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PROVO MUNICIPAL COUNCIL Redevelopment Agency of Provo Regular Meeting Minutes

5:30 PM, Tuesday, June 18, 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 Sewell
Councilor George Handley
Councilor Vernon K. Van Buren
Assistant City Attorney Gary Millward
Chief Administrative Officer Wayne Parker

Councilor David Knecht
Councilor Gary Winterton
Councilor George Stewart
Mayor Michelle Kaufusi
Council Executive Director Cliff Strachan

Conducting: Council Chair David Harding

Excused: Brian Jones, Council Attorney

Prayer – Jenna Sutherland

Pledge of Allegiance – Jenni Houtz

Presentations, Proclamations, and Awards

- **Presentation of Awards from the Utah County Child Abuse Prevention Team. (19-077)**
[\(0:09:26\)](#)

Kristen Colander, Chair of Utah County Child Abuse Prevention, thanked the council for allowing their organization time to recognize the 2019 Volunteer, Organization, and Coalition of the Year Award recipients.

JoAnn Brown, Region Ten PTA Director, presented Lori Jenkins with the 2019 Volunteer of the Year Award. Ms. Jenkins worked with the Women and Children in Crisis Center of Utah County. She had served and worked for hours to advocate for children and women in Utah County affected by sexual abuse. She created an instant rapport with victims, helping them navigate one of the hardest events of their lives. She encouraged others to serve as well.

Abraham Hernandez, Executive Director of Centro Hispano, reported that the rate of teen pregnancy in Utah County (specifically Provo) was nearly double the national average. A group of concerned citizens, nurses, local PTA, the Utah County Health Department, and community organizations formed a coalition to find ways to help reduce the number of teen pregnancies in this area. The coalition helped the Provo School District develop an abstinence class education

program, which was now being used by the state. Mr. Hernandez presented the 2019 Coalition of the Year Ward to Michelle Wages, chair of the coalition.

Mr. Hernandez said that the Centro Hispano Health Promotion Team taught healthy relationship and communication skills to youth 12 through 18. Participants learned about self-worth, dealing with emotions, calming strategies, how to help friends, available resources, and open discussion about how they should be treated. The team understood that, in order to change behaviors in the lives of Utah County youth, they must also help change the environment the youth live in. The team reached out to parents of youth to teach communication and bonding skills in Spanish and English. Mr. Hernandez presented the 2019 Organization of the Year Award to Jenni Houtz, Health Promotion Coordinator and Jenna Sutherland, Health Educator, representing Centro Hispano

- **Presentation by the Utah Geographic Information Council Conference Map Contest winner. (19-079) ([0:17:46](#))**

John Borget, Administration Services Director, presented. Mr. Borget introduced Stan McShinsky, Provo City's Web Developer and a member of the Utah Geographic Information Council (UGIC). The UGIC was a non-profit organization whose mission was to promote the effective dissemination of geographic information in Utah. Part of their annual conference was to hold the annual McShinsky contest for the most creative GIS related project. The contest was named after Stan McShinsky because he had won the contest four out of the five years it had been held.

For the 2019 contest, Mr. McShinsky won the award by creating an artistic map of Provo using recycled parts from 52 computer monitors and 63 keyboards. Hidden within the keyboard map were the following words:

- Provo (spelled out ten times),
- GIS (spelled out five times),
- Names of the IS Division Staff,
- City Hall,
- Library,
- Recreation Center, and
- Happy Valley.

Mr. McShinsky used these same skills and creativity daily in his work. He had developed several online maps, including (but not limited to) [maps.provo.org](#), and [parkfinder.provo.org](#).

Josh Ihrig, Information Systems Division Director, stated that prior contest projects were scattered throughout the city, including a set of chairs in IS that were reupholstered using maps of city blocks. Mr. McShinsky shared his enthusiasm and creative projects with the local schools.

Public Comment ([0:25:07](#))

Kaye Nelson, Edgemont area resident, presented a petition with 435 signatures to the council opposing a proposed high-density development by Terra Development. In addition to the petition, they started an online change.org petition that had 244 people signed in the last 16 hours. The proposed project, which included 420 homes and amenities, did not fit the green rolling hills in that part of Provo. This was a grass roots effort to make sure their voices were heard and to be included in the process.

Craig Christensen, Provo, said his family had been lifetime residents of Provo and this was his first city council meeting. He expressed concern that a mega development, like Terra Development, was even considered. It would be irresponsible of him if he did not express his strong feelings. He saw what happened when homes were zoned and built and then start sliding down the hill. He asked that the neighbors affected by this development be given a voice and stay part of the process.

Angela Maurik, Provo, read an excerpt from a letter written to her from Shawn Miller, President of the Provo City Agriculture and Sustainability Commission. Mr. Miller favored high density developments, but only in centrally located areas where infrastructure already existed, at freeway interchanges, south of BYU campus, and especially along the new UVX corridor. The city should provide incentives to build in those areas and disincentives to build in open spaces anywhere else.

Ms. Maurik also mentioned an article written by Don Jarvis about the Ponzi scheme of urban sprawl. In the article, Mr. Jarvis said that farmland only required about \$0.37 in public services for every tax dollar paid by landowners compared to \$1.11 in services for residential landowners. She urged the council to consider those facts when discussing this development.

Tamela Blake, Provo, served in the PTA at Canyon Crest Elementary and Timpview High School. She expressed concerns about the Terra Development and the impact it would have on the schools and the children's safety. Traffic from this proposed development would impact the safety of the students as they walked to and from school. If one classroom per grade was added there would not be enough room in the school. An increase of 200 students would max the school out. This development could bring in as many as 282 children.

Carl Sorensen, North Canyon Road resident, appreciated that past mayors and councilors had the foresight to make long-term plans for how property should be used. He expressed concern that the government might potentially see higher tax revenues from high-density developments than from low density residential. However, the higher tax revenues would come at a cost for the neighbors. He was in favor of development consistent with long-term plans.

Action Agenda

- 3. Resolution 2019-34 authorizing the execution of an interlocal cooperation agreement to authorize Provo's participation in the UT Valley HOME Consortium in US Dept of Housing and Urban Development's HOME Investment Partnership Program (Fed FY20-22) (19-075) ([0:36:28](#))**

Motion: An implied motion to approve Resolution 2019-34, as currently constituted, has been made by council rule.

Dan Gonzalez, Redevelopment Agency, presented. Provo City was the only entity in Utah County that qualified for a direct allocation of funding from the Home Investment Partnership (HOME) program. HOME allowed neighboring entities to form a consortium so that funding stayed in the community rather than going to the state. The current consortium included Provo, Orem, Lehi, and Utah County (which funded all other entities not in the consortium). Provo City had been designated as the lead entity to represent the consortium and ensure that all requirements were met. He asked the council to authorize execution of the agreement, stating it was the same agreement as in the past, with no changes or amendments.

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

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.

4. A public hearing on transferring utility revenues to the General Fund and other funds. (19-004) (Presentation only – no action would be taken.) ([0:39:09](#))

John Borget, Administrative Services Director, presented. The state legislature required municipalities to hold a public hearing disclosing transfers between enterprise and general funds. A notice sent with the utility bill showed all enterprise transfers during FY 2019. In order to reach all billing cycles before the end of the fiscal year, some of the numbers provided were estimates. The following transfers were slightly different than originally reported.

