

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
October 28, 2014

4:00 P.M. WORK SESSION – PUBLIC SAFETY TRAINING ROOM

CONDUCTING	Mayor Richard F. Brunst, Jr.
ELECTED OFFICIALS	Councilmembers Hans Andersen, Margaret Black, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner
APPOINTED STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Richard Manning, Administrative Services Director; Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Bill Bell, Development Services Director; Scott Gurney, Fire Department Director; Charlene Crozier, Library Director; Gary Giles, Police Department Director; Chris Tschirki, Public Works Director; Jason Bench, Planning Division Manager; Karl Hirst, Recreation Director; Steven Downs, Assistant to the City Manager; and Taraleigh Gray, Deputy City Recorder

Mayor Brunst welcomed those in attendance and reported on the recent sale of Midtown Village. The Ritchie Group closed on the development and had been approved for enough financing to purchase the entire project and pay for the SID bond. He said Midtown should be considered a delayed project, not a failed project. The finished project would bring in millions in sales, property, and franchise taxes.

Mr. Downs shared a video created to highlight life in Orem. Mr. Downs said the video would be shared on social media websites to enhance the Orem brand within the community.

UPDATE – IBI State Street Corridor Master Plan

Dave Nicholas, IBI Group, gave a project overview of the State Street Corridor Master Plan. He explained that within the State Street Corridor Master Plan process, IBI had established a steering committee and had created another committee to look at project identity and brand analysis. The purpose in meeting with the Council was to begin engagement and to receive input and insight. He presented a project overview, the public outreach plan, emerging trends, the master plan elements, and mobility concepts. He said that State Street was both a “through” corridor and a “to” corridor, and the emphasis of IBI would be centered on growth.

Mr. Davidson said that as the City had investigated MindMixer they had determined there was value in that type of engagement above and beyond this process. It was the City’s entry into the MindMixer world but the intent was to utilize that kind of tool on other projects.

Mr. Nicholas said that IBI had a twenty-six week schedule, with new information being released every two weeks. He addressed the issue of project identity and brand analysis and shared a

video which was produced as part of the selection and competition process. The video emphasized reimagining State Street for better land use as well as transportation and neighborhood expansion, keeping in mind the notion that Orem was a place of growth.

Mr. Nicholas discussed several emerging trends that would likely impact the State Street Corridor Master Plan. He said that all this data applies nationally as well as to Orem.

- Baby Boomers & Millennials were at key moments in their life cycles and would be considering residential downsizing and health care needs.
- Debt for Millennials had skyrocketed but incomes had stagnated. That factor influenced transportation choices.
- Low-tech, heavy industry was losing jobs to high-tech, virtual manufacturing.
- Vibrant, active, mixed-use urban places encouraged connections between knowledge workers.
- A large portion of the workforce would be freelancers, contractors, and temp-workers and would erode the morning commute.
- Considering transportation costs, suburban “drive-till-you-qualify” living was unaffordable.
- People were driving less.
- Bicycle, transit and pedestrian trips had been increasing while car trips had decreased.
- People were using apps to choose the least expensive transportation option for a trip.
- Fifty-three percent of Millennials lived in suburbs but expressed a preference to living in a city or village.
- New homebuyer demographics demanded smaller, denser, more urban housing types.
- When given shorter commutes and more walkability, Americans were willing to forego the big suburban home.
- Walkability was becoming more important for suburbanites.
- Experiential brick-and-mortar retail would thrive while tradition retail would lose to low-cost and online retailers. Some online retailers are now creating brick-and-mortar stores to provide an experience to their customers.

Mayor Brunst said Millennials did not think about lawns, cars, and mass transit in the same way that Baby Boomers did. Even hotels were being redesigned for that new mindset.

Mr. Nicholas said the Millennial group and the way they thought would shape the way the United States did business for the next fifty years.

Kelly Pfof, Lewis & Young, said the national trends gave a framework, and MindMixer would help to know what was resonating locally.

Mr. Whitchurch said Salt Lake City had the second highest population of Millennials in the country.

Mr. Macdonald reflected that Utah cities did not necessarily follow the trends of other large cities across the nation.

Mrs. Black said that in the branding committee meeting it was noted some of the Millennial predictions were based on singles or a couple with no children. It was said that Millennials were

ten years behind Baby Boomers in what they did. She suggested that in ten years the Millennials might have different thought processes and would not be riding bikes when they had three or four children.

Mr. Nicholas said that the Master Plan was organized under the categories of vision, mobility, land use, and urban design and implementation. They would also consider economics and land use in the Master Plan. He said IBI was founded on the principles of city building and that they believed that land use plus transportation would equal better urban design and economic diversity. He said that they did not look at State Street as a transportation project or a corridor project, but as a strategic planned growth, redevelopment project. Mr. Nicholas said that a large part of the plan was the transportation component. IBI looked at the idea of a multiway boulevard, or mixed-use street. A multiway boulevard was a mixed-use street where the nodes were cleaned up and more mobility was incorporated. The core principles behind a multiway boulevard included separating through and local traffic; adding additional transportation nodes; improving safety and security; establishing a pedestrian realm; and increasing economic development. He said that it would be a pedestrian-friendly space, with about 40 percent of it being vehicle-only space. Mr. Nicholas shared several case studies of mixed-use boulevards, some with dedicated transit lanes or through lanes separate from local lanes. Property values rose with multiway boulevards.

Mayor Brunst said Orem had a unique situation where State Street was not a series of homes or townhomes, but businesses that wanted to stay in business. There was an instance where two city trees had grown to cover a business sign. He said the City would want to be considerate of businesses when planning the landscaping.

Mr. Nicholas said that IBI saw State Street, Orem Boulevard, and the crossing of the two as a trifecta that could create the urban fabric and pattern of streets that could turn into a more walkable environment and a more attractive environment for businesses with additional street frontage. He said that Orem could look to Orem Boulevard as a corridor controlled by the City that could be utilized in concert with State Street for a broader picture solution. Mr. Nicholas said they were looking at mid-block connections to the neighborhoods east and west of State Street. He emphasized that they were looking at the project as a lateral plan and not just a linear corridor.

Mayor Brunst said it would be nice to have some kind of computer program whereby officials and citizens could rearrange the street configurations and landscaping on State Street and Orem Boulevard to see different possible scenarios.

Mrs. Black said the citizens would appreciate seeing the possibilities.

Mr. Sumner asked if UDOT had any plans for State Street. Mr. Nicholas said there was a meeting scheduled for November 20th to begin exploring with UDOT the presented ideas.

Mr. Davidson said the purpose of getting the group together was to include all the partners, such as UTA, UDOT, and Provo City. UDOT was concerned about capacity. UTA envisioned a day when State Street would be part of transit.

Mr. Sumner asked if State Street business owners would be part of the conversation. Mr. Davidson said that was part of the effort the team members were engaged in.

Mr. Whitchurch said those stakeholders would be involved in the branding as well. The goal was to broaden the input from the community. IBI wanted to get as many people involved in the dialogue as possible to keep the project cohesive.

Brandon Stocksdale, Orem long-range planner, said they were looking at different ways to engage people. He said they had used public and social media and also had printed notices for businesses along State Street and were holding public open houses.

Mrs. Black asked if traditional charrettes would be used. Mr. Nicholas said the format would be roundtable workshop discussions about the different categories such as land use, mobility, etc.

Mrs. Black asked if there was anything in the framework about nodes. Mr. Nicholas said that they would be looking at nodes and districts and considering density.

Mr. Davidson said the purpose in bringing the presentation to the Council was to encourage and request City Council involvement. He said he would hate to come to the Council with a plan they had not been party to. The City staff wanted the Council to be involved and engaged, and asked for active participation in the master-plan effort.

