

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

THE MUNICIPAL COUNCIL MET AS A COUNCIL OF THE WHOLE ON SEPTEMBER 18, 2007, AT 7:15 P.M. IN THE COUNCIL CHAMBERS, PROVO CITY CENTER, PROVO, UTAH.

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

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

EXCUSED: Council Member Cindy L. Richards

CONDUCTING: Chair George O. Stewart

OPENING CEREMONIES

INVOCATION: Chuddy Park, Boy Scout Troop 143

PLEDGE OF ALLEGIANCE: Thomas Michael Jeppsen, Boy Scout Troop 143

APPROVAL OF MINUTES

Council Member Johnson moved to adopt the minutes of the August 21, 2007 Council Meeting, as written, an action seconded by Council Member Dayton and approved 6:0 with Council Member Richards excused.

QUESTIONS FOR THE MAYOR AND COUNCIL

Elsie McClellan, Provo, raised basic questions about Homeowners Associations (HOA), for example, who approves the HOA and who enforces the laws of the HOA. She was referred to the Council Attorney, Mr. Lindberg, for assistance.

Shawn Loura, Provo, felt the Council had neglected to publicly or privately answer his previous concerns and questions, and said the Council should answer the questions raised by all people in this forum. He said the Council has continued to reject the Constitution which they have taken an oath to defend and has disgraced the flag by not upholding the principles of a republic. He said they have also rejected the words of the prophets regarding the Constitution, which is a "disgrace before man and before God, and judgement is coming." He asked the Council to address on public record his question of why the Council continues to regulate private and business property and why the Council continues to "twist the Constitution to suit your own political gain and power?" He asked why the Council doesn't respect property rights, i.e., the rights of people to do what they would with their own property so long as it doesn't infringe on the rights of others. He felt Council Members should step down or be impeached for not upholding the office to which they have been entrusted. He asked why

businesses continue to be regulated and why taxes are forced upon them which are unconstitutional? He asked why it is the Council continues to “blaspheme the name of God and show no respect for the flag or the office which they hold?”

Clayne Raybold, Provo, Edgewood Condominiums on north Canyon Road, requested the “wide curve” past the fire station on Canyon Road be widened to four lanes to accommodate the additional traffic of the Rock Canyon Subdivision which is currently under development. He said the road there is unsafe and has been neglected over the years. Since a wall, fence, and curb, gutter and sidewalk are proposed for the Rock Canyon development, he felt now is the right time to address the widening of the road on the curve. He also commented that the lights at 2230 North and University Parkway are “excessively long in changing,” and asked that the timing on those light be reviewed. Mr. Parker said he had met with Mr. Raybold yesterday and a walkthrough with the City Engineer is planned.

PRESENTATIONS AND PROCLAMATIONS:

Presentation to the August and September Employees of the Month. Chet Hugo, 2007-08 Employee Association President, invited Richard Hatfield, Employee of the Month for August, his family and Greg Beckstrom, Storm Water Service District Director, to come forward. Mr. Beckstrom said Mr. Hatfield came to the Storm Water Division of Public Works about four years ago as the Construction Manager. Mr. Hatfield does the construction engineering in-house which allows the budget to be spent on pipe and solutions to drainage problems. He has been the lead individual in the Storm Water Quality Management Program, which is mandated by the Environmental Protection Agency (EPA) to address the actual water quality of the storm water discharge from City storm drain pipes into Utah Lake and the Provo River. Mr. Hatfield is the lead coordinator for new development projects to meet customer service needs quickly and also insure that drainage issues are fully addressed without creating a liability or burden to existing residents, development and infrastructure. Mr. Hatfield has a positive demeanor, works well with others, and helps other employees to address concerns of the Public Works Department.

Sharon Cutler, September Employee of the Month, and Gene Nelson, Library Director, were invited to come forward. Mr. Nelson said Ms. Cutler is the manager of the Support Services Department of the Provo Library, which includes circulation and technical services. She is responsible for the 1.5 million items that are annually checked in and out of the library, and orders new books. She has worked at the library more than six years and was previously in the Children’s Department. She is a key employee, is very task-oriented, and is the “best juggler” as she keeps many “balls” in the air.

