

**PROCEEDINGS OF THE MUNICIPAL COUNCIL MEETING
SEPTEMBER 4, 2007**

THE MUNICIPAL COUNCIL MET AS A COUNCIL OF THE WHOLE ON SEPTEMBER 4, 2007, AT 7:00 P.M. IN THE COUNCIL CHAMBERS, PROVO CITY CENTER, PROVO, UTAH.

UPON ROLL CALL, THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Council Member George O. Stewart	Council Member Steven C. Turley
Council Member Cynthia R. Dayton	Council Member Cynthia J. Clark
Council Member Midge Johnson	Council Member Barbara Sandstrom
Lewis K. Billings, Mayor	Wayne Parker, CAO
Terry Ann Harward, Council Executive Director	Neil A. Lindberg, Council Attorney
LaNice Groesbeck, City Recorder	

EXCUSED: Council Member Cindy L. Richards

CONDUCTING: Chair George O. Stewart

OPENING CEREMONIES

INVOCATION: Chase Carlile

PLEDGE OF ALLEGIANCE: Kurt Peterson

APPROVAL OF MINUTES

There were no minutes to be approved.

QUESTIONS FOR THE MAYOR AND COUNCIL

Melanie McCoard, Provo, provided a list of neighborhood chairs who were represented as endorsing a candidate, and asked that the list be provided to the Neighborhood Program Coordinator to remind the neighborhood chairs not to endorse candidates in their official capacity as neighborhood chairs. Her second comment addressed development standards for design corridors. She supported having the Planning Commission review major projects in design corridors rather than the current practice of having an Administrative Hearing. She also felt West Center Street deserved a design corridor status, at least from 500 West to Geneva Road.

Roger Brown, Provo, said, if a "burden or hurt" is imposed on the public, all should bear the impact equally rather than one group of citizens bearing a larger burden. He specifically referenced the zoning and the different standards for renters vs. owners, and married vs. single people.

Police Chief Geslison gave an update on the search for Camille Cleverly. He said the searchers are hopeful that additional leads will come forward. Every area has been searched, specifically areas where she had ridden her bike in the past along the Provo River and in Provo Canyon. The highway patrol, Utah County and BYU have been involved in the search, and assistance has been requested from the FBI. Anything observed by the public regarding this case should be forwarded to Provo Dispatch at 852-6210.

Shawn Loura, Provo, felt his credibility regarding constitutional laws was challenged in a recent meeting with Mayor Billings. He suggested a public debate on constitutional law with the City Council. He felt that the city's public power system did not meet constitutional law and questioned the Mayor's credibility and understanding of constitutional law. Mr. Loura said government itself is perhaps the "biggest monopoly of all" He said the Provo City Council is a monopoly considering the City has public power, sewer, water, TV, school and many other things which would be better served if they were in the private sector to enhance economic growth. He emphasized his concern regarding zoning laws that may infringe on individual liberty. He felt the City has "bias" toward individuals, or singles or married couples, etc. pertaining to residential occupancy restrictions and other zoning regulations. He felt the Council and Administration do "mere lip service" and present "hypocrisy before God and before this people as a whole and as individuals" because they "do not take the Constitution seriously." He felt the Council had violated the Oath of Office which they took and will "stand judged before God and man."

Wilmer Desposorio, Provo, encouraged the Council to read the letter he wrote about an experience he had where he felt his property rights had been violated. He was concerned that agencies, such as the Redevelopment Agency, are being used to violate individual rights.

Frank Turpin, Provo, expressed concerns about "three potential catastrophes" in Provo, including the dams up the canyon and the railroad that traverses the City. He suggested better educating the public on what to do when the early warning system sounds and perhaps implementing something similar to the alert system used by the Weather Channel.

