

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
October 8, 2013

3:30 P.M. DEVELOPMENT SERVICES TOUR

CONDUCTING Mayor James Evans

ELECTED OFFICIALS Councilmembers Hans Andersen, Margaret Black, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner

APPOINTED STAFF Jamie Davidson, City Manager; Jon Amundson, Assistant City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Bill Bell, Interim Development Services Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Interim Library Director; Sam Kelly, City Engineer; Jason Bench, Interim Planning Division Manager; and Donna Weaver, City Recorder

DEVELOPMENT SERVICES TOUR

Bill Bell, Development Services Director, took those present on a tour of the department. The tour included a review of and visit to the building safety, building maintenance, development tracking, GIS, and engineering sections.

5:00 P.M. STUDY SESSION

CONDUCTING Mayor James Evans

ELECTED OFFICIALS Councilmembers Hans Andersen, Margaret Black, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner

APPOINTED STAFF Jamie Davidson, City Manager; Jon Amundson, Assistant City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Bill Bell, Interim Development Services Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Interim Library Director; Jason Bench, Interim Planning Division Manager; and Donna Weaver, City Recorder

Update – Fitness Center Remodel

Karl Hirst, Recreation Director, handed out a drawing of the pool design and explained the plans. Final designs are still being tweaked. Mr. Hirst said they are shooting for a groundbreaking on October 30, 2013.

He then reviewed the status of the proposed gate at Palisade Park. They have determined not to install a gate at this time but will allow two soccer seasons before reevaluating the situation.

REVIEW OF AGENDA ITEMS

The Council and staff reviewed the agenda items.

CITY COUNCIL NEW BUSINESS

The Council adjourned at 5:55 p.m. to the City Council Chambers for the regular meeting.

6:00 P.M. REGULAR SESSION

CONDUCTING

Mayor James Evans

ELECTED OFFICIALS

Councilmembers Hans Andersen, Margaret Black, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Jon Amundson, Assistant City Manager; Greg Stephens, City Attorney; Richard Manning, Administrative Services Director; Bill Bell, Interim Development Services Director; Scott Gurney, Interim Public Safety Director; Karl Hirst, Recreation Director; Charlene Crozier, Interim Library Director; and Donna Weaver, City Recorder

**INVOCATION /
INSPIRATIONAL THOUGHT**

Cameron Hilton

**PLEDGE OF ALLEGIANCE
APPROVAL OF MINUTES**

Nathan Stridacus

City Council Meetings of September 10 and 16, 2013

Mr. Seastrand **moved** to approve the minutes of the September 10, 2013, meeting of the Orem City Council and joint City Council/Alpine School District meeting of September 16, 2013. Mrs. McCandless **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. The motion **passed** unanimously.

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

Upcoming Events

The Mayor referred the Council to the upcoming events listed in the agenda packet.

Upcoming Agenda Items

The Mayor referred the Council to the upcoming agenda items listed in the agenda packet.

Appointments to Boards and Commissions

Mr. Seastrand **moved** to reappoint Lon Bowen to the Historic Preservation Advisory Commission. Mrs. Street **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. The motion **passed** unanimously.

REPORT – Recreation Advisory Commission

Mr. Hirst introduced Lori Ann Eldridge, chair, who reviewed the items the commission has been working on, including the strategic plan and the ball parks. Mr. Hirst said the committee members visited a number of counties to look at items and to make an educated recommendation to the Council.

- Handrail project at SCERA Shell
- Palisade Park
- Parking at Lakeside Sports Park
- Shade structures
- Dog Park – on hold while searching for a new location. May have to reprioritize that
- Indoor pool expansion – expect a groundbreaking on October 30th.

Mr. Seastrand asked when the bathrooms in the parks will close. Mr. Hirst said some of them have already closed. By the end of October they will all be closed.

Mr. Sumner expressed appreciation to Mr. Hirst and the commission members for all they have done. The pool addition is very exciting.

Mr. Hirst said he is frequently asked how the yearly pass will work with the Fitness Center closing. He indicated that the passes will be extended for the length of time that the center is closed.