- The transfer to the General Fund was increased from \$11,381,700 to \$11,395,200 – a difference of \$13,500.
- A \$511,000 transfer from Wastewater to Water was made yearly to cover administrative costs in public works. The decision was made not to make the transfer in FY 2019, but would likely occur in subsequent years.
- The one percent Road Transfer was increased from \$1,138,170 to \$1,139,520 – a difference of \$1,350
- The Administrative Overhead charges were increased from \$1,209,022 to \$1,251,986 – a difference of \$42,964.
- The total transfer was reduced from \$18,149,941 to \$17,695,760 – a difference of (\$454,181).

The city shared this information on the state's transparency website. The proposed FY 2020 budget document (submitted for council approval that night) included a graph showing how Provo City utility rates compared to other entities. The graph showed our rates were somewhere in the middle of the range.

Chair Harding opened the public hearing.

Carl Sorensen, Provo, asked what the difference was between collecting funds from property taxes as opposed to utility fees.

Mr. Winterton replied that about half of the city's residents and businesses paid property taxes. However, all residential and commercial utility customers paid the utility fees.

Chair Harding closed the public hearing.

There was no council discussion.

5. A public hearing on Ordinance 2019-30 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. (19-004) ([0:45:52](#))

Motion: An implied motion to adopt Ordinance 2019-30, as currently constituted, has been made by council rule.

Chair Harding noted that the proposed budget had been revised to \$253,940,236. This was the second of two required public hearings for approval of the budget. Final action would be taken after the public hearings for each budget.

Mr. Borget said the adjusted budget was discussed in the work session earlier that day. He noted that the Consolidated Fee Schedule in the final budget had been amended to include an increase in the airport parking fee from \$5 to \$6.

Mr. Borget stated that the council had met with the department directors on a number of occasions. This good, sustainable budget provided benefits to the residents and the City of Provo. They were able to fund some of the supplemental requests. The budget included the occupational index, which listed the salaries of all positions in the city.

Chair Harding opened the public hearing. There was no response so the public hearing was closed.

Councilors appreciated the efforts of the administration and shared the following comments.

- What the city did with the discretionary funds was amazing.
- They appreciated the mayor targeting council priorities, especially police department needs.
- Provo City was able to provide high-class services at low cost because of responsible citizens.
- The city did it all without raising property taxes.
- The community did not always see the work behind the scenes that made the city function.
- These numbers represented the integrity and honesty of an army of city employees.
- The council had been well educated by the administration and department heads and this was one of the best budgets the city has had.

Mr. Strachan indicated the motion to amend the resolution should include the following:

- Revise the final budget amount to \$253,940,236;
- Correct references consistent with a fiscal year ending June 30, 2020;
- Amend the certified tax rates for the library to 0.000554, bond obligations to 0.0001155, and general operations to 0.000763; and
- Amend the consolidated fee schedule to increase the airport parking fee to \$6.

Motion: Councilor Sewell made a motion to amend the current budget draft with the changes as explained by Mr. Strachan and as outlined on the screen. The motion was seconded by Councilor Stewart.

Chair Harding called for a vote on the motion to amend the resolution.

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

Chair Harding noted that the implied motion now referred to the amended resolution. He 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.

Stormwater Service District

Chair Harding recessed as the Municipal Council and reconvened as the Stormwater Service District by unanimous consent at 6:39 p.m.

6. A public hearing on transferring Stormwater fund revenues to the General Fund and other funds. (19-006) ([1:00:22](#))

Mr. Borget stated that the estimated transfer from the Stormwater Service District (SSD) to the General Fund (as shown on the utility bill) was \$764,910 and the actual transfer was \$777,095.

Chair Harding opened the public hearing. There was no response so the public hearing was closed.

No action was required for this item.

7. A public hearing on Resolution 2019-SSD-06-18-1 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) ([1:00:22](#))

Motion: An implied motion to approve Resolution 2019-SSD-06-18-1, as currently constituted, has been made by council rule.

Mr. Borget said the updated FY 2020 Stormwater Service District FY 2020 budget of \$5,122,562 was shown in the amended resolution shown on the screen.

Chair Harding opened the public hearing. There was no response so the public hearing was closed.

Chair Harding asked for a motion to amend the resolution using the updated budget number, as shown on the screen.

Motion: Councilor Van Buren made a motion to amend the resolution by updating the FY 2020 budget to the number shown on the screen (\$5,122,562). The motion was seconded by Councilor Winterton.

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

Chair Harding noted that the implied motion now referred to the amended resolution. He 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.

Redevelopment Agency of Provo

Chair Harding adjourned as the Stormwater Service District and reconvened as the Redevelopment Agency by unanimous consent at 6:34 p.m.

8. A public hearing on Resolution 2019-RDA-06-18-1 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) (1:06:03)

Motion: An implied motion to approve Resolution 2019-RDA-06-18-1, as currently constituted, has been made by council rule.

Mr. Borget reported that the updated number for the FY 2020 RDA budget was \$2,424,867.

Chair Knecht opened the public hearing. There was no response so the public hearing was closed.

Motion: Board Member Van Buren made a motion to amend the resolution by changing the RDA budget from \$2,429,132 to \$2,424,867. The motion was seconded by Board Member Handley.

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

Chair Knecht noted that the implied motion now referred to the amended resolution. He 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.

9. 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) (1:10:31)

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

David Walter, Redevelopment Agency Director, presented. The RDA participated in the construction of the Wells Fargo parking garage. When the garage went into receivership, the agency was awarded 204 parking spaces to utilize for downtown growth. Some of those parking spaces had been allocated to the 63 East project for residential and commercial tenants.

The RDA had been in talks with McKay Christensen, developer for the Blue Sky Development, about leasing parking spaces in the Wells Fargo parking garage. Blue Sky was a mixed-use project with ground floor commercial (restaurants and office spaces) and residential units on the upper five levels. Mr. Christensen would provide parking for all residential tenants inside the development but would like to use some of the parking spaces in the Wells Fargo parking garage to meet the needs of his commercial tenants. Mr. Christensen would like the spaces dedicated in order to meet the city's parking requirements and to attract potential restaurants and other commercial tenants.

Mr. Walter stated that the spaces for 63 East were on the subterranean levels of the structure and clearly marked with signs. The rest of RDA spaces were not marked so it would be hard to dedicate specific parking spaces for Mr. Christensen.

Mr. Christensen was invited to address the council. A draft lease agreement, negotiated about a year ago, dedicated 55 parking spaces to the Blue Sky Development. The location of the spaces was not critical but it was important that the stalls be dedicated. He said the RDA was comfortable with the agreement.

Per previous conversations with Paul Glauser, former RDA Director, the city was to use the parking stalls for the express purpose of promoting retail growth and new tax revenue in the DT1 zone. Mr. Christensen had been operating with the understanding that he had dedicated parking stalls when he met with the planning commission and board of adjustments. Now he was hearing that the parking facility was not for new growth and it needed to be there for everyone. It was hard, at the last minute, to be told that the parking spaces were allocated and not dedicated.

