



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, February 17, 2015

Room 200, Municipal Council Chambers

351 West Center, Provo, Utah

Opening Ceremony

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Council Member Gary Garrett	Council Member Kim Santiago – via telephone
Council Member Gary Winterton	Council Member Harold L. Miller, Jr.
Council Member Vernon K. Van Buren	Council Member David Sewell
Mayor John R. Curtis	Wayne Parker – Chief Administrative Officer
Brian Jones – Deputy City Attorney	Matthew Taylor – Council Executive Director

Conducting: Chair Garrett

Invocation and Pledge – Martha Windsor, Vice-Chair Franklin Neighborhood

Approval of Minutes – January 20, 2015

Motion: Council Member Harold L. Miller, Jr. moved to approve the minutes of January 20, 2015. The motion was seconded by Council Member Gary Winterton.

Roll Call Vote: The motion was approved 6:0 with Council Members Garrett, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Ms. Santiago noted there had been a few changes to the minutes before the meeting. They included:

- 1) Item 7, paragraph 6 changed “home” to “homes.”
- 2) Item 7, second to last paragraph added the word “for”
- 3) Item 8, paragraph 5, third sentence was edited to provide clarity: “Representative Sanpei contacted several Sherriff’s offices and found 16 cases statewide that had been investigated during the past seven years.”
- 4) Item 9, paragraph 4 was edited to read: “Ms. Santiago drafted and distributed a letter concerning the harmful effects of Fight Nights. The letter immediately garnered support from a lawyer, two pediaticians, a school psychologist, the Timpview PTA, and Timpview principal. The Provo School Board would be discussing the letter in a future meeting. Ms. Santiago read the letter into the record with a copy attached to the permanent minutes.”

The minutes were reviewed to ensure that all changes had been made and a second motion was made to ratify the amendments.

Motion: Council Member David Sewell moved to formally approve the minutes as amended. The motion was seconded by Council Member Vernon K. Van Buren.

Roll Call Vote: The motion was approved 6:0 with Council Members Garrett, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Presentations, Proclamations and Awards

Cultural Presentation – Covey Center for the Arts

Paul Duerden, Covey Center Manager, announced the play *Mary, Mary* would open at the Covey Center on Thursday, February 19th and run through Friday, March 20, 2015. *Mary, Mary* was the longest running play on Broadway during the 1960's. Mr. Duerden introduced cast members Adam and Becca who would perform a brief sketch from the play.

1. Distinguished Budget Presentation Award

John Borget, Director of Administrative Services, presented. Mr. Borget announced that Provo City had received the "Distinguished Budget Presentation Award" from the Governmental Financial Officers Association (GFOA) for the Fiscal Year 2015 budget (beginning July 1, 2014 and ending June 30, 2015). The award reflected the commitment of the governing body and the staff to meet the highest principles of governmental budgeting. Provo City had received this award for the last two budget years.

Mr. Borget recognized the budget team of Denise Roy, Budget Officer; Sara Hubbs, Accountant; and Daniel Follett, Finance Division Director. He thanked the administration and council for their support and collaborative effort in preparing the budget.

Public Comment

There were no public comments.

Mayor's Items and Reports

2. A review of the 2014 Popular Annual Financial Report (PAFR) (15-027)

Mr. Borget read from a letter written by Mayor Curtis that was included in the Popular Annual Financial Report (PAFR). The letter stated that the purpose of the PAFR was to give readers a summary of the Provo's financial standing in a clear, concise manner. The report would give readers the understanding of where the revenues came from and where the dollars were being spent. As a municipality we want to continue awareness, accountability, and transparency of the city's financial information.

Mr. Borget reported that Sara Hubbs, accountant in the Finance Department, had taken the lead in preparing the report with the support of Denise Roy and Dan Follett. He invited Ms. Hubbs to review the report with the Council Members.

Ms. Hubbs gave an overview of information presented in the PAFR. The report included:

- Statistical information about Provo;
- A list of city departments and the services they provided;
- Significant events during the past year such as the purchase of Rock Canyon;
- Overview of the General Fund revenues, expenditures, and fund balance;
- A property tax summary indicating that the Provo School District received the majority of property taxes while Provo City received 26 percent;
- A review of enterprise funds which contribute a portion of their revenues to the General Fund;
- A debt summary review; and
- “Provo by the Numbers” listing Provo’s top rankings in various publications.

