

Pending Minutes – Awaiting Approval

Note – These minutes have been prepared with a timestamp linking the agenda items to the video discussion. Electronic version of minutes will allow citizens to view discussions held during council meeting.



**PROVO MUNICIPAL COUNCIL
REDEVELOPEMENT AGENCY GOVERNING BOARD**
Work Meeting Minutes
12:00 PM, Tuesday, August 22, 2023
Council Chambers
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
<https://www.youtube.com/provocitycouncil>

Agenda

Roll Call – Municipal Council

The following elected officials participated:

Chairperson Katrice MacKay
Vice-Chairperson Rachel Whipple
Councilor Shannon Ellsworth
Councilor Travis Hoban
Councilor Dave Shipley
Councilor George Handley
Councilor Bill Fillmore
Mayor Michelle Kaufusi

- 1. An ordinance amending the Zone Map classification of approx. 6.9 acres of real property, generally located at 3155 W Center Street, from A1 (Agricultural) to AI (Airport Industrial). Provo Bay Neighborhood. (PLRZ20230166) (00:13:30)**
Presenting Aaron Ardmore, Planning Supervisor

Ryan McCoard is requesting a zone change for his parcels at 3155 W Center St., from the Agricultural Zone to the Airport Industrial Zone, in order to build warehouses on the property. The conceptual site plan with the rezone request shows four (4) warehouses providing just over 100,000 square feet of floor space. This use would be permitted under the AI Zone and the concept generally meets the standards of the proposed zone.

Councilor George Handley – Question, how far away is this in terms from the Turley properties that we just looked at?

- a. A mile west.

Presentation Only – This was already scheduled for the 8/22/23 Council Meeting.

- 2. An ordinance amending Provo City code regarding communication towers and antennas. Citywide application. (PLOT20230187) (00:17:27)**
Presenting Dustin Wright, Planner

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The proposed amendment will align Provo City Code with federal laws that regulate communication towers. Federal law requires approval unless there is a substantial change, such as increasing the height by ten percent. The City Code currently requires a conditional use permit when co-locating additional antennas on existing monopoles, and this does not meet their definition of a substantial change, such as increasing the height by ten percent. The City Code currently requires a conditional use permit when co-locating additional antennas on existing monopoles, and this does not meet their definition of a substantial change. This text amendment will also add clarification to the process when there is a need to change the tower location or approve a new location.

Councilor Travis Hoban – “Are there any unforeseen challenges that might come from reducing that setback because I’m sure the setback was originally put in there in order to ensure that they’re not too close to residential or somebody’s house etc.?”

- a. Components such as how the code gives the finding decision some flexibility based on each property, individual characteristics and kind of take all that surrounding property and everything into their decision the availability of things that could be considered, I haven’t really heard anything that affects distance other than if there’s a tipping issue. Anything else like a height issue or accessibility issue, those would be made on a case-by-case basis.

Presentation Only – This was already scheduled for the 8/22/23 Council Meeting.

3. An update to the Municipal Council regarding improvements on Center Street in downtown Provo and associated construction. (23-060) (00:22:36)

Presenting Gordon Haight, City Engineer

The Transportation and Mobility Advisory Committee reviewed and prioritized a number of improvements in order to enhance pedestrian safety and overall improve the quality of the user experience in downtown Provo. Engineering Staff will present a few proposed improvements which will take place shortly in downtown on Center Street, including raised pedestrian crosswalks.

Councilor Shannon Ellsworth – When do we expand this construction idea and bring it down closer to City Hall and throughout the city?

- a. After the City adopted the 31 ideas that came from TMAC and the Planning Commission – we looked at what it would take to do a really comprehensive plan for Center St. and came up with pricing. There’s a lot of positive things that need to be done – also we have aging infrastructure, water – there’s no way we can accommodate the kind of growth that we think will happen in Redevelopment. There’s a lot of needs to be looked at in utilities, the roads, sidewalks – even some discussion to narrowing Center down to one lane of traffic to encourage people to really come out on the sidewalks...the price was between eight to ten million dollars and would require the Planning and Economic Development groups.