PRESENTATIONS AND PROCLAMATIONS:

Mayor's Award of Excellence. Mayor Billings commented on the "unique and special experience" of having the Vietnam Veteran's Moving Wall visit Provo. He shared his experience at the wall and the apparent experiences of others who visited the wall, including those who hurried by and those who slowly came forward and lingered longer at the wall. The Wall would not have come this time if Gerald Hubbard had been involved in the process. He invited Mr. Hubbard and his wife to come forward for the presentation. Mike Lambourn, Utah State Adjutant for the Marine Corps League, who was also very involved in the Wall daily routines, was also invited to come forward. Mr. Hubbard is a Vietnam War combat veteran who was drafted in 1968 and joined the Marine Corps with special training at sniper school and served as a long-range reconnaissance sniper. He returned in 1969, receiving an early honorable discharge to return to college. After college, he returned to the Marine Corps Officer Candidate School and was commissioned a Marine Corps Lieutenant. After serving for several more years, he returned to civilian life and worked for 23 years for the Church of Jesus Christ of Latter-day Saints as a construction contractor. He retired in 2002. Mr. Hubbard was quoted as saying the Moving Wall provided closure to move ahead with his life. At a memorial at the Utah County Courthouse a few years back, a Vietnam vet commented to Mayor Billings that he never felt appreciated for the service he gave the country in Vietnam. Mayor Billings said the country needs to pay the debt to those who served in Vietnam who were not treated well upon their return to the United States. To formally say "thank you" to Mr. Hubbard and to all who assisted in that conflict, it is "appropriate" and "imperative" to present the Mayor's Award of Excellence to Gerald Hubbard for the "incredibly excellent" service that was "important to the heart and soul of our community" given in Vietnam. His wife placed the medal around the neck of Mr. Hubbard. He thanked all who were involved in bringing the Wall to Provo and expressed the honor he felt in receiving the Mayor's Award of Excellence.

Clean Out the Cabinet Month. Mayor Billings read the proclamation declaring September 2007 as "Clean Out the Cabinet Month" and encouraged residents to dispose or lock up expired or unused prescriptions to prevent drug misuse and abuse, to protect against home invasion and to make neighborhoods safer. Wayne Francom and Pat Bird came forward for the presentation. Mr. Francom appreciated the opportunity to bring

awareness of this problem to the residents of the City. He said, in Utah County, the abuse of prescription medication is on the rise and is a menace to the community. More deaths have occurred among Utahans from prescription drug abuse than have occurred from car accidents. The Salt Lake Tribune reported that statewide 485 deaths in 2006 accounted for 25% of the State Medical Examiner's work load. The average age of death is 42. In our own community, prescription medications are the #1 most abused drug. He gave an example of a young man who was addicted and eventually died of an overdose. An environmental strategy has been adopted to reduce the availability of prescription medications and substance in the community. This approach has proven to be effective and he supports this promotion to "clean it out or lock it up."

Joaquin Neighborhood Presentation. Kurt Peterson, Joaquin Neighborhood Chair made a presentation from a handout (included in the Council Packet in the Office of the City Recorder) which showed the results of revitalization efforts in the Joaquin Neighborhood. The presentation addressed the history of the neighborhood, the impact of zoning changes and showed "before and after" pictures of housing rehab projects undertaken by the Redevelopment Agency, Neighborhood Housing Services and an EDI grant. The purchase rehab homes are sold with owner occupancy deed restrictions. There are 200 homes built as single family homes that are currently absentee owner duplexes which tend to be "student hotels" that need to be improved.

Responding to Ms. Dayton, Mr. Peterson explained the loan programs available for this area.

Action Agenda:

A. A resolution consenting to the appointment of D. Blair Camp as Fire Chief for the City of Provo, Utah.

Chair Stewart introduced the resolution and invited Mayor Billings to comment. The Mayor said, with the recent retirement of Chief Coy Porter, a national wide search was conducted to find a new fire chief for the department. A five-member screening committee reviewed the excellent applications received. As a result, D. Blair Camp, former fire marshal of the University of Utah and former Chief of the Murray City Fire Department, was presented as the new Fire Chief. His wife, Paula, was also introduced. A department level position appointed by the Mayor becomes effective after receiving the "Advice and Consent" of the Municipal Council.

Chief Camp said he appreciated this vote of confidence by the Administration and Council. He is anxious and excited to start work and to become a part of Provo.

Council Member Clark moved to adopt the following resolution, an action seconded by Council Member Dayton and approved 6:0 with Council Member Richards excused.

