

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
April 09, 2019

3:00 P.M. WORK SESSION – CITY COUNCIL CONFERENCE ROOM

CONDUCTING	Mayor Richard F. Brunst
ELECTED OFFICIALS	Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer, and Brent Sumner
APPOINTED STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Steven Downs, Deputy City Manager; Greg Stephens, City Attorney; Karl Hirst, Recreation Department Director; Richard Manning, Administrative Services Director; Ryan Clark, Development Services Director; Scott Gurney, Fire Chief; Gary Giles, Police Chief; Charlene Crozier, Library Director; Jason Bench, Planning Division Manager; Kena Jo Mathews, Community Services Manager; JoD'Ann Bates, City Recorder; and Jackie Lambert, Deputy City Recorder

DISCUSSION – Continued Participation in Utah Valley HOME Consortium

Ms. Mathews invited Dan Gonzalez, Provo Housing and Neighborhood Development Coordinator, to present information regarding continued participation in the Utah Valley HOME Consortium (UVHC). Mr. Gonzalez reviewed the history and goal of the HOME Consortium, which was to provide decent, affordable housing for low-income people. The program allowed the participants to design and implement affordable housing strategies tailored to the individual needs and priorities of each entity. It also mobilized community resources like banks and non-profits toward the Consortium's goal.

Mr. Gonzalez said one of the biggest problems they were facing was the relatively inadequate housing supply available to low-income individuals and families. Often the rental housing available was substandard and in need of rehabilitation and the cost of home ownership was too high.

Mr. Gonzalez said the annual allocation of funds averaged \$1.3 million, plus the program income average of \$665,000. HOME funds used by the UVHC went to:

- Homeownership acquisition/new construction
- Rental acquisition/new construction
- Down payment assistance
- Tenant based rental assistance for special populations
- Homeownership rehabilitation

The special populations referred to were typically physically or mentally handicapped individuals and their families, as well as the elderly. Mr. Gonzalez continued that one's income range was used to determine available funding. With down payment assistance they would give "silent second loans" that functioned as second mortgages, and placed a lien on the home but only required the tenant to make loan payments if their situation changed.

There was continued discussion on the percentages of funding available for affordable housing, current projects funded by or managed by the HOME Consortium, and the return on investment by participating in the program. Ms. Mathews said they were able to do more while functioning as an interdependent organization rather than individually, and were able to tackle larger housing projects all over the area. Mr. Downs said Orem was not an entitlement city and there was great benefit in going through the HOME Consortium for these projects. It kept the City from having to expand staff and still gave Orem residents access to the services.

If the City opted to continue its participation in the Consortium, they would need to renew the interlocal cooperation agreement between Provo, Lehi, Orem, and Utah County. Mr. Gonzalez said they planned to come before the Council sometime in June to hold a public hearing and adopt a resolution reaffirming the City's commitment to its participation in the Consortium.

ANNUAL REPORT – Open Meetings and Ethics Training

Mr. Stephens indicated that annual training on open meetings was a state requirement. Utah Code 52-4-104 was the Open and Public Meetings Act, which Mr. Stephens reviewed. He detailed the definition of an open meeting, and discussed the requirement to deliberate and conduct the City's business openly. Non-traditional meetings like workshops, executive sessions, site visits, and traveling tours still had the same requirements. Chance meetings or social gatherings were not considered meetings, for example holiday parties or attending a concert or performance.

Mr. Stephens said the general rule was that all meetings were open; meetings were only able to be closed for specific discussions as identified by state code. Such reasons included but were not limited to:

- Discussion of the character, professional competence, or physical or mental health of an individual;
- Strategy sessions to discuss:
 - Collective bargaining
 - Pending or reasonably imminent litigation
 - Purchase, exchange or lease of real property,
 - Sale of real property
- Discussion regarding deployment of security personnel, devices, or systems; and
- Investigative proceeding regarding allegations of criminal misconduct.

Mr. Stephens cautioned that the discussion in closed meetings must be limited to the specific items for which the meeting was closed.