Mayor Brunst asked for detailed information in advance about the stakeholder meetings so the Council could plan their schedules accordingly.

Mr. Nicholas said he had emailed some information to the City Council but added that he would send out the information as a calendar item.

Mr. Davidson suggested that not all Councilmembers attend all the same meetings as they would be discussing different topics. Councilmembers would be advised about the topics in advance.

DISCUSSION – Neighborhood Plans

Brandon Stocksdale, Orem long-range planner, provided a presentation regarding the City's Neighborhood Plan Program. He said that the Planning Department's goal was to be proactive about how the future of Orem would look and how it would protect the elements that have made Orem great. He said they wanted to take the citywide planning goals and look at them on a neighborhood level.

Mr. Stocksdale said the purpose of the program was to:

- Support the City Council's Areas of Focus
- Promote community planning by identifying local needs and concerns
- Improve City communication with residents
- Apply citywide plans to the neighborhood level

Mr. Stocksdale said the desired outcomes of the program were:

- To increase positive residential involvement in the planning process
- To identify and resolve concerns at the local level

- To support citywide comprehensive planning through neighborhood buy-in and ownership
- To introduce the MindMixer communication platform to citizens and businesses

Mr. Stocksdale said that the overall goal was to create a neighborhood plan about 25-30 pages long that somebody with no planning experience could pick up and understand what their neighborhood was, what its needs were, and what its future could look like based on citizen involvement and citizen goals.

Mr. Stocksdale said each neighborhood plan would:

- Introduce the neighborhood – describe it and its background
- Describe the existing characteristics such as land use, schools, etc.
- Examine goals for the future of the neighborhood
- Examine the urban design of the neighborhood
- Examine implementation strategies for the plan

Mr. Stocksdale presented the tentative priority order to proceed through the plans.

Mayor Brunst asked why it was prioritized the way it was.

Mr. Stocksdale said they wanted to get a firm grasp on the State Street study. He said they wanted to be able to take elements of that study and apply it on local levels. It was a tentative plan and could be revised according to needs. The neighborhoods were grouped into ten groups. He said they planned to work on two groups per year and to finish in five years.

Mayor Brunst said the Councilmembers were assigned to each neighborhood and should be intimately involved with the neighborhoods during this process.

Mrs. Black said there were many neighborhoods that did not have NIA chairs. She said this would be a good time to get chairs, when they would have a lot of things to do.

Mr. Stocksdale said that anyone who wanted to participate on the committees would be welcome and that they hoped to include residents, business owners, school representatives, and religious leaders as well as City staff on each of the neighborhood committees.

Mayor Brunst commented that Orem had a diverse community of religious groups, including quite a large and involved Catholic Church and a small Community Church. He said he had spoken to the leaders of these churches who had said that they would like to be involved on a community level.

Mr. Stocksdale discussed the various methods that would be involved in the Public Outreach Plan. These included:

- MindMixer
- SurveyMonkey
- Project (Neighborhood) Blog
- Orem City Facebook
- Neighborhood Canvassing

- Chalkboard/Idea Board
- School Bulletins
- NIA Leadership
- Utility Bills / City Newsletter
- Mailings / Fliers

Mr. Stocksdale said that there were a lot of changes happening in Orem and that this was an opportunity for balance, bringing positive change while preserving what was most important.

Mr. Bybee took a moment to express appreciation to Taraleigh Gray, Deputy City Recorder, who would be leaving the Recorder’s Office at the end of October.

5:30 P.M. STUDY SESSION- PUBLIC SAFETY TRAINING ROOM

CONDUCTING	Mayor Richard F. Brunst, Jr.
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APPOINTED STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Richard Manning, Administrative Services Director; Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Bill Bell, Development Services Director; Scott Gurney, Fire Department Director; Charlene Crozier, Library Director; Gary Giles, Police Department Director; Chris Tschirki, Public Works Director; Jason Bench, Planning Division Manager; Karl Hirst, Recreation Director; Steven Downs, Assistant to the City Manager; and Taraleigh Gray, Deputy City Recorder

Preview Upcoming Agenda Items
City Council and staff reviewed upcoming agenda items.

Agenda Review
City Council and staff reviewed the items on the agenda.

City Council New Business
The Council adjourned at 5:55 p.m. to the City Council Chambers for the regular meeting.

6:00 P.M. REGULAR SESSION

CONDUCTING	Mayor Richard F. Brunst, Jr.
ELECTED OFFICIALS	Councilmembers Hans Andersen, Margaret Black, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Richard Manning, Administrative Services Director; Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Bill Bell, Development Services Director; Scott Gurney, Fire Department Director; Charlene Crozier, Library Director; Gary Giles, Police Department Director; Chris Tschirki, Public Works Director; Jason Bench, Planning Division Manager; Karl Hirst, Recreation Director; Steven Downs, Assistant to the City Manager; and Taraleigh Gray, Deputy City Recorder

INVOCATION / INSPIRATIONAL THOUGHT PLEDGE OF ALLEGIANCE

Floyd Ostler
Jacob Siebach

APPROVAL OF MINUTES

Mr. Seastrand **moved** to approve the minutes from the October 14, 2014 City Council meeting. Mrs. Black **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 7-0.

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

Upcoming Events

The Mayor referred the Council to the upcoming events listed in the agenda packet. He specially noted the upcoming groundbreaking for the completion of Midtown Village due to the recent purchase of the property and he presented information regarding the plans for the project.

Appointments to Boards and Commissions

There were no appointments.

Recognition of New Neighborhoods in Action Officers

No new Neighborhood in Action officers were recognized.

Presentation

Sunil Naidu, president of the Utah Government Finance Officers Association and representing the National GFOA, presented a Certificate of Achievement, recognizing that the City of Orem had gone beyond the minimum requirements of generally accepted accounting principles and prepared a Comprehensive Annual Financial Report that evidenced the spirit of transparency and full disclosure. He commended Richard Manning and the Administrative Services Department and Brandon Nelson and the entire accounting division for the countless hours they spent doing quality work throughout the year and for preparing the CAFR which met national standards. The City of Orem had received this award for the twenty-sixth consecutive year. He presented the award to Brandon Nelson, Accounting Division Manager.

Report – Library Advisory Commission

Julene Butler introduced the members of the Library Advisory Commission who were present at the meeting and thanked Councilmember Tom Macdonald for his participation on the commission. She also commended Charlene Crozier and the entire library staff.

Ms. Butler addressed the question of whether libraries were still needed in the age of the internet. She said that libraries provided much more than just information to the citizens of the community. She said their presentation was based on an article in the January 2014 issue of Forbes Magazine, titled, “Why Public Libraries Matter and How They Can Do More.” The article identified three missions of the library:

Mission 1: Promote Reading – not simply be there for people who express interest.

Mission 2: Offer Access to Information – including internet connectivity.

Mission 3: Anchor the community and offer citizens a place to gather and to learn.

Ms. Butler complimented the library staff for providing relevant and highly current services to the citizens of Orem.

Mayor Brunst said he noticed that he often had a hard time to find a parking space. He had always been impressed to see how many families were walking out with books and how busy the Library was during the week. He said he thought Orem had one of the most active and well-supported libraries around.

Terry Smith, a member of the LAC, discussed collection and circulation, which continued to be robust with all ages having high usage. There were over 245,000 items in print; over 45,000 items in audio; more than 33,000 items in video; more than 2800 other items; and a total of over 329,000 items in the library. She said that circulation this past year was over 1 million items. She said the excellent collection served not just the reader but also the life-long learner.