REPORT – Orem Arts Council

Charlene Crozier introduced the members of the Arts Council. Debora Escalante, chair, reviewed a presentation detailing the year's events. She said they decided to focus on fewer but larger events, held quarterly. She then went over three priorities

1. In favor of the CARE tax
2. Designation of an Arts District
3. Promotion and expansion of the arts in Orem

Recognition of New Neighborhoods in Action Officers

No new Neighborhood in Action officers were recognized.

CITY MANAGER APPOINTMENTS – Development Services Director – Bill Bell

Mr. Davidson asked for the City Council’s advice and consent on his appointment of Bill Bell as the Development Services Director.

Mrs. McCandless **moved** to provide the Council’s advice and consent on the appointment of Bill Bell as the Development Services. Mr. Anderson **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. The motion **passed** unanimously.

Donna Weaver, City Recorder, gave the oath of office to Mr. Bell.

Planning Commission Appointment

Mr. Seastrand **moved** to give the Council’s advice and consent to appointment of Carlos Iglesias to the Planning Commission. Mayor Evans **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. The motion **passed** unanimously.

Board of Fire and Building Code Appeals Appointment

Mr. Seastrand **moved** to give the Council’s advice and consent to reappointment of Conrad Guymon, Bernell Lancaster, Carl Robison to the Board of Fire and Building Code Appeals. Mrs. Street **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. The motion **passed** unanimously.

CONSENT ITEMS

There were no Consent Items.

PERSONAL APPEARANCES

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

Kristin Jones said she is concerned about a sidewalk on the south side of 800 North between 1100 East and Palisade. She provided pictures of the area. It was suggested that once Murdock Canal was covered it would be possible for a walkway, but a fence was installed which cut that off. She spoke with the City’s transportation engineer, Paul Goodrich. With his assistance, a protective berm was approved. She said she wanted to give a shout out to everyone who was involved. There is currently a gravel path, but they would like a more permanent one in the future.

Sharon Price Anderson provided the Council with some pocket sized copies of the State constitution. She wondered if public/private partnerships are in line with that document.

SCHEDULED ITEMS

6:20 P.M. PUBLIC HEARING

ORDINANCE – Amending Chapter 14 of the Orem City Code (Signs)

Jason Bench, Interim Development Services Planning Division Manager, reviewed the process involved in drafting a tentative proposal for the City's sign ordinance.

On October 9, 2012, the City Council approved an amendment to Chapter 14 of the City Code to allow a limited number of portable signs on University Parkway. Since that time, there have been requests from other property owners to allow portable signs along other commercial streets such as State Street and 800 North. Pursuant to these requests, City staff has taken a second look at the ordinance governing portable signs and have proposed modifying the sign ordinance to allow portable signs on all properties located in a commercial zone. Under the current staff proposal, one portable sign would be allowed on any commercial property and two portable signs would be allowed on any commercial property that has 150 feet or more of frontage on a public street.

Concurrent with the changes to the portable sign provisions, staff has also undertaken a major overhaul of the entire sign ordinance with the intent of eliminating any potential content-based provisions that could be deemed contrary to the requirements of the First Amendment to the United States Constitution. Pursuant to this goal, City staff have eliminated from the ordinance several types of signs whose definitions were content based, added several new sign definitions and modified the definition of others.

Mr. Bench reviewed definitions, specific sign type regulations, current vs. proposed signage allowed, and maintenance of signs. The goal is to work together with businesses, residents, and the City to create an ordinance that is workable for all parties.

Because the Planning Commission has not yet provided a formal recommendation on the proposed amendments, the Council cannot approve any amendment to Chapter 14 on October 8th but can discuss it, take public comment and suggest changes. It is recommended that the Council then continue the item to the October 22, 2013, meeting by which time the Planning Commission should have made a formal recommendation and the Council will then be able to take any action it desires regarding the proposed amendments.

Mr. Andersen said U.S. flags are being cut back, and Mr. Bench said they would not count as part of the signage, as they are noncommercial. Mr. Andersen suggested that as far as the Mall sign goes something should be written to address off-site advertising. Mr. Bench said kiosk signs would permit off-premise advertising.

Mr. Seastrand indicated that he appreciates this proposal, recognizing the potential to increase signage and beautification. He likes that landscaping is being considered. Part of the complaint he receives a lot is the temporary nature of some signage. Professionally made signage enhances the beautification of a business.