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Vice-Chair Rachel Whipple – “I was wondering about signage for I-15 – in Salt Lake there are all kinds of signs telling you how to get over to I-15 from different places, but we don’t have those from University – it seems like that’s how you could help to redirect some of that freeway traffic at 100 N, 300 S, Center St. Has anything been considered or is that something we work on with UDOT?”

- a. I think we would want to make some changes at the intersection but before we talk to UDOT and I think before you can go change your turns on Center St. to go to one of these other routes, we’d probably need to physically start to have a plan to make those changes visible – that is something we’ve started to work on.

Presentation Only

4. **A presentation regarding the Annual Fraud Risk Assessment. (23-049) (00:40:49)**
Presenting John Borget, Administrative Services Director

The State Auditor requires all Governmental entities do an annual Fraud Risk Assessment and have it signed by the CAO and CFO and then reviewed in a public meeting with the Governing Body.

Vice-Chair Rachel Whipple – When did we lose our (internal) auditor person and how long have we been doing that RFP process?

- a. We’ve been doing that about four years now. We lost them just before you came on – so over a year ago. One of the challenges that we have is that those that respond to the RRP, were more expensive and some where not located within Utah – so it was remote. That might require travel and could possibly make it work...Justin how would you respond to that?

Justin Harrison, Executive Director of City Council – So there were in total seven responses within the State of Utah, and the next action is for the audit committee to make is to review those internal RFPs and select an internal auditor, if there’s a candidate that they like. We can start again and put out another RFP but that’s where we’re at.

Presentation Only

5. **A presentation regarding the balance of the Legacy CIP Fund. (23-049) (00:53:12)**
Presenting John Borget, Administrative Services Director

As follow up to a Council motion, Finance will report on the status of the Legacy CIP fund and CARES and ARPA funds, either spent, encumbered, or in fund balance.

Councilor Dave Shipley – Seems like we’ve kind of put a tentative time frame on the West Side grocery incentive, it’s been extended but what’s the anticipation once we get through that deadline of what we might do with those sponsors or when we might visit about how to reappropriate those funds?

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- a. Mayor Michelle Kaufusi – We meet with the grocery store people every week; we believe in being held accountable – it is our hope that we’re close to another potential partner. The location has to be west of I-15 for that money to be used.

Keith Morely, Assistant Economic Development Director – Remember we preserved the option to incentivize two locations and that’s the other one, we have a thought on that and Bill Peperone was going to report on one of the mayor’s big six which is Corporate options and we were going to talk about the fact that here is an active site, we do have an active retailer that asks a letter of intent on the site and a developer that’s trying to put together a site plan for that whole site. “I’m pretty confident that we’re really close on that one and that looks like it’s going to happen so what was pre-allocated will get used for that.”

Councilor Shannon Ellsworth – is there a timeline for that money?

- a. Mayor Michelle Kaufusi – We have an agreement but the money isn’t given until we get the revenue business, it’s not going to come early and we’re just not messing around anymore.

Presentation Only

6. A presentation addressing the dog problem. (23-059) ([01:13:43](#))

Presenting Wayne Parker, CAO

Many residents have complained about dogs running at large in city parks and on trails contrary to city leash laws, as well as dogs leaving animal waste behind. The Administration has been studying the issue and desires to bring the Municipal Council up to date on options for legislative, budgetary, enforcement, and educational actions that could be taken to address the issues more proactively. It will cost some money – maybe appropriate some funds, I’m curious about trying that aggressively first and then look at whether or not we need to go beyond that.

Chair Katrice MacKay – So right now there is no fee?

- a. There is a fee

Chair MacKay – Is that a citation?

