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PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, January 09, 2018

Room 200, Municipal Council Chambers

351 West Center, Provo, Utah

Opening Ceremony

Roll Call ([0:14:10](#))

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Council Member George Handley
Council Member David Knecht
Council Member George Stewart
Council Member Gary Winterton
Council Attorney Brian Jones
Mayor Michelle Kaufusi

Council Member David Harding
Council Member David Sewell
Council Member Kay Van Buren
Council Executive Director Clifford Strachan
Chief Administrative Officer Wayne Parker

Conducting: 2017 Council Chair David Sewell, followed by 2018 Council Chair Gary Winterton.

Prayer – Dr. James Moore

Pledge of Allegiance – Dr. James Moore

Approval of Minutes ([0:16:59](#))

- **September 5, 2017 Board of Canvassers**
- **November 21, 2017 Council Meeting**

The meeting minutes were approved by unanimous consent.

Presentations, Proclamations, and Awards

Public Comment ([0:17:33](#))

Fifteen minutes had been set aside for any person to express ideas, concerns, comments, or issues that were not on the agenda. Chair Sewell opened public comment. There was no response.

Action Agenda

1 The election of Municipal Council officers; chair and vice-chair. (18-001) ([0:19:09](#))

Brian Jones, Council Attorney, explained that the process for electing a council chair and Vice-Chair. ([0:19:28](#))

Mr. Sewell opened nominations for council chair.

Mr. Stewart nominated Mr. Knecht for Council Chair.
Mr. Sewell nominated Mr. Winterton for Council Chair.

There were no other nominations. Mr. Sewell called for a vote on the nomination of Mr. Knecht as Council Chair. The nomination failed 2:5 with Council Members Knecht and Stewart in favor and Council Members Harding, Handley, Sewell, Van Buren and Winterton opposed.

Mr. Sewell called for a vote on the nomination of Mr. Winterton as Council Chair. The nomination passed 5:2 with Council Members Harding, Handley, Sewell, Van Buren and Winterton in favor and Council Member Knecht and Stewart opposed. Mr. Winterton was elected as Council Chair.

Mr. Sewell called for nominations for Vice-Chair.

Mr. Stewart nominated Mr. Van Buren for Council Vice-Chair. Mr. Van Buren respectfully declined the nomination. Mr. Handley nominated Mr. Harding as Council Vice-Chair.
Mr. Stewart nominated Mr. Knecht as Council Vice-Chair.

There were no other nominations. Mr. Sewell called for a vote on the nomination of Mr. Harding as Council Vice-Chair. The nomination passed 4:3 with Council Members Harding, Handley, Sewell, and Winterton in favor and Council Member Knecht, Stewart, and Van Buren opposed. Mr. Harding was elected as Council Vice-Chair.

2 Resolution 2018-01 acknowledging the election of the Chair and Vice-Chair of the Provo Municipal Council for calendar year 2018. (18-001) (0:25:18)

Motion: An implied motion to approve Resolution 2018-01, as currently constituted, has been made by council rule.

There was no council discussion. Mr. Sewell called for a vote on the implied motion.

Roll Call Vote: The motion Passed 7:0 with Council Members Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Former Chair Sewell and newly elected Chair Winterton exchanged seats, as did former Vice-Chair Knecht and newly elected Vice-Chair Harding. Chair Winterton presided over the remainder of the meeting.

Recess as the Municipal Council and convene as the Redevelopment Agency.

Motion: Council Member Sewell made a motion to adjourn as the Municipal Council and convene as the Redevelopment Agency. Council Member Knecht seconded the motion.

Chair Winterton called for a vote on the motion.

Roll Call Vote: The motion Passed 7:0 with Council Members Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Redevelopment Agency of Provo

7 The election of Redevelopment Agency of Provo officers; chair and vice-chair. (18-001) (0:28:45)

Redevelopment Chair Stewart called for nominations for a new Chair.

Mr. Harding nominated Mr. Knecht.

Chair Stewart called for a vote on the nomination. The nomination passed unanimously.

Former Chair Stewart called for nominations for a Vice-Chair.

Mr. Knecht nominated Mr. Stewart.

Chair Stewart called for a vote on the nomination. The nomination passed unanimously.

8 Resolution 2018-RDA-01-09-1 acknowledging the appointment of the Chair and Vice-Chair of the Redevelopment Agency of Provo City for calendar year 2018. (18-001)

Motion: An implied motion to approve Resolution 2018-RDA-01-09-1, as currently constituted, has been made by council rule.

Chair Stewart called for a vote on the implied motion.

Roll Call Vote: The motion Passed 7:0 with Board Members Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Mr. Knecht presided over the remainder of the Redevelopment Agency meeting.

Chair Knecht called for a motion to adjourn as the Redevelopment Agency and reconvene as the Provo Municipal Council.

Adjourn as the Redevelopment Agency and reconvene as the Municipal Council.