Mrs. Black said that earlier there was an opening in the sign ordinance on University Parkway, which was misunderstood by many people. The Parkway is different from State Street because the parcel sizes and requirements are different. Orem is one of the most liberal communities in the County regarding signs. She noted that because the individual businesses on State Street are smaller, their signage is proportionally larger than those on University Parkway. No one wants a cluttered look. Some signs, by their nature, look more cluttered and do not hold up well.

Mr. Bench agreed that Orem has a liberal sign ordinance. He noted there are 210 parcels on State Street with fewer than 150 feet of frontage.

Mayor Evans opened the public hearing.

Aaron Orullian, chairman of the Beautification Advisory Commission, said the commission is very business friendly. They are commissioned to protect the city's beauty. He likes the idea of uniformity. He asked the Councilmembers to consider if they want the commission to be known as the beautification commission and not the flag commission.

Mr. Seastrand asked if there are specific things the commission is concerned about. Mr. Orullian said there are some signs that look cluttered. They wave in the breeze and get torn. They do not want the strip malls to become cluttered with signage.

Carolyn Manwaring, vice chair of the Beautification Advisory Commission, said she is concerned with banner blade and inflatable signs, the white noise and distractions of temporary signs, and the clutter if temporary signs are permitted for every parcel. Ms. Manwaring prefers A-frames. Another option would be to make the blade sign a permitted use but with construction requirements. She liked the suggestion of exchanging landscaping for signage.

Sean Orullian said he agrees with Ms. Manwaring about cutting down the clutter.

Adam Robertson suggested there be an exception for nonprofit organizations like the SCERA Shell. The SCERA has very little to give those who contribute for the entire summer. One has been the placement of one to three banner signs, depending upon the amount of the contribution. A possible overlay zone might be a place to have an exception for pole signs around a future arts district.

Mr. Andersen asked if there could be an exception for nonprofit organizations.

Mr. Earl said he did not believe there could be one just for the SCERA. Letting all nonprofit organizations do as Mr. Robertson suggested would be too broad and would completely undercut the rationale about off-premise signs.

Mayor Evans wondered about the signs inside the park by the Shell, and Mr. Earl said it would be okay if they were not visible from the public street. The proposed ordinance excludes such signs.

Mrs. Black said even on 400 East the SCERA Shell signs are well set back.

Richard Brunst expressed appreciation for the work that has been done on this latest ordinance draft, but he would put limits on blade banners and the inflatable signs. Mr. Brunst said he met with business owners when the sign zone was changed and limited. They told him their business was down since the change. Mr. Brunst believes the proposed change in the ordinance would be beneficial to business owners.

Jim Fawcett wondered about the light pole signs. Mr. Bench said the proposed ordinance would make those legal.

Sharon Price Anderson complimented the City for addressing this. She suggested they give as much latitude to the businesses as possible. She is opposed to the thirty-day limit. She appreciates some uniformity but sometimes creative is not uniform. Perhaps the requirement could be be “professional quality” rather than “professionally made”.

Mrs. McCandless **moved**, by ordinance, to continue the public hearing to October 22nd at 6:30 p.m.. Mr. Anderson **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. The motion **passed** unanimously.

Mr. Andersen commented that he told a business owner that his sign was ugly, and suggested that if more people did that then it would help clean up the signage without putting forth a “heavy hand”.

Mr. Davidson said there was some discussion about on- and off-premise advertising. He asked the Council to be particularly mindful of that section of the ordinance. There are merits to both sides of the issue. Orem is more urban now, and it is not necessarily realistic to overlay the sign ordinance of another community upon Orem. He said he doubts there is unanimity among the staff on this issue either. This ordinance is not an end but a stop in a journey. This is something that will be part of an ongoing conversation for some years to come. There is a need to balance the needs of beautification with those of Orem’s businesses. The ordinance should be a meeting ground where both goals could be met.

6:30 P.M. PUBLIC HEARING

ORDINANCE – ORDINANCE AMENDMENT – Amending Section 12-2-4(D), Section 12-3-1(B), Section 12-3-3(G), Section 12-5-8(E)(8), Section 12-5-11, and Section 12-5-12 of the Code pertaining to licensing and business requirements.