In response to a question from Mr. Winterton, Mr. Walter stated there would be between 15 and 33 stalls remaining, depending on the number allocated to the development. Mr. Winterton expressed concern about dedicating 55 parking stalls to this development. There were other projects in the downtown that might have parking needs. He stated that dedicating stalls became inefficient when they sat empty when not used by the tenants.

Chair Knecht had surveyed the parking garage earlier in the day and no one was parking on the top level because it was open. In addition, there were only 11 cars in the 79 spaces reserved for residential tenants. He did not know how the parking would be at night, but it seemed that we were not utilizing the parking spots efficiently. He would like to see parking assigned for nighttime residential use but could be used for businesses during the daytime.

Mr. Christensen stated that it would difficult to dedicate a stall for both residential and retail use. A comparison with the 63 East development was a poor example because residential parking was used day and night. They could not be shared with commercial businesses because residents would have nowhere to park during the day. The premise behind developments such as Blue Sky and 63 East, was that residents would just walk to downtown businesses, rather than drive. He noted that the development was adding 16 new stalls on the street, which were not being credited towards their parking requirements.

Although he had asked for more, he needed at least 56 stalls in order to lease the retail space to restaurants, which required 10 stalls per 1,000 square feet of retail space. There were no other developments in the downtown core building 8,000 square feet of true retail. The Towers Development and 80 East, two projects that had already been approved, had parking stalls allocated in the parking garage. He was told the RDA might terminate the agreement with 80 East, in which case those parking spaces would be returned to the city.

The agreement was a graduating lease program, beginning with \$1 per stall per month for a total of \$660 for the first two years (1-2). The lease went up to \$5 for years three through five (3-5), \$10 for years six through ten (6-10), and \$30 per stall for years eleven through twenty-four (11-24). In addition, the development would bring in almost \$500,000 in property and sales taxes to the city, which was supposed to be enough for the parking allocation.

Mr. Handley wanted the stalls to be helpful to Mr. Christensen, precisely for the reasons he outlined. The concern was not a lack of enthusiasm for the project; it was a question of using the parking spaces efficiently. If the stalls were dedicated for a long term, and they sat unused, the city would not be taking full advantage of the spaces. He was comfortable allotting 56 spaces to the development but wondered if some could be dedicated and the balance just allocated. Or, build flexibility into the agreement that, over time, the ratio would be reexamined. He was looking for a middle ground of compromise.

Mr. Christensen said he was comfortable reevaluating the parking agreement in a few years. Some of the parking stalls could be released if they were not being used. He emphasized that it was intensely difficult to bring restaurants to downtown Provo and it was all about parking. In order to lease his space to restaurants, he had to have a certain amount of stalls dedicated for their use. He was willing to pay a valet service to transport the restaurant customers to and from the parking.

Mr. Stewart clarified that, while the project would generate about \$250,000 in property tax, only a small percentage came to the city. Mr. Christensen agreed saying the city might receive a smaller amount but it would be infinitely more than they would bring in leasing those stalls to anyone else.

Mr. Harding said that, while Mr. Christensen had this agreement for more than a year, the RDA board, which needed to approve all agreements, had only received the agreement. What Mr. Christensen was proposing was the kind of development the board would like to see in downtown Provo. It weighed heavily on him that the parking agreement had been negotiated a long time ago and Mr. Christensen had moved forward based on that understanding. He would support 56 stalls but designating the stalls as dedicated was problematic. He did not want to tie the stalls up for 24 years. Properly managing downtown parking was limited by the use of long-term contracts for the parking stalls.

He hoped the city could negotiate an agreement with Mr. Christensen that would give him good parking for his commercial space, but have the flexibility to actively manage it in the future. He said parking spaces had been allocated to Wells Fargo, not dedicated. We were getting to the point where the general public might not be able to park in the facility because all of the stalls had been allocated or dedicated to businesses.

Mr. Stewart said the city did not have 55 stalls to dedicate to Blue Sky; they could be allocated but not numbered. There were so many issues associated with this agreement that he did not think they could approve it that night.

Chair Knecht asked Mr. Walter if the agreement was based on the premise that the spaces would be dedicated. The structure did not have dedicated spaces except for 63 East residents, who paid \$30 per month for their spaces. Mr. Walter stated that, initially, he understood the spaces were to be allocated. Mr. Christensen said he asked for dedicated spaces from the start.

Chair Knecht said the council needed to discuss which floor of the parking structure any dedicated parking stalls would be located. It would be a problem to put them on the top floor because people would not use them, they would fill in spaces on the other floors. He felt the item needed to be continued until there was something more agreeable.

Mr. Sewell said it was clear that Mr. Christensen had wanted and needed the dedicated stalls all along. He was inclined to support the agreement as written. He would be open to Mr. Handley's idea of only dedicating half of the parking spaces and allocating the balance. The use of those spaces could be evaluated after a certain period of time to determine if the split was working. If the city was not able to honor the negotiated agreement, they might need to allow Mr. Christensen to do something different that would not require the parking. But, we would have to be prepared to lose the restaurant.

In response to a question from Mr. Millward, Mr. Walter replied that there were 548 spaces in the parking structure and the RDA was allocated 204 spaces but was unsure where those spaces

were located. He would contact Wells Fargo to determine exactly where the RDA parking spaces were located in the facility. Mr. Millward pointed out that, before the board entered into any lease agreement, we needed to be able to specify exactly where the RDA's 204 parking stalls were located and which parking stalls would be leased. Mr. Millward said there were a few contingencies that should be included in the lease before the board should consider the agreement.

Mr. Walter said the court appointed receiver Mr. Duncan Lambert, was represented by a law firm in Salt Lake. He had not heard back from Mr. Lambert concerning this proposed agreement. The agreement was proposed in order to help Mr. Christensen obtain financing and permits to get started with the development. The resolution gave Mayor Kaufusi, as the CEO, the authority to make minor changes to the agreement. Some of the changes discussed that night would exceed that authority. The RDA would need an agreement or understanding with Mr. Lambert before any agreement could be signed.

Chair Knecht invited public comment. [\(2:07:44\)](#)

Patricia McKenna-Clark said she went to downtown restaurants a lot and some of them were directly across from the Wells Fargo building. She agreed with the sentiment of what was being asked but strongly believed that a lot of the current restaurant and business owners would ask why they were not given allocated spots in the parking structure.

Glen Rollins owned an antique shop at 168 West Center. His shop was a destination business and did not rely on people just passing by and going into his shop. He had been in that location for 17 years and had heard all his neighbors complain about parking. He felt it was a management problem. The only time they had parking complaints was during lunch times. People complained about not finding parking and yet there were spaces one block away. He said the developer was willing to pay for valet service in order to obtain the parking. Were any other businesses willing to do that?

There were no more public comments.

Chair Knecht invited council discussion or a motion. [\(2:11:38\)](#)

Mr. Winterton said there were too many questions regarding dedication or allocation. He wanted the development to succeed but struggled with dedicating parking spaces. He was ready to make a motion to continue the item, which would give them time to find out specifically the number and location of our parking stalls in the structure. He would not vote for any agreement that included dedicated stalls.

