

Meridian City Council Work Session

July 13, 2021.

A Meeting of the Meridian City Council was called to order at 4:30 p.m., Tuesday, July 13, 2021, by Mayor Robert Simison.

Members Present: Robert Simison, Joe Borton, Luke Cavener, Treg Bernt, Jessica Perreault, Brad Hoaglund and Liz Strader.

Also present: Chris Johnson, Bill Nary, Crystal Ritchie, Cameron Arial, Caleb Hood, Bruce Freckleton, Ted Brandvold, Brian Caldwell, Joe Bongiorno and Dean Willis.

ROLL-CALL ATTENDANCE

☒ Liz Strader	☒ Joe Borton
☒ Brad Hoaglund	☒ Treg Bernt
☒ Jessica Perreault	☒ Luke Cavener (4:40 p.m.)
☒ Mayor Robert E. Simison	

Simison: Council, we will call the meeting to order. For the record it is July 13th, 2021, at 4:30. We will begin this afternoon's work session with roll call attendance.

ADOPTION OF AGENDA

Simison: Next item is adoption of the agenda.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: It's my distinct privilege to make a motion to adopt the agenda -- Mr. Mayor, it's my distinct privilege this afternoon to make a motion to adopt the agenda as published.

Bernt: Mr. Mayor, I will second the motion.

Simison: I have a motion and a second to adopt the agenda as published -- published. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it and the agenda is published.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

CONSENT AGENDA [Action Item]

- 1. Approve Minutes of the June 29, 2021 Budget Workshop and Work Session Special Meeting**
- 2. Approve Minutes of the June 29, 2021 City Council Special Meeting**

- 3. Paramount Point Subdivision Pedestrian Pathway Easement**
- 4. Final Plat for Apex Northwest No. 2 (FP-2021-0038) by Brighton Development, Located at 6575 S. Locust Grove Rd.**
- 5. Final Plat for Oaks North Subdivision No. 11(FP-2021-0039) by Toll Southwest, LLC, Generally Located at 5685 N. Black Cat Rd.**

Simison: Next up is our Consent Agenda.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: It is my distinct honor this -- this afternoon to make a motion to approve the Consent Agenda, for the Clerk to -- for the Mayor to sign and for the Clerk to attest.

Hoaglund: I second the motion.

Simison: I have a motion and a second to approve the Consent Agenda. Is there any discussion on the motion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it and the Consent Agenda is agreed to.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

ITEMS MOVED FROM THE CONSENT AGENDA [Action Item]

Simison: There were no items moved from the Consent Agenda.

DEPARTMENT / COMMISSION REPORTS [Action Item]

- 6. Human Resources Department: Fiscal Year 2021 Budget Amendment in the Amount of \$123,000.00 for Citywide Compensation Market Studies**

Simison: So, we will go into Department and Commission Reports. Our first item up is the Human Resource Department Fiscal Year 2021 Budget Amendment in the amount of 123,000 dollars for citywide compensation market studies. Turn this over to Director Ritchie.

Ritchie: Can everyone hear me? Dean? Okay. So, Mr. Mayor, Members of Council, thank you so much for your time this afternoon. I stand here in front of you today on behalf of the city's compensation committee requesting a budget amendment, as Mayor Simison just mentioned, in the amount of 123,000 dollars, so that the city can engage with Gallagher's compensation consultant division to conduct a comprehensive market analysis on approximately 225 positions covering our general employee population and

in addition to that help us develop for your future consideration an updated and new compensation program for general employees. With that I will stand for any of your questions.

Simison: Council, any questions?

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: A couple of questions from the -- the proposal that it's part of the contract. It had a -- a minimum and a maximum and one of the variables was that -- I forget how it was referred to -- like a phase two add on questionnaire to employees.

Ritchie: Uh-huh.

Borton: Is the intent that that's certainly going to occur?

Ritchie: Yes. So, what -- Council Member Borton, what you are referring to is called a position description questionnaire --

Borton: Bingo.

Ritchie: -- where we engaged with the employee to accurately assess the functions of their current positions today to ensure that we have updated and accurately reflected the job descriptions and so phase B is to include that into the process.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: A follow up on the -- the second prong of what they are being tasked to do is provide, what, examples of alternate mechanisms for compensation structure citywide? Is it based -- is it -- is it compensation only? I mean it's not addressing benefit type package things, just compensation.

Ritchie: That is correct, Council Member Borton. It is solely focused on the compensation aspects of the city's pay program.

Borton: Okay. And I guess the last follow up on that would be is the finished product something to the effect of here is -- here is data using your current comp system or merit based system that we have now, here is proposed adjustments and, then, option two is here is a totally different way to do compensation and option three is a different way and here is a menu of three different ways you can do it. Is it something like that? Are they going to say here is three ways. We recommend you choose door number three.

Ritchie: So, we are reaching out to them to provide us compensation expertise in helping us develop a compensation program that is going to fit the city, be market competitive, and move us positively forward in the future. The program that we currently have in place today, which you are referencing, was implemented back in 2013. So, it's several years old and what we want to do is make sure that we have a comp program that's market focused, that provides a market competitive wage, or it keeps us at least in the ability to be competitive to attract and retain the talent we need to move our city forward.

Borton: And Mr. Mayor?

Simison: Councilman Borton.

Borton: I might not have parsed the answer out of that.

Ritchie: Sorry.

Borton: That's all right. I'm just trying to get a sense of -- is it -- is the end result a -- here is a merit based program -- or your current program adjustments, but here is a different way to do compensation.

Ritchie: Correct. So, two phases -- two projects, if you will, under this contract. One will be the full market study of all of our individual positions for what is considered market value for each of our positions that we have here at the city under our general employee plan. It's not looking at it compared to the current compensation program that we have in place today, it's looking at the market value for the job and making recommendations that we will bring back for consideration. The second piece to that is to look at other options for a compensation program that we would bring forward to the Council for consideration and adoption for a future fiscal year.

Borton: That's helpful. I thought that's what the gist was, options to consider, kind of -- yeah, just different -- different manners in which you might want to do compensation.

Ritchie: Different considerations for a different --

Borton: For a future date.