RESOLUTION 2007-79

A RESOLUTION CONSENTING TO THE APPOINTMENT OF D. BLAIR CAMP AS FIRE CHIEF FOR THE CITY OF PROVO, UTAH.

Council Member Johnson moved to adjourn the Council Meeting and convene as the governing board of the Redevelopment Agency, an action seconded by Council Member Dayton and approved 6:0 with Council Member Richards excused.

REDEVELOPMENT AGENCY MEETING

B. A resolution approving a new Historic Preservation Loan plan.

Chair Stewart introduced the resolution and invited Julie Beck, Redevelopment Agency, to comment. She said this proposal is a new loan program for historic preservation. Funds were previously allocated for this

purpose and the proposal presents the details of the program. The grant is for single-family, owner-occupied, income-qualified households and is restricted to the Central Neighborhoods for a period of six months to see if it will be utilized. If not utilized during that time, the grant could be opened City wide. Eligible projects would include single family residential homes for exterior projects, not to include additions, and would be homes on the Landmark Register or those home with owners are willing to place the home on the Register.

Priorities are homes that are completing exterior projects that are also doing interior rehabs that would reduce multiple units to a single family use. The program offers a maximum \$10,000, 15-year loan requiring an equal match by the applicant, with payments anticipated at project completion within six-months. Work priorities are to restore the integrity of the exterior by removing incompatible features and restoring missing features, emphasizing front restoration and then home side restoration projects. She explained the application process.

Responding to Ms Dayton, Ms. Beck said the homes must qualify for the historic register which would probably make less than 100 homes eligible. This is a new program so an average loan amount is not available.

Responding to Ms. Johnson, Ms. Beck said money was appropriated in the 2004-05 budget year, but the program was never designed. Chair Stewart said the Executive Committee designed the program to use the funds. The Landmarks Commission encouraged formulating a program to use the funds. Interest in the program will be demonstrated within the six-month period of availability to the Central Neighborhoods.

Responding to Ms. Sandstrom, Ms. Beck said the \$69,000 will fund six-seven homes. Ms. Beck said future allocations for the program would come through the budget process next year. She explained how the Landmarks Commission works. Ms. Sandstrom had a list of those currently on the Landmarks Commission.

Responding to the invitation for public comment, Melanie McCoard, Provo, suggested that owners of historic home identified in five neighborhoods through a study done by Mike Hyde, a former Community Development Assistant Director, be notified of this grant opportunity. Chair Stewart asked Redevelopment Agency personnel to followup. Mayor Billings said others beyond that study will likely also receive notice.

Board Member Turley moved to adopt the following resolution, an action seconded by Board Member Dayton. The motion to approve the resolution passed 6:0 with Board Member Richards excused.

RESOLUTION 9-1-1-07

A RESOLUTION APPROVING A NEW HISTORIC PRESERVATION LOAN PLAN.

NOTE: The following agenda was followed in order to cover all necessary steps for the Project Area.

1. Welcome - Chairperson

2. (C.) A public hearing to consider a resolution adopting the Community Development Project Area Plan entitled "Financial Center Community Development Project Area Plan" and dated July 27, 2007.

Chair Stewart introduced the resolution and invited Randall Feil, attorney, to comment on the purposes of the public hearing. Mr. Feil said the minutes should reflect that this is the time and the date set for the public hearing on the Financial Center Community Development Project Area Plan conducted by the Provo Redevelopment Agency pursuant to notice.

A. Explanation of Purposes of the Public Hearing. Mr. Feil said the purposes of the hearing are to allow public comment on the draft plan, whether the plan should be revised, adopted or rejected, and to receive all written and hear all oral objections to the proposed draft area plan. Various documents to be part of the record

include a Notice of Public Hearing; the Redevelopment Agency Resolution 7-3-3-07, dated July 25, 2007, authorizing the preparation of the draft project area plan; notice mailed to each owner of record within the proposed project area and to tax levying entities in Provo, the plan itself dated July 27, 2007; and the agenda of this current meeting.

He noted the Redevelopment Agency is holding the public hearing pursuant to specific provisions of the law Section 17C-4-402(1)(e)(1).