- a. Yes

Councilor George Handley – “We listed educational efforts last on this list, my gut tells me that we would know a lot more about whether or not any of these things become more viable, personally I’m not interested in banning dogs in parks but the other ones are of interest to me, would be a massive education campaign with lots of signage in parks and other places with improved waste areas so that its both encouraged and doable.”

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Chair MacKay – “I like George’s suggestions; it seems like we need to update our code for sure as far as service animals and social and make that differentiation. Some feedback I got from the public was that they like the banning but also thought we should do “doggy hours” or certain hours you could go and have a “free leash” time. Another idea was that in the “high density” places that do not have grass should have some sort of small dog area. I also agree that we should look at the penalties and maybe update those.”

Councilor Shannon Ellsworth – “I’ve been in a working group with Parks and Rec on designing Slate Canyon Park and I’m glad that a dark park was not proposed there because the only dog park is Bicentennial which is close to Slate Park then that concentrates all the dogs in Southeast Provo. If there is a master plan for dog parks I think it needs to be spread throughout the city.”

Chair MacKay – “Another point I forgot to mention is that I think something like the Farmer’s Market is a venue/event that would be better without dogs. There’s always feces smeared on the sidewalks or children’s strollers.”

Councilor Bill Fillmore – “I’m very much in favor of a strong education campaign whether we’re mailing things or posting things, guilt-inducing is sometimes a good way to go. As for enforcement, I’d focus on the high density areas – a show of force – particularly during the summer months when dogs are out, maybe something in the Daily Herald. I too heard from a citizen that thought provided bags would be helpful and contribute towards a solution.”

Vice-Chair Whipple – “When we do get to the motion part I do want to have us look at doing something about service animals to make it clear that they have to be on a leash. Is there a way to quantify the cost either in the amount we pay employees or volunteer hours for cleaning up poop in a park. Then we can show that it does cost time and money and diverts resources.”

Justin Harrison, Executive Director of City Council – Just touching base on the sports park so there are a couple of questions that council members had sent in after the Memo, regarding the sports park, are there any other cities in Utah that banned dogs and Parks, Moab, dogs are only allowed in designated dog parks. Several cities have also banned dogs in sports parks.

A motion was made for the administration to return with a plan for education, enforcement and associated costs.

Passed Unanimously 7-0

A motion was made for staff to come back with recommendations on policy including definitions of service and emotional support animals, places and events where dogs should be restricted, and what code changes may need to be made regarding enforcement and penalties.

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Passed Unanimously 7-0

7. A presentation regarding code-required and administrative reports. (23-025)
(02:06:43)

Presenting Abi Maccabee, Council Intern

Pursuant to Provo City Code 2.50.130(2)(i), the Council Executive Director is to evaluate, report, and make recommendations to the Council as to whether the general intent of Council policies, in the form of ordinances and resolutions, are being complied with and carried forth by the City.

City Code references 29 reports that are required to be given to the Council at various points of the year for various reasons. The purpose of this presentation is received in over ten years. Council staff is seeking direction on what reports to keep, delete, add, or amend. Staff will review the code and provide recommendations.

Vice Chair Rachel Whipple – Question, “on the insurance plans – if for example, there was a flood in a parking lot and there were multiple claims but each of them was less than \$30,000 but cumulatively there were more than 30 claims – would that be a report that we need to get.”

- a. Justin Harrison, Executive Director of Council – it’s anything in excess of \$30,000, as an aggregate.

Vice Chair Whipple – What do you mean by aggregate? It’s their aggregate claims, one incident leads to five claims and the five claims total more than thirty thousand dollars even though each claim individually is less than that.

- a. Brian Jones, Provo City Attorney – Let’s say we had one sewer back up and flood five homes, and every one of them was twenty-nine thousand dollars we probably would not.

It’s also not true that it hasn’t been received since 2013 because we do an annual, quarterly and semi-annual report that we give to the council after six months and it has all of that information in it – it does include all the claims, we use \$30,000 as a benchmark of over/under. I’m not saying you’re wrong – I just mean a lot of these reports are being done in a way differently than they were originally visioned.

