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PROVO MUNICIPAL COUNCIL

Regular Meeting Agenda

5:30 PM, Tuesday, April 30, 2024

Council Chambers

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 Becky Bogdin

Councilor Craig Christensen

Councilor Gary Garrett

Councilor George Handley

Councilor Travis Hoban

Councilor Katrice MacKay

Councilor Rachel Whipple

Mayor Michelle Kaufusi

Chief Administrative Officer Scott Henderson

City Attorney Brian Jones

Council Executive Director Justin Harrison

City Recorder Heidi Allman

Conducting: Chair Katrice MacKay

Prayer – David Sewell

Pledge of Allegiance – Councilor Whipple

Chair MacKay said “Today we gather in this chamber with heavy hearts as we remember and honor the life of George Stewart, former mayor and dedicated member of this council. George passed away last week leaving behind a legacy of service and commitment to the city he chose to call home and tirelessly worked to improve. George Stewart served as the mayor of Provo from 1984 to 1997, during which time he oversaw significant projects that have shaped our community, including the development of the Riverwoods mall and the Provo Towne Center Mall and the revitalization of the Academy Square. His vision and leadership have left an indelible mark on our city. George also served on the Provo city council from 2006 to 2008 and again from 2016 to 2019, demonstrating his unwavering dedication to public service. His decision to resign during his second term to serve a mission Mexico with his wife Joanne spoke volumes about his character his commitment to his faith and humanitarian service. George's life was a testament to the power of community and service. On behalf of the Provo City Council, I extend our deepest condolences to the Stewart family. We are grateful for George's profound contributions to our city and his example of service. Let us honor George Stewart's memory by continuing to serve our community with the same passion and dedication he exhibited. He will be deeply missed by his legacy will continue to inspire and guide us.”

Presentations, Proclamations, and Awards

1. **Police Badge Pinning Ceremony** [0:12:05](#)

Chief Beebe spoke of the significance of the badge pinning ceremony. He explained that the badge is more than just a piece of metal; it symbolizes dedication, commitment to justice, and public trust. Pinning the badge on the officers acknowledges the heavy responsibility they, and their families, willingly accept. He highlighted that the badge represents the citizens' trust in the officers to uphold the

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law, ensure justice, and safeguard liberties. Chief Beebe shared his personal experience, reflecting on the honor and weight of wearing the badge, and expressed his pride in the officers for their hard work to reach this point in their careers. He read a short biography of each officer while their badge was pinned on their uniform. The officers recognized were Andrew Olson, Fernando Santana, McLane Beckstead, Brodyn Carr, Taryn Tonga, Kylie Robison, Collin Lyons, Scott Williams, Kavika Fonua, and Jonathan Rodriguez.

Heidi Allman, City Recorder, administered the oath of office to the group.

Public Comment [0:27:54](#)

Chair MacKay read the public comment preamble and opened the public comment period.

Gabriella Sabalones, of Provo, addressed the council regarding proposed language changes for the dog ordinances. She emphasized that the current law allows the council to avoid prosecuting off-leash charges as a Class B misdemeanor under any circumstances, despite contrary statements in previous meetings. Gabrielle argued that reducing the severity of the offense would benefit Provo citizens, noting that less severe punishments are available and more appropriate for low-malice offenses, such as increasing fines for repeated infractions. She pointed out that harsher penalties, like Class C misdemeanors, are unlikely to prevent repeat offenses and could harm employment prospects for residents. Gabrielle also advocated for clarifying conflicting sections of the ordinance and suggested considering off-leash hours in the statute. She urged the council to read her detailed email and consider her points before voting.

With no other comments, Chair MacKay closed public comment.

Action Agenda

2. A public hearing opening the comment period for the 2024-25 Annual Action Plan (24-046) [0:31:30](#)

Melissa McNalley, Community Grant Administrator, presented. She highlighted the proposed CDBG and HOME entitlement amounts and clarified the numbers are estimates. She stated once final numbers are provided by HUD; the plan will be updated. She explained the comment period will continue until June 4 and encouraged residents to provide comments.

Chair MacKay opened the item for public comment, with none, she brought the discussion back to council for discussion.

Councilor Christensen thanked Ms. McNalley for her hard work on this plan.

3. A resolution appointing public members to a Council standing committee (24-051) [0:34:34](#)

Motion: An implied motion to approve Resolution 2024-20, as currently constituted, has been made by council rule.