Comment by Mayor Billings. Mayor Billings said his office has a “Meet the Mayor” day every month or two to discuss citizen concerns. At times there are those in the community who want the City to operate according to their rules without seeing the “deeper reality” involved. He said those who serve on the Council and Administration have a “great love for this country,” and people of Provo are “peace loving, God-fearing people.” He said there has to be a “rule of law.” To those who would voice “revolution” against all that has been established, he said they need to consider the “deeper potential of the meaning that is real.” He said the Council and Administration love the flag and respect the Constitution, which is a document that is difficult to interpret. It is great that we live in a land where anyone can say almost anything as long as it is done with some degree of respect and decorum. He has personally met with and explained his view on the Constitution to this person.

A Proclamation declaring the week of October 7 as Public Power Week. Mayor Billings invited Travis Ball and Scott Bunker to come forward to receive the Proclamation declaring the week of October 7-13 as the 21st Annual Public Power Week in Provo. He said Provo has the largest public power utility in the state with almost 34,000 meters. With that number comes much responsibility and the Energy Department employees do a great job. Mayor Billings read the proclamation and invited Mr. Ball to comment. He said the employees of public power and the City try to provide a utility that provides “reliable, public power” at a low cost. Provo is

the lowest cost provider in northern Utah. Mr. Bunker announced the City Services Fair to be held on October 1 at the Town Centre Mall. Many activities will be available. The public and Council were invited to attend.

A Proclamation declaring the week of October 1 as Community Action Week in Provo. Mayor Billings invited Myla Dutton, a “community hero,” to come forward. Mayor Billings read the Proclamation honoring Community Action Services and declaring the week of October 1 as *Community Action Week in Provo*. He recognized Community Action Services and the Food Bank for 40 years of service to the community. The public was encouraged to support this organization by wearing an orange ribbon and doing at least one thing to build self reliance during Community Action Week. Ms. Dutton has served in Community Action for 27 years.

Chair Stewart said it has been 20 years since there has been an increase in the power rates in Provo. He added that 10% of the power revenues go to the General Fund, which was about \$5 million this year.

ACTION AGENDA

A. A public hearing to consider a resolution declaring the intention of the Municipal Council of Provo, Utah County, State of Utah, to create the Provo, Utah Central Business Economic Development District (the “District”) to promote business activity and economic development within the boundaries of the district in an area of downtown Provo, by assessing benefitted properties for the costs of such economic promotion activities including related administrative expenses; to provide notice of intention to authorize such economic promotion, to create the district and to fix a time and place for protests against such economic promotion or the creation of the district, and related matters.

Chair Stewart introduced the resolution and invited Robert Horton, Economic Development Analyst, to comment. Mr. Horton said the resolution “starts the clock ticking” for the potential creation of the Downtown Alliance. The next step is a mailing to every property owner with a Notice of Intention, and advertising for four weeks to seek public input. A public hearing will be held October 16 to hear protests. Property owner written protests are due to the Office of the City Recorder by October 15.

Following comments from Mr. Turley regarding the map boundaries, overlap of assessment areas, and dates in the proposal, it was realized there were discrepancies between the map and text, and dates in the text need to be changed to reflect the protests received by Monday, October 15 and the public hearing on October 16. The Alliance attorney will address the map concerns and insure the text is consistent with the map. Mr. Horton said properties were not counted twice in two assessment areas. Responding to Ms. Dayton, Mr. Horton said the original Notice of Intent included property serial numbers which would have cost more than \$10,000 to advertise. Therefore, the serial numbers were removed and everything else remains the same.

Responding to Mr. Turley, Mr. Horton said the notice requirement is to advertise once a week for four consecutive weeks before the meeting to consider the notice of intent. That requirement will be met. Mr. Horton said the delinquent assessment rate set by the county has been running between 6 and 6-3/4% for the last two years

Public comment was invited.

Richard Bradford, Provo businessman, said, even though he opposes the assessment, he does not oppose a vibrant downtown. He gave the following Top 10 reasons why he felt “this is a really bad idea.”