Motion: Councilor Winterton made a motion to continue the item until the RDA Board Members concerns could be addressed. The motion was seconded by Councilor Handley.

Mr. Stewart asked for an up and down vote on the concept of giving 55 spaces (either allocated or dedicated) to a single developer. He wanted to vote on the current agreement with the dedicated parking to find out if there was support for the proposal. If there was not enough support, a new agreement would need to be brought to the council. Continuing the current agreement did not make any sense.

Motion: Councilor Stewart made a substitute motion for an up and down vote on the current agreement that included dedicated parking. The motion was seconded by Councilor Van Buren.

Chair Knecht said that if the owner of the parking garage, with a controlling interest, did not approve of the agreement it did not matter what decision the board made.

Mr. Handley agreed with Chair Knecht's comment and, because there was still a lingering question about the number of stalls that were available, he would prefer to continue. If there were 80 stalls available it would change his opinion on the agreement.

Mr. Van Buren felt they should vote on the agreement before the board. It would take a new agreement anyway no matter what terms were negotiated. He wanted to start with a clean agreement and go forward from there.

Mr. Harding said there were times when the council was criticized for making it difficult for developers, or changing the goal posts in the middle of the process. He said this was an example of that and they needed to figure out what could have been done better. He did not feel ready to approve the agreement as it was presented to the board. He said this was brought to a head because we needed to fix downtown parking. Continuing the item would be a better signal to the developer that the council wanted to work with him to find a solution that would allow him to move forward as quickly as possible.

Mr. Sewell clarified that the second motion was equivalent to calling the question on the implied motion. It required a super majority to force a vote on the original implied motion. If less than five voted in favor, the board would be back to the motion to continue the item.

Chair Knecht called for a vote on the substitute motion to call the question.

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

Chair Knecht called for a vote on the motion to continue the item until July 9, 2019.

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

Action Agenda

Chair Knecht adjourned as the Redevelopment Agency at 7:51 p.m. and reconvened as the Municipal Council by unanimous consent.

10. **Resolution 2019-35 appropriating \$139,530 from the General Fund in the Fire Dept. General Fund for the purchase of a temporary apparatus facility during the relocation of Fire Station 2 applying to the fiscal year ending June 30, 2019. (19-073) ([2:22:58](#))**

Motion: An implied motion to approve Resolution 2019-35, as currently constituted, has been made by council rule.

James Miguel, Provo City Fire Chief, presented. With the construction of a new building for Fire Station 2, a temporary fire station would be needed. The proposed appropriation would be

used to purchase a temporary facility for fire apparatus storage, maintenance material storage, and as the surplus holding area. The temporary facility would be located on property the city owned north of Timpview High School. There was very little cost difference between renting temporary facilities and purchasing the temporary facilities. It was anticipated the new building would be completed in ten months. Upon completion of the new fire station, the temporary facility would be moved to Public Works and used by Fleet.

Chief Miguel reported that Provo City Fire and Rescue responded to 21 different fires in five different states last year. The city received Wildland Fire revenues at the state and federal rate, which came to \$200,000 more than our actual expenses. Those funds would be used to cover the \$40,000 cost of moving the temporary facility to Public Works.

Chair Harding invited public comment.

Bonnie Morrow, North Timpview Neighborhood Chair, stated the temporary fire station would be located on north Timpview Drive. The chief had been very helpful by writing letters to the neighbors and holding open houses. They were more than willing to have the temporary fire station in the North Timpview neighborhood.

There were no more public comments.

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. Resolution 2019-36 appropriating \$60,000 from the General Fund in the Airport Fund for personnel and operating costs applying to fiscal year ending June 30, 2019.

(19-078) ([2:35:05](#))

Motion: An implied motion to approve Resolution 2019-36, as currently constituted, has been made by council rule.

Jimmy McKnight, Public Works Business Manager, presented. He noted that there was an error in the resolution. The resolution would need to be amended to show that the funds would be appropriated from the Airport Fund Balance, not the General Fund.

The appropriation would be used to fund increased personnel expenses of \$30,000 and miscellaneous maintenance and operating costs of \$30,000.

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

With no council discussion, Chair Harding called for a motion to amend the resolution.

Motion: Councilor Sewell made a motion to amend the resolution to reflect the recommended correction. The motion was seconded by Councilor Winterton.

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

Chair Harding noted that the implied motion now referred to the amended resolution. He 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. Resolution 2019-37 accepting or denying an annexation petition for further consideration for approximately 2.55 acres of property generally located at 1860 South and Colorado Avenue. East Bay Neighborhood. (PLANEX20190140) [\(2:38:15\)](#)

Motion: An implied motion to approve Resolution 2019-37, as currently constituted, has been made by council rule.

Brian Maxfield, Provo City Planning Supervisor, presented. An application had been submitted to annex 2.5 acres at approximately 1860 South Colorado Avenue into Provo City. The council would need to vote on whether to accept or deny the annexation petition only, not approve the actual annexation.

In response to a question from Mr. Winterton, Mr. Maxfield stated that, although the General Plan showed the proposed annexation area in the Industrial zone, it would come into the city as M1 or M2. The city would designate the correct zone at the time the property was annexed.

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

Mr. Knecht noted that when property was brought into the city, there was an expectation that certain services would be available. They would need to weigh all the costs in order to determine the financial impact on the city. He felt this annexation was a positive for the city.

Chair Harding called for a vote on the implied motion, reminding the councilors that it was only an acceptance or denial of the annexation petition, not approving an actual annexation.

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

13. Ordinance 2019-31 amending Provo City Code to correct and update Title 10 (Water Resources). (19-072) [\(2:45:08\)](#)

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

David Decker, Public Works Director, presented. He said the proposed ordinance would update the Provo City Code to create consistency with the development guidelines and comply with state and federal regulations. The corrections would be in Title 10, Section 2 (Culinary Water), Section 3 (Wastewater), and Section 4 (Pretreatment).

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

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.

14. Ordinance 2019-32 amending Provo City Code to make modifications to Parking Enforcement fines and activities. (19-023) ([2:46:48](#))

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

Laramie Gonzales, Customer Operations Business Analyst, presented. Parking enforcement was a service provided under customer service. Parking operations consisted of eight parking officers enforcing parking in downtown Provo, two neighborhood permitted areas, the Joaquin neighborhood, tree streets timed parking, the airport, and marking abandoned vehicles. The proposed ordinance would make modifications to the parking code by creating new parking fees and funding parking enforcement operations growth (as outlined in the Strategic Parking Management Plan).

In 2019, the state legislature passed HB0336, which modified the assessment of late fees for parking violations. The new law did not allow the accumulation of late fees to total more than 25 percent of the original fee. Provo's late fee tripled the original fee. The current fee structure charged \$25 for a parking violation if paid within five days, \$50 if paid between six and 10 days, and \$75 if paid after 11 days. The city needed to revise the rate structure to comply with the new law.

Parking enforcement operational needs had grown to meet the demand of parking availability and increased enforcement as requested by residents and business owners. The operations budget would need an increase of 25 percent in revenue to meet the growth needs for parking enforcement over the next five years.