Ritchie: Yes. We will be back in front of you with those conversations and recommendations.

Borton: Okay.

Ritchie: Yes.

Simison: And the ability to fund those recommendations or not.

Borton: Got it.

Ritchie: Correct. Thank you.

Borton: Thank you.

Simison: Council, any additional questions? If not, do I have a motion?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I move that we approve Human Resources Department Fiscal Year 2021 Budget Amendment in the amount of 123,000 for citywide compensation market studies.

Borton: Second.

Simison: I have a motion and a second to approve the budget amendment. Is there any discussion? If not, Clerk will call the roll.

Roll call: Borton, yea; Cavener, absent; Bernt, yea; Perreault, yea; Hoaglund, yea; Strader, yea.

Simison: All ayes. Motion carries and the item is agreed to. Thank you.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

Ritchie: Thank you.

7. Solid Waste Advisory Commission: Community Recycling Fund Program and Update

Simison: Next item is Item 7, which is the Solid Waste Commission community recycle fund program and updates. I will turn this over to Mr. Cory.

Cory: Thank you, Mr. Mayor, Members of the Council. I am Steve Cory, chairman of the Solid Waste Advisory Commission, and I stand here in front of you representing the members of that commission. The community recycling fund program is a spot where after recyclable materials are collected within the city, if, when they go to market, we get some revenue from that, they go into this fund and traditionally, up until a couple of years ago, we went ahead and opened up a window in the start of a fiscal year to release grants to individuals in the city that would have a project which either promoted recycling or used recycled materials and it would maybe finance something up to 5,000 dollars and, then, go ahead and pay half of -- or supply half the cost of something that was over 5,000 dollars, but up -- a couple of years ago -- two or three years ago the revenue stream from recycled materials dried up and the account has basically just sat idle since then. But if you would remember from my annual report earlier this year where we started the year was at about just under 39,000 dollars and this year we have been accumulating about

1,000 dollars a month. The account balance now is at 48,000 dollars, though we do have about 2,200 of that that's reserved for a plastic bottle recycling effort that's going well out at the transfer station. But being as we are getting to a significant amount, also part of a couple of years ago the direction we had was this is not a savings account, that it is something that is to benefit our citizens and to go ahead and encourage them to recycle, the commission felt like maybe it was time to go ahead and consider opening the account for some kind of an effort. Just as a quick discussion, things like establishing some kind of a contest for recycling efforts or maybe recognizing good practices within that or maybe just the traditional version that we had. But, anyway, the commission set up a subcommittee to go ahead and start flushing out what we were thinking of and we are going to start that discussion at this coming meeting, if it's consistent with what Council's thoughts are, but we felt like it was appropriate for us to come before Council before we started this effort and find out if there was any direction that Council had for us that we needed to consider and with that I would stand for questions.

Simison: Thank you, Steve. Council, any questions? Or thoughts? And, for the record, Councilman Cavener joined us at 4:40.

Cavener: Thank you. Mr. Mayor, a quick question maybe.

Simison: Councilman Cavener.

Cavener: Steve, when would you like to get those recommendations by? Do you need those today? The next week? Before the next SWAC meeting?

Cory: No. As I indicated we would -- traditionally what we would do is we -- we would open advertisement for whatever was going on on October 1st and receive application say in November, make a decision in December and allow someone to start something in January. So, there is -- yeah, it's not immediate, but we would love to have the sense of the Council within the next month or so.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Steve, I think it's great to open it up to the community and folks for suggestions and, then, I was curious on Council's feedback would be if they wanted to like vote on giving suggestions that come forward or if they -- kind of how they wanted to handle that. I don't know if in previous years Council voted on those options or if, you know, SWAC went ahead and just picked one and moved forward. But I guess maybe you would need feedback on that as well.

Simison: Council, any further questions or comments or would you just like to get those to Mr. Cory over the next month?

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Just -- just a thought that, you know, I think, Steve, as you guys go forward develop them, get the input and different things like that, I think, then, to follow the process of SWAC deliberating, discussing, is about the same thing and, then, just come forward to the Council and make a recommendation and say, okay, here is -- here is what we looked at and here is what we think would be the best direction to go and, then, we can make that informed decision from there, so -- you guys do a good job with that stuff, so --

Cory: Thank you.

Simison: All right. Thank you, Steve.

Cory: Thank you.

8. Mayor and City Council Compensation Committee: Report and Recommendation

Simison: Mr. Nary, is our next item --

Nary: Mr. Mayor, Members of the Council, so I -- I sent out a draft to the committee of what their recommendations were on this item on the Mayor and Council compensate --

Simison: Do we want to wait? Are you expecting someone else to show up?

Nary: Yes, sir. So, I -- Mr. Evarts from the committee was going to do the presentation. I haven't heard back from him, so I have reached out to him today to verify. So, if we could either put this at the end of your next agenda for the regular meeting for a discussion item, if we could do that, so that way -- I don't know if he thought it was 6:00 o'clock and not 4:30 -- so I apologize.

Simison: Could we just go to number nine and see if we hear back from him in the next half hour?

Nary: Certainly.

Simison: Does that work?

Nary: Absolutely.

9. Community Development Department: Orchard Park Certificate of Occupancy Approval Process

Simison: Okay. So, we will skip number eight and we will go to number nine. So, we will ask our Community Development Department to come talk about the Orchard Park

certificate of occupancy approval process. I will turn this over to Director Arial.

Arial: Thank you, Mr. Mayor, Members of Council. Really grateful to be with you this afternoon, evening, to talk through your report on the Orchard Park development process. And I think what we will do is we will break it up into three parts. So, first we will have Caleb kind of talk about the transportation planning elements. Bruce and Ted will discuss kind of some -- some terms and maybe -- maybe more of a -- a little bit of an educational piece on the development process, construction, and occupancy and how that -- how that works in general and, then, we will turn some time over to Bill to talk through the -- the DA specific items, so --

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: At the outset and whether Cameron or Bill can answer this question -- at the end of the information we are going to gather -- I have reviewed everything, but is there a specific ask of Council to -- is it informative or are we being requested to take a course of action of some sort?