Justin Harrison, Council Executive Director presented. He reminded that in January of this year, the Council formally created the Council Audit Committee and approved a charter. He said that Councilor

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Hoban and Councilor Garrett currently sit on the committee. He added the charter states that the committee must include at least two members of the public and this resolution would complete that charge by formally appointing members. He named David Shipley and Rick Anderson as the appointed members with their terms expiring on April 30, 2026.

With no council discussion, Chair MacKay called for a vote on the implied motion.

Vote: The motion was approved 7:0 with Councilors Bogdin, Christensen, Garrett, Handley, Hoban, MacKay, and Whipple in favor.

4. A resolution approving the selection of an audit firm to provide audit services and authorizing the Council Chair to execute a contract with the audit firm (24-052) [0:36:53](#)

Motion: An implied motion to approve Resolution 2024-21, as currently constituted, has been made by council rule.

Mr. Harrison presented. He said during the December 6, 2023, Council Audit Committee Meeting, committee members directed staff to prepare a Request for Proposals for audit services. He stated the only respondent, HBME, was the city's current auditor who has served in this capacity for 18 years. He added that this new contract would remain in effect for 5 years.

Councilor Christensen asked if the city was certain that the RFP was posted and accessible to other vendors. He found it odd that only one response was received.

Mr. Harrison confirmed that after the item was placed on the State's website, and multiple vendors viewed the request, only one response was received.

Councilor Hoban emphasized that the HBME firm has done an excellent job and said the council should have no reservations moving forward with them again.

With no other council discussion, Chair MacKay called for a vote.

Vote: The motion was approved 7:0 with Councilors Bogdin, Christensen, Garrett, Handley, Hoban, MacKay, and Whipple in favor.

5. An ordinance updating the name of the Utility Transportation Fund and removing exemptions (24-050) [0:40:46](#)

Motion: An implied motion to approve Ordinance 2024-23, as currently constituted, has been made by council rule.

Brian Jones, City Attorney, presented. He reviewed the 11–12-year history of addressing road maintenance funding in Provo. In 2012-2013, then-Mayor John Curtis explored alternatives to tax increases for funding road maintenance, which typically burdened taxpayers exclusively, despite roads being used by non-taxpayers as well. The city considered implementing a Transportation Utility Fund (TUF), a method used in other states to treat roads as a utility funded by user fees, like sewer or water systems. Provo adopted a trip generation model to allocate these fees. In October 2013, the City Council

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passed the TUF, initially called the Utility Transportation Fund to avoid negative acronyms. He said following the TUF's approval, the city engaged with potential payers, including tax-exempt entities that expressed concerns about the fee's impact on them. Legal challenges in other states over whether such fees were taxes or fees influenced Provo's cautious approach. Some tax-exempt entities agreed to make voluntary payments, leading to a temporary exemption for certain entities like hospitals, colleges, and religious organizations. He stated in February 2014, the ordinance was amended to include these exemptions, though this compromise was never intended to be permanent. With changes in the legal landscape, including a 2023 Utah Supreme Court ruling that upheld Pleasant Grove's transportation utility fee as a fee rather than a tax, the current proposal aims to remove the exemptions, returning to the original intent of the TUF. Mr. Jones acknowledged that while not all legal questions are resolved, the recent court ruling provides significant clarity and support for the TUF's legality.

Chair MacKay opened the item for public comment.

Eric Davis, a Provo resident and legal counsel for Brigham Young University, appreciated Brian Jones' balanced and accurate summary of the Transportation Utility Fund (TUF) issue. He expressed BYU's concerns about the proposed amendment to impose the TUF on institutions like BYU. Davis argued that, despite the Utah Supreme Court ruling it as a fee, the TUF is not like other utility fees because it is tied to land ownership and use and funds the maintenance of public lands, which benefit everyone, not just landowners or road users. He suggested that using this fee circumvents state-provided mechanisms specifically designed to raise revenue for road maintenance.

Kyle Hanson, President of Utah Valley Hospital and representative of Intermountain Health, requested additional time for discussion on the proposed changes to the Transportation Utility Fund (TUF). He noted that his organization has been paying the fee consistently, so the change would not significantly affect them. He emphasized the value of their relationship with city leaders and their commitment to improving Provo. He acknowledged the complexity of the issue but refrained from discussing legal aspects or the proposed name change of the fund.