Ms. Smith said the library helped the user discover new information sources. She said the library was a well-used, well-loved part of the city.

James Jones, a member of the LAC, spoke about electronic resources that the library offered to the city. He said the Orem Library ebook collection had been increasing. Recently the Library received a grant to purchase an additional \$10,000 worth of ebooks. He said research showed that people who read ebooks actually read more print books also. He said that ematerial circulation was up 200 percent. Mr. Jones said that computer labs and the internet connections were a great resource for students. He said that the computer access in the public schools usually closed shortly after school hours ended, so having the computers in the library allowed students to complete projects.

Darla Baker, a member of the LAC, said the Orem Public Library sees thousands of visitors each week with diverse needs and sometimes interesting requests, including a request for a librarian to hold a kitten during story time, which request was granted.

Ms. Baker addressed the various programs at the library, including:

- Weekly Storytime and Laptime for Children
- Summer Reading for children and teens
- Concerts featuring all types of music

- Plays and puppets
- Author visits and readings
- Community presentations and discussions
- Film screenings
- Unique events and opportunities

Ms. Baker said that in the 2013-2014 fiscal year almost 60,000 attended the programs offered by the library.

Ms. Butler commented on how the library provided an anchor for the community. She said people gathered at the library from all around the valley. Recently, Orem Public Library was recognized as the #1 public library in Utah Valley.

Ms. Butler said the library also provided an opportunity for people to serve, and that several hundred people volunteered at the library, which helped keep the library budget down. She said that each returned book was cleaned and volunteers were very helpful with this and other tasks.

Ms. Butler said that, last year, over \$36,000 worth of materials were donated to the library, which also helped keep the budget down. She said that people also donated money to the library.

Ms. Butler reported that the Utah State Library Board ranked the Center for Story as its highest priority for library capital funding this year. She said that the Utah Department of Heritage and Arts and would present that ranking and that information to the governor and to the legislature in the upcoming months. She reported that over \$4,010,000 already been raised for the project, which was originally estimated to cost \$4.4 million, but she acknowledged that the price had probably gone up over time. She said that the library was continuing to raise funds for that project.

Ms. Butler thanked the City Council and the residents for their continued support of the Orem Public Library.

Mayor Brunst commented that he was very proud of the community and the quality of life and said that the library was a big part of that.

Report – Annual Judges Report

Municipal Judge Reed Parkin provided the annual Judges Report to the Council. He said that the court was in good standing with excellent court staff. He reviewed the three branches of local government – Executive (the Mayor), Legislative (the Council), and Judicial (the Judge.)

Judge Parkin reviewed the following:

- Fines
- Retention system for judges
- State Legislature’s Judicial Performance Evaluation Commission

Mr. Seastrand said one of the main reasons for the justice court was to make the process faster, friendlier, and less intimidating.

Judge Parkin said that a justice court gave the opportunity to determine the flavor of a community. The court was local, convenient, and safe. He said the municipal court staff recognized they were in the service business.

Mrs. Black said she remembered that Judge Parkin had recently received an honor and asked him to report what the honor was.

Judge Parkin said he had been recognized as the Justice Court Judge of the Year, and he was honored by the recognition and gesture.

Mayor Brunst thanked Judge Parkin for the work he was doing and the quality and high level of service he gave.

CITY MANAGER'S APPOINTMENTS

Appointments to Boards and Commissions

There were no City Manager appointments.

PERSONAL APPEARANCES

Aaron Orullion said he was a member of the State Street Corridor Master Plan Redevelopment Committee. He reported surveying businesses on State Street and learned that all wanted to see a different concept and a change. He said the redevelopment would be funded by grants and private businesses. He voiced concern about the job and business losses Orem had recently experienced. He said the CDA redevelopment effort at the University Mall would cost the citizens no money. He voiced concern about the misinformation and scare tactics used by the groups circulating referendum actions. He said the CDA referendum would negatively affect the redevelopment of State Street because businesses did not want to be bothered by the hassle of the referendum efforts. He encouraged the public to attend the open house meetings sponsored by the Woodbury Corporation.

Jacob Siebach said he was disappointed by the efforts made to curtail the petition for the referendum. He said that the Council members had made their views known by their votes and should not be trying to influence the petition. He voiced support for the referendum actions made available to the citizens. He asked for the Council to support the petition for the referendum by signing the petition and then to let their voices be heard at the polls.

Curtis Wood asked about the staffing of the interlocal ethics commission and if that type of thing always had to start with lawyers. He said there had to be a way to look at the ethics issue and deal with it. He said in the military the inspector general was used. Regarding the CDA, Mr. Wood said the Council had done its due diligence. He said it would be a terrific project and asked that the Council members not sign the referendum petition.

John Whitaker represented and read a statement from the Utah Valley Chamber of Commerce. He said the UVCofC supported the CDA and the redevelopment project as a whole. It would create office space allowing businesses to stay in Orem as well as bring new businesses in. It would bring high quality housing, new retail, and a wonderful park. The multiuse community gathering place would bring the community together. There would be no new taxes, but it would

increase the tax dollars being infused into the taxing entities. No one would have tax dollars taken away. The property tax rebate was only a portion of the increase in property taxes over twenty years. The development would increase sales tax and franchise tax revenues. They hoped the citizens of Orem would not support the petition drive but would instead support the innovating and exciting project for the benefit of all of Orem.

CONSENT ITEMS

Mr. Andersen **moved** to cancel the November 25, 2014, City Council meeting and reschedule the City Council meeting on November 18, 2014. Mr. Seastrand **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard F. Brunst, Mark E. Seastrand, David Spencer, and Brent Sumner. Those voting nay: Tom MacDonald The motion **passed**, 6-1.

SCHEDULED ITEMS

6:20 P.M. PUBLIC HEARING

REZONE AND ZONE ORDINANCE AMENDMENT - Enacting Section 22-11-54 (PD-41 zone) and Appendix "JJ" (concept plan); and Amending Section 22-5-3(A) and the zoning map of the City of Orem by rezoning property located at 1200 West Center Street from the R8 zone to the PD-41 zone

Jason Bench, Planning Division Manager, presented an applicant request proposing to create the PD-41 zone and to apply the PD-41 zone to a parcel of property located at 1200 West Center Street, consisting of approximately 12.07 acres. The property was currently owned by Richard and Sharon Christensen with whom the applicant had a contract to develop the property. He said that the application had been invested more than six months ago, before the City Council moved to postpone PD zones along Center Street.

Mr. Bench noted that neighborhood meetings were held on January 30, 2014 and August 13, 2014 regarding the proposed rezone and the addition of commercial pads to the original concept plan. There were approximately 25-30 people at both meetings. Some of the major concerns were access to the residential neighborhood to the north on 1140 West and whether or not the applicant had sufficient on-site parking. An email was received from the president of the Peach Haven HOA located east of the project indicating support for the proposal.

According to the General Plan, "Planned Development zones are intended to allow freedom of design in order to obtain development which will be an asset to the City." Further, they are to "be located in commercial and industrial land use locations." The General Plan designation for this area was Community Commercial and the requested zone change is more in alignment with the General Plan than the current R8 zone especially given the property location and access from I-15.

Mr. Bench said that the property had been vacant for many years and the last development proposal to come before the Council for the property was the Sunset Ridge project which was proposed in 2007 and which included an office building, restaurant pad, and 75 multifamily housing units. That proposal was denied by the City Council on a 4-3 vote because the Council at the time wanted more commercial uses on the property, citing the uniqueness of the property as one of the last large vacant properties adjacent to I-15.