Nary: Mr. Mayor, Members of the Council, I think in our discussions from the staff's perspective I think it was more informational based on the information we received a few weeks ago how the process worked, but it wasn't a revision of the current process. That could be done certainly at another time, if that's what -- but we were really focusing on this project.

Borton: Okay. Great. Thank you.

Arial: Appreciate that. Yeah. And just really take the opportunity to express the gratitude to take a deeper dive into our process. This is not every day that we get this request. So, we are -- we are excited about the opportunity to really showcase what we do throughout the process and I will add just my -- how proud I am of our team, tip to tail. You will see that and -- and we will discuss that a little bit more and particularly the focus on, you know, public safety and our focus on making sure that, you know, things are built right and that they are occupied safely to the community. Also take just a moment -- really excited about having Ted Brandvold on board with us. Take the opportunity to introduce him as our new commercial projects manager. You know, Ted is a former mayor himself, as well as an architect -- a professional architect and he's really adding a lot of value and so grateful to have him on in this particular project as well, just the value he immediately added to help facilitate, move it along and make things happen. So, with that I'm going to turn the presentation over to Caleb.

Johnson: Mr. Mayor. Caleb, will you bring the other microphone to the center as well. Both are fine. So, we will make sure it gets you.

Hood: Mayor, Council, pleasure to be in front of you. I don't know how much of a

presentation this is, just more of a discussion and as Cameron mentioned maybe a peek into how we -- the process works and using Orchard Park as -- as that example. Cameron mentioned transportation elements. I'm kind of -- I'm definitely going to weave that into my part of this, but also just talk about how planning, legal, the applicant -- you know, kind of how the sausage is made really, going from the hearing, to a development agreement and, then, making sure that those development agreements -- provisions are carried through throughout the process. Councilman Borton just mentioned that he reviewed the record. There is a long record on this project; right? I mean it was at the P&Z three, four times, continued, remanded back. An extensive record there. At the end of the day, though, motions are very important. I guess that's what I kind of want to lead with. There is a lot of things that were discussed on this project, but what makes it into the findings and the development agreement is what's most important, not what was talked about during the hearing and maybe what I thought was going to happen, but making the motion clear and we try to do that as staff sometime is to prod you a little bit -- did you mean this when you said that in your motion or can you clarify. Is -- is traffic calming a requirement or is that you hope to see it or how -- you know. So, sometimes we try to prod you, but that is very important and you kind of see that a little bit in this project. There were some things discussed through those multiple hearings that a lot of it made it into the findings and the development agreement, some of it may not have and maybe you thought that they were there or should be there. So, I just want to kind of lead with that a little bit. Timing also was important in this case in that when Council heard this project the STARS agreement was not yet done with ITD. Hadn't been executed yet. There was discussions, but Council actually acted on this project two days before that was executed with ITD. So, I'm sure that the applicant knew generally what the terms were going to be, because, again, it was executed just a couple of days later, but we did not have that. We as the city, we as the public, we didn't know what -- what all the terms were going to be in that STARS agreement for a couple days later and so phasing I guess is where I want to start, with Chinden, because there was a lot of talk about what the applicant was proposing to do to Chinden and that was both on site or their frontage improvements in that first mile from Linder back to Meridian and, then, Meridian to Locust Grove and they had committed to do both of those and, in fact, in some of their presentation even they had some of the draft phasing plan, do this now, future improvements out to Locust Grove. Nothing that I found in that record -- and I will be honest I didn't read every word from all seven hearings that happened but I did go through a lot of it and found their presentation and there is exhibits that show, you know, that they are -- they are going to do this with first phase prior to occupancy and this is a future phase. We are committed to do it, but it won't be done day one. So, that's kind of how the development agreement reads, if you have looked at that, is -- you know, they are -- they are committing to do that and that -- that needs to be done, but within the time frames as required by ITD and ACHD for those improvements. That also applies to some of the traffic calming I mentioned earlier, like at Plaza, Bergman, Bacall, as allowed by ACHD and fire. The other thing that I want to just draw your attention to, because I don't know how much of this you understand, but we do have in our -- in our code we do allow projects -- certain elements of projects, non-life safety elements of projects -- so, fencing, landscaping, amenities to be bonded for -- a surety provided to the city guaranteeing that they will go in and we can grant them occupancy up to 180 days -- roughly six months to open a project, to occupy a building

up to that amount of time and not have those improvements on the ground and that's something that's both in the development agreement and, again, in city code in this instance. Sometimes weather, you know, prohibits somebody from installing some landscaping and we will do a 60 day, okay, you provide us 110 percent of whatever your landscape contractor says it's going to cost to put those in and give them a certain amount of time, hoping that the weather will turn, they could put them in. A few years ago fencing, you couldn't find a fencing contractor and so we recognize that and we want to get these businesses or even homes occupied. So, those are some of the things -- and I'm largely here to answer any questions you may have about that process, but planning's role in this, again, starts with the hearings, write the staff report, work with legal on the findings and the development agreement terms, that, then, come back to you roughly two or three weeks later and, then, when we get called to do a final inspection, to help -- you are missing these trees or whatever, the applicant, you know, can post a surety for some of those types of things and we can still work with our building official and recommend that they issue a temporary certificate of occupancy or a final CO, if we have a surety even with that guarantee that those improvements will be completed later on. So, we are not -- as staff I guess I would kind of put it this way, you know, when you are going through these hearings, you know, you assume -- I do that all those things get completed before occupancy, but sometimes circumstances arise and we work with an applicant to make sure, again, first and foremost life safety is not compromised, but if there are some certain improvements that aren't yet installed and there is a comfort level that they will be. We can and we will -- we have, anyways, worked with them to provide a financial surety that guarantees that those improvements will go in in a timely manner and that's the case with this project. We had that both in the development agreement that Section 12 talks about install or bond these things and that's -- that's what we did in this case and recognize that there is still some landscaping that's done in the STARS agreement, but we had heard from both the highway district and ITD that they were okay with WinCo opening, that they were satisfied with the phase one improvements for roadway improvement. So, again, I can stand for questions, if you want to get more specific on any concerns you have with how things played out here. I don't know if you want to hear from Bruce or Ted first. I can hang out, but that's generally how projects work is -- is we do inspections, we work with our building official, to let them know, yep, everything's done and complete and we don't have any concerns or, hey, these things are still outstanding, but they are non-life safety and we are okay -- if you are okay, building official, with issuing an occupancy out there, so -- that's, again, what happened in this case.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: So, I will repeat a little bit of the -- I had a conversation with Caleb earlier today, but I don't doubt that staff followed like the proper process and procedure. I think there might be some elements we can work on. I think there was a little bit of a disconnect where maybe Council thought that issuance of a CO or TCO was like the hammer or the enforcement mechanism that we had to make sure that the road was completed and I mean that in a very broad sense. When, in truth, these other agencies determine when

