

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
July 12, 2016

3:00 P.M. WORK SESSION – FIELD TRIP

CONDUCTING Mayor Richard F. Brunst

ELECTED OFFICIALS Councilmembers Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer and Brent Sumner

APPOINTED STAFF Jamie Davidson, City Manager; Greg Stephens, City Attorney; Karl Hirst, Recreation Department Manager; Chris Tschirki, Public Works Director; Scott Gurney, Fire Department Director; Jason Bench, Planning Division Manager; Neal Winterton, Water Division Manager; Lawrence Burton, Water Reclamation Manager; Steven Downs, Assistant to the City Manager; and Jackie Lambert, Deputy City Recorder

EXCUSED Debby Lauret

UPDATE – TOUR – Dog Park Site – Mt. Timpanogos Park

Mr. Hirst conducted a tour of the proposed site for a city dog park at Mt. Timpanogos Park. He shared a map of the proposed park and explained some of the specifications they hoped to include in the parks, including: double fences, water fountains for both people and dogs, benches and shade areas with mature trees, etc. There was discussion about the local wildlife and things that could be done to mitigate those issues, zoning overlays and easements, and the potential closure of the proposed dog park during the annual Timpanogos Storytelling Festival. Those in attendance were: elected officials Mayor Brunst and Councilmembers Mr. Lentz, Mr. Macdonald, Mr. Seastrand, Mr. Spencer, and Mr. Sumner; Orem staff Jamie Davidson, Greg Stephens, Karl Hirst, Chris Tschirki, Chief Scott Gurney, Jason Bench, Neal Winterton, Lawrence Burton, Steven Downs, and Jackie Lambert. Also in attendance were Wayne Windsor and Ammon Allen with the Metropolitan Water District of Salt Lake and Sandy (MWDSLS), Orem residents David and Shanna Hollan, and Genelle Pugmire, reporter with The Daily Herald.

Mayor Brunst commented that he thought the site would work very well for a dog park. The majority were in agreement.

TOUR – Water Conveyance Facilities in Northeast Orem

Mr. Tschirki, along with Wayne Windsor and Ammon Allen with the MWDSLS, conducted a tour of various water conveyance facilities in Northeast Orem. Mr. Windsor shared information about the 69” diameter aqueduct pipeline that ran 42 miles from Salt Lake to Orem. He said the pipe was a major project that began construction in 1937 and was completed by 1951. The MWDSLS was in the process of reviewing the pipeline easement areas, which affected approximately fifty Orem residences. Those in attendance were: elected officials Mayor Brunst and Councilmembers Mr. Lentz, Mr. Macdonald, Mr. Seastrand, Mr. Spencer, and Mr. Sumner;

Orem staff Jamie Davidson, Greg Stephens, Karl Hirst, Chris Tschirki, Chief Scott Gurney, Jason Bench, Neal Winterton, Lawrence Burton, Steven Downs, and Jackie Lambert. Also in attendance were Wayne Windsor and Ammon Allen with the Metropolitan Water District of Salt Lake and Sandy (MWDSLS), Orem residents David and Shanna Hollan, and Jeffrey Hamilton.

4:45 P.M. WORK SESSION – PUBLIC SAFETY TRAINING ROOM

CONDUCTING

Mayor Richard F. Brunst

ELECTED OFFICIALS

Councilmembers Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Greg Stephens, City Attorney; Karl Hirst, Recreation Department Manager; Chris Tschirki, Public Works Director; Scott Gurney, Fire Department Director; Charlene Crozier, Library Director; Jason Bench, Planning Division Manager; Neal Winterton, Water Division Manager; Paul Goodrich, Transportation Engineer; Steve Earl, Deputy City Attorney; Steven Downs, Assistant to the City Manager; and Jackie Lambert, Deputy City Recorder

EXCUSED

Debby Lauret

DISCUSSION – Water Conveyance Facilities in Northeast Orem

Wayne Windsor, Engineering and Maintenance Manager with the Metropolitan Water District of Salt Lake and Sandy (MWDSLS), said he was asked to provide the City Council with background on the Salt Lake Aqueduct and shared maps of where the aqueduct ran through the State and the City of Orem.

MWDSLS Facilities 2016 Update

- Metropolitan Water District of Salt Lake and Sandy
 - Organized in 1935 by Utah State Legislature
 - Administered by Seven Trustees
 - Facilities:
 - Salt Lake Aqueduct
 - Point of the Mountain Aqueduct
 - Little Cottonwood Water Treatment Plant
 - Point of the Mountain Water Treatment Plant
 - Jordan Narrows Pump Station
 - Other Interest:
 - Jordan Aqueduct system
 - Provo River Water Users Association
- Salt Lake Aqueduct
 - Built between 1937 and 1951 by BOR as part of the Provo River Project