There was continued discussion on when meetings could or could not be closed; Mr. Stephens said there were likely things in the state requirements that were now included in response to

issues Orem had experienced in filling a mayoral vacancy. Mr. Stephens said electronic messages were a “hot topic” within cities, and he reminded the Mayor and Council that electronic messages included emails and texts. These were subject to GRAMA and could be requested as public records. Mr. Stephens advised that the elected officials not conduct any city business that way.

Mr. Stephens reviewed requirements for electronic meetings, and said Orem did well meeting those. He also reviewed emergency meetings, rules of conduct for the public and the right to expel disorderly or disruptive persons by a two-thirds majority vote, and when roll call votes were required. Mr. Stephens spoke about requirements for meeting minutes, and said the Orem Records did a very good job in producing an executive summary of the meeting. He said minutes were not supposed to be verbatim or transcripts of the meetings; if people wanted to see the discussion in its entirety the video and audio of City Council meetings was available.

Mr. Stephens said many ethics laws were common sense. He said the use of public office for personal benefit was not allowed, which meant elected officials could not use their position or information they were privy to for their own personal gain or interest. Additionally, they were not to use their positions to secure special privileges or exemptions for themselves or others. Mr. Stephens shared the specifics of improper acceptance of a gift, and said the exceptions were for awards public presented, an occasional non-pecuniary gift having a value of less than \$50, any bona fide loan made in the ordinary course of business, and political campaign contributions. He reviewed things that must be disclosed, and said to contact the Recorder’s office to obtain the necessary forms. There was continued discussion about the recent Utah State Legislative Session and HB-64, which obligated state registered lobbyists to keep records of the engagement and relationship they had with an elected or appointed official of a city.

DISCUSSION – Proposed changes to the City’s Landscaping Ordinance

Mr. Bench said many cities were allowing more flexibility for homeowners when landscaping their property. They worked with the City’s Beautification Advisory Commission and Natural Resources Stewardship Committee, as well as Landmark Design (which helped design the City’s Parks Master Plan). Each group conducted research and presented recommendations. The purpose of the landscaping requirement was:

1. To promote pleasant and attractive surroundings and thereby enhance, conserve and stabilize property values, and create a more pleasant community;
2. To reduce heat, noise, and glare through the proper placement of green plants and trees; and
3. To support landscape treatments that reflected good design principles, and conserve limited resources.

For all developed lots, it was suggested that at least 50% of each contiguous area required to be landscaped shall be planted and maintained with some combination of grass, shrubs, trees, flowers, vines, or other living plants (excluding weeds). Mr. Bench said artificial or synthetic turf that met certain requirements could be used, as well as decorate rocks, bricks, gravel, and native, drought-tolerant plant species, so long as there was deliberate use of these materials. This would give homeowners flexibility in their landscaping options, and help with the conservation of water. Mr. Bench said the proposed changes would help the Neighborhood Preservation Unit

with code enforcement; landscaping issues were among the most common calls they received. He then shared photos of yards with xeriscaping.

Mayor Brunst said public outreach would be important in implementing water-wise landscaping practices. He felt an issue that would be significant to most residents would be that xeriscaping would help them lower their water bill. Mr. Davidson said if the proposed changes were accepted, they could share information on social media and e-newsletters. He also mentioned that the Central Utah Water Conservancy District taught classes on landscaping and water management.

Mr. Bench said they hoped to bring the item for consideration at the May 14, 2019 City Council meeting.

DISCUSSION – Rank Choice Voting

Mr. Lentz said he wanted the opportunity to discuss the option of conducting a Rank Choice Voting (RCV) election in 2019. He reviewed the concerns that were voiced by other City Council members in previous discussions, including:

- The challenge and costs of educating voters on a new system;
- Costs for new or specialized election equipment and training;
- Time lost to vet candidates if there was no Primary Election;
- Being “guinea pigs” for an untested system; and
- General dysfunction at the county level

Mr. Lentz addressed their concerns, and asked if the Council wanted to revisit the discussion in light of the updated information he provided. He reminded them the deadline to notify the Lt. Governor’s Office was April 15, 2019.

The City Council briefly discussed the option to use RCV. The majority of the Council said they did not want to use RCV for the 2019 elections.

