

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
December 10, 2013

3:00 P.M. RECEPTION

A reception was held for outgoing elected officials: Mayor Jim Evans; Councilmembers Karen McCandless and Mary Street.

4:15 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; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Bill Bell, Development Services Director; Steve Clark, Public Safety Division Commander; Charlene Crozier, Interim Library Director; Jason Bench, Interim Planning Division Manager; and Taraleigh Gray, Deputy City Recorder

Review – North Pointe Solid Waste Special Service District - Interlocal Agreement

Mr. Davidson presented the proposed Interlocal agreement with thirteen other cities involved with the North Pointe Solid Waste Special Service District. Craig Hall, (legal counsel for North Pointe), Roger Harper, Greg Walkenhorst (Waste Management), and Reese Demil (Landfill Services) shared insight on pertinent and specific aspects of the proposed agreement. Mr. Davidson reviewed the forty-year relationship Orem has had with the North Pointe group, and discussed the history of the relationship.

Review – Master Plans & Possible Public Works Advisory Commission

Mr. Tschirki presented to Council and staff a suggestion to implement a Public Works Advisory Commission which would involve five-to-seven community members. This possible commission would be utilized in making recommendations regarding parks issues, cemetery issues, and possibly street light issues as well.

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; Greg Stephens, City Attorney; Richard Manning, Administrative Services Director; Bill Bell, Development Services Director; Scott Gurney, Interim Public Safety Director; Karl Hirst, Recreation Director; Charlene Crozier, Interim Library; and Taraleigh Gray, Deputy City Recorder

INVOCATION /
INSPIRATIONAL THOUGHT Clint Bell

PLEDGE OF ALLEGIANCE McCall Longson

APPROVAL OF MINUTES

Mr. Andersen **moved** to approve the minutes of the City Council meetings on October 8 and 22, 2013. Mr. Seastrand **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

Mrs. McCandless **moved** to appoint Kimball Broderick and Keith Haslem to the Community Development Block Grant Advisory Commission. Mrs. Black **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.

Mr. Seastrand moved to appoint Kelsey Jolly and J.D. Nielson to the Recreation Advisory Committee. Mrs. Black **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.

Recognition of New Neighborhoods in Action Officers

No new Neighborhood in Action officers were recognized.

Appointment of Mayor Pro Tem

Mrs. Black **moved** to appoint Brent Sumner as Mayor Pro Tem. Mrs. 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.

Recognition -2013 Slow Pitch Softball World Series Champions

Mr. Manning read a proclamation recognizing Clegg Steel, an Orem Business, as champions of the 2013 Slow Pitch Softball World Series. Mr. Clegg indicated the players on the team come from Salt Lake and Utah County. Mr. Clegg said it was a great honor to represent the city and the state and expressed appreciation for Orem's recognition of the team.

Mr. Seastrand moved to **approve** the proclamation. Mr. Andersen **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.

Award – Comprehensive Annual Financial Report (CAFR)

Dean Lundell, Pleasant Grove City Finance Director, presented to Orem the Comprehensive Annual Financial Report award from the Government Finance Officers of America. Mr. Lundell commended the City of Orem for its commitment and performance in completing a CAFR. Mr. Lundell gave a plaque to Mayor Evans and said Orem has received this award for twenty-five consecutive years. Mr. Lundell then read the certificate of achievement.

CITY MANAGER APPOINTMENTS

There were no City Manager appointments.

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.

James Fawcett expressed concern about the City continuing to fund UTOPIA. He said he believed UTOPIA was never meant to be supported by the cities, and it was is time to end the relationship.

Leslie Nelson wished the outgoing council members well as they moved on from their service. She admonished the Council to set a high priority on finding funds to provide pay increases to Orem employees. She said she is grateful for the services rendered by the City employees and believed compensating them was a priority.

Bob Wright voiced concern about the progress on moving toward building The Center for Story. He said over the years there had never been any public hearing or public vote authorizing the location of the proposed center. He requested the item be opened for public hearing which would allow the public to voice their concerns.

Mike Dunn said he was concerned about the length of commitment proposed in the North Pointe Solid Waste Special Service District Interlocal Agreement. He requested the Council take more time in considering the agreement.

CONSENT ITEMS

MOTION – Adopt 2014 Annual City Council Meeting Schedule

Mr. Davidson addressed the Council and indicated that, generally, the City Council would meet on the second and fourth Tuesdays of each month, except when those dates conflicted with holidays, elections, or conferences. He said the City Council had the ability to add, delete, or change any of the meetings on the proposed schedule.

Mr. Davidson drew attention to the modified meeting schedules in April 2014 and June 2014.

Mrs. McCandless **moved** to adopt the 2014 calendar. Mr. Sumner **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.

