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PROVO MUNICIPAL COUNCIL

Regular Meeting Agenda

5:30 PM, Tuesday, October 03, 2023

Council Chambers (Room 100)

Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or

<https://www.youtube.com/provocitycouncil>

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Councilor Shannon Ellsworth

Councilor George Handley

Councilor Travis Hoban

Councilor David Shipley

Councilor Rachel Whipple

Mayor Michelle Kaufusi

Council Executive Director Justin Harrison

Deputy Mayor Isaac Paxman

Deputy City Attorney Gary Millward

Conducting: Vice-Chair Rachel Whipple

Excused: Councilor Katrice MacKay and Councilor Bill Fillmore

Pledge of Allegiance – Councilor Travis Hoban

Public Comment [0:13:20](#)

Vice-Chair Whipple read the public comment preamble and opened public comment.

Violet Fale, a second-grade student of Westridge Elementary School, said she loves living in Provo and shared her favorite things about Provo, which included her school, the recreation center, BYU, and Cosmo. She thanked the council and mayor for their hard work. She added that she is proud to live in Provo.

Vice-Chair Whipple praised Violet for her well-prepared speech and expressed gratitude for her willingness to share.

With no other comments, Vice-Chair Whipple closed the public comment period.

Presentations, Proclamations, and Awards

1. Provo City Awarded October 2023 Business of the Month (23-011) [0:17:05](#)

Curtis Blair, President of the Utah Valley Chamber of Commerce, presented. He introduced Abby Carter, an ambassador of the Chamber.

Ms. Carter, a Utah Valley Chamber of Commerce ambassador, recognized Provo City's positive contributions to the community. She announced that they had nominated and awarded Provo City as the Business of the Month for October due to its significant impact on the chamber and the local area.

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Mr. Blair said that while no other city had been awarded a Business of the Month, this was the right time to do so. He emphasized the significant influence Provo has in Utah County, the state, and potentially the nation. He highlighted the responsibility of the city, the mayor, and everyone involved in public and private efforts to enhance the quality of life in Provo. Mr. Blair commended the mayor for her leadership style, describing her as a collaborator, a good listener, and someone who is willing to put in the work. He expressed his appreciation to the council for granting the chamber the opportunity to make a presentation during the meeting. Furthermore, he conveyed his thankfulness for the council's contributions to the betterment of the city and the community.

Mayor Kaufusi emphasized that the recognition was not about her but rather the council and the dedicated city employees. She credited the hard work of over 1400 employees, both full-time and part-time, as well as the council's decisions regarding the budget, all contributing to Provo's excellence as a city.

2. Judge Romney's Annual Justice Court Presentation (23-072) [0:24:00](#)

Judge Vernon Romney presented. He announced his retirement and discussed his career with Provo City. He discussed the dedicated and efficient staff in the court who serve the often nervous and anxious court customers. He mentioned the changes brought about by the COVID-19 pandemic and the decision to schedule most court proceedings as live in-court hearings. He explained the role of a judge as an impartial decision-maker in legal cases, ensuring fair presentation of evidence and legal arguments. Additionally, Judge Romney shared his insights into being a judge, emphasizing the importance of humility, self-awareness, and a sense of humor. He provided statistics on cases filed in the Provo City Justice Court, highlighting the effectiveness of programs such as the mental health court and the domestic violence calendar. He also mentioned collaborations with Brigham Young University and invited Dr. Chelsie Romney to share the results of a court and customer satisfaction survey that was conducted by her social psychology class. In closing, Judge Romney thanked the people he worked with for the opportunity to serve as the Provo City Municipal Justice Court judge.

Dr. Chelsie Romney, a psychology professor at Brigham Young University, introduced a project conducted by her students from a social psychology course at the Provo City Court. She introduced one of the students, Andrew Moss, a psychology major from South Texas.

Mr. Moss presented the results of a research study conducted in collaboration with the Provo City Justice Court. He highlighted the efforts of his fellow students, Sydney Christensen, and Andrew Bodily, in assisting with the project. He said they administered a nationally validated survey to court customers, measuring their access to court resources and their perception of fairness in court proceedings. Andrew shared a positive anecdote about a court customer's change in attitude due to Judge Romney's explanation of the consequences of his actions. After collecting and analyzing 372 surveys, they found that the Provo City Justice Court provided equal access and fairness to individuals from diverse backgrounds. He also emphasized the benefits of the project, which allowed students to become part of the Provo community, gain a better understanding of court proceedings, and even provided internship opportunities that prepared students for future roles in law and research. He encouraged the city of Provo to continue providing opportunities for BYU students to engage with the community and contribute to its development.

Action Agenda

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3. An ordinance amending Provo City Code Chapter 14.33A regarding limits of disturbance and clustering requirements in the Critical Hillside Overlay Zone. Citywide Application. PLOTA20230163 [0:43:35](#)

Motion: An implied motion to approve Ordinance 2023-39, as currently constituted, has been made by council rule.

Dustin Wright, City Planner, presented a proposed text amendment to the existing Critical Hillside Ordinance, which is applied along the foothills of the city to regulate development in that area. The presentation aimed to add clarification and improve the ordinance for those who use it. Some key points addressed in the proposed changes include: 1. Clarifying the definition of the "limit of disturbance" to specify areas where development is allowed and where it is not. 2. Ensuring that the ordinance applies to entire developments, not just individual lots. 3. Adding language to require a 25% Open Space Preservation area for properties using the cluster option in that zone. 4. Changing the base density increase from 50% to 25% for agricultural properties, still encouraging clustered development in these areas. Dustin invited questions or comments from the council.