10. There are other ways to accomplish the worthwhile goals of the DBA (District).
9. The Council doesn’t know how that money is being spent
8. Some people who are taxed actually receive a detriment. Some businesses are forced to pay for

business promotion activities bringing in competitors who negatively impact their business.

7. Some people taxed receive no benefit
6. Action will spawn some litigation.
5. One requirement for imposing a tax of this kind is that it is fair and equitable according to the benefit received. He didn't believe that standard could be reached. In practice, the DBA does not benefit all properties the same.
4. The DBA and its activities are said to benefit the entire city of Provo. If that is true, then this tax is imposed on a few for a benefit that is theoretically received by all.
3. The DBA needs more oversight from the City on its use of funds, employees, benefits, consultants, etc. It has also never been audited and no Council Member has been assigned to supervise or oversee the DBA.
2. The DBA does not and cannot meet the requirement to spend no more than 30% of the funds on administrative activities, including salaries, benefits, rent, travel, publications, etc.
1. The forces at work in downtown Provo are much bigger than the DBA can possibly address. Policy decisions have been made over the past 30 years to place retail on the outskirts of the City and make the downtown a professional/government center.

He felt the Alliance has good goals and probably accomplishes some good thing, and he supported efforts to revitalize the downtown. He proposed that the base of supporters and those who do not file a protest set up something similar to a homeowners' association. Businesses can opt in and opt out, decide how to spend the money with no statutory restrictions and be self-governing. If the benefit is not there, the organization would cease to exist. He said this option is provided by law in Title 11-42-409 Paragraph 6 of the enabling legislation. An agreement of those involved governs by "will of the governed," not by force.

Responding to Ms. Dayton, Mr. Bradford said he had no specific example of how a business had been hurt by these activities, but he has seen a list of businesses that have come to the downtown that provide competition for an existing business. It is likely that someone will get hurt along the way.

Ms. Clark said years ago there were a number of successful clothing stores in downtown and the competition was healthy. Responding to her questions regarding litigation, Mr. Bradford said, if the assessment doesn't meet the statutory requirements and goes forward, there are those who will challenge it in court. Ms. Clark said other cities have downtown alliances that have been very successful. She felt a downtown alliance is a step forward and believes it would be shortsighted to not move forward to build up the downtown. At her request, Mr. Bradford explained policy decisions made in the past 30 years that have impacted retail in downtown Provo. He felt the new developments brought to the downtown by the Redevelopment Agency would have been done without a business alliance. He said other cities with alliances probably have "economies of scale" with more people and more money involved. He also suspected the Salt Lake Alliance does not meet the statutory requirements because he felt there is no way a downtown alliance can operate only spending 30% of its funds on administration. That is the nature of the organization. The enabling legislation mainly discusses roads, sidewalks, and bridges where a 30% cap on administrative costs would be easier.

Responding to Ms. Sandstrom, Mr. Bradford said a business owner association could be structured in a manner very similar to the Downtown Alliance. The difference would be that people join voluntarily and the dues assessed would be paid by agreement.

Ms. Johnson supported the Downtown Alliance, the direction it is going to enhance the downtown, and appreciated the growth she has seen. She believed competition makes business better and wanted to invite competition. She would like to see a "woman's street" or a "furniture row." She said she pays taxes for the benefit of others and supports the compromise proposal. Mr. Bradford responded that if rows of stores come, it will be the market forces that bring them, not the Downtown Alliance. He felt there needs to be a high level of confidence that competition will not harm current business owners.

Responding to Ms. Dayton, Mr. Bradford said the thrust of the DBA is to promote, foster and rejuvenate retail trade. Professional offices of a dentist, accountant, or lawyer, won't get additional clients with DBA activities so there is no direct benefit. Any indirect benefit they receive is the same as the benefit everyone else in the City receives. Ms. Dayton said people need to live downtown to have a vibrant downtown. Rather than a full retail center, business and financial centers would be the better option for our downtown. Having a denser population live in downtown would provide a benefit to the professional businesses. Mr. Bradford agreed, but felt that goal is accomplished by City policy and not through the DBA.