Motion: Board Member Harding made a motion to adjourn as the Redevelopment Agency and reconvene as the Municipal Council. Board Member Handley seconded the motion.

Chair Knecht called for a vote on the motion.

Roll Call Vote: The motion Passed 7:0 with Board Members Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Chair Winterton took a moment to thank each of the Council Members for their efforts to work together as a team.

Mr. Strachan, Executive Director of Council, recognized former Council Chair Sewell and former Vice-Chair Knecht for their service to the council in 2017.

Action Agenda (Continued)

Consideration of an amendment to Ordinance 2017-51 regarding rental contracts. (17-104) (0:33:30)

Brian Jones, Council Attorney, presented. He explained that council had previously enacted an ordinance regarding rental contracts that required documents and disclosures to be provided by the landlord to the tenants of any rental property in Provo. The ordinance passed on November 11, 2017, with an effective date of January 1, 2018. However, it was determined in a work session on January 3, 2018, that council desired to amend the effective date to March 1, 2018.

Mr. Sewell explained the intent of changing the effective date was to give council and the zoning committee an opportunity to discuss other potential changes that might be presented before March 1.

Mr. Stewart stated it was also possible there may not be any amendments.

Chair Winterton opened public comment.

Melanie McCoard, Provo, said passing the ordinance was a move in the right direction, but she was disappointed it had been put back on the agenda. She was frustrated by the discussions that had taken place in work meetings. Ms. McCoard said the restrictive covenants of a particular subdivision in the Pioneer Neighborhood were not being enforced and many of the apartments were over occupied. She encouraged council to pass the ordinance as a tool to help with enforcement efforts.

Vickie Knecht, Provost South Neighborhood Chair, said the problems associated with over occupancy were very noticeable in her neighborhood. She quoted a campaign flyer for Mr. Sewell that discussed improved zoning enforcement effectiveness; she felt his actions related to this ordinance were not consistent with the statements on the flyer. Ms. Knecht said there were parking issues in her neighborhood due to overoccupancy. She said the cost of rent in her neighborhood had increased because landlords were able to collect more money from multiple young single professionals, rather than a single family. Ms. Knecht said the neighborhood elementary school was bussing in students from other neighborhoods, because the neighborhood was no longer filled with families and children to attend the school. She asked council to consider what they would do if these problems existed in their neighborhoods.

There were no other comments from the public.

Mr. Winterton felt confident that extending the effective date of the ordinance was the right thing to do, he believed it gave council the opportunity to refine and improve the ordinance.

Mr. Handley said he was new to the conversation, but he believed the council agreed unanimously that the ordinance was necessary. He said the intent was to make enhancements to the ordinance without repealing it.

Mr. Sewell responded to Ms. Knecht's comments and explained that his campaign materials did describe zoning enforcement as something that was important to him, he stood by this statement. He thanked the zoning committee and administrative staff for their work on the ordinance. He agreed with Mr. Handley that every council member was in favor of the ordinance, but some believed that it could be amended to be a more effective enforcement tool. He thought the amendments that had been discussed would improve the ordinance.

Mr. Knecht explained it was important for council to work with administration to make sure the amendments would be helpful.

Chair Winterton called for a motion.

Motion: Council Member Stewart moved to amend the effective date of Ordinance 2017-51 to March 1, 2018. Council Member Harding seconded the motion.

Roll Call Vote: The motion Passed 7:0 with Council Members Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Ordinance 2018-02 amending the zone map classification of approximately 2.32 acres of real property, generally located at 1282 North Geneva Road, from Agriculture (A1.5) to One-family Residential (R1.10). Lakeview North Neighborhood. (17-0009R) (0:49:25)

Motion: An implied motion to approve Ordinance 2018-02, as currently constituted, has been made by council rule.

Austin Corry, Community Development Planner, presented. He said the item had been heard by the council on numerous occasions. He gave a history of the application (0:50:18).

- The application was first heard by the planning commission in 2013.
 - The original request was for R1.10 zoning; planning commission recommended denial because the application did not meet ordinance requirements.
 - Applicant originally sought a variance, which was also denied.
 - Before the item was heard by council, the applicant withdrew the application and the item was not heard by council.
- A new application was submitted in 2016.
 - Applicant requested R1.10 zoning again, the planning commission recommended approval.
 - City Code required that rezone applications be accompanied by a subdivision application.
 - The planning commission recommended denial of the subdivision application because it did not comply with the requirements.
 - When the application reached council, the applicant changed his request to R1.8 zoning.
 - Council denied the request.
- The applicant reapplied in September 2017.
 - Applicant requested R1.8 zoning.
 - Planning commission recommended denial due to an incomplete application.
 - One week later, council reviewed and denied the request; unless, the applicant complied with City Code by submitting the missing information before the last planning commission meeting of 2017.
 - Moments before the planning commission agenda was published, the applicant made an electronic submittal to staff. The item was placed on the agenda at the last minute.
 - Upon review of the submittal, the application was nearly unchanged.
 - Staff proposed an R1.10 zone to the planning commission; thus, setting clear expectations of the general plan requirements and was not dependent on other negotiations or development agreements.
 - Planning commission voted unanimously to recommend approval of the R1.10 zone, which was contrary to the applicant's request for R1.8 zoning.