Vice-Chair Whipple – Isn’t the State of the City still on YouTube and everything?

- a. Michelle Kaufusi, Mayor – It’s my letter that I write and I usually stand up and read it before we present the budget and that’s the first letter.

Brian Jones, City Attorney – “There are three more that I thought of – they’re not in code but they are either semi-official or unofficial. There’s a report once a year on fleet vehicles, the other two are ones that Don Jarvis presents every year on the sustainability committee – he just does that because he likes to. Sean Miller the agricultural

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commissioner is available at any time to come and give a report, that's just another suggestion.”

Councilor Shannon Ellsworth - Perhaps during budgeting season when we're getting a lot of information – there might be an opportunity to capture some of that for fall literature and still evaluate it annually.

Vice Chair Whipple – “I will say that some of my reports that we get are not on here, like our zoning report – I do appreciate the reports that we get that come to us throughout email. I would like staff to add a column that says where we're clearly getting our information and then I think we would be in a position to go through each one and decide if changes need to be made. The other thing I would like you to do is to talk to all of these entities that are supposed to be doing reports and see how they feel they're conveying the information and if they think there would be a better way to do it.”

Chair Katrice MacKay – “In this other column we're making, let's find out the man hours to get that information. I think that would be relevant to making a decision on “this is a fun report but we'll wait because it's that many man hours and valuable time” so lets find out if the report is a constructive report that we really need or is it just entertainment. I don't think we need a report on every report – in some cases a written report is just fine. I would also like to add another column about how this information is conveyed to us, do the people preparing the reports feel this is worth their time, how much time is it taking to complete these reports, do they feel they're already conveying the information being requested or would they like to be able to come before the council and convey more.”

A motion was made and seconded to direct Council Staff to create another column on the report to show how the report information is currently being received. Then return and report back on what was learned after talking to those who generate the reports – to see if they would like time to come and present to the council and the number of hours involved in preparing each one.

Passed Unanimously 7-0

8. A discussion regarding the Provo City property tax rate for general operations. (23-058) ([02:32:55](#))

Presenting Justin Harrison, Council Executive Director

During the August 8th Truth in Taxation hearing, staff was directed to prepare two possible rates for the general operations portion of the Provo City property tax. Council staff will present tax rates of 0.000587, which would bring additional revenue into the general fund of \$254, 316, and a rate of 0.000567, which would bring in additional revenue to the General Fund of \$151,943.

Councilor Dave Shipley – Are we voting on the library independent of this tonight or are we lumping them together, once we know which one of these we're doing so they will all be included in the final budget adoption?

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- a. They're all part of the aggregate amount including the library depending on which one of these two so the hope is that there will be a consensus in this meeting so the staff can go back and insert that rate into the final resolution.

Councilor Shipley – expressed that he would like to reiterate his point that he think we should tax at the lower amount to stay consistent with the way we raised taxes last year.

Councilor Bill Fillmore – expressed that he appreciates the consistency issue in taxing but he has a concern with public safety but being 10 or 12 short of the law enforcement standard that we would like to have and nine dollars and change doesn't seem like a high amount when weighed against public safety in order to hire two officers. Also to catch up a little bit from the 10-12 years that we (Provo City) didn't increase taxes at all.

Councilor George Handley – agreed with Councilor Fillmore on his points. He did acknowledge the public concerns heard (in the 9/8/23 Truth in Taxation Meeting) were legitimate but as the amounts were broken down, he could see the people start to understand why the city was asking for what they were. He also feels the criticisms were not substantial enough to give him pause and feels it's a very modest but needed adjustment.

Vice Chair Rachel Whipple – asked the council to decide what the goal is. Is the goal to get two officers and catch up on years of inflation, then they should go with the higher amount. While she's grateful that there are many volunteers in the community who help the government stretch their dollars and remain fiscally responsible, sometimes the cost just needs to be paid. Therefore she is in support of the higher amount.

