



**CLINTON CITY COUNCIL MEETING MINUTES  
CITY HALL  
2267 North 1500 W Clinton UT 84015**

**MAYOR  
Brandon Stanger**

**CITY COUNCIL MEMBERS  
Anna Stanton  
Marie Dougherty  
Gary Tyler  
Dane Searle  
J. Stark**

<b>Date of Meeting</b>	<b>July 11, 2023</b>	<b>Call to Order: 7:00 PM</b>
<b>City Council &amp; Staff Present</b>	City Manager Dennis Cluff, Police Chief Shawn Stoker, Fire Chief David Olsen, Recreation Director Brooke Mitchell, Treasurer Steve Hubbard, Community Development Director Peter Matson, Public Works Director David Williams, IT Specialist Dereck Bauer and Lisa Titensor recorded the minutes.	
<b>Attendees</b>	Stephanie Nelson, Jaimie Eddy, Robert Bryan Beckstrom, Ruth Stone, Mason Brown, Patty Brown, David Petersen, Kathleen Silva, William A. Mifflin, Anna Milburn, Danita Toyn, Lyndsee Toyn, Shane Rasband, Chris LeMay, Dan & Carol Hensley, Melisa Meadows, Mark Olsen, Whitney Knight, Aaron Kelly, Nichole Murri, Curtis Murri	
<b>Invocation or Thought &amp; Pledge of Allegiance</b>	The Clinton City Police and Fire Department presented the flag and led the Pledge of Allegiance.  Gary Twain sang the National Anthem.  Tyson Stoker gave the invocation.	
<b>Roll Call &amp; Attendance Of City Council</b>	Mayor Stanger, Councilmember Dougherty, Councilmember Searle, Councilmember Tyler and Councilmember Stark	
<b>Public Input</b>	There was none.	
<b>A. SWEARING-IN OF NEW CITY COUNCILMEMBER J. Stark</b>		
<b>Petitioner</b>	Mayor Stanger	
<b>Discussion</b>	J. Stark was selected by the City Council to fill the vacancy left by Councilmember Barbara Patterson at a special meeting held June 28, 2023.  J. Stark was sworn in by City Recorder Lisa Titensor as the newest City Council Member.	
<b>B. EMPLOYEE OF THE MONTH FOR MAY 2023 – BECKY SMITH</b>		
<b>Petitioner</b>	Dennis Cluff, Community Development Director Peter Matson	
<b>Discussion</b>	Community Development Director Peter Matson reported that Becky has been with the City since June 2018 and serves as the Development Services Technician II in the Community Development Department. Becky regularly interacts on the phone and at the front counter with residents, contractors and developers and it's comforting to have her helpful and friendly disposition as their first point of contact. Becky provides exceptional customer service – she is very courteous and professional in the way she relays to customers what can often be difficult information.  Becky has a very strong understanding of her job assignments. She effectively multi-tasks and uses her skills to improve job performance and work quality. She	