Mr. Winterton asked when the applicant's submittal was received and if it met the city's requirements. Mr. Corry said the planning commission agenda was noticed 10 days in advance, the submittal was received just moments before it was noticed. Mr. Corry added the submittal was still incomplete and did not meet the requirements. There had been one minor change to the application, but it was regarding the subdivision plan, which was not being considered by council.

Mr. Corry said by zoning the property R1.10, it would set a clear expectation of what would be required by the city. Additionally, by approving the zoning, it becomes an administrative function and public hearings are no longer necessary. Any proposed subdivision plan would still need to be approved. Mr. Corry said the neighborhood was comfortable with the proposal.

Mr. Knecht recalled there had been concerns about whether UDOT had approved an official access point for the project and the properties to the north. Mr. Corry said that would be something staff would work through later.

Mr. Van Buren asked if the subdivision plan the applicant had submitted met the requirements for an R1.10 zone. Mr. Corry explained it did not because of the depth on lot seven and the width on lot one. Mr. Van Buren asked if the plan would meet the requirements of an R1.8 zone, as the applicant had requested. Mr. Corry said it would make lot one compliant, but lot seven would still require a variance. He added the R1.8 zone, without a development agreement, would allow the applicant to change his subdivision plan and potentially add another lot.

Mr. Van Buren noted that R1.10 zoning required a minimum lot size of 10,000 square feet, which all of the applicant's lots exceeded, but certain lots still didn't meet the width and depth requirements. Mr. Van Buren was concerned that R1.10 zoning might make it more challenging for the applicant to modify his current subdivision plan to be compliant. Mr. Corry explained that the planning commission had an in-depth conversation about why R1.10 might be a better option than R1.8. They concluded that an R1.8 zone would need to rely on a development agreement, whereas R1.10 would rely on the code to specify what was required of a subdivision plan. Mr. Van Buren pointed out that it narrowed the options available to the applicant. He asked Mr. Corry how close lot seven was to complying with R1.8 zoning. Mr. Corry said it was lacking 10 feet of depth.

Mr. Stewart recalled there had been other concerns, such as the UDOT access issue, he worried that if council approved the zoning, the other concerns might not be addressed. Mr. Corry said staff would work to resolve any outstanding issues. Mr. Stewart said he was reluctant to approve a zone change for someone who had been non-compliant in the past.

Mr. Knecht acknowledged the history of non-compliance was problematic, and he understood why staff had made this recommendation. It set a clear expectation and would require the applicant to be compliant. Mr. Knecht was confident staff could resolve the other issues and was supportive of their recommendation.

Mr. Van Buren was concerned the applicant would be forced to remove a lot from his subdivision plan to be in compliance with R1.10 zoning, he recognized that could be a financial loss for the developer. He said all seven lots were more than compliant in terms of square footage, just not dimensionally.

Chair Winterton invited the applicant, Nathan Chappell, to address the council. Mr. Chappell first addressed Mr. Corry's comment about reluctance to submit a development agreement, Mr. Chappell alleged there had been one submitted previously. Mr. Chappell believed he had submitted all the required documentation. He said if an R1.8 zone were approved, he could make a few adjustments to his subdivision plan to make it compliant. He said he had UDOTs approval for road access and had previously provided the letter to staff. He offered to answer any questions from the council.

Mr. Winterton asked when the home on lot two had been built. Mr. Chappell said it was built in 2007. Mr. Winterton wondered if it had been approved as a single lot or as part of a subdivision. Mr. Corry explained the existing homes were built in compliance with the agricultural zone. He said it had since been subdivided with the county, but not through a legal process with the city.

Mr. Stewart discussed with Mr. Chappell why there was confusion about whether the various approvals were complete. Mr. Corry explained there were two different reports, one for the rezone and one for the subdivision. The report for the rezone was complete, the subdivision was not.

Mr. Winterton invited the neighborhood chair to comment.

Beth Alligood, Lakeview North Neighborhood Chair, said when the two existing homes were built in 2006, the council asked Mr. Chappell not to build on the north lot, because it would restrict access to the properties to the north, but Mr. Chappell built it anyway. She said it cut off access to the northern properties and did not give them an equal opportunity to develop their land. Ms. Alligood also stated the property was illegally subdivided on Utah County Records. She said Mr. Chappell did this in order to sell the home on the northern lot to the current owner. Ms. Alligood said despite the history, the neighborhood looked forward to finding a solution that would allow everyone to move forward. [\(1:23:45\)](#)

Mr. Harding was concerned that even though the proposed solution suggested R1.10, the applicant would continue to reapply for R1.8. He asked Community Development to respond. Bill Peperone, Assistant Community Development Director, said the intent was to stop the cycle of repetitive public hearings. He said if the property were to be zoned R1.10, any applications for R1.8 would not meet the requirements of the zone and no hearing would be held.

