

**PROCEEDINGS OF THE MUNICIPAL COUNCIL MEETING  
DECEMBER 18, 2007**

**THE MUNICIPAL COUNCIL MET AS A COUNCIL OF THE WHOLE ON DECEMBER 18, 2007, AT 7:17 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 Cynthia R. Dayton  
Council Member Midge Johnson  
Council Member Cindy L. Richards  
Wayne Parker, CAO  
Neil A. Lindberg, Council Attorney

Council Member Steven C. Turley  
Council Member Cynthia J. Clark  
Council Member Barbara Sandstrom  
Lewis K. Billings, Mayor  
Terry Ann Harward, Council Executive Director  
LaNice Groesbeck, City Recorder

CONDUCTING: Chair George Stewart

OPENING CEREMONIES

INVOCATION: Chris Gardner, State Championship Cross Country Team Member

PLEDGE OF ALLEGIANCE: Raphael Devonas, State Championship Cross Country Team Member

APPROVAL OF MINUTES

\_\_\_\_\_ Council Member Sandstrom moved to adopt the minutes of the December 4, 2007, Council Meeting, as written, an action seconded by Council Member Clark and approved 5:0 with Council Members Turley and Dayton excused from the vote.

QUESTIONS FOR THE MAYOR AND COUNCIL

Chair Stewart said a continuance of the Anderson Development rezone application was requested by the developer; therefore, the item will not be discussed.

There were no questions for the Mayor and Council.

PRESENTATIONS AND PROCLAMATIONS:

***Presentations to Council Member Barbara Sandstrom.*** Chair Stewart invited Ms. Sandstrom to join him at the podium where Karl Thalman, former Council Member, presented to her a silver tray in honor of her service to the Council. Chair Stewart said Ms. Sandstrom “is a grand lady” and has done much for the City in her eight years of service as a Council Member. Mr. Thalman said Ms. Sandstrom is a devoted citizen and has been a good council woman. He then read the words engraved on the tray.

Chair Stewart read the plaque presented to Ms. Sandstrom by the Council for her years of service to the community. Ms. Sandstrom was then presented the Mayor’s Award of Excellence by Mayor Billings who commented on her enthusiasm and love of the Council work. Ms. Sandstrom said she missed only one meeting in eight years and tried hard to represent the people and be a good council member. She expressed her love and

appreciation for those with whom she has served including the Council, Administration, employees and department heads.

***Timpview Cross Country.*** Mayor Billings invited the Timpview High School Boys' 4A State Championship Cross Country team to come forward. He commended the boys and the coaches for this outstanding achievement. Mayor Billings read the formal proclamation honoring the team, identifying other accomplishments of the team and a number of service projects involving the team. Team members included Jonathan Nelson, Nathan Fletcher, Chris Gardner, Kevin Kemp, Raphael Devonas, Jason Fairchild, Kenny Cline, Alex Olan, Josh Pevler, Rob Briggs, Scott Randall, Joseph Cardin, Isaac Boekewig, Zach White and head coach, Brian Kuhlman. The coach said the GPA of the Varsity team is 3.8 and the entire team had an overall GPA of 3.72. The team sang a Christmas carol to the audience.

***Neighborhood Holiday Lights Awards.*** Vice Chair Richards and Council Executive Director, Terry Ann Harward, made a presentation to the following residents who were nominated from each neighborhood for the Holiday Lights Award: Don and Cora Ius, Edgemont; Bruce and Susan Welch, Rivergrove; Lance and Soya Leslie, Provost South; Sergio and Lupa Martinez, Lakewood; Eliza Preston, Franklin; Jay and Shirley Simons, Rock Canyon; Loreen Cervantez, Spring Creek; Tim and Marie Ross, North Timpview; Connie Lopez, Dixon; and Mike and Karen Hoffman, North Park.

#### ACTION AGENDA

***A. A resolution postponing further consideration of a proposed permit parking area in the North Joaquin Neighborhood until such a time that a permit program is evaluated for South Joaquin.***

Chair Stewart introduced the resolution and said the majority of the Council felt that a parking program for North Joaquin was premature prior to doing the parking permit program in South Joaquin. This has been a contentious issue with no conclusion achieved after meeting with the neighborhood and BYU.

Council Member Richards moved to adopt the resolution, an action seconded by Council Member Johnson.