The proposed PD-41 zone would allow up to 17 units per acre, broken up into a 168-unit residential component and a two-pad commercial area.

Some of the key elements of the proposed PD-41 zone would include:

- A mix of residential and commercial uses
- A maximum building height of forty-five feet for the residential area and fifty-five feet for the commercial pads
- A common wall for the two commercial units
- An eight foot buffered sidewalk along Center Street
- Signage for each commercial pad and for the residential development with frontage on Center Street
- Two required parking stalls per residential unit and commercial parking to comply with Section 22-15 of the Orem City Code
- One access to be provided to Center Street, one access connecting to 1140 West to the North, and a new access connecting to 1200 West (right in / right out, with a concrete median on 1200 West) which will be required by development agreement and which will also require the applicant to acquire property from UDOT and to install the access
- New precast fencing to be installed on the west and north side of the project

As part of its analysis of this request, the City's Economic Development Department hired a consultant (Van Drimmelen & Associates, Inc.) to conduct an analysis of the highest and best use for the property. The study concluded that the top three uses for the property were:

1. Office uses
2. Retail development
3. Multifamily residential development

A traffic study performed in connection with the rezone request indicated that if the proposed development only had access from Center Street and 1200 West, the access onto Center Street would have a traffic failure condition (Level of Service - F). The size of the proposed development did not create traffic levels high enough to warrant installation of a traffic signal. Therefore, to eliminate the traffic failure condition, the City Engineer recommended that a third access be added.

In order to mitigate some of the impacts that would result from development under the PD-41 zone, it was anticipated that Wasatch Advantage Group and the Christensens would sign a development agreement in which they would agree to:

1. Construct a new access to 1200 West or limit the project to 50 units;
2. Connect 1140 West;
3. Contribute \$10,000 toward the signal improvement at 1200 West and Center Street, including a U-turn motion; and
4. Create a "Gateway Landscaped Area" at the northeast corner of 1200 West and Center Street consisting of landscaping, a water feature and a City of Orem sign.

The advantages of the project included:

- The proposed project would develop an undeveloped property into one that provides economic benefits for the City and serves as a major gateway to the City.

- The development would promote traffic circulation through the project including access points on Center Street, 1200 West and 1140 West.
- Design elements for the project promoted aesthetically attractive improvements with increased attention to landscaping and building appearance.

The disadvantages of the project included:

- The proposed uses may not be the “highest and best” use for the property.
- The project develops one of the last remaining vacant properties adjacent to and highly visible from I-15 and a major entrance to the City.
- Access from the development onto 1140 West Street would increase local traffic in the area; however, the project contained three access points that would distribute the traffic on Center Street, 1200 West and 1140 West.

Mr. Bench said the Planning Commission did recommend approval of the proposal with a vote of 6-0.

Mayor Brunst commented that retail establishments that had occupied the area in years past had failed. Mr. Seastrand said that those businesses had been demolished because of the reconfiguration of 1200 West. Mr. Bench said that the 7-11 on that site had done well, but it was on the corner and the rest of the property had been vacant for quite some time.

Mr. Sumner asked for clarification on how the traffic flow of commercial and retail would compare to the predicted traffic flow with the residential component. Mr. Bench referred him to the applicant’s transportation engineer.

Adam Lankford of Wasatch Advantage Group, the developer, introduced Brian Christensen, who represented the Christensen family, owners of the property, and John Dorney of Horrocks Engineers, the traffic engineers on the project. Mr. Lankford said the project was a joint venture with Wasatch Advantage Group and the Christensen family.

Mayor Brunst asked Mr. Christensen to address why they had decided to go with Wasatch Advantage Group in developing the property.

Mr. Christensen said his father purchased the property around 1974. Nothing happened for 10-15 years in spite of some inquiries. In 2008 a proposal was brought before the Council with a mixed use component, which was turned down. Since that time, Bruce Dickerson was contacted to bring anyone and everyone interested to visit the site. Many prospective people viewed the site and reported not liking the access points. He said that several apartment developers had approached them about the property. The Christensens were interested in long-term ownership and long-term income. He said the joint venture with Wasatch fit well with the Christensens’ goals and would finally develop the property.

Mr. Lankford provided a slide presentation further explaining the joint venture. He said the Christensens would put the land in and Wasatch would do the development. He said they would hold the project together and move forward as a team.

Mr. Lankford said that Wasatch owned and managed about 16,000 units throughout the west. He said they were a Utah company and that they had been operating since the 1980s. He said they were currently in negotiations to invest in other projects in Orem.

Mr. Lankford said that Wasatch wanted to attract “renters by choice.” These were people who could buy a home but chose to rent a low-maintenance, highly-managed place to live. There would be no sub-leasing or co-renting. He said their ten-year tenant average was over two years.

Mr. Lankford said they looked at each of their developments as a long-term investment, which is good for the city because they put away capital from month one to invest in capital improvements annually. He said they used better materials because they held the property longer.

Mr. Lankford said the services to renters would include:

- Full-time professional staff of five or six on the premises until 7 p.m.
- A three-hour work request
- Nightly services that would monitor parking and noise after hours

Mayor Brunst asked what the elevation change was from the east end to the west end of the hill. Mr. Christensen said it was 130 feet.

Mr. Lankford said it would be left native, and the slope would be left as it was as much as possible.

Mr. Lankford explained the evolution of the site-plan, including their work with UDOT to get the access at 1200 West. He said they had put a lot of work into buffering the line between the residential development and the existing single-family homes. He said the site would include 49 percent open space.

Mr. Lankford said the architecture would include three materials -- stucco, cement board and stone. Interiors would have 9-foot ceilings, kitchens with granite, garden tubs, and upgraded moulding, and hardware. He said each townhome would have a front porch and oversized windows. The Clubhouse would be a 3,000 square foot facility with media room and exercise facility, and would also serve as the leasing office and maintenance office.

Mr. Lankford said the proposed commercial component would blend with the rest of the project in terms of colors, architecture, and signage. He said it might include gas stations and/or restaurants. The proposed water feature would include a “Welcome to Orem” sign.

Mr. Lankford voiced his opinion on the “highest and best use study.” He said two different appraisers might come up with two different results from “highest and best use studies.” He said such studies were typically used by developers to determine the best return on their investment. He said that Wasatch had determined, based on their own assets and experience, that their plan was the best for the site and for the market. He said residential use would produce the least amount of traffic for the existing residential homes. The site constraints made it difficult to build only one or two large buildings.

Mr. Lankford said that the study did not take into consideration current traffic or current access issues with the property. He said those were the biggest problems with this property, and that was why Wasatch found the study problematic. He said it also did not consider the slope of the site. He said the study focused on for-sale residential rather than for-rent or for-lease, which was what Wasatch was proposing.

Mr. Dorney, traffic engineer, said the existing conditions were LOS C-D based on today's volumes, which was considered good. He said that many different combinations of traffic access had been considered. A shopping center usage would generate twice as much traffic as the presented site plan would. He said that UDOT had accepted the plan in that they had given verbal approval for the sale of property to create the third access point.

Mayor Brunst asked about U-turns. Mr. Dorney said the critical movement was turning left at the south access to eastbound Center Street, which was more accessible at different times of the day. He said the signal at 1200 West would have to be retimed to make the U-turn a safe maneuver.

Mrs. Black asked Mr. Dorney to point out the left-hand turn. Mr. Dorney explained that there would be left turns allowed out of the south access. He said that at certain times of the day the left turns would be easier than at other times. He said that, instead, people could turn right and go to the light at 1200 West and people could make a U-turn to head back eastbound.

