

PROCEEDINGS OF THE MUNICIPAL COUNCIL MEETING FEBRUARY 5, 2008

**THE MUNICIPAL COUNCIL MET AS A COUNCIL OF THE WHOLE ON FEBRUARY 5, 2008
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 Turley
Council Member Cynthia R. Dayton	Council Member Cynthia J. Clark
Council Member Midge Johnson	Council Member Sherrie Hall Everett
Council Member Cindy L. Richards	Wayne Parker, CAO
Terry Ann Harward, Council Executive Director	Neil A. Lindberg, Council Attorney
LaNice Groesbeck, City Recorder	

CONDUCTING: Chair Cindy Richards

OPENING CEREMONIES:

INVOCATION: Jose' Saens

PLEDGE OF ALLEGIANCE: Hamish Sharik

APPROVAL OF MINUTES

Council Member Dayton moved to adopt the Council Meeting minutes of January 22, 2008 as written, an action seconded by Council Member Hall Everett and approved 5:0 with Council Member Johnson abstaining and Council Member Turley excused.

QUESTIONS FOR THE MAYOR AND COUNCIL

Melanie McCoard, Provo, asked about her request to receive the new real estate disclosure form. She will visit with Mr. Lindberg on this issue. She requested the weekend incident crime reports be provided by neighborhood to neighborhoods chairs. She said there has been a number of "Croff Reports," wondered if the Council has received the 2nd one, and felt it was time to do another "Croff Report." At the request of the Mayor, she wrote down the issues she felt the Council needed to address that she raised during the campaign, which she distributed. She would like to be on the agenda to discuss some of these items.

Charles Mcklwee, Provo, asked for the Council's help in ways to help the student population not be an "exploited group." He felt students would obey the rules and ordinances of Provo City if they were aware of them and suggested something from the City to be given to new students by BYU warning them of possible student problems. Chair Richards suggested a "student info sheet." He said much of Provo's traffic problem comes from large complexes built that don't provide any street infrastructure. He said BYU recently sent out letters to BYU-approved rentals not in compliance with renting standards which will "displace" some students, and the City is allowing 1000 more people to come to the area without addressing the traffic concern. Chair Richards commented that a traffic study accompanies each proposed project that recommends street improvements and parking requirements.

Ted Tronson, Grandview North Neighborhood Chair, and also representing Kay Van Buren of Grandview South Neighborhood, said these neighborhoods are concerned about the proposal for freeway access from

Grandview Hill. He asked what position the Council and Administration are taking on this issue to officials seeking their input. The neighborhood wants to eliminate additional traffic in the neighborhood, if possible. He quoted from a resolution passed about seven years ago stating, “the Municipal Council of Provo City hereby declares its intent to oppose a freeway interchange on or about 1740 North and I-15.” The proposal was unanimously accepted by the Council as a proposal that would not go forward. He also presented a letter from the Mayor stating the City would not pursue “any accesses or increases of traffic” in that area. The neighborhood is concerned that Provo may be in support of the new frontage road system, which would add traffic to 1740 North, 620 North and 2000 North. He suggested an on-going effort to keep the neighborhood and the City informed on this issue. His website www.grandviewhill.com is a way to keep the neighborhood informed.

Shannon Swanson, Provo, Grandview Hill, explained why the proposed frontage road system is a threat to the Grandview Neighborhoods. She felt it makes as much sense to maintain existing residential neighborhoods as it does to spend time and resources revitalizing older neighborhoods. She said many travelers do not recognize 1730 North as a residential road and the proposed frontage road system would add 3000+ cars a day to existing traffic. Any increase, she felt, was unacceptable because of the 13 cul-de-sacs off 1730 North which have no other exit than to 1730 North. In her cul-de-sac alone there are five houses with 19 children. The other cul-de-sacs are similar and have many children of elementary school age. She felt the frontage road traffic increase would make 1730 North dangerous for children and would “ruin the safety and serenity of the neighborhood.”

Lindsay Wiblin, Carterville Neighborhood Chair, asked Chair Richards to speak directly into the microphone as it is often difficult to hear her.

PRESENTATIONS, PROCLAMATIONS AND AWARDS.

White Ribbon Against Pornography. Mayor Billings invited Cindy Moreno, representative of Communities for Decency, to come forward to receive the proclamation declaring February 2008 as *White Ribbon Against Pornography* month. The proclamation said a study of 600 American males and females, junior high school age and above, showed 91% of males and 82% of females admitted to exposure to X-rated, hard core pornography. While pornography is addictive, as are drugs, drugs can be eliminated from the system while a pornographic image is “left in the brain forever.” Many parents are unaware of how easily accessible pornography is, and the organization attempts to educate, inform and enhance awareness of the devastating impacts of pornography on the family and communities as a whole. Ms. Moreno expressed appreciation to the Administration and Council for this proclamation and for joining with Governor Huntsman and other Utah cities in an effort to address pornography and its influence on Utah’s youth.

ACTION AGENDA

A. A public hearing on an ordinance enacting Chapter 9.85 (North Joaquin Permit Parking Area) of the Provo City Code to establish a permit parking area in the Joaquin Neighborhood.