- Conveys water from Deer Creek Reservoir to a Terminal Reservoir near Parley's Canyon (approximately 42 miles)
- Primarily 69-in. I.D. RCP
- Title transferred to MWDSLs on October 2, 2006
- Right of Way consists of:
 - Fee title
 - Easement
 - 1890s Easement (Canal Right of Way Act)
 - Width varies (typically between 50-ft and 250-ft)
- Current Activities
 - Survey
 - Licensing Program
 - Inspection and Assessments
 - Maintenance
- SLA Survey
 - 1.5 miles of SLA through Orem
 - Survey includes:
 - Chain of Title
 - Survey Caps
 - Above-ground markers
 - Residential areas north of UVWTP were surveyed in 2010 and 2013
 - Survey through Mt. Timpanogos Park scheduled for 2019
- Licensing Program
 - Program Goals
 - Maintain necessary, proper and timely access to aqueduct corridor, pipes and structures
 - Provide for reasonable constructability for future repair and replacement projects
 - Avoid litigation
 - Minimize exposure to liability claims
 - Provide adequate security
 - Enter into written agreements to outline the obligations of the District and the Licensee
 - Fulfill fiduciary responsibilities by protecting assets
 - Postcard sent April 2016
 - Annual newsletter anticipated in October 2016
 - The District is noticed about potential impacts:
 - Application process
 - Blue Stakes of Utah
 - Utility Surveys
 - Development notice from city/county
 - Inspection
 - About 50 affected residences in Orem
- Inspection and Assessments
 - Daily above-ground inspection
 - Investigate for leaks, unauthorized use
 - Pipe interior inspected in Orem in Fall 2013

- Drained 2.5 million gallons through Orem Blow-offs and UVWTP
 - Pipe in very good condition
 - Minor repairs and cleaning performed in Orem
- Maintenance
 - Corridor Clean-up
 - Remove unauthorized uses
 - Remove wild trees and overgrowth
 - Maintain Access
 - Install gates
 - Improve access roads
 - Prevent unauthorized access
 - Prevent dumping
 - Improvement Projects
 - Extend blow-offs
- Recent and Upcoming Interactions
 - Property Exchange (MWDSLS-Orem-CUWCD)
 - Subdivision Discrepancies:
 - Mountain Oaks
 - Cherapple Farms/Canyon
 - Skyline Meadows
 - Hamilton
- Property Exchange
 - April 2013 between Orem, CUWCD, MWDSLS
 - Exchanged property interests around the Utah Valley Water Treatment Plant
- Mountain Oaks Subdivision
 - Plat D (amended), F, H, N
 - SLA Corridor inaccurately shown
- Cherapple Subdivisions
 - Farms Plat J, L, O and Canyon Plats A, B
 - 1995 contract to exchange easements
 - Exchange not shown on Cherapple Canyon A
 - District fee-title interest not shown on Plat J
- Skyline Meadows Subdivision
 - Plat B, D
 - Blow-off extended through city streets into storm drain
- Hamilton
 - Mountain Oaks Plat H, Lot 4
 - Easement acquired through 1890s Act, notice of use recorded in 1962
 - Easement deed and plat description in conflict
 - Deed is 100-ft west, 50-ft east of centerline
 - Plat is 80-ft west, 70-ft east
 - No documentation, agreements, or exchange deeds have been found
 - Subdivision recorded in 1987
 - Hamilton purchased the lot in August 2014

Mr. Windsor said the pipelines had a 100-year life expectancy. The Salt Lake Aqueduct was typically a 69” diameter reinforced concrete pipe, and the Jordan Aqueduct was a 72” steel pipe.

He said the Salt Lake Aqueduct pipe, at its youngest age, was 64 years old along the 42 miles of pipe. He said the survey was to find interests on the ground and mark them properly. He said a survey was conducted in 2010 and another in 2013. Mr. Windsor said that since the title transfers in 2006 the MWDSLs had tried to reach out through a public relations campaign. They had sent postcards in April 2016 to all of the affected property owners and also sent information to public works departments of those affected cities. He said they were the “hidden neighbor” that people may not know about because the pipes were buried and unseen.

Mr. Windsor said they conducted inspections from inside the pipe and this coming February they will have completed their inspection of all 42 miles of the pipe. He said they did not take the pipeline down for long, but they inspected every joint, cleaned out debris and did minor repairs. He said the joints were the main issues for wear and tear, not the main trunk line. The pipe was aging gracefully but would eventually need to be replaced. He shared maps of the lands that were swapped between the MWDSLs and Orem City.

Mayor Brunst asked about the process of cleaning up easement areas on property not owned by the MWDSLs. He asked if the Hamilton property was a test case for them. Mr. Windsor said as of yet this was not a legal battle, and the Hamilton property was not a test case. He said as they found the issues they tried to engage with property owners. Mr. Windsor said in these cases they would go to the Board and figure out fair value options. It was not reasonable to ask people to tear down half of their house, and it was not their intention to displace people out of their homes. They simply hoped they could find ways to access the aqueduct pipeline as needed. He said they would handle things case by case, and this was not unique to Orem but there were close to 1,000 residents along the corridor they would work with. Mr. Windsor said the more difficult situations they were finding were all in Salt Lake County; none of the affected Orem issues were in their “top ten”.

