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| Image_0 | **PROVO MUNICIPAL COUNCIL** **Redevelopment Agency of Provo****Regular Meeting Minutes**5:30 PM, Tuesday, October 09, 2018Room 200, Municipal Council Chambers351 West Center, Provo, Utah |

**Opening Ceremony**

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|  | **Roll Call** |

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| THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:  |
| Council Member David Harding Council Member David KnechtCouncil Member David Sewell Council Member George HandleyCouncil Member George Stewart Council Member Vernon K. Van BurenCAO Wayne Parker Council Attorney Brian JonesCouncil Executive Director Clifford Strachan |
| Excused: | Chair Gary Winterton Mayor Michelle Kaufusi |
| Conducting: | Council Vice Chair David Harding |

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| Vice Chair Harding excused Chair Winterton and Mayor Kaufusi. They were attending the Provo School District Board Meeting. They would attempt to adjourn this meeting by 7:00 p.m. in order to allow interested council members the opportunity to attend the school board meeting.  |

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|  | **Prayer** – Rebecca Black |

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|  | **Pledge of Allegiance** – Brittany Collier |

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| **Presentations, Proclamations, and Awards** |

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| **1** | **A recognition of Wayne Parker for his 15 years of service at the City of Provo and 35 years of service in city management.** ([0:02:52](https://www.youtube.com/watch?v=5zOxe3rHPnY&t=172s)) |

Vice Chair Harding read a letter written by Chair Winterton to Mayor Michelle Kaufusi concerning Wayne Parker, Provo City CAO. The letter acknowledged Mr. Parker’s years of service and contributions to the City of Provo (copy attached to the permanent minutes).

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| **2** | **A presentation of the Leadership in Energy and Environmental Design (LEED) standards for the Energy Department's building.** ([0:07:37](https://www.youtube.com/watch?v=5zOxe3rHPnY&t=457s)) |

Travis Ball, Provo City Energy Director, reported they had recently received the Gold Leadership in Energy and Environmental Design (LEED) award for the new energy building. The sustainable building was completed under budget and ahead of schedule.

Scott Bunker, Provo City Energy Assistant Director, explained the process they went through to apply for the award. The energy department wanted to be a good example for the community. The Gold certification, while not the highest, was still one of the top awards. They were the only Gold building in Utah County. The award was based on points earned in five credit categories:

* Sustainable Sites: The energy building was rebuilt in the heart of Provo, near UTA and UVX. Showers and changing rooms were included to encourage employees to bike to work.
* Water Efficiency: They used xeriscaping and reduced water consumption by 89 percent.
* Energy & Atmosphere:
	+ The use of skylights throughout the building provided natural daylight with lights dimming automatically as natural light increased.
	+ On site solar panels generated 125kW of power.
	+ Charging stations for electric vehicles were installed at the energy building and other locations throughout the city.
	+ The new power plant was cleaner, quieter, and more efficient.
* Materials and Resources: About 83 percent of building waste was recycled for a total of 294.67 tons of material. Many of the materials, carpets, and tile installed in the building were made from recycled materials. Other materials were made locally.
* Indoor Environment Quality: The building provided sufficient windows and ventilation.

Mr. Bunker explained that critical infrastructure was built on the second story. Research showed that ground and basement locations would flood and have more negative impact during large events.

Council members commended the energy department for setting such a high standard and hoped new city facilities would meet this standard. This was a trifecta of building – winning an award, coming in under budget, and on time.

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| **Public Comment** ([0:17:37](https://www.youtube.com/watch?v=5zOxe3rHPnY&t=1057s)) |

Vice Chair Harding invited public comment.

Ben Stanley, a nominee to serve on the Utah Transit Authority (UTA) Board of Directors for Utah and Tooele Counties addressed the council. As a BYU graduate, Provo City was near to his heart. He provided his background and asked the council to support his nomination to serve on the board.