Chair MacKay closed public comment and brought the discussion back to council.

Councilor Garrett asked what the implications would be if this item was continued.

Mr. Jones explained that even if the proposal passes tonight, there would be necessary billing system changes, and he recommended starting at the beginning of a billing cycle to avoid partial charges. Implementation would not be immediate. Delaying the decision would extend the discussion period and add two weeks to the overall timeline for starting the new billing process.

Councilor Handley asked Mr. Davis why the discussion about this issue six months ago did not provide sufficient advance notice.

Mr. Davis expressed surprise when the issue appeared on the agenda six months ago, mentioning they were fortunate to catch it then. Subsequently, there were discussions, and he noted a bill in the Utah legislature that could clarify the implementation of transportation utility fees, potentially shielding cities from legal challenges like those faced by Pleasant Grove. However, the bill did not pass due to concerns about bypassing public notice and comment periods and constitutional protections for nonprofit organizations against property taxes. Mr. Davis emphasized a preference for direct discussion with the city to find a mutually agreeable solution, highlighting the need for awareness among affected parties.

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who may not realize their rights or ability to object. He suggested that a delay would benefit everyone by ensuring a thorough understanding of the issue.

Chair MacKay called for a vote on the implied motion.

Vote: The motion was approved 7:0 with Councilors Bogdin, Christensen, Garrett, Handley, Hoban, MacKay, and Whipple in favor.

6. A resolution removing the Telecom Debt Charge (24-039) [1:00:08](#)

Motion: An implied motion to approve Resolution 2024-22, as currently constituted, has been made by council rule.

John Borget, Director of Administrative Services, presented. He said in 2011, Provo City implemented a telecom debt charge as part of the Energy rate structure to make the required payments on bonds that provided funding for the telecom network. The telecom debt charge impacted all electric utility customers. The charge was structured to ensure Provo City could adequately pay the annual telecom bond payment of \$3.2 million. When approved, the telecom debt charge was set to automatically expire upon the final payment of the debt, which was anticipated to occur in February of 2026. Due to additional revenue from new developments, on May 1st, nearly two years ahead of schedule, Provo City will be able to meet its remaining bond obligations and will take the necessary steps to remove the charge. He added that Customer Service was prepared to remove the fee effective immediately if the item was approved. He highlighted that this achievement reflects our commitment to responsible fiscal management and the vibrant growth of our community. He extended a heartfelt gratitude to all residents for the support and contributions to this milestone.

Councilor Garrett asked what this means for the average household per month on their bill.

Mr. Borget responded that the average household pays \$5.35 per month.

Chair MacKay opened the item for public comment. With none, she closed the public comment period and said it is lovely to vote for something that decreased fees for residents. She called for a vote.

Vote: The motion was approved 7:0 with Councilors Bogdin, Christensen, Garrett, Handley, Hoban, MacKay, and Whipple in favor.

7. A resolution approving the appropriation of \$20,000 in the General Fund for a Business License and Rental Unit Fee Study (24-027) [1:03:12](#)

Motion: An implied motion to approve Resolution 2024-23, as currently constituted, has been made by council rule.

Mr. Borget presented. He said that several years ago, Zions Public Finance conducted a study for Provo on business licensing and rental dwellings, showcasing their extensive knowledge of the city. He stated that Zions is recognized as a premier firm and now enthusiastically proposes a new study for Provo on business license fees and rental dwelling licenses. He mentioned that they have a broad portfolio of clients, including numerous cities across Utah, and their studies are known for being thorough and

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defensible, backed by interviews, budgets, and data. He noted that the proposed timeline for this study is approximately three months: two months for the initial study and one month for the report. Mr. Borget added that if the council approves the appropriation, the study will commence immediately.

Chair MacKay opened the item for public comment. With none, she invited a council discussion. She added that the council and administration are interested in fixing the fees in Provo. She emphasized that those operating without a rental dwelling license should not be subsidizing those who do, and that fees should only cover the actual cost of services. She noted that Provo's fees are very low compared to other municipalities and the cost of doing business. Therefore, they are looking into these issues to ensure they address them correctly and get a proper study in place. With no other discussion she called for a vote.

Vote: The motion was approved 7:0 with Councilors Bogdin, Christensen, Garrett, Handley, Hoban, MacKay, and Whipple in favor.

