again noted that they are just finding out if the city is interested in the partnership. Councilmember Maw asked about crossing by Dixie Creek. Drawings and studies will have to be done before the exact location will be identified. Councilmember McKean feels that he is interested in looking into this but wants to know the number of Plain City residents that will be involved, the potential cost and



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information the Planning Commission is waiting for. Blake wasn't sure and he has contacted all the Planning Commission to get their concerns to Rob Scott so they can be addressed. Final approval for Sunee Acres was on the agenda. Blake reported that John and Blake had met with him prior to the meeting. The concern is they are creating a building lot and leaving the rest a remainder parcel. Brandon Richards has gotten involved in this and there may be an appeal.

Report: Council

Councilmember McKean reported that girls' basketball is going. They are signing up for boys' basketball and football is over. He noted that the parks have been cleaned up and ready for the winter.

Councilmember Kelley reported that the youth council is having a food drive on December 5. The Mayor asked if we need more youth council members. Councilmember Kelley said they do. She has a meeting with some donors for pickle ball. The park benches are being worked on. She has an eagle scout who wants to put cement on the baseball dugouts at Lee Olsen Park.

The Mayor thanked Rick Schroeder for his work on the landfill crawler and Dusty Palmer for his work on the blower at the sewer pond. He figures it saved the city about \$6,000. The Mayor noted that we will need to look into a mower. Dusty has tried to repair it enough to use. The Mayor reminded the council about the special meeting on November 16 to canvass the election. He thanked Diane and her staff and thanked the council.

**At 7:59 p.m. Councilmember McKean moved to adjourn and was seconded by Councilmember Kelley. The vote was unanimous.**

COPY

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date approved

PLAIN CITY COUNCIL  
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NOVEMBER 19, 2015

The City Council of Plain City convened in a regular meeting on Thursday, November 19, 2015, in the Plain City Hall beginning at 7:00 p.m.

Present: Councilmembers Joel Maw, Mike McKean, Kris Carrigan and Natalie Hale  
Excused: Mayor Bruce Higley, Councilmember LaFray Kelley  
Staff: Diane Hirschi  
Also present: Buddy Sadler, Brad Searle, Michael Dewey, John Leonardi, Nancy McKellar, Jeni Hadden, Jim Flint, Monica Hanks, Rebecca Cannon, Roger Cannon, Sheri Stimpson Barahona, Kirk Nord and Brett Ferrin

Call to Order: Councilmember Maw  
Pledge of Allegiance: Councilmember McKean  
Invocation/Moment of Silence: Councilmember Carrigan

Approval of Minutes

Councilmember McKean noted that on the first page in the section on Plain City sewer upgrade, the second sentence needs to reference that it is going through another County. **Councilmember McKean moved to approve the minutes from November 5, 2015 as corrected. Councilmember Hale seconded the motion. Councilmembers Maw, McKean, Carrigan and Hale voted aye. The motion carried.**

Comments: Public

Jeni Hadden reported that she has been coming to all the meetings and feels that no one wants the store. She referenced several meetings where the majority of those in attendance voiced opposition for it. She noted that at the last Council meeting it was stated that the Planning Commission wanted more information from Kent's. At the last Planning meeting it was stated that they wanted more information from Mr. Scott. She noted that Mr. Scott has been 100% prepared at every meeting. She reported that this has everything to do with Kent's. It has been stated that the city is afraid of lawsuits from land that has previously been rezoned. She noted that there is such a thing as a grandfather clause. She has heard if this is not passed that Kent's will sue because promises were made. She noted if it passes, she will get the state attorney up here because there has been dirty play. She noted that we do not want this.

Rebecca Cannon reported that she is concerned about changing the C-2 code to allow over a 5 acre minimum. She states that is not compatible with single family housing and shouldn't be larger than 5 acres. She is asking that we not change the zone. She mentioned that she has seen the architectural drawings of the large development in Farr West and feels that it will be unlikely that people will shop in Plain City. She feels it is unwise to change the ordinance. The Kent's in Brigham City is on 4.5 acres and the Tremonton location is on 5 acres. She reported that she doesn't have a problem with the parking change.

Monica Hanks reported that five acres is plenty of area. She feels that the city should decide on the size of projects, not someone else. She doesn't think we need a development over five acres. She referenced the Brigham and Tremonton sites. She feels that we shouldn't change the size of the C-2 zone.