SCHEDULED ITEMS

6:20 P.M. PUBLIC HEARING

Enacting Section 22-11-52, PD-39 zone (Cascade Village at 920 North State Street) and Appendix HH; and amending Section 22-5-3(A) and the zoning map of the City of Orem by rezoning property located at 920 North State Street from the C2 and C3 to the PD-39 zone

Jason Bench, Planning Division Manager, reviewed with the Council a proposal to (1) enact the PD-39 Cascade Village zone with Appendix “HH”; and (2) rezone property at 920 North State Street from the C2 and C3 to the PD-39 zone. He noted that, based on the Planning Commission recommendation and the advantages outlined above, staff recommended approval of this proposal.

Mrs. Street recused herself from the discussion and vote at 6:34 p.m.

Mrs. McCandless asked Ryan Clark, Economic Development Director, about the present need for a project like the proposed PD-39 zone. Mr. Clark said placing higher-density housing in this location would make it more attractive and help enhance the west side of State Street. It would be difficult to bring in a mid-sized box store in this type of location. Mr. Clark said a housing project would best suit this parcel.

Casey Kellar, developer, thanked staff and Council for their service for the community. He said this was a 124-unit site, a Class-A development, complete with many amenities. There have been several public meetings regarding the proposed PD-39 zone, and the main concern was traffic flow.

Mr. Kellar said the plan included traffic enhancements. He reviewed interior amenities, indicating that they are not typically seen in apartments. The proposed development would serve life-style renters.

Mr. Sumner said he has a neighbor who was concerned the area would turn into a student housing development. Mr. Sumner asked Mr. Bench if the City would bear any financial responsibility for the connection to 400 West. Mr. Bench clarified that this connection would be the owner's responsibility and not that of the City. This access point would be required to be installed prior to the erection of the housing units.

Mr. Kellar addressed Mr. Sumner's concern of student housing and said rents would help govern the student housing concern. He also said there are restrictions on how many occupants are allowed in each unit. Mr. Kellar reported the apartments will rent for the following amounts:

- \$800 for one-bedroom unit
- \$1,000 for a two-bedroom unit
- \$1,300 for a three-bedroom unit

Mrs. McCandless said she lives in this area and voiced concern about students walking through the neighborhood, as children are not bused to the school in this area. She asked what kind of demographic the apartments would cater to.

Mr. Kellar said the unit sizes speak to the demographic these units will attract. He said they do not anticipate a lot of families with children moving in. He said 46 percent are one-bedroom units, and they anticipate younger professionals. People moving in with children would most likely have children who are under the age of five.

Mayor Evans opened the public hearing.

Bob Wright said he lives in the area of the proposed PD-39 zone. He said it was a necessity to develop this area. He objected on any subsidy from Orem tax payers for any type of RDA.

Angela Salios expressed concern about the traffic volume through her neighborhood, saying most people would use her neighborhood to turn left onto State Street at the light at 1200 North.

Lowell Manwell voiced concern about the traffic aspect of this proposed project.

Anna Manwell said she is concerned about (1) the blind curb, (2) cars parked along the street at 920 North, and (3) how narrow the street would be with cars parked along it. She said the proposal is a disadvantage to current residents and asked the Council to take more time to consider this project.

Sharon Smith voiced concern the Planning Commission had made up their minds before allowing for public input. Ms. Smith suggested the Council listen to those who are asking for more time.

Jessica Palmer expressed concern about the road placement.

Shannon Spencer said she is a co-owner of the property in question. She said this is a beautiful opportunity with Mr. Kellar and his approach. The traffic would increase regardless of what is developed on the property. Ms. Spencer said she believed Mr. Kellar has been open with people in his approach to this project.

Mike Palmer asserted that the market rents in the area would not support the proposed rents in this project and wondered if units would sit empty. He recommended the plan entail no entry from 920 North.

Flint Moner, a co-owner of the property, said he used the property to grow hay to feed livestock. The zone changed and animals were no longer permitted. He said the property has been up for sale for fifteen years. The parcel configuration restricts what can go there. Mr. Moner said he believed Orem's Master Plan intended 400 West to eventually go through.

Susan Petersen expressed frustration with the project. She said she has eagerly looked forward to this land being developed but does not believe this idea of rezoning this property to residential is a good one.

Jane Coleman voiced concern about the extra traffic and asked about what the traffic study results reflect.

Bob Wright asked for clarification on the plans for 400 West.

James Fawcett also expressed concern for the traffic which he did not feel should be sent through this neighborhood.

Lyn Spencer asked for the developer to address where the proposed exits were for this plan.

John Reinhard questioned if (1) a rezone was reasonably necessary, (2) this was in the best financial interest of the City, and (3) this project is in the best safety interest for the Orem citizens. He said the proposal was too vague.

Mayor Evans closed the public hearing.