Chair Richards introduced the ordinance and invited Mr. Stewart to present the item. He gave the benefits he sees as a result of the parking permit program. First, it would clarify the contractual agreements between landlords and students by specifying the exact number of parking spots available for students with cars. Second, it meets the area future objectives as outlined in the South Campus Area Master Plan (SCAMP), which are to create high-quality, full service student villages adjacent to BYU campus, which includes housing for 4,000-5,000 students, retail services, open space recreation to accommodate students and reduce demand on surrounding neighborhoods. (Joaquin Village meets every criterion listed here). He said the reason the City began looking at parking permit programs is because, as a part of the development agreement for Joaquin Village, the City said there would be such a program in that area. Also, Joaquin Village cannot have occupancy of the complex until that happens. Additional SCAMP objectives are to utilize creative parking solutions to reduce the expected

demands for automobile parking, strive to meet proposed residential livability street standards for the area, and reduce conversion of single family areas near the SCAMP are to de facto student housing. He added that inadequate parking does not promote a livable environment, and the permit program will encourage redevelopment in the area. Transportation for those in the area without a car is a concern. He didn't see anything negative associated with the proposal. He reviewed the proposal as follows: parking on the street by permit from 1:00 a.m. to 6:00 a.m., implemented September 1, 2009 to give time for any proposal amendments and will go through April 30, unregulated parking during the Thanksgiving and Christmas holidays and graduation day, and, at this time, no regulations during the day.

Neighborhood Chair comments were invited. Kurt Peterson, Joaquin Neighborhood Co-Chair, said this system has been long in coming and will assist in regulating the occupancy and the Rental Dwelling License (RDL) within the North Joaquin area. This neighborhood houses about 11,000 residents, which places "quite a burden on our streets." Past projects were approved with an appropriate parking ratio for the time, which is much lower than the needed parking ratio today as nearly 85% of BYU students have cars. He felt now is the time to "clean up the mess," that there was no way to "equalize" required parking without a parking permit program, and there was no way to enforce the parking provided by landlords. He felt many in the neighborhood oppose the program because they believe it imposes on their personal "right to park." However, there is no such thing as a "right to park" in the US Constitution. Cities must regulate, clean and maintain city streets. He said the Council agreed to Joaquin Village with a particular parking ratio and, if that doesn't happen, overflow parking will extend into South Joaquin which is more residential. While this was not "beautiful," he felt it was "necessary" to most permanent neighborhood residents.

Public comment was invited. Joe Brockbank, North Joaquin resident for 18 years, said he loves this neighborhood and the student neighbors. Because he has had 18 years of parking frustrations, he was very excited about the parking permit program. However, after studying the proposal, he felt it will not solve the problem. He visited with residents east of 900 East where a parking program currently exists who are very upset about the existing program. He opposed the proposal and said it would not make his neighborhood safer because it would not reduce by one car the number of cars parked on his street. He doesn't want the parking signs in his neighborhood, and doesn't want his friends and family to pay to park when they come to stay. Enforcement in the winter will be difficult. He said this is an "emotional ordinance," and, setting that and the frustration aside and looking at facts, he felt the ordinance will not solve any existing parking problems.

Eric Callison, Salem resident currently living in Provo, received data from BYU Off-Campus Housing that indicated only 290 vacant beds out of 24,171 possible beds for a 98.8% student occupancy rate for BYU approved housing. If this program is effective and occupancy levels are reduced, there is nowhere else for the students to go to find housing. He said many students have no choice as to whether or not to have a car. He felt this is a "superficial solution to a fundamental problem." While he can support parking regulations, he felt students don't have any leverage or choice in this matter, and are forced to over occupy units in order to live in BYU approved housing. Mr. Stewart said Joaquin Village will add another 950 beds to the area and an additional 700 parking spaces to give students more options.

Kyle Robe, Provo, lives in the 900 East area where the parking permit program is already in effect. He said there are just as many cars on the street as there were prior to the system and the problem has not been solved. People in Highland Park are no longer parking on their street, but are parking on surrounding streets causing problems in the areas south and east of the program area. He felt parking was more of a concern during the day because of commuters. He felt parking structures were the only way to solve the problem, and suggested communicating with BYU to help provide the additional parking.

Justin Hicken, student from southern California, simply said, since this was the third meeting in which he addressed this issue, he opposed the proposal. He noted, in the past few meetings, all students and landlords

have spoken against the proposal. He hoped that would “be enough” to let the Council Members know how to vote on this issue.

Debbi Bishop, Orem resident and property manager of units that house about 1000 students in the North Joaquin Neighborhood, said, in their 20 years of business, they have not had one student complain of no place to park, especially at night. She felt the promises made to Joaquin Villages are creating this negative impact on everyone else. Using 200 East from 800 North to 600 North as an example, she said there is only one home on the street. She wondered when they would know how many spaces will be given to renters. She believed students will continue to bring cars for work transportation, etc. and will not be able to rent in this “prime district,” leaving empty beds in this area. She did not believe the area is over occupied, and, if it is, the zoning department should enforce existing laws. She said this proposal punishes the landlords, who are the “#1 homeowners in this area.”

Melanie McCoard, Provo, applauded the Council for having the courage to address this long standing problem. Her main concern was that the major impact falls on students and not equally on other players. The responsibility for solving the problem needs to be somehow “put on the shoulders” of the property managers, homeowner’s associations and landlords. She encouraged students to discuss these complaints with property managers who should address the issue. She hoped this would be only the first step in a series of needed changes. She agreed a “student info sheet” is needed, but should come from the property managers or HOAs and not the City. Additional steps need to be taken to place the burden for adequate parking where it belongs.