Jim Flint went to the Planning Commission and now to the City Council in hopes to initiate an ordinance to allow someone to divide their property for one house and leave a remainder parcel. The remainder parcel would not be able to be built upon. He mentioned the example of a farmer who has a 100 acres and wants to divide one acre off. He feels that our code is up for interpretation and needs to be clarified. He noted that most other cities allow this to be done. He mentioned that he has talked with the state ombudsman and would love to be a part and help work with City to look into this.

Nancy McKellar feels that she is a member of the silent majority and that we need to have a Kent's Market. She believes in property owner rights and people should be able to build what they want. She referenced the Kent's in Brigham and reported that the road width is different throughout that city and can be worked with. She feels that the majority of the residents want it.

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Discussion/Motion: Amend Zoning Ordinance – Parking Standards for C-2 Zone

Rob Scott went over his attached staff report (in italics):

*TYPE OF DECISION*

*When the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.*

*BACKGROUND*

*Plain City is considering a zoning map amendment on property located at approximately 2600 North and 3600 West from Residential Estate Zone (RE-20) to the General Commercial (C-2) zone. As part of the analysis for this request it was discovered that 10-6B-4 Special Parking Regulations has a parking requirement in addition to Chapter 9 Parking and Loading Spaces: Vehicle Access of the Zoning Ordinance.*

*The Planning Commission held a public hearing on this amendment on October 22, 2015. There were a number of residents who commented on this request. The logic behind making this amendment was generally supported.*

*10-6B-4: SPECIAL PARKING REQUIREMENTS:*

*Notwithstanding the provisions of chapter 9 of this title, there shall be provided off street parking facilities in the ratio of not less than three (3) square feet of parking for each one square foot of sales floor area within the development. (Ord., 11-14-1974)*

*This is a larger parking standard than is typical for this type of zone. For every 1,000 feet of sales floor area there needs to be 3,000 square feet of parking. This equates to 17 parking stalls per 1,000 square feet. The typical range for commercial is 4 to 5 parking stalls per 1,000 square feet of commercial. At the September 10, 2015 public hearing it was recommended that an ordinance amendment be made to adjust this standard.*

*The Planning Commission considered two amendment options. The first option is to change the parking ordinance within chapter 6B to revise this standard. The second option is to eliminate this formula in 6B and reference the Parking Standard in Chapter 9. Staff recommended option 2 with the following language:*

*10-6B-4: SPECIAL PARKING REQUIREMENTS:*

*Notwithstanding the provisions of chapter 9 of this title, there shall be provided. Off street parking facilities shall follow the provisions of chapter 9 of this title. in the ratio of not less than three (3) square feet of parking for each one square foot of sales floor area within the development. (Ord., 11-14-1974)*

*The standard in chapter 9 for retail businesses is: 1 space per 200 square feet of sales floor space in building. This equates to 5 stalls per thousand square feet of sales floor area; it does not include storage space. This is a reasonable standard for retail projects.*

*GENERAL PLAN*

*The Plain City General Plan was adopted in April 2007. The General Plan policy that is closely aligned with this amendment is found in Chapter 8 Economic Development Policy I: Focus and establish programs and / or ordinances that will improve the urban design, land use, quality of construction, and existing aesthetic qualities of the City's commercial and industrial areas.*

*CITY COUNCIL CONSIDERATIONS*

- Is the proposal consistent with the General Plan?*
- Does the proposal comply with the Zoning ordinance?*
- Does the amendment provide for a reasonable parking standard for C-2 uses?*

*PLANNING COMMISSION RECOMMENDATION*

*The Planning Commission found that the existing parking standard is unreasonable. The Planning Commission recommends option 2 that eliminates the parking formula in 10-6B-4 and references the parking standards in Chapter 9. The Planning Commission recommends the City Council adopt the attached ordinance amendment.*

*Councilmember McKean asked about blacktop. Mr. Scott noted that this change won't affect that. **Councilmember McKean moved to adopt Ordinance 2015-05 amending the zoning ordinance concerning parking standards for the C-2 zone. Councilmember Hale seconded the motion. Councilmembers McKean, Maw, Carrigan and Hale voted aye. The motion carried.***