Ms. Sandstrom read Part 1 of the resolution specifying the continuance until an alternative permit parking program design is prepared and reviewed by the Council, public and private benefits and liabilities are carefully considered, and a permit parking area is first established in the South Joaquin Neighborhood area.

Ms. Richards said her main focus of that permit parking program will be how it attracts and retains homeowners in South Joaquin.

The motion passed 7:0.

#### RESOLUTION 2007-114

**A RESOLUTION POSTPONING FURTHER CONSIDERATION OF A PROPOSED PERMIT PARKING AREA IN THE NORTH JOAQUIN NEIGHBORHOOD UNTIL SUCH A TIME THAT A PERMIT PROGRAM IS EVALUATED FOR SOUTH JOAQUIN.**

The agenda was reorganized to consider Item C prior to Item B.

***C. A public hearing to receive comments regarding the proposed issuance of industrial development revenue bonds for Action Target.***

Chair Stewart noted this is a hearing only and no action is required. Since there was no vote taken, Mr. Turley, who previously recused himself from involvement on this item because he owns property in Springville adjacent to the Mountain Vista property, did not recuse himself from the public hearing. John Borget, Finance Director, said this is a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing required by Utah State Code to provide an opportunity to hear from those who may be impacted by the issuance of the bonds and/or the project funded by such bond issuance. He noted the presence of Brian Baker, Zions Public Finance, and Lee Stephenson, Action Target. Mr. Borget said these Industrial Revenue Bonds do not constitute nor give rise to a general obligation or liability to Provo City. Responding to Mr. Lindberg, Mr. Borget said the resolution authorizing issuance of the bonds, etc., will occur at a later date.

Responding to the invitation for public comment, Lindsay Wiblin, Carterville Neighborhood Chair, asked why the City was “so generous” in offering assistance to this organization which has created “endless headaches over a period time” for the City. Mayor Billings responded that the organization creates 120 very good jobs and said the organization probably felt the City has also given them “endless headaches.” Because of its success, it became difficult for Action Target to operate in its previous location. They needed to relocate and the City hoped to keep them in Provo where the business could continue to grow and provide jobs in an industrial environment. He said the company is known worldwide and shared an experience at the Pentagon where he was shown military items produced by Action Target in Provo, Utah. He added that single family detached homes will be built on the previous site of Action Target. The company could have relocated anywhere, but chose to stay in Provo. Incentives offered the company are contingent on certain levels of job creation.

Chair Stewart stated Action Target contributes to national security and public safety, and he supported the issuance of the bonds to help construct their facility at no additional financial obligation to the City.

Melanie McCoard, Provo, asked what other incentives were offered by the City besides acting as the conduit for the bonding. Mayor Billings responded that Action Target will receive credit at a tax exempt rate, which is a common offer made to any manufacturer. Another incentive is the right to purchase additional ground in the future, based on job creation. The issue has been publicly discussed and disclosed. Ms. McCoard met with Mr. Parker to discuss other incentives.

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

***B. A resolution accepting the annual financial report for the fiscal year ending June 30, 2007.***

Chair Stewart introduced the resolution and invited Mr. Borget to comment. He said the audit was reviewed in a previous study meeting, and he distributed a CD containing the audit. This information is also available at the library and on the website [www.provo.org](http://www.provo.org). He acknowledged the Finance Department staff—Denise Roy, JoAnn Mulkern, Sandra Derfler and Dave Croff—who were critical to preparation of the report.

Ed Erickson, Hansen, Bradshaw, Malmrose & Erickson, said the opinion of the auditors is that “the financial statements of the City are presented fairly and in accordance with generally accepted accounting principles.” This is the highest opinion that can be given on the City’s financial statements. The financial position of the City has gotten stronger each year and demonstrates “strong positive trends” in almost all major areas of the City. Several findings were reported in the *Single Audit and State Legal Compliance Report*

Mr. Erickson answered yes to each of the four criteria posed by Mr. Turley regarding conformity with generally-accepted auditing standards, conformity to uniform classification of accounts, performance in accordance with both federal and state auditing requirements, and conformance with the mandatory criteria set forth by Utah Code.

Council Member Turley moved to adopt the following resolution, an action seconded by Council Member Dayton and approved 7:0.