Mr. Spencer asked if the access at 1020 West was considered. Mr. Dorney said 1020 West was in the heart of the neighborhood and they tried to avoid adding traffic there. There would be less impact and quicker access at 1200 West. Mr. Lankford said that they originally had no access points into the neighborhood, but they needed to add one.

Mr. Dorney said there would be no left-hand turns onto southbound 1200 West. It would be a right-in and right-out. This was part of their agreement with UDOT to prevent back-ups and delays onto Center Street. The main entrance would be on Center Street and that would accommodate those who wanted to go from the development, south onto 1200 West or east on Center Street.

There was discussion about whether or not people would choose to go through the neighborhood to avoid the traffic on Center Street, especially at 5:00. Mr. Dorney said that the statistics were based on 5:00 traffic. He said that any project on the property would have an access challenge and they felt this project offered the least impact. He pointed out that the developer would be paying for the change to the traffic signal.

Mayor Brunst acknowledged the office building on the south side which faced similar traffic issues. He said this was no different than facing difficulty in turning left onto State Street at certain times of day.

Mr. Spencer asked about the commercial component. Mr. Lankford said it could be two or one tenant. He said it could be a small hotel.

Mr. Sumner asked about the residential component, considering all the apartment complexes that are being built in Orem.

Mr. Christensen said that they had concerns, also, as did Wasatch. He said they were currently building in Pleasant Grove and every time they put up one ad they would get thirty phone calls. He said he knew there was a need. He said that Orem was a wonderful place to live and people were going to want to live in Orem. He said he thought these units would rent a lot more easily than some of the other projects.

Mr. Lankford said that apartments seemed to be the hot thing to jump into, but he felt that with their management and their product they could out-compete their competitors as they had year after year. He said they were not looking for students or to pack in tenants as cheap as possible. He reiterated that they were marketing to the “renter by choice.”

Mr. Sumner asked how they would handle it if six students piled into one apartment.

Mr. Lankford said people would not be able to do six students per apartment. He said they would be limited to two cars per unit. He said the managers would be aware of who the renters were. He said they had the right to evict any who would try to co-lease. They could not turn students away from renting, but they would do background and financial checks. He said they did not have a lot of students in their other projects. The units would be from 700-1400 square feet and \$950-\$1550 in rent.

Mr. Spencer asked about the Williams farm property and if there were incentives to live there. Mr. Lankford said nothing was finalized, but they often used corporate leases.

Mr. Macdonald said he looked at the project at 12300 South in Draper. He said that some of the apartment complexes in Orem which were, in theory, long-hold had not been kept up very well. He said the apartments in Draper looked different and were managed better than some of those projects he had seen in Orem.

Mayor Brunst said he had visited the property in Draper as well, and that that type of project would be beneficial in Orem.

Mrs. Black said she struggled with the lack of commercial space at that prime location. She noticed the residential was the first focus, with the commercial to come as opportunity arose. She said the commercial should have a higher priority. She asked if they had considered doing one more commercial pad out front.

Mr. Lankford said the commercial aspect was not an afterthought. They had been pursuing different tenants. The developer would build the entire space, including the road for the commercial aspect. They would be building a super pad for the commercial tenants. He said the decision was based on auto circulation and how they would get cars and people around the commercial aspect. He said the project would not be built in phases, but would be built all at once in about fourteen months.

Mayor Brunst said the property had sat there for forty years. He asked how many inquiries had come along in that time and not committed.

Mr. Christensen said at least 40 people had come and gone over the course of the ownership of the property. He did not know why it never had the right appeal, given its prime location. He said

they had not had one commercial tenant come forward in the last ten years except one that was tied to residential.

Mayor Brunst said he was familiar with what Wasatch had done. He said they had done multiple projects and were heavily invested in the City of Orem.

Mr. Seastrand said a request for a PD zone should not be just to increase density. The idea was that it had to be unique. He asked why the current R8 zoning would not work for the property.

Mr. Lankford said this type of property would call out for higher density or retail given the location.

Mr. Seastrand asked if the traffic concerns would be mitigated with lower density.

Mr. Lankford said individual lots would not be the best land use. He said single family homes would be harder to sell on that arterial.

Mr. Seastrand reiterated that it appeared that part of the reason for the request for the PD zone to increase the density, and that was not the purpose of a PD zone.

Mr. Lankford said the planned residential density was fourteen units per acre. The overall PD would allow seventeen units per acre but they were not trying to maximize. The developer was looking to create a long-term successful project, not to create higher density and increase income alone.

Mr. Christensen said a \$250,000 homebuyer would not want to live there. He said that in order to make the site work with single lots they would have to build very small homes. He said that in the plan there were fewer numbers of buildings bordering the south side of the current residential area than there would be if they built single-family homes.

Mr. Seastrand said he thought part of the issue was the impact on the existing neighborhood. He said there were aspects of the proposed project that concerned him.

Mayor Brunst opened the public hearing.

Floyd Ostler recommended that the access to the north be cut off. The roads there were for the purpose of residential. He said people had bought their homes under the current zoning.

Dennis Cullimore, President of the Peach Haven HOA, said the HOA had not sent an email and if an email was received it represented only one homeowner. He voiced concern about the traffic to the neighborhood to the north. He also had concern over the impact the development would have on the twelve-foot retaining wall. He also wanted whatever was developed to improve the look of the entry into Orem from I-15.

Elaine Mackey said the best way to get out of the area is to go through the neighborhood. She said she was tired of the field and ready for a change, but not ready to bring that many people through the neighborhood. People in the neighborhood were looking to move if the PD zone was approved. She wanted to know where the heavy equipment would go in and out during

construction. She was also concerned about visitors to the new apartments parking in front of her home.

Lee Mackey said he had lived in Orem for sixty-seven years. He said he did not like the way things were going. He asked if the survey had considered the increased traffic when the Vineyard developments were completed. He said he suspected a lot more people would be coming up Center Street.

Matt Cook suspected lower density would not have the same traffic impact. His concern was what kind of tenants there would be. He was concerned that the developer would accept just any kind of tenant to make sure the units were not empty. He voiced concern about overflow parking. He worried about the safety issue and also about privacy.

Larry Driscoll said there were many children in the area. He challenged the Council to observe the volume and speed of traffic and then envision it in the snow. He said EMS responded to many accidents at 800 West Center. The neighbors were against the traffic issues, not the development of the vacant property. He asked the Council how many lives the development was worth in the future.

Marty Bradbury said that 168 x 2.5 was 420, not 361. He said traffic was a major concern. He wondered if the Council would be addressing the citizens' questions and concerns. He asked about the fence heights. He encouraged the Council to consider the number of people in the homes versus the number of people in the units.

Bryce McCallister voiced concerns about the traffic with the project. He discussed the previous accidents that had involved homes in the neighborhood to the North. He said he was disappointed in the City Planning Commission. He hoped the Council would consider the changes taking place and that someone would be looking out for the Orem residents.

Gena Cook said she worried about visibility with a landscaped roundabout. She voiced concern about the safety of her children. She wondered about the high density and the added burden it would place upon the schools.

Mark Gehring said he had great concerns about the traffic patterns that would be brought into the neighborhood. He felt zoning was to protect people's rights. He said he was looking at the possibility of moving if the PD zone was approved.

Rebecca Green voiced concerns about traffic and density. She was in favor of development, but did not want to see such high density being developed. She said that she would be losing five feet of her privacy with the switch in easement. She said the development in Vineyard would turn Center Street into another 800 North.

Mayor Brunst closed the public hearing and brought the discussion back to the Council.