Mayor Brunst said he recalled a time when the Provo River Users Water Association imposed their pipeline, which was a 120” steel pipeline, and had successfully worked with residents to lay the pipe. He had not heard of enforcement of these easements until that project. Mr. Windsor said he could not speak to what other groups had done or were doing. He said they were trying to be good stewards of a public infrastructure and thus far had not made many friends. Mr. Windsor said they were projecting 2035 for when they would look at replacing the pipes and intended to use all available technologies to ensure that the pipe was lasting.

Mr. Lentz asked if this presentation was purely informational or if an action item regarding the Salt Lake Aqueduct would eventually come before the City Council. Mr. Tschirki said this was purely informational as it had impact for some Orem residents.

There was discussion on how properties were developed on the easement areas without knowing they were easement areas. It was suggested that a documentation issue was at the heart of the matter. In some cases easement lines were incorrect in their alignment and in others easement lines were not shown at all. There was concern that groups like the Blue Stakes hotline and Utah County did not have the correct documentation of the easement lines. Mr. Windsor said they were doing what they could to correct the issue. He said they were trying to get proper recording done at Utah County and had attempted to do so at least a half dozen times but each time they were told something was wrong with the lines on the maps they were presenting.

Ammon Allen, Project Engineer with MWDSL, added that all of the deeds were recorded with Utah County in October of 2006. Mayor Brunst said most of the homes had been built well before that timeframe. He then asked how expansions were approved after the year 2006. Mr. Bench said it was likely that the original plat maps would have been used and those did not have the easement lines or had incorrect easement lines on them.

Jeffrey Hamilton, owner of aforementioned Hamilton property, said that he had purchased the home in 2014. Being aware of the possibility of easements in the area he had done a substantial search and the easements were invisible. He said property owners were finding the easement issues as they tried to expand on their properties.

David Hollan, resident, said he purchased his property through a title company that had done their due diligence and no easement lines were found at that time. He said everything was done properly, and he asked who would be held financially responsible if the lines were redrawn and old easements were enforced. Mayor Brunst said that would be determined by Mr. Hollan's attorney.

UPDATE – Provo/Orem TRIP Landscaping

Mr. Goodrich introduced and turned the time over to Lori Labrum, Project Manager, and Greg Graham, Lead Landscape Architect, with AECOM for an update on the proposed landscaping along University Parkway for the Provo/Orem TRIP project. Ms. Labrum said they had worked closely with Orem staff to refine the details of which species of trees and other plantings would work best along the corridor. She said they were hoping for feedback and direction from the Council.

Mr. Graham said he had been working closely with the City's Urban Forester Josh Story in making decisions about which species of plantings would be the best fit for the corridor. He wanted to start with trees, and said a lot of effort had gone into looking at the right type of tree for a specific location. Some factors would be the tree's root systems, tolerance to salt, drought tolerance, seasonal coloring, bark patterns, etc. and how well they would fit in a certain space with a certain soil.

Proposed Tree Species:

- Tree for Tree Grates
 - Allee Lacebark Elm
- Tree for Park Strips less than 10'
 - Common Hackberry Tree
- Tree for Park Strips 10' wide or wider
 - London Plane Tree
- Center Island Shade Tree
 - Green Vase Japanese Zelkova
- Tree Adjacent to University Mall
 - Shademaster Honey Locust
- Tree for Narrow Park Strips
 - Goldenrain Tree
- Small Flowering Tree
 - Japanese Tree Lilac

Mr. Graham said certain areas needed trees whose roots went deeper rather than spread near the surface to avoid lifting the sidewalks. They also looked at the canopy affect for shade and how the tree would color and look year-round. He said they wanted to select trees that would have the greatest amount of life in them for this kind of urban setting. Mr. Graham said the Allee Elm trees were used in Disneyland and were attractive trees for moderate to low maintenance areas.

Mayor Brunst asked if there were areas in Orem where these tree species were already planted. He also asked the general lifespan of these tree species. Mr. Graham suggested that Mr. Story would be a good resource for the tree location information. He said the lifespan would be dependent on the tree species and where it was located; generally speaking an urban tree lifespan would be 15 to 30 years or so.

Mr. Lentz asked about the irrigation of the plantings, and the possibility of xeriscaping. Mr. Graham said while the plant species they were focusing on were drought tolerant, they would still need watering. There may need to be supplemental irrigation for the larger shade trees, and likely all would need additional water during the summer months in such a dry climate. They were trying to avoid large grass areas that would require more water and maintenance like mowing.

Mr. Seastrand asked about the durability of the trees during wind storms or snow storms. Mr. Graham said Mr. Story had been a valuable resource in that area because he knew the history of certain trees in the city. The species they selected were strong-limbed trees with deep root systems that did not usually have problems in the wind or snow.

Mr. Graham shared information about the proposed shrubs and ground covers they would plant along the corridor.