Mr. Bench presented an application relating to business licensing. After reviewing Section 12, Licenses and Business Regulations, the proposed changes have been drafted for updating the Orem City Code. The reason for the updates is to reflect the policies and procedures currently being followed.

12-2-4. License transfers.

D. Change of ownership. A business license may not be transferred from one owner to a subsequent owner. A subsequent owner must obtain a new business license.

Advantages of the proposal include:

When ownership changes, the new owners usually remodel. This has been an effective way to have the remodeling inspected to ensure building safety.

Disadvantage of the proposal include:

None determined.

12-3-1. Application.

B. The application form shall be provided by the City and shall contain, but not be limited to the following information: business name, address, mailing address, and phone; owner's name, address, home phone number, and date of birth. A copy of a photo identification such as a driver's license or passport must also be included in the application. If the applicant is a corporation or a partnership, the information required herein shall be provided with respect to at least one each officer of a corporation or and member of a partnership. The application shall also include the name, address, and phone number of the registered agent for any corporation or licensee.

Advantages of the proposal include:

Photo identification helps verify owner's identity during the initial application process and future interactions.

Disadvantage of the proposal include:

None determined.

12-3-3. Issuance of license.

G. The applicant has registered the name of the business with the Utah Division of Corporations and Commercial Code.

Advantages of the proposal include:

The Utah Division of Corporations and Commercial Code requires businesses to register with them within 30 days of starting a business. By verifying that the business applicant has done so, it helps to ensure compliance with State requirements.

Disadvantage of the proposal include:

None determined.

12-5-8. Solicitors.

E. Application for Certificate of Registration, review, issuance, denial.

8. Renewal. Duration. A Certificate of Registration shall be valid for a period of one (1) year from the date of issuance. Any registered Solicitor in good standing may have his or her Certificate of Registration renewed for an additional period of not to exceed one (1) year upon request within thirty (30) days prior to the expiration of the Certificate of Registration and payment of a renewal fee as set by the City from time to time; provided, however, that the total of any such fee shall not exceed reasonable administrative costs incurred by the City to process the Certificate of Registration renewal and maintain the related records. A Registered Solicitor is not in good standing if he satisfies one or more grounds for denial or revocation within the meaning of this Section. An applicant desiring to obtain a Certificate of Registration after the expiration of any renewal period shall make a new application in accordance with the provisions of this Section.

Advantages of the proposal include:

Previously the code gave the option of renewing for one time only. However, this option requires additional effort for staff to monitor while the requirements for renewing or applying for the first time are nearly the same for the applicant.

Disadvantage of the proposal include:
None determined.

12-5-11. Temporary Businesses.

In addition to the business license application required by this Chapter, an applicant who desires to use a temporary site or building shall comply with the provisions of Section 22-14-18. for a temporary business shall submit a Planning Commission Application and shall receive Planning Commission approval prior to commencing business.

Advantages of the proposal include:
Wording reflects current process of temporary site plan approval.

Disadvantage of the proposal include:
None determined.

12-5-12. ~~Mobile Vendors. Business Requiring a Conditional Use Permit~~

~~A mobile vendor may only be a food vendor, and must have all required licensing from the Utah County Health Department. The food portion of the vehicle must be a self-contained unit and no equipment related to food preparation shall be moved outside the vehicle. A mobile vendor may not interfere with vehicular or pedestrian circulation. A mobile vendor may not be parked longer than four (4) hours at any one location (or within 500 feet of said location) per day. Property owner approval is required. A business listed in the Zoning Ordinance as requiring a conditional use permit shall, in addition to the business license application required by this Chapter, submit an application for and receive a conditional use permit prior to the issuance of a business license.~~

Advantages of the proposal include:

- Currently there is nothing in the code regarding mobile vendors. This section will help establish the proper guidelines for mobile vendors to follow.
- Deleting ordinance that is not applicable.

Disadvantage of the proposal include:
None determined.

The Planning Commission forwarded a positive recommendation to the City Council. Staff concurs with the Planning Commission recommendation.