Agenda Review

The City Council and staff reviewed the items on the evening’s agenda. The Mayor reviewed the upcoming events as listed in the agenda. Mr. Earl told the Council that the agenda item regarding a transfer station and a development agreement with Mike Dunn was withdrawn. It was not a public hearing, so it would not need to be rescheduled.

Preview Upcoming Agenda Items

The City Council briefly reviewed items that would be coming before the Council in future meetings. Mr. Bench shared information related to upcoming zoning items.

City Council Reports (Boards and Commissions, New Business, Etc.)

Mrs. Lauret gave a report on her assignments as a City Council liaison to City advisory boards and commissions, including Summerfest, Arts Council, and CARE Advisory. She reviewed details of the upcoming Summerfest celebration, and said the Summerfest concert would feature country artists John Michael Montgomery and Josh Gracin. She said there would be many family activities, and they would be able to pre-sell carnival tickets for Family Night. Mrs. Lauret said there would be some adjustments to some of the annual events, and the fireworks display would be longer than previous years in celebration of the City's centennial year.

Mrs. Lauret gave an update on the Arts Council, including the summer concerts scheduled at the outdoor stage in the City Center Park, and original artwork from local artist Cassandra Barney. She then provided an update about the CARE Advisory deliberations regarding the mini and mid-major grants. She said they had received \$94,820 in total requests, and asked the Council if they were comfortable with a target amount of \$70,000; the City Council consensus was to have \$70,000 as the threshold.

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

CONDUCTING	Mayor Richard F. Brunst
ELECTED OFFICIALS	Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, and David Spencer
APPOINTED STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Steven Downs, Deputy City Manager; Greg Stephens, City Attorney; Karl Hirst, Recreation Department Director; Richard Manning, Administrative Services Director; Ryan Clark, Development Services Director; Scott Gurney, Fire Chief; Gary Giles, Police Chief; Charlene Crozier, Library Director; Jason Bench, Planning Division Manager; Pete Wolfley, Communications Specialist; Kena Jo Mathews, Community Services Manager; and Jackie Lambert, Deputy City Recorder
INVOCATION / INSPIRATIONAL THOUGHT PLEDGE OF ALLEGIANCE	James Brown, Scout Troop 999 Scout Troop 999 Color Guard

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

UPCOMING EVENTS

Mayor Brunst reviewed the upcoming events, as listed in the agenda packet.

PERSONAL APPEARANCES

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

Roger Flick said he wanted to speak about the racquetball program at the Orem Fitness Center (OFC). A longtime teacher and coach, he had the opportunity to coach racquetball and teach part-time at the OFC. There were approximately 14 courts currently and in the proposed plans for the OFC rebuild only four courts were planned. He felt that would be inadequate and would take away the ability for successful league play. The OFC was a regional draw, and league players traveled from Salt Lake, Wasatch, Carbon, and Utah counties to play. The courts were still in good shape and he did not see why they could not preserve those courts and incorporate them with the OFC rebuild. He distributed his comments to the City Council.

Shaun Heaton said he was also there to speak on behalf of the sport of racquetball. He said it was an amazing community of players that welcomed all who wanted to join. He invited the Mayor and City Council to come one morning and join with them. Mr. Heaton said they had players ranging from their twenties all the way up to a player who was 88 years old. It was the best sport to be able to play and stay active into one's senior years. He said the concrete courts at the OFC were excellent for racquetball, and the new style of courts, like those at the Provo Recreation Center, diminished the power of the ball as it ricocheted. He agreed with Mr. Flick that four courts would not be adequate, and they would lose the strong racquetball program that had become a hallmark of the OFC. He mentioned that several of the league players were also in attendance, and said they were only a small contingent of the larger racquetball community.

Val Gibson said he too was present to speak about the racquetball community at the OFC. He said the racquetball program at the OFC had more wins, medals, and accolades than many other sports in the area, and agreed with Mr. Heaton that it was a rare sport that allowed players to continue into their 60s, 70s, 80s, and beyond. It seemed to him that those making the decisions for the rebuild disliked racquetball and were making unfair decisions based on that bias. The OFC was a staple of the community, and in his opinion it was still one of the best community fitness centers in the area. It was a 45 year old building that had stood the test of time, and he echoed Mr. Flick's idea of building around the existing courts.