Michelle Bushman, Provo, said she appreciated the efforts to resolve this issue, but objected to students being “forcibly deputized” to enforce City laws. The City should be able to enforce the existing laws for parking requirements. Students should not carry the “brunt” of the problem created by past city councils. She encouraged waiting until a better solution is found, and, if approved, continuing to listen to those in this area and amend the program if needed.

Ernie Muirhead, Carterville Neighborhood, grew up in the Joaquin neighborhood and was familiar with parking issues. He said property taxes are 1.24% of the value of the property and, when an additional tax overlay is applied to certain areas, it puts an additional tax on students and landlords. He felt this was not equitable. Another problem is the program doesn’t address that 700 North is a collector and the number of parking spaces available based on the amount of frontage. He felt BYU should help address this problem by taking the large parking lot at 800 North and 200-300 East, purchasing adjacent properties and developing a parking structure.

Dan Bishop, Orem, said his property management company tends to err on the side of students and not the landlords. He felt it would be better to leave the parking as is and let the students and landlords regulate themselves. If the parking program passes, he made the following points: 1) there appears to be a discrepancy in the number of students, anywhere between 6,000 to 11,000, and the available parking spaces, where he felt there would only be 930-950 parking spots, not the 1200 stated. 2) Don’t sell 110% of the spots, but only sell the actual spots available. He was concerned there would be many students with cars who will not have a place to reside.

Talemo Toriaba, BYU student from Detroit, drives his car to get to school and is aware of the parking problems south of campus. He felt students would not be able to push the requirement for parking back on the landlords. He would rather pay the fines, if small enough. If not, he would “probably park just outside the law” and walk. He said his current landlord would probably not make accommodations for his car.

Dorothy Larsen, area property owner, was concerned the property value of her home directly across from Joaquin Village would go down. She suggested reducing the number of students with cars to the number of parking spaces available for any unit. She didn’t think it should be the responsibility of the residents to “fight the City and the law.” She was concerned about program enforcement costs. She said any new apartment complexes should provide adequate parking or limit the number of apartments.

Dave Bell, Provo, made the following points: 1) based on .62 parking ratio approved for Joaquin Village, which will require a parking program for other streets, he said there will only be an additional 400-500 parking spots for about 900 students. 2) He said the 1:00 a.m. to 6:00 a.m. parking regulations will not help those coming home at 7:00 p.m. looking for a parking spot. Commuter parking needs to be regulated during the day. 3) Offering on-street parking permits will provide an additional revenue stream for the owners as they sell them to the tenant. 4) A family renting a home should have the same opportunity for two free permits as an owner occupied home. He suggested basing the number of free permits on the type of dwelling unit, i.e., single family, condo, etc.

Andrea Ellison, Provo, said her complex has 24 units and only 22 parking spots, and she often parks blocks away from her apartment. She felt eliminating students with cars is “wrong” because working students need their car. A better solution is needed and she suggested revising the area for the permits because, in this area, there are many smaller complexes built long ago that don’t have adequate parking for today’s student. She supported a multi-level parking structure or allowing BYU’s parking lots to accommodate parking at all times during the day and not just when people are at school.

John Payne, Provo, believed the ordinance was “flawed” from the beginning, and the premise on which the ordinance is proposed is unfair. He wondered why Joaquin Village got a “light parking requirement” when long-time landlords are required to provide parking at a 1:1 ratio for a Rental Dwelling License for “all vehicles operated from the premises.” He has met that requirement at a “great price.” The development of this project will impact the neighborhood because they are not required to provide adequate parking for residents and visitors. He said this places a burden to enforce the new ordinance on the “law abiding, tax paying, compliant, licensed and cooperative property owners” to monitor, enforce and boot/tow those who don’t have a permit and park in his parking. He said, because the spots have been over subscribed, there are more permits than available parking, and that is unfair, and is created by the Council. He said there would not be a problem if the City would enforce the parking requirements of the Rental Dwelling License. He also felt there is no parking problem between 1:00 a.m. and 6:00 a.m., but the problem is more a commuter parking during the day. If passed, he will need to hire a service to monitor his parking lots between 1:00 and 6:00 a.m.

Charles Mcklwee, Provo, thanked Mr. Stewart for stating the reason for the permit program was to build Joaquin Village. He said this program will cause people to move and create a higher demand. To encourage redevelopment will encourage those who live in homes to move out and sell their home for larger complexes. He wondered if the same .62 parking will be given to others as was given to Joaquin Village or if 1:1 parking will be required. It would be difficult for his family to purchase a home for family members attending school if a developer wants to purchase the property for a larger complex. He felt this would be a law implemented to enforce laws the City already can’t enforce.

Julie Cahoon, North Joaquin student resident, felt there would still be a parking problem while SCAMP is “being built.” She said commuter cars line 800 North at 8:00 a.m. and that is when the problem exists. She disagreed with the parking permit because it would “add another stress on students” who don’t initially think about this when coming to school. Responding to Ms. Richards, Ms. Cahoon said her name is on a waiting list for a parking permit at her complex. Overnight she said there is no problem. If she didn’t have a complex parking permit, she would park on the street.