The proposed ordinance would increase parking fees from \$30 to \$55. A \$15 discount would be given if paid within ten days. A late fee of 25 percent (\$13.75) would be added to any fine paid after 11 days. After 16 days, the fine was considered delinquent. The Consolidated Fee Schedule would be amended to consolidate all types of parking fines (overtime, out of stall, red/yellow curb, left side to curb, etc.) into one category with the \$55 fine and late fee of \$68.75 (25 percent). Illegally parking in a disability space would be a separate fine of \$175 if paid on time and \$218.75 if paid late. The proposed fee increase would net approximately 25 percent more in revenues to meet the parking enforcement future needs.

The new fees were based on historical data which showed that 60 percent of fines were paid on time, 30 percent paid the penalty of double the fees, and 10 percent paid the penalty of triple the fees. There were a small amount of repeat offenders that were willing to pay the \$25 fee. If we did not make the fine substantial enough, we might not curb that behavior.

During work session earlier in the day, eliminating the discount was suggested and having a two tier fee schedule instead of three. Mr. Gonzalez said the fine could be reduced to \$42 days with a late fee of \$10.50 added after 11 days. It was estimated that this fee schedule would bring in the same amount of revenue as the three tier fee schedule. Mr. Gonzalez said he would hesitate using the \$42 initial fine because it was a guessing game and they wanted to make sure they brought in enough revenues to cover their costs.

Mr. Van Buren asked what the incentive was to offer a discount. Mr. Gonzalez said that it would encourage people to pay their fines right away to take advantage of the discount. They want to avoid going to collections for parking fines.

In response to a question from Mr. Winterton, Mr. Gonzales said if the payment was mailed in, the payment date was based on the postmark, not the date the payment was received.

Mr. Sewell felt the city was skirting the intent of the state law by offering a discount. If a citizen was given the opportunity to pay \$40 instead of \$55, it appeared that a 37.5 percent late fee was added if they paid \$55 after five days. If the fine was not paid within 11 days, the \$68.75 payment seemed like a 71.9 percent late fee on the original fee. He proposed eliminating the discount and having a two tier fee schedule - \$55 if paid within 10 days and \$68.75 if paid after 11 days. We would clearly be following the intent of the state statute and have more revenue for staffing and enforcement.

Mr. Knecht said things did not happen on the state level unless there was a reason. He asked who sponsored the legislation and what provoked the new law. Would the sponsor be concerned about Provo offering an incentive discount? Mr. Gonzales said the chief sponsors were Daniel McKay in the House and Howard Stephenson in the Senate. He was not aware of the reason the legislation was proposed.

Mr. Gonzalez said other cities had been discussing a similar incentive offer. He was not sure if any other cities had passed a rate structure with the discount.

Mr. Winterton was comfortable with offering a discount. If someone lost track of time occasionally, he did not want the penalty to be too steep. Mr. Gonzalez said the parking enforcement manager could, at her discretion, reduce the fine for any number of reasons, such as first time offenders, etc.

Mr. Handley said that if they used the three tier fee, they would not know how many people would actually pay the \$40 instead of the \$55. It was a guessing game as to whether it was a reasonable fee schedule to cover our costs. Mr. Gonzalez said that, under the old scenario, the driving force was paying the fee on time in order to avoid the late penalties. The new fee schedule did not provide the same incentive to pay the fees on time without offering a discount. Based on the historical data referenced earlier, they anticipated that 60 percent would pay early in order to take advantage of the discount.

Chair Harding wanted to make sure we stayed true to the state law; however, it was a guessing game. If we took away the incentive to pay early, we may find we have less compliance because the fine was too high and more of them went to collections. When fines go to collections, the city did not recover the full amount. He supported the proposal before them (offering the incentive) because it would give them the best chance of properly funding parking enforcement services.

Mr. Stewart supported the current proposal also.

Mr. Knecht was willing to take the risk because he liked the incentive to pay early.

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.

Chair Harding called for a brief recess from 8:45 p.m. to 8:51 p.m.

15. **An ordinance amending General Plan regarding a designation change from Public Facilities (PF) to Residential (R) for approximately 0.78 acres located at approximately at 862 East Quail Valley Drive. Edgemont Neighborhood. (PLGPA20190009) [\(3:22:45\)](#)**

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

16. **An ordinance amending the Zone Map classification of approximately 0.78 acres of real property, generally located at 862 East Quail Valley Drive, from Public Facilities (PF) Low Density Residential (LDR). Edgemont Neighborhood. (PLRZ20180430) [\(3:22:45\)](#)**

Chair Harding introduced items 15 and 16 and stated they would be discussed together but voted on separately.

Robert Mills, Provo City Planner, presented. The applicant owned a piece of property on Quail Valley Drive, adjacent to Timpview High School. The applicant also owned the existing office building to the east of the property. The proposal was to build four townhomes on the property. The land was zoned Public Facilities (PF) and was designated as PF in the General Plan. Across the street from the property the land was zoned R1.10. In order to facilitate the development, the applicant was asking for a residential designation on the General Plan and to rezone the property as Low Density Residential (LDR). The LDR zone allowed up to 15 units to the acre.

The applicant had proffered two development agreements. The first agreement would limit the number of townhomes to four, provide the required 12 parking stalls, prohibit student housing, and would not allow sub-letting unless authorized by the owner. The second development agreement would be for the office building he owned. An existing document, relating to the office building, had covenants and restrictions on the use of the building. The document did not define specific uses that were allowed other than to designate the building for executive office use.

Mr. Knecht noted that when the General Plan was changed to residential, it could apply to any type of residential development. That would be an easy decision. The real problem came with the request for the LDR zone. If this was developed as R1.10, it would require 10,000 square feet per dwelling. The size of the property would allow three homes in the R1.10 zone.

Mr. Mills said the desire to have four townhomes (attached single-family dwellings) required the LDR zone. Single family dwellings could be attached in the R1.10 zone but needed to be part of a performance development zone. The planning commission was supportive of the zone change and of the previous proposal to allow six townhomes on the site. The neighborhood was opposed to the project and requested additional time to discuss the project.

Chair Harding invited Corbin Church, the applicant, to address the council. Mr. Church stated he purchased the office building one year ago and spent a considerable amount on repairs and upgrades. The building had been vacant for four years. He had been using the building for BYU student executives with start-up businesses. The businesses had done so well they were moving into another building. At the time he purchased the building he also purchased the .78 acre lot next door with the intent to build townhomes on the property. The lot, though odd shaped, fit the city's definition of an infill parcel. With multiple townhomes it would meet the city's goals of affordable housing.

When he met with the neighborhood in January he was surprised at the amount of emotion surrounding the office building. The neighborhood was opposed to the project citing traffic concerns, parking concerns, and devaluation of nearby homes. He was told an easement on the building and land restricted the use and he was violating that easement. He made the following comments to address the citizens' concerns.