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| **Consent Agenda** ([0:22:00](https://www.youtube.com/watch?v=5zOxe3rHPnY&t=1320s)) |

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| **3** | **Joint Resolution 2018-37 of the Provo City Mayor and Municipal Council appointing temporary Justice Court Judges for the Provo City Justice Court. (18-089)** |

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| **4** | **Resolution 2018-38 reappointing Bob Conner as Provo City Constable to serve a four-year term. (18-091)** |
| **Roll Call Vote:** | A vote to approve items on the consent agenda was approved 6:0 with Council Members Handley, Harding, Knecht, Sewell, Stewart, and Van Buren in favor. Council Member Winterton was excused. |
| **Action Agenda** |

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| **5** | **An ordinance amending the Zone Map Classification of approximately 5.89 acres of real property, generally located at 1437 East 2300 North from Public Facilities (PF) to Agricultural 1 (A1.1). Rock Canyon Neighborhood. (PLRZ20180239)** ([0:23:00](https://www.youtube.com/watch?v=5zOxe3rHPnY&t=1380s)) |

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| **Motion:** | An implied motion to approve the ordinance, as currently constituted, has been made by council rule.  |

Aaron Ardmore, Provo City Planner, reminded the council this was an item presented and continued two weeks ago. The property, near the Rock Canyon Trailhead, would be subdivided to allow for three residential units. They chose the A1.1 (Agricultural 1) zone to allow for animal rights. Addressing the council’s concerns over animal rights, the developer had proffered a development agreement, which would set a limit on the animal allowed on the property.

Mr. Ardmore said that if the ordinance was approved, the residents would be allowed to have horses but he was not certain if they planned to. Mr. Stewart asked if this was appropriate, given the residential use of the surrounding zones.

Responding to questions about the chicken ordinance, Mr. Jones clarified that the chicken ordinance limited the number of chickens in residential zones based on the lot size. In an agricultural zone, there was no limit on the number of chickens.

Vice Chair Harding invited David Gardner, the applicant, to comment. He indicated the A1.1 zone did not limit the number of chickens. The residents did not plan to own chickens so they addressed that concern in the development agreement. The intent was to house horses only during the summer. They were willing to specify three months in the development agreement. If the property was zoned R1.10, they could get 14 to 16 lots without too much trouble but that was not what the owners wanted. Mr. Gardner said they were willing to discuss additional proffers in the development agreement if needed.

Vice Chair Harding invited neighborhood chairs to comment.

Rachel Luke, Rock Canyon Neighborhood Chair, commented. Prior to Rock Canyon Temple Estates (just south of the parcel in question) the owners of the property in question had horses on the eastern part of the property. Neighbors complained and asked that the property be rezoned to residential. The owners, Howard and Deanne Francis, agreed to remedy the issues. They contacted Ms. Luke and said that horses should not be allowed on the property. She notified 120 residents on their email list, 280 on their Facebook group, and put up 50 flyers on all bordering neighbors. They were not aware of the intent to have horses and the issue was not brought up at the Planning Commission meeting. Ms. Luke presented the following report:

* The majority of bordering neighbors did not favor horses.
	+ Twenty-two residents, most bordering the property, stated they did not want any horses at all.
	+ Two bordering families supported horses only if they were placed on the two eastern lots.
	+ Twelve residents further away from the parcel voted in favor of the neighborhood farm.
	+ Three non-bordering residents expressed concerns about the quantity and placement of horses.
* Rock Canyon Temple Estates had many older residents with allergies and asthma. They expressed concerns with how horses would affect their quality of life.
* A few residents with extensive horse experience felt this might not be an ideal location for horses.

Ms. Luke quoted from Provo City Code, “The A1 zone is designed and intended to protect agricultural uses from encroachment of urban development until such time as residential, commercial, or industrial uses in such areas become necessary and desirable.” The zoning request did not match the objectives of the zone because it was already residential and abutted two well-used public facility properties – the Rock Canyon Park and the Rock Canyon Trailhead.

For the record, Ms. Luck stated she was not personally opposed to horses. She was just relating the results of the neighborhood responses.