Jacob Lybbert, Provo student resident, felt this issue is one of “fundamental property rights.” The net result of this regulation, he felt, would be to limit the property rights of owners in the area. As it addresses the off-street parking, it will add to the cost of the landlords and the tenant. He felt the intent of this ordinance was similar to a case where townships could claim property and “turn it over to developers that would earn more money from it.” It is, however, cloaked in the parking issue when the net results are to increase the regulation, increase cost to landlords, and give preference to owner occupants which violates the property rights of any new owners or renters

Kurt Peterson said there are hundreds of UVSC students and Hispanic families who also rent in this area who are not reflected in the BYU vacancy rates. Many units are not in the BYU approved system and so rent to UVSC students. He said the permanent residents of South Joaquin need this protection because “they are tired of being the parking lot for North Joaquin.” He encouraged 2-hour or permit parking during the day for commuters, and regulating street parking between 8:00 a.m. to 3:00 p.m., perhaps longer. He supported BYU providing more parking or the use of a shuttle program.

The public hearing was closed.

Ms. Clark said the parking permit program over 900 East is “becoming a very successful thing” for the long term residents. When regulating commuter parking was previously discussed, the meeting was packed with students who were “irate” about that option. The proposal was tweaked to regulate only during the night and now the Council is told the problem is during the day. She felt the daytime commuter problem needs to be addressed. The missing link in this discussion is a BYU representative. While she was not completely happy with the proposal, it is an ongoing process for study and review.

Ms. Johnson questioned whether the proposal really addresses the reasons the Council initially considered for a parking permit program. Safety was stated as an issue and no data has been presented indicating female students are at high risk. Landlords believe a big part of the problem is commuter parking. She suggested revisiting the Joaquin Village proposal before imposing this on someone else. She felt the Council needs to clarify their objectives and policies and then make strategies that address those. She was not prepared to vote in favor of the proposal.

Ms. Dayton said, in discussions with students and others since the last meeting, she observed several things. First, perhaps 110% is the wrong ratio and the program should start with 100% of permits. Also, parking doesn't seem to be difficult at night, but the real concern is daytime parking with commuter parking. She said she would only consider adopting this ordinance if daytime regulations were addressed in the next six months. Perhaps 3:00 p.m. to 1:00 a.m. could be free parking for visitors, etc. She also addressed the need for a shuttle service. She was not concerned about who “picked up the bill for that” since BYU provides services for Provo for employment, etc. Students have expressed interest in bus travel when space is available and would welcome a shuttle service. The proposal should include a timely revisit of the ordinance for daytime regulations and serious consideration of a full-service shuttle.

Council Member Stewart moved to adopt the ordinance, with the understanding of a timely review of the ordinance, with an amendment to change the effective date to September 1, 2009 rather than September 1, 2008. The motion was seconded by Council Member Hall Everett. To answer some of the questions raised, she said it is very expensive to build and operate parking structures, the structure would need to be built as a private enterprise, and would not be a viable option. Second, parking permits are the norm in college towns across the country and students learn to manage the “stress” that creates. She agreed a parking program is needed for many reasons and felt this was a good step. She supported addressing the commuter element and continued refinement of the program.

Mr. Stewart said his motion would amend line 210 to the year 2010, an amendment accepted by Ms. Hall Everett who seconded the original motion.

Ms. Johnson said she is not opposed to a parking permit program, but is against adopting one before the policy is defined clearly. She didn't see a reason to “rush into something that is not quite right.”

Ms. Richards said Joaquin Village is the only applicant that provided in their Development Agreement 24/7 onsite management and the assignment of a specified parking spot to the student who purchases it. Including the 58 visitor parking spots, the parking ration is 73.4%—not 62%. Joaquin Village also has a satellite parking

area. Those not having cars will pay a different rate than those with a car who want to buy a parking spot. Any change is worked into the remaining time of the contract. She said one way to enforce the Rental Dwelling License would be to red curb or meter the entire neighborhood. These options were deemed unacceptable. Regarding the property rights issue, she said the streets are public and the City needs to manage the public street asset. By laws, the City cannot bring in more money than what is required to fund the system. It seems to be a plus for property managers and owners to be able to buy additional permits for on-street parking. The fundamental idea of SCAMP is to have this area meet the needs of Provo City, the BYU community and the residents of North Joaquin. As a public policy issue representing Provo, she felt she was trying to solve the problem of having as many students live in this area as possible and manage the parking issue so tenants are not "out competed" by those who don't have the priority to live there.

Mr. Turley agreed a parking permit program is needed, but not one without the right parameters, and at the right place and time. There is a need for a comprehensive plan with additional components like a shuttle, etc., which he felt were missing. The right place is the area south of the proposed neighborhood that needs to be preserved. He didn't believe students will leave their car home as a result of this program. He noted that SCAMP was not adopted, but was a theoretical discussion. Chair Richards said many of the principles are included in the General Plan. Mr. Turley felt parts of SCAMP are "cherry picked" but the comprehensive approach is missing. He said from the hundreds of voices he has heard on this issue, he could count on "one hand" the number of those in favor of the permit program, and some of those are council members. For the record, he was very concerned about point six of the executive summary regarding the allowed ratios, which he felt was fundamentally unfair and would leave the City exposed. He felt someone could challenge the permits based on ratio of those who have 100% of the needed parking who wouldn't qualify for extra permits and those who had 50% of the required parking and would qualify for additional permits. He said it has been argued that this program will reduce illegal occupancy, or enhance safety or create closer parking spaces, and he didn't see how that would happen. The commitment made to Joaquin Village was a parking program in the Joaquin area which doesn't have to be comprehensive, but could just be in impacted areas. He felt there was more than one solution to the problem and he didn't believe "this one is it."

