



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, June 04, 2019

Room 200, Municipal Council Chambers

351 W. Center Street, Provo, UT 84601

Opening Ceremony

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Councilor David Harding

Councilor David Knecht

Councilor David Sewell

Councilor Gary Winterton

Councilor George Handley

Councilor George Stewart

Councilor Vernon K. Van Buren

Mayor Michelle Kaufusi

Council Attorney Brian Jones

Council Executive Director Cliff Strachan

Chief Administrative Officer Wayne Parker

Conducting: Council Chair David Harding

Prayer – Kisi Watkins

Pledge of Allegiance – Angela Mourik

Presentations, Proclamations, and Awards

1. Judge Romney receives Utah State Justice Court Judge of the Year Award ([0:16:35](#))

John Borget, Administrative Services Director, presented. Mr. Borget announced that the 2019 Justice Court Judge of the Year award had been given to the Honorable Rick Romney, with the Provo City Justice Court. Judge Romney was recognized for his outstanding commitment to his fellow judges and to the Utah judiciary.

When Judge Romney received the award in St. George, he was quoted as saying that no judge received this award in a vacuum. The award was also a wonderful tribute to our court administrator and the clerk's for the great service they gave to the public. People that came to court were not always happy to be there. However, they were generally satisfied that their cases have been handled fairly.

ReAnnun Newton, Justice Court Administrator, stated it was just like Judge Romney to point the finger back at his staff when receiving this award. She had worked with more than ten judges in the past and Judge Romney was one of the most compassionate, fair judges she had ever witnessed on the bench. He genuinely cared about people. She considered it an honor to work with him.

2. Introduction of the new Wasatch Neighborhood Chair: David Acheson ([21:29](#))

Karen Tapahe, Provo City Council Community Relations Coordinator, presented. Ms. Tapahe reported that David Atchison had been elected to replace Melissa Kendall as the new Wasatch Neighborhood Chair. Dr. Kendall would stay on as one of the vice-chairs.

Ms. Tapahe said that Kirby Sniderman, North Park Neighborhood Chair, had moved to Texas. Eric Chase was elected as the new chair in an election last week. He would attend a future meeting to introduce himself to the council. Ms. Tapahe said there were three vice-chairs in that neighborhood. One was a business owner, which would help bring a different perspective to their neighborhood meetings.

[\(1:11:00\)](#) Mr. Acheson was invited to address the council. Mr. Acheson stated he was a former council member and had been a neighborhood chair in the past and looked forward to serving in the future. Wasatch was a tremendous neighborhood with a hidden gem called Old Willow Lane. The neighborhood planned to rehabilitate Old Willow Lane by flattening out the buckled asphalt and trimming the trees. He had one small request – give the residents advance warning when street sweepers come into the neighborhood so they could move their cars off the street. That way the streets would be thoroughly cleaned.

Approval of Minutes

3. April 23, 2019 Council Meeting – Approved by unanimous consent.

Public Comment ([0:26:06](#))

Angela Mourik, representing several members of her neighborhood, said they were made aware of a Terra development in the area that had raised significant concerns. She presented a letter to the council (attached to the permanent minutes) asking them to table any discussion until the neighborhood had a chance to meet with the developers. The neighborhood has not had time to respond to the proposed development. It would impact the community in several ways including building a two million gallon water tank on top of the hill and building homes in an area where the foundations could be compromised. The neighborhood wanted geological testing completed before any decisions were made.

Chair Harding suggested they prepare a petition with the resident's signatures and submit the petition to the council and planning commission.

Pam Jones, Edgemont Neighborhood Vice-Chair, sent an article from the Deseret News to all seven council members about problems with recycling. She appreciated the responses from Councilors Sewell and Handley. The article stated that the amount people were willing to pay for recycled goods had diminished. A lot of cities were at a loss at what to do about recycling. The article did not offer solutions but she hoped the council would consider doing something. Ms. Jones also asked the council to consider some type of sidewalk conveniences for the new city building. She had to walk through the flowers or in the road when she parked in the center median downtown.

Action Agenda

4. A public hearing regarding Resolution 2019-31 approving the Program Year 2019 Annual Action Plan, Fifth Year update to the 2015 Five-Year Consolidated Plan, as amended. (19-059) (0:32:52)

Motion: An implied motion to approve Resolution 2019-31, as currently constituted, has been made by council rule.

Dan Gonzalez, Redevelopment Agency Management Analyst, presented. Every year the Utah Valley Consortium submitted an update to the 2015 Five-Year Consolidated Plan. The update proposed allocations for use of new funds for the Community Development Block Grant (CDBG) and the Home Investment Partnership Program (HOME). These programs funded projects that provided services for lower income residents. This was the second of two required public hearings for approving the updated plan.

Mr. Gonzalez explained that two committees (social services and non-social services) reviewed the applications for funding and met with representatives from each entity. The committees considered factors such as effectiveness of the program and other funding sources before allocating funds.

Mr. Gonzalez reviewed the following allocations proposed by the committees:

The HOME Consortium program included the Program Year 2019 HUD entitlement of \$1,296,068 plus previous year program income of \$566,239 for a total of \$1,862,397.