At the invitation of Mr. Davidson, Ryan Hales from Hales Engineering said the traffic study was conducted on a Wednesday which was considered a typical week day. He indicated there was normally less traffic on Mondays and more traffic on Fridays. Mr. Hales said the traffic study evaluated intersections and layered the traffic from the project. Based on the study, Mr. Hales said they determined commercial use would generate 4,000 trips, where residential would generate 780 trips. The traffic is distributed to every direction, especially with the extension of 400 West. Mr. Hales said they found that the needs of service would not change with this proposed project.

Mr. Kellar said general access from more than one direction provided for more dispersed traffic, as opposed to using only one route. There was a shared access easement with America First Credit Union.

Mrs. Black asked about 400 West not being a “done deal.”

Mr. Kellar indicated they do not have ownership or control of the land further south. America First Credit Union owned that, and Mr. Kellar was working through a tentative agreement that would allow purchase of that property. He believed access on 400 West would be an enhancement to the project.

Mrs. McCandless asked if (1) 920 North was narrower than 400 West to the north side; and (2) the roads were the same width.

Paul Goodrich, transportation engineer, said the proposed road at 400 West was to be twenty-eight feet wide with no parking allowed on either side. He said it would be a sublocal standard.

Mr. Kellar said the construction staging would take place on the private property and would not entail staging materials on public roads. The long, narrow site would not provide for commercial use. Mr. Kellar stated that the highest and best use for the property was a multifamily use.

Mr. Seastrand expressed concern about putting responsibility for egress on others. Mr. Kellar said many bridges had to be crossed to make way for this project which was why the potential drive was in the proposal. Mr. Seastrand then questioned the reasoning behind the placement of the access points. Mr. Kellar said other designs would have decreased the number of units which would have removed the planned amenities.

Mr. Bench said staff recommended the south access points which the original plans had not included.

Mrs. Black asked for explanation for egress on the south access. Mr. Kellar said it was a private drive, designated for the residents of the planned development community.

Mr. Andersen wondered how many units would be removed if the south access point was moved to 400 West. Mr. Kellar said it would involve at least six units.

Mrs. McCandless said she believed the traffic use would be less for residential than for commercial. She believed neighbors would use the road at 400 West, should it be constructed. Mrs. McCandless stated that there were no subsidies involved with the proposal. She said she could not consider financial aspect of property owners. Mrs. McCandless discussed the rents at Courtland Ridge, and said she believed a PD zone was appropriate for this property and residential would be a less intensive than commercial. She felt it was crucial that 400 West be completed to follow through with the project.

Mrs. Black said she also believed 400 West would need to go through. She said she felt there should be a dedicated exit on 400 West.

Mr. Seastrand said he agreed with Mrs. Black and suggested Mr. Kellar either acquire the necessary easement or redesign the plan.

Mr. Sumner said he thought this was a beautiful development. He questioned a red-lined curb and asked if it would increase traffic to the west. Mr. Kellar said red-lining would be an enhancement for the “travel-ability” of the project.

Mayor Evans said he supported the Council’s comments in connecting the south access point to 400 West.

Mr. Goodrich said red-lining would not negatively affect the project or traffic in the area.

Mr. Sumner asked if it would encourage cars going west in the neighborhood.

Mrs. Black asked if getting rid of the south access would leave enough access for City purposes. Mr. Goodrich said he would have to verify with the Fire Marshall but thought it would.

Mr. Andersen asked if the removal of one access point on 920 North and opening up an access that goes through to 400 West would work for this plan. Mr. Bell said whenever a development is planned, dual access points are helpful and wise to include with the project.

Mayor Evans encouraged access on 400 West for occupancy.

Mr. Earl said concept plans were part of the proposed ordinance. He suggested the Council allow the developer to submit a revised concept plan.

Mr. Seastrand **moved**, by ordinance, to enact the PD 39 Cascade Village zone, Appendix “HH” and rezone property at 920 North State Street from the C2 and C3 to the PD-39 zone, with additional requirements for the developer to (1) provide south access through to 400 West; and (2) submit a concept plan. Mrs. Black **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.

Mary Street returned to the discussion at 8:22 p.m.

6:20 P.M. PUBLIC HEARING
ORDINANCE AMENDMENT – FLAGS AND FLAG POLES
Amending Section 22-14-24 of Orem City Code as it pertains to flags and flagpoles.

Mr. Bench presented to Council the request to amend Section 22-14-24 of the Orem City code as it pertains to flags and flag poles. Mr. Bench said that with the recent amendment to Chapter 14 of the Orem Code containing requirements for signs, flags are signs and have now been incorporated into Chapter 14.

Mayor Evans opened the public hearing.

Dora Allen requested clarification that Macey’s flag would stay at the height it was currently at. Mr. Earl said any existing legal flag poles would be grandfathered in and would not be affected by this ordinance amendment.

Mayor Evans closed the public hearing.

Mr. Seastrand **moved**, by ordinance, to amend Section 22-14-24 of the Orem City Code as it relates to flags and flagpoles. Mr. Andersen **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 Evans provided the Council to take a break at 8:25 p.m. The Council reconvened at 8:38 p.m. to continue the meeting.