Mrs. Street asked about the food preparation item and why no food preparations could take place outside the vehicle. She wondered about smoker grills that are outside. Mrs. Street questioned how the Council might consider this type of nonoffensive use and asked if there were intended consequences.

Greg Stephens, City Attorney, said that a barbeque or grill unit of that nature cooking for four hours would be hot. Mr. Stephens acknowledged the possibility of the need for a trailer and indicated staff would consider that and try to be flexible.

Mr. Andersen asked why it limit it to four hours if it was on permanent property. Mr. Bench indicated there is a difference between mobile and temporary licenses. He questioned if the City wanted mobile vendors competing with temporary license holders. Mobile license holders have less flexibility in terms of hours of operation, but they can carry out business wherever they wish. Temporary vendors pay a larger fee to use a specific sight, whereas the mobile vendors are not

required to pay those fees. This is in effort to eliminate direct competition between mobile vendors and temporary permit holders.

Mr. Andersen asked why the property owners wouldn't have the right to decide the length of the mobile licensees' use.

Mr. Bench said the longer mobile businesses are allowed to stay, the less staff has to hassle that business. He reported a previous comment made by a waffle vendor who would prefer more than four hours, but that a four-hour window is becoming a new standard. Mr. Bench said other options could still be considered.

Mayor Evans suggested a five- or six-hour window, and then requested clarification on vendors invited onto private property to sell during a private event. Mr. Bench said these types of use are on a one-time basis, and the planning division has no plans to involve themselves in that. Mayor Evans then asked if someone hired to come for an event would be different, and Mr. Bench said they would.

Mrs. McCandless wondered about the potential issue of a vendor parking on private property and if that would pose as an issue in enforcement. There is a business owner in Orem who parks his unit on private property while he is not selling, with the permission of the property owner. Mrs. McCandless questioned if this will be an issue for enforcement.

Mr. Earl suggested that the language in the revision be updated to read the words "operate" or "sell" in the same location for more than four hours. It is not intended for the mobile vendors to be stationary or to reduce available parking. Mobile vendors are meant to be mobile which is the main reason for the four-hour requirement.

Mr. Seastrand said it may be best for the language to include "an operating mobile vendor" as opposed to a just a mobile vendor. That could clear Councilmember Karen McCandless' concerns about a vendor parking and operating from the same space.

Mrs. Black wondered if six hours would be a good compromise.

The Mayor opened the public hearing.

Mr. Fawcett suggested, by way of example, that if he were to buy a car, he would know to apply for a license on the vehicle. He wondered if a business would have to wait or if it could operate during the transition period.

Greg Stephens said that, in the event of a change of ownership, the business could continue to run during the transition period.

Sharon Anderson reaffirmed her belief that more leniency toward the businesses is better. She encouraged latitude for the business owners.

The Mayor closed the public hearing.

Mrs. McCandless said she is comfortable with the six hours. It is a fairness issue for those who have to pay for a permanent business when a mobile food vendor does not.

Mrs. Street noted there are different types of mobile vendors, such as auto glass repair. Mr. Bench said those would be considered a temporary site plan.

Mrs. Black wondered if staff has any concerns. Mr. Bell said the big health issue is mobile units. If there is a smoker grill, there is some kind of wood. The trailers should not be going around spewing charcoal. Staff's emphasis was to focus on just mobile vendors.

Mr. Andersen asked if anyone was currently doing it. Mr. Bench said it was not currently allowed. Effort was being put forth in trying to make them legal.

Mr. Earl said that, during Summerfest, a couple had come tried to set up to compete with the vendors who had paid the vendor fee and gotten insurance.

Mrs. McCandless said she liked the idea of them becoming legal. She has seen them in American Fork and noticed they were usually operative for four to five hours.

Mary Street suggested the Council consider the idea of language requiring that food preparation be self-contained. She asked if there was a way to amend the language so the food preparation equipment is self-contained.

Mary Street **moved**, by ordinance, to amend Sections 12-2-4(D), 12-3-1(B), 12-3-3(G), 12-5-8(E)(8), 12-5-11, and 12-5-12 of the Orem City Code with the exception to require that for Section 12-5-12 food preparation must be in a self-contained unit and to allow an operating mobile vendor to function for five hours. Karen McCandless **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. The motion **passed** unanimously.