Mr. Peperone addressed Mr. Stewart's concerns about zoning property without an acceptable plat. He said by rezoning the property to R1.10, the zone would be more stringent, which would allow for enforcement of nuisance complaints, such as junk, that cannot be easily enforced within an agricultural zone. Mr. Peperone believed an R1.10 zone would help with enforcement efforts to clean up the neighborhood.

Mr. Sewell was in favor of the proposal and trusted staff's recommendation.

Mr. Harding had concerns about the area access plan and asked Community Development to respond. Mr. Corry said part of the subdivision approval process required a conceptual area integration plan, which would provide staff the opportunity to review the access plan.

Chair Winterton called for a vote on the implied motion.

Roll Call Vote: The motion Passed 7:0 with Council Members Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

An ordinance amending Provo City Code regarding signage. Citywide impact. (17-00190A) (1:33:04)

Brian Maxfield, Community Development Planning Supervisor, presented. Mr. Maxfield explained the ordinance would add a section to City Code under Business Licensing regarding signage. He explained the areas that already allowed electronic signs would now allow high churn electronic signs and the area that did not already allow electronic signs would allow low churn electronic signs.

Mr. Jones explained there had been an increasing number of applications for electronic signs. He said several years earlier, Provo City enacted an ordinance that prohibited electronic signs, unless the business was in the area designated for electronic signs. However, as more and more applications were received, each application was being evaluated to see if the designated area should be extended to allow for an electronic sign. So instead of addressing each application individually, amending the code could regulate the process.

Mr. Jones said there was nothing in the ordinance regarding collective brightness of signs. He stated the existing brightness standards were adopted according to national standards. Mr. Jones said the ordinance would allow any business to have an electronic sign, but it could not be animated, and could not change more than three times per day, unless the business was located in the designated high churn area.

Mr. Jones also explained there were signs throughout the city that did not meet the current brightness standards, because they existed before the brightness standards were enacted. He believed that because the ordinance would be under business licensing, the brightness of the grandfathered signs could be regulated as a business licensing function. However, signs that were not equipped with mechanisms to control brightness, would still be allowed to continue operating.

Mr. Handley had concerns about the proliferation of electronic signs and the environmental and aesthetic implications. He felt the issue required further research and discussion. Mr. Jones explained that because the item had just come from the planning commission, and this was the first hearing in a council meeting, the council rules allowed it to be heard again in the next meeting if any council member desired.

Mr. Knecht clarified that applicants would still need to comply with any applicable design corridors. Mr. Jones said the ordinance only allowed an existing sign to be replaced with an electronic sign, but any requirement about the size and location would still be the same as they were previously.

Mr. Sewell believed the ordinance would be helpful because it regulated by external effect, rather than internal technology. He said the new ordinance would help to differentiate between low and high churn sign areas. Mr. Sewell noted the proposal extended the high churn area from Freedom Boulevard to University Parkway. He believed the ordinance would help with regulation of existing signs.

Chair Winterton opened public comment, there was no response.

Mr. Harding said he wanted to continue the discussion in the next work session, as well as the next council meeting. He had questions about the signs with crawling text, like those found at many schools. Regarding the high churn signs, he acknowledged that eight seconds may be the national standard, but wondered if it was appropriate for Provo. Lastly, he stated that the section of Center Street between I-15 and 500 West was one of the three main corridors into the city, he asked what was currently permitted in that area. Mr. Jones said electronic signs were allowed from 600 West to 1300 West on Center Street. For the next meeting, Mr. Harding requested illustrations depicting what the Center Street entrance would look like if electronic signs were allowed.

**Ordinance 2018-03 amending Provo City Code to adopt a definition for "road."
Citywide impact. (17- 0023OA) ([1:55:27](#))**

Motion: An implied motion to approve Ordinance 2018-03, as currently constituted, has been made by council rule.

Brian Maxfield, Community Development Planning Supervisor, presented the ordinance. He explained there was not currently a definition for road and the ordinance would define road as street.

Chair Winterton opened public comment, there was no response.

Chair Winterton asked if any council member desired to continue the item to the next meeting, there was no response. He called for a vote on the implied motion.

Roll Call Vote: The motion Passed 7:0 with Council Members Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Resolution 2018-02 to place approximately 22.3 acres of real property at the northwest corner of the East Bay Golf Course on the Surplus Property List. (17-143) ([1:57:11](#))

Motion: An implied motion to approve Resolution 2018-02, as currently constituted, has been made by council rule.