Chair Richards called "question on the motion" and recommended that commuter parking and shuttle service be a regular item on the work session agenda starting immediately.

Mayor Billings said, if this proposal is approved, ongoing dialogue before the implementation in 2009 would be understood. He was concerned the private sector would use the public right-of-way for private profit, was concerned about disproportionate benefit, and was uncertain of the fees. Item #6 is a difficult criterion to administer and he would prefer a drastically simplified version. Street cleaning, snow removal and trash pickup become issues when the street is maxed out. It makes good sense to know what the parking capacity is in the area. If someone comes with a car, they should expect to either get a parking permit or should not expect to park. He said this is a living area and parking should not accommodate commuters, and 1:00 a.m. is too late for regulated parking. BYU has provided commuter parking in the proximate areas to campus and he would support a shuttle. He said there has been substantial progress in the effort to enhance the bus transit system in the City. If a contractual agreement is made, a .65 ratio has proven to be workable because it is clear as to how many spots are available. That is not currently clear in this area. He suggested that 2-hour metered parking might be considered for visitors.

Ms. Dayton suggested the motion be amended to a 100% sell out rather than 110%. Mr. Stewart, the maker of the motion, did not accept the amendment, but agreed to have that discussion later.

The vote to adopt the following ordinance passed 5:2 with Council Members Johnson and Turley opposed.

ORDINANCE 2008-06

AN ORDINANCE ENACTING CHAPTER 9.85 (NORTH JOAQUIN PERMIT PARKING AREA) OF THE PROVO CITY CODE TO ESTABLISH A PERMIT PARKING AREA IN THE JOAQUIN NEIGHBORHOOD.

B. A public hearing on a resolution approving the allocation of Community Development Block Grant Funds for Social Service Program Funding for the fiscal year ending June 30, 2009.

Chair Richards introduced the resolution and invited Paul Glauser, Redevelopment Agency Director, to comment. He said every year a process is followed to allocate funds granted through Community Development Block Grant (CDBG) program from the Department of Housing and Urban Development. The City allocates 15% of that grant for various social program agencies to serve low and moderate households in the central part of the City. A committee has been appointed from neighborhood chair representatives to recommend uses of the funds. Committee members have reviewed and evaluated the 20 applications received, visited the sites and heard presentations from each agency before making a recommendation of fund allocation. Members of the committee who were present were Tim Brough, Chair, and Lindsay Wiblin.

For the record, Chair Richards said the recommendations were made by the committee after meeting seven or eight times since November. The hearing addresses only the social services portion of the grant that comes through a grant from Washington, D.C. and not from the City general tax base. Mr. Glauser noted the actual dollar amount to constitute the 15% was unknown at the beginning of the process and was reduced from the anticipated amount when the appropriation was received in December.

Tim Brough, CDBG Committee chair, said adjustments are needed since the amount received was based on last year's allocation and has been reduced by 3.6%. Any adjustments would be done equally across the board. The total amount requested was \$423,245 and there is only \$252,936 to allocate. It is always a challenge to make the allocation. The committee member who visits the applicant becomes their advocate for how much money should be allocated.

Public comment was invited.

Kurt Peterson distributed "Thank You" cards from the Boys and Girls Club. He thanked the Council for dedicating the full 15% to the social service programs. This is a representation of the charity of the people of Provo and the City in recognizing there are times when other institutions "can frankly do it better."

Cheryl Adamson and Albert Christen, Provo residents and Recreation and Habilitation Services (RAH) thanked the committed for their work. Mr. Christen is a participant of the RAH program and thanked the Council for the money allocated to RAH.

David Solarsino, Provo, said this grant is part of what makes Provo great. He noted the increase in cub scout aged youth in the Joaquin neighborhood which is a result of the City efforts to revitalize the neighborhood and encourage owner occupancy.

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

Council Member Turley moved to adopt the following resolution as amended (change the dollar amount to \$252,936), an action seconded by Council Member Stewart and approved 7:0.

RESOLUTION 2008-13

A RESOLUTION APPROVING THE ALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR SOCIAL SERVICE PROGRAM FUNDING FOR THE FISCAL YEAR ENDING JUNE 30, 2009.

C. An ordinance amending Chapter 2.22 (Arts Council) of the Provo City Code to redefine the purposes of the Arts Council.

Chair Richards introduced the ordinance and invited Scott Henderson, Parks and Recreation Assistant Director, to comment. He said the proposed amendments reflect updates and adjustments to address recent changes in the arts facility and programs. One amendment recognizes the county-wide impact of the Covey Center for the Arts by allowing representation on the council by nonresident. Another outlines the procedure for the Mayor to appointment a member of the Council to be the chair. The purposes of the board were amended to delete the strategy for acquisition of the arts center. The last amendment changes the responsible department from Economic Development to the Parks and Recreation Department and shows the responsible staff member to serve as administrator to the Arts Council.