CONTINUED DISCUSSION - ORDINANCE – Amending Section 22-19-1 and Appendix A of the Orem City Code as it pertains to various uses in the M1, M2, and CM zones.

Mr. Seastrand recused himself from the discussion and vote.

Mr. Bench presented an applicant request that the City Council, by ordinance, amend Section 22-5-3(A) of the Orem City Code and the Zoning Map of Orem, Utah, by rezoning property located generally at 775 East 1600 North from R12 to R8.

This item was initially discussed by the Council in its meeting on August 27, 2013. At that meeting, Mike Dunn appeared with his attorney and expressed his concern about the effect the proposed amendments would have on the recycling business he operates on his property at approximately 520 North Geneva Road. Subsequent to the meeting, staff met with Mike Dunn and his attorney and have agreed upon the principal terms of a potential development agreement that would allow Mr. Dunn to continue his recycling business in the M2 zone in the event the City Council makes recycling a non-permitted use in the M2 zone.

A development agreement has not yet been executed because it will only be necessary if the City Council decides to adopt the proposed amendment and because there are still a few details pertaining to the timing of the construction of a new building on Mr. Dunn's property that haven't yet been finalized. However, if the Council decides to make recycling a nonpermitted use in the M2 zone, staff anticipate working with Mr. Dunn to finalize a development agreement shortly thereafter.

The M1, M2, and CM zones are generally located west of the I-15 corridor in Orem. The uses currently allowed in these zones are industrial uses such as manufacturing, shipping, storage, warehousing, and other similar types of uses.

As part of an ongoing long range plan review for the Geneva Road corridor, the Development Services Department requests that certain uses in the M1, M2, and CM zones be changed from "Permitted" to "Not Permitted" to facilitate future changes along the corridor as a result of the improvements to Geneva Road, the continued development of Vineyard and the potential redevelopment of many areas in Orem along the corridor.

The Orem General Plan states, "Heavy industrial uses should be reduced in the future by developing more light and controlled manufacturing areas to encourage high-tech jobs." This proposal is consistent with the General Plan.

Other uses more consistent with business parks and light industrial types of development, as well as retail uses, are perceived to become more fitting to this area. Without these and other changes, the area along the Geneva Road corridor will continue to be a heavy industrial area for many years to come.

Any business that exists prior to the change will be considered a legal nonconforming use and would be allowed to operate their business, but would not be able to expand their use in the future. Once the revised General Plan (Geneva Road Corridor Plan) is approved, certain SLU Codes could be reconsidered as options within the area.

In addition to changing several of the SLU codes from permitted to not permitted, SLU code 4851 Green Waste Composting and Recycling is proposed and listed as not permitted in any zone in the city. Currently, there is one green waste facility in the city. They currently are classified under the SLU code 5193 Scrap and Recycling Materials. This SLU code clarifies green waste composting and will not be permitted in any zone in the city.

In regard to SLU code 4850 Solid Waste Disposal and Incineration, there is currently only one such facility in the city. This facility would be classified as a legal nonconforming use and would be allowed to continue to operate but would not be able to expand the use to additional property. The City contracts with the North Pointe Transfer Station, located in Lindon, to handle its solid waste needs.

SLU code 4850 Solid Waste Incineration and Disposal was discussed in the Planning Commission held on June 19, 2013. The Planning Commission considered the other SLU code changes on August 7, 2013.

The Planning Commission unanimously recommended the City Council approve this request. Staff concurs with the Planning Commission based on the fact that this request is in accordance to the Orem General Plan, is necessary to encourage light industrial and controlled manufacturing developments and associated high-tech jobs, and it improves the aesthetic quality of the Geneva Road corridor.

| SLU | | R5 | R6 | R6.5 | R7.5 | R8 | R12 | R20 | OS5/ROS | PO | C1 | C2 | C3 | HS | M1 | M2 | CM | BP |
|------|---------------------------------------|----|----|------|------|----|-----|-----|---------|----|----|----|----|----|----|----|----|----|
| 2110 | Slaughterhouse | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 4841 | Sewage Treatment Plants | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N |
| 4850 | Solid Waste Incineration and Disposal | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 4851 | Green Waste Composting and Recycling | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 5193 | Scrap & Recycling Materials | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 5395 | Flea Market | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | N |
| 6370 | General Warehousing & Storage | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | N |
| 6420 | Wrecking Yards | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 7223 | Race Tracks | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |

Mayor Evans invited comments from the audience.