Vice-Chair Whipple opened the item for public comment. With none, she closed public comment and brought the discussion back to council. She added that this item was heard at the Planning Commission meeting on August 23, 2023 and this was the first hearing.

With no other council discussion, she called for a vote on the implied motion.

Vote: The motion was approved 5:0 with Councilors Ellsworth, Handley, Hoban, Shipley, and Whipple in favor. Councilors Fillmore and MacKay excused.

4. A resolution approving appointment of individuals to serve on the Judicial Nominating Commission for a judicial vacancy in the Provo City Justice Court (23-072) [0:48:15](#)

Motion: An implied motion to approve Resolution 2023-43, as currently constituted, has been made by council rule.

Mayor Kaufusi presented and recommended Brian Jones and Camille S. Williams for appointment to the Judicial Nominating Commission. She invited Jim Peters to explain the process of hiring a new Justice Court Judge.

Mr. Jim Peters, the Justice Court Administrator for the Administrative Office of the Courts, thanked Judge Romney for his long-standing service and mentioned how his service impacted the entire state of Utah. He explained the process for appointing a new Justice Court Judge. He said that the application period for closed, and there were enough applicants to proceed. The next step involves forming a nominating commission, consisting of members appointed by the local bar association, the county, the local mayor's association, and the city council. The nominating commission's task is to review applications, conduct interviews, and narrow the pool of candidates down to a manageable number (typically 5 to 7). After this, the commission sends the finalists out for public comment, which lasts for 10 days. Public comments can extend the process if negative feedback is received, as applicants can respond to these comments. Once the mayor receives the recommendations from the nominating commission, she has 30 days to make a final selection. Following the mayor's selection, the city council

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has an additional 30 days to ratify the choice. The entire process, from forming the nominating commission to ratification by the city council, can take several months. Mr. Peters noted that the new judge would also need to go through orientation, potentially in January, and be certified by the Judicial Council before taking the bench. He emphasized that while there may be a ceremonial swearing-in event, it is not necessary for the judge to start hearing cases. He concluded by assuring that they would move as quickly as possible to fill the position considering Judge Romney's retirement in 10 weeks. Jim invited questions from the council members about the process.

Councilor Ellsworth asked what the gap of time is between Judge Romney's retirement and someone realistically operating in that role.

Mr. Peters said at a minimum, there will be a delay of at least a month because Judge Romney is retiring in mid-December. He said the earliest we could expect the Judicial Council to certify a new judge after their orientation on January 8 would be January 16. He added that the city council has the authority to appoint temporary judges if needed.

Vice-Chair Whipple asked what kind of backlog a one-month gap would produce without having someone in that role.

Mr. Peters said considering that Judge Romney mentioned around 1,000 cases a year earlier tonight, I anticipate that the caseload will accumulate rapidly. The positive aspect is that the transition from mid-December to mid-January is likely to be less busy due to the holidays and other factors. He said he did not believe there would be a situation where there is nobody available to handle these cases, but it is a matter of gaining approval from the council and coordinating the assistance required. He said historically, in this district, there has been a willingness to provide support.

John Borget, Director of Administrative Services, discussed the list that is already in place to fill in when Judge Romney has been unavailable. He said a resolution will be drafted to update names for interim. He added that ReAnnun, the Justice Court Administrator, will make sure there is coverage.

Vice-Chair Whipple called for a vote on the implied motion.

Vote: The motion was approved 5:0 with Councilors Ellsworth, Handley, Hoban, Shipley, and Whipple in favor. Councilors Fillmore and MacKay excused.

5. A resolution adopting the 2024 Council Regular Meeting Schedule (23-050) [1:04:15](#)

Motion: An implied motion to approve Resolution 2023-44, as currently constituted, has been made by council rule.

Justin Harrison, Council Executive Director, said annually, the Council is required to establish a regular meeting schedule in compliance with state law, which has been publicly posted. He stated the resolution provided in the meeting packet, along with the proposed meeting schedule, is what we recommend for adoption. He said the aim is to avoid scheduling conflicts, making planning easier for the various commission members, council members, city administration, and staff, ensuring a smooth and conflict-free schedule.

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Vice-Chair Whipple invited public comment.

Becky Bogdin, of Provo, shared her appreciation for the breaks of time in April for Spring Break and December for the holidays.

Councilor Shipley discussed the possibility of making all budget meetings mandatory for council members.

Councilor Ellsworth asked if the meetings aligned with the Board of Canvassers meeting to eliminate extra meetings.

Councilor Handley commented that getting this schedule on calendars as early as possible is highly beneficial to keep us informed about our year-long commitments well in advance. He added that it is always a helpful reminder when these dates magically appear on my calendar.

With no further council discussion, Vice-Chair Whipple called for a vote on the implied motion.

Vote: The motion was approved 5:0 with Councilors Ellsworth, Handley, Hoban, Shipley, and Whipple in favor. Councilors Fillmore and MacKay excused.

Adjournment

The meeting was adjourned by unanimous consent at approximately 6:35 p.m.