- Traffic – The residents had a real argument when they talked about traffic. It was a blind curve going down Quail Valley Drive. However, the ingress and egress for the development provided a much greater viewing distance. Quail Valley Drive was designed to carry 12,000 vehicles per day. In a recent traffic study, there were between 1,500 and 3,420 vehicles per day. He was told that school was not in session so it was flawed data. The average speed limit of vehicles in the traffic study was 37.1 miles per hour in a 25 speed limit zone. He felt the neighbors' concerns about traffic was not related to his development because it would add, at most, eight more cars to the road.
- Parking – Each unit had a two-car enclosed garage. They also included two additional parking spaces per unit. Parking easements would require the office building overflow to park in the townhome spaces and the townhome overflow would park in the office building parking spaces.
- Development Agreements - He proffered development agreements per the city's recommendation. The agreements would be recorded against the property, which protected the neighborhood in the event the developer sold the property. The office building had restrictive covenants, which had been filed on the wrong parcel. The city had no power to enforce the restrictive covenants. The agreements would also require that the grounds be well maintained and limited the type of businesses that could occupy the office building to include all things permitted under PO zoning and eliminated anything that would be offensive to the neighborhood.
- Devaluation of the surrounding homes – He found two appraisers that stated the addition of the proposed townhome project would not have an adverse effect on the nearby residences.
- Under the current PF zoning, the developer could build a church or a school without any input from the city.

He acknowledged there was neighbor discontent and was told there were petitions going around with 140 citizens signatures opposing the project. He wondered if they knew the facts. Two neighborhood meetings were held with approximately 24 residents at each meeting. He also held two open houses at the building on different days and different times of days. Three people attended each open house. He had gone door-to-door throughout the neighborhood to speak with the residents and also hung flyers on doors. He stated that 13 residents in the neighborhood would be directly impacted by the townhomes. There were other townhomes in the area that were surrounded by single family homes so his proposal was not inconsistent with the neighborhood. In an effort to work with the neighbors he reduced the number of units from six to four.

He had a discussion with several school board members about possibly selling the property to the school district. Given the odd shape, the small size, and high cost it would demand, the purchase would require more discussion and time that they could give to it. The districts interest remained low and the administration opted not to bring the question to the board.

In response to a question from Mr. Winterton, Mr. Mills stated that student housing was baching singles that attended a university. The development agreement stated that no student housing was permitted so the number of students was irrelevant. A student attending the high school would be a minor. Three singles, not attending a university, would be allowed.

Mr. Handley stated that the presentation was very thorough but wanted to clarify that a four unit development could add up to 60 to 80 car trips per day.

Chair Harding asked for clarification on the number of parking spaces per unit. Mr. Church stated there were 1.5 parking spaces per unit, in addition to the two car garages for each unit.

Mr. Winterton heard that the original intent of the property was to be used as potential parking for the office building. Mr. Church said he had heard the same thing from one of the neighbors but had no way to confirm the intent. Mr. Winterton asked if the south side of the property could be used for the office building overflow parking. Mr. Church stated the office building had 38 parking stalls. The development agreement stated that the office building use was limited to businesses that could manage with 38 stalls or less.

In response to a comment from Mr. Winterton, Mr. Church stated he was at the office building nearly every day and was not aware of the students parking on Quail Valley Drive because it was illegal. They might have parked in the neighborhood across the street and in the Timpview parking lot. The new tenant he was in discussion with only needed 10 to 12 parking spaces at all times.

Gary McGinn, Community Development Director, addressed the student housing issue. In Section 7.3 of the development agreement, it said use of the living unit would not be used for student housing. Student housing was not a defined term in the agreement. He understood that if they did not exceed the base definition of family or three singles, the city would not do anything. Unless the definition of student was defined better, the city would not enforce that requirement.

Chair Harding invited the neighborhood vice chairs to address the council.

Sharon Memmott, Edgemont Neighborhood Vice-Chair, said they were just informed about the proposed change to the General Plan. They have held two neighborhood meetings. No one at the second meeting was in favor of the project, even after he made changes in response to the neighbors' concerns. Mr. Church had made even more changes since then but had failed to contact the neighborhood representatives about those changes. The LDR zone would allow more development on the site, even with the development agreement. She understood that they could not count garages as parking spaces so there were not as many as represented by the developer. She said the restrictive covenants were recorded correctly and provided enough protection. He had a severability clause that would allow him to nullify the agreement. While the request had been made to continue this item, the neighbors would not be opposed to the council denying the request. She asked if someone were to buy two lots next to a council member, would they like it rezoned to LDR.

Ms. Memmott had a letter from Mr. Rosen, another neighborhood chair, voicing his concerns that smaller R1 areas were looked at to be rezoned as LDR. They recently saw a request similar to this in his neighborhood. The requests were out of place and not in harmony with single family neighborhoods. He requested that the council say no to the request.

Mr. Knecht stated that for a long time Provo allowed the garage and anything to the side of the house to be counted as parking. In the last 20 years it was changed to include parking on a driveway that led to legal off street parking. In this case, the garages would be considered legal off street parking.

Mr. Winterton would agree with Ms. Memmott's final statement if the development were right next to a residential home. This property was such an odd shape and it was not next to a residence. Building a single family home on the property between an office building and the school would be worse. This project made sense to him. The zoning was tied to the development agreement.

Mr. Handley asked Ms. Memmott if there was any concern about the 140 signatures and unanimous opposition. Were they opposed to the actual proposal or their idea of what the proposal could affect - specifically traffic and parking? He sensed a discrepancy with what was being presented by the developer and the neighborhood. He confirmed, through his own contacts with the school district, that they were not interested in the property.

Ms. Memmott said the biggest concerns came from the neighbors in the north Timpview area that would be affected by this development. Additionally, residents in Sherwood Hills drove down Quail Valley Drive to access the rest of Provo. It was a major collector road. The project did not add to the blind curve but it did not stop the number of people entering the road from the development. If the average speed limit was 37 mph, several people were going as high as 60 mph. Calming measures would not need to be installed by his project; they would need to be put much further up the hill. The neighbors were under the assumption that the two properties were essentially one unit and that the vacant lot would be parking for the office building. She would rather pursue the school district option. It was much smaller and of less value than the park property that the city just sold to the school district for less than \$200,000 per acre.

Bonnie Morrow, North Timpview Neighborhood Chair, asked the council if the 2050 vision had been approved by the council. Mr. Strachan said 2030 plan was consolidated with the existing general plan. The planning commission was working on another update that would take a longer term view. Ms. Morrow was told at the planning commission that they voted for approval on the project because of the 2050 vision and they were adhering to it because it fit the definition of affordable housing. She said this project did not fit the 2030 vision plan.

She said the neighborhood chairs were notified that the project had morphed into a four-plex was last Thursday, June 13 at 2:53 p.m. The neighborhood chairs started meeting and making phone calls because no one knew about it. Mr. Sewell sent out an email on Saturday that stated it was six units being proposed. This created more confusion. The agenda paperwork did not mention anything about a four or six unit project. She asked the council to continue this item out of respect for all the residents in North Timpview, Sherwood Hills, Edgemont, Riverbottoms, and Rock Canyon because they were all confused about what was being proposed.

Ms. Morrow said there was a lot of open land in her neighborhood and this would set a precedence for what could happen with future development. The council was benefitting one person's business but what was around him was not businesses. The zone around him was R1.10 single family homes. He mentioned that a condo complex was located just east of him. She emphasized that it was straight up a cliff. It was not an appropriate comparison.

