



## **PROVO MUNICIPAL COUNCIL**

### **Redevelopment Agency of Provo**

#### **Regular Meeting Minutes**

5:45 PM, Tuesday, June 07, 2016

Room 200, Municipal Council Chambers  
351 West Center

## **Opening Ceremony**

### **Roll Call**

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Council Member David Sewell	Council Member Vernon K. Van Buren
Council Member Gary Winterton	Council Member David Harding
Council Member David Knecht	Council Member George Stewart
CAO Wayne Parker	Deputy City Attorney Brian Jones
Council Executive Director Clifford Strachan	

Excused: Council Member Kim Santiago

Conducting: Council Vice-Chair David Sewell

### **Invocation and Pledge**

Invocation: Parker Grahams – Boy Scout Troop 729

Pledge: Luke Allen and Matthew Cook – Boy Scout Troop 729

Shannon Bingham, Timpanogos Neighborhood Chair, gave a presentation on the service project recently held in their neighborhood. She reported the following:

- More than 200 volunteers from a BYU young special interest stake participated;
- More than 50 local neighborhood volunteers participated;
- Cleaned up in several neighborhoods which included installing three sprinkler systems, planting 17 trees, and trimming trees, and hauling dead trees away.
- Painted a crosswalk at 500 North 400 West for better access to North Park and the recreation center;
- Received more than \$4,500 in cash donations;
- Local grocery store donated food and water for the project;
- Provo City Forestry Department donated trees;
- Received a matching grant from the Neighborhood Program for the project.

She stated the project was a great success and thanked all those involved.

### **Approval of Minutes**

By common consent the May 3, 2016; May 17, 2016; and May 19, 2016 council meeting minutes were approved by the council.

## **Presentations, Proclamations and Awards**

### **1. A presentation by C-SPAN**

Vice-Chair Sewell introduced Ashley Hill, Producer of C-SPAN Cities Tour, and invited her to comment on their visit to Provo. Ms. Hill reported that C-SPAN was a TV network created by the cable industry to provide viewers with direct access to their lawmakers. The network was one of a kind because they were not subsidized by use of tax payer or government money and they did not have any editorializing. The C-SPAN Cities Tour spotlighted unique cities and they were in Provo that week to produce pieces to highlight the area's unique history. The program would cover the founding of Provo City; the excavation of the Provo Temple; the BYU Museum of Paleontology; the BYU Special Collection Library, specifically the Reed Smoot Papers and Yellowstone Park Papers collection; and the Crandall Printing Museum. They would also include interviews with several local authors, business owners, and government officials. The programming would air July 2<sup>nd</sup> and 3<sup>rd</sup> and would also be available on their website for viewing.

### **2. A presentation by Paul Warner regarding Freedom Festival 2016**

Paul Warner, Executive Director of America's Freedom Festival at Provo, discussed some of the events for the 2016 Freedom Festival, which included:

- Mayor's Prayer Breakfast
- Stadium of Fire (featuring Tim McGraw and Patti Austin)
- Flag Retirement Ceremony
- Patriotic Service (Elder D. Todd Christofferson of the LDS Church)
- Baby Contest (in conjunction with Orem City Summerfest)
- Freedom Awards Gala (honoring the late Justice Antonin Scalia, US Supreme Court)
- Balloon Fest
- Grand Parade

Mr. Warner anticipated more than 300,000 spectators for the parade. The Freedom Festival brought in about \$19 million through hotels, food, etc. He thanked the Provo City Council and Administration for their support of this event.

## **Public Comment**

There were no public comments.

## **Mayor's Items and Reports**

### **3. A public hearing on an ordinance adopting a Tentative Budget for Provo City Corporation for the fiscal year beginning July 1, 2016, and ending June 30, 2017, in the amount of \$200,614,858, setting a public hearing to consider a proposed change in the Certified Tax Rate, and amending the Consolidated Fee Schedule and Provo City Code Section 4.04.060. (16-054)**

Vice-Chair Sewell introduced the item and explained this was the first of two public hearings to be held concerning the proposed FY 2017 budget. Another public hearing would be held in two weeks so the council would not vote on this item during the meeting

Dustin Grabau, Provo City Budget Officer, presented. Mr. Grabau reported a budget retreat would be held with the council on Thursday, 16 June, 2016 to discuss the budget in detail. He explained that the proposed three percent property tax would only be on Provo's share of the property tax. For example, for a home valued at \$205,600 (median home price in Provo) would amount to a \$3 increase per year.

Chair Sewell invited public comment.

Pam Jones, Provo, understood that elected officials had a legal right to raise taxes but wanted to know what moral right they had to take more and more money from the citizens. The city's rationale that inflation lowered their spending ability also affected the citizens, especially those retired and on fixed incomes. She said one way to reduce the city's budget without raising taxes would be to take one penny from every dollar budgeted. Or, the city could take money from one budget to offset increases in another budget. She would like the city to submit a budget with no increase at all.

Porter Hoskins, Provo, asked for clarification on a Deseret News article that reported the property tax would be raised three percent and the average water bill would be raised \$11 dollars per month or \$132 per year as opposed to just a \$3 yearly increase.

Mr. Sewell explained they were two different items. The proposed property tax increase (as explained by Mr. Grabau) would apply to a relatively small portion of the property tax and would be around \$3 for the average homeowner. The other reference was to proposed increases to public utility fees which included water, waste water, sanitation, and storm water.

There were no more public comments.

Mr. Stewart stated that taxes were used to provide city services. He felt that property taxes did not need to be increased as long as there were items in the budget that could be reduced. He said the budget committee recommended reducing the transfer to the golf course by \$50,000 because they had a \$130,000 fund balance. They also recommended eliminating the \$100,000 funding for Downtown Provo Inc.