Shrubs and Ground Covers – Orem:

- Shrubs
 - Winter Gem Boxwood
 - Blue Mist Spirea
 - Miss Kim Lilac
 - Little Devil Ninebark
 - Miniature Snowflake Mock Orange
 - Roses
- Flowering Perennials
 - Stephanie Returns Daylily
 - Orange Daylily
 - Firecracker Penstemon
 - English Lavender
- Ground Covers
 - Pawnee Buttes Sand Cherry
 - Autumn Amber Prostrate Sumac
 - Desert Four O'clock
- Ornamental Grasses
 - Karl Forester Reed Grass

- Seep Muhly

Mr. Graham said they chose species that would stay under four feet to maintain visual access but could still provide some screening. Scheme 1 was presented with the shrubs and ground covers planted in a mass planting pattern. He said having the plants grouped provided a nicer visual and seemed smoother in transition when driving down University Parkway than random or scatter planting patterns of the same species. It also allowed the plantings to grow into each other for a fuller look. He said the landscaping along Orem's roads for the Provo/Orem TRIP would be "garden-esque" and in his opinion more attractive than what Provo was allowing.

There was discussion about the maintenance plan for the landscaping and the input from the landowners along the corridor. Mr. Goodrich said there were areas that would be maintained by the City and by UDOT, but behind the curb it would be the property owner's responsibility to maintain. He said they had spoken to some of the property owners but not all for their input. He said they were specifically choosing plantings that required moderate to low maintenance, and would still allow for the most parking. Mr. Earl added that a city ordinance was in place to enforce the maintenance.

Mr. Lentz asked about smart systems that would help conserve water by not watering during rain. Mr. Graham said that was possible, but they were at the mercy of what technologies were currently around.

Mr. Graham said they were proposing to use bark mulch which was horticulturally better for the plants, but did need to be replaced often. Rock gravel was also considered. Mr. Davidson asked about hardscape options. He said he was concerned about the maintenance into the future to keep the corridor looking as nice as when the landscaping first goes in. Ms. Labrum said it would be determined by the commitment of the City to keep the landscaping maintained. Mr. Graham said he had worked closely with staff to select plant species that were durable and would last if irrigated properly.

Mr. Davidson said there were pros and cons to using either bark mulch or rock gravel that needed to be discussed. He suggested that there needed to be internal and other conversations to ensure that those designing the landscaping and those that would maintain the landscaping were on the same page.

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

CONDUCTING

Mayor Richard F. Brunst

ELECTED OFFICIALS

Councilmembers Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Greg Stephens, City Attorney; Karl Hirst, Recreation Department Manager; Chris Tschirki, Public Works Director; Scott Gurney, Fire Department Director; Charlene Crozier, Library Director; Jason Bench, Planning Division Manager; Neal Winterton,

Water Division Manager; Paul Goodrich, Transportation Engineer; Steve Earl, Deputy City Attorney; Steven Downs, Assistant to the City Manager; and Jackie Lambert, Deputy City Recorder

EXCUSED

Debby Lauret

Preview Upcoming Agenda Items

Staff presented a preview of upcoming agenda items.

Agenda Review

The City Council and staff reviewed the items on the agenda.

City Council New Business

There was no new City Council business.

The Council adjourned 5:54 p.m. to the City Council Chambers for the regular meeting.

6:00 P.M. REGULAR SESSION – COUNCIL CHAMBERS

CONDUCTING

Mayor Richard F. Brunst

ELECTED OFFICIALS

Councilmembers Debby Lauret*, Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner (*participated electronically)

APPOINTED STAFF

Jamie Davidson, City Manager; Greg Stephens, City Attorney; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Scott Gurney, Fire Department Director; Charlene Crozier, Library Director; Jason Bench, Planning Division Manager; Steve Earl, Deputy City Attorney; Steven Downs, Assistant to the City Manager; Pete Wolfley, Communications Specialist; and Jackie Lambert, Deputy City Recorder

INVOCATION /

INSPIRATIONAL THOUGHT

Greg Gibson

PLEDGE OF ALLEGIANCE

Travis Gibson and Alex Hooper

APPROVAL OF MINUTES

Mr. Lentz **moved** to approve the June 14, 2016 and June 21, 2016 City Council meeting minutes. Mr. Macdonald **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner. The motion **passed unanimously**.

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

Upcoming Events

The Mayor referred the Council to the upcoming events listed in the agenda packet.

Appointments to Boards and Commissions

There were no appointments to boards and commissions.

PERSONAL APPEARANCES

Time was allotted for the public to express their ideas, concerns, and comments on items not on the agenda. Those wishing to speak should have signed in prior to the meeting, and comments were limited to three minutes or less.

There were no personal appearances as no one signed up to speak.

CONSENT ITEMS

Mayor Brunst **moved** to cancel the July 26, 2016 City Council Meeting. Mr. Seastrand **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner. The motion **passed unanimously**.