the road was substantially completed; right? And so we didn't really have control over that determination and maybe that wasn't the right, you know, kind of mechanism to use to ensure that that happened. My concern is just going forward. If Council intends for something big to happen that's outside of our control and we have a lot of public input and some things that are not going to happen the way that we thought or is not going to happen at all, I just think on those files we need a way to have a project update, so the public can understand more detail. For example, I think on June 1st the discussion was more along the lines of in all likelihood we issue a TCO for them to stock the store, we will likely issue another one so they can open the store, because these two agencies that determine that the roadwork is substantially complete and here the items that are not complete and why we think that's okay, therefore -- if we have an update more like that, then, I think that just helps the public's expectation be in further alignment with our expectation to be in alignment with the project. So, my concerns are not about our own process, my concerns are mainly like communication oriented around a project that has a lot of eyes on it when it's the hot potato and we think we are going to get a lot of feedback, that we have a way to get updates on the record for people.

Simison: Mr. Hood, did you have any response to that or comment? Not asking you to, just wondered if you did.

Hood: Yeah. Mr. Mayor, Council Woman Strader, I appreciate the comments and, yes, communication is -- is key. You know, we weren't -- as a staff we weren't trying to hide anything from Council. You know, we even talked about, you know, the scope of that June 1st meeting was -- was talking about the use of that building and not getting too far off track from what was noticed for the hearing at that meeting, but knowing that they weren't going to have -- knowing that for the WinCo project not a hundred percent of that was going to be complete before they wanted to stock the shelves and open -- open the store. We had had communications with them and we -- we were working towards that to say, okay, but you need to have these things done if you even want to temporarily be in there, because these are the -- the key things from our standpoint and the things and how -- again within the framework of the development agreement and the conditions. So, your point is well taken about communication and I guess why I had the quick sidebar there, Owyhee High School we are not -- I'm not proposing to give you that communication update just now, but -- but a little bit. That's coming. When that was approved by Council there were many roadway improvements that were required to be done before occupancy of that school. They are not going to be done. Do we not issue a TCO out there? That was -- that was the intent. That's what we wanted to happen and the intent was good. The school district couldn't get anybody to bid on the roadway projects. So, do we now not have a school year out there? And I'm saying that somewhat facetiously, but we are working with them, too; right? I mean there is this expectation and there was -- that's -- that's a real issue that was talked about out there. But what do you do when you get to this point when the high school is 99 percent done and school starts next month, but there is a DA provision in here that says that -- that intersection needs to be improved. If it isn't do you grant occupancy? Sorry.

Simison: I mean a valid question and balance the needs and expectations of Council and

the community and those that are receiving the benefit of becoming open and how do you effectively manage that when you see -- I mean we visibly see the work is being completed, but may not be completed on a specific date and what is the impact of that decision. We have seen some businesses -- Costco was a great example that had every intention of doing an opening on a certain day and we said no, you know, and -- and they knew they couldn't meet that as well and so they reset their date, because they couldn't meet the -- was the DA provisions at that point in time that caused that reset? I know that there was those elements. So, what is that balancing act? Because it's not one hundred percent clear where that line should always be, intention versus prescriptive.

Hood: And, Mr. Mayor, if I can just -- and to Council Woman Strader's point again, it does make it even more difficult when there is a provision put in the development agreement that is on a third party agency or something we don't even really control and when they say that it's substantially complete, you know, what maybe -- we don't even know really what's outstanding there. Sometimes. So, it is difficult and it's something we are having internal discussions, how can we tighten that up a little bit more to make it clear, even when we are working through this, what was the intent of Council and how can we work with our partner agencies and is that even the best place to put something, because, again, we can't necessarily enforce that anyways. If we don't get anything from ACHD saying it's complete how are we supposed to check that off? And we can't make them tell us that it's complete or not. They work with us well, but it is difficult -- again, to her question, you know, how do we avoid this in the future and communicate and understand and what are the appropriate places. Just one more final -- we don't have any hammers. When you get to this point in the process occupancy is it. I can't think of anything else we can do as a stick or, you know, anything to withhold or not issue or however you want to couch that, that -- again I think the city is protected and that we hold a financial surety for those things and we don't let anybody out of anything, maybe delayed longer than what their original intention was, but no one's getting away or out of making those improvements, they still have to be done, it just may not have been done in the sequence and the timing that most everyone envisioned when the conditions were instituted in the first place.

Nary: Mr. Mayor?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you, Caleb, for your presentation. Good to see you. You know, I feel like we are not talking about the applicant's role in all of this and, you know, in my opinion the applicant needs to be pushing the cart in regard to getting all of the agencies to be responding. If I'm the applicant I'm actively contacting any of the other transportation agencies to find out what they would consider complete, where their stance is in providing that information to the city if necessary. If I have a deadline to meet I'm doing that and I'm involved in the process actively. So, I'm curious if the planning department is not seeing that happen. I really don't feel like it's necessarily the city's responsibility to be

calling all the other departments to make sure that those portions of the project are -- I may be way off on that. The second thing I would say is if you are -- if we have a project that's -- that's as substantial as Owyhee High School, for example -- and I know we are not making a decision on that this evening, but I feel like if they want to -- if they want to proceed with an occupancy certificate and there is something not completed, like an intersection -- we are not talking about landscaping, we are not talking about -- then they don't need to come and apply for a DA modification, if that's permissible, which, again, that's not going to probably be processed before the school year starts, but I'm not comfortable with allowing for something that significant to not have -- not happen. Now, again, we are back to the conversation in the planning department's judgment when do they recommend that to the applicant or when don't they. So, I would also agree that if we could give any guidance to that that would be helpful, but it's -- it is so much of a case-by-case basis, but I can say for -- you know, for myself -- and I'm sure I'm hoping for my fellow Council Members that, you know, if the Planning Department needs to come to the Mayor and Council President and have that conversation about what about this one particular application, maybe that's the route that we go when we have something that's bumping up against a deadline.