Mr. Winterton noted that the savings in the golf course was because of hard work and efforts on behalf of the Parks and Recreation staff. He felt that any extra money at the golf course should be used to fund capital improvement projects that would improve and benefit the golf course and were not included in the budget. The council needed to look at how cuts affect services that continue to increase in price. Last year's property tax increase of two percent was the first increase in 22 years.

Mr. Knecht was aware of, and was concerned about, people on fixed incomes. He suggested residents look at Utah County's circuit breaker tax abatement program for citizens on fixed incomes. The county looked at income, age, disabilities, and veteran service. If the resident was

more than 65 years old Utah County might reduce or completely eliminate the property tax based on circumstances.

Vice-Chair Sewell announced that a budget retreat would be held on Thursday, 16 June at 10 a.m. The council would go into detail with each department about their budgets. The citizens were invited to attend the meeting or watch the meeting online.

**4. A public hearing on Resolution 2016-20 appropriating \$150,000 in the General Fund to repair the roof on the building that houses the Community Development Department and Fire Station #1, applying to the fiscal year ending June 30, 2016. (16-062)**

Dustin Grabau presented. The proposed resolution would appropriate \$150,000 to replace the roof of the Community Development and Fire Station No. 1 building. This project would increase the safety and value of the current building.

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

**Motion:** Council Member Vernon K. Van Buren moved to approve **Resolution 2016-20** appropriating \$150,000 for the roof. The motion was seconded by Council Member David Knecht.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**5. A public hearing on Resolution 2016-21 appropriating \$307,500 in the General Fund to make purchases related to necessary capital projects in the Recreation Center, applying to the fiscal year ending June 30, 2016. (16-064)**

Dustin Grabau presented. The proposed resolution was based on the recreation center exceeding estimated revenues and usage. The original operating budget was \$4.1 million and they were on track to generate in excess of \$4.5 million. The appropriation would come from the excess revenue and would be used for necessary improvements to the recreation center to better serve the citizens.

Some of the proposed improvements included:

- Aquatics and Outdoor Pool Projects - \$178,500
  - Additional Fencing;
  - Purchase a Myrtha Line for the wave pool to reduce staff time for maintenance;
  - Additional Sidewalk Access (to allow ADA access to facilities on outdoor plaza);
  - Additional speakers for safety messages, announcements and special events.
- Recreation Center Guest Services - \$129,000
  - Floor Covering;
  - BMI Machines;
  - Racquetball Seating;
  - Chair Tables for Community Side;
  - Mobile Computing Solution.

Vice-Chair Sewell invited public comment.

Jeff Rose, Provo, commented on the last item (budget) and asked why the city continued to subsidize the golf course. He asked why the fund balance from the golf course could not be used for a project at the recreation center.

Mr. Henderson responded to the question by stating subsidizing a golf course was not a rare thing for a municipality. The subsidy for the golf course was 10 percent of its operating cost. The other 90 percent was covered by the golf course fees. That was a reduction of 25 percent from when the city took back control of the golf course from privatization. The proposed budget included a \$23,000 reduction in the subsidy.

David Czierpinski, Provo, asked if they considered reducing the cost of family memberships. He lived with extended family members that were developmentally disabled and took them to the recreation center to help with their disabilities. He asked if family memberships could be expanded to include extended family members, not just immediate family.

Mr. Henderson replied that they could reduce the fees but that would reduce the revenues used to provide maintenance and upgrades. Their fees were based on market studies and were competitive compared to other city recreation centers. He said the city had a “Plus One” program at the recreation center that allowed any family member or friend to get in free if they were providing assistance for a special needs patron.

Mr. Winterton said the city looked at the recreation center fees every year and tried to find a balance between keeping the fees competitive to give more people the opportunity to attend while trying to bring in enough revenues to properly maintain the building so that patrons had a good experience.

Mr. Knecht pointed out that before the recreation center was built the city had three different facilities they were subsidizing at a cost of around \$800,000 yearly for operations and maintenance. Mr. Henderson said that with the age of the buildings the subsidy would reach \$1 million by the time a new recreation center would have opened. Mr. Knecht added that the older facilities were bought and paid for. The bond for the new recreation center was \$3 million per year. The new center had been a great success and a benefit for the community. While the recreation was showing an operating surplus, in the big picture, we also paid millions each year on the bond in order to have the new facility.

Mr. Harding noted that the citizens chose to enter into a bond for the recreation center. He was thrilled they were covering their operational expenses and it was a wonderful success. We look at the subsidies for the golf course but we were not paying any bonds on the golf course. So, from a different perspective, the golf course might be doing better. While not everyone used the recreation center and the golf course, we live in a better community because the services were provided.

**Motion:** Council Member George Stewart moved to approve **Resolution 2016-21** as written. The motion was seconded by Council Member Vernon K. Van Buren.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**6. A public hearing on Resolution 2016-22 approving the reprogramming of Community Development Block Grant (CDBG) funds to fund the Sidewalk Improvement Project on 400 West Street. (16-065)**

Dan Gonzalez, Redevelopment Agency, presented. The proposal was to reprogram \$75,366 from the Down Payment Assistance Program and \$69,634 from the Commercial Façade Renovation Program to help fund sidewalk improvements on 400 West between Center Street and 100 North. The property owners in that area would not be contributing to the improvements.

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

In response to a question from Mr. Knecht, Mr. Gonzalez reported the project qualified for CDBG funding because it was in a low to moderate income area.

**Motion:** Council Member George Stewart moved to approve **Resolution 2016-22** as written. The motion was seconded by Council Member David Harding.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**7. A public hearing on Resolution 2016-23 to reprogram Community Development Block Grant (CDBG) funds to provide for the relocation of a transformer to finalize the remodel of the Startup Building. (16-073)**

Mr. Gonzalez stated that the proposal was to reprogram \$44,814 from Small Business Loans and \$5,186 from Down Payment Assistance Loans to provide a grant in the amount of \$50,000 to the Taylor family for relocation of a transformer in the Startup Building.