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Discussion/Motion: Amend Zoning Ordinance – Site Development Standards for C-2 Zone

Rob Scott went over his attached staff report (in italics):

*TYPE OF DECISION*

*When the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.*

*BACKGROUND*

*The Planning Commission conducted a public hearing on this requested amendment on October 22, 2015. There were many public comments that addressed opposition to the Kent's Market rezone request at 2600 North and 3600 West. This ordinance amendment has implications for the Kent's Market rezone request; however this amendment applies to all existing and future C-2 zones in Plain City and should be considered in this broader context. The Planning Commission tabled this item until November 12, 2015.*

*There are currently 5 other areas zoned C-2. One of these locations is at approximately 2400 North and 4500 West and collectively is over 5 acres. A second property located at approximately 2600 North on the city's eastern boundary is 19 acres.*

*None of the other commercial zones has a maximum lot area standard. C-2 zones are typically identified as community commercial areas and have a 10 to 20 acre area. Guidance can also be sought by reviewing the purpose and intent section for the C-2 zone.*

*10-6B-1: PURPOSE AND INTENT:*

*A. The general commercial zone is established to provide locations for a full range of office, retail commercial, and service uses which are oriented to serve the city as a whole, as well as a regional market in Plain City. A variety of activities are encouraged, especially those which promote both daytime and nighttime consumer activity.*

*B. The general commercial zone includes uses usually associated with central business district and shopping facilities which are not ordinarily compatible with single-family residential uses.*

*C. In order to stabilize, improve and protect the city's commercial areas, standards are established to ensure a quality urban environment with landscaping, light and air at street level, well defined urban spaces, and compatibility of building materials, colors, and textures. (Ord. 2004-12, 8-5-2004, eff. 8-5-2004)*

*The Planning Commission identified three options at the October 22, 2015 public hearing. The first option is to leave in place the existing 5 acre maximum for C-2 properties; the second is to eliminate the maximum standard; and the third is to set a different maximum acreage standard.*

*Option 1. Leaving the ordinance in place is inconsistent with existing C-2 zoning since there are two areas that already exceed the 5 acre maximum.*

*Option 2. By eliminating the 5 acre maximum the City can judge each application on its merits.*

*Option 3. By establishing a new maximum standard the City would have to determine what that standard should be, e.g., 10 acres. The question should also be asked with this option, should the City establish maximum sizes for the C-1 and C-3 zones? What is the rationale for setting such a standard?*

*The Planning Commission on November 12, 2015 received comments from the public regarding this amendment. It was explained that this amendment impacts all of the C-2 zoned properties and not just the Kent's project. The Planning Commission reviewed each of these options including the implications for each option and determined that option 2 is most appropriate.*

*The applicant's request can be accomplished by deleting subsection B below.*

*10-6B-3: SITE DEVELOPMENT STANDARDS:*

*A. Minimum lot area None*

*~~B. Maximum lot area 5 acres~~*

*C. Minimum yard setbacks:*

*1. Front 20 feet for main building, walls or fences over 3 feet high*

*2. Side None, except 10 feet adjoining a residential zone*

*3. Side, facing street on corner lot 20 feet*

*4. Rear None, except 10 feet adjoining a residential zone*

*D. Building height:*

*1. Minimum 1 story*

*2. Maximum 35 feet*

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E. Lot coverage The aggregate area of all buildings shall not exceed 40 percent of the entire lot  
**GENERAL PLAN**

The Plain City General Plan was adopted in April 2007. Chapter 8 Economic Development Policy H: Evaluate Plain City's current and future commercial retail land uses to assure the City's commercial retail development reaches its full potential.

**CITY COUNCIL CONSIDERATIONS**

- Is the proposal consistent with the General Plan?
- Is the proposal consistent with the C-2 purpose statement?
- Is there a need for this maximum lot standard?
- Which of the three options is appropriate for Plain City?

**PLANNING COMMISSION RECOMMENDATION**

Public comment was received on October 22, 2015. The Planning Commission tabled action on this item to further consider three options. The Planning Commission determined at the November 12, 2015 meeting that a maximum lot size is inconsistent with the other two commercial zones and that each application should be judged upon its own merits. The Planning Commission recommends the City Council adoption of the attached ordinance.