Mr. Lindberg clarified this is an "assessment for a benefit received" not a tax. At the request of Chair Stewart, Mr. Lindberg addressed three issues: fair and equitable benefit received, oversight, and the 30% administrative costs. He said the statute is clear regarding the benefit being "fair and equitable according to the benefit received" which is the basis of the assessment. The statute says it is a "judgement call of the legislative body" to determine what is fair and equitable. A challenge to the judgement of the "best public interest" would carry a heavy burden to show that Council determination is not valid. Mr. Lindberg said the record should indicate the Council judgement of what is fair and equitable. At a minimum, for example, it would be helpful to know why the lines defining the three assessment tiers were drawn where they were. He commented on "free riders," those who would take benefit from the work done by others without paying for it. That issue could also be included in the judgement of whether or not this action is appropriate.

Regarding the question of oversight, he suggested Mr. Horton explain his responsibility in administering the funds.

Regarding the 30% rule, Mr. Lindberg said Utah Code 11-42-406 indicates that "if a 'local entity' designates an assessment area, a 'local entity' may not spend more than 30% on administrative costs." The question arises as to what constitutes a "local entity." The definition in the statute defines a local entity as "a county, city, town, special service district or local district." A special service district is created through Title 17A, Chapter 2, Part 13, Utah Special Service District Act. A local district is created under Title 17B. The DBA is neither of these. The DBA is a 501 C 3. An argument could be made that the 30% rule applies to Provo City, i.e., staff time administering the DBA. The DBA is an entity the City uses as a vehicle to expend the funds assessed. This is an issue that needs to be further reviewed.

Mr. Horton said he approaches the oversight of the Alliance much the same as the Community Development Block Grant (CDBG) fund based on cost allocation. The CDBG fund includes two distinctive areas: Administration and Program Delivery, which is defined as operating the fund and not as an office administrative position. This approach was taken for the Alliance based on a recommendation from Ballard Spahr in 2001 when the District was created. Based on the cost allocation, the Alliance submits its monthly estimated costs and the funds are released. At month's end, invoices and receipts are provided on how the money was actually expended. He added that the Alliance has come to the Council almost quarterly to show their budget and expenditures.

John Beesley, Provo resident since 1972, homeowner since 1976 and property owner in the District since 1976, said he is a "believer" in downtown Provo. He is not against the Alliance, but only wants to keep an additional assessment "off his back." If the assessment was voluntary, he would "be a player and would be on the other side of the fence." He has made a sizeable investment in his projects in downtown Provo. His assessment is \$450 a year on the Goldsmith Building and no tenant has stepped forward to pay any part of that assessment. He cannot pass the assessment to his tenants and so pays it himself. He felt he should have received more help from the Alliance and the City when the Wells Fargo building was constructed. He also owns the building that houses United Way and their lease allows him to pass the assessment to them, but he questioned the fairness of assessing a nonprofit organization. He felt that primarily the proponents of this Downtown Alliance assessment don't directly pay the assessment. He believed there are ways for this to proceed without the assessment in place. Responding to Ms. Sandstrom, Mr. Beesley suggested a voluntary assessment. He also suggested attaching an assessment to the business license to support the Alliance.

Responding to Ms. Sandstrom, Mr. Lindberg said generally, a business license fee is for regulation of the business license and not for general economic promotion, and is, therefore, probably a limited option.

Responding to Melanie McCoard, Provo, Mr. Horton said there are no other Economic Development Districts like this in the City. She thought the goal of the DBA to promote trade and retail runs contrary to the City and Economic Development Department goals and policy of making the downtown a restaurant and office district. She didn't understand why the DBA needed to be created in the first place when the City Economic Development Department and the Chamber of Commerce should be doing this work.

Lindsay Wiblin, Provo, believed there is an opportunity to revitalize the downtown area to attract residents like him who now choose not to shop downtown because there is nothing there to attract him. He was shocked that so much time has been spent debating this issue when he found out the assessments were as low as \$450/year, particularly when the Alliance provides an opportunity for the businesses to create a "great experience in the Central Business District." He supported moving forward to "do the best we can" to revitalize that area.