<u>Project/Purpose</u>	<u>Request</u>	<u>Allocation</u>
HOME Administration		\$129,606
HOME-CHDO Funding		
Habitat for Humanity –		\$97,206
Rural Housing Development		\$97,205
Golden Spike	\$60,000	\$55,150
Habitat for Humanity	\$200,000	\$74,640
RDA – Home Owner Rehabilitation	\$200,000	\$110,300
RDA – Home Purchase Plus Provo	\$300,000	\$275,750
RDA – Loan-to-Own County Wide	\$300,000	\$110,300
Rural Housing Dev – Mixed SF/MF Housing	\$1,000,000	\$912,240
Rural Housing Dev – Mutual Self Help Program	<u>\$900,000</u>	<u>\$0.00</u>
	Total Allocation	\$1,862,397

CDBG funding included the Program Year 2018 CDBG entitlement of \$1,255,621, Program Year 2017 income of \$253,230, and a balance from finished projects of \$38,495 for a total allocation of \$1,547,346.

<u>Project/Purpose</u>	<u>Request</u>	<u>Allocation</u>
CDBG Administration		\$251,124
Program Delivery		
Down Payment Assistance Program	\$38,059	\$39,059
Egress Window Program	\$8,992	\$8,992
Commercial Façade Renovation	\$6,744	\$6,744
Emergency Repairs	\$10,116	\$10,116
CDBG-Public Services Funding	\$188,343	\$188,343
108 Loan Repayment – Duncan Aviation	\$280,000	\$280,000
Family Support & Family Treatment	\$46,750	\$46,750
Friends of Utah Co Children’s Justice Center	\$75,500	\$75,500
House of Hope: Housing Rehabilitation	\$68,400	\$68,400
Provo City Parks – Adaptive Playground	\$200,000	\$200,000
Provo City RDA – Emergency Home Repair	\$100,000	\$100,000
Provo City RDA – Downtown Redevelopment	\$150,000	\$150,000
Provo City RDA – Egress Window Program	\$50,000	\$37,500
Provo City RDA – Neighborhood Revitalization	\$25,000	\$21,818
The Alpine House	\$35,000	\$35,000
TURN Community Services	<u>\$28,000</u>	<u>\$28,000</u>
	Total Allocation	\$1,547,346

Mr. Gonzalez stated that the down payment assistance program had been updated. The proposal was to increase the loan amount from \$10,000 to \$40,000, or 20 percent of the purchase price, whichever was less. The rest of the program remained the same with a zero percent interest rate as long as they lived in the home, maintained a 650 minimum credit score, attended required homebuyer education classes, and had household liquid assets no more than \$15,000. There was a \$5,000 penalty if the property was sold/vacated within two years of obtaining the loan. The main intent was to avoid those that were looking to flip the homes. After a county home value analysis, the affordable home value limit was increased from \$330,600 to \$337,250.

Grant awards for the emergency repair program, increased from \$5,000 to \$7,000 and loans up to \$15,000. Many of their projects included replacing a roof and \$5,000 was not enough. A grant up to \$7,000 would not need to be paid back. Funding exceeding \$7,000 and up to \$15,000 would be a loan with zero percent interest deferred. The owners would not be required to make payments on the loan unless they sold or vacated the property.

Mr. Handley noted the report showed that four percent of CDBG funds and three percent of HOME funds were awarded to Hispanics. Recent data showed that Hispanics made up 16.5 percent of the population. Should more effort be made to engage the Hispanic community and bring awareness of the programs available to them?

Mr. Gonzalez explained that they work with all the agencies to help promote their services. The agencies reach out to the neighborhoods and utilize publications to let citizens know what services were available. Centro Hispano was one of the major agencies that worked with the Hispanic community. He did not have any data showing an increase or decrease in the ethnic composition of families assisted. With the end of the fiscal year, they would start to look at the most recent data.

Chair Harding opened the public hearing for citizen comments. There was no response. Chair Harding closed the public hearing and invited council discussion.

Chair Harding explained that CDBG earmarked 15 percent of their entitlement for social service programs. Since the federal limit was 15 percent we could not allocate more funds. Mr. Knecht pointed out that some of the capital improvement programs were also helping social services.

With no more council discussion, Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7:0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

5. A public hearing on an ordinance adopting a budget for Provo City Corporation for the fiscal year beginning July 1, 2019 and ending June 30, 2020, in the amount of \$254,958,760, and amending elements of Provo City Code. (19-004) (0:58:45)

John Borget, Administrative Services Director, presented. He explained that this would be the first of two required public hearings before the proposed FY 2020 budget could be approved. The council had held a number of budget meetings and met with department heads to discuss the proposed budget. There had been a few minor changes made after the tentative budget was approved. All changes to the proposed budget would be presented during the second public hearing in two weeks.

Chair Harding opened the public hearing. Seeing no responses, Chair Harding closed the public hearing.

There was no council discussion.

Redevelopment Agency of Provo

By common consent, Chair Harding recessed as the Municipal Council and reconvened as the Redevelopment Agency at 6:31 p.m.