Councilor Travis Hoban – wonders if the council is exploring all the options to get additional funding or is it just easiest to take the tax route and raise them. For example, what if the council didn't approve the additional tiffs on the buildings and they put that revenue towards getting new officers or to go through a pass-thru fund to the library. If his math is correct, long term they city could catch up on police officers and get the library funded.

Councilor Fillmore – challenged the previous thought on tiffs. "I don't like doing them (tiffs) willy nilly but the purpose behind them is long run economic developments that generate more taxes.

Councilor Handley – "I'm happy to go through this process, but if we don't make that adjustment we keep falling further and further behind...I don't know the ins and outs of from the budget discussion that the administration had with the police – presumably they went through their expenses. It's not sustainable over time to say that you're going to have a city budget where your property tax is going to be the same exact amount of money every year, even though your expenses keep going up as this city keeps growing."

Vice Chair Whipple – stated that police officers are a known expense that can be planned on, and since they are not revenue generating they should be linked with a sure

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and stable source of funding. “We can only deal with the problem that’s ahead of us right now, this present moment these are the issues.”

Vice Chair Whipple – Question, “if this motion for the lower amount fails, and then a possible second motion for the higher amount also fails, can we go back and revisit the first motion for the lower amount?”

- a. Brian Jones, Provo City Attorney – “The budget has to be passed by the end of the day so we can do all of that, having a budget number is contingent upon setting the rates, you have to set the rate.”

Brian Jones, Provo City Attorney – “I just want to make a clarifying comment about Councilor Whipple’s question earlier. I was not suggesting that you have to pass in this work session a motion that picks one of these two things, because if no such motion passes then you’re going to get a budgeted ordinance tonight that has the five six zero in it. My point was that tonight we would have to pass the budget ordinance and that budget ordinance has to have a tax rate in it...so you will end up making a decision but there are three options not two.”

A motion was made to adopt the property tax rate of 0.000576.

The motion failed 3-4 with Councilors Hoban, Shipley, Fillmore and Whipple against.

A second motion was made to adopt the general operations tax rate of 0.000587.

The motion failed 3-4 with Councilors MacKay, Ellsworth, Hoban and Shipley against.

A third motion was made and seconded to pass the original motioned amount of 0.000576.

Passed 6-1 with Councilor Hoban against.

A fourth motion was made to appropriate the additional revenue generated by the general operations property tax rate of \$151,943 into the Police Department budget with the intent that it be used to fund an additional full-time officer and their needed equipment.

Passed Unanimously 7-0

Chair MacKay recessed the City Council

Chair Ellsworth convened the Provo Redevelopment Agency Governing Board.

Redevelopment Agency Governing Board

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9. **A discussion regarding expanding the tax increment finance agreement with the Noorda College of Osteopathic Medicine. (23-045) (03:27:44)**
Presenting Keith Morey, Assistant Director of Development Services

The economic costs of constructing on this site have increased due to the removal of thousands of tons of trash as well as the required foundational systems, and the installation of a methane mitigation system to dissipate methane gases. The initial scope of the project was estimated at \$160 million but has now increased to over \$400 million.

Board Member Dave Shipley – “On some of the numbers for the answers I was trying to think how do we pay that back in five years, you’re saying it’s 75% of the total increment right? So, 75% of that goes back”

- a. Correct

Board Member Travis Hoban – Question, How much are we giving up in order to pay back the inner fund loan quicker? He expressed seeing a number of 1.2 million dollars that goes back to the tiff and he felt that was a big price to pay just to pay the city back earlier, three to eight years sooner. He also expressed that while he knows they can’t fund future councils he would like to use these funds to indicate future transfers or cover some of the other needs that have been expressed. He’s not comfortable with the unknown element of whether the project will really expand or not.