Bill Bancroft, Provo, Chair of Downtown Alliance Executive Committee, said the proposed tiered assessment is similar to other Alliances in other cities. The Provo Downtown Alliance has only been going since 2001. He felt there was a benefit to professional people because many people who work downtown prefer to go to local dentists, etc. The Alliance wants people to "live, shop, dine and play" in downtown. He felt competition keeps businessmen "on their toes." He said the Alliance will "obey the law to the letter." He believed the Alliance brings "people traffic" and economic development to downtown. The Alliance needs and welcomes participation of its stakeholders. He felt the Alliance represents all people in the district and has helped get things done with the City that could not have been done without their involvement. He discussed the various committees and their activities. He owns two 40,000 square foot buildings—Central Square and the Taylor Brothers Building at 250 West Center Street—and pays the assessment. He spent \$1.5 million refurbishing one building and feels the downtown is worth that investment. A totally volunteer organization was tried for the downtown and it didn't work. He thinks the Alliance will continue to progress and make improvements. Responding to Mr. Turley, Mr. Bancroft said he would welcome a financial review of all records back to 2001—there is nothing to hide. All accounting has been done according to generally accepted accounting principles.

Ms. Sandstrom talked of the potential numbers of people living in downtown which will also be downtown shoppers. She felt the downtown has been beautified over the last few years.

Ms. Clark said the Alliance is more than beautification—it is a "voice at the table" for participants.

Responding to Mr. Turley, Mr. Bancroft said the Alliance was aware of the Zions Bank and Huntington projects and had representatives from those developments on the board at different times. Mr. Turley suggested a coordinating committee to involve the Chamber, the Alliance, the City and others who need to be involved in the downtown focus.

John Payne, Provo, Alliance member, board member and chair of the Business Expansion and Retention Committee (BEAR), said neighborhood chairs, representatives from the Chamber, UVSC and BYU have attended BEAR meetings. One element that needs to be development is a strategic plan. A coordinating committee has been started, involving the Chamber, Economic Development, the CBD and the Alliance, to develop a strategic plan so everyone knows the goals and direction. He felt downtown is the central place to be and do business. Retail thrives on competition. The trend toward suburban outward movement is now reversing and more people are returning to live in downtown areas. A combination of various residential and mixed uses in the downtown will stimulate other economies. Towns he has visited took older rundown town centers and brought back arts, entertainment, financial, parking structures, food establishments, markets, townhouses, condos, mid-rise

apartments and other things by creating private and public partnerships to redevelop areas in need. He said the downtown needs more than high volume retail; it needs residential uses and services opportunities. He said this is a “window of opportunity” and is the threshold of downtown Provo’s future.

Mr. Bradford gave a brief history of the Alliance. He felt that the Alliance should be able to easily prove its worth after six years of “public subsidy.” He suggested a new experiment for the next three years to let the organization “run” with what they have learned in the last six years, persuade the businesses that it is to their advantage to support the Alliance, and use the power of persuasion to convince people that money spent has been worth it.

The public hearing was closed.

Council Member Clark moved to adopt the resolution declaring the intent to create the District with needed corrections to the map and dates, an action seconded by Council Member Johnson.

David Lambert, from the law firm of Howard, Lewis and Peterson, said the map was provided to him by Susan Bradford. Corrections can be made to the text to coincide with the map that contains the correct boundaries and tiers. Responding to Mr. Turley about the map splitting a property, Mr. Horton said the main public entrance of a business was used in the description. Mr. Lindberg said the resolution clearly identifies which properties are included in which assessment tiers. All that is needed is a map that is consistent with the property serial numbers and the correct boundary descriptions.

The motion to adopt the following resolution as amended passed with Council Members Clark, Dayton, Johnson, Sandstrom and Stewart in favor. Council Member Turley abstained and Council Member Richards was excused.