Mr. Lankford addressed a list of questions he gathered from the public comments. He said the connection to the neighborhood to the north was part of the City's master transportation plan. The first site plan did not include a connection to the neighborhood. He said the retaining wall on the east slope would not be disrupted. He said construction and staging would be onsite and the

project would be built in one phase. Access to the project would likely begin on Center Street. Construction would not be able to start until specific times of day. They would use watering to keep down the dirt. The developers had their own internal standard which would not be compromised. All parking would be handled on site. He said that if there was a neighborhood parking issue, people could call the night manager and it would be taken care of. There would be assigned parking for residents and visitor parking throughout the project.

Mr. Macdonald asked if there was a neighborhood near the Draper project, and asked for clarification on the number of parking stalls. Mr. Lankford said that there was a neighborhood by the Draper project, and he said there were 361 parking stalls planned, including garages, driveways, covered parking and visitor parking. Mr. Macdonald said that with 2 stalls per unit that left only about 25 stalls for visitors. Mr. Lankford suggested that the one-bedroom units would only need one stall, but Mr. Macdonald said the one-bedrooms would probably also need two stalls.

Mr. Seastrand asked if the numbers excluded the retail parking. Mr. Lankford said the retail had its own parking.

Mr. Andersen asked if the parking was side-by-side. Mr. Lankford said about 10 percent was tandem driveway parking and the rest was side-by-side.

Mr. Macdonald asked if the driveway parking was considered a stall. Mr. Lankford said there were three townhome sixplexes that had driveways, and those were counted as visitor parking for that unit. He said there were two-car garages.

Mr. Lankford said that the precast wall would be six or seven feet tall, based on what the residents wanted. He said they would plant trees all along the fence line.

Mr. Lankford said the school impact had not been investigated.

Mr. Dorney said they did consider future growth when considering the traffic. He said they considered regional growth and also followed Orem City's guidelines. Growth all around the entire project was considered.

Mr. Spencer said in the original plan the traffic study failed. In reality if the developer worked backwards to make it not fail, he wondered how many units would be possible without the access on 1140 West.

Mr. Lankford said the two commercial pads added the extra traffic burden. He said that if the third access was closed and all the traffic had to go through the front they would have to get rid of nearly all the residential units. He said they had tried many different iterations. The access on the east would not work because left- and right-hand turns would conflict, waiting for each other.

Mr. Spencer asked if there could be overflow parking near the walk park. Mr. Lankford said the slope would prohibit it there. He said that with the parking at their current properties they don't get complaints from the neighboring homes, but that the on-site manager would address any complaints.

Mr. Sumner asked if the third access point would have to be kept open with all three of the potential uses.

Mr. Dorney said they would. He said the residential would generate the least amount of traffic. He said they maximized a high-usage commercial property in the study, like a gas station and fast-food drive-through, so any other uses would have less traffic. He said just the retail would generate about 6,000 trips per day, and the residential would generate just under 1,600.

Mr. Seastrand had some questions about how many trips per day would be generated by the office space option as opposed to the other two options, and about how the estimates were made. He said it appeared that the office space option was the best in terms of traffic.

Paul Goodrich, Orem City transportation engineer, said they took the developer's proposal and projected traffic for a.m. and p.m., going in and out at peak hours. He said putting any more traffic at that location would fail. He said the access on 1200 West had to be limited – right-in and right-out – due to the location, and that was why they needed the third access. He said in order for an office tower to work it could not be a very big office.

Mr. Seastrand said, counting the allowable traffic during peak hours and the total projected numbers, it would seem there would be 10 hours of peak traffic in order to accommodate the 7600 car trips under the current configuration.

Mr. Lankford said that the access to the north would not be needed without the retail.

Mr. Lankford said that on the one hand they were talking about land uses and on the other hand they were talking about a plan that mixed two uses, so when they talked about the least number of trips per day being residential that would be if the entire site were residential. He said once retail or office was introduced the numbers would go up substantially.

Mr. Goodrich said in the campus area, neighborhood parking permits had been instituted to mitigate parking issues. The same action could be taken for the neighborhood to the north.

Mayor Brunst asked if 1140 West and 1020 West had always been planned to go through on the Master Plan.

Mr. Goodrich said that they were stub streets and were planned to go through eventually. He said he did not have the Master Plan in front of him and he did not remember if they were planned to connect all the way to Center Street. He said whenever there had been a street connection master plan for something to go through, if it were changed it was because of a rezone. He said that the project should not happen if only two access points were incorporated

Mr. Spencer asked what the number would be if they compromised on the number of apartments. He said the current residents were not happy with the high-density housing and he wondered if the residents would be happy if there were a compromise down to 140 and parking permits were issued for the roads in that neighborhood.

Mr. Lankford said they liked to be around 200 units for the high level of management they offer and they were already under that number. He said that 49 percent of the site was open space and they had a density of 14 instead of 17.

Mt. Spencer said retail should be a part of the site since it is a major thoroughfare off the freeway.

Mrs. Black asked about a fourth access point.

Mr. Goodrich said that 105 North was very steep, which was one of the safety concerns the neighbors in the area had, and a fourth access point would use cause more traffic on that street.

Mr. Lankford said they had a landscape median to make it look more private. He suggested they could perhaps add a large speed bump, landscaped island, private lane sign, or a crash gate to help mitigate the traffic concern.

Mr. Goodrich said a crash gate would stop all access.

Mayor Brunst acknowledged the difficulties with the hill and the traffic. He knew the traffic circulation was higher with a commercial component, and the City did want commercial development at this location. He said he felt it was a project that could be beneficial overall. He said that Alpine School District was aware of the housing developments happening in Vineyard, and did not think it would pose a problem with regard to schools.

Mr. Seastrand said he appreciated the reputation that Wasatch had. He said there were not many properties left to develop into commercial property and he would rather see something more towards commercial development.

Mr. Andersen wondered, should there be overflow, if people could park down in Area B.

Mr. Lankford said there would be cross-access agreements, especially during off-hours.

Mrs. Black said there would not be many off hours if there were a service station or a restaurant.

Mr. Macdonald wondered if the development should be moved back if Center Street were going to eventually have three lanes each way.

Mr. Goodrich said Mountainland Association of Governments (MAG) had Center Street as a six-lane highway in ten-plus years. He wasn't sure that a six-lane road would work there just based on the other existing developments along Center Street. He said MAG was in the study process with communities throughout the county to look at transportation plans and that Orem had just begun a lengthy process to determine what transportation improvements were needed. He said traffic on Center Street had gone down since 2006.

Mr. Davidson said it was important to note bridges across Utah Lake, as well as other great ideas that had no basis in reality, were part of that long term plan

Mr. Spencer asked if anyone had wanted to purchase the property.

Mr. Christensen said there were a couple of offers by agents who just wanted to flip the property, so they did not sell.

Mr. Davidson said that he understood that one of the barriers to the development of this parcel was whether or not the Christensen family wanted to sell the property.

Mr. Christensen said they had had the property sold at the time the previous project came to the City Council. They were going to be the co-developer but not the owner. He said he would be willing to sell if someone were to make an offer.

Mayor Brunst this was twelve acres and Wasatch had just purchased seventy-five acres within Orem City boundaries to develop into office and industrial space. He said their willingness to put in mixed retail and residential on this site was not out of sync with what the City of Orem was trying to put forth as far as future development of office space. He said he believed the developers would work with the city and with the residents to make the project as unobtrusive as possible. He said he understood that change was difficult for neighborhoods.

Mayor Brunst **moved** that the City Council approve the request to enact Section 22-11-54 (PD-41 zone) of the Orem City Code with the corresponding Appendix JJ (concept plan) and amend section 22-5-3(A) and the zoning map of the City of Orem by rezoning property located at 1200 West Center Street from the R8 zone to the PD-41 zone. Mr. Spencer **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, David Spencer, and Brent Sumner. Those voting nay: Margaret Black, and Mark E. Seastrand. The motion **passed** 5-2.