SCHEDULED ITEMS

RESOLUTION – Approving an Interlocal Cooperation Agreement for the HOME Investment Partnership Program Consortium

Mr. Downs, Assistant to the City Manager, presented a recommendation that the City Council, by resolution, approve the Interlocal Cooperation Agreement for the HOME Investment Partnership Program Consortium and authorize the Mayor to sign the agreement.

Funding for low-income housing activities is available through the U.S. Department of Housing and Urban Development's HOME Investment Partnership Program. Orem has been participating in a consortium made up of Provo, Lehi, and Utah County to access these federal funds.

Representation from these entities will review requests and make recommendation for the use of HOME funds within the consortium boundaries. To continue participating in the consortium, a new interlocal agreement must be approved. Legal staff from each entity has reviewed the proposed agreement, and it is ready for approval.

Mr. Downs said Orem City has been part of this consortium for home funding for many years. The program was similar to the Community Development Block Grant (CDBG) program and typically benefitted low-income families for housing needs. He said the program helped put people in homes who could not otherwise afford a home. Historically, Orem had received 20 percent of the approximately \$1.5 million in funding which had gone toward projects like the Washburn Reams homes near UVU. It also went to down payment assistance for low-income families that met qualifications. He said instead of the funding coming directly to Orem they had a voice on the HOME Consortium Board that was chaired by Dan Gonzalez with Provo City. The other parties involved in the consortium were Orem City, Provo City, Lehi City, and Utah

County. Mr. Downs said that every three years the agreement needed to be renewed, which was why the item was before the City Council this evening.

Mayor Brunst asked if the funding for the HOME Investment Partnership Program came from HUD, to which Mr. Downs answered affirmatively.

Mr. Seastrand asked about upcoming projects planned for the program. Mr. Downs said they had ongoing projects like the “loan to own” and down payment assistance programs, but there were projects throughout the county. There was a project in Payson which was largely funded from the HOME funding program where people helped build each other’s homes. He was not aware of any upcoming projects in Orem, likely because of the higher cost of land in Orem.

Mr. Lentz asked if it was typical for Orem to receive around 20 percent of the \$1.5 million total of funding, to which Mr. Downs answered affirmatively. Mr. Downs said historically Orem received 20 percent that had gone toward smaller projects like the Washburn Reams project.

Mr. Gonzalez said that the funds pooled to the consortium and were apportioned as needed. Not all of the projects were in Orem, but throughout the county. In addition to the project in Payson, there was a senior housing project of 31 units in Springville and another in Provo with about 100 units. He said Self-Help Homes was the organization that organized the build in Payson, and they also received some federal funding for rural housing so the building had been concentrated there.

Mayor Brunst asked about the costs of rent for the senior living units in Provo. Mr. Gonzalez said the HOME projects had specific rents based on the number of those in the household. Income was also a factor. He believed a maximum rent for a one-bedroom senior living unit was \$580. He said determining the designation of low income was 80 percent of the median area income, so generally speaking a family of four in Utah County with around \$54,500 was considered low income.

Mr. Downs said Mr. Gonzalez’ staff did a great job keeping the information together, and being a part of the consortium allowed the funding to go toward projects instead of administrative costs. Mr. Gonzalez added that the benefit of forming the consortium for the county was that, similar to CDGB, there was a specific formula from HUD. Only Provo City was eligible to receive a direct entitlement but in handling the program as a consortium allowed the funds to be maintained at the county level and benefit throughout the county.

Mr. Lentz said in a recent joint meeting with Provo’s City Council concerns had been expressed about the economic impact of “spikes” in low income housing. He asked Mr. Gonzalez if the Provo Council viewed the HOME program as exacerbating the problem, or did they see it as a tool to help address needs. Mr. Gonzalez said the program was a tool to help address those concerns. One of the goals of the Provo City Council was to help affordable housing be distributed evenly throughout the county, not concentrated in Provo or Orem.

Mr. Seastrand said they seemed to get more value out of the program by having it as a consortium. He asked if there were other issues like transportation or employment for low income families that were addressed, particularly those in more rural areas where transportation to the county seat was difficult. Mr. Gonzalez said the HOME program was specifically for

housing, but they tried to work with other jurisdictions. Utah County received CDBG funding that was managed by the Mountainland Association of Governments (MAG), and they tried to keep close contact with that organization. He said they were working on coordinating a more concerted effort as a region to address those needs, but someone in Payson could receive the same amount of help as someone in Orem or Provo.

Mrs. Lauret commented that this was a good program for the community.

Mr. Seastrand **moved**, by resolution, to approve an Interlocal Cooperation Agreement for the HOME Investment Partnership Program Consortium. Mr. Macdonald **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner. The motion **passed unanimously**.

RESOLUTION – Accept Annexation Petition for Further Consideration–25.53 acres at approximately 650 West 2000 South

Mr. Bench presented Paul Washburn’s request that the City Council accept for further consideration, a petition for annexation of 25.53 acres at approximately 650 West 2000 South.