Board Member Shipley – expressed that the extension of time and the expansion of the project are unique tools that RDA has to use for incentivizing everything that they want to see and that he was still struggling with incentivizing an existing building, something that’s already ensured. He wondered how much faster does the housing take place based on including it versus not and is there a legitimate concern at this point that housing will never happen on that site or other commercial development will happen on that site if the building is not included.

- a. “I think that is a fair question to ask the development, my assessment is that it’s a revenue stream that if we make it available to them, could benefit both parties because it gives us something to work with today that we might not have for several years to come. I don’t think that means the project doesn’t need to move forward so I think if you decided because you did not have the comfort level to fold the building back in, I think the project is still probably still going to move forward. I don’t know that I think it’ll do the project in if it’s never going to happen – that’s a concession that we could have probably been making. The developer would probably understand our position and would probably be willing to move forward, I think one of the things we should discuss with them though is what they think the usual residential build time is and what commitments they can offer us and any potential ... say we’re willing to talk about the end but we want to guarantee that housing is going to start...I think that’s fair”

Board Member Shipley – Question (to developer who had come up to the podium but did not give his name), So when you talk about ready to commit but don’t have financing

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– is that ready to pull a permit on the full project or a phase one or how many years on the east side, and how many units total would that be (700), so almost half the units would be on this first phase? Is there already a commitment from somebody to finance but only if you've got some incentive, so even if it happens tomorrow, it is just one more element that might help the project.

- a. **Developer** (name unknown), Correct.

Board Member Katrice MacKay – expressed her interest in having this project move forward and is looking forward to what it will do for that part of Provo that has struggled economically for so long. She also expressed excitement at the types of professionals the development will bring into the area and would like this done sooner than later.

Board Member Rachel Whipple – “Ok so my first question is a clarification, one of the concerns is I want to have a clear start and cut date for this, so based on the information that we were given in the packet it looks like if we include the building then we will have a definite start date for the 20 year period and then we will have a definite end date, is that correct?”

- a. **Developer** (name unknown), That's correct.

So the building is done?

- a. It's done.

So if we don't include that building then we don't have a definite start date, so that date could be five years from now, which might be closer to 2040 – so my great concern is that I know when this period is so that we can plan other projects and things around this so under that building it would include the whole project: housing, commercial etc. – so yeah I liked the idea of having a definite start and stop date. I feel that if it happens then every year the developer feels more incentivized to make sure that they're doing whatever portion of the project they need to do because of that window.

Her next thought was about the value of money and how we can most likely by more things with money now than we'll be able to in the future, so even though money could be lost giving away this tax increment and including the building, she feels that the value received for having that building as a revenue source now will generate money that can go to other projects.”

Vice Chair Travis Hoban – expressed his concern that yes this starts the 20-year clock, but a lot of the land is not developed so there won't be much tax coming in on that.

- a. Keith Morley – even if it's five years from now the clock is still ticking, we're going to ask the county to take the snapshot of what the value is and when we start the clock, from that point forward every nail that goes into the property, every rock, every ounce of cement just increases the value. Otherwise, there's just loss until the housing is completed or the first commercial goes up so we either start taxing then or start taxing today.

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Board Member Bill Fillmore – expressed his thoughts that whether the discussion is starting the clock to enhance revenue to the city or the synergy this will generate with the burgeoning biotech industry in the city, doctors available for hospitals etc., we simply acknowledge a partnership of sorts for several years and we've worked together and we've made concessions, they've made concessions – the pandemic couldn't be anticipated, the increase of the supply chain so as a partner the council should help make this a reality.

A motion was made to expand the project area, including the existing building, and extend the redevelopment period from 12 to 20 years.

An amended motion was made to instruct staff to bring back an agreement that defined the 20-year period, including proposed project milestones at 5 and 10 years, including associated penalties for failure to meet milestones.

Passed Unanimously 7-0