8. An ordinance amending the Zone Map classification of real property located at 5610 N University Avenue from the Agricultural (A1.5) Zone to the Arbors on the Avenue Project Redevelopment (PRO-A10) Zone - North Timpview Neighborhood (PLRZ20230325) [1:06:39](#)

Motion: An implied motion to approve Ordinance 2024-24, as currently constituted, has been made by council rule.

Aaron Ardmore, Planning Supervisor, presented. He identified the property at the mouth of the canyon, discussed the current zoning, and the proposal for a 66-condo project under the proposed PRO-A10 zone, like the nearby Arbors on the Avenue. He mentioned that the applicant, Mr. Bragonje, had created various renderings for the project. He noted that the Planning Commission received the project well, appreciating the idea and concept plan. However, they recommended denial to the City Council due to a lack of sewer capacity. Staff held the same position, pointing out that the existing sewer lines could not accommodate the additional load when considering the already zoned and entitled properties. He added that as a result, the applicant's project likely cannot move forward at this time.

David Bragonje, applicant, discussed the project. He said he has been working on the property for years and explained that he was unaware of the sewer issue until the day he completed all his work. He showed slides of the property, detailing its history and his development plans, which include a mix of two- and three-bedroom condos with underground parking, aimed at older residents and first-time homebuyers. He discussed challenges with access and road design, collaborating with the city and UDOT to find solutions, and negotiating boundary adjustments with Provo Power. The property's proximity to the Bonneville Shoreline Trail was highlighted as a significant benefit, and he proposed deeding over some trail areas to the city. Despite utility complications, Mr. Bragonje emphasized his commitment to the project and alignment with the city's master plan for residential use. He affirmed his good faith work with the city and the potential of the property as a modern gateway to the city.

Councilor Christensen asked for clarification on the road access and whether UDOT had already agreed to his plans regarding the roads.

Mr. Bragonje confirmed that UDOT had agreed to the plans and added that the lack of funding was an issue. He also mentioned that the water lines in the area were built in 1930 and would need to be replaced.

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Councilor Garrett asked if the current sewer lines could handle a smaller capacity.

Mr. Ardmore said 10-12 units would be feasible but not fiscally sound for the applicant.

Councilor Garrett asked Mr. Bragonje if he considered a smaller project that could be accommodated with the current infrastructure.

Mr. Bragonje said that he did not opt for a smaller development because the fixed utility costs remain the same regardless of the number of units built. Building fewer units would not make financial sense due to the high per-unit cost of site improvements. Additionally, he felt that the site's steep slope was unsuitable for smaller structures like townhomes, which would result in a steep slope behind the residences. Primarily, a larger project is necessary to cover the costs of all the required improvements, which would benefit the city's overall system.

Councilor Whipple asked Mr. Ardmore about the size and unit count allowed for a residential facility for elderly persons or persons with disabilities under the current zoning.

Mr. Ardmore admitted he had not looked into it but explained that such facilities do not have a unit count limit but would face similar sewer capacity issues as the proposed condo project if they had multiple rooms with bathrooms and kitchens. He added that the zone does not limit the size or unit count of such residential facilities; they are typically regulated by site capacity and parking availability. Even if the project were a residential facility for 66 units, it would still face issues with adequate public facilities, such as sewer capacity, which could affect permits.

Councilor Hoban asked if there are improvements planned to upgrade the sewage capacity in the area.

Gordon Haight, Public Works Director, responded optimistically, saying there is always hope for future improvements. He mentioned that Development Services is currently conducting a study of the area, which will help shape the city's sewer master plan. He noted that no improvements are planned for the next six years because the current sewer capacity meets the existing general plan. If the city council adopts a new plan, they would adjust their focus and sewer improvement plans accordingly.

Chair MacKay opened the item for public comment.

Sharron Memmott, Neighborhood District chair, reported on the latest neighborhood meeting regarding the high-density project proposal. She said most attendees opposed high-density development, preferring a medium-density option, though some supported maintaining the current zoning of agriculture and Open Space Preservation (OSP), which aligns with the general plan for the area. Memmott emphasized that the neighborhood appreciates its single-family homes, agriculture, and open space, and that the proposed high-rise development does not match their vision. She noted that the current proposal for a prozone increases the project's height, which is a concern for many neighbors. Memmott questioned whether the four-story height limit includes the two levels of parking, given that the project shows six stories, including parking. She also mentioned discrepancies in the project area and unit count, seeking clarity on what the neighborhood will ultimately face. Ms. Memmott urged that any changes be deferred until the Northeast Area Plan is completed, aligning development with the general plan. She highlighted existing issues like the gravel pit and traffic problems and referenced the

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sewer capacity problem mentioned in the staff report. She concluded by asking the council not to approve the project.