CONSENT ITEMS

- Approval of March 26, 2019 City Council Meeting Minutes
- Reappointment of Kenneth Ransom to the CDBG Advisory Commission, and Appointment of Deborah Shuman and Alan Rex Alan to the Recreation Advisory Commission

Mayor Brunst moved to approve the Consent Agenda as listed. **Mrs. Lauret seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, and David Spencer. The motion **passed**.

SCHEDULED ITEMS

PUBLIC HEARING

ORDINANCE – The City will receive public comment on the Community Development Block Grant (CDBG) Projected Use of Funds for Fiscal Year 2019-2020

The Community Services Manager Kena Jo Mathews recommend that the City Council hold the first of two public hearings to receive public comment on the projected uses of the funds for the 2019-2020 Community Development Block Grant and review the recommendations of the CDBG Advisory Commission. Commission Chairman Ken Ransom was present to share their recommendations.

During February and March of 2019, the CDBG Advisory Commission reviewed and heard funding proposals from community organizations and others who wish to receive CDBG funding for Fiscal Year 2019-2020. The public hearing would be the first of two opportunities for the public to comment on the recommendations before the City Council officially adopted the Final Statement of Projected Uses of Funds for Orem's 2019-2020 Community Development Block Grant.

The CDBG Advisory Commission allocation recommendations listed below:

Public Service Recommendations - limited by HUD to 15% of new entitlement funding

Community Action Services and Food Bank.....	\$12,500
Friends of the Food and Care Coalition.....	\$8,737
Mountainlands Community Health Center.....	\$5,000
Family Support and Treatment Center.....	\$11,000
Kids on the Move.....	\$5,000
Community Health Connect.....	\$10,000
People Helping People.....	\$0
PERC.....	\$5,000
Friends of the Utah County Children's Justice Center....	\$20,000
Center for Women and Children in Crisis.....	\$28,750
Mary Elliott, LCSW.....	\$0
Boys and Girls Club.....	\$0

Non-Public Service Recommendations

City of Orem Critical Home Repair.....	\$70,000
NeighborWorks.....	\$0
City of Orem Neighborhood Revitalization.....	\$21,549
Collaborative with Entitlements (House of Hope/Family Support).....	\$94,050

City of Orem Code Enforcement.....	\$155,000
City of Orem – Westmore Park.....	\$200,000
City of Orem – CDBG Administration/Planning.....	\$135,000
City of Orem – Section 108 Loan Repayment.....	\$85,000

Ms. Mathews said they were specifically moving away from any recommendations under \$5,000. The necessary paperwork was such an inconvenience that it was not worth the time and effort it required. She said they were collaborating with other entitlements in the area to serve more people and help the funding stretch farther. This allowed for capital projects to be completed at once, rather than piecemeal over a span of years. Each entitlement would identify a few organizations to which they would focus their funds so there was better distribution.

Mr. Ransom reviewed the requested amounts versus the suggested allocation amounts for each organization. Ms. Mathews said the two non-profit programs Orem would concentrate on were the Family Support and Treatment Center and House of Hope. She said the funding was at about \$94,000.

Mr. Lentz asked about the Mobile Tool Library Ms. Mathews had spoken of, and wondered if it would be possible to use electric or non-gas powered tools and equipment for yard cleanup projects. Ms. Mathews said they could certainly look into those options.

Mr. Macdonald asked if the recommended allocations were within the required legal limits. Ms. Mathews said they were; the allowed percentage for administration costs was 20%, or approximately \$141,000 but the request was for only \$135,000.

Mayor Brunst opened the public hearing. No one came forward to speak, so he closed the public hearing. Ms. Mathews said they would come before the Council again after the 30 day comment period for final recommendations.

