



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:40 PM, Tuesday, September 01, 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
Council Member Vernon K. Van Buren	Council Member Harold L. Miller, Jr.
Council Member Gary Winterton	Council Member David Sewell
Council Member Calli Hales	Mayor John R. Curtis
CAO Wayne Parker	Deputy City Attorney Brian Jones
Council Executive Director Matthew Taylor	

Conducting: Council Chair Gary Garrett

Invocation and Pledge

Invocation given by Cooper Harrison, Scout Troop 938
Pledge led by Curtis Sorenson, Scout Troop 938

Approval of Minutes – August 18, 2015 and August 25, 2015

Motion: Council Member Gary Winterton moved to approve the Council Meeting minutes of August 18, 2015 and the Board of Canvassers Meeting minutes of August 25, 2015. The motion was seconded by Council Member Vernon K. Van Buren.

Roll Call Vote: The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Presentations

Aaron Skabelund, Provo Bicycle Committee Chair, announced that next week would be the “5th Annual Provo School District Bike to School Week” with almost all of the schools in the district participating. He encouraged the public to participate and bike to school or work during the week.

Mayor Curtis stated the City received a lot of rankings and, although he could not give the source, noted that the Provo Bicycle Committee was the #1 Bicycle Committee in the United States.

He read the attached proclamation declaring September 8-11 as “Bike to School Week” and encouraged students of all ages to walk or bike safely to school at least three times during the week.

Public Comment

John Scott, Provo, asked the Council for assistance on behalf of his children. He had been to DCFS, the police, and the district court concerning the welfare of his children and nothing had been done. He reported his current wife was recently attacked in court room 303 by his former wife and her life was threatened. Again he sought the help of the court, the police, the sheriff’s, and anyone they could think of to file charges but all court action was denied and nothing was done. On August 7th he was issued a protective order for himself and his children. He went to legally retrieve his children and was denied. A no contact order was issued against him three days later. He had not seen his children since then and was asking for help. He was advised to give his contact information to Wayne Parker, Provo City CAO, who would work with Mr. Scott to find other avenues he could pursue.

There were no more public comments.

Mayor's Items and Reports

1. Annual Report from the Provo City Justice Court. (15-115)

Judge Rick Romney, Provo City Justice Court Judge, presented. There were close to 100 Justice Courts in the State of Utah and, in April 2015, the Provo City Justice Court was awarded the Justice Court of the Year Award. He acknowledged ReAnnun Newton, Justice Court Administrator, and the rest of the staff for their hard work and excellent assistance they gave to the citizens of Provo. A recent survey of 192 respondents showed a satisfaction rating of 4.63 out of 5 concerning their experience with the Justice Court.

In FY 2015, the Justice Courts of Utah handled 459,622 cases, which represented a little more than 60% of all the cases filed in the state courts. In the Provo City Justice Court there were 12,535 cases filed during the fiscal year, of which 1,909 were criminal cases, 9,404 were traffic cases, and 1,222 were small claims cases. This was calculated to be 1.59% times that of a full-time judge.

The motto of the Justice Courts in Utah was to “Improve the Quality of Life in our Community.” Judge Romney reviewed some of the programs that were offered through the Justice Court to help improve the quality of life.

- Mental Health Court Program – this program was effective in reducing recidivism in the community.

- Dedicated Domestic Violence Calendar – This was heard every Wednesday morning to address issues specific to domestic violence.
- Student Intern Program – Law students from BYU and UVU college students earn college credit by participating in defendant assistance programs, case flow management, researching legal issues (law students), and mediation programs.

Judge Romney reported he was recently appointed as one of six members of the Justice Court Board. He also served on the Justice Court Education Committee, as Chair of the Language Access Committee, and was one of six members of the Trust and Confidence Committee. He thanked the Council for their support of the Justice Court.

2. Resolution 2015-49 approving the Mass Notification Interlocal Cooperation Agreement between Utah County and various cities, including Provo City. (15-107)

Chris Blinzinger, Provo City Emergency Management Coordinator, presented. The proposed interlocal agreement would provide Provo City with a chance to participate in what will eventually be a countywide notification system. Provo City would remain their own organization with control over their own system. He emphasized this was a notification system, not an emergency notification system. It could be used in emergencies but was a useful tool that could be used by other departments.

All of the jurisdictions in the County except American Fork and one other jurisdiction were participating in the program. The County was waiting for the paperwork to be signed before implementing the program. All of those jurisdictions had been given access to the system for testing and training.

In response to Vice-Chair Santiago, Mr. Blinzinger stated each city paid a portion of the costs based on the number of households in the city. If other cities did not sign up our costs would increase. He noted that if the cost became too expensive we had the option to drop out of the program.