Ginny Smith, of Provo, shared her and her husband's concerns about the gravel pit near their property, detailed in an email sent to the mayor in 2018. Initially uninvolved due to their county residency, they later met with city officials to discuss their issues. They advocated for the property to be part of the Northeast Area neighborhood, rather than Riverwoods, due to access and environmental concerns. The meeting led to the agreement that the gravel pit needed reclamation and that the property would indeed belong to the Northeast Area. She said by early 2019, the property was officially included in the Northeast Area, and the neighborhood plan was initiated. Ms. Smith emphasized that any reclamation should wait for the completion of this neighborhood plan to ensure careful and responsible development. She acknowledged that while the current project might address some concerns, other issues, such as road intersections, need attention before proceeding with reclamation.

Sharron Memmott read comments of Bonnie Morrow, who serves as the North Timpview Executive Board Member. She read “I’m very concerned about the utilities I’ve been told by Provo City that there is no sewer capacity. Zero. By changing the zoning to a higher density than it is now only makes the property worth more to the banks and potential subsequent future developers, puts the city in an awkward position of an under the table agreement and a wink implying that in the future the city will get new sewer. Otherwise, there is no point in Provo City granting this zone change to higher density with no utilities available. Until the situation is remedied, I urge the council to vote no.”

Angela Maurick, of Provo, strongly urged the council to deny any zone change for the project or any other in the Northeast Timpview area until a neighborhood plan is added as an amendment to the general plan. She highlighted that this area has been awaiting the development of such a plan for years and is currently in the process of creating it. Ms. Maurick argued that approving a zoning change before the plan is completed would be counterproductive and could misalign with the future land use guidelines. She emphasized the importance of addressing detailed issues like transportation, land use, geographic concerns, and infrastructure in the plan. She expressed disappointment that the developer had engaged in discussions with city staff before the plan was made, stating that having the plan in place would guide these conversations appropriately.

Todd Franks, of Provo and a member of the technical advisory committee working on the northeast neighborhood plan, emphasized the importance of postponing any decision to rezone the parcel in question. He explained that the committee, consisting of diverse residents from northeast Provo, aims to create a plan that aligns with the general plan but provides more detailed guidance on policies and recommendations for land use, infrastructure, and other issues. Franks expressed concern that making a zoning decision now could be inconsistent with the future direction of the completed plan. He also noted that the parcel has been undeveloped for years, so a postponement would not likely cause undue hardship. He urged the council to wait until the plan is finished before making any rezoning decisions.

Mr. Bragonje clarified two key points. First, he confirmed that there is current sewer capacity, referencing a 2021 study that detailed the existing capacity, projects completed since, and what remains. However, this capacity does not account for entitled units, highlighting a larger issue affecting a significant part of the city. Second, he addressed the calls to delay the project, stating that he has already invested four years of effort and resources into finding a workable solution. He questioned how much longer the wait would be and how many more years would be required.

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Chair MacKay closed public comment and invited a council discussion.

Councilor Handley expressed empathy for the difficulty of the situation and acknowledged not knowing all details due to not being part of all prior conversations. He indicated that, in his view, the council has no choice but to reject the proposal because of current capacity issues. He recalled the history of the site and the efforts since 2018 to reclaim it, recognizing its previous state as an embarrassment. Councilor Handley emphasized the importance of proper planning and agreed with others that the northeast neighborhood plan needs to be completed before moving forward. He apologized for the slow progress of government bureaucracy and suggested that the neighborhood plan should consider the best use for the property, given its unique nature. He expressed a preference for as much open space as possible but acknowledged the need for some form of development to replace the gravel pit. He encouraged the committee to produce creative ideas and acknowledged the frustration the developer must feel due to the delays.

Councilor Christensen acknowledged the developer's long wait but emphasized that the neighborhood has also waited a long time for a neighborhood plan. He stated that even without the sewer issue, he could not support proceeding without the neighborhood plan in place. Councilor Christensen stressed the importance of respecting the planning processes and communicating them to developers. He said he believes the neighborhood plan should guide future development and expressed a strong view that decisions should not be made prematurely.