	<p>prefers to immediately handle tasks and assignments and takes initiative to improve the function of our department. She is very conscientious in her decision making and problem solving and she seeks out others in the department to help resolve difficult issues when necessary.</p> <p>Becky is a pleasure to work with and her positive attitude and personality make the department a great place to work. She is driven to learn new duties and assignments with a cooperative approach to help the department run in a smooth and effective manner. Her hard work and helpful attitude are indicative to how much she cares about Clinton City.</p>						
<b>C. DEPARTMENT HEAD OF THE SECOND QUARTER OF 2023</b>							
<b>Petitioner</b>	Dennis Cluff						
<b>Discussion</b>	<p>City Manager Cluff reported that Shannon could not attend the meeting; however he would like to recognize her as the Department Head of the Second Quarter for 2023. He explained that Shannon Mullins has been the Court Administrator for the Clinton Municipal Court for over 22 years. Shannon is a great employee and does an excellent job taking care of the Municipal Court activities. Over the years she has been in the forefront of innovations in the Court systems and procedures, many times working with the State Court personnel on new programs. She and her staff process and maintain a massive amount of records, documents and legal paperwork that is required for Court. Shannon works well with the Judge and her fellow workers. She represents the City well with the public and the professional organizations with which she works. She is very knowledgeable in her field of work.</p> <p>Shannon is a great person to work with and a valuable member of the City’s management team.</p>						
<b>D. EMPLOYEE SERVICE AWARDS FOR THE SECOND QUARTER OF 2023</b>							
<b>Petitioner</b>	Dennis Cluff						
<b>Discussion</b>	<p>The following employees are to be recognized for their longevity of service to Clinton City:</p> <table border="0" data-bbox="488 1255 987 1318"> <tr> <td>Spencer Arave</td> <td>Recreation</td> <td>20 years;</td> </tr> <tr> <td>Gwen Hansen</td> <td>Treasurer</td> <td>10 years.</td> </tr> </table> <p>We are grateful for the hard work and great attitudes exhibited in the work place by these employees.</p>	Spencer Arave	Recreation	20 years;	Gwen Hansen	Treasurer	10 years.
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<b>E. AWARD BID ON CDBG PROJECT FOR ADA RAMP INSTALLATIONS</b>							
<b>Petitioner</b>	Mayor Stanger						
<b>DISCUSSION</b>	<p>The purpose of the 2023 Curb Ramp CDBG Project is to rebuild pedestrian curb ramps in the city that do not comply with current ADA standards. This is the third phase of the curb ramp replacement project which includes areas around 2300 North and 1250 West. The project is partially funded through the Community Development Block Grant Program administered by Davis County. The project was publicly bid, with the city receiving a total of 3 bids. The bid tabulation is attached to the staff report and are as follows:</p> <table border="0" data-bbox="488 1759 922 1850"> <tr> <td>BHI:</td> <td>\$167,670.00</td> </tr> <tr> <td>ACME:</td> <td>\$230,940.00</td> </tr> <tr> <td>Leon Poulsen:</td> <td>\$241,650.00</td> </tr> </table>	BHI:	\$167,670.00	ACME:	\$230,940.00	Leon Poulsen:	\$241,650.00
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	<p>The low bid exceeded the originally estimated funding amount, so the quantity of curb ramps was reduced. The reduced project cost will be \$137,750 with Clinton City paying \$32,750 and the Davis County CDBG program paying \$105,000. The Clinton City portion will be paid for using money budgeted in FY 23-24 in the special roadway/street account #37.</p> <p>BHI has completed projects in many neighboring cities and is a reputable contractor. Staff recommends awarding the 2023 Curb Ramp CDBG Project to BHI for \$137,750.</p>																				
<b>CONCLUSION</b>	<p><i>Councilmember Searle moved to award the bid for the ADA Ramp Installations to BHI for \$137,750. Councilmember Tyler seconded the motion. Voting is as follows: Councilmember Dougherty, aye; Councilmember Searle, aye; Councilmember Stark, aye; Councilmember Tyler, aye.</i></p>																				
<b>F. AWARD BID ON 2023 STREET RECONSTRUCTION PROJECT</b>																					
<b>Petitioner</b>	Dennis Cluff, David Williams, Matthew Crump-JUB																				
<b>Discussion</b>	<p>The purpose of the 2023 Street Reconstruction project is to repair the asphalt pavement, curb/gutter, and sidewalk along 2550 North, 1000 West, 690 West, and 720 West roadways. The project includes various storm drain improvements and an improved roadway transition from 1000 West to 2550 North. The base bid for the project is for the 1000 West and 2550 North roadways. The bid also includes options for reconstructing the 690 West and 720 West roadways. The project was publicly bid, with the city receiving a total of 4 bids. The bid tabulation is attached to the staff report and are as follows:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"><b><u>Base Bid (1000 W &amp; 2550 N)</u></b></td> <td style="width: 50%;"><b><u>Option A - 690 West</u></b></td> </tr> <tr> <td>Post Construction: \$514,455.30</td> <td>Post Construction: \$166,808.80</td> </tr> <tr> <td>Staker Parson: \$564,434.20</td> <td>Staker Parson: \$178,322.00</td> </tr> <tr> <td>Black Forest: \$587,780.60</td> <td>Black Forest: \$178,567.84</td> </tr> <tr> <td>ACME: \$888,606.00</td> <td>ACME: \$212,671.00</td> </tr> <tr> <td><b><u>Option B - 720 West</u></b></td> <td><b><u>Project Total</u></b></td> </tr> <tr> <td>Post Construction: \$125,810.50</td> <td><b>Post Construction: \$818,587.80</b></td> </tr> <tr> <td>Staker Parson: \$116,264.10</td> <td><b>Staker Parson: \$859,266.14</b></td> </tr> <tr> <td>Black Forest: \$120,304.80</td> <td><b>Black Forest: \$892,733.40</b></td> </tr> <tr> <td>ACME: \$137,640.00</td> <td><b>ACME: \$1,238,917.00</b></td> </tr> </table> <p>The project will be paid for using money from a combination of the storm drain and street accounts. Approximately \$100,000 will be paid for using the storm drain account #53 and the remaining amount will be paid for using the special roadway/street account #37. This roadway project was originally planned for FY22-23 but has been delayed due to budget concerns. Due to the high cost of the project, Staff requested the bids for the project to be broken down into two options. Staff has spoken with the City Manager who feels that funds for the entire project are available. If the City Council agrees, the 690 West and 720 West Options may be added. Funding for the project is planned to come from the FY23-24 budget which will delay the projects originally planned for the coming budget year.</p> <p>Post Construction has completed projects in many neighboring cities and is a reputable contractor. Staff recommends awarding the bid of the 2023 Street Reconstruction Project to Post Construction for \$818,587.80.</p>	<b><u>Base Bid (1000 W &amp; 2550 N)</u></b>	<b><u>Option A - 690 West</u></b>	Post Construction: \$514,455.30	Post Construction: \$166,808.80	Staker Parson: \$564,434.20	Staker Parson: \$178,322.00	Black Forest: \$587,780.60	Black Forest: \$178,567.84	ACME: \$888,606.00	ACME: \$212,671.00	<b><u>Option B - 720 West</u></b>	<b><u>Project Total</u></b>	Post Construction: \$125,810.50	<b>Post Construction: \$818,587.80</b>	Staker Parson: \$116,264.10	<b>Staker Parson: \$859,266.14</b>	Black Forest: \$120,304.80	<b>Black Forest: \$892,733.40</b>	ACME: \$137,640.00	<b>ACME: \$1,238,917.00</b>
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<b>CONCLUSION</b>	<p><i>Councilmember Dougherty moved to award the bid for the 2023 Street Reconstruction Project to Post Construction for \$818,587.80. Councilmember Stark seconded the</i></p>																				