6. A public hearing on a resolution adopting a budget for the Redevelopment Agency of Provo City Corporation for the fiscal year beginning July 1, 2019 and ending June 30, 2019, in the amount of 2,429,132. (19-005) (1:02:06)

Mr. Borget reminded the board and public that the Redevelopment Agency (RDA) was a separate entity from the city. The RDA budget followed the same requirements for public hearings. The intent was to bring the budget to the board in two weeks for a second public hearing and to adopt a final budget.

Seeing no questions from the board, Chair Knecht opened the public hearing. There was no response so the public hearing was closed.

There was no board discussion.

7. A resolution authorizing the Chief Executive Officer to enter into a lease agreement with Blue Sky Development to allow them to utilize parking spaces for a pending mixed-use project at 105 East Center Street. (19-070) (1:03:51)

Chair Knecht noted that this item was continued during work session earlier that day but invited David Walter, RDA Director, to give an update on the issue.

Mr. Walter said he spoke with McKay Christensen, project developer, earlier that day and explained the board's requests. Mr. Christensen was good with one of the provisions but wanted to discuss the ramifications of the other provision. Mr. Walter indicated he would arrange meetings with the interested parties.

Stormwater Service District

By common consent, Chair Knecht adjourned as the Redevelopment Agency and reconvened as the Stormwater Service District of Provo at 6:35 p.m.

8. A public hearing on a resolution adopting a budget for the Provo City Stormwater Service District in the amount of \$5,123,278 for the fiscal year beginning July 1, 2019 and ending June 30, 2020. (19-006) ([1:06:15](#))

Mr. Borget said the Stormwater Service District (SSD) was also a separate entity which had its own budget approved by a separate board.

Chair Harding opened the public hearing.

Steve Johnson, Provo, asked if this budget included the increased stormwater sewer fees and, if so, would they be reflected on their utility bills.

Mr. Borget replied that the budget did include a rate increase of about \$0.80 per month.

Chair Harding closed the public hearing.

There was no board discussion.

Action Agenda

By common consent, Chair Harding adjourned as the Stormwater Service District and reconvened as the Municipal Council at 6:38 p.m.

9. Resolution 2019-32 authorizing the Mayor to execute the sale of the Timp-Kiwanis Park to the Provo School District. (18-018) ([1:13:36](#))

Motion: An implied motion to approve Resolution 2019-32, as currently constituted, has been made by council rule.

Wayne Parker, Provo City CAO, said this item had been discussed a number of times for almost three years. We were rapidly reaching the culmination of that effort. He invited Doug Robins, Provo City Parks & Recreation Assistant Director to provide some context on this issue.

Mr. Robins said they would share background information regarding the acquisition proposal and our coordination with the Provo School District that led us to this point. Scott Henderson,

Parks & Recreation Director and Tara Riddle, Provo City Property Manager and Ombudsman, would also present.

Mr. Robins explained that about 50 years ago, land for the Timpview High School and the adjacent park were secured. The park was purchased with Land and Water Conservation Funds (LWCF). This was a federal grant program with strict regulations as to the use of the property. The park had been used for Timpview High School programs for several years because their school space was limited.

During a recent LWCF review, the state coordinator raised concerns about the school's increased use of the property. We did not take the concerns lightly because it could potentially impact us if we applied for future grant funding. In addition, the school district asked the city about acquiring the property to meet Title 9 requirements. The city did not promote releasing parkland but, in this circumstance, partnering together might resolve both issues.

The LWCF had a conversion program that we decided to pursue, which would allow the city to sell the park and to purchase replacement property. The conversion process required a "highest and best land use appraisal" to establish the value of the land. The city was then required to acquire property with equal or greater land value. The new site should allow public recreation access, but could not be part of an existing planning effort. The city was required to prepare an environmental assessment (EA) for the conversion process. The EA required an extensive public process, including feedback that was documented and submitted, with an application to be reviewed by state and federal coordinators.

Mr. Robins turned the time over to Ms. Riddle to review the property transactions. Ms. Riddle stated that the conversion process was difficult and time consuming. The school district participated with us by helping pay for a consultant and participating in public hearings. This had been a very public process, which included many public hearings and opportunities for input.

Ms. Riddle said it was not easy finding property we did not own that could be converted for use as a park. We identified a property in southwest Provo by the airport that was owned by the Church of Jesus Christ of Latter-day Saints (the Church). After completing the EA, a purchase agreement with the Church was fully executed in May 2018. In July, 2018, the draft EA was released for a 30-day public review period. In October 2018, after addressing the public comments, the draft was released for an additional 30-day review period. It should be noted, the federal government did not require the second public review. The final EA was presented to the council in November 2018. The report was submitted to the federal government for review, and in May 2019, the conversion proposal was approved.

The two proposals before the council were to consider a purchase contract with the Provo School District and appropriate the funds to close on the property with the Church. We would be selling two parcels to the school district. Parcel 1 (\$1,931,938) included 9.4 acres where the Timp Kiwanis Bounous (TKB) park was located. The city would retain ownership of the land underneath the well house. Parcel 2 (\$148,935) was a portion of hillside east of the schools. The city acquired this property years ago to help students get down safely from the neighborhood above the schools. The total purchase price, based on yellow book appraisal, was \$2,130,873. The city would contribute an additional \$19,127 bringing the total conversion cost to \$2,150,000. These funds would be put towards purchase of the replacement property in southwest Provo. This issue was time sensitive. We needed to close with the school district by the end of June to meet the July 1, 2019 deadline with the Church.