RESOLUTION 2007-80

A RESOLUTION DECLARING THE INTENTION OF THE MUNICIPAL COUNCIL OF PROVO, UTAH COUNTY, STATE OF UTAH, TO CREATE THE PROVO, UTAH CENTRAL BUSINESS ECONOMIC DEVELOPMENT DISTRICT (THE “DISTRICT”) TO PROMOTE BUSINESS ACTIVITY AND ECONOMIC DEVELOPMENT WITHIN THE BOUNDARIES OF THE DISTRICT IN AN AREA OF DOWNTOWN PROVO, BY ASSESSING BENEFITTED PROPERTIES FOR THE COSTS OF SUCH ECONOMIC PROMOTION ACTIVITIES INCLUDING RELATED ADMINISTRATIVE EXPENSES; TO PROVIDE NOTICE OF INTENTION TO AUTHORIZE SUCH ECONOMIC PROMOTION, TO CREATE THE DISTRICT AND TO FIX A TIME AND PLACE FOR PROTESTS AGAINST SUCH ECONOMIC PROMOTION OR THE CREATION OF THE DISTRICT, AND RELATED MATTERS.

Mayor Billings was concerned that false expectations may have arisen from the discussion. Regarding the comment that the Administration is going in a different direction, he said the philosophy adopted by the Administration is that the downtown retail center ended when the mall went outside Provo. While retail is wanted in the downtown, the retail that will occur in the next phases will be that which supports the other purposes of the downtown—retail that appeals to those who already come to the downtown daily. He said that rebuilding the downtown as a center for corporate business, banking, finance, government, arts, etc., and adding to that a place where people live, will bring larger retail, but in the distant future. He said a huge economic development group to coordinate downtown development is not the responsibility of the DBA, but is the charge of Economic Development and the Redevelopment Agency. He felt the Alliance played a role in current downtown projects

by creating a momentum and an environment that show “things are happening in downtown Provo” that encouraged others to invest.

Regarding the benefit vs. assessment argument presented, Mayor Billings said long ago it was decided to do things in a community that are “for the good of the whole,” i.e., education. He said, if the downtown had been left to “linger” in the condition of the early 1970s, the taxes of almost everyone in the City would have gone up to pay for the criminal acts in the downtown. The choice, however, was to bring back the downtown. He said the Downtown Alliance is about cooperation, providing a voice for downtown stakeholders as the downtown redevelops, and joint promotion. He said the City did do things to help Mr. Beesley when the Wells Fargo Building was built. The Alliance is about creating a new sense of hope and feeling, it is what is done to even make the Wells Fargo type projects *think* about coming here. Those who contributed to the past downtown development have done great things, but nothing compares to the “massive momentum” brought about by the Alliance. Regarding the comment that the Alliance should maintain its own value after six years, Mayor Billings said it would be similar to saying that residents have enjoyed parks for six years and now they must come up with the money to support parks, which is not the best practice in any community. He cautioned against buying into the “articulate arguments” that were presented. The City alone cannot get the message out, but it needs to “lock arms” with the Alliance to do that. He applauded what the Alliance is trying to do and hoped that the Alliance would discuss a “clear and new strategic vision” and communicate it with the members as there will be those who will require accountability.

B. A resolution requesting recertification of the Provo Justice Court.

Chair Stewart introduced the resolution and invited Mr. Parker to comment. Mr. Parker said the State of Utah sets the recertification schedule for justice courts in the same four-year cycle for every community. Provo needs to get on that four-year cycle even though the Provo Justice Court was just created effective July 1. The material recertifying the Provo Justice Court has been presented and, if approved, will be sent to the Administrative Office of the Court to request the recertification of the Provo City Justice Court.

No public hearing was required.

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

RESOLUTION 2007-81

A RESOLUTION REQUESTING RECERTIFICATION OF THE PROVO JUSTICE COURT.

C. A resolution authorizing the Mayor to execute a lease agreement with the Provo City Redevelopment Agency for real property located at 310 West Center Street, Provo, Utah.

Chair Stewart introduced the resolution and invited Mr. Horton to comment. Mr. Horton said the Redevelopment Agency owns the old Wells Fargo building located at 300 West Center Street which currently houses the Provo Justice Court. The proposal is to lease the building to the Justice Court. The contract is for 12 months and includes the opportunity for three extensions.

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

RESOLUTION 2007-82

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH THE PROVO CITY REDEVELOPMENT AGENCY FOR REAL PROPERTY LOCATED AT 310 WEST CENTER STREET, PROVO, UTAH.