Hood: So, Mr. Mayor, Council Woman Perreault, I'm going to let Ted and I think Bruce -- back to Orchard Park. We are very involved. So, the first part -- your first question I think they could probably tackle the best. The second one -- and sometimes we know, sometimes we don't. Sometimes we just call -- get called for inspection or they say, hey, we are trying to open up, you know, it's Friday at 4:30 and we want to have our ribbon cutting tomorrow, can you come give us occupancy. Oh, by the way, we don't have our landscaping done. So, sometimes we get surprised, sometimes we know. Again, both of the projects we have been talking about just now -- WinCo was in fairly early communication with us and communicating and -- and good -- good communication lines, at least from my standpoint -- and I will let these gentlemen talk a little bit more about that. And same thing with Owyhee; right? They haven't asked for that, but they know that they aren't going to be there. The stars aren't aligning where they are going to have everything done, so they have been in communication with us, too. But, again, that's not always the case and just, by the way, I tend to agree with you, that's a -- that's a big deal, not having intersections done, because that was a lot of what was talked about at the public hearings and making sure that at least this minimum level of roadway improvements were out there beforehand. And I will just say I have talked to the WinCo folks and that's why June 1st it kind of was this convoluted -- well, should you ask for a DA mod just to clear it up, just because, you know, that seems to be cleanest. It's transparent for everybody. Here is where we are at with our process. We are not trying to get out of doing the improvements, but, man, they aren't going to be done prior to occupancy. Is that okay, Council? Sometimes you don't have that three or four weeks, though, to notice a development agreement modification. So, we are trying to -- again, internally we are trying to improve that process. We are not trying to hide the ball from anybody. We can -- you know, we will work on those lines of communication even with Council on what -- you know, when that's appropriate to bring to you, but we do a surety for some of these improvements and, again, I will just -- before I turn -- you know, if there is something you really want to see done before occupancy is done on a project just make that clear in the motion, in the,

you know, development agreement or whatever. This isn't -- don't let them bond for this. This needs to be done, a hundred percent signed off, completed, before occupancy, because we would have a pretty -- a template that we have with legal that basically says unless you bond for it put it in. If you don't want that to happen, then, please make that explicit going forward, so --

Freckleton: Good afternoon, Mayor and Council. Caleb teed that up really well. We refer to those Fridays as hair on fire Fridays and it usually always happens at 4:30 on a Friday, somebody's got a grand opening and they come in and they want occupancy and they have still got inspections that haven't happened. So, typically, in our department everybody drops what they are doing and we try and make it happen for them. But in this particular case with WinCo, the WinCo representatives were very engaged with our staff. They saw the writing on the wall, you know, they knew that they had a proposed grand opening date, they knew the status of the improvements, because they stayed very plugged in with -- with the developer's representatives on site. One of the -- one of the greatest benefits we had on this project was the addition of the commercial project's manager bringing Ted Brandvold onboard. Ted was -- was very engaged with -- with those folks. He was -- I don't know how many meetings he went to, but he was there probably three times a week in their job trailers talking with them, talking about status of the roadway improvements. We -- you know, we issued this permit for WinCo based on the -- the allowance from Council and Mayor. When the plat came through you allowed one building permit prior to the recordation of the plat. So, they -- they started their construction while the development was still under -- under construction and that's always a risky move, you know, and in this case there were some delays that happened with Linder Village. Unfortunately, everything kind of came together right at the end. So, we did -- I mean our staff found ourselves in the position of having to kind of thread the needle. As Cameron mentioned, you know, our greatest concern is life safety. We are not going to proceed with allowing people to occupy a building, either temporarily or permanently, unless we have one hundred percent life safety concerns addressed and signed off and so that was the case with -- with this building. That building was -- was one hundred percent signed off by everybody. We, unfortunately, had improvements with Chinden that were not to the point where we could allow full occupancy and so through this process we did issue three separate temporary C of O's. Each one of those had very specific criteria. This is what you are allowed to do and it had an expiration date and those expiration dates were coordinated with the applicant and their contractors on certain milestones that they were -- they were shooting for. You know, it was X, Y and Z improvement function and, then, will be done by the state. So, we set an expiration date and there is a check-in point. Where are you at, you know, and, then, we move forward. So, Ted does have a couple of slides to show you to kind of talk about the CO and TCO process and what they are used for and I think with that I will turn it over to him.

Perreault: Mr. Mayor?

Simison: Yes, Council Woman Perreault.

Perreault: I had a difficult time hearing Bruce there about halfway through when he was

sharing -- I don't know if it's a microphone issue or not.

Simison: It's Bruce being a little taller than the microphones and not getting down low, so -- make sure you can hear yourself in the room.