**RESOLUTION 2007-115**

**A RESOLUTION ACCEPTING THE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDING JUNE 30, 2007.**

***D. Public hearing to consider a resolution [electing]/[not electing] to have Provo City become a participating employer in the Public Safety Noncontributory Retirement System.***

Chair Stewart introduced the resolution and invited Eric Mausser, Human Resources Director, to comment. Mr. Mausser said this request was generated by House Bill 21 in the 2007 legislative session which opened a window of opportunity for participants in the contributory police retirement program to move to the police noncontributory retirement system. At the request of Chair Stewart, Mr. Mausser explained the different contribution rates for fire and police retirement programs. The State Retirement System determines the percentage of contribution entities with these types of employees should make to the retirement system, which then invests the money to pay retirement pensions in the future. A number of years ago, the Legislature made a determination that certain monies from a homeowners' insurance tax should go toward the fire fighter retirement program, reducing the overall cost of the program. This was not done in the police retirement program. Mr. Mausser said the City passed a parity ordinance about 25 years ago that required payment of the same 20.15% for all three plans and eliminated any perception of favoritism for any particular group. Police retirement is about 29% so the individual has made up the difference between the 20% and the 29%. Therefore, if an adjustment is made in the retirement plan for police, an adjustment should also apply to the contribution made for the Municipal employees and the fire employees. Mr. Mausser agreed that opting for the noncontributory plan would apply an additional contribution to the municipal and fire employees which would increase the contribution by 9% to those employees. Otherwise, a change to the City parity ordinance could be made for different contribution rates for the other City plans. The financial impact of a 9% increase would be about \$3 million. He added that any vote on this issue makes an irrevocable decision. He felt a change in the parity ordinance would result in decreased morale.

Mayor Billings said it is frustrating that another level of government chose to "take care of some and not all." He noted the 20-year retirement plan for police officers, based on the intensity of their work, that others don't have, and some feel isn't fair. Others, such as Energy, feel their jobs are also intense and should be considered for early retirement. He agreed there is an "equity disconnect" created by the State Legislature between public safety personnel who have a 20-year retirement plus 9% put into their 401K and those who contribute 9% out of their pocket to make their 20-year retirement possible. While he agreed there needs to be a more "comparative equity," he was uncertain how parity could be maintained financially and didn't support this mechanism to attempt "fairness," because another group of employees will "feel disproportionately treated."

Responding to Mr. Turley, Mr. Mausser said there are multiple reasons for police officer turnover as reflected in the exit interviews conducted with those who leave City employment. Very few have indicated pay as a reason for leaving. Provo's goal is to have a total compensation package that is competitive with other agencies hiring for similar positions. He felt compensation did not create a great outflow of officers; however, out-of-pocket retirement costs should be addressed, but in a way other than a change in the parity ordinance.

Public comment was invited. Hiatt Bean, Sr. Patrolman with Provo Police Department for 9+ years, said he had been asked to represent many in the department. His purpose was to present ideas, opinions and personal insight to broaden understanding and strengthen relationships. While it is difficult to put a value to the services provided by City employees, a "raw cost" of services is determined to provide balance and maintain a competitive environment. Raw cost is the sum of competitive benefits and retirement programs, and is specific to the job

description and the responsibility of the position to society. The retirement system for government employees is a defined benefit system rather than a defined contribution system, which means that employees will retire at a specific percentage of their wages rather than having a lump sum of money available to them upon retirement. The parity ordinance was instituted to provide a sense of equality and fairness to all City employees. At that time, he felt the ordinance covered the raw costs of service, but assigned additional value to many positions via a 401K contribution. Over time, this has created difficulties in attracting and retaining officers and created disparity between employees. He said the majority of the officers the City is recruiting are right out of the academy and not “veterans” from other departments, and there is a cost attached to training a new officer to acquire the level of needed experience. He said the cost of police officer retirement is higher than fire or other city employees. Currently, a police officer pays 9.69% out of pocket, after taxes, for their retirement; the fire department has their retirement paid for as do the city employees. The fire department has 10.5% of their gross annual income put into a 401K and the city employee has 2.33%. This shows that society values more than the “raw cost” for some City employees and not for others. The difference of percentage between police and fire is 20.54% annually and 12.02% for City employees. The dollar difference is \$10,270 for police and \$6,010 for City employees based on a \$50,000 annual income or \$855 a month between a policeman and a fireman making the same income and \$500 a month between other City employees. Therefore, the “raw costs” of services provided are not being paid for by society, and this has created a hardship on officers. Officers currently contribute out of pocket, \$4,845 annually or \$403 a month or \$13 a day for their retirement. He felt a change to noncontributory would make Provo more attractive to those recruited and would save financial losses to the City. He suggested utilizing resources including increased fees for services rendered by the police department, i.e., responding to accidents, traffic reports, digital photos, warrants, and charges to insurance companies for services provided. He felt that working together would result in innovative means to help society pay for these benefits. He expressed appreciation for the benefits, recent increases and employment with the City and offered continued respect, diligence and commitment to assistance in achieving combined success.