Mr. Gonzalez reported that over the past few years the Startup Building had been remodeled to provide small, individual offices for early stage and startup businesses. During the remodel it was determined that a transformer, located within the existing building, would need to be relocated outside the building because it did not meet current building code regulations and created a dangerous situation.

Tom Taylor, representing the Taylor family, owners of the Startup Building, was invited to comment. He said the Startup Building had been up and going for four years and had been able to make a substantial difference and contribution to the development of small business and startup organizations. They also held a lot of community events at their location. He viewed this as a public/private partnership where both the city and the Taylor family contributed to the success of the projects.

When the renovation of the building began the city loaned the family \$200,000. The family had spent a lot more than that on the project and felt they had generated a lot of public good in the space. The building permit was approved without the need to move the transformer but, since that time, Provo City Power has required the transformer be moved for safety purposes. Mr. Taylor noted the power connection was running underneath the building and then going to the transformer through the center of the building. They were requesting a block grant in order help pay for the relocation. The cost of the relocation would be more than the \$50,000.

David Walter, RDA Director, noted a \$200,000 loan was given in order to help build the co-worker environment with \$105,000 from the RDA and \$95,000 from Provo City's general fund. Mr. Taylor had been making the payments as scheduled. The \$50,000 would be reprogrammed from CDBG funds. He reported that CDBG allowed cities to use the funds for job creation.

Wayne Parker, Provo City CAO, said that the Taylor family had made remarkable contributions to our community. Our contributions to this project were small compared to the value we had received. The remaining members of the Business Development Corporation Board recommended the council approve a grant rather than a loan.

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

Mr. Jones noted the resolution stated the city would use those funds to provide a grant and/or a loan in the amount of \$50,000. Part I of the resolution stated the mayor was authorized to reprogram the funds for the purposes described in the resolution. If the council wanted to be specific about whether it was a grant or a loan they should amend Part I of the resolution.

In response to a question from Mr. Winterton, Mr. Walter replied that Provo City had an active involvement in the startup community. Dixon Holmes, Director of Economic Development, and his staff were active in meeting with different representatives for this type of project. One of the benefits of the public/private partnership with the Taylor family was that the city was helping to provide the co-working, meeting, and reception space for these startup businesses.

Mr. Gonzalez pointed out that the relocation of the transformer was required by the city, the Taylor family did not create this problem.

**Motion:** Council Member David Knecht made the following motion. Whereas this is a city owned transformer he moved to reprogram up to \$44,814 from Small Business Loans and \$5,186 from the Down Payment Assistance loans project to fund a grant to be used for relocation of the transformer. The motion was seconded by Council Member George Stewart.

Mr. Harding felt the public/private partnership was a more efficient model than trying to create our own city space. He wondered if, in the future, they could look at creating a more formal pool of money to invest into these types of activities. They could open up the pool for people to qualify for the funding. With a little more investment the city might get more return for job creation and economic development.

Vice-Chair Sewell called for a vote on the proposed amendment to the resolution.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

Vice-Chair Sewell called for a motion on the amended resolution.

**Motion:** Council Member Gary Winterton moved to approve **Resolution 2016-23** as amended. The motion was seconded by Council Member David Knecht.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

Recess Municipal Council meeting

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**Motion:** Council Member David Harding moved to recess as the Municipal Council and convene as the Redevelopment Agency at 7:39 p.m. The motion was seconded by Council Member David Knecht.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

## Redevelopment Agency of Provo

### 8. A public hearing on a resolution adopting a budget for the Redevelopment Agency of Provo City Corporation in the amount of \$4,292,168, for the fiscal year beginning July 1, 2016, and ending June 30, 2017. (16-055)

Mr. Grabau explained that the Redevelopment Agency budget was included as an appendix to Provo City's proposed budget. Discussion of this budget would be included in the budget retreat scheduled for next week.

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

Mr. Jones noted that no action was required on this item.

Adjourn Redevelopment Agency and convene as Storm Water Special Service District

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**Motion:** Board Member David Sewell moved to adjourn as the Redevelopment Agency and convene as the Storm Water Special Service District at 7:41 p.m. The motion was seconded by Board Member Gary Winterton.

**Roll Call Vote:** The motion passed 6:0 with Board Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Board Member Santiago was excused.

## **Storm Water Special Service District**

- 9. A public hearing on a resolution adopting a budget for the Provo City Storm Water Special Service District in the amount of \$4,196,915 for the fiscal year beginning July 1, 2016, and ending June 30, 2017. (16-056)**

Mr. Grabau noted this budget was also included as an appendix in Provo City's tentative budget documents. The proposed budget fell under the purview of Public Works and was under consideration for rate increases. This budget was included in the five-year versus seven-year rate increase discussion held earlier in work session.

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

Adjourn Storm Water Special Service District and reconvene as Provo City Municipal Council

**Motion:** Council Member Vernon K. Van Buren moved to adjourn as the Storm Water Special Service District and reconvene as the Municipal Council at 7:42 p.m. The motion was seconded by Council Member Harding.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

## **Policy Items Referred from the Planning Commission**

- 10. A public hearing on Resolution 2016-24 approving the Provo City Moderate Income Housing Plan for 2014-2015. City-wide Impact. (16-0003GPA)**

Brian Maxfield, Provo City Planning Manager, presented. The Moderate Income Housing Plan was not a plan for the future but a report on past action. The plan was a mandated bi-annual report from Utah State reporting efforts made to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing and actions taken to encourage preservation of existing moderate income housing. Mr. Maxfield stated the city had met the requirement of the state concerning those goals.