Brandvold: Thank you. Actually, I can press the arrow there. Good evening, Mr. Mayor, Council Members. Pleasure to be here with you this evening. I was asked to give you a little bit of information in regards to the difference between a TCO or temporary certificate -- certificate of occupancy and a certificate of occupancy. I don't know if you have had a chance to look at this. I can -- I can do a deep dive or I can get to the -- get to the heart of it if you would like. Really what -- there is not much difference between the two and really -- let's see. If you look at the fourth page there. Let me see if I can get to it. Right here, actually. The notes at the bottom really. The TCO -- both the TCO and the CO require all life safety requirements to be met and -- and operational. The project construction is substantially complete and this means that the building is able to be used for its intended purpose. So, both of them have the same requirements there. What the TCO allows us to do is actually allow for items that are not complete, that are not life safety issues, that allows for occupancy still. So, then, the next page would actually take this -- and I know I'm really abbreviating this and if you have any questions on any of the other stuff we can get to it, but the next page has some possible improvement measures that we could look at here and we should probably -- we should look at moving from a practice of TCO issuance to a -- more of a focus on getting to the full certificate of occupancy on these projects. Certificate of occupancy should actually only be initiated in extraordinary situations and we should be, again, pushing for the full certificate -- certificate of occupancy. Development agreements actually tend to be a little bit of a problem. I think Caleb had gotten into this a little bit. When we start embedding things into our development agreements, such as requirements for roadway completions and landscape and things like that, it gets a little difficult and TCOs were never really meant for that. It's really a life safety issue for the building and within the perimeters of that building. So, what we -- what we should be doing is really tying anything in regards to improvements that still need to be done into the surety process or bonding process for the projects and making sure that we have -- we have got a strong process in that regards. But I think it would help tremendously. As was said, we are looking at a very similar situation here in Owyhee -- Owyhee right now for the high school and we have got to -- we have got to get some kids into a high school with -- with roadways that probably aren't going to be complete. But any -- any questions I can answer from anybody I would be happy to do so, but --

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: Ted, great to meet you.

Brandvold: Yes.

Borton: It sounds like there is -- there is two different paths that we are talking about -- or are two different concerns. One concern would be whether or not a Council's motion accurately reflects the requirements that have to be done and if we might miss in a motion that they -- you know, an application shall do X by Y date and that goes in the DA and if we miss it, then, we lack the potential hammer to require it to be done. So, that's one area that I think we are talking about. Whether or not a certain component of a project is required or can be bonded for is really nothing that we ever genuinely address in our motions. But the second path is one that I have heard highlighted where there may be a provision in a DA that they shall do X by Y date, but there is some disconnect in when and if the city is going to enforce it and take the -- the nuclear option to never grant a CO, because it's not been done. Not allow a school to be open, for example. So, are we talking today about making sure Council motions include DA provisions that allow you to -- drop the hammer is not the correct way, but allow the city to really hold an application's feet to the fire or are we talking about scenarios where we have the ability to hold the application's feet to the fire, but there is some disconnect and how early in that process we are made aware of, hey, they are behind. They are supposed to do X by this date. It's in the DA, but they are not going to make it, what do you want to do? I see two different concerns being raised. Is that an accurate summary?

Brandvold: It's an accurate summary of what you have got -- what -- but what -- or how do I go about this? Two factors here is a lot of time -- is really the clarity of what the Council's motion is and what the Council expects and whether that is actually fully and accurately portrayed in the development agreement; right? That's one -- that's one issue. But -- but -- but we are also -- as Caleb touched on, we also shouldn't be as a city necessarily embedding a lot of -- like the ACHD and -- and ITD requirements in that DA. I mean we have no enforcement arm against them and we can't necessarily make that happen. The potential you have there as a Council -- I don't know if I'm -- I'm going off a little bit. But the -- the potential you have there as a -- as a Council here is setting up something that -- that can't be met developers are going to realize that and -- and by setting some of these -- these conditions into the DA is -- is actually hindering developer's desire or -- to do projects.

Borton: So -- Mr. Mayor?

Simison: Councilman Borton.

Borton: To that point, though, if -- if the developer says I can't open -- or we say, hey, you can't open for this particular reason until that intersection is done, you just -- you can't. We -- we are not going to approve an annexation, because that issue is critical and the developer says I get it. I agree. I cannot open. And it gets put into a DA and it's a voluntary agreement that I am forever hamstrung, even if it's a third-party agency and there is factors outside my control, it seems like those -- those scenarios where that occurs -- it's eyes wide open, city understands and the city approves it, because it -- because it might be a denial, for example, if that condition isn't included, but because of that condition, understanding their strings, the -- the applicant is in agreement that it is clear, but it's the second prong that I was talking about and now it's where we are in the

process where the city would ultimately enforce that provision and say in this example you don't get a CO and if -- and if that third-party agency is delayed 20 years, you don't get a CO for 20 years unless you come apply to modify the DA, articulate the reasons why these circumstances are different -- it seems like we got a mechanism to do it, but --

Brandvold: I mean you -- to some degree -- I mean, yes, you can take that hard line and say, okay, you are not going to open, but had -- say, for instance -- let's just take WinCo. All right? As a -- as an example here. Had we take -- if we take the hard line in a DA that -- do you want me to go there? That isn't necessarily clear, all right, WinCo is going to come at us and say, you know what, I am substantially complete, I deserve a full certificate of occupancy -- excuse me -- certificate of occupancy, because they -- again, the TCO and CO are basically the perimeters of that building and that's it and so we have got somebody there -- sitting there that's going to come after us, because they can't open because we are enforcing, you know, a provision in the DA that says the roadway has got to be complete. And I'm not saying that's a situation, because I think in this particular DA there was some ambiguity.

Simison: Maybe I'm -- maybe I'm Captain Obvious, the one that's just kind of making this connection, but the DA and the TCO don't always apply to the same entity and that's what occurred in this situation is WinCo was not subject to -- to my knowledge WinCo didn't sign the DA.

Brandvold: No. It was developer of the site -- of the --

Simison: Yeah. So, they are not -- they are not beholden to this. The developer is the one that is being held -- have to be held accountable compared to the individual that's there and --

Brandvold: Which adds another layer is, yes.

Simison: Which is another layer and, quite frankly, Caleb kind of mentioned this before, it's almost by approving something to take -- to start developing first before the process had an -- you know, we got out under our skis by approving one building early to a certain extent. I mean if you didn't approve that one building early you may or may not get there, but the off-site improvements are always going to be a separate element. So, even for Council do you want us -- and for staff motion, do you want them to say that the road improvements will be substantially complete as determined by the roadway and you will see -- do you want that clarity in your motions if you are going to tie road improvements to projects. That at least gets it to the point where we understand what that means in theory, even though it only matters where -- whoever you talk to at ACHD what substantially complete means -- I don't know if they got a definition, to my knowledge. Am I -- am I missing -- is that -- at least we understand the difference. Do we agree on that point? That DA's and TCO's may not even go to the -- be applying to the same group.