Brian Taylor, police officer for three years, acknowledged the improved police pay and benefit package offer by the City. However, he felt a labor market inequity in retirement funding needed to be remedied. He said police officers pay “hundreds of dollars a month for a benefit” that most other agency officers pay nothing for out of pocket. This strains employees and undercuts the objective of maintaining competitive wages and benefits. The intent of the 20-year public safety retirement program was to recognize the “caustic nature of police service” and respond with a more realistic retirement offering. It was not the intent to leave police employees exposed to the spike in retirement costs that has occurred over time. He urged taking advantage of this window provided by the legislature to bring Provo Police retirement benefits in line with the market and transition to the noncontributory plan.

Ltn. Todd Grossgebauer, Provo police officer for 15½ years, said, in teaching at two law enforcement academies, he has trained 300+ officers and has answered many questions regarding employment with Provo City. He always promotes the benefits and the wonderful nature of the city and its residents. However, it is difficult to tell trainees that Provo police officers contribute 9% of their monthly wage toward retirement, post tax. He said Alaska, Arizona and California actively recruit in Utah and pay up to \$110,000 with full benefits. While Provo competes well in wage and benefits packages, it is lacking in the retirement package costs. Provo is the last law enforcement agency in Utah County to be in the contributory system and other communities have found ways to make that adjustment. Statewide, there are only 7-12 entities still in the contributory system. This is not a problem that will go away and the costs will continue to increase. The job responsibilities and experiences of police officers are different enough to require the 20-year retirement. Regarding exit interviews, he said officers don’t want to “burn any bridges.” He also said Provo has yet to fill the 100 sworn officer positions and is currently at 92 officers, which requires much of existing officers. He said one mistake by a “young officer” could cost the City more in litigation that it would take to fund this program. Attracting quality people will minimize potential costs of mistakes made by young officers. This open enrollment opportunity may not be offered again for 4-5 more years and a vote to continue the contributory plan could cost the officers in excess of \$20,000 before the opportunity is presented again.

Keith Rowland, Provo police officer for 14 years, said he left Provo Police Department and then returned. He confirmed that officers do not want to “burn any bridges” during an exit interview. He is a single father with four teenagers, and, in order to pay his bills, works several part-time jobs. The \$400/month he pays toward his retirement would be equal to the payment for his oldest son who will soon be leaving to serve a mission for the LDS church. It is a temptation to go somewhere else with equal compensation where the officers do not pay the \$400/month toward retirement.

Tricia Hoffman, Provo resident for 35 years, said she was touched by comments made by the police officers and favored giving them “what they fully deserve.” She expressed gratitude for living in this community where she could trust the police officers who responded to her needs. Because her husband works for the Park City Fire Department, she was aware of the close and important relationship of police and fire in serving the community and the tremendous emotional cost paid by these officers. She urged voting in their behalf.

Melanie McCoard, Provo, commented on the increase to 100 officer positions and the cities commitment during the Olympics and the events of 9/11 to provide adequate protection and provide the police department the things they needed. Part of the need for additional officers is that Provo is growing and certain standards need to be maintained. She encouraged maintaining the “momentum” that was created by previous councils to have the City well protected, and not leave the police underfunded and understaffed. She encouraged doing whatever it takes to attract and retain the best people, and supported making this change, not just because of what has been said tonight, but because of all that has been heard said for 10 years. Chair Stewart said it would cost \$26.08 per capita per year to fund this change.

Jim Guynn, Provo City Fire Marshall, supported vigorously seeking other ways to fund this retirement, particularly through creating additional revenue for services provided. He felt that all three retirement systems should be treated equitably, which does not always mean “equally.”