In response to a question from Mr. Winterton, Mr. Blinzinger stated this is a web-based, outgoing communications system that was not connected to the 911 system. The dispatchers were trained to make the notifications but this did not have an impact on what went on in our dispatch center.

Motion: Council Member Harold L. Miller, Jr. moved to approve **Resolution 2015-49** as written. The motion was seconded by Council Member Calli Hales.

Roll Call Vote: The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Motion: Council Member Vernon K. Van Buren moved to recess as the Municipal Council and convene as the Redevelopment Agency at 6:10 p.m. The motion was seconded by Council Member Gary Winterton.

Roll Call Vote: The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Redevelopment Agency of Provo

3. Resolution 2015-09-01-1 approving a new Egress Window Program. (15-108)

Cindy Sweeten, Redevelopment Technician, gave a brief presentation explaining the proposed program (copy attached to permanent minutes). The Utah County's Analysis of Impediments stated that Provo lacked affordable housing for larger families. The needs, according to Provo City's Consolidated Plan, was to implement programs designed to encourage the conservation of existing standard housing units; increase the quantity of rehabilitated low and mod-income owner occupied housing units; focus on safety and livability; and encourage residents to maintain and upgrade their homes.

In order to address these issues one solution would be to provide an Egress Window Program. An egress window was large enough, as defined by local building codes, to allow exit or entry in case of an emergency. The proposed program would increase the supply of housing stock with more bedrooms for larger families which, in turn, would also protect the health and safety of the homeowner and their family.

The program would offer loans/grants to low to mod-income, owner-occupants of single-family residential homes. Emphasis would be placed on residences in CDBG eligible neighborhoods. Funds would be available to install two egress windows per home (possibly more based on need) for approximately \$2,500 to \$3,000 each. The 2015 CDBG budget allocated \$22,560 to this program.

Terms of the loan/grant would be:

- 0% interest, deferred loan.
- On the anniversary date of the 3rd year, one-third of the loan could be forgiven, with the possibility of an additional one-third each year thereafter.
- On the anniversary of the 5th year, if the borrowers still occupy the property, the loan could be completely forgiven.
- If the home is sold within the first two years of the loan, a penalty of 50% of the loan balance will be added to the original balance.

Ms. Sweeten asked that the RDA Board approve the proposed resolution to begin an Egress Window Program.

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

Motion: Board Member Harold L. Miller, Jr. moved to approve **Resolution 2015-09-01-1** as written. The motion was seconded by Board Member Kim Santiago.

Roll Call Vote: The motion passed 7:0 with Board Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Adjourn RDA and Reconvene as Municipal Council

Motion: Board Member Gary Winterton moved to adjourn the RDA meeting and reconvene the Municipal Council meeting at 6:16 p.m. The motion was seconded by Board Member Gary Garrett.

Roll Call Vote: The motion passed 7:0 with Board Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Municipal Council

Council Items and Reports

- 4. An ordinance enacting a temporary zoning amendment to Provo City Code Chapter 14.50(10) (Arbors on the Avenue Project Redevelopment Option Zone) to reduce the minimum finish floor area. (15-117)**

Item No. 4 was withdrawn at the applicant's request.

- 5. A resolution approving an amendment to a Development Agreement regarding property generally located at 5000-5200 North University Avenue, Provo, Utah in order to allow six additional units and decrease the minimum parking spaces per dwelling unit. (15-101)**

Brian Jones, Deputy City Attorney, presented. The applicant has requested an amendment to an existing development agreement between their predecessor and the City. The amendment would increase the number of allowable units on the property from 112 to 118; and would reduce the parking per unit from 2.6 to 2.1, the minimum required parking in the zone.

Paul Warnock, JZW Architects, stated he was the original architect on Phase 1 of the Arbors on the Avenue development and will be the architect on record on the next phase. Ownership of the property has changed multiple times. He was representing Harrison Horne, the current owner.

Mr. Warnock said they were requesting approval of an amendment that would increase the number of units in the project to 118 units. The second phase of the project was a significant reduction in the overall size of the buildings as the overall size of the units was reduced from the previous application. This was a factor of the economy and the cost of the project. The exterior look of the building would be compatible with the existing structures. One of the significant

changes they made was to eliminate the underground parking and create additional parking on the west, north, and south sides of the building. He indicated they were trying to get the parking reduced because they were pushing into the steep hillside with the parking stalls on the north and south sides of the building. They were putting in very large retaining walls for hill stabilization methods but they would be better off with less impact on the hillside.

In response to a question from Mr. Winterton, Mr. Jones clarified that the minimum parking requirement for the underlying zone in that area was 2.25, not the 2.1 requested by the developer. He stated that 2.25 was the least they could reduce the parking to without make a text amendment to the zone.