Vice Chair Harding opened public comment.

James Patrick Kelly, Provo, said he lived in a home on 2300 North that would view the property. He was opposed to having horses. He was not opposed to homes, although he enjoyed the current view.

Ellis Nuttall, Provo, lived on 1400 East in front of the eastern part of the property. He did not want to live among horses. The smell would be concerning. His next door neighbor was 97 years old and had an allergy. She would have to move away if horses were allowed. If there were horses already on the property when he moved into his home it would be different.

Brent Ashworth lived in a house that bordered the property. He was concerned about horses being so close to his property. He did not think horses were appropriate in a residential area.

Carolyn Driggs, Rock Canyon Temple Estates, was opposed to zoning the property agricultural because this was a residential area. If access to animals was allowed, they could have more than just horses. It was a pristine area surrounded by Rock Canyon Park.

Julia Nielsen, lived just east of the property, and did not want horses on the east side either. Her family had allergies so it would be a health problem. She did not want the property zoned agricultural.

Martha Ballantyne, 2277 North 1450 East, was opposed to the rezone request. If the request for three houses and six horses was not approved, would they get 14-16 other homes? She was opposed to the flies that would be associated with horses.

Henry Heilesen, 1258 East 2300 North, said the city invested a lot of money buying the Rock Canyon Trailhead. The trailhead should be maintained with better parking. He asked the city to think about parks and landscaping in the area instead of horses. There was not an ordinance requiring residents to pick up after their horses. He feared it would have an impact on the area. He urged the council to rezone the area residential.

Vice Chair Harding closed public comment and invited council discussion.

Mr. Harding said the decision before the council was to rezone the land from public facilities to agricultural, even though the General Plan called for residential. He respected the neighborhood concern about the horses. The landowner had rights and, if the land was rezoned residential at R1.10, it was possible the developer could build 14-16 units. The property could be developed as three residences with horses, or a higher density. The plan before the council may not be ideal but sometimes it was better than the alternative.

Mr. Stewart said the property would not allow 14 homes, it might get five or six homes.

Mr. Handley said the neighborhood wanted the three homes but did not want the horses. He asked Mr. Gardner if that was non-negotiable. Mr. Gardner said the layout of the land would allow 14 homes. The agricultural zone would allow accessory buildings larger than the home where the horses would be housed. The owners had a facility they were using on north Canyon Road but long-term usage was not guaranteed. If an agricultural zone was approved, with a guarantee they would not have animals (not even chickens), he might be able to get the owners to agree. The item would need to be continued to give him time to meet with the owners.

Mr. Stewart was not in favor of continuing. There was nothing the applicant could proffer that would allow him to vote for agriculture. Why would they want a barn if they could not have horses?

Mr. Handley said the only reason to zone the property agricultural was to make sure they were only getting three homes. He was interested to know if the owners were willing to waive their right to horses. He wanted to wait until they could get that feedback from the owner.

Mr. Van Buren said, as first presented, the request for an agricultural zone was to keep it from being subdivided into more than three lots. In the midst of the discussion, they realized there would also be horses. Now the proposal was to eliminate the horses and animal rights but keep it agricultural so they could build a barn that could be larger than the original house. Was there a way to zone the property residential, have the owners divide it into three lots, and request a variance to build a larger barn?

Responding to Mr. Van Buren’s question, Mr. Ardmore said if ownership changed hands, the new owners could subdivide the property if the property was zoned R1.10.

Mr. Van Buren did not think 14 lots would fit on the property. Even if they could, it would not be a bad thing because those lots would be larger than most. He did not want to introduce agricultural zoning in a residential area. There were other ways to get this accomplished.

Mr. Sewell did not favor the agricultural zone that would allow horses. He did not understand why they needed to zone it agricultural. He preferred R1.10 and did not have reservations about the increased density. He would fall back to the agricultural zone if the R1.10 zone did not meet the owner’s objectives.