Captain Dave Bolda, Provo Police Department, expressed appreciation to those who have spoken with dignity and passion in expressing their views. As a representative of the Provo Police Administration, he reinforced the concern for attracting and retaining quality officers. Provo competes with Orem, Springville, Spanish Fork and Salt Lake County agencies for the same pool of applicants. Questions regarding the retirement contributory system have been asked by applicants during the hiring process. This is a “very current, up front issue.” He said the department has been understaffed by 6-8 people at any time over the last few years as compared to Orem’s department which is fully staffed. He felt strongly that Provo is losing potential competent applicants to other cities. The increased compensation received in 2006 was greatly appreciated, and sent a message to each police department employee that the contributory system is an issue that needs to be addressed, and will remain an issue until a permanent fix is rendered. He suggested the 25-year-old parity ordinance needed “fine tuning” which, he was confident, could be handled by the competent legal city staff without losing the essence of the original design. He pled for a permanent solution, but noted the officers will continue to serve the community with “passion and dignity” and sacrifice for the citizens of Provo.

Austin Williams, Provo City officer for four months, said the Las Vegas Metro Police has a system that pays for schooling and 80% of the living costs of officers going through the academy. Not making the monthly retirement payment would benefit him in meeting family financial needs, raising a family and hopefully buying a house. He became a police officer because he wanted to help people and give back to the community.

Doug Stradling, Provo police officer for 18 years, said this is only the third time this opportunity has come to change to a noncontributory system. The last time it was discussed, he was paying \$125-150/month toward his percentage of the retirement. It has now gone up to \$400/month a month for that benefit, and the longer the delay, the more expensive it will be. He encouraged looking at a permanent solution—whether it is noncontributory or another way to make it work better for the police officers.

Captain Bold said Provo City and Sandy City Police Departments were the last two larger city holdouts to change to the noncontributory system. Last Tuesday, Sandy City Council unanimously approved the move from contributory to noncontributory, which was then unanimously approved by the officers.

Jim Campbell, Provo police officer for 19 years, said that 25 years ago there was no effective “FTO program” for officer training. Regarding getting “mumbles and grumbles” from other City employees, he suggested comparing what is required of other employees vs. what is required of police officers, including intensive regular training and carrying a gun because of the daily danger they face.

Robert Campbell, police officer, said he recently took recruit “ride-alongs” with him, where he promoted Provo and explained all the benefits of working here. Of the four he had, only one applied for Provo and the other three went somewhere else and took an additional \$400 a month home in their paychecks. He felt the contributory retirement system “hurts deeply” the recruitment and retention efforts of the City.

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

Responding to questions from Chair Stewart, Mr. Mausser confirmed Provo City is the only entity in Utah County still on the contributory system. If the resolution was passed, the City would be required, according to the parity ordinance, to contribute an additional 9% to every employee’s retirement plan. One reason police officers contribute more than other employees is the 20-year retirement program for police vs. the 30-year retirement program for municipal employees. If passed, the proposal would become effective in July 2008. Mr. Mausser said there is a 6.2% out-of-pocket cost paid by municipal employees for Social Security which is not paid by police officers who have opted out of that system. The City pays the employer portion of Social Security for municipal employees and the employees pay 6.2% for their portion. This would go against the 9% considerations for the police out-of-pocket. Under parity, Mr. Mausser said that any employer contribution required would be 20.15%. If parity is done away with, there would be differing levels of employer requirements for the three retirement programs.

Mr. Borget said money to fund this action, assuming it begins in July 2008, would be considered during the budget process, and would be a “challenge.” Mr. Bushman felt that beginning January 1, new officers would start in this system; existing officers would have six months to opt into the program. Chair Stewart said there is a potential for funding out of the current year budget. The decision to opt in or out must be made by December 31, 2007, and, potentially, parity would come into effect at that time. Mr. Lindberg agreed the parity ordinance would become active immediately, but it could be changed with some cost associated until the change was made.

Ms. Clark asked why this came to the Council so late and felt it placed the Council “in a bind.” Responding to questions, Mr. Mausser said this change was not made during previous opportunity windows because of the financial implications and employee perception that one group would be treated better than others. He said the Employee Association strongly supported the parity ordinance in the past because it insured that all plans are treated equally.

Ms. Dayton felt there would be an option to continue addressing parity issues for employees outside of the public safety group. She said public safety is unique because officers put themselves “on the line” every day and it is difficult to maintain adequate staffing levels in police departments nationally. The cost of retirement needs to be addressed if it is creating a barrier to fully staffing the police force. She expressed appreciation for other City employees. Mr. Mausser warned that whatever is done “will have unintended consequences” and financial implications. He felt other ways, i.e., compensation, could offset this cost to keep Provo competitive.