Mr. Knecht noted he had spoken earlier with Mr. Maxfield about the discrepancies in some of the figures in the report concerning how HUD used their five categories to rate communities and create an opportunity index. The discrepancy showed Provo City as a 7.5 and later as a three. Since Mr. Maxfield was not sure if the discrepancies had been resolved, Mr. Knecht did not feel good about approving the plan.

Mr. Maxfield explained that the discrepancies concerning the CDBG statistics were not part of the state report, but were federal requirements. Those discrepancies would need to be resolved for the housing element update and yearly federal reporting updates. Moderate income housing was a ratio based on 80 percent of an area's median income so it could fluctuate over the years. The housing element update would identify the means to preserve moderate housing.

Mr. Knecht said he had watched a video of a speech before congress asking them to defund the Affirmatively Furthering Fair Housing Act. Examples were given where residents of Chicago were forcibly relocated in order to meet goals of that program. Mr. Maxfield replied that, as far as he was aware, that had not happened in Utah. The major purpose in Utah was to make sure every city did their fair share in providing for a variety of housing types.

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

**Motion:** Council Member David Knecht moved to approve **Resolution 2016-24**, the Moderate Income Housing Plan for 2014-2015. The motion was seconded by Council Member David Harding.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**11. A public hearing on Ordinance 2016-13 amending Provo City Code Sections 14.32.020 and 14.32.140 to allow for reuse of an existing commercial building in the Residential Conservation (RC) Zone, specifically for the building generally located at 389 East 200 North. Joaquin Neighborhood and City-Wide Impact. (15-0020OA)**

Robert Mills, Provo City Planner, presented. The applicant owned property at the corner of 400 East 200 North which included a residence and an existing commercial structure that was not in use. The original application was to allow a small grocery store in the commercial structure. Residents in the neighborhood suggested that another use would be to put a bicycle collective in the commercial space. The applicant agreed and the request was amended to include bicycle and sales use at that location. The amendment would apply city-wide but there were only two areas in the city that would be impacted by the ordinance. The other structure (a commercial space attached to a residential space) was located at 300 South 600 West in the Franklin Neighborhood. The ordinance did not allow for new construction of commercial structures in the Residential Conservation zone. Provo City staff recommended approval and the Planning Commission voted unanimously to approve the request.

Mr. Jones handed out an amended version of the proposed ordinance and reviewed those changes with the council members (copy attached to permanent minutes).

- In Section 14.32.140 (Other Requirements) it eliminated 14.32.140(6) (Uses in Existing Commercial Structures) and combined that section with 14.32.140(5) (Grocery Standards).
- Amended 14.32.140(5)(a) to limit the floor area for grocery stores to 2,900 square feet. Attached residential structures would not count toward the total square footage.

Mr. Mills stated he was not sure about the square footage of the structure in the Franklin Neighborhood. He recommended changing the language in 14.32.140(5)(a) to state the existing square footage rather than limiting it to 2,900 square feet.

The applicant, Susan Christensen, was invited to comment. She purchased the property in 2014 and had been working with the city since that time to have it rezoned. As stated earlier, they initially wanted a grocery store; however, by renting to the bike collective it would increase

bicycle riding in the neighborhood and provide a location to help people purchase and repair bicycles.

Vice-Chair Sewell invited the neighborhood chair to comment.

Bill Graff, Joaquin Neighborhood Chair, felt this was a perfect project for this area and had strong support from neighborhood. He recommended the council approve the ordinance.

Susan Kruger-Barber, Joaquin Neighborhood Vice-Chair, stated that nearly everyone in the neighborhood liked the proposal.

Vice-Chair Sewell invited public comment.

Austin Taylor, resident of the Joaquin neighborhood and Director of Provo Bicycle Collective, stated the organization had been in Utah since 2002. Their main purpose was to promote cycling as a form of transportation. They partner with Provo and BYU police departments to receive unclaimed bicycles, refurbish them, and sell them at a low cost or give to people in the community that need transportation. They also educate people on how to ride safely and how to repair bicycles. He felt this would benefit the Joaquin neighborhood because it was densely populated with limited parking. They were working towards reducing the need for parking as more people would rely on bicycles for transportation.

Adam Kay, student at BYU, stated that bicycles were something the community needed and wanted. The collective created a symbiotic relationship with the local bicycle shops (four in Provo) to work together to help residents obtain the parts necessary for their bicycles. Their organization helped fill the needs of students and families that could not afford cars and used bicycles for their transportation. They hosted a weekly class for children to teach bike mechanic skills. Most important was the volunteerism that the collective brought to the community.

Brian Gordon, resident of Provo for 31 years, felt the bicycle collective was a great organization. However, the issue before the council was whether a commercial structure should be allowed to be used in a residential zone. He was concerned about providing enough parking to support the business. He owned a home across the road from the location and stated there were already parking problems, including people parking right in front of his driveway. The previous use of the property had been a triplex which would have required six off street parking spots and they did not have any. Approving a commercial building would require off street parking which they did not have. Their current location, which they had outgrown, had a lot of off street parking and now they wanted to move to a location without any off street parking. He felt the collective would be a benefit anywhere in the city, including the Franklin property, which had a parking lot for off street parking. This ordinance should only be approved if the fronts of neighbor's homes did not become the collective's parking lot.

Susan Kruger-Barber, Provo, had been involved in a neighborhood walk through to document parking violations. The area, especially above 500 North, was in crisis mode. Joaquin needed a parking permit program. She suggested putting up no parking signs in front of driveways. During their walk through only one area on 800 North had vehicles parking in areas that had no parking signs. She felt the bike collective would take cars off the street and brings bikes to the community. This would also help the air pollution in the city by reducing vehicle usage.

Oliver Kallas, Joaquin neighborhood, had owned a home there for 11 years. He lived without a car for eight years relying solely on public transportation and bikes while attending grad school at the University of Utah. He felt parking was one of the last things they would have to worry about.