Mr. Henderson said Parks & Recreation had been representing both the council and administration while working through the LWCF conversion process. He noted that every single public comment had been documented and included in the report. This action resolved issues that would benefit the entire community. Timpview High School would obtain additional land for sports fields (which would remain green space), and Provo City would purchase a 100 acre parcel on the west side mitigation property. The land would be used to build a regional sports park.

This was a complicated process. The Church had to accept an offer, in a time when real estate values were going up, and stay with that price for two years. The mitigation site was funded from the sale of the TKB Park property. The Church allowed Provo City to go into this site for testing during that two-year period. We appreciated their patience and commitment to our mitigation site.

Mr. Henderson stated that the city was working on a short timeframe. We had just received a letter from the federal government that week giving approval for the land conversion. With that approval, and with the need to close on the property before July 1, 2019, staff recommended a decision on the item be made that night.

Mr. Winterton felt this was a wonderful opportunity and did not want to lose it. He expressed concern that the citizens were told they would have one last chance to comment if the federal government approved the land conversion. In addition, the school district had not talked about the issue because they did not know if purchase of TKB Park was even a possibility. Now that the federal government had given their final approval, was a one-week delay a possibility? The council could hold a special session next week and citizens would also have a chance to address the school board.

Ms. Riddle said her preference would be to have a decision that night. One week would be stretching it. Two weeks would be problematic trying to get all the closings completed before July 1.

Mr. Van Buren noted that this item was scheduled for public comment that night, so citizens would have the opportunity to speak. He asked Mr. Winterton what he hoped would happen if the decision was delayed for even 24 hours.

Mr. Winterton hoped that the school board and mayor would come to an agreement on what would happen with the TKB Park property. The citizens were only notified last Thursday that a decision could be made that night. He felt an obligation to give them one more opportunity in order to reach as many people as possible. He had hoped the city would have something in writing from the school district expressing what they intended to do with the property.

Mr. Sewell felt the key issue was having a written agreement from the school district. He wanted to hear from the public before he made any more comments.

Chair Harding invited public comment. ([1:40:05](#))

Marian Monnahan, Edgemont Neighborhood Chair, hoped the council would have the Wisdom of Solomon. This was not just a piece of land; it was ten acres in which two entities had an interest. The neighbors, who put a lot of time, money, and energy into putting this park together

and putting in equipment, and the school, who needed more room. Over the years, they had used the park together and had not had any trouble. A park was meant to be used. The more it was used, the better. She said a previous council signed a statement saying they wanted it to remain a park forever. Now that had all changed. She asked about possible deed restrictions requiring the school district to allow neighborhood use by not putting up gates and locks. She asked the council to be an advocate for them.

Sharon Memmott, Edgemont Neighborhood Vice-Chair, said their neighborhood had been given the impression they would have more time to talk about this and a final decision had not been made. They were also given the impression they would have some say in either a deed restriction or conservation easement. Although this was their chance to speak as a public, many of her neighbors were already out of town when this was item was noticed last Thursday. In addition, they had not been given the chance to read the letter from the federal government. She suggested that the neighborhood and council have some input on the school district contract before Mayor Kaufusi signed it. One option would be to keep about an acre and a half where the well house and playground were located. That way the neighbors could be assured the use would not change once the school board owned the property.

Pam Jones, Edgemont Neighborhood, said rumors started a couple of years ago that the city was going to sell the park without getting any neighborhood input. There was enough ruckus raised by the neighbors that they were promised a park just a couple of blocks north, up Timpview Drive. That had been postponed because it would be used for the temporary Fire State 2 until the new building was completed. The soccer field in the southwest part of Provo was no compensation for losing their park facilities in the northeast. She also felt the new park should have other amenities instead of just soccer fields.

Mike Roan, Northeast Area Representative, understood that this action was initially mandated by the federal government. The council has had neighborhood input but the issues have not been resolved. He was concerned that the school district, a major party in this action, did not have a representative at the meeting that night. He said they did not have things spelled out concerning the use of the land. Even though the park would be primarily for the school district, it should still be usable by the neighborhood when school events were not scheduled. He understood that the federal government required the conversion property to be greenbelt type of land, which pretty much moved it to the west side of the city. He felt there was an obligation from the city to replicate, in some means, the neighborhood park that was being lost in the northeast part of town. That process should be accelerated. He understood Fire Station 2 would take some of the land but there was still additional land that could be used for a city park. They might have to change the park priorities and allocate funds to be used for the new park in the northeast.

Lisa Brockbank, Edgemont Neighborhood, said her children attended Timpview High School. The school had used the field for as long as she could remember. She hoped the neighbors would be able to continue to use that piece of land along with the school district. However, she was there to advocate for the regional sports park. She hoped the city would not give up such an amazing project. It would help the citizens in our community but also help on a state and national level. It would bring an incredible amount of economic development to the west side of our city. The new park would move the demand for field space from neighborhood parks, which would then open up those parks to families. She hoped the council did not pass on this opportunity.