The PAFR could be found on the city’s website, provo.org, under Finance Reports.

3. A public hearing on Resolution 2015-09 approving the Community Development Block Grant (CDBG) Program for the 2015-2016 Fiscal Year ending June 30, 2016 (15-016)

Dan Gonzalez, Redevelopment Agency Management Analyst, presented. Each year Provo City received funding from the Department of Housing and Urban Development (HUD) for a Community Development Block Grant (CDBG). CDBG allowed up to 15 percent of the entitlement to be allocated to social service agencies with the balance to be used for non-social service projects. Two separate citizen committees, one for social services and the other for non-social services, were created to review applications for funding and make recommendations to the Council. Each committee was asked to prepare two proposals which funded social services at 12.5 percent or 15 percent and non-social services at 87.5 percent or 85 percent. A representative from each committee was asked to review their recommendations.

Jim Petterson, chair of the Social Service Committee, indicated the committee, which consisted of Tim Brough, Spring Creek Neighborhood Chair; Mike Buonomo, Central Business District; Dan Follett, Provo City Administrative Services Division Director - Finance; Melissa Kendall, Wasatch Neighborhood Chair; Leo Lines, Joaquin Neighborhood Chair; Michael Merz, Franklin South Neighborhood Chair; and Martha Windsor, Franklin Neighborhood Vice-Chair, reviewed all applications for funding, made site visits, and reviewed reports submitted by applicants. The following criteria were used to determine funding for each organization:

- Do they work with an at risk population?
- Do they work with an underserved population?
- Do they work with a unique population not served by any other organization or agency?
- Are they able to leverage the resources that we would provide to serve a larger number of clients?
- Do they invite recipients of services to contribute towards those services if possible?
- Do they have a track record of success?

- Will the majority of money be spent directly on client services as opposed to personnel costs and/or other overhead costs?

Mr. Pettersson reported that with a 15 percent allocation they were able to fund the following organizations at their fully requested amount: Affiliated Treatment Center, Center for Women & Children, Family Support & Treatment, Friends of the Coalition, House of Hope, and Recreation and Habilitation Services (RAH). The Provo City Police Department Victims Assistance was nearly funded at its full amount, short just \$300.

There were two organizations that the committee elected not to fund this year. Big Brothers and Big Sisters had a small presence in the Utah County and had planned to use the money primarily for telephone services. Rocky Mountain University Physical Therapy would not receive any funding because the committee felt that Utah County needed to step up a little more and perhaps lower the rent that Rocky Mountain paid. Also, the school should look for volunteers to assist with the services they provide.

Should the Council decide to fund social services at 12.5 percent there would be a reduction in the amounts recommended. Those with the highest priority would still be funded at the highest levels possible but no organization would receive full funding. A copy of the 2015-16 CDBG Social Service Funding Recommendations, showing all requests and proposed funding amounts, will be attached to the permanent minutes.

Celeste Kennard, chair of the Non-Social Services Committee, presented their recommendations to the Council. The committee received requests for funds totaling \$2.3 million. The criteria used to make decisions included:

- How does the project fit the income areas where it was located?
- Was the project on-going and had it been funded in the past?
- Would this complete the project?
- How many people would the funding help?
- How vulnerable or low income was the population?

The committee made the following recommendations:

- RAH Services Exchange Park - Funded at 100 percent in order to fix the fencing and sprinkler system.
- Habitat for Humanity – There had been a back-up of work during the past year because of changes in federal regulations so they had not been able use the money approved last year. Those restrictions had been lifted. With the funding from last year and an additional \$15,000 this year it would allow them to complete the 13 critical home repairs they had not been able to do.
- Commercial Façade Program – Funded at \$40,000 for downtown businesses to improve the outside of their property. This project was one of the most visible uses of CDBG funding.
- Targeted Neighborhood Revitalization – The committee felt there were organizations with projects that had already been started and needed to be completed so they reduced the funding request from \$200,000 to \$50,000.
- Egress Window Program – This was a new program which would fund putting egress windows in some of the low income housing in order to meet city code. There were

several low income homes with children in bedrooms that did not have legal egress windows but the income of the family would make it impossible to replace the current windows.