Mr. Knecht said the lowest density in a residential zone was R1.20. The owner could put a deed restriction on the property that said the lots, as laid out, shall not ever be subdivided. Mr. Jones said it could be done through a deed restriction or a development agreement. Mr. Knecht noted that a barn without animals was a big garage for boats, RV’s, etc. Depending on the height and size, it might be difficult to build something large enough under the usual residential zones. He would be interested in hearing what the owners would come back with. An RA zone (residential agricultural), without animal rights would not allow the property to be subdivided and they could have a larger garage or outbuilding without requesting a variance.

Vice Chair Harding understood there were four options. First, rezone A1.1 with the proffered agreement; second, continue the item and see what agreement could be proffered; third, deny the request and have the applicant start over; or fourth, the council could rezone the property R1.10 and let the owner do what they wanted with the zone.

Mr. Jones stated that, under state code, a zoning decision needed a recommendation from the Planning Commission, although they did not have to follow the recommendation. In the past, the city could take the Planning Commission recommendation and then vote to change to a less dense zone. If the council wanted to change it to something with more density, it would need to go back to the Planning Commission.

Vice Chair Harding and Mr. Handley both agreed that continuing this item to see what the owners would proffer would be their choice. Mr. Handley made the following motion.

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| **Motion:** | Council Member Handley made a motion to continue this item and wait for a report back from the property owners. The motion was seconded by Council Member Stewart. |

Vice Chair Harding would prefer more houses on the property, from the perspective of the city’s housing crunch. If the owners only wanted three homes, he was willing to work with them.

Mr. Sewell was uncomfortable sending a signal that the council felt it had to be lower density than what would normally be allowed in a residential zone.

Vice Chair Harding called for a vote on the motion to continue this item.

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

Mr. Sewell expressed concern about adjourning the meeting early while there was still city business to complete.

Chair Harding suggested hearing Item No. 8 and then going back to Items 6 and 7 if they had time.

Council members discussed the possibility of adjourning early but felt they should give their full attention to the agenda items, despite the school board meeting.

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| **8** | **Ordinance 2018-29 amending the Zone Map Classification of approximately 7.37 acres of real property, generally located at 1776 South Buckley Lane from Public Facilities (PF) to One-Family Residential Planned Development (R1.6PD). Provost South Neighborhood. (PLRZ20180224)** ([1:13:40](https://www.youtube.com/watch?v=5zOxe3rHPnY&t=4420s)) |

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| **Motion:** | An implied motion to approve Ordinance 2018-29, as currently constituted, has been made by council rule.  |

Joshua Yost, Provo City Planner, stated this was a rezone request for the former Utah County Jail site. The applicant, Gardner and Associates, proposed building a planned unit development with 33 single-family homes for the 55+ community. The first neighborhood meeting had no opposition, although some expressed disappointment by the proposed age restrictions. The Planning Commission voted unanimously to approve the project. The project met the future land use policies as stated in the General Plan and Southeast Area Plan.

Vice Chair Harding invited the applicant to speak. Dave Gardner, option holder on the property, stated this was originally a larger parcel. An additional three acres was owned by the Utah State with Provo City having the first right of refusal. Because of the title issues associated with the additional three acres, they have chosen to build the project in two phases. The first phase would be 33 single-family detached homes with a full basement and attached garage. They ranged in size from 1420 square feet to 1800 square feet. A market analysis showed that homes in a 55+ community were in large demand.

In response to a question from Mr. Handley, Mr. Gardner said the 55+ market was simply an age restriction; it did not limit marital status. Regarding a married couple, the law stated that if one of the spouses was 55 or older they would qualify to live in the community. A provision in the law allowed grandchildren to live in the home but it would need to be a short term stay.