Dixon Holmes, Economic Development Director, said this resolution had been discussed numerous times but he wanted to give a brief history. He explained that one year earlier, Provo received a proposal from Wasatch Educational to build a medical school at the golf course. On November 21, 2017, there was a work session meeting held in the Council Chambers where people could hear publicly from the medical school what they wanted to accomplish with their proposal. A public hearing was then scheduled for December 5, 2017, and the proposal was presented again and the public had the opportunity to comment. It was determined more discussion was needed. He said on January 4, 2018, there was an open house at the recreation center to review the proposal dated December 21, 2018. Mr. Holmes stated the administration was comfortable with the current proposal and invited Wasatch Educational to share their proposal again.

John Nemelka addressed the council on behalf of Wasatch Educational. He presented an amended proposal with changes in response to feedback from the public and council (2:03:37). Among other changes, Wasatch Educational had removed their previous request for an option on the balance of the golf course. Mr. Nemelka went on to review the revised proposal, see Exhibit A, attached to the permanent minutes.

Using a map, Mr. Holmes illustrated that a sizeable portion of the golf course had previously been rezoned SC3 in anticipation of the South Gate Project, which never got developed. He explained that part of the medical school proposal included rezoning a portion of the SC3 property to PF, which was what the remainder of the course was already zoned. He warned this would not physically protect the golf course, but it would send a signal that the council did not intend to develop beyond what was being proposed for the medical school.

Mr. Holmes noted that educational facilities are permitted in the PF zone, but not SC3. Therefore, at some point in the future, there would need to be a text amendment to allow educational facilities in the SC3 zone, which would also include Provo Towne Centre mall. Any zone amendments would take place in a future meeting, after being reviewed by the planning commission.

Mr. Knecht asked why not rezone all of the SC3 area at the golf course to PF. Mr. Holmes said that was a possibility, but it had limitations on other potential development as part of the school.

Mr. Sewell asked Mr. Holmes what the ideal zone would be for a private educational facility. Mr. Holmes gave the example of Brigham Young University, a private educational facility in the PF zone. He said because of the educational nature of the school, they were allowed to have many accessory uses within the PF zone. Ultimately, he thought there needed to be a comprehensive review of Provo's zones.

Mr. Handley asked for clarification on the proposal. As Mr. Handley understood, the proposal was for the council to authorize the mayor to negotiate the terms of a contract, and then council would have the ability to review and approve the agreement. Mr. Holmes explained it would be up to council to specify their level of involvement in the next steps.

Mr. Handley felt there were still a lot of unanswered questions, such as, the displacement of the landfill, the retention pond, cost of sewage lift station, and impacts on the wetlands. He acknowledged that some of these questions could not be answered right away, but he wanted to understand when they would be addressed.

Mr. Holmes began by addressing the cost of the landfill remediation. He said the risk and responsibility associated with building on a landfill would be owned by Wasatch Educational. Mr. Holmes said by the time Wasatch Educational would be ready to build on the area once occupied by the landfill, they would have already paid for and completed the work of relocating the three holes on the golf course. He recognized the current proposal did not address what would happen if Wasatch Educational decided they were unable or unwilling to complete construction of their school due to the cost of the remediation. Mr. Holmes outlined some possible options (2:20:17). He believed this situation could be addressed contractually or through a development agreement.

Mr. Jones further explained what the resolution was intended to do. He said in the past, there had been four different ways to dispose of property:

1. Mayor could negotiate a contract, with a provision explaining the contract is subject to council's approval, then the bring it to council for final approval.
2. Administration proposes surplus of property to council, if approved, the Mayor could do anything they wanted with the property after council has approved the surplus of the property.
3. Administration presents council with a proposal for the property, then council passes a resolution to surplus the property, and authorizes the Mayor to negotiate and execute a contract, within the terms of the proposal made to council. (Mr. Jones indicated this was the most common approach.)

4. Council authorizes the property to be put on the surplus list, and authorizes the Mayor to negotiate an agreement and then present it to council for final approval. Placing property on the surplus list did not mean the property had to be sold.

Mr. Jones said the current resolution was drafted as the fourth option. He believed it was important for council to indicate to Mr. Holmes what issues council wanted addressed in the contract. Nonetheless, council would have the opportunity to approve or reject the contract presented to them for any reason.

Mr. Nemelka also attempted to address Mr. Handley's concerns ([2:29:39](#)). He said there would be a parallel process of drafting the contract as Wasatch Educational was conducting their due diligence. Mr. Nemelka was confident that by the time the contract was signed, they would understand what risk would be involved. He said it would be unwise for them to invest in extensive research until they know council has agreed to surplus the property.