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 Johnson and approved 6:0 with Council Member Clark excused from the vote.

ORDINANCE 2008- 07

AN ORDINANCE AMENDING CHAPTER 2.22 (ARTS COUNCIL) OF THE PROVO CITY CODE TO REDEFINE THE PURPOSES OF THE ARTS COUNCIL.

D. A resolution amending the Provo City Consolidated Fee Schedule to include Engineering Department Fees.

Chair Richards introduced the resolution and invited comment from Mayor Billings. He said these fees, which were inadvertently omitted from the Consolidated Fee Schedule, need to be reinstated.

There was no response to invitation for public comment.

Council Member Stewart moved to adopt the following resolution, an action seconded by Council Member Hall Everett and approved 6:0 with Council Member Clark excused from the vote.

RESOLUTION 2008-14

A RESOLUTION AMENDING THE PROVO CITY CONSOLIDATED FEE SCHEDULE TO INCLUDE ENGINEERING DEPARTMENT FEES.

LAND USE

E1. A public hearing to consider an ordinance enacting Chapter 14.49D (Lakeview Fields Residential Housing Specific Development Plan) and amending Section 14.49.100 (Specific Development Plan Zones Adopted) of the Provo City Code. 01-00150A.

Chair Richards introduced the ordinance and said it is the city's intent to use Specific Development Plan Overlay Zones (SDP) to encourage efficient utilization of land, to develop a sense of community and to insure compatibility with surrounding neighborhoods and environment. The city also intends to provide land use and design standards tailored to a specific geographic area so that development outcomes are more predictable, provide

great compatibility, protect natural resources, avoid development on lands subject to natural hazards, and coordinate the development and design of properties including large scale facilities.

Gary McGinn, Community Development Director, gave a brief history of the project to this point and said the Planning Commission recommended the ordinance be amended and the zone changed to allow the applicant to go forward with final plans and work through that process to develop the property.

Responding to Mr. Turley, Mr. McGinn said a more comprehensive plan was submitted as a General Plan amendment which was adopted and is now part of the General Plan. As a result of that process, the road configuration was discussed with adjacent property owners. The plan now presents a proposal for future road and property development. This proposal is consistent with the General Plan as approved. This is the “first phase” of many future developments.

Ms. Hall Everett said early on this project include planning for property west of Geneva Road and the two SDPs were divided. It was originally a larger scale plan.

Responding to Mr. Turley, Mr. McGinn said the density is about 22 units per acre which is probably equivalent to an R3 or R4. This is a fairly dense project, but, while density is always important, also important is the function and design of the project as it operates overall. Having a higher density next to an R1.8 works in this location. There is no connection from the higher density portion of the project to the single family units. The higher density portion is a good buffer for the single family units from the traffic on Geneva Road. Mr. Turley thought this change in densities was “somewhat abrupt.” Mr. McGinn said there would also be enough units to form a good homeowner’s association to maintain the corridor and put multi-family units along Geneva Road.

Ms. Hall Everett felt it would be helpful to understand what is planned for development of property directly to the west. Mr. McGinn explained the General Plan contains a section of commercial which makes good sense. Other road projects are also planned in this area. Staff felt the proposed project is a sensible, logical first step and is good phasing and consistent with the goals and understanding of the General Plan. Mr. Turley said this abrupt change for high density to R1.8 is a new idea to consider, if the design and function work well.

Responding to Mayor Billings, Mr. McGinn said there was not a specific density number associated with the corner, but there was a discussion to not locate single family homes on the corner. He said this project would begin a pattern and set a precedent along Geneva Road that are connected to the unique circumstances and facts relating to the individual location. With the possible retail/commercial and other road projects, higher density here would make sense where it may not at another location on Geneva Road. One thing to deal with on Geneva Road is single family homes with back yards abutting Geneva Road, which could end up with “vinyl fence canyons” that are not attractive and present maintenance issues. Maintenance of the “fence canyon” along 2000 North is an issue and is addressed in the development agreement.

Dave Gardner, Gardner and Associates, property owner and developer, displayed a schematic of how the multi-family units would appear. The design reflects the history of a sugar beet factor in the area to create something as if the factory still existed but was remodeled into condominiums. The units are smaller and have large balconies that would appeal to empty nesters or single professionals, but not young families. The floor plans vary from 700 to 1300 square feet and will sell for around \$129,900. The plan may be reduced from 44 units to 36 units in order to provide adequate parking. The overall building size is about the same as the Jamestown Office Buildings. The large, old trees will be maintained, and the buildings will look like they belong. Responding to Ms. Dayton, Mr. Gardner said there is 30+% open space excluding the parking, there is about 60-70 feet between the buildings, and a fence will be placed between the multiple family and single family sections. Responding to Ms. Johnson, Mr. Gardner said the project is about 30 feet back from General Road on the closest end.