Duane Johansson said he received a letter about this. He shared a personal story about how the changing nature of Geneva Road had taken away much of his livelihood.

Mrs. McCandless asked who sent him the letter, and Mr. Johansson said it was Mr. Andersen.

Mayor Evans asked for clarification, and Mr. Bench said a nonconforming use runs with the property. If a nonconforming business does not operate for a year, it would lose its Only not running the business for a year will loosen the status.

Mrs. McCandless gave an example, saying that if Mr. Johansson sold the business to someone else, as long as that person continued to run the business, the grandfathering would stay in place. If the new owner decided not to operate it anymore and stopped for a year, the grandfathering would be lost and the owner would be unable to operate the business. Mrs. McCandless said this proposal does not limit the ability to operate any business.

Mr. Johansson said he is limited in his ability to expand. It feels to him like Big Brother is telling him how to run his business.

Mrs. McCandless asked how Geneva Anderson’s plans would impact the property values to the east of Geneva Road. Mrs. Street said the current values for M2 land would be about three to four dollars per square foot. Office space would be substantially higher. The values on the east side of Geneva Road would increase as the area transitions.

Mr. Andersen said if this was approved, the businesses would not be able to make improvements or expansions to their businesses. Mr. Bench said they cannot expand the footprint, but they can remodel.

Mr. Earl said there is case law on both sides, and he would have to study more before determining if a grandfathered business could construct another building.

The Mayor opened the public hearing.

Skip Dunn said he took offense at the suggestion their businesses are not high tech. He outlasted WordPerfect, and he is not nearly as educated. There is a need for their businesses. The Geneva corridor development is costing the businesses there a lot of money. He asked why Orem is so concerned about what is going on in Vineyard. He is a second generation excavator, and his children will be the third.

Mrs. Street said there may be some misperception about what businesses are being impacted.

Mr. Earl said no change is being proposed to the standard land use (SLU) code that allows Mr. Dunn's business to operate in that zone.

Mr. Andersen said one of the reasons he sent the letter was because future standard land use changes would be made.

Mrs. Street said business owners should not be given the impression that their businesses would be impacted right now when they would not.

Mr. Bench reviewed the SLU code table of proposed changes.

Steve Tiersky wondered if there was a way to keep their zoning and let the new businesses have a new zone. That would avoid a lot of problems with the existing businesses. Many of the business owners have put a lot of money into their businesses. They are a community. He located on Geneva Road because of its proximity to another business there.

Julie Smith said the idea was to facilitate future changes as improvements come on Geneva Road. She wondered if the City could control and gradually eliminate the structures that don't comply with these standards.

Tom Tingey said that since the reconstruction of 800 North, Geneva Road has made the entrance of his business a death trap. To improve that, he would have to build a new building to the north. With the proposed change, he could not do that.

Wayne Burr asserted that statutory law contradicts the constitution. Taking away a person's right to make a contract is not right. He said he was opposed to this proposal.

Carlos Nagle said his businesses are assets to the city. It should be his right to put a new building on his land. Recycling is a changing business, and they have to be able to expand to accommodate that. Mr. Nagle suggested this decision be postponed so the Council has more time to consider.

Mayor Evans said this Council cannot tie the hands of future councils.

Mrs. Johansson said everyone in the room knows the goal is to replace their businesses with high tech businesses. She said she resented being lumped in with undesirable businesses.

Mike Dunn said they felt this change was being pushed on them. They have not had a lot of time to work through the proposal.

Sharon Anderson said these business owners should be allowed to prosper and expand, and the concern should not be with Vineyard businesses. She read from UCA Section 10-9A-204, and comments that the attitude of reaching out to property owners should be assumed.

Mr. Fawcett suggested these properties could be bought out by big businesses rather than “frustrated out” by the City. Let the free market work.

Verl Cook said the Orem Council has been difficult to work with over the years. Orem has caused problems for years, and he is done with it.