6:20 P.M. PUBLIC HEARING

ORDINANCE - Enacting Section 22-11-47, PD-34 zone (University Place) and Appendix BB (concept plan); and amending Section 22-5-3(A) and the zoning map of the City of Orem by changing the zone on property located generally between University Parkway and 800 South and 800 East and 590 East from R8 and C2 to the PD-34 zone

Mr. Bench presented the following changes to the recommendation:

1. That the exemption from having neighborhood meetings be removed (so that neighborhood meetings will still be required in every situation where the ordinance currently requires them).
2. That building heights in the limited zone be lowered to forty-five feet where buildings are located within fifty feet of the back of curb on 800 East and 800 South and that building heights in the limited zone adjacent to 590 East be reduced to thirty-five feet.
3. That the language in Appendix BB on the page showing the sign locations be clarified to indicate that either two medium entry signs *or* one large entry sign (but not two large entry signs) will be allowed at the major entrances at State Street, University Parkway and the three southern entrances from 800 East.

Mr. Longson reiterated that the benefits of the project, which included increased tax base for Orem city, economic development, increased residential space, and an improved aesthetic feel to the Mall complex.

Margaret Black inquired about the building heights. Mr. Longson said Woodbury was willing to “soften the edge”. No building would be taller than eighty feet in the area north of 900 South.

Mayor Evans asked about any further updates with the traffic concerns voiced by residents. Mr. Longson said the traffic studies were dealing with the full build out of the proposed project.

Mr. Seastrand asked what body the site plan would go through. Mr. Bench said the Planning Commission would approve those, though the parameters were imbedded in the ordinance.

In response to a query from Mr. Andersen about the difference in traffic studies, Mr. Goodrich explained that said traffic varies from day to day, so traffic-count results would vary. The studies conducted at Main and State and 800 East and State were close.

Mr. Goodrich reviewed the process for determining the capacity of a street. UDOT, in accordance with the implementation of the BRT, would widen the road. The existing capacities currently on the road—with the few improvements to be completed as part of the Mall project—would be sufficient without widening University Parkway and State Street. Mr. Goodrich said it was his professional opinion that these streets could easily handle the traffic resulting from the proposed project. Completing the grid network would mitigate the traffic, connecting State Street to 800 East via 1000 South, would be part of phase one.

Mrs. Street wondered if changes to the site plan would have to go back before the City Council for approval. Mr. Bench said they would need approval from both the Planning Commission and the City Council.

Mr. Andersen asked if there were plans to widen 800 East. Mr. Goodrich said there were not at this time, nor were there plans to widen 800 East.

Mrs. McCandless inquired about the removal of student housing, and if that removal would remain in the plan. Mr. Bench said it would. Student housing had been stricken from the plans for the project. Mrs. McCandless asked for clarification on the verbiage involving sexually oriented businesses. Mr. Bench said sexually-oriented businesses were restricted to the M-2 zone which was west of I-15.

Mrs. Black asked if alcohol would be sold in the restaurants. Mr. Lonson said it could as most national restaurant chains required the ability to sell alcohol.

Mr. Sumner asked about background checks on potential tenants of the residential component of the Mall proposal. Mr. Gamvroulas indicated screening would take place for potential tenants. He said they intend to maintain management of the project for a long time.

Mr. Longson said housing was added to this concept to enhance, not diminish, the project. Woodbury and Ivory Homes had the highest interest in keeping the project up in maintenance and was a big reason why the housing would be of a single ownership nature.

Mr. Gamvroulas said there were more controls in place with single ownership and a consistently maintained facility.

Mr. Sumner said he understand the Mall does their own policing. Mr. Longson said because it is private, they provide their own security, so this is not an added burden on Orem's Public Safety. Mr. Longson said this increasing tax base may provide the means for the city to financially support increased public safety.

Mr. Longson went over the items involved in Phase One of the project, including the grid network of streets, an office building on University Parkway, the park, the first phase of residential units along 800 East, renovations to the existing Mall structure, placing a new tenant in the Nordstrom space, and adding a new restaurant.

At the request of Mrs. Black, Mr. Longson addressed the need for timely approval on this project, indicating a majority of retail sales took place in November and December, and there would have to be adequate parking at the Mall to facilitate the high-volume sales time. Mr. Longson said the underground parking structure and office building would need to be completed by Fall 2014 in order to be functioning for the holiday season. As a result, construction would have to begin promptly.

Mayor Evans opened the public hearing.

Aaron Aurullion said he conducted a survey between November 23 and December 8, 2013, to determine business and individual support for Woodbury's concept to renovate and expand the Mall. Mr. Aurullion found overwhelming support in favor of this project.

Angela Faulconer expressed concern about (1) micro traffic; and (2) the impact for people on east side of 800 East.

Jeff Edwards spoke in favor of the office component of the project, saying it would be a stake in the ground in the game of Class-A commercial sites. Utah County has a need for high-value office space. He encouraged the Council to recognize the great location between two universities.