- Emergency Repair Program – Funds would be used to fix roofs for low income housing. The \$30,000 allocated to this program was a reflection of how many people requested the work last year.
- Spring Creek Park – This was an ongoing project that had received funding in the past. They accomplished the goals they set for last year so \$250,000 was allocated for FY 2016.
- Kiwanis Park – This project was funded in full because it would complete the project. The funds would be used to build a preschool playground in Kiwanis Park. The current playground was attached to the school and could not be used during school hours.
- At the request of Engineering, the Bike Plan for 200 East and the 400 East Curb, Gutter, and Sidewalk projects were combined into one project and funded at \$150,000. The Utah Department of Transportation (UDOT) would begin making changes to 300 South in this area in the fall of 2015. It was determined that work on these projects should coincide with UDOT's improvements so the road would not have to be torn up in the future. There was a lot of enthusiasm for these projects because it would provide a corridor from BYU to the FrontRunner station for bicyclists and pedestrians. The city could also get a better bid if the two projects were combined.

Two applications for funding were denied:

- A request from Provo City Public Works for \$140,000 to fund architectural drawings for the 300 West Storm Drain project. This request was denied because the monies could be funded in other budgets and would only have paid for drawings.
- NeighborWorks Provo requested \$193,200 for acquisition, rehabilitation, and resale projects. The committee decided that some of the homes owned by NeighborWorks would need to be sold before additional funding was given.

Mr. Winterton asked if there were other agencies besides Habitat for Humanity that had not spent all the funds allocated to them last year. Mr. Gonzalez reported that most agencies were using their funding but not all projects had been completed. Some of the funding was ongoing for projects that would take a few years to complete.

Mr. Gonzalez stated that the proposed resolution was for both social services and non-social services. The Council would need to specify in the motion whether to fund social services at 12.5 percent or 15 percent. He noted the exhibits showed both budgets.

Chair Garrett invited public comment. There was no response to the request.

Mr. Sewell stated the question before the Council was what percentage they should use to fund social services. Historically it looked like 15 percent was the most common number. If the previous Council's intent was to get back to that number he would lean toward that as a way to slice the pie going forward. He wanted to arrive at a percentage they felt good about and be consistent with so that agencies would know how much funding was available each year.

Ms. Santiago said it seemed like social services received funding at 12.5 percent because they had other sources of funding where the non-social services might not. If we funded the social services at 15 percent this year the Spring Creek Park and the 400 East project would be the only two non-social service projects funded at a lesser level. Since all other non-social services projects received the same funding with 87.5 percent or 85 percent allocations she was leaning towards 15 percent for social services.

Mr. Winterton expressed concern that all the funds were disappearing and we were not getting what we wanted on either side. He understood Ms. Santiago's point where we were only losing a couple of thousand dollars on the Spring Creek Park and 400 East projects but he worried about the future. He did not want social service organizations to rely on these funds each year; he wanted to encourage them to find other sources for funding.

Ms. Santiago asked if there were other RDA funds available to make up the gap for social services if we go with 12.5 percent. Mr. Gonzalez replied there were no other RDA funds available which would make up the difference. Social service agencies would need to go to other sources to help them bridge the gap.

Motion: Council Member David Sewell moved to approve **Resolution 2015-09** funding social services at 15 percent. The motion was seconded by Council Member Kim Santiago.

Roll Call Vote: The motion was approved 6:0 with Council Members Garrett, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Motion: Council Member Gary Winterton moved to approve **Resolution 2015-09** funding the non-social services at 85 percent. The motion was seconded by Council Member Harold L. Miller, Jr.

Roll Call Vote: The motion was approved 6:0 with Council Members Garrett, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

4. A public hearing on Resolution 2015-10 approving the HOME program for the 2015-2016 Fiscal Year ending June 30, 2016 (15-019)

Mr. Gonzalez reported that this program was HUD funded through the HOME Investment Partnerships Program (HOME.) The major difference between CDBG and HOME funding was that the HOME funding was allocated to the Utah Valley HOME Consortium. The consortium members included Provo City, Orem City, and Utah County with Provo designated at the lead entity.