She served on the planning commission. Every time a project was changed, the council kicked it back to the planning commission out of respect for the community. She asked the council to continue this item until all the neighborhood chairs and residents were up to speed on what was happening and then send it back to the planning commission for another review.

Mr. Sewell apologized for sending the incorrect number to the neighborhood. The official agenda stated a four-unit development but he could not find any documentation confirming the

four units. He did not hear back from council staff before it was time to send his email so he just assumed it was a typo.

Chair Harding invited public comment.

Curt Bramble owned property in a cul-de-sac directly across the street from the proposed project. He thanked Mr. Church for the efforts he had made with the neighborhood. He was not opposed to the property being developed. He was concerned with the parking on Quail Valley. It was posted no parking because they needed a merging lane for safety. Even though the speed limit was 25 mph, people had been clocked driving 83 mph on Quail Valley. It was common for cars pulling out of the cul-de-sac to have cars driving down Quail Valley Drive slam on their brakes in order to avoid them. His wife had been hit twice at the location. The pressure on the neighborhood for parking was a concern. In the last 60 days there had been multiple incidents where his tenants had been parking on Quail Valley, in the cul-de-sac, and at Timpview High School. Parking was on both sides of the street, all the way past the blind turn when there were special events at the high school.

Mr. Bramble stated the restrictive covenant on the property used the correct address at the time it was recorded. In the agreement, it stated that the restrictions and covenants could be canceled by the city after a public hearing with notice to the neighborhood. The document clearly showed it was between the city and the developer and yet the city was saying they could not enforce the document. He was at the table when the document was drafted in 1978. The vacant lot was left PF because parking was a valid use for the zone. The document clearly stated that the property could not be used for anything other than the described uses. The neighborhood was now being told the document was not valid. Mr. Bramble reviewed the list of businesses that would be allowed in the professional office zone. Many of those businesses would create parking and traffic problems. He felt there was a way to navigate this development to accomplish what Mr. Church wanted to accomplish that may neutralize some of the concerns in the neighborhood, but they were not there yet.

Boyd Memmott, Edgemont neighborhood, felt a property owner should be able to do what they want with their property. However, it was within guidance of the laws that managed the property. He expressed concern that the existing structure did not meet the parking needs of the facility. It underscored the theme he had heard all night in that Provo had a parking problem. If the development was approved, the parking problem would continue. Address the parking problems with the existing structure first, then address the new proposal.

Susie Bramble, Provo, said they were concerned with the traffic and parking when Timpview was rebuilt. It was built for 1,800 students and the rebuild would be for 2,500 students. That would impact the neighborhood and parking. She did not think the school district was a dead end. The neighbors would like to see the land developed at some point but felt that R1.10 was fair. They could build three homes on the property. It was something that needed to be taken to the neighborhood because they did not have time to notify people, especially about dropping the proposal to four units.

Michael Simpson, Provo, lived in the Quail Valley condominiums above the applicants business and supported the development. While he did not live across the street from the development, he agreed that there were already parking and traffic concerns that needed to be addressed. Development growth was always an emotional thing. In his neighborhood, there were people that remodeled and added on to their homes. At the end of the day, it increased the home values of the neighborhood. Traffic and parking problems associated with the development were minimal compared to the high school. Cars were parked all the way up and down the side of the

street when there was a football game. It was a lot larger issue than the business. He supported the proposal and encouraged the council to look for parking alternatives.

There were no more public comments.

Mr. Handley was convinced the item should be continued because the development agreement was posted so late. The spirit of the agreement was a compromise but it was important for the neighborhood chairs and residents be given time to examine the agreement. If necessary, they could send it back to the planning commission. He hoped they could find common ground. The development did not seem threatening to the property values or inappropriate for the area, given the location. McKay Jensen, with the school board, clearly stated it was not useful for parking. It was not helpful to speculate what the school district wanted or did not want. They needed to focus on the proposal itself and if the neighborhood concerns had been addressed.

Mr. Winterton appreciated the list of businesses that might be considered for the area. He was grateful that the rehab center was put on the list of businesses that would not be allowed. There might be other businesses that could be put on the list to protect the neighborhood. He felt that Mr. Church had addressed the resident's concerns. He would like to see the neighborhood address their concerns in a similar manner. He wanted concrete evidence that would help the council make a decision. He felt they were close to approving a development

Mr. Knecht agreed that the developer needed to meet with the neighborhood. If the developer was willing to state that additional parking spaces could be added for the businesses or housing if necessary, it might go a long way to meet the concerns the neighbors had about parking.

Chair Harding reminded the council that this was the first hearing for the council. Per council rule, this item could be continued.

Mr. Handley requested that both items be continued until the July 9, 2019 meeting.

Mr. Sewell agreed that the item should be continued. The applicant gave an impressive presentation and had gone to considerable effort to be a good neighbor. He was not convinced that the school district might not have use for the property once the bond was passed. He knew two school board members that had expressed an interest in keeping the option on the table. He would prefer to keep the property zoned PF until the school board made a formal statement that they did not need the property. He would be in favor of bringing back a proposal to rezone the office building as PF as well. It would not affect current use but it could send a signal that the school district could purchase both the properties.

Chair Harding felt that the applicant made a good faith effort to address the concerns of the neighbors. He hoped the three weeks would give him more time to engage with the residents. He felt that the general concept had support from the council. The residents could work with the developer to find a solution that everyone could live with. It was difficult to get mixed messages from members of the school board. He would encourage the school board to express an interest in the next three weeks. He did not feel comfortable holding something up long term to see if the school board changed their mind.

Mr. Handley did not understand why they were waiting on the school district to make a decision. If they wanted to make a claim on the property they would have done it. He felt they made it clear they were not interested because they had not made a claim on it.

17. An ordinance to amend Provo City Code to consolidate Chapter 14.30 (S-Supplementary Residential Overlay Zone) with Chapter 14.46 (A-Supplementary Residential Overlay Zone) and adopt related amendments. City-wide application. (PLOTA20190120) [\(5:29:25\)](#)

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

Brian Maxfield, Provo City Planning Supervisor, presented. The proposed ordinance would consolidate the A and S overlay zones. The A overlay allowed basic accessory units in a home and the S overlay allowed accessory units oriented toward students. One of the changes would require a rental dwelling license instead of a permit for an accessory apartment. The planning commission heard this item in April and continued the meeting in order to discuss questions raised by neighborhood chairs. Based on the comments, amendments were made and presented to the planning commission again. The planning commission was in favor with a couple of requests. The first was a request for council to look at parking requirements and the second was to have test cases on the rental dwelling license to determine what the licensing process would entail.

In response to a comment from Mr. Harding, Mr. Maxfield stated the S overlay zone allowed up to four singles but the consolidation would reduce that number to three. It would still allow up to four singles if the owner obtained a conditional use permit.

Mr. Knecht said that decision came about because Community Development wanted to equalize the parking requirements to one space per occupant. The underlying rule in all the parking requirements was to provide parking for all occupants or rent to people that did not have cars.

Chair Harding invited public comment.