James Fawcett said he was generally in favor of the project, though parking could be an issue if not addressed properly.

Arturo Morales said he represented the "Standing for Orem" group. He agreed that Woodbury should be able to exercise property rights within the established zoning currently in place. However, he said he believed that changing the zoning should take more time and encouraged further discussion about the height concerns. Mr. Morales then asked the Council who received campaign contributions from Woodbury Corporation, adding that those who did should recuse themselves from voting on this request.

Fran Nordmeyer said he was concerned about sign heights allowed on 800 East.

Richard Brunst, mayor-elect, said he believed this area was important. Looking at history, good things have happened when Woodbury invests in this area. Mr. Brunst said Orem should move forward with this proposal.

Val Hale said he represented the Chamber of Commerce, and the board unanimously voted to support this project. He believed this would bring things back to Orem. Mr. Hale said there was no use waiting.

Dora Allen said she was concerned about "high-quality" rentals. She asked (1) how many apartment units were in the residential component; and (2) where all the people would be coming from to occupy the apartments since Midtown Village sat empty.

Bob Wright said he was in favor of project for economic reasons, though he was concerned about the height restrictions. He was concerned this would become another Midtown Village project. He also voiced concern regarding any potential subsidizing from tax payers.

Cameron Martin said he commended Woodbury for having a listening ear. He appreciated the design of the live, work, shop, play, and learn concept. When growth was managed, it thrived.

Sherry Gardner Holweg expressed concern for foot traffic and the sales people. She asked for consideration from the Council to further address these issues.

Rob Ducherie shared concern for the campaign contributions from Woodbury, saying he also believed that Council members who had accepted campaign contributions from Woodbury should recuse themselves. Mr. Ducherie said the real issue was the density of the apartment complex and said higher density means higher crime.

Taylor Oldroyd commended staff and Council for having a partnership attitude. He said he believed in open transparent processes. The Realtor Association encouraged the project. Density is more a mitigating factor than a challenge.

Patricia Tucker said she encouraged support for the proposal. She acknowledged the concerns of other citizens, but she would hate to see the revitalization not happen due to slowing down a good project.

Jessica Connors said she shared Mr. Morales's opinion on campaign contributions. She expressed concern with phase one's timing and suggested the Council require that each phase be brought back to the Council for further discussion.

Shelly Parcel said she was in favor of something happening. She would like to see the zone proposal written to match the intent. She expressed concern for the height limits in the project, stating that Orem was not defined by the Mall property. She encouraged the Council to make sure the details were all in line before the vote was cast.

Bradley Baird shared personal experience at the Mall. He asked the Council if they were aware of the public safety concerns in terms of automobile burglaries. He said he was concerned about the residential density involved in the project.

Jamie Evans said he was concerned about billboards being allowed only with this proposal. He said he felt that, if it was allowable for Woodbury, it should be allowable for all.

Levi Avans asked about subsidies and what the setbacks were for the project. He was not opposed to the proposal but had concerns about student housing. He said it was absurd to think students would not live there with its proximity to the bus station.

Clint Bell indicated he had researched the laws on off-premise signs and said the Council should be prepared to say no to everyone else. The Council needed to articulate why they would allow Woodbury these signage opportunities and not everyone else.

Becky Smith said renters were not long-term investors of the community. She requested that neighborhood meetings be held before each phase. She wondered about the cap height for the

apartment buildings, and she questioned how many buildings would have heights in excess of 180 feet.

Paul Crossett said he felt Orem needed this project, thought there were many questions that hadn't been answered adequately. He encouraged the Council to make sure Orem was getting a good deal, so no one lost on the family side.

John Reinhard asked what the hope was for the rental units to be filled.

Mayor Evans closed the public hearing.

Mr. Longson addressed questions and concerns raised during the public hearing:

- Mock-ups and drawings of the project were down the road since this was a zoning meeting. There would be further discussions for the site plan.
- There was no intention to charge for parking.
- This was a cohesive project and all parts were integral to the whole. Approving only phase one would not allow the project to work. Woodbury needed to know the entire project would be approved before significant investments would be made.
- Woodbury was seeking tenants before building the project. They will not wait, so timely approval was necessary. While working on new tenants, Woodbury was trying to retain current tenants.
- Signage along 800 East would be done in a planned and professional manner which would go well with the concept of the project.
- The only apartments planned were the phase one units. The market would ultimately dictate what Woodbury would build. Many young professionals prefer to rent right now. Even those who can afford to buy may be willing to rent in order to live in the community where they grew up.
- He encouraged the Council to consider the open spaces when thinking about fifty-units-per acre density.
- No subsidies were requested with this rezoning request.
- The student housing component of the project was removed from the request. He noted that the removal would not prohibit a student from living there, merely that the housing could not be deemed "student housing".