Mr. Stewart was hesitant to surplus the property until council agreed to the main points of the contract. He thought it was unfair to the investor and administration for council to agree to the surplus and then potentially reject the contract later because they are unsatisfied with the terms. Mr. Handley responded it was not his intent to do this. Mr. Stewart preferred the third option that Mr. Jones had explained earlier. In response to Mr. Stewart's comments, Mr. Jones said from the standpoint of sending a message to the parties involved, council members should only agree to surplus the property if they were comfortable, at a high-level, with the concepts of the proposal. Mr. Handley replied that if the land were not so complicated, he would agree with the third option, but he thought the fourth option allowed the council more reassurance.

Mr. Sewell said he was more comfortable with the model Mr. Stewart proposed, which was the third option previously described. He desired to get to a point where council felt comfortable with the high-level details of the proposal, then authorize the mayor to negotiate the details of the contract.

Mr. Knecht asked whether the parties agreed with the resolution, as it was drafted, which was most like the fourth option previously described. Mr. Jones said he had presented Mr. Holmes with two versions of the resolution, and the one he selected was most like option four. Mr. Holmes replied that his intent was just to ensure the deal was subject to council approval.

Mr. Nemelka explained it was a risk for Wasatch Educational to be subject to council approval of the final contract, which was what had been proposed in the current resolution. He feared someone might change their mind by the time the contract is presented. Mr. Van Buren responded to Mr. Nemelka that it was also a risk for council and the citizens not to have final approval of the contract. He said the risk went both ways.

Chair Winterton opened public comment, beginning with neighborhood chairs, followed by members of the Parks and Recreation Board.

Sharron Memmott, Edgemont Neighborhood Chair, appreciated the compromises that had been made. She said Rocky Mountain University had been in East Bay for several years and she was not confident there had been any positive economic impact. Ms. Memmott also said their websites made no mention of Provo, despite their touted admiration for the city. She was not impressed by the idea of internships because the location was not convenient to mass transit nor near any local high schools. Ms. Memmott was not comfortable with disrupting the landfill and moving it elsewhere. She wondered why the current golf course should be changed when it was doing well financially and providing affordable golf for the community.

Bruce Snow, Parks and Recreation Board Member, said the board was not opposed, but they wanted to ensure it was done correctly. He shared the following questions:

- What if the property is deemed unbuildable?
- Where would the refuse from the landfill be relocated to?

- Why is there not a subsidy included in the proposal?

Mr. Snow wanted to reach a deal that was fair for the city and citizens.

Bryant Livingston, Parks and Recreation Board Member, shared a recommendation from the board ([2:49:12](#)). The following were some of his suggestions concerning the proposal:

- Trade use and eventual ownership of Northern Wedge for the capital improvement of the Kuhni Parcel to replace loss of three existing holes.
- If the land is deemed unbuildable, or the school becomes insolvent, the possession of the Northern Wedge would return to Provo without reimbursement of capital investment, or punitive legal action against the city. And all efforts would be made by Wasatch Educational to return the land to its previous usable condition.
- Construction on the school would not commence until construction of the replacement holes was complete and regular play had been restored.
- An endowment of \$1.2 million would be paid over a period of 3-5 years to address the revenue disruption due to construction. Actual amount could be adjusted yearly, as needed.

Denny Howard, Provo, was concerned there would be problems with developing on the Northern Wedge that would lead to development on the executive course. He did not want the course to be sold or the legacy to be lost.

Jessica Edward, Mapleton, was a member of the Economic Development Strategic Planning Implementation Committee. She reminded council that the 2013 strategic plan called for a medical school to be built in Provo. She encouraged council to pass the resolution.

Melanie McCoard, Provo, told council that Vision 2030 said to examine the possibility of relocating the golf course. She felt because this was already in the city's plans, people should not be surprised by the proposal. Ms. McCoard said only 13 percent of the community use the golf course. She recommended selling the City Center building and golf course, and use the proceeds to buy Riverside Country club to serve as the new city offices and golf course.

Doug Yale, Provo, said he was a golfer and father of a medical school student. He felt this was a win-win proposal. He looked forward to the new holes and thought it would help make the course more interesting. He said when his son graduated from the University of Utah, he had to go out of state for medical training. Mr. Yale thinks the medical school will enhance the options available to those pursuing this path in state.

Scott Bowles, Provo, was the General Manager at Provo Town Centre Mall. He believed Wasatch Educational had proven their love of Provo through their actions and willingness to spend millions to development on the golf course, when other cities were willing to give them free land. Mr. Bowles was familiar with economic impact. He said there was a 100-room hotel being built near the mall and believed the medical school would bring people to the area and said it would have positive economic impact.

Isaac Paxman, Deputy Mayor, asked permission to speak to the council. He referred to the four options Mr. Jones had described earlier. He thought that if council were considering option four, then option one was very similar, but provided a clearer path forward. He said that if council preferred option three, that was fine too, he just wanted to point out the similarities and possible benefits of option one.