Jeff Rose, Provo, supported the proposal. He stated that people patronizing the bike collective as well as the volunteers and workers had a commitment to transportation by bicycle rather than cars. Only in the most severe scenario would people use other sorts of transportation to go to the bike collective. Most use their bicycles because they did not have other forms of transportation. Hopefully, those that drove to the collective would not park in front of driveways. He supported the proposal.

Kennedy, Tarrin, and Tasha Neubert supported the bike collective move to the new location.

Ms. Neubert, mother of the three children listed above, stated they had been going to the bike collective for the past several months. Her children had learned a lot of things about working on bicycles. She would not be riding to the bike collective with all her children so they would drive. She loved the program and would be willing to park farther away and walk if they needed to.

Tatum Neubert, Orem, said the collective needed to move from their current location because they had too many bikes in their current location. If they moved they would have more room to spread out the bikes and more people could work on them.

Wayne Leavitt, Joaquin Neighborhood Vice-Chair, acknowledged there was a parking problem in the neighborhood. Most of the problem was from students trying to park near a BYU bus ride station. The location would be helpful to the university and to the elementary school community. They had forged a working agreement with Provo Peaks Elementary School to implement a program on bike safety and bike rules. This program should encourage bike use in the neighborhood in the future and felt the bike collective would be a small part of the parking problem.

Elias Flores, Provo, noted that the Provo City Bicycle Master Plan designated 200 East as a bicycle pathway to connect BYU to downtown and the Provo FrontRunner station. The new location for the bicycle collective would be ideal and allow people to become part of the transportation master plan. He recommended approving the ordinance because the neighborhood would benefit from it.

Katrina Skidmore, Maeser neighborhood, volunteered at the bike collective and purchased a bike from the collective. She recently had her bike seat stolen but could not replace it because the current location was too far to ride without a seat. The current location would be better for students.

Trevor Christensen, resident of Provo for 27 years, reported that on the Daily Herald's podcast the Mayor said the bike collective was one of the best run advocacy groups in Provo. He felt this was a good group that empowered people and sent a strong message that bikes were great and cities needed more of them. He encouraged the council to vote for this measure.

Brandon Nelson, BYU student, encouraged the council to support this measure. He pointed out how well run the bike collective was. Mr. Taylor was made the manager about a year ago and he had done a fantastic job of keeping the collective clean, well-kept, and organized. Mr. Taylor interacted very well with the children and community members that volunteered at the collective. Parking was a concern that had been brought up but they would like to use this as an opportunity to show how much they could work with the community.

Heather Skabelund, Franklin neighborhood, stated she biked with her three and five year olds. Even though she lived an equal distance from the old location and the proposed new location they rarely went to the collective but they would go a lot if it was in Joaquin. They primarily biked to the recreation center, parks, and the library so the new location would be more central for them. She felt that would be true for a lot of people.

Hugh Van Wagonen, 340 East 100 North, was excited to see the building put to good use and to promote and advocate for bicycle use. As the collective took shape in the building there would be plenty of opportunity for people driving by to realize that bicycles could work in that area. Anything to promote bicycle awareness and culture as an alternative mode of transportation, not only for air quality but for their health, was a fantastic thing. He was in favor of the proposal.

Vice-Chair Sewell invited Brian Gordon (resident across the street from the proposed location) and Joaquin Neighborhood Chair Bill Graff to make final comments.

Brian Gordon stated he appreciated the bike collective and said they stood for great principles. But they, even by their own admission, have said they would try to avoid adding to the parking problems. With all the other parking problems in the area this would just compound the problem. Ultimately, all they could do was try. The collective would succeed no matter where they went.

Mr. Graff said they did have a major parking problem that the neighbors had been working on. They have had great difficulty working with the City. He challenged Mr. Parker to work with them in that neighborhood. He empathized with Mr. Gordon because he also had people parking in his driveway. The neighborhood was ready, willing, and able to work on the parking problem. They had possible solutions ready to present but they needed someone to work with.

Vice-Chair Sewell stated other neighborhoods had approached the city with parking permit programs so he encouraged Mr. Graff to bring something to the City for consideration. Community Development would be the best place to start.

Mr. Knecht said it was time to come up with a workable parking permit plan for that area. He recommended they contact Provo City and request signs limiting parking to one or two hours during business hours be placed in front of the business. At night the parking would be open to everyone.

Mr. Harding stated that when he spoke with neighbors about increased parking problems he was surprised with the lack of negative responses. He understood Mr. Gordon's concern about basing the decision on the appropriate use for the property and not whether the bicycle collective was a good fit. Once the property was rezoned the use could change so they needed to make sure the ordinance would make sense for the two locations it would affect. They should not minimize

the impact to parking because this change would have an effect on the parking. Emphasizing that the use of bicycles as a mode of transportation might reduce the need for parking might be true generally; however, he felt it would compound the parking problem in that location. Putting up signs in front of the business which limited the parking to one hour or having diagonal parking would possibly help mitigate the problems. He supported the appropriate commercial use in the neighborhood and felt the project was compatible with the neighborhood. He hoped that the neighbors understood that this would have an impact on parking so they needed to work with the city to mitigate parking in that area and throughout the Joaquin neighborhood.

Mr. Jones noted there were three versions of the proposed ordinance presented to the Council.

- Version A – submitted in the materials and reviewed by the planning commission. He did not recommend approving that version because language in subparagraphs (5) and (6) was duplicative and made the code longer.
- Version B – hard copy handed out during meeting where no substantive changes were made. The ordinance was simplified to put all duplicative language in one subparagraph.
- Version C – shown on the screen in anticipation of council taking out the square footage limitation. The sentence about square footage was removed and it kept the language stating the residential part of the building could not be used for commercial purposes.

Mr. Jones stated that if one of those versions satisfied what the council wanted they could make a motion to approve one of those three versions.