Councilor Hoban asked for a timeline from the applicant.

Mr. Bragonje explained that he acquired partial ownership of the property at the end of 2019 and full ownership in early 2022. He had initial meetings with city officials in 2020, focusing on road issues for the first few years. In 2023, he worked on boundary adjustments and met with engineering staff. Just before Christmas 2023, he submitted his formal application to the city and received comments, including concerns about sewer capacity, in early January. He addressed these comments and submitted revisions, but only five or six weeks ago, he received a memo highlighting the sewer capacity issue. He expressed frustration with the process and the timing of the city's feedback.

Councilor Hoban noted that developers sometimes encounter significant issues late in the process, such as in this case with sewer capacity. He questioned how someone could get so far without knowing about such problems, suggesting that this information should be communicated earlier. He emphasized that his intention was not to criticize but to examine if the city's process could be improved to prevent developers from making substantial investments before discovering critical issues.

Mr. Ardmore agreed and said most of the work that had been done by the applicant took place prior to them submitting their application in December, which was when the city reviewed the full application for the first time.

Gordon Haight expressed sympathy for the concerns raised. He mentioned that a few months ago, Bill and his team began creating a memo specifically addressing sewer capacity along University and Canyon Road. This effort has expanded to a citywide memo detailing all capacities, including sewer and water. He also highlighted the possibility of a future meeting where the City Council could discuss sewer and water capacity citywide. The plan aims to identify deficiencies and include associated costs, allowing developers to see if their projects could help address these issues. He believes this comprehensive approach will address the concerns raised.

Chair MacKay expressed gratitude to David for his professionalism throughout the process and acknowledged the neighborhood's long wait for the plan. As a resident of the neighborhood, MacKay voiced support for the project, noting its appropriateness for density in an area that is not suited for single-family homes. She praised the aesthetic improvements, including the trail to Bonneville and the willingness to deed over the trail line. MacKay emphasized the project's contribution to providing housing for empty nesters and young people, stressing the importance of owner-occupied condos. She acknowledged the traffic concerns but expressed confidence in the city's engineers to resolve them. While the sewer capacity issue was a setback, MacKay expressed hope that it could be resolved soon, reiterating her support for the project's thoughtful design and community benefits.

Councilor Whipple expressed a range of emotions, including frustration and shame, but aimed to focus on gathering useful information. She questioned why initial meetings in 2020 involved discussions about road capacity, wondering if it were due to planning for a higher density project that would require accommodating more traffic. She highlighted the difference in traffic impact between building just two houses versus 66 condos.

Mr. Bragonje explained that during the planning process, there were considerations about what type of development to pursue on the site. They discussed various access options and capacities needed, highlighting that the current access off the acceleration lane on the road was insufficient, especially for higher density projects like condos. He mentioned meetings involving himself, the city, and UDOT, where UDOT conducted traffic studies and determined the necessity for a traffic light at the site.

Councilor Whipple inquired about the costs incurred by Mr. Bragonje for boundary cleanup, conveyance of easements for utilities, and identifying water lines. She sought clarification on whether such expenses would have been necessary regardless of the project's size, emphasizing the financial considerations and the scope of preparatory work involved irrespective of project scale.

Mr. Bragonje highlighted that the cost for potholing to locate water lines alone was \$30,000. He explained that understanding the utility locations was crucial for road layout and feasibility, as the proximity to the water line affected construction plans. He also mentioned a joint survey with the city to readjust property lines, emphasizing that the engineering and architectural work constituted the most significant expenses in the project.

Councilor Whipple acknowledged that when someone spends money voluntarily without a formal contract or agreement, they cannot expect compensation for those voluntary expenditures. She noted that there seemed to be an expectation in this case. She highlighted Aaron's point that departments find it challenging to act without a clear, concrete plan in place. She questioned whether there had been prior discussions with the city council or staff regarding the need for a zone change before submitting the application.

Mr. Bragonje affirmed that they were actively pursuing the zone change. He referenced early discussions about infrastructure, noting that as recently as 2023, there was agreement on certain aspects. He mentioned that initially, city staff indicated support for the project, but this changed when sewer issues arose. He acknowledged that the zoning eventually agreed upon helped address concerns about the density of units being built. He emphasized his thorough examination and collaboration with engineers throughout the process.