Nary: So, Mr. Mayor, I could probably add a little bit to that, because I -- I agree with you. I mean, again, you hit it right on the head. I mean, again, the applicant and the DA here

is the developer of the shopping center, not WinCo. Now, WinCo might be paying for some of it, but they are not -- they don't have any control over the project itself -- of the roadways. In this particular development agreement we actually did tie the certificate of occupancy to the substantial completion of the roadway. It isn't always that way. You have to remember a development area is merely a contract. So, we only have an enforcement tool through either a contract by basically suing them to enforce the agreement or by de-annexing the property and that's really our choices in the contract. So, we don't have the same level of hammer -- unless we put it in there and we actually did here in this case, but not to make it more confusing, because I know it sounds pretty confusing already. I reviewed the minutes of the hearing that approved this project. No one talked about Meridian to Locust Grove in this discussion. All of the conversation regarding Chinden was accessed from Chinden into the site, because of trying to take access off of Fox Run off of Linder as the primary entrance into this facility. They were asking for a variance to allow them access. We tied it to the similar approval we did for Costco two miles down the road or a mile down the road and no one was talking about that as a whole. Now, as Caleb said, there were a number of hearings, so I understand that the bigger discussion of Chinden -- and this is a subset of that discussion, but it wasn't a specific requirement here. In this particular one it was a little -- a little different in how the motion was made, because Council Member Palmer actually brought up some -- some talking points of what he felt was important. There was further discussion. He made a motion to approve based on what he said ten minutes ago, asked me -- he looked at me and said do you have it. I did. At least I think I did. I repeated it back, like I think these are the points. Everybody went, yep, that's right and, then, we voted. So, we do as the staff -- as Cameron and Caleb and Bruce said, we try very hard to make sure we catch your points, but, again, we -- we review Dean's minutes. We review the tape. We go back and look to make the findings and, then, again, the last step is it comes back to you. So, we do try to get all those points, but this particular one we tied it to the occupancy, but, again, it was -- the completion as determined by the road agencies who were the authority over the road and they did give us the approval that to their -- to their expertise the roads were safe for use to use for this project. So, that is the only -- we don't have road engineers. We don't have a way to supersede that. So, if the road agency says the roads are safe and acceptable to us, they are safe and acceptable. I mean that's -- that's the only way we really can do that.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I think the ultimate goal of this evening is just to provide some transparency to -- to some folks and to ourselves who are -- who are interested in this process and why it quite wasn't where we thought it was as a Council and so I appreciate the dialogue and appreciate the clarity. But just to confirm, though -- so, what you are saying is in Councilman Palmer's final motion there was no -- there was nothing in that motion that said that the DA or the CO to WinCo is tied to the completion of Chinden from Linder to Meridian or Locust Grove. Either one.

Nary: It was not.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: I think Bill brings up some -- some good points. You know, we continued that Linder Village hearing --

Bernt: Right.

Cavener: -- to only talk about a particular piece of the road, which is I think why we didn't have a lot of discussion in it and I -- like Mr. Nary I went back and I -- I read the minutes and I said, ah, I don't remember some of that, so I watched it and get even a different feel watching it than reading it and I think, you know, this has been a really really good conversation, but I do think there is some opportunities for us to improve our processes coming out of that. One, I think we are already doing a really good job of. We are not going late at night anymore on City Council meetings. I think we were -- it was another late night, after a series of late nights, and I know those are when those things tend to fall off and we think things are captured in a motion and maybe they are not. A suggestion would be -- and maybe, Mayor, this is a question maybe for you or even Council President, staff, to consider. I think particularly coming off of contentious public hearings when the Council has made a motion, perhaps adjacent to the findings that we approve a Council Member should be able to maybe request an executive memo that outlines the highlights of what is captured within those findings. I like that for a couple of reasons. One, it allows us to come back after the meeting and review and make sure, hey, what I thought made sense up here in my head is actually captured here. Two, I think it makes it easier for our public to understand that. While I know we have got a lot of great engineers and planners and attorneys who live in the City of Meridian, that's ultimately who we are working for is the public and I think making this easy for the public to understand the actions that are happening up here can give them greater confidence in decisions that we are doing. I don't think we need to do it after every land use application. I think if there is one that's contentious and the Mayor or the Council feel like, boy, we would like to capture that for the public, that we could request it and do it. So, that's something, Mr. Mayor, I would encourage you and your staff to talk about if that's something that is feasible, isn't overbearing on staff's time, I think it also would allow us as Council to make sure, yep, what I thought we approved on Tuesday night is actually what we approved. So, just some thoughts.

Simison: Thank you, Councilman Cavener. I will refer that to Bill on that element about what makes sense. I mean if -- and I would suggest to that point Council include that in your motion of an expectation, because I don't want to be the one to determine what's contentious and what's not contentious. I would rather Council agree.

Cavener: I agree.

Simison: -- if it's contentious enough and big enough, honestly, what you are asking for doesn't seem like to be that much more, because they are already doing the work.

Nary: Yeah. Mr. Mayor, Members of the Council, maybe to add to what Council Member Cavener said, we do that a lot internally. I mean we have a lot of conversations of did they say this, do we add this, do we bring it back, do we get clarification. So, if it's on your radar as well that would help us, because we do that a lot between the planning staff and my department and, like I said, we go back and listen to the tape or we watch the video and say, yeah, they said this, they didn't say that, but it might have been something that was said an hour in and an hour later. It was still part of the essence of what we are talking about, but it wasn't specific. So, we just want to get it right and, again, I think we could -- we have been told many times what we need to bring it back, but, again, if it's on your folks radar to say we would like to see this again before we get to the findings, please, just make sure you tell us that.

Cavener: And, Mr. Mayor, if I --

Simison: Councilman Cavener.

Cavener: And, Cameron, your staff work really really hard and it is a really really challenging job trying to translate to the Council and, then, decipher what the Council has said in maybe a long motion or conversation to be captured. At the same time we are also trying to, you know, provide good customer service to the applicant and also great customer service to our citizens. I recognize -- I hope you don't feel like this is a Monday morning quarterback situation. I just think that this was a big scenario that shined a light on areas of like get -- I think you are taking some good feedback the way that staff can better support the Council and the public and the way that Council can do a better job of making sure that we are providing clarity to make it easier for you guys as well.