Responding to Mr. Turley, Mr. Mausser said it is not typical for cities to have a parity ordinance. Ways to compensate for the out-of-pocket costs could be paying 5-8% above the market salary, or providing other

incentive or differential pay in direct compensation. He said the Human Resources Department evaluates the market each year to determine salary competitiveness and then make recommendations during the budget for any needed adjustments to attract and retain quality employees. He commented that other issues have contributed to the delay in filling police officer positions.

Ms. Johnson felt, with a population of around 116,000 residents, Provo should have 116 officers. Provo should be the “premier” city for attracting and retaining good employees. As she studied the comparisons provided, she concluded the police pay 3.9% more, given all factors. The officers received a raise to help offset that expense. She felt parity did not exist when they have to \$4,000 for the benefit. In the comparison, she noted that Orem does not have sick leave buyout or bonuses, which need to be included in the “whole picture” of benefits. Mr. Bean said an additional compensation to offset the out-of-pocket expenses would be acceptable, but would need to be constantly reviewed. A “permanent fix” would be to have society pay the costs for police officer service.

Ms. Dayton said Provo is down about 20 officers from the national standard and will see a rise in crime and other issues that could be addressed now by making compensation commensurate with the job, either through a contributory or non contributory system. She felt salaries should be raised if the City stays with the contributory system, and, if a noncontributory system is chosen, then parity for the whole group should be addressed.

Mayor Billings complimented the officers for the dignified manner in which they presented their concerns and ultimately conduct their work. First, whatever is decided, the City must be able to afford it through all economic cycles. Second, it is important to balance the “feeling” of equity as well as the “reality” of equity. He said other cities have unions that pursue individual interests of employee groups. He said the number of Provo officers has been growing and there are also 26 full-time officers at BYU who help to cover the Provo population. He felt the City was not prepared to “wholesale adopt” a change from one plan to the other, and cautioned against a change that could disrupt the sense of equity balance to all employees. He supported a commitment to evaluate alternatives during budget discussions.

Chair Stewart moved to elect to have Provo City become a participating employer in the public safety noncontributory retirement system, an action seconded by Council Member Dayton. He felt this is the best way to address the issue because addressing it on salary would result in the same market parity issue and employees would pay taxes on any increased salary necessitating a \$600 increase to cover the \$400 monthly expense. This issue came to the Council so late that it could not be addressed in the budget process. He felt making this change would make Provo more competitive in this area. He supported also addressing the parity issue. He believed the issue is a 3% issue and not a 9% issue. He felt other employees would be sensitive enough to understand this change for the police officers.

Ms. Johnson and Ms. Clark expressed support for the change.

Ms. Richards said it is “persuasive” that Provo is the last large city to make this change and needs to attract and retain men and women of the caliber on the current force to address crime prevention in her “high crime” district. Crime prevention is one of the top two things needed to attract and retain long term residents and keep sustainable downtown neighborhoods.

Mr. Turley supported the motion and said rather than “doing more with less,” perhaps the City could “do more with more.”

Mayor Billings clarified that, after making this change, the Council plans to review the parity ordinance after the first of the year with no intent to implement the full \$2.9 million, across-the-board cost to all parties. The change would apply only the police department. Chair Stewart agreed that was his intent.

At the invitation of Mayor Billings, Mr. Parker said under the contributory system, there is no required percentage to be paid by the employee, and the employer can choose to pay any portion of the employees contribution. He clarified that the Council would not have to opt out of the noncontributory system to solve the retirement issue with police, but could opt to pay a portion of the 9% employee contribution. A decision tonight to go with the noncontributory system also makes the decision to either raise the General Fund budget by \$2.9 million a year to honor parity or to do something different with parity. He noted that employees are paying an additional 6.2% for Social Security which officers do not pay. Reducing the officer out-of-pocket expenses to the Social Security level would lower that expense to 6.2% which is a lower cost option that protects parity.

Mr. Turley proposed holding another meeting before December 31 to further discuss this issue and avoid any unintended consequences. Chair Stewart felt that changing the parity ordinance would result in “no consequences” and supported moving forward.

Gray Bushman, Assistant Human Resources Director, addressed the calculations of contributory vs. noncontributory. Leaving parity as it is and requiring a raise to all employees by 9.69%, the cost would be about \$2.9 million. There is 3.49% difference between what police officers pay out of pocket for retirement and what municipal employees pay for Social Security. The cost of this approach would be about \$1.07 million, is similar to what 10 other police agencies across the state pay in the FICA system, and would result in raising all employees 3.49% to keep parity. Police officers would stay in the same retirement system which will increase the 401K to municipal employees and firefighters and decrease the out-of-pocket cost to police officers.