Ashley Rayback, Provost South Neighborhood Chair, said the residents were overwhelmingly in favor of the development. As stated earlier, some residents were opposed because of the age restrictions. Originally, the development consisted of 20 percent family homes with 80 percent 55+ homes. The neighborhood was strongly opposed to Mr. Gardner’s original proposal to build 140 townhomes. Ms. Rayback said the issue was not the age restriction. They wanted stability in the neighborhood. Smaller homes tended to become rental homes with singles or young families living in them but quickly moving out. The neighborhood was left with small rentals that people did not stay in. Although the neighborhood wanted larger homes, they understood that a 55+ community was the best option to bring stability to the area.

Vice Chair Harding opened public comment.

John (last name ineligible), 2103 Mountain Vista Lane, lived directly west of the proposed development. He favored the proposal to build a 55+ community. He lived on a 2/3 acre lot and could barely walk to the back of his property. Although the homes and lots were smaller, that was what people his age needed. If he moved, he wanted to stay in the area and this development would be just what he needed.

Adam Arnett, Provo, said the neighborhood support was mischaracterized. The plan was beautiful and was originally proposed as 80 percent 55+ and 20 percent available to the general public. During the neighborhood meeting he asked if he could live in the 20 percent. He was told they would not sell to him because he was single. After the meeting he asked the developer for clarification and was told again that he could not purchase one of the homes. He could not deny selling him a home because he was single but would find any other reason not to sell to him or any other singles. Mr. Arnett said that Council Member Knecht was part of that conversation. He did not trust the developer and did not think the city should do business with him or people like him.

Chair Harding closed public comment and invited council discussion.

Mr. Knecht responded to Mr. Arnett’s comments by saying there were different perceptions and memories of what occurred during that meeting. The developer had made the choice to go 100 percent 55+ instead of the original 80/20 split. He said the conversation was not quite as portrayed but was pretty close.

Mr. Sewell could not comment on the last exchange because he was not there. He hoped that we would all strive to be inclusive and understanding of those in different life circumstances. As mentioned by the vice chair, the new proposal for an age restricted development had good support from the neighborhood. He was in favor of the project.

Vice Chair Harding was saddened by the rift in the community. It had been brewing for a long time and there was no quick resolution. He asked everyone in the community to be considerate of others and be kind to those in different life stations. He understood there was a market for specific communities and liked many things about the proposed project.

Mr. Handley liked the project and felt it was a valuable contribution to the area. He could not comment on the conversation that occurred at the neighborhood meeting but hoped that Mr. Gardner was committed to building the development in the best way possible. We should not exclude people on the basis of religion or marital status.

Mr. Knecht said the Southeast Area Plan included all three neighborhoods in the southeast. There were a number of young single professionals that were not represented on the committee. They expressed concern about the law defining a family as three singles and were told it would not be enforced. Mr. Knecht said a proposal was being made to change the definition of family; if not city-wide then in certain projects within the Provost and Provost South Neighborhoods. The committee was not turning a deaf ear because it was recommended that 50 acres of undeveloped property in the southeast be rezoned and set aside for projects to meet the needs of young single professionals. It was the largest area that he knew about where developers were being asked to build for a certain demographic. He said the jail property was being used to provide housing for a different group.

Mr. Stewart said he was in favor of the proposal and felt Mr. Gardner had been a trusted developer for the city.

Vice Chair Harding called for a vote on the implied motion to adopt the ordinance.

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

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| **6** | **Resolution 2018-39 appointing Hannah Salzl as Policy Analyst for the Provo City Municipal Council office. (18-092)** ([1:48:26](https://www.youtube.com/watch?v=5zOxe3rHPnY&t=6506s)) |

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| **Motion:** | An implied motion to approve Resolution 2018-39, as currently constituted, has been made by council rule.  |

Mr. Strachan reported that Hannah Salzl was from Highland and graduated a few months ago from BYU with an MPA, BA in history, and PA. She was very accomplished with good references.

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

He called for a vote on the implied motion to approve the resolution.