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

REDEVELOPMENT AGENCY MEETING

D. A resolution authorizing the Chief Executive Officer to execute a lease agreement with Provo City Corporation for real property located at 310 West Center Street, Provo, Utah.

Chair Stewart introduced the resolution noting this is action by the Redevelopment Agency Board to lease the old Wells Fargo building to the Justice Court.

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

RESOLUTION 9-2-1-07

A RESOLUTION AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO EXECUTE A LEASE AGREEMENT WITH PROVO CITY CORPORATION FOR REAL PROPERTY LOCATED AT 310 WEST CENTER STREET, PROVO, UTAH.

E. A resolution authorizing the Chief Executive Officer to execute a lease agreement with El Centro, a Utah partnership, for real property located at 280 North Freedom Boulevard, Provo, Utah.

Chair Stewart introduced the resolution and invited Mr. Horton to comment. Mr. Horton said El Centro has formed a Utah S Corp. and is no longer an LLC. That change will be made before the lease is signed on the "old Sears tire store" where they have been located since 2002. The lease amount has increased about 20%--the same as other leases on the property. Responding to Ms. Dayton, Mr. Horton said all the leases on that property expire 2010, at which time a determination would be made whether or not to continue to lease the property.

Chair Stewart said the RDA Executive Committee has discussed this action and supports the recommendation to execute the lease agreement.

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

RESOLUTION 9-2-2-07

A RESOLUTION AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO EXECUTE A LEASE AGREEMENT WITH EL CENTRO, A UTAH PARTNERSHIP, FOR REAL PROPERTY LOCATED AT 280 NORTH FREEDOM BOULEVARD, PROVO, UTAH.

Board Member Clark moved to adjourn the meeting of the Redevelopment Agency and reconvene as the Provo Municipal Council, an action seconded by Board Member Sandstrom and approved 6:0 with Board Member Richards excused.

MUNICIPAL COUNCIL MEETING

LAND USE

F1. A public hearing to consider an ordinance amending Section 14.22.020 (Permitted Uses) of the Provo City Code to add standard land use number 5212 (Hardwood Flooring-Retail) as a permitted use in the General Commercial Zone. City-Wide Impact. 07-0012 OA.

Chair Stewart introduced the ordinance and invited Gary McGinn, Community Development Director, to comment. Mr. McGinn said the General Commercial Zone contains a land use code that allows flooring businesses, i.e., carpet, vinyl, hardwood. But there is a specific land use code for retail businesses that sell only hardwood floors which is not permitted in the General Commercial Zone. This is an ordinance cleanup to allow retail hard wood flooring in the General Commercial Zone.

There was no response to the invitation for public comment.

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

ORDINANCE 2007-38

AN ORDINANCE AMENDING SECTION 14.22.020 (PERMITTED USES) OF THE PROVO CITY CODE TO ADD STANDARD LAND USE NUMBER 5212 (HARDWOOD FLOORING-RETAIL) AS A PERMITTED USE IN THE GENERAL COMMERCIAL ZONE. CITY-WIDE IMPACT. 07-0012 OA.

F2. A public hearing to consider an ordinance enacting Section 14.34.355 (Portable Storage Containers) to regulate the placement and length of stay for portable containers in all zoning districts. City-Wide Impact. 07-0004 OA.

Chair Stewart introduced the ordinance and added the ordinance would only regulate PODs in residential zones. The Council may want to direct staff to regulate PODs in other zones as well. Mr. Lindberg felt the ordinance as proposed was adequate. Additional restrictions in other zones would require further discussion.

Mr. McGinn said PODs (a storage container that looks like a semi-trailer) utilized during construction projects are not the focus of this ordinance. The focus is on one that stays for months after the need expires. He was comfortable with the way the ordinance was written.

Responding to Ms. Clark, Mr. McGinn said the current ordinance is silent on POD regulation. Community Development initiated the proposal to deal strictly with residential concerns. The item was continued from a previous Council Meeting to allow staff time to address other zones, which was done.