Mr. Parker reiterated that the option of dealing with the 6.2% is not possible under the public safety noncontributory system, because a contribution cannot be asked of employees under that system. If the vote is to go to the noncontributory system, the option is closed to request any contribution of police officers, which, if nothing else is done with parity, would raise the whole compensation system by 9%.

Ms. Dayton supported moving forward and dealing with parity at a later date because she couldn't support the \$3 million cost of the change without the change to parity. Other cities have made this change and Provo should do the same.

The motion to adopt the following resolution passed 7:0.

#### **RESOLUTION 2007-116**

#### **A RESOLUTION ELECTING TO HAVE PROVO CITY BECOME A PARTICIPATING EMPLOYER IN THE PUBLIC SAFETY NONCONTRIBUTORY RETIREMENT SYSTEM.**

*E. A resolution adding approximately 51.65 acres of real property located generally at 1860 South 380 East, Provo, Utah to the surplus property list and authorizing the Mayor to sell the property to Southgate, L.L.C. subject to certain conditions.*

Chair Stewart introduced the resolution and invited Leland Gamette, Economic Development Department Director, to comment. He said the proposal would surplus 51+ acres to build the Southgate Center on the Provo Municipal Golf Course. Responding to Ms. Dayton, Mr. Gamette said the compensation for the property is covered in the contract and will be determined at fair market value. The dollar figure will be established within 90 days of the signing of the contract. This process furthers the transaction of selling the property, but does not consummate the transaction. Terms and costs will be presented later.

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

**RESOLUTION 2007-117**

**A RESOLUTION ADDING APPROXIMATELY 51.65 ACRES OF REAL PROPERTY LOCATED GENERALLY AT 1860 SOUTH 380 EAST, PROVO, UTAH TO THE SURPLUS PROPERTY LIST AND AUTHORIZING THE MAYOR TO SELL THE PROPERTY TO SOUTHGATE, L.L.C. SUBJECT TO CERTAIN CONDITIONS.**

***F. A public hearing to consider a resolution appropriating \$300,000 in the Water Capital Improvement Fund for system improvement expenses and applying to the fiscal year ending June 30, 2008.***

Chair Stewart introduced the resolution and invited Merrill Bingham, Public Works Director, to comment. He said the department has expended the money budgeted for water distribution system improvements primarily because of a project on South State Street between 300 and 900 South that was completed at the time UDOT did the overlay of that area. Without additional appropriations, no water line replacement projects planned for spring will be done. The current fiscal year fund balance is about \$2.3 million.

There was no response to the invitation for public comment.

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

**RESOLUTION 2007-118**

**A RESOLUTION APPROPRIATING \$300,000 IN THE WATER CAPITAL IMPROVEMENT FUND FOR SYSTEM IMPROVEMENT EXPENSES AND APPLYING TO THE FISCAL YEAR ENDING JUNE 30, 2008.**

***G. A public hearing to consider a resolution transferring \$542,428 into the Economic/Community Development Investment Land Fund for future projects and applying to the fiscal year ending June 30, 2008.***

Chair Stewart introduced the resolution and invited John Borget, Finance Director, to comment. He said, as a result of strong revenues and money saved in departmental budgets, the Fund Balance exceeds the 18% allowed by law. The transfer of the \$542,428 will bring the balance back within the allowable percentage. The recommendation is to transfer the money to the Economic/Community Development Investment Land Fund to be appropriated by the Council at a future date for proposed projects.

Ms. Dayton expressed concern with the inclusion of the Council Remodel/Seismic project in the memo documenting the use of funds. She understood the funding for the Council remodel project was in place and the seismic project was in addition to that. She would like those two projects separated and the Council remodel project removed.

There was no response to the invitation for public comment.

Responding to Ms. Dayton, Mr. Borget said the fiscal year 2008 budget recommended \$750,000 be placed in the Land Fund, but was contingent upon receiving adequate sales tax revenue. The actual transfer will take place in the spring. Three months of sales tax revenues in the current years reflect about 5% above budget. If that continues, the transfer of the \$750,000 will take place, plus the \$542,428, for a total of about \$1.2 million.