On July 5, 2016, Paul Washburn filed an application for the annexation of 25.53 acres into the City. The property was located between the Frontrunner tracks on the west and the Union Pacific Railroad tracks on the east. It also abutted the recent southwest annexation area on the west and the north.

If the Council accepted the petition, the City Recorder would have 30 days to determine, with the assistance of the City Attorney, whether the petition met the requirements of Utah Code subsections 10-2-403(2), (3), and (4). If it did, the Recorder would certify the petition and send notice of the certification to the City Council. The City would then publish notice stating that the petition had been filed and that the City could annex the area described in the petition unless a written protest were filed with the county boundary commission no later than 30 days after the Council’s receipt of the notice of certification.

If a protest were received during the 30-day period, the City Council could deny the annexation petition or take no action until it had received the boundary commission’s decision on the protest.

If no protest were received, the public hearing would tentatively be scheduled for the September 13, 2016 City Council meeting. The City Council would decide at that time whether or not to annex the property and what the zoning designation of the property should be.

Staff recommended the City Council accept the proposed petition for annexation for further consideration.

Mr. Bench said the acceptance of the annexation petition was the first step in the annexation process. He said the proposed annexation was approximately 25 acres near the recent southwest annexation area, but specified that this did not include the “Gold Key” area. He reviewed information on the 30 day protest period in which time the City and the County would verify that

the annexation area met State law requirements. He showed an aerial map of the proposed annexation area. He reminded the Council about the area on 2000 South that had been in conflict with Provo but was resolved in 2015. Applicant Paul Washburn was invited to come forward to answer questions.

Mr. Washburn said he was representing the group of landowners requesting the annexation. Mr. Bench said they were requesting the area to be zoned M1 and they then had 60 days to develop the area as light industrial.

Mayor Brunst asked if there were concerns from the City's standpoint about getting proper safety equipment and fire engine access to the area. Mr. Bench said the fire engine access was mostly a concern in the "Gold Key" area and there were no issues of direct fire engine access in the proposed annexation area.

Mayor Brunst asked what was currently on the property. Mr. Washburn said it was a mess, with lots of concrete and overgrowth. He was representing the group of landowners. He stated that the property owners were not currently allowed to do much else with their land because it was unincorporated county land that could not be developed. Until recently it was not established which city would likely be responsible to provide utility services to the area. He said until there was some regulatory authority over the property it would probably stay a mess, but once it was annexed and they had development rights the land could have good value. Mr. Washburn felt the annexation was the right thing to save the land before it was too far gone.

Mr. Macdonald asked how the utility services could reach the property. Mr. Bench said it was part of the annexation overlay area, so water and sewer would be looped there. Mr. Macdonald asked about roads in the area. Mr. Washburn said there was a county road up through the middle of the area. He said the road came out with a 90 degree intersection to 2000 South, and he had been working with Paul Goodrich to determine what would be best in the area. Mr. Washburn said they hoped to have a series of large turn-arounds as the property developed to the north, and these turn-arounds would be large enough to accommodate semi-trucks and fire engines. That would be important for a light industrial development area. In response to a question from Mr. Macdonald, Mr. Bench said the road width was 650 feet, which gave plenty of room for a road down the middle and light industrial on both sides.

Mr. Seastrand asked for clarification on the utilities reaching the proposed annexation area. He also asked what the current zoning was on the land to the north. Mr. Bench said Mr. Jeff Mansell, a developer in the southwest area, was working with the property owners to get an easement. The water line would be looped on 2000 South and come down the backside of the property. Mr. Bench said the property was zoned for open space/agriculture.

Mayor Brunst said he had seen issues in the past where property owners initially wanted something but then were unwilling to work together for one reason or another. Mr. Washburn said that everyone was on the same page, and that they wanted to have the land taken care of. He said he had been approached to coordinate the effort but said Pat Johnson deserved much of the credit. Ms. Johnson was formerly part of the Orem Planning Commission and had worked with all the property owners to understand the fees and the process of annexation. Mr. Washburn said everyone had been cooperative thus far.

Mayor Brunst asked about the zoning and the kinds of light industrial business it might attract. Mr. Washburn said many businesses fell into that category, and ideally it would be businesses that worked well in an area near railroad tracks that had intermittent traffic. He said storage units might be a good use for the area. Mayor Brunst asked who would remove the concrete, and if any hazardous materials existed on the property. Mr. Washburn said he was not sure who would ultimately move the concrete but that it would be removed, and he was not aware of any hazardous conditions.

Mr. Macdonald asked about the land narrowing to the north, and the road that would go over the tracks. Mr. Washburn said it was a public road to allow the access around the railroad tracks. He also said the landowners of that section of land would like the zoning to remain agricultural. Mr. Bench said they owned an adjacent portion of land as well.

Mr. Lentz said his understanding of the recent southwest annexation was that the initial developer would pay to build out water and sewer infrastructure and secondary developers would pay impact fees. He asked if the impact fees in the proposed annexation area would be identical. Mr. Bench said they would be similar, but not identical. They would be subject to impact fees, though different.