	<i>motion. Voting is as follows: Councilmember Dougherty, aye; Councilmember Searle, aye; Councilmember Stanton, aye; Councilmember Stark, aye; Councilmember Tyler, aye.</i>
<b>G. AWARD BID ON 2023 STREET SURFACE TREATMENTS</b>	
<b>Petitioner</b>	Dennis Cluff, David Williams, Matthew Crump-JUB
<b>Discussion</b>	<p>The purpose of the 2023 Street Surface Treatment Project is to lay a thin layer of asphalt slurry on top of various streets within the City, prolonging the life of the pavement. The project was publicly bid, with the city receiving a total of 2 bids. The bid tabulation is attached to the staff report and are as follows:</p> <p>Asphalt Preservation: \$163,742.00 M &amp; M Asphalt: \$210,366.00</p> <p>The project will be paid for using money budgeted in FY 23-24 in the special roadway/street account #37 and the Class “C” account #10-61.</p> <p>Asphalt Preservation has completed other projects throughout the City and has done exceptional work. Staff recommends awarding the 2023 Street Surface Treatment Project to Asphalt Preservation for \$163,742.00.</p>
<b>CONCLUSION</b>	<i>Councilmember Tyler moved to award the bid for the 2023 Street Surface Treatments to Asphalt Preservation for \$163,742.00. Councilmember Searle seconded the motion. Voting is as follows: Councilmember Dougherty, aye; Councilmember Searle, aye; Councilmember Stark, aye; Councilmember Tyler, aye.</i>
<b>H. DISCUSSION ON LEXINGTON ESTATES HOA ISSUES</b>	
<b>Petitioner</b>	Mayor Stanger
<b>Discussion</b>	<p>As part of the approval of the Lexington Park Estates subdivision in June 2003 the Council approved Resolution 20-03 approving the subdivision and approving Phase I of such. One of the facets of the approval was the inclusion of an HOA by the developer. The developer’s plan included a 5 foot landscape easement along the lots backing onto 1300 N. The HOA was to maintain the landscape in the street park strip and the landscaped easement. The developer’s intent was to have a beautification area along the outside and entrance into the subdivision.</p> <p>Many of the current residents of this subdivision are petitioning for the removal of the HOA requirement, since the fees they pay and the responsibilities of the HOA doesn’t directly affect or assist most of their properties. They have requested the City rescind the HOA requirement for their subdivision.</p> <p>Some of the issues if the HOA is rescinded are:</p> <ul style="list-style-type: none"> <li>a) What if anything needs to be added or removed from property deeds with the County and who would pay for that action;</li> <li>b) Who or how will the landscaped area and sidewalks be maintained; and,</li> <li>c) Who will pay for the backyard fences to be moved if that is the outcome of discussion on the landscaped area;</li> </ul> <p>Another discussion the City Council may wish to have is what kind of landscaping, if any, does the City desire along collector streets like 1300 N where subdivisions do not have housing with front yards facing the street.</p> <p>Aaron Kelly asked the Council to make a clear and concise decision on this issue and communicate it to the home owners.</p> <p>Jamie Eddy stated she consulted an attorney; the City should not have to approve</p>

the dissolution of the HOA. Her home is not in the HOA. There is no recording against her property. In fact, her attorney could not find anything for phase 3.