PUBLIC HEARING

ORDINANCE – Amending Section 22-11-17(B) of the Orem City Code by adding Standard Land Use Code 7425 Gymnasiums & Athletic Clubs and Standard Land Use Code 7426 Health Spas as permitted uses in the PD-5 zone

Mr. Bench presented the applicant’s request to add two new permitted uses in the PD-5 zone. The two uses requested were to add Gymnasiums & Athletic Clubs and Health spas. Currently, SLU Code 7425 Gymnasiums & Athletic Clubs were permitted in the C2, C3, HS, M1, M2, and CM zones. SLU Code 7426 Health Spas were permitted in the C2, C3, M1, and M2 zones. The Planning Commission recommended approval of the request.

Applicant Austin Atkin joined Mr. Bench, and said his organization was brought on by the owner to get the entitlements done. Mr. Atkin said this was a portion of the building Ashley Furniture was in; it would be a second tenant. They were proposing an athletic club/fitness center. Mr. Bench showed a list of the permitted uses in the PD-5 zone.

Mrs. Lauret asked if the footprint of Ashley Furniture would change or shrink at all. Mr. Atkin said it would not change the footprint.

Mayor Brunst opened the public hearing. No one came forward to speak, so he closed the public hearing.

Mr. Lentz moved, by ordinance, to approve amending Section 22-11-17(B) of the Orem City Code by adding Standard Land Use Code 7425 Gymnasiums & Athletic Clubs and Standard Land Use Code 7426 Health Spas as permitted uses in the PD-5 zone. **Mrs. Lauret seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, David Spencer. The motion **passed**.

RESOLUTION – Approving conditional use permit for an accessory structure located at 1387 North 430 East in the PD 14 Zone

Mr. Bench presented applicant Dave Rasmussen's request for a conditional use permit for an accessory structure. Mr. Rasmussen was requesting to remove an existing basketball court and add an accessory structure that contained a basketball court, garage, and storage area. The lot contained a total area of 53,579 square feet or 1.23 acres. The accessory building contained a total building area of 7,300 square feet on two levels.

The ordinance required a conditional use permit for accessory structures in the PD-14 zone 1,000 square feet or greater and accessory structures could not be more than 33% of the area of the parcel. The proposed structure was 14% of the lot at 7,300 square feet. The structure was within height requirement of the ordinance at 22 feet, 4.5 inches. The proposed elevations consisted of stucco siding and brick which would match the main dwelling. The proposed landscaping and overall plan complied with the requirements of the PD-14 zone.

Mr. Bench said there was a concrete/masonry fence along 400 East, and the proposed structure met the requirement of a 25 foot setback. They intended to move the tennis court to accommodate the new structure, and only a small portion of the building would be visible from the front of the house. Mr. Macdonald asked if Mr. Rasmussen had discussed the proposal with his neighbors; Mr. Rasmussen said his neighbors were comfortable with the proposal.

Mr. Spencer asked the minimum requirement of separation from the structure to the house. Mr. Bench said was six feet and the proposal was for 10 feet, well within the requirement.

Mr. Lentz asked about the possibility of Mr. Rasmussen using the basketball court to form a league and charge people for the use of the court as a business, and whether that would require a business license. Mr. Bench said that would not be permitted in the zone, though Mr. Rasmussen could have a home occupation business which would require a business license.

Mr. Macdonald moved, by resolution, to approve a conditional use permit for an accessory structure located at 1387 North 430 East in the PD 14 Zone. **Mr. Seastrand seconded** the motion. Those voting aye: Richard F. Brunst, Debby Lauret, Sam Lentz, Tom Macdonald, Mark Seastrand, and David Spencer. The motion **passed**.

RESOLUTION – Authorizing the Mayor to execute a development agreement between the

City and ESAD Investments, LC regarding the operation of a transfer station at approximately 679 North 1500 West

Mayor Brunst said this item was withdrawn and would not be considered at this time.

COMMUNICATION ITEMS

The Monthly Financial Summaries for January and February 2019 were included in the packets distributed to the Council.

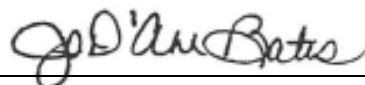
CITY MANAGER INFORMATION ITEMS

Mr. Davidson had no additional items to share.

ADJOURN

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

The meeting adjourned at 6:52 p.m.



JoD'Ann Bates, City Recorder

Approved: April 30, 2019