Arial: Mr. Mayor. I -- I do appreciate that, Councilman Cavener, that, you know, you are conscientious of staff time. I mean if we were having to do this level of review on every application that's -- that's an undue burden, but we -- we support the idea of making sure we get these motions right up front, so that we can, then, implement them and execute them, you know, to everyone's expectation on the long run.

Bernt: Mr. Mayor?

Strader: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I just wanted to say thank you to staff as well for, you know, bringing clarity to this -- to this topic. I -- and I agree and I want to echo the words of Council -- Councilman Cavener and say this wasn't -- we didn't want to make this be a gotcha moment for sure, we just wanted to be as transparent as possible and to bring clarity to this situation. It was a big -- it was a big application that went a long time and had many different layers

to it. So, thank you and it looks like, you know, we need to do a better job on our end to be more clear on our motions and so going forward we will do a better job with that.

Simison: Council Woman Strader.

Strader: Yeah. You know, I appreciate planning staff's time on this. Going to go through it and trying to figure out -- it's always going to improve, right, and, then, we -- we as Council have a lot of work to do it sounds like in clarifying our motions and -- but one thing I want to say -- if you have a situation like Owyhee High School and it's pretty clear in your judgment that what Council intended and what the public heard versus what is going to happen that there is a big disconnect, it's not just about managing the planning process, we have manage the political process of making sure the public is informed about something that may not meet what they expected originally and so I think it needs to come back before us either as an update or following our approvals the way we normally do, but there needs to be some way for that to get on the record and provide everybody with an update in my opinion.

Simison: Council Woman Strader, I would agree and I think there is a difference between what is -- you know, I think Owyhee High School -- you know, I heard about this the first time yesterday about this popping up and I think we need to have an understanding about what is our process moving forward with this, either through this process or otherwise. So, I'm going to -- I'm going to task you all to, please, come up with a plan by tomorrow. If we have to have public hearings, if we have to do specific things to make it legal, but I think from a general standpoint I hope what you heard is we stay within the legal confines. I don't know that there has been anything that I'm aware of that has ever been approved that has been outside the approval of our process and otherwise. Whether or not people thought that's what was approved, that's -- that's a different issue and that's always going to be hard to Monday morning quarterback, for lack of a better term. But I hope you don't take away from this that we are approving stuff outside of what has been approved in the DA and signed off on by parties. That is not the case. But the Owyhee High School is one that is a little bit now different that we are going to have to figure out what is the appropriateness of what decision needs to be make and we need to make that quickly, so --

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: A question for Mr. Nary. If there was a situation in which the staff and legal didn't -- didn't really truly feel like they could get a grasp of Council's intentions, would that, then, be put back on the agenda for the following week and discussed and clarify -- clarifying questions be asked or how would that work?

Nary: So, Mr. Mayor, Members of the Council, Council Member Perreault, absolutely. I mean if we -- again, we review it the next day and as they are trying to craft the findings Planning will reach out to my department to ask does this make sense, is this what

happened. Usually -- I'm usually the one here, so I'm usually the one that says, no, they didn't say that. But, yes, if we are not clear in the slightest we would bring it back. If we are not clear, but we think we are, we are going to make sure when the findings come out we are going to highlight them, pull it off the agenda and say this is how we wrote them, is this right. So, if we are not even sure how to write them we would bring it back before that. If we think we are and we have looked at the video, we are pretty comfortable, but we still want to be sure, yes, we will absolutely ask, because, again, we are just trying to get it right.

Perreault: Thank you.

Simison: Councilman Bernt.

Bernt: Are we -- Mr. Mayor, are we finished with this discussion?

Simison: To my knowledge, unless there is anything else. Thank you, Cameron and Caleb and everybody.

8. Mayor and City Council Compensation Committee: Report and Recommendation

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: There is an item on the -- on the agenda. It was Item 8. Unfortunately, some things happened that weren't foreseen and the presenter or presenters aren't available for this evening. So, I would like to amend the agenda and strike Item 8 and we can put this on either next week's agenda or the week after.

Hoaglund: Mr. Mayor. Was that a motion?

Bernt: That was a motion.

Hoaglund: I will second the motion.

Simison: Have a motion and a second to strike Item 8. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay? The ayes have it and the item is stricken from the record.

MOTION CARRIED: ALL AYES.

EXECUTIVE SESSION

- 10. Per Idaho Code 74-206(1)(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective**

qualities of individuals are to be evaluated in order to fill a particular vacancy or need; and (d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: At this time, Mr. Mayor, I move that we go into Executive Session per Idaho Code 74-206(1)(a).

Hoaglund: Second the motion.

Bernt: It looks like -- do we need (d), too?

Hoaglund: I will second that motion. Yes. With (a) and (d).

Simison: I have a motion and a second. Is there any discussion? If not, Clerk will call the roll.

Roll call: Borton, yea; Cavener, yea; Bernt, yea; Perreault, yea; Hoaglund, yea; Strader, yea.

Simison: All ayes. And we will go into Executive Session.

MOTION CARRIED: ALL AYES.

(EXECUTIVE SESSION: 5:36 p.m. to 5:48 p.m.)

Simison: Council, do I have a motion?

Bernt: Mr. Mayor, I move that we come out of Executive Session.

Hoaglund: Second the motion.

Simison: I have a motion and a second to come out of Executive Session. Is there any discussion? If not all in favor signify by saying aye. Opposed nay.

Bernt: Mr. Mayor?

Simison: The ayes have it.

MOTION CARRIED: ALL AYES.

Simison: Councilman Bernt.

Bernt: Move that we adjourn the meeting.

Hoaglund: Second the motion.

Simison: Have a motion and a second to adjourn the meeting. All in favor signify by saying aye. Opposed nay. The ayes have it. We are adjourned.

MOTION CARRIED: ALL AYES.

MEETING ADJOURNED AT 5:48 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS)

MAYOR ROBERT SIMISON

DATE APPROVED

ATTEST:

CHRIS JOHNSON - CITY CLERK