**Motion:** Council Member David Knecht moved to approve version C of the ordinance which took out the square footage and as shown on the screen. The motion was seconded by Council Member Vernon K. Van Buren.

Mr. Jones clarified that 14.32.140(5)(a) stated “Uses in existing commercial structures shall be confined to the current floor area...” Property owners could not exceed the current floor area and they could not count the residential part of the building when they were calculating the current floor area.

After council discussion on the language in 14.32.140(5)(a) of version C, Mr. Jones proposed amending the ordinance to read as follows:

“Uses in existing commercial structures shall be confined to the current floor area of the existing commercial portion of the structure. If the existing commercial structure is a noncomplying structure it shall be subject to the provisions of Section 14.36.050 of this Title.”

Mr. Harding made the following motion:

**Motion:** Council Member David Harding made a substitute motion to amend Version C as just discussed and currently shown on the screen. The motion was seconded by Council Member David Knecht.

Mr. Van Buren asked for clarification that the commercial square footage of the structure would be as of the date of passage of the ordinance (in case there had been changes to the commercial

square footage in the past). Mr. Jones agreed saying the law would apply to the existing commercial structure as of the ordinance adoption date.

Vice-Chair Sewell called for a vote on the motion to amend the ordinance per option C.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

Vice-Chair Sewell called for a motion to approve the amended version of the ordinance.

**Motion:** Council Member David Knecht moved to approve the amended version C of **Ordinance 2016-13**. The motion was seconded by Council Member David Harding.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

Vice-Chair Sewell called for a short recess at 9:04 p.m. The meeting was reconvened at 9:11 p.m.

**12. A public hearing on Ordinance 2016-14 amending the Zone Map Classification of approximately 0.34 acres of real property, generally located at 177 South 1000 West, from Residential Conservation (RC) Zone to Del Coronado PRO (PRO-20) Zone. Franklin Neighborhood. (15-0013R)**

Aaron Ardmore, Provo City Planner, presented. About one year ago the developer submitted an application to tear down a deteriorated single family home and build a fourplex on this property just south of an existing fourplex. The council denied the request and recommended the applicant come back with a different proposal. The new proposal would be to tear down the single family home and build a duplex at that location. Staff recommended approval of the request. The development would improve the condition of the property, provide a new sidewalk, create a new park strip planter on the corner, and increase the number of parking spaces in that area.

Boyd Martin, representing the applicant Kevin Reisch, was asked to comment. He noted this project began in August 2014 by reaching out to Kathryn Allen the Franklin Neighborhood Chair. They were anxious to improve the corner and felt this development would be a vast improvement to the neighborhood because of the current condition of the home. It also addressed several public works concerns by improving drainage in the area.

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

**Motion:** Council Member David Knecht moved to approve **Ordinance 2016-14** as written. The motion was seconded by Council Member David Harding.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**13. A public hearing on Ordinance 2016-15 amending Provo City Code Section 14.50(20).040 to reduce the minimum project area size from 0.9 acre to 0.34 acre in order to build a new duplex on the property generally located at 177 South 1000 West, in the Residential Conservation (RC) Zone. Franklin Neighborhood. (15-0014OA)**

Mr. Ardmore reported this item was related to the zone map classification just approved. The acreage requirement for the zone was written specifically for a project in the Maeser neighborhood. The acreage needed to be reduced from .9 to .34 so that it would apply to the new parcel. Mr. Ardmore stated this would be the only parcel affected by the change in acreage because the Del Coronado PRO zone was a special zone.

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

**Motion:** Council Member Gary Winterton moved to approve **Ordinance 2016-15** as written. The motion was seconded by Council Member David Knecht.

Mr. Harding expressed concern that there were a number of homes throughout his district that were in similar condition. He said they needed to be careful about tearing down rundown single family homes and building projects with increased density.

Mr. Ardmore stated that future land use for this piece of property was low density residential so this type of development was expected.

Mr. Knecht noted that the Planning Commission approved the project 6:0 with conditions. One of those conditions was conditional use for the dumpster location. Mr. Ardmore replied that the Planning Commission had approved the conditional use and project plan.

Vice-Chair Sewell called for a vote on the motion.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**14. A public hearing on Ordinance 2016-16 amending the Zone Map Classification of approximately 0.46 acres of real property, generally located between 800 North and 880 North and between 250 West and 440 West, from One-Family Residential (R1.6A) to Health Care Facilities Zone (HCF). North Park Neighborhood. (16-0006R)**

**15. A public hearing on Ordinance 2016-17 vacating the public streets 250 West (between 800 North and 940 North) and 880 North (between 300 West and Freedom), adjacent to property owned by IHC Health Services for future hospital**

**expansion located in the R1.6A (One-Family Residential) and HCF (Health Care Facilities Zones. North Park Neighborhood. (16-0001SV)**

Vice-Chair Sewell indicated Items No. 14 and 15 would be discussed together since they were for the same project.

Dustin Wright, Provo City Planner, presented. Item No. 14 referenced 0.46 acres of property Intermountain Health Care (IHC) purchased for future hospital expansion. The property was located within the current Health Care Facilities (HFC) zone. The zone map for the property would be rezoned from R1.6A to HCF to match the adjacent property. A condition of the rezone was that the parcel would be combined with surrounding property to form a single parcel in the HFC zone.

Referencing Item No. 15, Mr. Wright stated that all the properties with frontage along the streets identified in the ordinance were owned by IHC. The street vacation would not have any impact on the surrounding area. The same condition, to combine all properties into a single parcel, applied to the street vacations also. Mr. Wright explained that when the original subdivisions were created the streets were dedicated to the city. When we vacate a street the city would deed the property back to the current property owner. There would be no transfer of funds.

In response to a question from Mr. Knecht, Mr. Wright replied that the rezone had met all of the CRC conditions.