The Council took a break at 9:40 p.m. and reconvened at 9:48 p.m.

ORDINANCE AMENDMENTS – Amending Various Chapters of the Orem City Code to Comply with Utah Law, Federal Law, Recent Case Law, to Remove Obsolete Provisions, and to Correct Scrivener’s Errors

Mayor Brunst invited Heather Schriever to present the proposed ordinance amendments.

Ms. Schriever pointed out that the Councilmembers had already seen the information regarding the proposed amendments and, because the hour was late, she was not going to take too much time but would just quickly outline them. She said that the City Attorney’s office had been collecting certain provisions within the City Code for a couple of years that needed to be amended.

The City Code needed to be updated in order to:

- Remove obsolete provisions
- Bring the City Code into compliance with changes in state law
- Resolve inconsistencies within the City Code
- Make substantive changes
- Correct formatting and scrivener’s errors

Obsolete provisions that needed to be removed were:

- Article 2-15 because the Youth Council Advisory Committee no longer existed
- Article 2-16 because the Media Review Commission no longer operated
- Section 9-3-2 because the City no longer required submission of videos and movies for review

Ms. Schriever proposed an oral modification to page 1 of the ordinance under §2-15-2(A) so that it would read, “*The Orem Youth City Council shall consist of representatives from Orem High Schools.*” She said the Council would no longer be limited to only 9 students so that more students could be involved.

Greg Stephens, City Attorney, said he had heard from some Mountain View students that they had never heard of the Youth City Council. He invited them to join. Mayor Brunst suggested that somebody from the City Council go to Mountain View to talk to the students and teachers.

The following changes would bring the Code into conformance with state law.

- Section 2-27-6 Court Facilities & Hours of Operation – to adopt state holidays for the Justice Court
- Article 2-30 Records Access & Management -- to bring the City Code in compliance with GRAMA; to add definitions, expand definitions, clarify additional records that were entitled to protection and to update citations; to give the City an additional 5 days to reply to GRAMA requests, which is in compliance with state law; and to change the appeal procedure so that the Utah Code would cover appeals of the City Manager’s termination
- Section 7-2-8 Discharge of Fireworks – to update the Fire Code to establish when a hazardous environmental condition exists and limiting the type of emission sources that could be used in Orem on certain days
- Section 12-5-13 Towing & Parking Enforcement Companies – to update the definition of abandoned vehicles
- Chapter 18 Taxation – including changes to City Tax Code Article 18-1 to reflect the correct levy of 1%, to include an exemption for sales and uses that have been taxed in other jurisdictions under the Local Sales and Use Tax Act, and to include language to define when a sale was consummated within the City of Orem; changes to Article 18-2 which would renumber and reorganize that ordinance; and changes to Article 18-4 reflecting the levy rate change to 3.5 percent made in 2008.

Mr. Sumner asked how many GRAMA requests were received and the cost involved in the GRAMA requests.

Ms. Schriever said with police, financial, City Recorder, and City management requests, there were thousands.

Mayor Brunst asked what the cost was of those requests.

Ms. Schriever said she spent 20-25 percent of her time dealing with GRAMA requests. She cited the recent request for all correspondence over the past six years dealing with UTOPIA. She had to review over 5,000 emails. She said the City could charge fees for collection of the records, conversion of the records into a different format but not for the attorney or records specialist to

review for proper classification. She said the fee could not be charged for the first half hour and it had to be limited to the lowest salary of the person in that department who would be able to perform that work. Most people asked the City to waive their fees, which was at the discretion of the City Manager.

Mr. Andersen asked where the UTOPIA request ended up.

Ms. Schriever said it went to the *Salt Lake Tribune*. She said they paid between \$800 and \$1,000.

Mr. Davidson said the fees adopted in the City's annual fee schedule.

Ms. Schriever proposed an oral modification to page 9 of the ordinance, under §2-30-7(A)(10). This modification would clarify that if the Council were to adopt and enact an ordinance approving a Municipal Ethics Commission, the documents submitted to that ethics commission would be treated in the same manner as the state organization treats their records. She proposed that §2-30-7(A)(11) be amended to read: *Records received by or generated by or for the political subdivision Ethics Review Commission established in Utah Code Annotated §11-49-201 or a local Municipal Ethics Commission established pursuant to Utah Code Annotated §10-3-3(11), except for the Commission Summary Data Report that is required in Utah Code Annotated §11-49-202 or required by applicable ordinance and any other document that is classified as public in accordance with Utah Code Annotated Title 11 Chapter 49, "Political Subdivisions: Ethics Review Commission" or applicable local ordinance.*

Proposed changes to resolve inconsistencies with the Orem City Code concerned §5-6-1 and §22-2-1. The Coded needed to be changed to say that there could be two dogs and two cats per dwelling, as opposed to per person or per lot.

Ms. Schriever proposed an oral modification to page sixteen of the ordinance to correct a typographical error in §5-6-1. It indicated that people could have up to four cats, but it should read, *except as otherwise provided in this chapter, there shall not be more than two dogs or two cats four months of age or older per dwelling.*

Ms. Schriever said that the amendments to Chapter 22 would need to go through the Planning Commission, so they would be completed at a later date.

Ms. Schriever said that the substantive change proposed was for §19-7-5(D), Regulation of Nonconsensual Towing and Booting Practices. The change would benefit small business owners who would need to have cars towed from their smaller lots in order to provide parking for their customers. The proposed amendment would allow the property owner to have vehicles towed from a private parking lot if it had been there more than forty-eight hours instead of after seven days.

Mayor Brunst asked how this would affect student housing.

Ms. Schriever explained that there were provisions in state law that that dealt with student housing, trailer courts and multiple-family dwellings which would preempt any municipal changes and which would regulate towing companies and private land owners.

Mr. Macdonald asked if business owners could still post limits for parking, such as for customers only or for only thirty minutes, and Ms. Schriever said they could do that as long as it was in compliance with state law and city ordinances. She also pointed out that this only applied to lots with more than four parking spaces.

Ms. Schriever proposed changes that would correct formatting and scrivener's errors. These included:

- Making citation forms consistent
- Correcting paragraph numbering
- Correcting punctuation

Mr. Macdonald **moved**, by ordinance, to amend the various chapters of the Orem City Code as explained to comply with Utah Law, Federal Law, recent case law, to remove obsolete provisions, and to correct scrivener's errors, along with the oral modifications made during the meeting. Mr. Seastrand **seconded** the motion. Those voting aye: Those voting aye: Hans Andersen, Margaret Black, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

ORDINANCE – Enacting Article 2-35, Establishing a Municipal Ethics Commission; Providing for the membership thereof pursuant to an interlocal agreement; Establishing the process for the filing of a complaint and the investigation and adjudication of the complaint

Mrs. Schriever said this ordinance would give residents of Orem a forum in which to file ethics complaints against the mayor, the city council, and the city manager. The City of Orem was given the authority to do this in 2012. Shortly thereafter Orem was asked to take the lead in the creation of an interlocal Municipal Ethics Commission made up of other cities throughout the county. Payson, Pleasant Grove and Spanish Fork have adopted the proposed ordinance and the interlocal agreement and other cities are considering enacting this ordinance.

Ms. Schriever said there would be three city attorneys on the commission, randomly selected. Attorneys from the city where a complaint originated would not sit on the commission when that complaint was being adjudicated.