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| **Roll Call Vote:** | The motion was approved 6:0 with Council Members Handley, Harding, Knecht, Sewell, Stewart, and Van Buren in favor. Council Member Winterton was excused. |
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| **7** | **A resolution regarding a pledge of support and to identify measures to be taken to address Utah's housing needs across the State and in Provo City. (18-070)** ([1:50:07](https://www.youtube.com/watch?v=5zOxe3rHPnY&t=6607s)) |

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| **Motion:** | An implied motion to approve Ordinance 2018-24, as currently constituted, has been made by council rule.  |

Vice Chair Harding stated that, after a robust discussion in the housing committee, the proposed resolution was being presented to the council for approval. The Salt Lake Chamber of Commerce asked all cities in Utah to approve a resolution adopting measures to be taken that would address housing needs across the state and in Provo City. He felt Provo was leading the way on almost all of the measures. There had been concerns expressed about impact fees and zoning so those measures had been removed from the resolution. He hoped implementing these measures would have an impact on housing affordability in the state.

Mr. Handley said there were some reservations about including impact fees in the resolution. After reading the Kem C. Gardner Policy Institute report concerning these issues, he found a trend of high increases in impact fees that were disproportionate. This might be something for further conversation in the city to make sure they were not out of control. According to the study, this was a real problem.

Mr. Van Buren stated the impact fee study had been going on for months. It would be presented to the council soon. Impact fees were regulated by the government and any increases had to be justified. Provo City had hired Susie Becker, with Zions Bank, to help research impact fees in Provo City. Mr. Van Buren said they had studied every impact fee the city could charge. Legislation would be presented to the council that addressed impact fees and possible increases.

Mr. Van Buren stated he would vote against the resolution. They may have taken impact fees out of the measures, but there were review and reform practices that may negatively impact housing. He struggled with approving resolutions that expressed our support of a group in general ways instead of specific ways.

Vice Chair Harding invited public comment.

Beth Alligood, Lakeview North Neighborhood, said Provo had 80 percent of the subsidized housing in Utah County. Provo City had one of the lowest median incomes in the valley. We had been hurt economically because retailers had chosen to build elsewhere. She expressed concern that Provo City already had plans that addressed many of the measures in the resolution. The city was leading the way on this issue. Other communities should not dictate what we do in Provo City; we need to maintain our autonomy. She felt it was time for other cities in the county to step up and help share some of the burden.

Vice Chair Harding closed public comment and invited council discussion.

Mr. Knecht said housing affordability was a broad topic. A tight housing market drove prices up. This was not just about housing for low and moderate incomes because nothing was affordable. Provo City had done more than any community in this valley to provide housing opportunities, different zoning options, and provide for the needs of our citizens. He did not see this resolution as committing to something the city was not already doing. The problematic portions of the resolution were removed for good reason and he felt good about what was left.

In response to Ms. Alligood’s comments, Mr. Handley said he was not aware of how this would compromise autonomy for Provo City. The resolution was largely symbolic but it was very important because of what it would do to the other communities in the valley. It would encourage other cities to follow our lead.

Vice Chair Harding said approving the resolution would give Provo’s commitment to the measures. He did not feel it was binding if something was included that was not in the best interest of Provo. If Provo chose not to approve the resolution, other cities in the valley might not approve it.

Mr. Sewell stated he had mixed feelings. When he first read the resolution he was not sure what some of the language meant. He liked the changes that were made but was still concerned about what some of the measures meant or how they were defined. He supported the intent but was not ready to vote for the resolution.

Chair Harding said he would prefer to get as close to a unanimous vote as possible. He was open to continuing the item to discuss additional changes to the resolution.

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| **Motion:** | Council Member Handley made a motion to continue the item. The motion was seconded by Council Member Stewart.  |

Mr. Knecht noted that in statement, “…we were committed to ensuring housing affordability...” the word *ensuring* was a big commitment. He did not know how we could accomplish that goal. He was in favor of continuing so they could look carefully at the wording of the resolution.

Mr. Stewart said he felt better about supporting the resolution if they took the word *ensure* out. It could be used against the city.

Vice Chair Harding called for a vote on the motion to continue.

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

The meeting was adjourned at 7:39 p.m. by unanimous consent.