As for the business license, the HOA License expired in 2017; a new business was licensed in 2019. The management company allowed the license to lapse.

She would be in favor of seeing the fence moved and gates put in.

Diane Wariner bought her home in 2006. She was informed of the HOA. When the phases were all complete, there would be a fee of \$30.

The HOA has caused a significant amount of contentious in the neighborhood and does not appear to be the community standard

Stephanie Nelson has been involved with the HOA for 10 years. She explained the definition of fidelity as being faithful and loyal. She said she was disappointed in the discussion about the HOA the City Council had at their last meeting. The legalities need to be considered. She feels this is an overreach of government. It is contentious among her neighbors. She would like the Council to set aside their personal opinions and look at what is best for the citizens in Clinton.

Shane Rasband asked the Council to consider all the information gathered outside of the City offices. He would also like them to consider the City Zoning Code 28-19-11 regarding the useable open space definition. He does not feel that the HOA meets this requirement. There is no open space or a common area. The City does not have all the information nor does the County for the HOA.

Councilmember Dougherty stated that after extensive research and consultation with land-use attorneys from the Utah State Property Rights Ombudsman, they have concluded the City has no authority to require Lexington Estates to keep their landscape easement. She feels it would be respectful to everyone involved to walk through the relevant legal elements to ensure everyone is on the same page and there are no misconceptions.

She went on to describe a situation in Layton with a similar landscape easement to illustrate what Clinton's situation is and is not. Layton was requiring the easement to be dedicated to the public for aesthetic purposes, and the developer disagreed. The state Property Rights Ombudsman issued a formal opinion saying the landscape easement was an unlawful exaction and that because the subdivision didn't cause the aesthetics problem, it couldn't be required as a solution to the problem without compensation.

By comparison, Clinton did not require or exact the Lexington Estates landscape easement, and it was not dedicated to the public, so the City has no legal instrument for governing it. It was voluntary on the part of the developer, and there is no record of a development agreement between the developer and the City.

There are four legal documents governing the situation at hand:

1. Ordinance. No ordinance requiring landscape easements on major roads. Instead, Clinton has an ordinance that says it is optional for a developer. The Lexington Estates developer took that option. The ordinance says if a developer chooses to create such an easement, then it must be maintained by a professionally managed homeowners association.

2. The final plat map. The developer officially recorded his voluntary landscape easement on the plat, on all those homes along 1300 North. The developer dedicated the subdivision

streets to Clinton City and dedicated the 10-foot utility easements to the public, but did not dedicate the landscape easement to the public. That means the easement is private. The creation of the easement on the plat also meant the City ordinance requiring an HOA kicked in.

3. The Declaration of Covenants. The document created by the developer and recorded by the developer against the properties in his own subdivision. It sets up the HOA, as required by city ordinance, and it talks about the landscape easement in terms of being a common element of the HOA, meaning that it is private for the benefit of the HOA, not the public. The City is not a party to this Declaration of Covenants.

4. The resolution by the City Council. In 2003, the City Council passed an administrative resolution approving the final plat for the subdivision. It didn't create new laws, but administered the existing law, which was to require a professionally managed HOA to maintain the landscape easement, because the developer had chosen to create a landscape easement. The resolution did not require the easement in the first place.

Clinton City has no legal instrument for governing the Lexington Estates landscape easement. But, as long as the subdivision keeps it, the City ordinance does require it to have an HOA. If the HOA amends the Declaration of Covenants to remove the easement, then it goes through the process of amending the plat, then the HOA is moot, is no longer required by the City, and can be dissolved.

Note that Lexington's own Declaration of Covenants actually prevents them from amending anything for 40 years. But in 2015, the Legislature passed a law saying that kind of time limit on amending the governing documents of an HOA is illegal. So since 2015, Lexington has been free to amend its covenants.

The HOA covenants never mentioned the sidewalk and park strip, so those rights of way have always been the responsibility of the individual homeowners for snow and weed removal, as required for every homeowner in the City, and will continue to be so going forward.