Glen Rollins said he owned an acre of property in the Grandview area. He wanted to build a detached garage with an apartment above it but was told it was not allowed. He could meet all parking requirements but was in limbo because he could not have an accessory apartment that was not attached to the home. He was told he could have the property rezoned to a zone that would allow for a detached garage with a unit above it, and even another building in the future. Mr. Maxfield said that they were looking at a possible PRO zone that may address his needs.

Sharon Memmott, Edgemont, anticipated that this might extend to her neighborhood someday. She asked if the current setbacks would apply if it were a detached dwelling. She also understood there would not be any setbacks for the back of the property. She wondered how that would affect safety or city needs. The documents stated that a detached dwelling was allowed but it was required to have a connecting door. Mr. Maxfield replied that the detached building would have to be at least six feet from the home with a ten-foot setback off the property line. The connecting doorway was only for attached units.

Paul Evans, Provo, thanked the council for the ongoing discussion about the best way to consolidate existing code. He hoped they would continue this item until the citizens had answers to a number of questions. In a single family home you could have two people unrelated people living with you. In the last three years, BYU off campus housing had stopped approving any single student approved BYU housing in the surrounding homes. The council could set the standard as one accessory apartment with two unrelated individuals or a family.

David Acheson, Wasatch Neighborhood Chair, stated the S overlay was a good thing. The single-family residential R1 zone was established to provide areas for and promote a family life environment. It was characterized by landscaped lots and open spaces with lawns, shrubs, and orchards. The S and A overlays fell under that R1 umbrella. As ordinances changed and exceptions were made, they became the rules and the city lost the vision of what the ordinance intended. He did not support the code amendment as it was currently presented. Making formatting and grammatical changes was not the reason to pass legislation. The staff report stated this amendment would provide additional and affordable housing options for areas in the city that allowed accessory dwelling unit. It provided additional housing option but the city could not provide unlimited affordable housing. In the S overlay, an accessory apartment could be located in a basement or a second level above ground. Having the homeowner live in the main part of the home was key to promoting family life in neighborhoods. He had never seen this ordinance enforced. There were four homes in his neighborhood where student aged residents purchased a home, lived in the basement, and rented out the main floor to four students or young transient families. The proposed ordinance would not address the fundamental issues of keeping single family residential homes to preserve family life.

Councilors said they would appreciate Mr. Acheson submitting his concerns to them in writing.

There were no more public comments.

Mr. Stewart asked why the owner did not have to live in the main part of the home. Mr. Maxfield understood that the change was made to allow for elderly or senior citizens that did not need to live in the main part of the home but wanted to stay in the neighborhood. They could live in the smaller portion of the home and rent the larger part to a family.

Mr. Knecht said that in areas outside the A or S overlay, a resident 65 or older could rent out part of the house and it did not specify if they had to be in the bigger or smaller portion. The committee had not anticipated having a young single person purchase a property and turning it into a rental on the main floor. In the A overlay, the owner could live in either part of the home. Only the S overlay required the owner to live in the main part of the home. It sounded like they needed to revisit that item.

Chair Harding wanted more discussion about the change, which allowed an accessory apartment to be a detached dwelling. For the areas with an A and S overlay, this change would have a bigger impact than the rental dwelling disclosure and acknowledgement requirements.

Mr. Handley said this change affected the Wasatch Neighborhood pretty directly. There was a lot of concern about this issue in that neighborhood. He was in favor of continuing indefinitely until it could be vetted more carefully.

Motion: Councilor Handley made a motion to continue this item to a date to be determined. The motion was seconded by Councilor Stewart.

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

18. Ordinance 2019-33 amending the Zone Map classification of approximately 2.1 acres generally located at 1320 S State St, from Residential (R1.10) to a new Entry Level Housing (ELH) Project Redevelopment Zone. Spring Creek Neighborhood. (PLRZ20190100) (5:07:43)

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

Mr. Mills stated the applicant was requesting a zone change to a PRO zone that was already in Provo Code 14.50.30. The project site was at 1320 South State. North of the property was a townhome development under construction and to the south was the Provo School District bus barn. Directly across the state street was the old drive-in site. The proposed PRO zone was consistent with the future land use of medium density residential. The applicant would construct 64 two-bedroom condominium units with a total of 130 parking stalls at a ratio of 2.03 per unit. Staff recommended approval of the zone change with specific conditions relating to the number of parking stalls and the number of units. The applicant proffered a development agreement that limited the number of units to 64 and guaranteed 130 parking stalls. The planning commission recommended approval of the proposal.

Chair Harding invited Bruce Dickerson, the developer, to address the council. Mr. Dickerson said the project was FHA approved housing. FHA had not approved a condominium project in Utah County for the past 15 years. Part of the approval process required the developer to have a minimum of 50 percent owner-occupied units. They had raised that standard to 60 percent. Of the 250 units he had developed and sold in the past five years, only 16 of the units had been resold. He said that young families had purchased 80 percent of the owner-occupied units and senior citizens owned 10-15 percent. Both Provo City (through the development agreement) and the homeowners association would enforce the 60 percent owner-occupied unit requirement.

The FHA only allowed two adults per unit. Every two years, the developer had to certify that FHA requirements were being met. Most of the young families that qualified for FHA funding could not afford two cars so parking had never been a problem in any of his current developments.

Mr. Dickerson said a person could qualify for FHA financing if they made \$15 to \$18 per hour and paid a 3.5 percent down payment. Provo City had programs that offered interest free grants for down payments, as long as they lived in the home for ten years. If sold, the grant would need to be paid back to the city and the funds were used for other grants. FHA approval opened the door to all the financing tools such as Freddie Mac, Fannie Mae, state housing, etc. Kiddie condominium loans were also allowed where the parents (if qualified) bought the condominium with the child. The child could get into the condominium for 3.5 percent down.

Brady Deucher, the applicant, stated that there were only 33 homes available in Utah County that were under \$200,000. Of those 33 homes, only eight qualified for FHA financing, with only one in Provo. They were building 64 units and the demand was so high they had not put them on the Multiple Listing Service (MLS).

Chair Harding invited Mary Millar, Springcreek Neighborhood Chair, to address the council. She said this as a great project, the neighborhood supported it, and it aligned with the General Plan and the Southeast Area Plan. This was a zone that was already on the books and worked for this project.

Chair Harding invited public comment.

Lisa, Provo, said she lived in the neighborhood and felt this would be a great project for the neighborhood. It would give young families the opportunity to live and grow in Provo.

Shelley Haslem, northwest Provo, had a newlywed daughter and she wanted the project to be approved so her daughter could buy one of the units. It was great to have this type of housing in Provo.

There were no more public comments.

Mr. Knecht was happy to see a neighborhood embracing a project. It was hard to find something not to like about this and that was s refreshing. This project was only made possible because the previous proposal on this property, for an HDR project, was withdrawn before it was presented to the council. He hoped the developer found other properties in Provo.

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.

- 19. ***CONTINUED*** The Community Development Department requests approval of the 2019 Moderate Income Housing Plan, which is an update to the existing plan. City-wide application. PLGPA20190194**
- 20. ***WITHDRAWN*** 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 11:30 p.m. by unanimous consent.