Mr. Gamvroulas said Woodbury would not make the large financial investment if they did not believe the project was viable. He said increases in population come from natural growth. It was anticipated that the population along the Wasatch Front would grow by one million people in twenty years. Mr. Gamvroulas said it was important to understand what market realities really were and said this project would respond to those market forces as it was built out.

Mayor Evans brought the discussion back to the Council.

Mr. Andersen said he believed this agenda item should discount signs. He was not convinced phases could be approved one by one.

Mr. Sumner said he has no personal interest in this proposal and had never before been accused of someone buying his vote. The accusation of his vote being "bought" was offensive to his integrity.

He reiterated that legally he could and would cast his vote. He said he represented Orem residents, and his charge was to do the best he could. His vote on this item would not negatively affect any community member.

Mr. Stephens said that neither in disclosures, laws, or ethics was there a requirement for Council Members to recuse themselves on this issue because of campaign contributions.

Mrs. McCandless stated that she was offended people thought her vote could be bought.

Mrs. Street said she invested more of her own money in her bid for reelection than any amount received from campaign contributions. She took the responsibility of serving the community very seriously and objected to the accusation that she lacked integrity. Mrs. Street said phasing the project would be an irresponsible approach because it would not be wise for Woodbury to make commitments without knowing what they could build. Mrs. Street said she does not support the idea of only approving one phase at a time.

Mrs. Street then said Midtown Village was evidence of what a failed economy could be. The City could not have avoided the worldwide economic crisis. Mrs. Street said she viewed signs in the C2 zone as mitigation. Orem was a university town and students were not undesirable. Mrs. Street then said she believed in centrally managed rental communities, and advocates privately owned public spaces.

Mayor Evans agreed that Orem needed more space like what Woodbury is proposing, especially considering the office component of the project. He said it would be best to make a decision on the item and not to delay.

Mrs. McCandless said incentives were not an issue at this meeting. She agreed that this needed to be done as one entire project, and that the parts or phases were dependent upon each other. Mrs. McCandless said she believed that, if the Council turned down the project, Orem's economy would suffer. She said residential and commercial uses needed to be tied together for the project to work, and that these components of the project were dependent upon each other. Mrs. McCandless addressed the signage concerns and said she did not believe Woodbury was getting preferential treatment. She said she believed the project was something Orem needed.

Mr. Sumner said to look what the Mall had done. It had been the heartbeat of Orem and needed to be kept current, innovative, and change with the times. Mr. Sumner said sales would go down if they did not approve this proposal, and the tax base will go down as well. This could help create a synergy with State Street. Mr. Sumner said University Place wants to be self-contained, and this would spin off for other neighboring areas to do the same. He said he believed the plan was a situation that could not be passed up.

Mrs. Black thanked those who had invested time and supplied input. She expressed thanks to Woodbury for their good faith effort to address issues brought up by neighbors and Council Members. Mrs. Black said she had confidence in the business model Woodbury ran. Synergy would build, and that would be exciting to watch.

Mr. Seastrand reflected that this was a difficult decision. He said the Council members did the best they could to make changes like this the least impactful on residents as possible. Mr. Seastrand said with this proposal comes some community sacrifice. Mr. Seastrand said he was appreciative of all the work that has gone into the traffic studies, especially the transportation committee's efforts.

Mr. Seastrand said a PD zone was different from the C2 zone and asked Mr. Earl to comment on the City being sued about the sign component of the project.

Mr. Earl indicated that the sign aspect of the project could be challenged, as there had been a lot of litigation over signs.

Mr. Seastrand said Woodbury was willing to indemnify the City to a point, and Mr. Earl clarified that Woodbury would indemnify the City for attorney's fees and litigation costs. Mr. Seastrand said Woodbury indemnification lessened the City's risk considerably.

Mr. Andersen asked what would happen if the City lost a law suit over signs.

Mr. Earl said this was highly speculative, but that expenses normally would be covered by an indemnity agreement. Mr. Earl said any damages awarded would be the responsibility of the City.

Mr. Andersen asked if a percentage could be placed on what Woodbury covered for damages. Mrs. McCandless said that was not an option because there was so much outside of the City's or Woodbury's consideration.

Mayor Evans said his understanding was that the plan had reduced the height limits from sixty feet to forty-five feet on 800 East and 800 South, and adjusted the height limits from forty-five feet to thirty-five feet along 590 East. Mr. Bench concurred.

Mayor Evans said he understood that the student housing land use codes were eliminated from the language and that the height north of 900 South was limited to eighty feet. Mrs. Black said the eighty-foot limit was not defined, but that it would need to be added. Mr. Bench agreed it was not in the draft, but that it would be included.

Mayor Evans asked for clarification regarding the setbacks between 900 South and 1000 South along 800 East from twenty feet to forty feet. Mr. Bench said the item would need to be added as well, as it was not yet in the code.