The estimated amount for Fiscal Year 2016 was \$944,114. HUD allowed Provo City to keep 10 percent for administration of the program and required that a minimum of 15 percent be dedicated to a Community Housing Development Organization (CHDO). A committee, consisting of three representatives from Utah County, one representative from Provo, and one representative from Orem, reviewed the applications, listened to oral presentations, and made recommendations for funding organizations. The following recommendations were made:

- Allocate 10 percent of total funding for administrative costs.

- Allocate 15 percent for CHDO and divide the funding equally between the three programs. NeighborWorks Provo, Habitat for Humanity, and Rural Housing Development each received \$47,206.
- Loan-to-Own County Wide program serves all of Utah County and was administered by the Provo RDA. They requested \$210,000 however, based on the performance of the program, the committee felt it would be beneficial to go beyond their request and fund them at \$240,000.
- NeighborWorks was allocated \$42,794 in addition to the \$47, 206 through CHDO for a total of \$90,000.
- Rural Housing Development Corp. had requested \$302,794. They received \$230,868 in addition to the \$47,206 funded through CHDO for a total of \$278,074. This program helps 7-10 families build homes in a subdivision with each family providing at least \$2,000 of sweat equity. The guidelines required that no one moves into their homes until the last home has been finished. The committee felt this built a foundation of neighborhood from the beginning.
- Housing Authority of Utah County requested \$750,000 for a senior housing project in American Fork. They were funded at \$550,000.
- Habitat for Humanity requested a total of \$215,000. With \$47,206 of the CHDO funding and an additional allocation of \$167,794 they will be fully funded.
- Golden Spike Treatment Ranch provided housing and other services to people recently released from the Utah County jail that were in the process of substance abuse recovery. Their request for \$70,000 was fully funded, based on the results of the program.

Chair Garrett invited public comment. There was no response to the request.

Motion: Council Member Harold L. Miller, Jr. moved to approve **Resolution 2015-10** approving a HOME Program for the 2015-2016 Fiscal Year ending June 30, 2016. The motion was seconded by Council Member David Sewell.

Roll Call Vote: The motion passed 6:0 with Council Members Garrett, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Policy Items Referred from the Planning Commission

5. **A public hearing on an annexation of approximately 56 acres located on the east side of North Canyon Road between approximately 5020 North and 5150 North with requested zonings of R1.10, RA and A1.20 on the included properties. North Timpview and Riverbottoms Neighborhoods. (14-0007A)**

Staff recommended continuance of this item to the March 3, 2015 Work Session for continued discussion of the Annexation Agreement.

Brian Maxfield, Provo City Planning Supervisor, presented. He reported that an annexation request was presented last June to the Council. At that time a ruling could not be made because it did not meet state qualifications. The proposed annexation, requested by Anthony Brown, was for the southern portion of the original request. During the work session discussion Public

Works expressed concerns about utility infrastructure that needed to be extended through the site. A request was made to create a memorandum of understanding (MOU) or annexation agreement of some kind that would memorialize those concerns and how they would be addressed. Anyone purchasing the property in the future would be aware of the improvements that would have to be made prior to development.

Brian Jones, Deputy City Attorney, stated there was not an annexation agreement ready to go. He felt the Council had three options, any of which might require a further hearing before selecting one.

1. Decide the annexation was not worth it and the Council did not want to go forward.
2. Approve the annexation now, or in the future, without having an annexation agreement or special protections because they did not think the concerns that had been expressed were that significant.
3. Determine what the concerns were and that the concerns were legitimate and needed to be addressed. The Council could continue the item and request staff and the administration to come back with information, protections, and possibly an annexation agreement that would help the Council feel comfortable about going forward with the annexation.

Mr. Jones stated the recommendation from staff to continue the item was based on the third option and that work needed to be done to get to that point.

Mr. Taylor said the policy analysts had questions and concerns in terms of not knowing how much research the Council wanted on this. From a long-term fiscal perspective, how much time would the Council like their staff to work on this analysis.