Mr. Warnock felt they could make the 2.25 work with the 118 units. Mr. Warnock clarified they were looking at the overall project as a final project so it included the existing buildings and parking. The first phase was built with more parking than required, anticipating the second phase using some of that parking to meet overall requirements.

Harrison Horne, applicant, explained there was more that went into this request than just parking. He was the fifth person that had undertaken this project after the original owner went into bankruptcy. In order to make the project work they needed to make the following changes:

- Reduce the overall footprint by 27% and have pull 35,000 square feet from the project.
- Increase the open space from 30% to 70%;
- Double the front yard setback; and
- Increase the back yard setback from 20 feet to 70 feet.

In addition to these changes they have worked with the current homeowners association (HOA) to complete several maintenance projects, including stone repair and pool maintenance, which have not been done due to lack of funds. He felt the changes they had made would increase the livability and desirability of the project. They would rent the units initially in order to pay for the project and, at some later date, sell the units as condos.

Mr. Horne stated that Provo City had a high parking requirement compared to other cities across the country. He gave an example of a development in Park City he was building where he had to fight to get more than .8 parking stalls per unit.

In response to a question from Vice-Chair Santiago, Mr. Horne replied that they maintained the same number of bedrooms as the first phase. The units included three rooms, two of which could be called bedrooms and the third classified as an office since it opened into a hallway and did not have a closet.

Mr. Sewell asked how many of the parking spaces in the first phase were actually being used. Mr. Horne reported they had recently surveyed the area (four different times) and found that 70% of the underground parking was not occupied at 6 p.m. and 50% was not occupied at 3 a.m. The only spaces that were occupied all day long were the above ground parking spaces. Each unit was assigned one parking space close to their residence and the remaining parking spaces were on a first-come basis. He reported they had never had parking problems at the development.

In response to a question from Mr. Winterton, Mr. Horne stated they had already combined with the current HOA and, the moment they begin construction, would be picking up half of the expenses and dues for the development.

Mr. Horne reported they had a failing hill behind the property and, before they purchased the property, they worked with the Bill Peperone to make sure the City would approve all the proposed changes. He said they had repined and replanted the hill in order to make it safe.

Mr. Jones stated that the PRO zone and also the default zone (high residential) parking requirement was 2.25. So the Council could not approve a 2.1 requirement without making a text amendment and providing adequate public notice. The difference between 2.1 and 2.25 would be 18 parking stalls. Mr. Horne stated they could make the 2.25 work.

Mr. Jones stated that if the Council wanted to approve this request they could amend the development agreement to state that the project would meet the parking requirements that the zone allowed without referencing a number. If the Council wanted to approve the 2.1 requirement the developer could request a text amendment and, as soon as the text amendment was approved, that would change the development agreement also. Mr. Horne stated that would be a viable option.

As for residents parking on University Avenue, Mr. Horne stated they did not count on that parking as part of the requirement. Mayor Curtis stated that UDOT was going to eliminate parking on both sides of University Avenue in that area.

Chair Garrett invited Ben Markham, Riverbottoms Neighborhood Chair, to comment. Mr. Markham noted that Council Members Garrett, Sewell, and Winterton made him aware of the proposed amendment. Amendments to development agreements were left out of the neighborhood process and suggested the Council change that policy. He indicated he was thrilled that a viable project was being considered at that location but had a few concerns. This project added one more right-in/right-out only access to University Avenue. If a raised median was put down University Avenue it would control the unauthorized left hand turns that happen quite frequently in the area.

The original Development Agreement stated the HOA would enforce the CCR's and one of them stated that occupancy would be limited to not more than two unrelated persons. Mr. Markham did not think that was being enforced. Also, the HOA was asked to limit the total number of vehicles to not more than the number of legal parking places. It seemed unusual to have the HOA responsible for enforcement. He wanted to talk to the association to see if they were enforcing the parking requirements. He thought that when parking along University went away that parking in the development would be problematic.

Mr. Markham understood that Provo had higher parking requirements than other cities but also noted that they were unusual in the number of cars residents had and how much they used their cars. He questioned if they could successfully park all the cars in both phases with just the 2.25 parking space requirement. He also asked if there could be a road connection between the proposed development and the Canyon Brook Development to the south. There were cars

parked on University Avenue in front of Canyon Brook but he was unable to determine what the parking ratio was for that development.

He felt there were a number of things the Council should have a better handle on before a decision was to be made. He asked the Council to allow some time before approving any changes so that he could get more information about the proposed changes. He wanted to speak to people in the HOA at both Arbors on the Avenue and at Canyon Brook. He did not think it would require a neighborhood meeting because there were not a lot of residents affected by this development. He thought he would only need a couple of weeks so he asked for a month.