Mr. Andersen **moved** to approve a phased proposal which would require Woodbury to come back to visit the City Council, not just the Planning Commission. The motion **failed** for lack of a second.

Mr. Andersen **moved** to drop Section J, dealing with signage, from the proposal until a signage law was established that would be applicable to the entire city and not to just the Mall. The motion **failed** for lack of a second.

Mr. Andersen asked if the agreement would cover losses.

Mr. Davidson said it would not, that the specific nature of the contract related specifically to indemnification for costs associated with litigation, not the cost for damages.

Mrs. Street said there was nothing to preclude the City Council from undertaking and authorizing a State Street redevelopment plan. This action could come swiftly to involve Orem residents, and that moving forward with the Mall application was in no way saying that no changes were forthcoming.

Mr. Andersen said he had a problem with favoritism with signs.

Mrs. Street objected to the use of the phrase “favoritism.” She said she thought businesses were treated fairly in similar zones and similar uses. Mrs. Street said the Mall project would be entirely different. If there was another 112-acre project under single ownership in Orem, it would be incumbent upon the Council to make certain these businesses were treated identically. Mrs. Street said she felt it important that Woodbury would go as far as indemnifying the City. She said the action went beyond good faith and was evidence that Woodbury was committed to the project and working with the City.

Mrs. Black **moved**, by ordinance, to enact Section 22-11-47, PD-34 (University Place) zone, Appendix BB, and amend Section 22-5-3(A) and the zoning map of Orem City by changing the zone from R8 and C2 to the PD-34 zone on property located generally between University Parkway and 800 South and 800 East and 590 East, with the following changes:

- Limit building heights north of 900 South to eighty feet.
- Increase setbacks between 900 South and 1000 South on 800 East from twenty feet to forty feet from the back of the curb.
- Strike the neighborhood exemption on holding neighborhood meetings.
- Clarify the language in appendix BB, on the page fifteen showing the sign location, to indicate either two medium entry signs *or* one large entry sign be allowed at the major entrances at State Street, University Parkway, and the three major entrances from 800 South from 800 East.

Mrs. McCandless **seconded** the motion. Those voting aye: Councilmembers Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. Those voting nay: Hans Andersen. The motion **passed** 6-1.

RESOLUTION – Accept Fiscal Year 2012-2013 Audit

Mr. Manning introduced Steve Rowley, with Keddington & Christensen, LLP, and allowed him to present the findings from the fiscal year 2012-2013 audit. Mr. Rowley indicated Keddington & Christensen, LLP has been reviewing the City’s financial records and reported to the Council clean opinions throughout, including the auditor’s report, the state legal compliance report, the single audit report, and the report on single controls required by the government auditing standards. Mr. Rowley indicated there were no significant issues with the audit. Mr. Rowley reported that Keddington & Christensen, LLP found the City ended the fiscal year at June 30, 2013, in sound financial condition.

Mrs. Street asked about evidence of two sets of books kept by the city. Mr. Rowley said there was no evidence of a second set of books being kept by the city and that the information given to Keddington & Christensen was found to be materially correct.

Mrs. Street asked if there was evidence of any “smoke and mirrors” being used. Mr. Rowley said that, based on the inquiries made and testing completed, no evidence of fraud was found.

Mrs. Street asked if there were any shells in this game. Mr. Rowley said if, by shells, Mrs. Street meant fraud, there was no fraud found.

Mrs. Street said she believed the City staff does an excellent job looking out for the best interest of the residents of Orem. She acknowledged the great lengths taken by Keddington & Chirstensen to validate that.

Mayor Evans said that in twenty years of serving on boards he had not seen a “cleaner audit” coming from Orem. He expressed appreciation for Orem’s staff for their work and said he was very impressed and was grateful for what the staff had done.

Mrs. McCandless also expressed appreciation for staff’s efforts.

Mr. Andersen asked if there were any assets that said UTOPIA accounts receivable. He asked if those assets had been written off. Brandon Nelson, Orem City Accountant, said there were \$2.5 million in assets on the books. Mr. Andersen asked when that would be written off the books. Mr. Nelson said it will be reevaluated near the end of the fiscal year 2013-2014, based on the current situation.

Mr. Stephens clarified that the language used by accountants and attorneys was different: even if an accountant wrote something off, an attorney would still consider it a legal obligation which was not forgiven.

Mrs. McCandless **moved**, by resolution, to accept the Fiscal Year 2012-2013 audit. Mr. Andersen **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.

RESOLUTION – Approve Interlocal Agreement Utah County and the City of Orem – Utah County Community Activities Grant

Mr. Davidson notified the Council of a 1 percent restaurant tax which is collected and administered by Utah County. The tax is tied directly to tourism, recreation, culture, and convention facilities. He said Utah County had the opportunity to allocate funds from this collected tax, and that the resolution and interlocal agreement would specifically authorize Utah County to allocate up to \$300,000 to the Center for Story project in the City of Orem. Mr. Davidson said those funds were reimbursable, so the project would need to move forward, and the City could seek reimbursement. He said the reimbursement would need to be requested by December 31, 2018, and that the Interlocal agreement would formalize the reimbursement process.