Chair Garrett stated this item was presented to the Council in their work session two weeks ago. Council Members had the opportunity to hear it at that time and then review the documents since then. What questions or issues did they have related to this proposed annexation?

Mr. Winterton thought this project would be very good. As he spoke with Public Works there were concerns but his understanding was those concerns could be addressed through an agreement. He hated to hold up the developer but he felt it was important to have something that protected the community and would meet the needs of Public Works. He recommended Option 3. He said they had to decide whether they wanted to go ahead with the annexation but make sure the applicants understood they would need some form of development agreement or would the agreement need to be in place before the annexation was approved.

Mr. Jones stated there were some significant differences between an annexation agreement and a development agreement. He felt that having an annexation agreement in place before approving the annexation was a much stronger position to be in if the Council accepted there were concerns that needed to be addressed.

Mr. Van Buren felt that was wise counsel. He reported that the annexation policy in the code stated, "Utilities to be extended to annexed areas as soon as practical after annexation." There was a major part of this property that did not include plans for development at this time. Another clause in the annexation code stated, "The annexation petition review should be reviewed by these people: City Engineer, Director of Public Works, Director of Energy, Fire Chief, Police

Chief, Traffic Engineer, Long Range Planner, and Community Development Director.” Mr. Van Buren did not know that, as a council member, he had been appraised by that group of people on all of the questions, answers, and potential problems with the annexation. He wanted to get those reviews to feel comfortable with the answer to those questions.

Mr. Maxfield addressed the petition review process. He reported that Provo City had a Coordinator Review Committee (CRC) representing those departments and that was how the city reviewed the annexation and prepared a report. The report came down to a lot of the Public Works issues more than the other departments. He felt the report from that group of people met the code requirement.

As for extending the utilities as quickly as possible, he did not feel the Provo was under any obligation to do that, by state law or anything else. If there was water available in the area you would have to make it available to the new development. Where those utilities do not exist in that area it would be the same as any other development in Provo. We don’t rush to extend the services in the southwest area of the city until we have a development that actually paid for the services and caused them to be extended.

Mr. Van Buren asked if this was something we needed to change in the code. Mr. Maxfield felt it was a faulty section. Mr. Jones said that had been one of the arguments for an annexation agreement from the beginning, not just in this case but in any case. He was aware of developers in other annexed areas claim that state code required the city to provide the infrastructure, although it was not clear that it did. He felt that was why an annexation agreement was wise to ensure that an argument could not be raised about this issue.

Mr. Miller stated they addressed this issue at some length during the early fall and then much more recently. It was his understanding, on both occasions, that the Council had sent a clear message to its staff and to the administration they were in favor of exploring the annexation. The only hesitation came over the clarity of understanding between the applicant and the Provo City about mutual expectations. He expected to see an annexation agreement before this meeting that would have addressed the need for that clarification. He was disappointed it wasn’t there. He felt it would be folly to proceed in its absence and was hopeful they could have an agreement as soon as possible.

Mr. Sewell agreed saying the Council had expressed strong support for seeing the area annexed. It was just a matter of clarifying what the concerns were and making sure that both the city and developer had the mutual understanding that Mr. Miller mentioned. He wanted to move ahead as quickly as possible with Option No. 3 and get the agreement prepared.

Mr. Van Buren asked what the expectations were for the annexation agreement. Did the city already have a list of questions so the petitioner knew what they were supposed to do? He was not sure the applicant had clarity on what they were being asked to do.

Ms. Santiago reported that David Day sent her an email with annexation agreement issues regarding public works. She thought it would helpful to add other annexation agreements to these issues such as roads, curb and gutter, transferring of power, and whatever might incur expense to the city. Those agreements should be compiled for the Council to review in two weeks’ time.

Chair Garrett invited the applicant, Tony Brown, to share his thoughts about the process and issues. Mr. Brown asked if there could be a 4th option. He asked that the Council vote on the annexation proposal and approve the request contingent upon the development and acceptance of an annexation agreement. He stated they had discussed an annexation agreement many times with the city and he did not recall the Council requesting additional information. He would like to get clarification from the Council on what he (the applicant) should be doing. If there were legitimate concerns that were going to delay the vote he would like to discuss those.