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Councilor Whipple expressed frustration with the current situation, noting that both Development Services and Public Works are likely equally unhappy. She criticized the absence of a neighborhood plan and disagreed with delaying developers who are ready to proceed with projects while waiting for such plans to be formulated. She emphasized that ongoing progress and real efforts should be considered, especially when no concrete timeline for neighborhood planning exists. She highlighted the significant financial implications of delays in construction due to issues like sewer capacity and inflation, stressing that such uncertainties can jeopardize the viability of projects. Councilor Whipple also empathized with the developer's situation, regretting the inability to approve their project due to potential future entitlements of other properties that could disrupt infrastructure plans. She concluded by expressing personal regret over the situation.

Chair MacKay called for a vote.

Vote: The motion failed 1:6 with Councilor Whipple in favor and Councilors Bogdin, Christensen, Garrett, Handley, Hoban, and MacKay opposed.

9. An ordinance enacting penalties for animal control generally and amending portions of the Municipal Code with respect to Park Use regulations for dog owners (24-049) [2:10:14](#)

Motion: An implied motion to approve Ordinance 2024-25, as currently constituted, has been made by council rule.

Michael Sanders, Council Policy Analyst, presented. He said several council meetings ago, the council directed staff to take two actions regarding dog regulations. First, they were tasked with collaborating with the legal department to draft language that would reduce penalties for dog violations from a class B misdemeanor to an infraction, aligning with state code. This proposal is currently under consideration. Second, the staff was instructed to consult with the Parks and Recreation Department to gather recommendations on additional dog-related park policies. A memo containing these recommendations was distributed to council members the previous Thursday by the Executive Director.

Chair MacKay sought clarification on the language concerning third offenses. She remembered discussing it as a misdemeanor, but noticed the current wording referred to "three or more times within twelve months." She suggested that instead of a specific period like twelve months, it should be a general requirement because these offenses are difficult to detect.

Mr. Jones remarked that this was the city's adoption of state law into its municipal code, mirroring exactly what the state law stipulates.

Councilor Handley expressed support for a suggestion regarding off-leash hours from 6am to 9am and 6pm to 9pm, finding it thoughtful. He expressed confusion over why this issue is so complex. Councilor Handley also raised concerns about enforcing leash requirements on the Bonneville Shoreline Trail, noting that parts of the trail are not within city jurisdiction. He referenced communication from Eliza Hawkins about discussions with animal control, questioning how leash regulations would be enforced effectively on sections of the BST that are not under city authority.

Mr. Jones stated that he did not personally speak with animal control, but another attorney did. He emphasized the issue of evidence, noting that officers must patrol within city jurisdiction to enforce regulations. If relying on witness statements, witnesses must accurately identify where and when

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violations occurred within city limits. Mr. Jones acknowledged the complexity of this issue and expressed uncertainty about the solution, suggesting one option could be amending the animals at large section to exclude the Bonneville Shoreline Trail within Provo city limits.

Councilor Handley expressed conflicting feelings about the issue, acknowledging the experiences of both sides involved. He felt that a recent proposal for designated off-leash hours seemed like a reasonable compromise to meet the community's need for dog exercise spaces. He noted that while potential spaces are being discussed, none are currently available, yet strict rules are being imposed without interim solutions. Councilor Handley emphasized the lack of options for people to exercise their dogs, suggesting a need for temporary measures like allowing early morning or late evening park use until designated parks are developed.

Chair MacKay opened the item for public comment. With none, she invited discussion from council.

Councilor Whipple pointed out an error in one of the references to the State Code and suggested updating it prior to the vote.

Councilor Hoban inquired about the possibility of having a for-profit dog park business that could operate legally within the city. He wondered if someone could purchase agricultural property and convert it into a dog park.

Mr. Sanders indicated that establishing a for-profit dog park business could be feasible depending on the zoning regulations. He recalled the existence of a website called Snip Spot, which operates similarly to Airbnb but for backyard dog running. He added that there are approximately five properties in Provo that are currently renting their backyards to allow people to exercise their dogs on an hourly basis.

Councilor Hoban expressed that there appears to be a significant need for a solution and emphasized the urgency for either the city or a private entity to act and find a resolution.

With no other council discussion, Chair MacKay called for a vote.

Vote: The motion was approved 7:0 with Councilors Bogdin, Christensen, Garrett, Handley, Hoban, MacKay, and Whipple in favor.

Adjournment

The meeting was adjourned by unanimous consent at approximately 7:49 PM.