The Redevelopment Agency, at the time of the hearing, had received one written objection submitted by Wilmer Desposorio; a copy was provided to each Board Member. Any other oral/written objections presented during the hearing will be considered by the Agency.

B. Review of Financial Center Community Development Project Area Plan - Paul Glauser

Mr. Glauser distributed a handout entitled "Draft Project Area Plan for the Financial Center Community Development Project Area" which he reviewed through a power point presentation. The document addresses required specific areas which are briefly discussed below. Mr. Glauser said this project is being done under a new statute adopted in 2006, which provides that projects can be done with tax increment financing without blight being identified. The taxing entities agree that community development activity is appropriate and necessary in this location.

Project Area Boundary Description. The boundary includes property bounded by University Avenue, 200 North, 100 East and 100 North. The boundary could be reduced, but cannot be made larger than what was noticed. A map was presented showing the project area. Parcels in the project area are owned by the Earl Corporation, except one parcel in the northeast corner which is owned by Mr. Desposorio. Responding to Chair Stewart, Mr. Glauser said the project (not the project area) does not include the Desposorio property. Having that property would make easier access to the parking garage, but it is not necessary to the project. The RDA has no power of eminent domain in a project area and no one will be forced to participate. If adopted without Mr. Desposorio's property included, he could choose later to participate. The proposed project area is about 1.44 acres. The area was chosen in response to a specific development proposal and is an area that other taxing entities agree needs community development which is indicated by their willingness to pledge their tax increment for the future development at this site. The Provo City Council, Provo School District and Central Utah Water Conservancy District have entered into interlocal agreements with the RDA for their tax increment to be used in the project. Utah County has a policy not to consider pledging tax increment until the project area is actually established; this is probably on their agenda next week.

Standards to Guide the Community Development. The following five standards are associated with the project. 1) General Character. The project should be a mid-rise building with offices above ground floor and ground level uses of retail and services oriented businesses. 2) Building Orientation and Facades. Buildings will be built to the right-of-way on University Avenue, with no breaks for driveways and no surface parking areas. Large buildings will fill the street facade. 3) Parking. Parking will be structured to maximize the use of the land and will be located below grade and/or in a parking structure in the center of the block. 4) Pedestrian Issues. The design will create a pleasant pedestrian area. 5) Sustainability. All new development should be sustainable in that it makes efficient use of resources.

Specific Project Proposal. The proposal is to build 145,000 square feet of office space in buildings varying in height from two to nine stories. The buildings along the University Avenue frontage will be two-three stories and will step up to taller buildings behind.

Economic Conditions and Building Intensities. A concept of “floor area ratio” (FAR) is the building square footage divided by the square footage of land the project occupies. The FAR in this project area, 0.46, indicates the property is being used efficiently.

Mr. Feil addressed one question raised with respect to a building in Salt Lake County, the FHP Building, that was built across the boundary line of the project with part of the building in the project area and part outside the project area. Assessment on such a property was difficult to determine and resulted in nonpayment of the tax increment on the entire building. After much effort, an agreement was reached by interlocal agreement on how to allocate for that building. He was a bit concerned at the request to have the Desposorio property removed. The developer is well along in the plans for the development and has unsuccessfully offered several times to purchase the property. The project can proceed without purchase of the property. If Mr. Desposorio changes his mind and sells to them in time, the developer would use the property for a ramp for parking and for utilities related to the project. That is not the same as a building being built across the line. If the property is taken out, language would be placed into the agreement with the developer that nothing related to the project can be built on that piece if Mr. Desposorio changed his mind.

Responding to Mr. Lindberg, Mr. Feil said the project plan could be amended in two years to include Mr. Desposorio’s property should he change his mind. However, the same process would need to be followed including amending the interlocal agreements with taxing entities. Mr. Feil did not agree with some of Mr. Desposorio’s object ions. First, this is not a zone change and he doesn’t see how any property rights are being violated in this process. The property could be included in the project area and, if Mr. Desposorio still refuses to sell, it would be part of the project area that could not be built on. Inclusion in the project area would not impact his property tax payment. Ms. Dayton said it is not true that Mr. Desposorio will lose his property if he is included in the boundary. There is no “strong arm” in this case, and there is nothing that could alter his property use unless he chooses to do so.