Mr. Jones stated he understood Mr. Brown's concerns and felt there might be a problem with how the City's annexations were handled. Mr. Van Buren pointed out the code required annexation review from several different bodies but Mr. Jones was not sure if it was clear to anyone who was in charge of processing the annexation application.

As for the applicants request for a 4th option; it would be a viable option because the City had done it before with development agreements. However, in every instance the City had done that, the motion defined what needed to be in the development agreement so the agreement did not have to go back to the Council. He felt it would be a mistake for this annexation because he did not know if there was a meeting of the minds between staff and Council about what belonged in the annexation agreement.

Mr. Taylor noted that the annexation summary they received that day was absent some of the issues from some of the other departments.

Chair Garrett asked if there was any interest from the Council to consider option 4 that Mr. Brown presented. If so, he would invite public comment and then take a vote on the request. If the Council would prefer to address the annexation issues and bring the item back in two weeks he would move the public hearing to that meeting.

Mr. Winterton asked what would happen to the development if they delayed the item for two weeks so an annexation agreement could be created that specified what would be required.

Ms. Smith, representing the Smith family, stated their family did not have a developer so it could not be a development agreement, it would have to be a development disclosure. They would give the disclosure to anyone that was looking at the property which would state the issues the new owner would need to address before developing. She said future developers would have the staff and expertise to address these issues rather than the farmers that were asking for annexation. She said the annexation was exactly 288 feet from city services such as police and fire. They already get their power, water, and sewer from the City. They actually pay extra for those services because they were in the County. She did not understand how an annexation needed to be married to a development agreement rather than a development disclosure. She stated the development disclosure could be created by the staff any time after annexation so it would allow the staff to take their time and look at each situation individually. Also, the disclosure could be tied to the property through a chain of title. She said the first step should be the annexation. Developers do not want to spend money before they know that the land would be annexed into the City. She was asking the Council to just annex a farm into the City that would include a disclosure agreement for future development of the land.

In response to a question from Mr. Sewell, Mr. Jones replied that an annexation agreement and development agreement were different. He stated you could not impose a legal obligation on someone simply because you want something to exist on the title. The disclosures Ms. Smith was referencing originated from a development agreement.

Mr. Martin stated he was the developer of a project that included a small piece of the proposed annexation, about 3.14 acres on the southern portion of the annexation area. They had a planned development that was in the works, consisting of 69 R1.10 homes. He stated the development would be a benefit to the City, schools, and the community without having to build a very expensive water tank. It would be a travesty for this small, thin strip to be held hostage to a requirement of a multi-million dollar water tank to the north that would be used by a larger development up on the hill with more complex issues.

Mr. Martin stated the City had total control over his efforts to develop the land that was already in the City. He could not go forward before providing water and other infrastructure needs that the City did not currently provide. He did not think that, even if the land was annexed into the City, there would not be any additional costs for City because there were no roads to plow or maintain or additional utilities to provide. Those additional services would not be provided until it was developed and a developer would need to provide those services and obtain site plan and development approvals. He did not feel there was a lot of risk with the annexation because the City still had total control over what would be developed in that area.

Mr. Miller stated the Council did not deal with annexation issues very often and, as Mr. Jones suggested, because of the relative inexperience of dealing with annexations, no one knew quite how to take charge. He felt there were some issues to be considered.

- Council staff, working together with the administration should study the code and, as Mr. Van Buren brought to the Council's attention, clarify what the procedures should be.
- The Council could simply annex in the absence of an annexation agreement. If, in the study, it was concluded there was no need to require an annexation agreement as part of the decision to annex the Council could then proceed on that basis. Otherwise they could conclude from their study that it would be prudent to include an annexation agreement as part of approving the annexation. He said that would provide him with a more secure sense of the footing as they went forward with annexing the property. He suggested that be the target of the next meeting, with a firm expectation a decision would be made.

Mr. Jones emphasized there was not a legal necessity to have an annexation agreement. Public Works (and possibly other departments) had expressed concerns with possible detriments or costs to the City if we went forward with the annexation. If the Council felt those concerns were valid an annexation agreement would be the best way to address them. If the Council did not feel they were valid then they would not need an annexation agreement in order to go forward.