Melodee Andersen noted that Mr. Andersen sent the letters “on his own dime”. She said she understood the anger of these business owners. The City was regulating them out of business. She said that free enterprise should be allowed to take its course.

Shelly Macrilayno said recycling is a business that was here to stay. They have expanded over the years, and she takes pride in her business, investing money in improving it. The community needs these businesses.

Sharon Anderson noted there are lenders who won’t loan on property that is a nonconforming use.

Mayor Evans closed the public hearing.

Mr. Sumner said he has done business with these owners. He hates the idea of putting a damper on someone’s business dream. Free enterprise would take care of this.

Mrs. McCandless asked about the options if the Council wished to allow these nonconforming uses to build larger buildings but not expand beyond their current parcels.

Mr. Earl said the current ordinance would not allow to them to expand to new buildings. The ordinance could be amended to allow it. One way to allow those uses on those properties would be to take those uses out of the M2 zone and allow them in the M1 zone. Then rezone those parcels in question to M1, so they are still permitted.

Mrs. McCandless wondered, procedurally, if that could be done tonight. Mr. Earl said the rezoning would have to be another application. The item could be continued so they could come together.

Mr. Andersen suggested that if case law was mixed, it should be looked at again. He said the City should leave these people alone.

Mrs. Street said she is not overly concerned about Vineyard. In general, Orem is not likely to see vast redevelopment on the east side of Geneva Road. But if the businesses become nonconforming uses, the value of their businesses would go up because their competition would have been eliminated. Regarding zoning, the Council must look at Orem as a whole. She is an advocate of business, and there is no intent to run anybody out.

Mr. Davidson said the staff's focus has been to improve Orem. The General Plan has not been haphazardly put together and is required by law. Within the General Plan, acceptable uses in specific places are identified. It serves as a policy guide for the future development of the community. There have been many other discussions besides this one about zoning. If the Council wishes to go a different direction than the General Plan, then another look should be taken at the General Plan. He suggested this is not something staff has looked at as a way to harm.

Mrs. McCandless said Vineyard is going forward with plans that Orem cannot ignore. She expressed concern that the vote could be a tie.

Mrs. Black said Orem is facing a time of change, but they need to face the reality that Geneva Road is part of that. She said she liked the idea of making these uses permitted in the M1 zone and doing a rezone. She does not want to see more of these uses but is okay keeping these.

Mayor Evans said some of these uses no one wants off of Geneva Road, so the Council could eliminate those while notices for the proposed rezone.

Mr. Earl recommended continuing the item. He informed the Council that no new slaughterhouse applications could be accepted.

Mr. Sumner said there seemed to be a lot of fear about these businesses expanding. Mayor Evans added that this would have to be addressed.

Mr. Dunn said he had been doing a lot of the excavating in Vineyard. There was a 200-foot right-of-way by his property, and no one had charged for use of it. The railway has informed Mr. Dunn that he must pay rent on the right-of-way on his property. Mr. Dunn said he was fighting to save his business.

Mrs. McCandless said she would like to check to be sure the property owners are in agreement with the proposed rezoning.

Mr. Andersen said he would like staff to check on those case law issues.

Mr. Andersen then **moved** to continue this item indefinitely to consider the possibility of rezoning the affected properties to M1. Mr. Sumner **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Jim Evans, Karen A. McCandless, and Brent Sumner. Those voting nay: Mary Street The motion **passed** 5:1.

COMMUNICATION ITEMS

There were no comments on the communication items.

CITY MANAGER INFORMATION ITEMS

Mr. Davidson indicated that in order to streamline the City organization and align personnel and resources, the IT staff would be shifted from the Administrative Services Department and moved to the City Manager's Department.

ADJOURNMENT

Mr. Andersen **moved** to adjourn the meeting. Mayor Evans **seconded** the motion. Those voting aye: Mr. Andersen, Mrs. Black, Mayor Evans, Mrs. McCandless, Mr. Seastrand, Mrs. Street, and Mr. Sumner. The motion **passed** unanimously.

The meeting adjourned at 9:35 p.m.

Donna R. Weaver, City Recorder

Approved: December 10, 2013