Mayor Evans said a number of months ago, members of the Council and staff went to the County and presented the idea. The County was interested and asked for more details and facts. He said Mrs. Crozier, with her team, prepared the stats on how the community had come together. Mr. Davidson

said this interlocal agreement was approved at the end of November 2013, by the Utah County Commission.

Mrs. Crozier expressed gratitude for Utah County, and for those within the City. She said the program was still wanted and needed in the City of Orem. Mrs. Crozier said Orem had a need for this auditorium, and that it was a benefit citizens would continue to take advantage of.

Mrs. Black asked how many library programs had taken place in the past year. Mrs. Crozier said the program number was near a thousand.

Mayor Evans asked about the progress of raising the funds as originally intended. Mrs. Crozier said the City was \$360,000 short of the original \$4.4 million goal, given the CARE contribution commitment was allocated as the City requested it to be.

Mr. Andersen asked for clarification on the planned the location of the Center for Story. Mrs. Crozier said the Center for Story would be attached to the Orem Public Library seamlessly through the current Storytelling Wing.

Mayor Evans asked if funds from a major donor could be used where the City thought necessary. Mr. Stephens said it would be best to honor, out of fairness, the intent of what the donor donated the funds for.

Mr. Seastrand **moved**, by resolution, to authorize the Mayor to sign an Interlocal agreement between Utah County and the City of Orem for funds from the Utah County Community Activities Grant and authorize the Mayor to execute the agreement. Mary 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.

ORDINANCE - Amending Sections 2-17-5, 2-17-10, 2-18-5, 2-21-5, and 2-33-5 of the Orem City Code pertaining to terms of office of Orem City Board and Commission members

Mr. Bench reviewed with the Council proposed changes for the terms of office for the Planning Commission, Board of Adjustment, Historic Preservation Advisory Commission, and Transportation advisory commission. He said those commissions and boards served different term lengths and the intent was to simplify the different terms of office and make them all a three-year commitment, with the opportunity to serve an additional term for a total of six years of service.

Mr. Seastrand **moved**, by ordinance, to amend Sections 2-17-5, 2-17-10, 2-18-5, 2-21-5, and 2-33-5 of the Orem City Code as it pertained to term of office. 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.

ORDINANCE – REAUTHORIZATION OF THE CULTURAL ARTS AND RECREATION ENRICHMENT (CARE) TAX

Mr. Stephens presented to Council the need for the Council to reauthorize the C.A.R.E. tax for an additional ten years.

Mrs. McCandless **moved**, by ordinance, to reauthorize the Cultural Arts and Recreation Enrichment (C.A.R.E.) tax for ten additional years; and authorize the Mayor and/or the City Manager to provide any notices and to sign any documents required to proceed with the reauthorization and implementation of the C.A.R.E. tax. Mr. Sumner **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.

RESOLUTION - INTERLOCAL AGREEMENT - NORTH POINTE SOLID WASTE
SPECIAL SERVICE DISTRICT

Mr. Davidson said the focus of the agreement includes a term of six years, and referred to the presentation made to Council in the pre-meeting regarding interlocal agreement with North Point Solid Waste Special Service District.

Mayor Evans **moved**, by resolution, to authorize the Mayor to sign an Interlocal cooperation agreement with the North Pointe Solid Waste Special Service District. Mrs. McCandless **seconded** the motion.

Mr. Andersen said he did not want to bind future councils of assets. He suggested only signing the agreement for one year.

Mr. Davidson said other cities had already approved the provisions. If Orem was to withdraw, Orem would face the possibility of litigation. Mr. Davidson stated that Orem had a forty-year history of working with North Pointe. If Orem modified the agreement, it would have to go back to all thirteen cities involved. Mr. Davidson reiterated that it was an Interlocal agreement that applied to all parties involved.

Mr. Stephens clarified that the agreement presented to all the cities was one uniform agreement, and if one city approved the agreement with a single modification, then the agreement would not be effective and the process would have to be restarted.

Mr. Andersen requested to amend the motion made by Mayor Evans and drop Section D of the agreement. Mrs. McCandless called for a question on the motion.

The Mayor called for a vote on the original motion. Those voting aye: Councilmembers Margaret Black, Jim Evans, Karen A. McCandless, Mark E. Seastrand, Mary Street, and Brent Sumner. Those voting nay: Hans Andersen. The motion **passed** 6-1.

COMMUNICATION ITEMS

There were no communication items.

CITY MANAGER INFORMATION ITEMS

There were no City Manager Information Items.

ADJOURNMENT

Mrs. Street **moved** to adjourn the meeting. 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.

The meeting adjourned at 12:32 a.m., December 11, 2013.

Approved: January 14, 2013

Donna R. Weaver, City Recorder