Mr. Miller noted that Mr. Maxfield had said he chaired a committee drawing from all of the relevant departments of the City. He did not hear Mr. Maxfield express concerns other than from Public Works. He had the impression that in recommending the annexation any concerns of that sort would have been resolved with the committee. How it was the Council was hearing about those concerns in the absence of an expression from the chair of the committee that coordinates those concerns?

Mr. Jones understood the concerns were expressed in the work session by Mr. Maxfield and Public Works. The interested parties could get together and hash out an agreement. He did not know how much negotiation that would require. If multiple drafts were going to be exchanged he did not know how that would affect the timing. He did not think there would be a problem with at least having the first draft ready.

Mr. Winterton stated that as he spoke with Public Works and the Water Department, they had concerns but they were things they could work out. They felt the City was on the right track so maybe it was just a matter of writing our concerns down and how we expected the developer to work them out.

Mr. Miller asked if the City was getting the cart before the horse, as Ms. Smith suggested. This annexation did not involve a development, it was simple the annexation of land. The development came later.

Mr. Winterton stated it might come down to what the obligation of the City would be once they annexed the land.

Mr. Taylor noted that one of Public Works' stipulations required the developer to construct extension of offsite sewer main lines with capacity to serve the area to be developed. If the Council went ahead with an annexation without those clearly agreed upon the argument could come back later that a developer would build per city regulations and city code within the context of the development, but not offsite. In the post annexation development review process, those issues could get lost if they were not clearly spelled out pre-annexation.

Mr. Miller expected that an annexation agreement would clearly spell those issues out. However, his guess was it would be a fairly short list. He was not quite sure where the sticking point was except they had, collectively, not had that much experience.

Mr. Taylor pointed out that, because part of land included in the annexation was on a hillside and included sensitive lands, it had more requirements and added to the challenge of creating an annexation agreement.

Wayne Parker, Provo City CAO, stated that most of the annexation applications the City received were islands and were already served by the City or served by no one else. There were some unique things about this annexation. Even though there was not a specific development for the land, the owners had provided a development concept that included densities and roads. If the property was annexed into the City under the A.1 zone, we would have to rezone any time there was a proposed use for the land other than farming. That allowed the Council to deal with the issues at that time. The fact that some of the annexed area would be already be R1.10, RA, and some A zones suggested that if those issues were not resolved early the City could be stuck with the zoning as it existed and may not be able to resolve some of those issues later.

Mr. Parker stated it reminded him of a prenuptial agreement. An annexation agreement could acknowledge that, based on current engineering, a five million gallon water tank would be likely be required at an approximate location. The City would define those acknowledgements. We might not ask the applicants to take the responsibility for the cost of those; it would come when a development made a formal request. Our major concern was that any developer that looked at

the record would be knowledgeable before they invested in a piece of property. He did not feel it would be difficult to prepare an annexation agreement.

Mr. Martin stated it was clear this area was intended to be annexed by the City. In regard to the language he would appreciate it if the agreement was written with enough precision that they would not have to wait until a million dollar water tank was built on the north for them to use the other area that had city water access already.

In response to a question from Mr. Winterton, Mr. Martin replied that not including the 3.14 acre strip in their development would hurt the Browns and it would also hurt the development. They would have the cost of a road and only one side with homes.

Mr. Brown stated that, prior to their purchase of the 3.14 acre strip, he approached Community Development on at least two or three occasions about what it would take to annex that area into the City. He was told it was a no-brainer. It was only after they purchased the property that they ran into the issues of islands and peninsulas. His piece of property was being held hostage by the rest of the annexation.

Mr. Parker said the administration did not object to crafting an annexation agreement that would subdivide the annexed area into separate sections. The City was not trying to make it difficult we just wanted to make sure we complied with the requirements of the law.

Motion: Council Member Harold L. Miller, Jr. made a motion that, in the interim between this meeting and our next meeting on the 3rd of March, our staff work closely with the administration in the spirit that Mr. Parker has just described to assure that come the 3rd we would be in a position to consider, unambiguously, the annexation of property; at the same time a sufficient annexation agreement to accompany that decision. The motion was seconded by Council Member Dave Sewell.