Responding to Ms. Clark, Mr. Feil said, if Mr. Desposorio continues to refuse to sell, the developer will not include that property as part of his project. That decision needs to be made soon. Chair Stewart said the property has always been part of the project area, but not a part of the project because the developer has no control of the property.

C. Agency Board Question Period Regarding Draft Plan. Responding to Ms. Clark, Mr. Glauser said water was encountered on the Wells Fargo project at 17 feet. The developer is planning to pump in order to have two floors of underground parking.

Mr. Turley said he has no hesitation in including Mr. Desposorio’s property in the project area because he loses no rights and there are resulting benefits to others.

Responding to Ms. Dayton and a concern of Mr. Desposorio regarding an apartment, Mr. Glauser said nothing has been identified at this time that is illegal. He said there have been a number of police calls there over the last few years. Some are criminal, but many are other calls such as ambulance.

Mayor Billings said Mr. Desposorio seems to voice concern in his letter about the tax incentive for a private development. He said the school board gave a thorough review and could see the “dramatic positive benefits for our community” that would not happen without this project. Although \$3.6 million raises a concern for many, the reality is that in a downtown corridor there are existing fixed costs that make it difficult to redevelop and can prevent redevelopment from occurring, which then results in downtown decay and creates sprawl. Since blocks next to Mr. Desposorio are a parking lot owned by the phone company, he should be offered every opportunity to come into the project. If he doesn’t, he will be locked between two forces that won’t

change much. The project will go forward, but it would be more ideal if there was a scenario of a willing buyer and willing seller. This project has been evaluated in great detail and time is needed to fully understand the issues.

Chair Stewart added that the \$3.6 million will not exist unless the project is built, but is money created because of the project. The school board is keeping a portion of their tax increment and he understood the retained portion goes from \$18,000 to \$100,000 initially. Mr. Glauser added, regarding Mr. Desposorio's objection, the citizen's of Provo will not be loaded with the burden of subsidizing the project. The only property tax that comes back to the project is property tax generated by the project. As negotiations with taxing entities have proceeded, the amount of increment funding is closer to \$3.2 million than \$3.6 million as originally stated.

D. Receipt of Written or Oral Objections to the Project Area Plan; Public Comment on draft Project Area Plan; and Public Comment on Whether Project Area Plan Should Be Revised, Adopted or Rejected.

At the invitation to present any oral objections, Melanie McCoard, Provo, presented seven comments. First, she didn't like the name of the project area and felt it should be shortened. She was told the project would have to start over again to change the name. Second, the plan is not on line and not available to the public. Third, she liked the plan and felt it was exactly what the RDA should be doing. Her regret was that it wasn't done sooner and she hoped it would set a precedent for other redevelopment project areas. Fourth, the section on sustainability did not include air quality. She voiced concern about the air quality in underground parking garages and said Provo is at the "bottom of the list" when it comes to air quality. While it would be built up to code, she felt it should be a priority to meet air quality standards in the parking structures. Fifth, she asked what the Central Utah Water Conservancy said. Sixth, she suggested someone "not scary" should speak to Mr. Desposorio, possibly Mr. Stewart. Seventh, she was told this project would be two stories taller than the existing Wells Fargo Building.

Roger Brown, Provo, commented on Mr. Desposorio's letter because he felt some of the points had not been directly addressed. Regarding the paragraph dealing with entering the building and approaching the tenants, if that occurred, he felt Mr. Desposorio deserved an apology. Mr. Turley agreed, but said, if that did occur, there are civil and criminal recourse actions that could be taken to address those concerns. However, the discussion tonight doesn't relate to those concerns. In his defense, Mr. Brown said Mr. Desposorio came from another country seeking the "American Dream." He said they are "good people" and there may just be "some misunderstanding," particularly regarding the zone change. He felt blight "was implied" based on the physical conditions comments made about the property on page 10 of the document. Regarding police calls, a distinction should be made between the two properties and police and emergency calls. He can understand the concern about the tax incentives.