Marlon Christensen, Edgemont Neighborhood, appreciated Mr. Winterton's comments. He noted that a year and a half ago McKay Jensen and Superintendent Rittel, with the Provo School District, said all they wanted to do was be good caretakers of the land for the community. They would ensure that this was a public access park. Now it was crunch time and there was pressure to make the deal right now. The council needed to hold the school district accountable to the promises they made verbally. He hoped that Mayor Kaufusi would be authorized to sign the agreement, but would hold off until the city had something in writing from the school district.

Maren Hansen, Rock Canyon area, said she was representing her husband Derek as well. He could not attend because of the short notice. She described a normal summer day in which her family used the TKB Park multiple times every day. Many people from the community and school also used the park on a regular basis. She believed they could find a compromise that would address the needs of everyone. She and her husband strongly believed there needed to be a guarantee, in writing, that the community could continue to use the park, especially during non-school hours. Past high school administrators have locked the tennis courts and track, facilities that our taxes paid for. If they could not use the TKB Park anymore, she would like to see a replacement park for their neighborhood that was not 20 minutes away.

Lynn Shumpert, Edgemont neighborhood, had been in the construction industry for 35 years. He shared concerns about the rebuild of Timpview High School. One of the first things he looked at when constructing a new building was the seismic concerns and possible mechanical and electrical concerns. He understood that to make the high school building sound (and in bedrock), it would cost about \$1 million. There were other costs associated with bringing the building up to code, but to charge the taxpayers \$154 million was not in the best interest of the citizens. He asked why they were going to build a new building and not retrofit the current one.

Elda Benson, Edgemont Neighborhood, was a proponent for Provo City as well as Timpview High School. She felt that this process had been ramrodded over the neighborhood. She appreciated Councilor Winterton's comments about giving the residents an opportunity to give their input based on the letter from the federal government, a letter that was received over a holiday within the past 24 to 48 hours. This meeting, with just a few residents in attendance, came at a great expense to the neighborhood. Most of the neighborhood did not know about the approval because they were out of town. She was against the sale of this property, which was purchased, or donated to the city, to be a park in perpetuity. She hoped the council's integrity remained intact. If it came to a bond election, she would make sure it did not pass.

Chair Harding closed public comment and invited council discussion. [\(2:03:19\)](#)

Mr. Knecht felt this was a matter of public trust and confidence, not just in the process, but also in their representatives. The school board would do well to give a guarantee or easement, not just some vague idea of their plans. He would like an agreement in writing stating the school district would not build buildings on the land and would maintain the facilities. Another option, proposed by a citizen that night, would be to buy back an acre and a half so that we controlled the use. He did not want to vote on the resolution that night. He wanted to give the school board time to come back with something in writing guaranteeing their intent to keep it open space.

Chair Harding asked Mr. Henderson or Ms. Riddle to comment on the park replacement plans and also the deadlines the city was facing.

Mr. Henderson stated they were fortunate the approval notification from the federal government came in May. Once we received the notice, it was the natural sequence to bring the item to the council for a public hearing and decision. There was no pressure from the school district. They would abide by the decision of the council.

The replacement park was approximately three blocks north of the TKB Park. It was originally lower on the priority list of capital projects. With the sale of the TKB Park, and a commitment to the neighborhood, the park had been moved up the list, right after an unlimited play center and an addition to North Park. The timing for building the park worked since the fire department would be using the land for a temporary fire station. There were a lot of neighborhoods and residents waiting for parks in their area that would love to move up the list. He noted the Regional Sports Park featured major neighborhood amenities, such as a walking trail completely around the park and numerous play structures.

Now the council was talking about elements of negotiation. The city was listening but they were on a time frame where the clock was ticking and complicated transactions were taking place. If we had not received the approval from the federal government when we did, we would have had to go back and move some other projects around.

Mr. Sewell gave his full support for the Regional Soccer Park. We needed to make that happen regardless of what happened with the TKB Park. He saw the sale of the park, and the appropriation for the new park, as two separate issues. The shared use of the TKB Park had worked well for many years. He understood part of the property was donated, or sold for a reduced price, from a family whose intent was that it would remain a park in perpetuity. The neighborhood raised \$35,000 at one point for park equipment. He would have liked a more win-win-win solution. Many of the residents have asked for a written agreement with guarantees of public access in the future. There were other possibilities the city could consider, such as deed restrictions or buying back a small portion at the southern end. Unless they delayed the approval, and made an effort to find that compromise, the neighbors would come out with almost nothing. He understood the school board was willing to issue a statement of intent. But school boards change and there would be no guarantee a future board might not do something different.

He would be in favor of moving ahead with the appropriation, delaying the vote on the sale, and getting Mayor Kaufusi involved with negotiating a written agreement with the school board.

Mr. Stewart said he would not vote for the \$2 million appropriation if the sale of the property was not approved. We did not have a source for those funds except for the sale of the TKB Park. In his eleven years of public service, he never had an issue that had been discussed at length like this or has had as many public hearings. A delay to secure the sale of the TKB Park would kill the sports park. He was in favor of moving forward that night and trusting our school board.