Responding to Ms. Dayton, Mr. Gardner said the R1.8 designation was selected because the developer committed to build a subdivision that was not “tract housing,” enabling them to sell the lots to builders for less money and requiring the building to put more style into the homes. The market seems to be for lots with more house and less yard. The square footage for the homes is larger than 1750. Regarding the lots abutting the railroad tracks, Mr. Gardner said there will not be parked trains at this area because it is not a likely location for a commuter rail stop. He didn’t think there would be a situation where “industrial trains” will be blocking the road. He said those closest to the track will feel the reverberation of the trains, but the houses will be built with bigger footings to mitigate any settling of ground as a result of the reverberation. The railroad will probably not rebuild tracks in this area that reduce shaking. Ms. Dayton was concerned about long-term sustainability of homes along the railroad. Chair Richards said those who live by a railroad track and a freeway say the freeway noise and reverberation is far more irritating than the train rumblings. The City boundary is at 2000 North which is also 2000 South in Orem, but has not been annexed and is still in the County.

Responding to Ms. Hall Everett regarding the “vinyl corridor” on 2000 North, Mr. Gardner said a staggered wood fence with masonry pillars will be used, not vinyl. The long-term maintenance of this area will be through a homeowner’s association with dues going to maintain the north side of the fence. The plan for the single family homes is to do side entry garaged with a shared driveway as much as possible (about 80%). He described the floor plans and interiors of the proposed multi-family units. The ground water is low enough that basements can be allowed on this side of Geneva Road. Ms. Hall Everett said, since there are about 10 lots where basements may not be possible, the square footage has been increased for those lots to compensate.

Neighborhood input was invited. Don Allphin, Lakeview North Neighborhood Co-Chair, said four neighborhood meetings have been held. Addressing the rail road issue, family members who live in Whisperwood said the majority of those who live there don’t realize the train is there and the reverberations don’t seem to be a factor. He gave the responses to the project by the neighborhood at the different neighborhood meetings. There is a concern with the roadway. The 2000 North intersection is supposed by a 90-degree road. The developer purchased one home to facilitate that intersection at Geneva Road. Beyond that is the Don and Vonda Barr property. If the intersection is to be squared at 90 degrees, any future road would go through the Barr’s home. While the neighborhood supports the proposed project, they don’t want the Barr’s to lose their home. Even though a road to the west is not immediate, alternative locations were presented. (Maps of alternatives are included in the Council Packet on file at the Office of the City Recorder) Alternative A would go north and west of the Barr home. The neighbors proposed an alternative which, he felt, significantly changed the project. The developer has worked well with the issues raised by the neighborhood, which supports the proposal, but with reservations on road configuration.

Mayor Billings said the flow efficiency is reduced with roads that don’t have a “true” 90 degree intersection. However, the home in that location makes it difficult to build the road with that type of an intersection. He explained the discussion held with Orem regarding 2000 North/2000 South. Provo will have “pavement responsibility” to the north curb and Orem will take the pavement from the curb with their own utilities in the street. It is felt that a continuous corridor on that street is needed approaching Geneva Road. Responding to Ms. Dayton, the Mayor said the Engineers don’t like “Alternative A” and prefer the “As Planned” option for more traffic flow efficiency. Regarding the time frame for the road, Mayor Billings said there is huge support for that road as part of the solution for the Geneva Road corridor. The collector distributor along the freeway is a part of the system to make it work. Development proposals to the west will drive the timing of the road.

Mr. McGinn said, while the property in this area is private and, if the owners don’t want to develop, it won’t develop, there will likely be continual pressure to develop in the area. The proposed project could be developed without the link, but any future development would require a resolution of the road issue. Staff perspective is to have the 90-degree angle. UDOT would determine what efforts could be made to mitigate the intersection without removing the home.

Responding to Ms. Dayton, Mr. Lindberg said, if the Council approved a design other than the 90-degree angle intersection and UDOT did not approve the design, that would constitute a “material change” to the design and the project would come back to the Council for consideration, as stated in the Development Agreement. Mr. McGinn agreed.

Public comment was invited.

Don Barr, Provo Lakeview resident since 1972, said he raised his family in the home at issue with the “As Planned” road configuration. He said development will occur as farmers and dairymen tire of farming and put their properties up for sale. A general statement has been made that development will not be forced on property owners. However, on the Saturday before Christmas he was concerned as he became aware that the preferred road configuration was through his house. He and his neighbors west of Geneva Road do not currently want to develop. He has dealt with traffic on Geneva Road for years and he said he could deal with another road, unless it goes through his house, which is not for sale. Any legal action to take the house from him would be met with resistance. Chair Richards said this proposed development doesn’t make the road go through his house unless that specific road configuration is adopted. Mr. Barr hoped there would be enough space for parking for 88 cars for the 44 units. His concern is with the road and not the development. He suggested an alternative using the field to the south of his property.

Responding to Mr. Turley, Mayor Billings said he didn’t know what uses are considered for the Orem property, but possibly the jurisdictional boundary between Provo and Orem could be redesigned to accommodate Alternative B. However, Alternative B would require some substantial changes to the development. Mr. Barr said the only problem with “Alternative A” is the sharpness of the turn. It could also impact the trees he has nurtured in that area.

Responding to Chair Richards, Mr. Gardner said Alternatives B and C would not work for the current project design and the commitments made to the neighborhood. They would have to start over.

Ms. Dayton said it is unknown when UDOT would build roads in this area. Her concern was that UDOT would not consider additional development without a 90-degree angle at this intersection. She had no desire to condemn property with a lived-in house on it if there is an alternative that works. She felt Alternative A is that option. Mr. Gardner said the developers originally proposed Alternative A; the “As Planned” option was required by Engineering. While UDOT prefers 90 degree intersections, there have been many exceptions to that rule. There are a number of other traffic issues in this area, and this intersection has impact on those issues. He doesn’t want to jeopardize the overall traffic planning in this area, nor does he want to make Mr. Barr lose his house.