There were no other oral or written objections to the project area. There was no other public comment regarding whether the project area plan should be revised, adopted or rejected.

1. Presentations by Property Owners Within Proposed Project Area, if any. The letter from Mr. Desposorio has been addressed. There were no other presentations.

2. Presentations by Taxing Entities, if any. There were no presentations by Taxing Entities. Chair Stewart emphasized that the County will not take action until the project area is approved.

3. Presentations by Other Parties Having an Interest. There were no presentations by other parties having an interest. Mr. Feil wanted it reflected in the record that all property owners in the project area,

all taxing entities and any other parties having interest had the opportunity to address this subject through oral or written objects, comment on the plan and whether it should be adopted, advised or rejected. Chair Stewart asked again for any written or oral objections to the project area plan, the draft project area plan, or whether the project area plan should be revised, adopted or rejects by any of the three entities. There were no others in the public who wanted to address those issues.

E. Agency Board Question Period and Response by Agency Staff. Ms. Sandstrom said she liked the statement that summarizes the project. She quoted, “This project will help the downtown to fulfill its important role as an employment center.” She approved of the project and is “fully invested” in it.

Mr. Turley asked why the boundaries did not include two pieces of property to the south owned by the Earls and Mr. Beesley’s property on the corner. Mr. Glauser said initially they thought the project area would include the entire block and several adjoining streets. However, it was determined to make the area as “tight” and specific to a project proposal as possible. Nothing was proposed for the other parcels. Mr. Glauser said it would make more sense to include Mr. Desporio in the project area. Mayor Billings said it was very important to the school district that “not one square foot more” be included than was associated with the project.

3. Motion to close the public hearing. Board Member Turley moved to close the public hearing, an action seconded by Board Member Dayton and approved.

4. Summary of proposed findings of agency - Randall Feil

5. Consideration and adoption of findings. (These two items were handled together.)

Mr. Feil, referring to Section 5 of the proposed resolution, asked the Board to look at items A through E to determine if all information available supports the findings of items A through E, and then to make a motion on whether to adopt the findings in the affirmative, before adopting the resolution. Board Member Turley moved to adopt the total findings, an action seconded by Board Member Johnson and approved 6:0 with Board Member Richards excused.

Responding to Mr. Turley, Mr. Lindberg said he believed there was sufficient discussion on the public record to support the conclusion. Mr. Feil said, if the Board felt they had considered everything that was presented and concluded that everything supports the findings, then the process has been served. Mr. Feil reviewed each of the findings.

Ms. Clark said the Board has been well informed on this project. She was very excited about the project and expressed no reservations. Responding to her question, Mr. Feil said what is built on the project area could have a different name than the project or the project area.

Ms. Dayton said she has had the opportunity to ask questions and have them answered since this “idea” has been looming for a number of years. Specifically regarding E-- “the public peace, health, safety and welfare of Provo City,” she felt this project directly benefits our schools and community and will create a huge improvement in the entire area. This project will bring in good jobs and a hopefully a group of people who will sustain the schools. Provo has much to offer and she hoped these people would live in Provo and invest in ways other than the building itself. She said additional tax increment as a result of the building is yet to be discovered. She said this is a wonderful opportunity to have a banking center which is needed for the long term sustainability of the community. She had a discussion with a school board member who did not understand the benefit to the schools and the long-term residents. She stated this is probably one of the best things to enhance schools and protect the future of the district which has not grown for some time.

6. Consideration and adoption of resolution adopting the Financial Center Community Development Project Area Plan dated July 27, 2007.

Board Member Dayton moved to adopt the following resolution, an action seconded by Board Member Turley and approved 6:0 with Board Member Richards excused.

RESOLUTION 9-1-2-07

A RESOLUTION ADOPTING THE COMMUNITY DEVELOPMENT PROJECT AREA PLAN ENTITLED “FINANCIAL CENTER COMMUNITY DEVELOPMENT PROJECT AREA PLAN” AND DATED JULY 27, 2007.