Mr. Wright reported there was one property within the HCF zone that had not been purchased by IHC which would remain in the R1.6A zone.

Matt Lowder, representing IHC, was present to answer any questions. There were no questions for Mr. Lowder.

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

In response to questions and concerns from the council, Mr. Wright indicated the planning commission approved the rezone with a condition that the plats be combined with surrounding parcels. He stated the applicant intended to combine the plats but did not want to go through the time and expense of combining and recording the plats if the rezone was not approved. The city would accept the plat before the property had been rezoned if they were combining property. If they were dividing property the city would require the rezone to take place before the plat was approved.

Mr. Wright stated the application for the rezone lasted for one year from the date they were submitted. If the applicant did not meet that condition (combining the plats) they would have to submit a new application for the rezone. The applicant was going through the same process with other parcels that had been rezoned. The overall intent was to have the hospitals existing parcel plus all the additional properties combined into one plat.

Adam Jensen, architect with IHC, stated they were not concerned with adding that condition.

Mr. Jones proposed an amended version of the ordinance (version B) that added language at the end of Part I stating the zone change was contingent upon the applicant combining the described parcels into one parcel with surrounding property. The ordinance only became effective upon that action taking place. The amended version was shown on the screen.

Vice-Chair Sewell called for motions on Item No. 14

**Motion:** Council Member George Stewart moved to amend the original draft as shown on the screen. The motion was seconded by Council Member David Harding.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**Motion:** Council Member George Stewart moved to approve **Ordinance 2016-16** as amended. The motion was seconded by Council Member David Knecht.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

Vice-Chair Sewell called for motions on Item No. 15

**Motion:** Council Member David Harding moved to approve **Ordinance 2016-17** vacating the public streets 250 West (between 800 North and 940 North) and 880 North (between 300 West and Freedom). The motion was seconded by Council Member George Stewart.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

## **Council Items and Reports**

### **16. Resolution 2016-25 approving an amendment to a Development Agreement regarding property generally located at 660 East 300 North in order to amend the covenants, conditions, and restrictions required by the Agreement. (16-072)**

Deon Turley, owner of the property along with Robert Turley and Joan Hutchinson, presented. They were requesting to change the requirement in Exhibit D of the development agreement (approved ten years ago with a previous owner) that required both twin homes planned for the property be owner occupied for a period of 15 years from the time the covenants, conditions, and restrictions (CCR's) were recorded. They proposed amending the agreement to read "for at least three years following the effective date of the CC&R's one dwelling unit shall be occupied by the owners." They originally wanted the fifteen year owner occupied requirement removed. Some members of the council were concerned so they looked at other properties in the area with

similar restrictions. They felt a three year requirement would address some of the council concerns. They were planning on moving into one of the homes and Joan Hutchinson was planning on living in the second home.

Mr. Winterton stated that the new owners were finding it difficult to find financing with the 15 year occupancy requirement. The Turley's broker, David Barton (Rocky Mountain Mortgage Loans Branch Manager), was not present so his comments were read into the record by Ms. Turley:

“We could not find any verbiage about owner occupancy requirements from any of the lenders specifically. However, the secondary department was more concerned about how a lengthy owner occupancy clause would affect marketability in the future and, more specifically, how it would affect a potential appraised value of the home or the project in the future since an appraisal would need to find comparable properties with similar stipulations of an owner occupancy clause in the surrounding area or neighborhoods. They felt that could make the project less desirable to finance since it would limit the options or ability to finance the property now and in the future.”

Mr. Turley said they were told that up to three years would not be a problem to finance but after that it could create problems.

In response to a question from Mr. Van Buren about only one unit being owner occupied Mr. Turley replied that the owner of the other twin home was the one that requested the three year requirement. He stated they planned on being in the other twin home for a long time. The council, during work session, expressed concern that the property remain maintained after the owner occupancy requirement expired. He stated since they were planning on living in the home for a long time that should address the council's concern.

Ms. Turley stated there were other properties in the area that required only one year of owner occupancy and other areas where there was no owner occupancy requirement (in PRO zones). They were asking to be treated like others.

Mr. Turley reported that a previous council recommended the 15 year owner occupied requirement be included in the development agreement. The previous owner preferred not to have that restriction. He understood that the reason the lot had been vacant for ten years was because of difficulties finding financing with the fifteen year restriction.

Mr. Jones explained that the requirement in the new development agreement was to record CC&R's that included the owner occupancy requirement. Technically, the 15 years with the old agreement never started because the CCR's were never recorded.

Vice-Chair Sewell invited public comment.

Bill Graff, Joaquin Neighborhood Chair, encouraged the council to endorse the three year owner occupancy requirement and approve the resolution.

Wayne Leavitt, Joaquin Neighborhood Vice-Chair, supported the resolution.

**Motion:** Council Member Vernon K. Van Buren moved to approve **Resolution 2016-25**, amending the development agreement. The motion was seconded by Council Member David Harding.

Mr. Stewart stated it was always difficult to remove owner occupancy restrictions because they were used to build up neighborhoods. He would agree to approve the amendment since they needed to limit it to three years in order to obtain financing.

Vice-Chair Sewell called for a vote on the motion.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**17. A public hearing on Ordinance 2016-18 amending the Zone Map Classification of approximately 4.18 acres of real property, generally located at 1040 South 1000 East, from Heavy Commercial (CM) and Residential Conservation (RC) to Low Density Residential (LDR).. Spring Creek Neighborhood. (13-0003R)**

Bill Peperone, Provo City Assistant Director of Community Development, presented. Community Development requested this zone change for several reasons.

1. There had been some version or another of applications submitted on this property since March 2013.
2. The number of staff hours (hundreds) had gone beyond the amount of any application fees that had been paid.
3. In January of 2016, after the council repealed the MDR zone for this property, they felt that having the city initiate the zone change, independent of a site plan, would be a good way to proceed. As a site plan came forward, if it met the conditions of the zone, the staff would recommend approval.