Mayor Stanger asked if the lots were reduced from 35 feet to 30 feet which allowed the developer to put in a private easement that Clinton City has no authority over.

Community Development Director Peter Matson said it appears there are varying rear-yard setbacks along Lexington Estates corridor. But he explained that the setback reduction is merely optional under City Code in instances where a developer chooses a landscape buffer so setbacks would not be a factor the City would need to address in the event of the buffer's removal

Councilmember Dougherty confirmed the City has no authority to require the HOA, if there is no landscape buffer.

Mr. Cluff added that if the landscape easement ceases the code does not apply. He suggested that the Resolutions from 2003 be rescinded.

Councilmember Tyler commented the HOA and homeowners will need to amend the plat and work together to amend the subdivision plat through the Planning Commission and remove the landscape easement off of each home. They would also need to hire competent legal council or a civil engineer.

**I. REVIEW OF ANNUAL FRAUD RISK ASSESSMENT QUESTIONNAIRE**

<b>Petitioner</b>	Dennis Cluff, Steve Hubbard
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<b>Discussion</b>	The State Auditor’s Office requires an annual Fraud Risk Assessment Questionnaire that staff evaluates and fills out. This self assessment has become a pre-audit requirement at the beginning of each new fiscal year.
<b>CONCLUSION</b>	<i>Councilmember Searle moved to approve sending the Annual Fraud Risk Assessment Questionnaire to the State Auditor. Councilmember Stark seconded the motion. Voting is as follows: Councilmember Dougherty, aye; Councilmember Searle, aye; Councilmember Stark, Councilmember Tyler, aye.</i>
<b>Approval of Minutes</b>	<i>Councilmember Stark moved to adopt the minutes of the June 22, 2023 Special City Council Meeting; June 27, 2023 City Council Meeting and the June 28, 2023 Special City Council Meeting. Councilmember Tyler seconded the motion. Voting is as follows: Councilmember Dougherty, aye; Councilmember Searle, aye; Councilmember Stark, aye; Councilmember Tyler, aye.</i>
<b>Accounts Payable</b>	<i>Councilmember Tyler moved to authorize the payments. Councilmember Searle seconded the motion. Council members’ Dougherty, Searle, Stark and Tyler voted in favor of the motion.</i>
<b>Planning Commission Report</b>	<ul style="list-style-type: none"> <li>• The Planning Commission will meet on July 18.</li> </ul>
<b>City Manager</b>	<ul style="list-style-type: none"> <li>• July 24, 2023 is Independence Day and the City Offices will be closed.</li> </ul>
<b>Staff reports</b>	<ul style="list-style-type: none"> <li>• Public Works Director David Williams <ul style="list-style-type: none"> <li>• Safety sidewalk projects will be rebid</li> <li>• Sewer lining for 2022-23 is complete</li> <li>• Project for 2000 W is out to bid</li> <li>• 1300 N road is complete, chip seal will be installed the end of August</li> </ul> </li> <li>• Fire Chief Olsen reported staffing issues continues – down three paramedics <ul style="list-style-type: none"> <li>• Recreation Director Brooke Mitchell</li> <li>• Baseball All-stars – Wednesday at 5:30 July 19</li> <li>• Heritage Days surveys</li> </ul> </li> <li>• Police Chief Shawn Stoker <ul style="list-style-type: none"> <li>• Speeding is a concern throughout the City</li> <li>• Gave a positive report for the Police Department in regards to Heritage Days</li> </ul> </li> </ul>
<b>Councilmember Dougherty</b>	<ul style="list-style-type: none"> <li>• Nothing at this time.</li> </ul>
<b>Councilmember Searle</b>	<ul style="list-style-type: none"> <li>• Nothing at this time.</li> </ul>
<b>Councilmember Stanton</b>	<ul style="list-style-type: none"> <li>• Excused</li> </ul>
<b>Councilmember Tyler</b>	<ul style="list-style-type: none"> <li>• Nothing at this time.</li> </ul>
<b>Mayor Stanger</b>	<ul style="list-style-type: none"> <li>• 800 N and 1500 W – warrant study for additional traffic control.</li> </ul>
<b>ADJOURNMENT</b>	<i>Councilmember Tyler moved to adjourn. Councilmember Searle seconded the motion. Councilmembers Dougherty, Searle, Stark and Tyler voted in favor of the motion. The meeting adjourned at 8:30 pm.</i>

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**Lisa Titensor, Clinton City Recorder**