Mr. Washburn said it would not necessarily be an impact fee but a reimbursement agreement between all parties. They would bring the utilities to the frontages of the property and then reimburse as they connected on to the trunk lines. It would be managed by an agreement between the property owners.

Mr. Lentz said his understanding of impact fees was that a portion would go toward public safety and parks. Mr. Bench said that was correct, and Mr. Washburn said the impact fees they would pay would cover those. Mr. Bench said the impact fees would be determined during the 60 day time period before the annexation was brought before the Council again. Mr. Lentz asked if the infrastructure could support the additions, to which Mr. Bench answered affirmatively.

Mayor Brunst **moved**, by resolution, to accept the Annexation Petition for Further Consideration – 25.53 acres at approximately 650 West 2000 South. Mr. Macdonald **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner. The motion **passed unanimously**.

RESOLUTION – Fence Modification – Exceleration Tumbling Gym at 1608 South Sandhill Road in the HS zone

Mr. Bench presented Whitney Stiggins' request that the City approve a fence modification at 1608 South Sandhill Road in the HS zone.

The City Code required a commercial development to have a masonry or polyethylene panel fence along any common property line with a residential zone. Section 22-14-19(F) permitted the City Council to approve a fence modification to allow a different type of fence and/or a different fence height if it found:

- a. The proposed fence provided an adequate buffer for the adjoining residential zone.
- b. The appearance of the fence would not detract from uses in the residential zone.

- c. The proposed fence would shield the residential use from noise, storage, traffic, or any other characteristic of commercial or professional office uses that were incompatible with residential uses.

The applicant owned a lot at 1608 South Sandhill Road on which it operated the Exceleation tumbling gym. The applicant requested that the City Council approve a six-foot vinyl fence along the southern boundary of its lot.

The adjacent property to the south was undeveloped, but was zoned PRD which allowed up to sixteen units an acre and a building height up to 40 feet. Structures in this PRD zone could be located within ten feet of the gym property. The owners of the PRD property to the south had also applied to create a PD zone on the property that would increase the allowable density, building height, and setbacks. The applicant felt that based on what the PRD zone permitted, a masonry or polyethylene fence would not provide any greater buffer than a traditional solid vinyl fence.

Staff recommended the City Council approve a fence modification to allow a six-foot vinyl fence along the south property line of the applicant's property at 1608 South Sandhill Road in the HS zone.

Mr. Bench said the Exceleation Tumbling gym was on the same property as the Center Point Church, and as a commercial use it required a 7-foot masonry fence under current zoning. He said the applicant was requesting the fencing requirement be modified to allow for a 6-foot vinyl fence. He said the 1-foot difference in height requirement would not make much difference in terms of visibility. Mr. Bench invited Ms. Stiggins forward to answer questions.

Ms. Stiggins said she was a co-owner of Exceleation Tumbling, and they were requesting the fence modification for cost reasons. She said it was four times as expensive to install a masonry fence as it would be to install a vinyl fence. Mayor Brunst said there were concerns about installing vinyl over masonry fence in terms of maintenance of the fence. Ms. Stiggins assured that they would maintain the fence, as they did not want the fence falling apart or looking run down.

Mrs. Lauret asked if there was a specific vinyl look they were going for. Ms. Stiggins said it would likely be the traditional white vinyl, but they would decide what looked most attractive in the area.

Mr. Macdonald said one reason masonry fences were required in this zoning was that a commercial area would get more activity. He asked if making this exception would open the ordinance to changes from everyone. Mr. Bench said this would not change the ordinance, and that fencing could be modified on a case by case basis. He said it was not the first time modifications had been made. Mr. Macdonald asked if the property was going to abut the freeway. Mr. Bench said it was abutting a property that would eventually be a high-density project. He said the PRD to the south allowed for a 6-foot vinyl fence because it was in Highway Services zone, so they would be subject to different requirements.

Mayor Brunst asked if the new development would also put in a fence, or if they would coordinate for one fence to meet both requirements. Mr. Bench said he understood that they would coordinate those efforts.

Mr. Lentz asked about the opinion of the property owner to the south. Mr. Bench said he had spoken to that property owner, a Mr. Andy Davis, at previous meetings, and the owner had commented that he did not much like the look of vinyl fencing. Mr. Bench also said the property was under contract for sale. He said he did not see Mr. Davis present, but understood he was not necessarily in favor of the change. Mr. Bench said a condominium project to the south had recently received a modification for a vinyl fence.

Mr. Lentz said he understood the fencing requirement was a significant cost. He asked Ms. Stiggins to clarify the comments about the price difference in fencing materials. Ms. Stiggins said a Simtek or masonry fence would cost approximately four times what a vinyl fence would cost.