Chair Winterton asked for Mr. Jones to respond to Mr. Paxman's comment. Mr. Jones said the differences were related to timing. Option one is usually used when council is unaware of any negotiation taking place. He said an example of option one was the Google Fiber agreement. Mayor Curtis had negotiated the entire contract before it was presented to the council. It also did not require property to be put on the surplus list for negotiation to take place. Mr. Jones said that could be problematic in this case, because it would not indicate any intent to Wasatch Educational. He said it was possible to blend options one and four, so the mayor could execute the agreement, still making it subject to the council's approval.

Vic Deauvono, Chairman of the Rocky Mountain University Foundation, said their clinic was serving 3,500 underprivileged people in the community. He explained they were able to do this through fundraising and volunteers from BYU and UVU. He thought Rocky Mountain University sometimes went unnoticed because they did not participate in athletics. Mr. Deauvono was proud of their graduates and said they were in the top 10 percent of the country. He said University of Utah Medical School had a staff of 2,700 and in four years, they have a graduating class of 500; Rocky Mountain University would have 700 students in their graduating class, with a smaller staff. Mr. Deauvono assured council it would be a fabulous school.

Randy Dodson, Golf Alliance for Utah and Utah Golf Foundation, was also a downtown business owner. Mr. Dodson was glad to see that progress had been made. He said he agreed with most of the Parks and Recreation Board had said to council. His remaining concern was what it meant to say that Wasatch Educational would pay for the construction of three new holes. He wanted to know where the money for the project would be and who would control it. He also wondered why there was not money being set aside for the long-term operation of the golf course.

Craig Van Buren, Provo, said he appreciated Mr. Handley's comments. Mr. Van Buren said the negotiations had been taken place over several years, but the proposal was only made public a month earlier, which caused the public to rally. He disbelieved that all of the outstanding questions had been answered and wanted to know what the rush was to approve the proposal. He thought council should take the time to get answers to unanswered questions.

There were no other public comments. Chair Winterton closed public comment ([3:10:46](#)).

Mr. Harding desired to see certain points of the proposal be better defined. Specifically, he questioned the Community Development Area (CDA) and the terms surrounding the ability to earn back a portion the purchase price of the Nature's Sunshine Parcel. He questioned how much was eligible to be earned back. Mr. Harding also wanted more detail on the valuation gap. The current proposal said if there were a valuation gap, Provo would seek a process to close the gap.

Regarding the CDA on the Nature's Sunshine Parcel, Mr. Holmes explained the proposal allowed for the purchase price of the parcel to be earned back through tax increment financing for a maximum of 12 years. He felt it was unlikely the entire purchase price could be earned back, unless there were a very substantial commercial development built.

Mr. Holmes addressed the valuation gap by explaining that Wasatch Educational was anticipating the development cost to be approximately \$10.5 million. Both Provo City's and Wasatch Education's appraisal of the property assumed the land was buildable, which it was not, and for 21 acres, the shovel-ready appraisal was less than \$6 million. Additionally, the cost of relocating three holes needed to be taken into consideration. Considering the cost to develop the land, relocate the holes, and the appraised value of the property, Mr. Holmes believed it was unlikely there would be a gap.

Mr. Handley said he was fully comfortable with points of the proposal. But due to some of the concerns from the public, he thought it would be a wise choice to have final approval of the agreement. He thought this would give some reassurance to the community. Mr. Handley also recognized that if the council were to agree to surplus the property, it would signal intent and appreciation for the efforts and diligence shown by Wasatch Educational.

Mr. Sewell asked Mr. Holmes to respond to the suggestion of an endowment of \$1.2 million for the golf course. Mr. Holmes suggested that Mr. Nemelka would be better suited to address this question. Mr. Nemelka said they had been negotiating for a long period of time and the proposal was already more expensive than they had anticipated, consequently, the suggestion of an endowment was not feasible.

Mr. Van Buren asked what had been budgeted for the relocation of the holes. Mr. Nemelka was not prepared to discuss that but indicated it was less than \$1 million per hole. Next, Mr. Van Buren read the section of Vision 2030

that described selling the East Bay Golf Course. Objective 3.4.1 said “Obtain funding through the sale of East Bay Golf Course, to create a first-class golf facility, without the need to bond or tax the citizens of Provo.” He pointed out that the proposal did not meet this objective, because there was no intent to sale the golf course. Mr. Van Buren then asked Doug Robins, Parks and Recreation Assistant Director, if there would be other disruptions to the course through the process of relocating three holes. Mr. Robins asked Brett Watson, Golf Course Manager, to address the question. Mr. Watson said by relocating three holes, there would be water and drain lines that would need to be rerouted and potential other disruptions. He suggested that there would be less disruption if these changes were made in the winter, rather than summer. Mr. Watson said there would be other minor things that would need to be changed, such as signage. The practice green would also need to be replaced. Mr. Van Buren did not believe replacing the holes would be as easy as it had been described. He estimated there would be at least a year of disruption and thought a subsidy was needed to offset the disruption. He feared golfers would not want to golf on a course undergoing construction.