Mayor Billings expressed concern about the comment that “Provo is at the bottom of the list when it comes to air quality.” He receives a monthly air quality report through the Metropolitan Planning Organization and, while we are not where we want to be, the County has come a long way when compared to other urban counties. Instances of exceeding the air quality levels are much reduced. An “expert of sorts” came through with a check list of questions he asked different people, who felt Utah County was not doing enough to promote good air quality. He said this downtown redevelopment is about sustaining the long term future of this City. If we don’t do this, the downtown will decline and individual taxes will increase because a tax base is not being generated. The County has strongly supported commuter rail. The County is not at the bottom of the list for air quality and has done well compared to where it has been. The PM-10 standard is under review and a PM-2.5 standard is being considered for implementation. He noted there are national parks in this state that won’t meet the PM-2.5 standard.

7. *Other agency business.*

8. *Motion to adjourn Redevelopment Agency meeting.* Board Member Clark moved to adjourn the meeting of the Governing Board of the Redevelopment Agency and reconvene as the Provo Municipal Council, an action seconded by Board Member Johnson and approved.

MUNICIPAL COUNCIL MEETING

D. A public hearing to consider an ordinance adopting the Community Development Project Area Plan entitled, “Financial Center Community Development Project Area Plan” and dated July 27, 2007.

Chair Stewart introduced this action of the Council which would mirror what was just done as the Redevelopment Agency. Mr. Feil said, before the plan can become effective, the law requires the City Council of the community that created the Redevelopment Agency to adopt the plan by ordinance. The ordinance contains the same material adopted as the Redevelopment Agency Board and recites the findings of the board.

There was no response to the invitation for public comment and the public hearing was closed.

Council Member Johnson moved to adopt the following ordinance, an action seconded by Council Member Dayton and approved 6:0 with Council Member Richards excused.

ORDINANCE 2007-34

AN ORDINANCE ADOPTING THE COMMUNITY DEVELOPMENT PROJECT AREA PLAN ENTITLED, “FINANCIAL CENTER COMMUNITY DEVELOPMENT PROJECT AREA PLAN” AND DATED JULY 27, 2007.

E. LAND USE

E1. A public hearing to consider an ordinance amending Section 14.34.420 (Low Power Radio Communication Towers and Antennas) of the Provo City Code to modify development standards for cellular

facility antennas in Public Facility zones. City-Wide Impact. 06-0012 OA.

Chair Stewart introduced the ordinance and invited Brent Wilde, Community Development Assistant Director, to comment. Mr. Wilde said cellular antennae are currently allowed in the public facility zone as well as most commercial zones. However, the current ordinance requires that spacing from a cellular antenna pole to a residential zone boundary be 400% of the pole height. T-Mobile contends the 400% setback is difficult to satisfy their location needs in and around residential areas. The proposal recommends reducing the 400% spacing requirement from the nearest residential zone boundary to 200%. Also, if an antenna is located on an existing or replacement power or light pole and the proposed height does not exceed 10% of the existing pole height, there would not be a spacing requirement to a residential zone boundary. Other requirements necessary for not imposing the 200% spacing requirement are that the pole not be located in a public way or in a front or side yard. The 200% spacing requirement is also required for all mono pole installations for antennae. The compromise will keep cellular antennae from locating in residential zoning districts, provide opportunity to locate antennae in parks and other properties located in the Public Facility Zone, and provide installation opportunities in commercial zones that were not an option when 400% spacing was required. Staff has initiated a zone change to Public Facility on the Sherwood Hills Park. The proposal includes other minor modifications, i.e., to not allow equipment shelters to be located in a utility easement, etc.

Jerome Gourley, T-Mobile, said his company supports the compromise reached and will withdraws the application for antennae in any residential areas. Wireless usage is on the increase and the new generation of service is that of high speed data transmission.

Ms. Clark thanked Mr. Gourley for supporting the compromise because it means much to the Tree Street Neighborhood.

Responding to Ms. Dayton, Mr. Gourley said it would be difficult to place antennae on lamp posts which are typically located in the right-of-way. Allowing antennae on utility poles in parks will greatly enhance the ability to provide services to the residential neighborhoods without placing antennae in the neighborhood.