Cory Bird, developer for Excleration Tumbling, said as they initially went through the process with the City they were not made aware of the fencing requirement until the third revision of the site plan. The fence was only required because the property to the south was zoned residential, and would be the only commercial property in the area with a fence. He said they had not anticipated the cost of a fence, which was why the cost was an issue, but the fence on that particular spot seemed almost unnecessary.

Mr. Bench clarified that fencing was only required here on a commercial property because it would abut residential.

Mr. Seastrand asked for clarification on the requirements for the Center Point Church and why they were not required to install a fence. Mr. Bench said once the property to the south was developed, a fencing requirement would be in place. They were phasing their development on the same parcel with separate pieces, and as those phases came online they would be subject to code including fence requirements.

Mr. Lentz asked if it would be beneficial to continue the item to allow the owners of Excleration Tumbling to meet with the property owner to the south and find a compromise. He said the other property owner had a reasonable expectation that the fence would meet code standards, and he was hesitant to make an exception for one property owner at the expense of another.

Mr. Bird said they had not spoken to that property owner. Ms. Stiggins said if the other property owner would have broken ground first, they would be the ones required to install the fence. Her understanding was that their fence could have been vinyl or chain link. In this instance, the other property owner would essentially be getting a fence for no cost to him. In response to Mr. Sumner's question, Ms. Stiggins said a vinyl fence would cost around \$7,000 versus the \$28,000 cost for a Simtek fence.

Mr. Bench clarified that the tumbling gym would still have the fencing requirement even if the other property owner had broken ground first, and they would be subject to the 7-foot masonry

fence unless they requested a modification. Mr. Lentz said he wondered if that could be the starting point of conversation between the property owners to find a compromise.

Mr. Seastrand said that his understanding of the original intent of the code for masonry fence was to create a barrier to protect neighborhoods from commercial developments. He also wondered if there was a long-term preservation issue with people climbing a vinyl fence and damaging it, and the planned high-density development would certainly be a factor in that. He had some concerns about the uncertainty of the development to the south.

Mr. Bird said there were many options of vinyl fences to choose from and most if not all of the options had lifetime warranties and were made of super durable materials. He added that the elevation grade was already a natural barrier, along with the ditch and creek that came between. Mr. Bench said he was not sure if that would be piped away in the future, and said it was likely leftover irrigation runoff from the Taylor farm.

Mr. Earl said he had checked the code, and the requirement came into play if there was a commercial, manufacturing, or professional office development adjacent to a residential zone. So it was not that it was zoned commercial, necessarily. He said if the whole property was going to stay in use by the Center Point Church only, there would not be the masonry fencing requirement or any fencing requirement at all. As this was commercial development abutting a residential development then the fencing requirement came into play.

There was some discussion on whether the PRD required the fence for the residential development and for the commercial development. Mr. Bench said the residential development would have a fencing requirement, but it was not specified as a 7-foot masonry fence but a 6-foot fence of some kind.

Mr. Spencer asked if the fence on the property to the south would run all the way down to the connection with the Center Point Church property, and the square footage of that line. Mr. Bench said it would run up to the line of the church property, and would be about 850 feet.

In response to Mayor Brunst's question, Mr. Earl said the fencing requirement in the code had been in place for at least 19 years or so. Mayor Brunst said masonry fences were required then but materials for fencing had changed and improved. Quality and cost were major factors in fencing requirements, and wondered if it would be possible to have a chart of some kind comparing those factors for different fencing materials.

Mr. Lentz agreed that having comparisons of cost, quality, and performance would be helpful. If a fence was to be used as a sound barrier between commercial and residential, then the materials should be up to the task. He said it might be beneficial to revisit the ordinance in light of the changes in fencing material quality. As it currently stood, however, he restated his hesitance to give exception to one property owner at the expense of another.

Mr. Seastrand said a main concern was the issue of durability and maintenance for the fence, but if the fence was well maintained there would not be an issue. He did not believe the sound barrier was the real issue. He was concerned about the height of the fence, but as he heard more about the property and the grading of the property, the height of the fence was less of a concern. If the property was abutting a single-family home neighborhood he would be less inclined to

make an exception, but he felt okay with a vinyl fence exception due to the improved nature of fencing materials.

Mr. Macdonald asked about the City's enforcement mechanism for the fence maintenance. Mr. Bench said it was a site plan approval, and if it was in disrepair they could enforcement the maintenance.

Mr. Seastrand **moved**, by resolution, to approve the fence modification to allow a 6-foot vinyl fence along the south property line at 1608 South Sandhill Road in the HS zone. Mr. Sumner **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner. Those voting nay: Sam Lentz. The motion **passed, 6/1**.

COMMUNICATION ITEMS

There were no Communication Items.

CITY MANAGER INFORMATION ITEMS

There were no City Manager Information Items.

ADJOURNMENT

Mr. Macdonald **moved** to adjourn the meeting. Mr. Seastrand **seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner. The motion **passed unanimously**.

The meeting adjourned at 7:00 p.m.

Donna R. Weaver, City Recorder

Approved: August 9, 2016