Responding to Ms. Dayton, Mr. McGinn said PODs come in various sizes and the definition of POD is included in the ordinance. Mr. Lindberg said the difference between a storage building and a POD is the portability of the unit. PODs can be picked up and delivered by a truck or crane and are readily transported. Ms. Dayton asked about enforcement of this ordinance and wondered if size should be stipulated. Mr. McGinn felt the definition covered that concern. PODs are usually distinguished by their design, which is covered in the definition, and its portability. PODs are different than large roll-off garbage containers which are already regulated. He said the ordinance addresses “a moveable, weather resistant container designed and used for the storage or shipment of property.”

Mr. Turley said POD is the brand name of the unit distributed by Home Depot. Mr. Lindberg said POD is a registered trademark and stands for “Portable On Demand” storage systems. The term POD is not used in the ordinance. The ordinance language is a “portable storage container.”

Responding to Ms. Sandstrom, Mr. McGinn said this storage option can be used as long as there is an active building permit on the property. A building permit expires after six months of inactivity.

Public comment was invited. Lindsay Wiblin, Carterville Neighborhood Chair, was concerned about why certain units may be restricted while others may be allowed. He said the more common units are larger than a POD, are shipping containers which are 20-40 feet long, and are “worn and beaten up.” A POD, which looks good, is restricted while the other one isn’t. The larger concern is the portable unit that is fixed to the ground with nuts and bolts with either metal, canvas or plastic roofing. Mr. McGinn said anything attached to the ground is considered an accessory structure and would fall under the building code. If a unit is portable, regardless of size and condition, it would fall under the proposed rules.

Helen Anderson, Utah Valley Home Builders Association and Provo resident, asked for clarification of the section that limits portable storage containers on the driveways, sides and rear to a maximum to 30 days which she thought could possibly be interpreted to apply to when a building permit is operative on the property. She offered clarifying language.

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

Council Member Dayton moved to continue the item to the next Council Meeting, an action seconded by Council Member Turley and approved 6:0 with Council Member Richards excused.

Mr. Turley encouraged consistency throughout the Code regarding this issue.

G. A resolution of the Mayor and Municipal Council sitting as the Board of Canvassers accepting the election returns and declaring and certifying the results of the vote for Primary Elections held for Council District 3, Council District 4, and City-Wide Council District II, Provo. Utah.

Chair Stewart introduced the resolution and invited LaNice Groesbeck, City Recorder, to comment. She said the results of the election are not official until certified by the Board of Canvassers. A signature sheet needs to be signed by each member of the board to certify the results of the election. The Mayor and Council constitute the canvassing board and are required to conduct the canvass of election no sooner than three days and no later than seven days after the election. Information distributed included the Canvass Report which includes the resolution. She reviewed the Canvass Report, which is on file in the Office of the City Recorder. There were 39,575 registered voters of which 3,081 cast a ballot resulting in a voter turnout of 7.79%. Ballots cast at the polling places numbered 2,774, and 197 votes were cast as absentee/early voted ballots. Provisional ballots totaled 116. One hundred ten were counted and six were considered invalid by the County. Election results were as follows:

City-Wide District II:	Coy D. Porter	1,260
	Christopher Stowe	220
	Steve Turley	1,511
Council District 3:	Midge Johnson	391
	Melanie McCoard	147
	Brian J. Smith	72
Council District 4:	Sherrie Hall Everett	339

Barbara Sandstrom	332
Howard Stone	291

TOTAL VOTES CAST: 3,081

She presented DRE Reconciliation Forms for every precinct. This report is similar to the Disposition of Ballots previously used. There were no irregularities to report.

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

RESOLUTION 2007-83

A RESOLUTION OF THE MAYOR AND MUNICIPAL COUNCIL SITTING AS THE BOARD OF CANVASSERS ACCEPTING THE ELECTION RETURNS AND DECLARING AND CERTIFYING THE RESULTS OF THE VOTE FOR PRIMARY ELECTIONS HELD FOR COUNCIL DISTRICT 3, COUNCIL DISTRICT 4, AND CITY-WIDE COUNCIL DISTRICT II, PROVO, UTAH.

Mayor Billings was thanked for his efforts in conducting a very successful conference of the Utah League of Cities and Towns.

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

The meeting adjourned at 10:50 p.m..