Mr. Peperone said the staff had been comfortable with the LDR zone for some time. The southeast neighborhood plan had been under review for a year and this area had shown the property as LDR.

The site plan submitted to the Planning Commission, just to show them what could be done with the property, had 63 town home units with 20 percent open space and met the requirements of the zone. The plan also met the setback and parking requirements. The site plan was simply an illustration to show that a project could be built that would meet all the requirements of the zone. Mr. Peperone indicated the report of action and findings from the Planning Commission included the specific reasons for approving the zone change.

Vice-Chair Sewell noted that even though this action was initiated by Community Development, and the Planning Commission recommendation was for the zone only, there was an applicant proffering a development agreement.

Mr. Jones stated that legal staff, under review by Community Development staff, reached out to the owner and verified that the development agreement proffers were still in place. To solidify

that, a pre-reviewed version of the agreement had been signed by the developer. If the ordinance was approved the mayor would sign the development agreement. If approved, the effective date of the zone change would be tied to execution of a development agreement.

Vice-Chair Sewell invited Steve Turley, property owner, to comment. He stated this was the same development proffered six months ago, consistent with what the council wanted. The number of units in the development would change because of the new zone.

Vice-Chair Sewell invited Mary Millar, Spring Creek Neighborhood Chair, to comment. Ms. Millar asked the council to consider the effect on the quality of life for those in the area. She felt the LDR was a good fit for the area but asked if there was any chance they could decrease the number of units, even if it was only 10 or 15 percent. One of the property owners on the north and south sides of Carpenter Seed was willing to sell her property to the developer. This would allow use of a driveway already established on State Street and lessen the impact of those residents on 1060 South.

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

Mr. Knecht wanted to go on record stating that the city had explored and asked UDOT about access onto State Street. It was news to him that the adjacent property owner might want to sell because it would provide an access to State Street. One access they were looking at was just north of Carpenter Seed but the access had to line up with another street onto State Street. In years past the applicant had tried to find the access and received the same response from UDOT as the city had. They realized it was better to have some connection to a collector or arterial road rather than using existing roads through the neighborhood.

Mr. Harding said they had recently passed the Franklin Neighborhood Plan which laid out a vision for future land use. Would the city be initiating additional requests for rezones based on neighborhood plans? Mr. Peperone replied that it depended on the neighborhood and situation. In Joaquin they were comfortable with a mass rezoning of hundreds of properties north of 700 North to BYU campus. He did not remember any residents protesting that rezone. In other cases the neighborhood wanted the rezoning to happen as requests came in.

Vice-Chair Sewell stated he liked the new plan and felt it was better than the previous plan. He was concerned about traffic on 1060 South and the left hand turns onto State Street from 1140 South. They had heard several different traffic projections so, if they went to the more conservative estimate of 60 percent of traffic on 1040 South, the new zone would reduce the number of trips to less than 500 per day.

David Graves, Provo City Engineer, reported that the 500 number was not a volume number on local streets, it had to do with street widths. If it was under 500 a different street width standard could be applied to local streets. If more than 500 there were larger pavement widths that were used. The local street standard was contained in the transportation master plan. Local streets were 1,400 to 1,800 vehicles per day, even 24 foot streets. He noted that on a street with vehicle trips between 400 and 500 trips per day there would be less than one vehicle per minute. He stated a sidewalk would be built on 1060 South.

Mr. Graves said they were always looking for traffic calming measures in any site design, particularly in residential areas. Those measures could include bulb outs, narrower type intersections, etc. He did not encourage speed bumps on city streets or in private developments.

Vice-Chair Sewell reported that Chair Santiago asked him to express her concern about some of the doors in the development facing the garage area but liked this plan better than anything she had seen to this point. She did not indicate how she would have voted on this ordinance.

**Motion:** Council Member George Stewart moved to approve **Ordinance 2016-18** as written and displayed on the screen, including references to tying the effective date of the rezone to execution of the development agreement. The motion was seconded by Council Member Vernon K. Van Buren.

**Roll Call Vote:** The motion passed 5:1 with Council Members Knecht, Sewell, Stewart, Van Buren, and Winterton in favor and Council Member Harding opposed. Council Member Santiago was excused.

**18. Resolution 2016-26 approving the selection of an audit firm to provide audit services and authorizing the Council Chair to execute a contract with the audit firm. (16-049)**

Clifford Strachan, Council Executive Director, presented. State law required the city to conduct an annual audit of its financial statements by a certified public accountant. The report must be submitted to the Utah State Auditor's Office within six months after the end of the fiscal year. The council reviews the auditing agreement every five years so a request for proposal was sent out a few months ago. We received eight proposals and interviewed three applicants. The amended resolution (as shown on the screen) would approve and appoint the firm Hansen, Bradshaw, Malmrose, and Erickson (HBME) and authorize the council chair to execute a contract. The five-year total would be \$220,000.

**Motion:** Council Member David Knecht moved to accept the changes as the draft resolution before them. The motion was seconded by Council Member George Stewart.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

**Motion:** Council Member George Stewart moved to approve **Resolution 2016-26** authorizing the selection of Hansen, Bradshaw, Malmrose, & Erickson to provide audit services for Fiscal Year 2016-2017 through Fiscal Year 2020-2021 and authorize the council chair to execute a contract in conformance with the RFP and the response of the audit firm. The motion was seconded by Council Member Gary Winterton.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.

## Adjourn

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**Motion:** Council Member Gary Winterton moved to adjourn the meeting at 10:30 p.m. The motion was seconded by Council Member David Harding.

**Roll Call Vote:** The motion passed 6:0 with Council Members Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor. Council Member Santiago was excused.