Councilmember Carrigan feels that since C-1 and C-3 doesn't have a size limit, we should be consistent with C-2. Councilmember McKean noted that this has nothing to do with Kent's but for the future. It was discussed that each case will be looked at separately. The discretion will be with the Planning Commission and City Council. Some lots will be more, some might be less. There was a question as to why there was the limit in the first place. It was noted that the general plan was done in 2007. Rebecca Cannon said that Randi Diamond stated that they meant it that way. Councilmember Maw reported that the Planning Commission has gone to a lot of work on this. They are smart and he trusts them and feels that it is the right thing to do. The inconsistency shouldn't be there.

**Councilmember Hale moved to approve Ordinance 2015-06 amending the maximum lot size standard for the C-2 zone at the recommendation of the Planning Commission. Councilmember McKean seconded the motion. Councilmembers Maw, McKean, Carrigan and Hale voted aye. The motion carried.**

**Discussion/Motion: Comcast Franchise Agreement**

Brandon Richards reported that the city has had a franchise agreement with Comcast for the last 15 years. He has reviewed the document and has the same parameters. Kirk Nord from Comcast, noted that franchise fees are 5% of the gross for those residents within the city limits. It is only for the video (TV) service. It was noted that this agreement is not exclusive with the intent to keep other companies out. **Councilmember McKean moved to adopt Resolution 2015-06 accepting the Comcast Franchise Agreement for 15 years. Councilmember Carrigan seconded the motion. Councilmembers Maw, McKean, Carrigan and Hale voted aye. The motion carried.**

**Discussion/Motion: Road Bids**

Dusty got three bids to fix some areas on the sides of the roads. Councilmember McKean asked where the areas are. Diane said that Dusty was supposed to be here and she didn't know exactly where they are. Councilmember Carrigan will text Dusty for the addresses. It was noted that they need to be fixed before the snowplow hits them. It was also noted that the plant is shutting down for the winter. Dusty texted Councilmember Carrigan and the addresses are 2040 N 3600 W, 2575N 4425 W, 1700 N 4160 W and 2100 N Pioneer Road. Post Asphalt Paving and Construction is the lowest bid at \$4,350.00. Payment terms are net 30 days. **Councilmember Carrigan moved to award Post Construction for the road bids at \$4,350 for the four locations. Councilmember McKean seconded the motion. Councilmembers Maw, McKean, Carrigan and Hale voted aye. The motion carried.** Councilmember McKean suggested that in the future, Dusty should get a couple of councilmembers to look at the project before it goes on the agenda.

**Set Public Hearing: Potential Projects to Consider for a Community Development Block Grant – Dec 3**

Diane reported that if the city were to apply for a CDBG grant, we have to have a public hearing to gather input for potential projects. **Councilmember Hale moved to set December 3 as a public hearing to list potential projects to be considered for a Community Development Block Grant (CDBG). Councilmember McKean seconded the motion. Councilmembers Maw, McKean, Carrigan and Hale voted aye. The motion carried.**

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Motion: Approval of Business Licenses

New

John Shank Flooring

John Shank

4735 W 2150 N

home office

It was noted that the fire chief has looked at it. **Councilmember McKean moved to approve the business license as presented. Councilmember Carrigan seconded the motion. Councilmembers Maw, McKean, Carrigan and Hale voted aye. The motion carried.**

Motion: Approval of Warrant Register

See warrant register dated 11/1/2015 to 11/16/2015. There was a question about why the Animal Control bill is so high. It was noted that it includes a bond payment. **Councilmember McKean moved to approve the warrant register as presented. Councilmember Hale seconded the motion. Councilmembers Maw, McKean, Carrigan and Hale voted aye. The motion carried.**

Report: Planning Commission

John Leonardi reported that at their last meeting they recommended dropping the 5 acre maximum on the C-2 zone. They canceled their meeting on the 26<sup>th</sup> as it is Thanksgiving. They discussed the remainder parcel issue and the Planning Commission was unanimous in not looking at it right now.

Report: Council

Councilmember McKean reported that basketball is going and the parks are ready for the winter.

Councilmember Maw thanked the Planning Commission and Rob Scott for their work.

**At 7:59 p.m. Councilmember McKean moved to adjourn and was seconded by Councilmember Carrigan. The vote was unanimous.**

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City Recorder

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date approved