Mr. Wilde said antennae on pole installations are subject to conditional use approval, must be flush mounted with a 30" maximum diameter, and painted to match the pole. Color does not interfere with reception. T-Mobile will make arrangements with owners of the poles in Sherwood Hills Park not owned by Provo City Power. Mr. Lindberg said there is still an application on file with Community Development, but Mr. Gourley has agreed to the amendment as proposed tonight. Responding again to Ms. Dayton, Mr. Gourley said frequency of the cell towers is not impacted by high voltage lines. Mr. Wilde said the ordinance would not preclude a request for an antenna on a high voltage line, but typically the power company would not authorize such an action.

Public comment was invited. Responding to Melanie McCoard, Mr. Gourley said they have a lease with Provo Power when placing an antenna on a Provo pole and a business license with the City is required for every site. Responding to her second question, Mayor Billings said revenue from the lease goes to the department that has stewardship for the property on which the antenna is attached. The Parks and Recreation Department has been the recipient of revenue and additional improvements, i.e., a score keepers perch for Harmon Park, from some of those contracts. When the antenna is attached to a utility controlled asset, the revenue goes to the Energy Department. Ms. McCoard suggested earmarking all these subsidies for Parks and Recreation.

There was no other public comment and the public hearing was closed.

Council Member Clark moved to adopt the following ordinance, an action seconded by Council Member Dayton and approved 6:0 with Council Member Richards excused.

ORDINANCE 2007-35

AN ORDINANCE AMENDING SECTION 14.34.420 (LOW POWER RADIO COMMUNICATION TOWERS AND ANTENNAS) OF THE PROVO CITY CODE TO MODIFY DEVELOPMENT STANDARDS FOR CELLULAR FACILITY ANTENNAS IN PUBLIC FACILITY ZONES. CITY-WIDE IMPACT. 06-0012 OA.

F. An ordinance amending Section 3.03.040 (Capital Improvement Project Reporting) to modify the date for reporting the status of Capital Improvement Projects.

Chair Stewart introduced the ordinance and invited Mr. Lindberg to comment. Mr. Lindberg said the Council reviewed the next two parallel items at the last study meeting. The proposal changes the reporting date to allow audited numbers to be included in the CIP report.

John Borget, Finance Director, said the proposal “makes sense” because it will allow the CIP report numbers to be consistent with the audited numbers. It will tie the reporting date to the date of the completed audit.

No public hearing was required.

Council Member Johnson moved to adopt the following ordinance, an action seconded by Council Member Turley.

Responding to Ms. Dayton, Mr. Borget said the law requires the audit to be approved by the Council within six months of the end of the June 30 fiscal year. Therefore, the latest the audit could be approved is the last Council Meeting in December, but the practice has been to present the audit to the Council in early December. The CIP report should then be delivered close to the first of the year. Ms. Harward, Council Executive Director, said the Council’s contract with the auditor requires the audit to be completed by mid-November.

The motion passed 6:0 with Council Member Richards excused.

ORDINANCE 2007-36

AN ORDINANCE AMENDING SECTION 3.03.040 (CAPITAL IMPROVEMENT PROJECT REPORTING) TO MODIFY THE DATE FOR REPORTING THE STATUS OF CAPITAL IMPROVEMENT PROJECTS.

G. An ordinance amending Section 13.01.040 (Master Plan - Adoption and Implementation) to modify reporting of Airport Master Plan Implementation Measures.

Chair Stewart introduced the ordinance and invited comment from Mr. Lindberg. Mr. Lindberg said this item relates to Airport Capital Improvement reporting. The proposal ties the CIP report for the airport to within 30 days following the Capital Improvements Project report.

No public hearing was required.

Council Member Turley moved to adopt the following ordinance, an action seconded by Council Member Dayton and approved 6:0 with Council Member Richards excused.

ORDINANCE 2007-37

AN ORDINANCE AMENDING SECTION 13.01.040 (MASTER PLAN - ADOPTION AND IMPLEMENTATION) TO MODIFY REPORTING OF AIRPORT MASTER PLAN IMPLEMENTATION MEASURES.

Council Member Dayton moved to adjourn the Council Meeting, an action seconded by Council Member Sandstrom and approved 6:0 with Council Member Richards excused.

The meeting adjourned at 10:01 p.m..