Mr. Winterton said he did not believe in guarantees. It was not fair to this council, or any council, to bind the school board when they were paying full price for the property. He hoped the neighborhood would not lose their park, but no one had guaranteed a park across the street from them. He was not willing to wait two weeks because he did not want to lose this opportunity. He appreciated the sacrifices the neighborhood had made. If they did not have the park across the street, they would have a few blocks down the road. He believed the intent of the school board was to keep the park.

Chair Harding appreciated the commitment that Parks & Recreation had made to build a comparable replacement park. He hoped the community understood that it was not a trivial matter for the replacement park to be moved up on the priority list. Other parts of the community had been waiting a long time for their neighborhood parks to be built. The school district had stated they would not put major buildings on the property and would allow public access to the park, although it would have been nice to have their commitments in writing. In the past, the school board had made it clear their primary responsibility was to provide the best education for the children. They were not concerned about the broader community impact. He would like to see the resolution approved, with some contingencies that the school board would agree to in writing. The council would not have to reconvene and the mayor could negotiate an agreement, within the amended resolution's parameters.

Mayor Kaufusi agreed that an agreement should not be signed until the city had something in writing that everyone could review.

Mr. Jones presented a revised resolution to the council. It stated that the council's approval would be contingent upon a written statement of intended use from the school district (in broad terms and non-binding). The statement should include the following representations:

- No major structures were intended to be constructed on the property,
- The property was envisioned to remain green space,
- The property would have significant public access for the foreseeable future.

Upon receipt of said document, Mayor Kaufusi would be authorized to execute the agreement. If the school district was unwilling to provide the statement, the authorization no longer applied and the council would need to take further action.

Mr. Handley said he had immense respect and implicit trust in Parks & Recreation. He appreciated all their efforts to make this workable for the community, the school district, and city. He did not share the distrust and cynicism of the school district or city that had been expressed by the community. It was important for the public to understand that this was not an under the table action that had been rushed through. Mr. Handley expressed disappointment that the school district was not represented at the meeting to explain their hesitation about putting their intentions in writing. McKay Jensen, who was out of the country was unable to attend the meeting. He was a good friend and a man of his word; however, he no longer represented the school board as the president. If the school district would agree to some language that would protect the space in perpetuity, not for the near future, it would be a win-win-win. Every conversation he has had with Mr. Jensen and Mr. Rittel, had been reassuring. Other than temporary structures during the school construction, the school district had stated there would be no structures built on the property.

Mr. Handley said he would not support this sale unless we had some commitments, in writing, from the school district. If they say no, he had no other choice than to say no to the whole thing, which would break his heart. If there were strong opinions contrary to what had been expressed by the board, he would like to know what those concerns or fears were. Having their intentions in writing would be a reassurance to everyone and make this a very easy decision.

Chair Harding said continuing ownership of the well house property at the park should give the council and community more assurance. Due to building restrictions within proximity to that well, it made much of the property unbuildable for structures. As long as the city owned the well, the school district was limited on what kind of structures they could build on the property.

[\(2:40:04\)](#) Mr. Winterton wanted to reconvene in one week and give the community one last time to address the mayor and the school district. The council could vote on the original resolution at that time because it gave the mayor one week to negotiate a contract. Mayor Kaufusi said she would be fine with postponing this item for one week.

Motion: Councilor Winterton made a motion to delay the item one week and reconvene as a council to vote on this resolution without the amended language. The motion was seconded by Councilor Knecht.

Mr. Sewell hoped they would consider buying back an acre and a half. This would make the decision simpler and achieve all their objectives. Mr. Winterton said that could be part of the discussion between the mayor and the school board. His main concern was to give the public one more opportunity to express their concerns.

Chair Harding stated his preference would be to approve the amended resolution (with the contingencies) that night.

Mr. Stewart stated he was scheduled for surgery next week and did not know if he would be available. He was voting against the motion because he would prefer the amended resolution, as shown on the screen.

Councilors discussed the following possible negotiating points the mayor could consider:

- Was the school board hesitant to put something in writing because they were offering full price?
- Allow the school district to pay slightly less than full price if they would be willing to give the city a written statement of intent? The conversion process did not require the city to pay full value for the property. It only required that the replacement property be the same value as the original property.
- Purchase a 1.5-acre strip back from the school district.
- Have the school district own and maintain a 1.5 acre strip but allow public access if they payed less than full price for the property.
- What would they be willing to do if we were flexible on the asking price?

Mr. Strachan noted that deferring one week would not solve the problem. The council would likely be meeting at the same time as the school board. The school board would not have had time to discuss some of the concessions the city was proposing. The amended language in the proposed resolution gave the mayor flexibility to have those discussions. Mayor Kaufusi could hold off signing the agreement until the negotiations were complete. Or, the chair could be authorized to call a special session after Mr. Rittel had discussed the issue with the school board.

Mr. Winterton said he understood that Mr. Rittel was going to contact school board members and have something in writing within a day or two.

Mr. Jones understood Mr. Rittel to say that he could issue a statement matching the language in proposed resolution amendment but would need to meet with the school board first. The council could approve the amended version of the resolution that night and give Mr. Rittel time to obtain that statement.

Mr. Stewart did not think the council would get more than Mr. Rittel agreed to earlier in the day.