In response to Mr. Markham's comments, Mr. Horne stated he did not know why residents in Canyon Brook were parking on University Avenue other than for convenience because their underground parking was 30-30% empty all night long. As for renting to more than two students, he understood the HOA did not enforce that right now because they had more parking than was needed. Also, as soon as they begin paying their share of the HOA fees (when construction begins) the occupancy limits would be enforced. If the HOA did not enforce that then the City could enforce it because it was written into the bylaws.

In response to a question from Chair Garrett, Mr. Horne indicated that the residents in Phase I have one space assigned to each resident. Chair Garrett noted that residents in Canyon Brook are issued two spaces per unit so those on the street might be residents that have a third car.

Mr. Horne indicated there would be two access points into the development. There was already an access point on the north side of the development at the light, and a second one would be opened up at the southern end of the second phase. Vehicles from the south end could drive through the parking lot to access the north driveway with the light.

Chair Garrett invited public comment.

Dave Harding, Provo, said there were two ways to look at this proposal. The first principle would be to ask if the proposed change would have been approved if it had been proposed initially. He said there was a risk in changing development agreements. It might send a signal to developers that they could promise high and then come back and request modifications later, modifications that may not have been approved in the first place. The second principle was to look at what the best thing would be for Provo City.

While he was not advocating approval or rejection of the request, he said that the density could be higher because of what it was zoned now but it wouldn't have been rezoned that way if that was the original proposal. Parking was an interesting topic. Things are changing and we need to be flexible. There were benefits to moving toward reducing the number of parking stalls but we might not be there yet in certain parts of the City. There were not a lot of transportation alternatives yet. Until the City was serious about providing transportation alternatives maybe we need to maintain a higher parking standard. He would advocate moving towards those alternatives and reduce parking.

There were no more public comments.

Motion: Council Member Harold L. Miller Jr. moved to approve an amended resolution replacing the 2.1 number with the phrase “The project shall have the minimum number of parking spaces per dwelling unit, not including handicap and designated parking spaces, required by Provo City Code Section 14.50(10.170). The motion was seconded by Council Member Vernon K. Van Buren.

Mr. Jones explained that because that section of code said 2.25 the agreement would be for a parking standard of 2.25. If the developer went to Community Development and through the Planning Commission and asked for that section of the code to be changed to 2.1 then immediately upon changing the code the agreement would correspond with the code.

Mr. Sewell had a concern about the process for changing a development agreement. We short-circuit the process which did not give the neighborhood chairs notice that it was being heard. He wanted to give Mr. Markham two weeks to research the issue and report back to the Council so he made the following substitute motion:

Motion: Council Member David Sewell made a substitute motion to continue this item for two weeks. The motion was seconded by Council Member Kim Santiago.

Mr. Horne said they did not intend to leave anyone out. They had been going through this process for close to eight months and wanted to get the financing completed while the interest rates were still low. Referencing a concern about renting to three unrelated people, he stated that the third room had a wire glass window that opened up to a hallway. They would not rent the space as a bedroom. They would also enforce the parking requirements by towing if they needed to. He was fine with continuing the item for two weeks and stated that he would work with Mr. Markham to address his concerns.

Chair Garrett called for a vote on the substitute motion.

Roll Call Vote: The substitute motion passed 6:1 with Council Members Garrett, Hales, Miller, Santiago, Sewell, and Winterton in favor and Council Member Van Buren opposed.

6. Resolution 2015-50 amending the 2015 Council regular meeting schedule by changing November 10, 2015, to a Special or Emergency Meeting and changing November 17, 2015, to a Work and Council Meeting. (15-114)

Matthew Taylor, Council Executive Director, presented. State statute requires that the Board of Canvassers (BOC) meet no sooner than 13 days and no later than 14 days after an election to canvass and certify the result of the election. This was to allow time for absentee ballots sent to servicemen/women overseas to be returned and counted. That would put the BOC meeting on November 17, 2015 which was scheduled as a Special or Emergency Meeting. Since the Council would need to meet on November 17th for the BOC the decision was made to consolidate the regular council meeting with the BOC meeting. The resolution would amend the schedule by

changing the November 10, 2015 date to a Special or Emergency Meeting and the November 17, 2015 date to a Work & Council Meeting.

Motion: Council Member Kim Santiago moved to approve **Resolution 2015-50** as written. The motion was seconded by Council Member Dave Sewell.

Roll Call Vote: The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Adjourn

Motion: Council Member Calli Hales moved to Adjourn at 7:23 p.m. The motion was seconded by Council Member Kim Santiago.

Roll Call Vote: The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.