Mayor Curtis requested that someone be put in charge of the annexation agreement so that one person would be accountable for making it happen. Mr. Parker said a CRC meeting was scheduled for the next day which would be the place to start in terms of making sure all the issues and concerns were noted. He stated he would take responsibility for the annexation agreement.

Chair Garrett called for a vote on the motion.

Roll Call Vote: The motion passed 6:0 with Council Members Garrett, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

6. A public hearing on Resolution 2015-11 to adopt the Downtown Master Plan as a component of the Provo City General Plan (14-0002GPA)

Josh Yost, Provo City Planner II, presented. In consultation with the Council Staff, Mr. Yost presented the following line-by-line changes between the Downtown Master Plan the Council received at the prior meeting and the proposed final document.

- Page 16 and 17 – Under the Summary of Existing Goals and Policies in the Introduction Section, page citations were added for each bullet point.
- Page 19 – Highlighted the “Mixed Use Permitted” element in the legend on the bottom right hand side of the map.
- Page 20 – Changed the descriptions of the different land use classifications to remove specific references to units per acre. The change was made to remove any conflict between this document and what was actually adopted in the zones.
- Page 28 – Changed the statement on food truck regulations under Goals and Objectives (2a) from, “Amend current downtown zones to provide opportunities for food carts, trucks, and sidewalk vendors in strategic areas,” to read “Adopt food truck regulations to provide opportunities for food carts, trucks, and sidewalk vendors in strategic areas.”
- Page 31 – Changed the subheading at the bottom of the page under Complete Streets from “Policies” to “Elements of Complete Streets.”
- Page 42 - Made a slight rewrite to the beginning of the second paragraph clarifying the description of splitting blocks in regards to the application of parking.
- Page 48 – Struck the paragraph referencing the Annual Budget.

In response to a question from Ms. Santiago, Mr. Yost indicated that the Downtown Master Plan 11-5-14 Final with REVISIONS was the document that had the comments annotating what changes were to be made and reflected in the final document. Mr. Yost understood that the Exhibit A – Final Downtown Master Plan document was the document to be adopted.

Ms. Santiago noted that on Page 27 under Food Vendors it stated, “City codes should allow food vendors to have locations within the Downtown area.” Mr. Yost stated that was not one of the annotated changes discussed with the staff. The other reference to food trucks on Page 28, under the Goals and Objectives was changed. Ms. Santiago stated she had mentioned both in the last meeting. She felt the downtown restaurants may read this and think the City was going to change our city code to allow food trucks in the area that the current food truck ordinance prohibits.

Mr. Yost replied that the downtown, as covered by the plan, extended into areas where food trucks were allowed under the ordinance, such as in the Transit Oriented Business (TOD) area. While the ordinance clarified there were portions of downtown that were currently prohibited from food trucks, there were many areas within the planning boundary of this document for which the current ordinance did provide for those activities.

Ms. Santiago felt it was still confusing. She suggested striking any references to food trucks out of the Downtown Master Plan.

Mr. Sewell said the second sentence under Food Vendors on Page 26 was the one that implied they may be making changes. If that sentence was taken out, starting with, “City codes should allow...” Mr. Taylor noted there were two sentences, the one under Food Vendors and the other reference on Page 28 under Goal and Objectives (2a). Both provisions had already been satisfied and fulfilled by the current ordinance so, in the interest of clarity, he recommended they both be taken out.

There were no other concerns or questions from the Council.

Chair Garrett invited public comment; there was no response to the request.

Motion: Council Member Kim Santiago moved to approve **Resolution 2015-11** adopting the Downtown Master Plan with the two revisions that were mentioned. Remove the sentence on Page 26, “City codes should allow food vendors to have locations within the Downtown areas” and on Page 28 strike 2a, “Amend current downtown zones to provide opportunities for food carts, trucks, and sidewalk vendors in strategic areas”. The motion was seconded by Council Member David Sewell.

Roll Call Vote: The motion passed 6:0 with Council Members Garrett, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Adjournment

Motion: Council Member Harold L. Miller, Jr. moved to adjourn at 8:00 p.m. The motion was seconded by Council Member Vernon K. Van Buren.

Roll Call Vote: The motion passed 6:0 with Council Members Garrett, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.