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

**RESOLUTION 2007-119**

**A RESOLUTION TRANSFERRING \$542,428 INTO THE ECONOMIC/COMMUNITY DEVELOPMENT INVESTMENT LAND FUND FOR FUTURE PROJECTS AND APPLYING TO THE FISCAL YEAR ENDING JUNE 30, 2008.**

*H. An ordinance amending Sections 1.03.010 (Punishment for Criminal Violations), 8.02.150 (Loss of Privilege to Maintain an Animal in City), 9.01.090 (Gifts–Acceptance of–Penalty), 9.17.020 (Position of Civil Violations Hearing Examiner Created– Power and Duties), 9.17.090 (Civil Appeals), and 9.17.100 (Criminal Violation) of the Provo City Code to change references from Circuit Court and District Court to Justice Court; to adopt a fine/bail schedule for the Provo City Justice Court; and to make other technical corrections.*

Mr. Borget said these changes deal with changing language from circuit and district courts to language for Provo’s Justice Court, and adds the fine/bail schedule.

There was no response to the invitation for public comment.

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

**ORDINANCE 2007-50**

**AN ORDINANCE AMENDING SECTIONS 1.03.010 (PUNISHMENT FOR CRIMINAL VIOLATIONS), 8.02.150 (LOSS OF PRIVILEGE TO MAINTAIN AN ANIMAL IN CITY), 9.01.090 (GIFTS–ACCEPTANCE OF–PENALTY), 9.17.020 (POSITION OF CIVIL VIOLATIONS HEARING EXAMINER CREATED– POWER AND DUTIES), 9.17.090 (CIVIL APPEALS), AND 9.17.100 (CRIMINAL VIOLATION) OF THE PROVO CITY CODE TO CHANGE REFERENCES FROM CIRCUIT COURT AND DISTRICT COURT TO JUSTICE COURT; TO ADOPT A FINE/BAIL SCHEDULE FOR THE PROVO CITY JUSTICE COURT; AND TO MAKE OTHER TECHNICAL CORRECTIONS.**

I. Land Use

*11. A public hearing to consider an ordinance changing the zone classification of up to 34 acres of real property located generally at 1560 South 600 West from A1.5 (Agricultural) to R1.10 (One Family Residential). Lakewood Neighborhood. 07-0006 R. Continued from December 4, 2007.*

Council Member Richards conducted the Land Use portion of the agenda. She introduced the ordinance and invited Eric Bawdin, representative for Anderson Development, to comment. He said the applicant is requesting a continuance as there are still some “open issues” to be addressed. The continuance request would be until such time as the applicant requests the item to be placed on the agenda.

Council Member Richards moved to continue the item to March 18, 2008, or earlier if requested by the applicant, subject to notice. The motion was seconded by Council Member Dayton and approved 6:0 with Council Member Clark excused.

*12. A public hearing to consider an ordinance enacting section 14.34.355 (Portable Storage Containers) of the Provo City Code to regulate the placement and length of stay for portable storage containers in all zones. City wide impact. 07-0004 OA.*

Ms. Richards invited Gary McGinn, Community Development Director, to comment on this ordinance. He asked that the item be approved with no more discussion, or, as the applicant, he would withdraw the application.

Responding to Mr. Turley regarding the removal of the agricultural zone from the requirement, Mr. McGinn said the only thing this ordinance does that is not already in other ordinances, is the 30-day time. Other ordinances do not allow the 30-day use of the containers. This ordinance does not apply to a storage container in an area where storage is allowed. He emphasized that this ordinance does not do anything that the ordinances don't already allow.

There was no response to the invitation for public comment.

Mr. Parker and Mr. Lindberg commented on a small modification to the ordinance for clarity, removing "30 days" from line 51 of the ordinance.

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

**ORDINANCE 2007-51**

**AN ORDINANCE ENACTING SECTION 14.34.355 (PORTABLE STORAGE CONTAINERS) OF THE PROVO CITY CODE TO REGULATE THE PLACEMENT AND LENGTH OF STAY FOR PORTABLE STORAGE CONTAINERS IN ALL ZONES. CITY WIDE IMPACT. 07-0004 OA.**

***J. A resolution adopting a Municipal Council Meeting schedule for calendar year 2008.***

Chair Stewart introduced the resolution and invited Terry Ann Harward, Council Executive Director, to comment. There were no questions, concerns or comments for Ms. Harward.

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

**RESOLUTION 2007-120**

***A resolution adopting a Municipal Council Meeting schedule for calendar year 2008.***

Council Member Turley moved to adjourn, an action seconded by Council Member Johnson and approved 6:0 with Council Member Clark excused. The meeting adjourned at 10:42 p.m.