Mr. Sewell thought Wasatch Educational had negotiated in good faith and he thought it was a positive deal for the city. He believed that asking for more money might cause Wasatch Educational to locate elsewhere. He asked Mr. Holmes what other options might exist for the land, if not for the medical school. Mr. Holmes said it would be disappointing if this deal fell through, but hoped council would make it available to be shopped to other potential users.

Mr. Harding explained that through the Redevelopment Agency, the board can create a Community Development Area (CDA), to subsidize developments they feel would bring long term value to the community. They expect the development to either pay for itself, directly or indirectly, into the future. He said it was not uncommon to subsidize developments in this way, if it’s in the city’s best interest. He noted that parks did not generate revenue, and suggested parks and trails could either be considered subsidized, or considered a public service, which are paid for through sales and property taxes. He thought some of the frustration in the golf community had been caused from previous council discussions where the expectation may have been that the golf course should pay for itself. He thought it was commendable the golf course was doing so well, but did not think these types of services should be expected to pay for itself, because they were public services. Mr. Harding did not want the golf course to be fearful that a decrease in revenue would put their operation at risk.

Mr. Stewart hoped the impact would not be as severe as Mr. Van Buren had described. Mr. Stewart committed that if there were a negative impact, he would do his part to help to resolve it through the budget process.

Mr. Parker said it was indicated in the proposal that development would be restricted to the Northern Wedge. He said when the administration presents council with a final agreement, it could be accompanied by resolutions that would allow council to declare their intent regarding future development and short-term subsidy.

Mr. Handley indicated his desire to approve the draft resolution, with an amendment to the text in Part I, that final approval of the terms of the agreement would not be unreasonably withheld. Mr. Jones suggested the following amendment: “...which shall not be unreasonably withheld, based on the terms presented in the January 9, 2018 Council Meeting, as shown in Exhibit B.” Exhibit B was the proposal presented by Wasatch Educational.

Motion: Council Member Handley moved to amend the text of the draft resolution to include the following text at the end of Part I: “...which shall not be unreasonably withheld, based on the terms presented in the January 9, 2018 Council Meeting, as shown in Exhibit B.” Council Member Stewart seconded the motion.

Chair Winterton asked Mr. Jones to explain what unreasonably withheld meant. Mr. Jones provided a brief explanation, Mr. Nemelka was also comfortable with Mr. Jones explanation ([3:46:03](#)).

Mr. Sewell said he was supportive of this, but still preferred the third option Mr. Jones previously described. He trusted Mayor Kaufusi to execute the agreement.

Mr. Handley said the only reason he was opposed to the third option was because he was concerned about public perception and wanted to make a gesture to the community that council was looking out for their concerns.

Mr. Nemelka asked council to be aware that in about thirty days, they would begin to receive documents that would require their review, and then any feedback would need to be given to the administration as quickly as possible, so that there were no surprises when the final agreement was presented to council.

Chair Winterton called for vote on Mr. Handley's motion to amend the text of the draft resolution.

Roll Call Vote: The motion Passed 7:0 with Council Members Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Mr. Van Buren said the process had not been easy. He appreciated all those who got involved. He was concerned that the proposal had only recently been presented to the public. He supported the text amendment, because he did not like the perception that things were being done out of sight from the public. Mr. Van Buren said there were several indicators in the appraisal that suggested after remediation, there was still a great chance the soil would not be stable. He wanted to know when the roads and sidewalks are put in, who would be responsible for fixing them if they became unstable. Lastly, he asked why the school needed to be on the golf course if the remediation costs were so high. He estimated that with the remediation costs and the cost of relocating the three holes, the cost for 21 acres would be \$13 million, or \$620,000 per acre. He wondered why they were willing to pay this amount to be on the golf course. Mr. Van Buren said he planned to vote against the resolution.

Mr. Sewell asked Mayor Kaufusi if she was supportive of the resolution. Mayor Kaufusi was appreciative of everyone who participated in getting the resolution to this point. She guaranteed she would negotiate a deal everyone would be proud of.

Chair Winterton called for a vote on the implied motion to approve the resolution, as amended.

Roll Call Vote: The motion Passed 6:1 with Council Members Handley, Harding, Knecht, Sewell, Stewart, and Winterton in favor. Council Member Van Buren opposed.

*****CONTINUED TO FUTURE MEETING*** Celeste Kennard, acting Joaquin Neighborhood Chair, requests an amendment to Section 14.34.290 of the Provo City Code to add East Center Street as a Design Corridor. Joaquin, Maeser, Foothills, and Provost Neighborhoods. (17-00200A)**

*****CONTINUED TO FUTURE MEETING*** The Provo City Community Development Department requests Ordinance Amendments to Sections 14.34.285 & 14.34.287 which are Residential Design Standards. Citywide impact. (17-00240A)**

Adjournment

The meeting was adjourned by unanimous consent at approximately 9:30 p.m.