Mr. Knecht said it might be true but he wanted to give everyone the opportunity to discuss his or her concerns.

Chair Harding said it might be good to vote for the motion on the table, which was to postpone this one week. A special session would be held on June 11, the same night as the school board meeting. They would be looking at an 8:30 p.m. start time in order to give the school board time to meet.

After the conversation earlier in the day with Mr. Rittel, Mr. Van Buren did not think a discounted price would let them give concessions. They were more interested in having control over the use of the property.

Mayor Kaufusi expressed support for the councilors saying they had integrity and took their jobs seriously. They listened to the citizens and constantly negotiated what was best for the community. To suggest otherwise was offensive. She stood by them and supported whatever decisions they made.

Mr. Van Buren echoed Mr. Stewart's concern about delaying this one week. Postponing this item added complications to the funding of the appropriation.

Mr. Parker stated that approving Item No. 10, the appropriation request, would satisfy the need to move forward with closing on the conversion property. However, the appropriation language stated the funding would come from the Parks & Recreation CIP fund and reimbursed by the proceeds from the sale. If approved without the sale of the property, it would be a \$2.1 million hit to the city's general fund without a reimbursement strategy. If we signaled our intent to purchase the replacement property, there would be no motivation for the school district to negotiate an agreement. It created complications if they were not approved at the same time.

Mr. Borget agreed, stating it would be a significant hit to the fund balance in the general fund if we did not sell the park. The fund balance was something that had taken years to build. The council and administration had made a concerted effort to be conservative and build a fund balance.

Mr. Van Buren agreed with Mr. Parker about the school district not being motivated to come back to the city with something in writing. He was concerned that voting on the motion on the table would affect the appropriation resolution. Was it possible to have a motion stating the appropriation request would be delayed if the motion to postpone was approved? They could vote on both resolutions on the same night.

Mr. Winterton expressed concerns about a possible 3-3 tie if Mr. Stewart was not able to attend a special meeting. He was comfortable approving the amended resolution that night if a public meeting was called where the neighborhood could weigh in on the environmental assessment.

Mr. Stewart made the following substitute motion: [\(3:02:41\)](#)

Motion: Councilor Stewart made a substitute motion to replace the amended version of resolution (as shown on the screen) with the original resolution to which the implied motion applied. The motion was seconded by Councilor Van Buren.

Mr. Sewell asked what the purpose of the additional public meeting would be if the decision was made that night. Mr. Winterton responded saying it would fulfill the promise to give the public the opportunity to speak one more time after entire conversion process was completed.

Mr. Henderson said he was just approached by a respected member of the community that wanted him to convey a message to the council. She felt that the neighborhood has had their voice heard throughout this process. She wanted the leaders to take responsible action.

Mr. Handley noted that if the resolution was approved that night, did the public turn their attention to the mayor and school district to find the right language? (There was an inaudible response from the audience).

Mr. Strachan said the council had heard the viewpoints during numerous public meetings with the residents. The school district had heard the residents' concerns. It appeared the residents were waiting for a response from Mr. Rittel, which was required in the amended resolution. Assuming the mayor signed the agreement, it became incumbent upon the school district to meet its promises to the community. Having another public meeting, to hear the same concerns, would not affect the council making a decision on the resolution. The federal government's approval, received last week, would not provide any further information than the residents had already seen. He encouraged the council to make a decision.

Chair Harding confirmed that the resolution authorized the mayor to execute a contract with the school district if they issued a written present and firm plan for this property. Would the school board be willing to do something binding if the city backed off on the purchase price? Is that something the mayor could choose to negotiate and bring back to the council? Something that changed the purchase price was not authorized in the substitute motion they were considering. He did not want to close the door on potential negotiations for something binding at a lower price.

Mr. Jones said the resolution authorized the mayor to sign the agreement. If she negotiated a better offer, she could chose not to execute the agreement and bring it back to the council. He emphasized that the firm plan language did not come from the school district. We were asking for a written statement of their intended use.

In response to a question from Mr. Winterton, Mayor Kaufusi stated she was on the school board when this process started and now she was the mayor. She had been in the loop on all correspondence, which was helpful for both pros and cons. She was elected by the people so she was always willing to take more feedback.

Mr. Van Buren asked how this would play into negotiations for the sale of the property. Mr. Jones stated that the mayor was allowed to execute the current agreement, which sold the property for full yellow book value, so long as the school district gave a statement of their intended use. That statement would say that no major structures would be built on the property and the property would stay green space with significant public access. If the mayor negotiated the statement with the school district she could sign it immediately or post it on her blog and wait two days for public input. Nothing in the statement had to be binding. If the mayor negotiated an entirely new agreement she would bring it back to the council. She was not authorized to sign the agreement if the school district refused to give her anything in writing. She would need to go back to the council and ask for authorization to do something else.

Mr. Knecht said approving the amended resolution would put the decision in the hands of the mayor. He had confidence that Mayor Kaufusi would negotiate the best deal for the city, regardless of what that may be. Another meeting would not have to be scheduled unless she called for one.

Mr. Stewart said he had full confidence in the mayor. She was elected to that position to negotiate for the city. We need to trust her ability to negotiate.