Mr. Turley pointed out that the multi-family frontage piece on Geneva Road is the only part of the plan that is impacted by the “As Planned” or “Alternative A” options. He suggested approving the single family detached part of the project and waiting on the multi-family part until some “details are filled in.” Mr. Gardner said he could support that proposal, especially since they are still “tweaking” the multi-family residential plan. Mr. Lindberg said the proposal could be separated to approve only the subdivision part.

B.J. Cluff, Provo, said development of this project would be “text book leap frog” development. She said people in this area will shop in Orem and Provo will gain nothing but property taxes. Chair Richards said the General Plan was passed with an SDP to address the development. Ms. Cluff said Don and Vonda Barr are her parents and she would prefer a road alternative that would not take her family home. She said “sometimes the needs of the one outweigh the needs of the many.” Her father was told by a developer that Provo City may take the property by eminent domain. She said it “feels wrong” to her to approve a plan that would eventually take the home of a “handicapped man.” She said there are seven houses on 300 acres in this area and it is wrong to put a road through one of those homes.

Don Reese, Provo, said Reese Estates was required to put in 90 degree roads at both intersections because that is the best design for safety. He said, when D&RG owned the main rail road lines, they put in 1/4 mile lengths of track that did away with 60-80% of the joints that cause vibrations. He felt UP Rail Road would likely use the same track and the trains are lighter than freight cars. He said the homes next to the tracks have been the first to sell in Reese Estates and other developments.

Benjamin Miller, Provo, said he and his family rent a home on Geneva Road. He supported the single family portion of the project as he and his family are looking for a house and they would like to build on a lot in this project, if approved.

The public hearing was closed.

Responding to Mr. Turley, Mr. Gardner said he would prefer approval of the single family component of the proposal and a 60-day continuance of the multi-family portion to a two-week continuance to amend the application. Mr. Lindberg said that could happen if making adjustments to the special conditions could be delegated to him or the chair.

Council Member Stewart moved to create the zone text as proposed, an action seconded by Council Member Dayton.

Responding to Ms. Johnson, Mr. Gardner said he was unsure if a better option than the "As Planned" option for the road will be proposed within a 60-day continuance. However, he was willing to explore any options to save Mr. Barr's house. If, in 60 days the proposal is still the best decision, the Council will have to make a determination. UDOT and City Engineering could possibly accept "Alternative A," which would preserve the family home.

Responding to Ms. Hall Everett, Mr. Lindberg said, if the Council adopts Alternative A and UDOT did not accept that option, the project comes back to the Council for further consideration. A Development Agreement would be proffered for each section and the non-controversial portion could go forward.

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

ORDINANCE 2008-08

AN ORDINANCE ENACTING CHAPTER 14.49D (LAKEVIEW FIELDS RESIDENTIAL HOUSING SPECIFIC DEVELOPMENT PLAN) AND AMENDING SECTION 14.49.100 (SPECIFIC DEVELOPMENT PLAN ZONES ADOPTED) OF THE PROVO CITY CODE. 01-00150A.

E2. A public hearing to consider an ordinance changing the zone classification of 19.16 acres of real property located generally at 1988 North Geneva Road from R1.20 (One-Family Residential) to SDP-4 (Specific Development Plan). Lakeview North Neighborhood. 07-0011R.

The public hearing for this item was held in conjunction with the discussion on Ordinance 2008-08.

Council Member Stewart moved to adopt only the part of the following ordinance that deals with the single family portion of the project and to consider the rezone of the remaining portion at the first meeting in April. Also included would be direction to Mr. Lindberg to make amendments to the Development Agreement as needed and authorize the mayor to execute the agreement. The motion was seconded by Council Member Hall Everett and approved 7:0.

ORDINANCE 2008-09

AN ORDINANCE CHANGING THE ZONE CLASSIFICATION OF 19.16 ACRES OF REAL PROPERTY LOCATED GENERALLY AT 1988 NORTH GENEVA ROAD FROM R1.20 (ONE-FAMILY RESIDENTIAL) TO SDP-4 (SPECIFIC DEVELOPMENT PLAN). LAKEVIEW NORTH NEIGHBORHOOD. 07-0011R.

F. An ordinance amending Section 1.01.010 (Title-Effect on Prior Legislation) and Section 1.01.020 (Citation) and revising, codifying, and compiling the general ordinances of Provo City.

Chair Richards introduced the ordinance and invited comment from Mr. Lindberg. He said this is an ordinance to adopt the annual Code and make the adjustments at the front of the Code that would be consistent with the adoption of the annual Code.

There was no response to the invitation for public comment.

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

ORDINANCE 2008-10

AN ORDINANCE AMENDING SECTION 1.01.010 (TITLE-EFFECT ON PRIOR LEGISLATION) AND SECTION 1.01.020 (CITATION) AND REVISING, CODIFYING, AND COMPILING THE GENERAL ORDINANCES OF PROVO CITY.

Council Member Turley moved to adjourn the meeting, an action seconded by Council Member Dayton and approved 7:0.

The meeting adjourned at 11:32 p.m.