Ms. Schriever said the following reasons were given as justification for composing the commission of city attorneys:

1. The city attorneys already had established expertise in ethics acts.
2. City attorneys were already familiar with the adjudicator process and would be able to conduct the commission in an efficient manner.
3. City attorneys would also help absorb the cost in creating the interlocal commission.

Mayor Brunst asked if the commission could include attorneys other than the actual City Attorney and Ms. Schriever said it could include assistants, deputies, or even the City Prosecutor.

Ms. Schriever said commission would only hear complaints that implicated the Municipal Officers' and Employees' Ethics Act or Orem City Code §2-6-8 and alleged complaints against

members of the City Council (including the Mayor) and the City Manager. This would not apply to other appointed positions, commissions, directors or other city employees.

Ms. Schriever said the commission would be an investigative body and would only make recommendations to the City Council and all final determinations regarding sanctions would be made by the City Council by a majority vote.

Mr. Stephens said there was no provision in state law that said that if you violated the Ethics Act you could be removed from office. He said he thought there was a difficulty with elected officials being removed from office without going through some type of court proceeding. He said that if the final decision was that somebody should be removed from office, there should be some type of court approval of that rather than just the City Council deciding.

Ms. Schriever said the Council would still have the authority to censure or to reprimand, or to impose any other sanction within reason that the Council thought would help the city official to take more appropriate steps in the future.

Mr. Andersen asked why not go five years instead of fifty years on the interlocal agreement.

Ms. Schriever said that enacting an interlocal agreement was an arduous process. To this point this one had taken two years to prepare. She said that fifty years was the statutory cap for interlocal agreements and was the default. She said if the city wanted they could opt out of the interlocal at any time.

Mr. Andersen asked the costs involved. Ms. Schriever said the only cost was attorney time when an attorney was called upon. She said the ordinance contemplated a \$50 administrative fee that the complainant would have to file.

Mr. Sumner asked who could file a complaint.

Ms. Schriever said the ordinance provided for a number of people who could file a complaint. She said that generally it was residents or property owners within Orem. She said there were procedures to deal with meritless complaints.

Mayor Brunst allowed time for public comment.

Bob Wright distributed a written statement. He said he was in favor of a municipal ethics commission between cities because the present City ethics ordinance was not being enforced. He said he believed the City Attorney should be held responsible under the oath of office as an attorney to uphold and enforce the State ethics law and City ordinance. He said there were no teeth in the new municipal ethics commission by referring their findings back to the City Council for action when, very likely, the City Council was the offender.

Jacob Siebach said that in what he read it talked about policies in broad language but not specifics. He asked if Orem City Code §2-6-8 would be specifically included. Ms. Schriever said it would. Mr. Siebach wondered why citizens were not involved in this process. He thought citizens might be willing to offer their services for free. He asked why there were not more cities involved. He asked if there would be a public hearing about this.

Mayor Brunst brought the discussion back to the council.

Mayor Brunst **moved**, that the City Council, by ordinance, enact Article 2-35 establishing a Municipal Ethics Commission providing for the membership thereof pursuant to an interlocal agreement, establishing the process for the filing of a complaint and the investigation and adjudication of the complaint. Mr. Seastrand **seconded** the motion. Those voting aye: Margaret Black, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. Those voting nay: Hans Andersen. The motion **passed**, 6-1.

RESOLUTION - Approving an Interlocal Agreement for the Operation and Administration of the Municipal Ethics Commission

Ms. Schriever said this resolution would give the Mayor the authority to enter into the interlocal agreement which outlined the operation of the Municipal Ethics Commission as already discussed.

Mayor Brunst **moved**, that the Council accept the resolution approving an interlocal agreement for the operation and administration of the Municipal Ethics Commission Mr. Seastrand **seconded** the motion. Those voting aye: Margaret Black, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. Those voting nay: Hans Andersen. The motion **passed**, 6-1.

COMMUNICATION ITEMS

Mr. Bench provided a preview of an upcoming agenda item scheduled for November 11, 2014, regarding billboard signs.

Mayor Brunst drew the Council's attention to the September, 2014 monthly financial statement provided in the agenda packet.

CITY MANAGER INFORMATION ITEMS

Mr. Davidson encouraged people to become Facebook friends with the City of Orem. He drew attention to the Facebook contest for redesigning the City logo for the holiday seasons. He encouraged the Council to vote for a seasonal logo. He said citizens could get online and vote and the winner would receive a Thanksgiving dinner from Smith's.

Mr. Davidson also notified the Council of potential upcoming legislation regarding transportation. He informed the Council that staff would be bringing forth a resolution that would encourage the state legislature to carefully consider the future of transportation in the state.

Mr. Stephens addressed Mr. Andersen's previous request to display a nativity scene on City property. He said that it was not an easy topic to summarize. He referred to the constitutions of the United States and of the State of Utah. He said different rules applied depending on whether or not the display would constitute private speech on City property or government speech on City property. He said private speech would be if they opened it up to private citizens to put their displays on City property. Government speech would be if the City itself put a display on City

property. Mr. Stephens said Mr. Andersen had previously proposed a resolution that would establish a limited public forum on the City Hall lawn. This would be a type of private speech. Anyone meeting the resolution requirements could place a monument on the lawn. The resolution was based on a resolution that was passed by Bloomington, New Mexico, and was used to place a Ten Commandments monument on their property. That was challenged in federal district court and the court determined that the Ten Commandments monument violated the Establishment Clause. Mr. Stephens said that Bloomington was appealing that decision. Mr. Stephens said that these types of allowances of private speech on public property are generally allowed and upheld, however, once one is established it is critical that these areas are accessible to a variety of speakers on a broad range of topics, regardless of the speaker's message. He said that once it was established, the City could not control the type of speech. Mr. Stephens said that some jurisdictions who had done this had had interesting proposals for displays on government property. He shared instances where people had erected statues of Satanic figures; Festivus Poles, usually fashioned out of beer cans and inspired by the TV show, "Seinfeld;" atheist messages next to nativity scenes; a flying spaghetti monster display; and a winter solstice display. Mr. Stephens said that nobody could tell what might happen if they opened it up for private speech and the City could get things that made them uncomfortable.

Mr. Macdonald asked if the City Council could reverse its decision if they started getting requests for displays that made them uncomfortable.

Mr. Stephens said that, from a legal perspective, there would be a problem with allowing displays until there was one that they didn't like. Mr. Stephens then discussed whether or not the City could put up their own display. He said the issue was whether or not it constituted the government endorsing a religion. He said that federal court cases that tended to be upheld were ones that were broad, general, secular Christmas displays. He said that the Utah constitution was actually more strict and required that no public money or property be appropriated for or applied to any religious worship, exercise, or instruction, or for the support of any ecclesiastical establishment. He said that Utah courts have had a more broad interpretation and might allow a nativity as long as there were secular Christmas symbols as well, such as Santas and candy canes, but it would also require opening things up for all viewpoints. Mr. Stephens said that another thing that was of concern in this situation was that there were statements from city representatives who had said that they wanted to put up a religious display because "we are Christian." He said that if the City were subsequently sued and the question were whether the display had a secular or a religious purpose, given some of the things that had been said, it would be hard for the City to argue that it did not have a religious purpose.

Mr. Davidson said there were no current plans to enhance or add to any holiday displays. He said that, consistent with the counsel and direction Mr. Stephens had given, it was the recommendation of staff that the City move forward with what they had done in the past.

ADJOURNMENT

Mr. Seastrand **moved** to adjourn the meeting. Mr. Spencer **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

The meeting adjourned at 10:38 p.m.

Donna R. Weaver, City Recorder

Approved: December 9, 2014