Mr. Winterton gave his email address and phone number. He welcomed the citizen's feedback and would forward those comments to Mayor Kaufusi.

Mr. Sewell also had full confidence in the mayor's negotiating ability, however, he would not vote for the substitute motion. If the council did not state an intent that they want a written and binding agreement our negotiating position was weak. He was fine with adding the amended language to the resolution; he just would not be able to vote for the resolution.

Previously and publically, Mr. Handley stated he would only support the sale if there was a statement, firm and in writing, that the space would be protected in perpetuity. That was not in the resolution so, for his own integrity, he would vote against the motion. He was prepared to vote in favor of the appropriation if the substitute motion was approved.

Chair Harding called for a vote on the substitute motion, which was to update the implied motion to refer to the amended version of the resolution.

Vote: The motion was approved 7:0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 5:2 with Councilors Harding, Knecht, Stewart, Van Buren, and Winterton in favor and Councilors Handley and Sewell opposed.

10. Resolution 2019-33 appropriating \$2,200,000 in the Parks and Recreation Capital Improvement Plan Fund for the purchase of real property located on Lakeview Parkway, applying to fiscal year ending June 30, 2019. (19-069) ([3:22:00](#))

Motion: An implied motion to approve Resolution 2019-33, as currently constituted, has been made by council rule.

John Borget, Administrative Services Director, presented. The resolution stated that \$2,130,873 of the appropriation would come from the sale of the TKB Park and the balance of \$69,127 would come from the Parks & Recreation CIP fund. If the sale of the park did not take place, further discussion would be needed on the appropriation.

Chair Harding asked if there was wisdom in continuing this item until after the sale of the park was completed or make it contingent upon the sale of the park.

Mr. Stewart noted that the council had the option of rescinding this resolution if the sale did not go through. He was prepared to vote yes on this item.

Chair Harding opened the public hearing.

Mike Roan, Northeast Area Chair, stated allocation of funds for this purpose was a great idea. He felt they should make a motion stating the appropriation was contingent upon receipt of sale proceeds from the park.

Elda Benson, Edgemont area, felt that including additional projects the city was working on, and presenting it in this fashion, did not allow the community to do their due diligence. She did not feel comfortable that the community would not have a say with how it impacted them. The council was requesting information from the citizens when they were seeing it for the first time and have not had time to conduct any research.

Seeing no more public comment, Chair Harding closed the public hearing.

Mr. Winterton said the discussion centered on the proceeds from the sale of TKB Park. It became moot if the park was not sold. There had been a lot of discussion around this issue and the community knew that when the park was sold, the proceeds would go to purchase land for the new park.

Mr. Jones emphasized that the property the council just agreed to sell was bound by a requirement from the federal government to purchase the soccer fields.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7:0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

11. Ordinance 2019-28 to amend Provo City Code to clarify limitations on signage within the North University Riverbottoms Design Corridor. City wide Application. (PLOTA20190026) ([1:08:48](#))

Motion: An implied motion to adopt Ordinance 2019-28, as currently constituted, has been made by council rule.

Aaron Ardmore, Provo City Planner, presented. The proposed ordinance clarified the type of signs that were, and were not, allowed through the North University Riverbottoms Design Corridor. There was similar language in the other design corridors.

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

Chair Harding reminded council that this was the first hearing after the planning commission heard the item. The item could be continued at the request of any councilor. There was no request to continue so Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7:0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

12. Ordinance 2019-29 repealing Provo City Code Section 2.60.040 (19-071) ([3:29:07](#))

Motion: An implied motion to adopt Ordinance 2019-29, as currently constituted, has been made by council rule.

Brian Jones, Council Attorney, said the ordinance would repeal a section of code that talked about how items must be submitted to the council for review and the process and deadlines for doing so. The code had been outdated by our recent software and workflow upgrades. The new process would be addressed in an update of the council handbook. The council handbook update would be brought to a future council meeting for approval.

Chair Harding called for public comment.

Sharon Memmott, Provo, asked if this was eliminating noticing requirements. Mr. Jones replied that it was not eliminating the noticing requirement. This was an internal process for submitting items. In order for items to be placed on the agenda, they had to be submitted to a workflow process in OnBase. All public notice requirements, mandated by state law, would remain the same.

There were no more public comments.

With no council discussion, Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7:0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

13. *****CONTINUED*** Brady Deucher requests a Zone Change from R1.10 to Medium Density Residential for approximately 2.1 acres located at 1320 S State Street. Spring Creek neighborhood. PLRZ20190100**
14. *****CONTINUED*** Brady Deucher requests an Ordinance Text Amendment to Section 14.37.050 to allow the city to consider parking reductions for affordable housing developments. City-wide application. PLOTA20190170**
15. *****CONTINUED*** Community Development Department requests Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone. City-wide application. PLOTA20190120**
16. *****CONTINUED*** Julie Smith requests the annexation (Peay Annexation) of 13.45 acres of property into the incorporated limits of Provo City, located at approximately 5400 N Canyon Road. North Timpview and Riverbottoms neighborhoods. PLANEX20180355**

Adjourn

The meeting was adjourned at 9:02 p.m. by unanimous consent.