The bi-annual exchange program between students at the Franziskanum Gymnasium in Meissen, Germany and Timpview High School German Class students began in 2001. Chair Sewell read a proclamation welcoming students from Meissen, Germany to Provo. Provo City acknowledged the strength of educational, social, and economic exchanges between Provo and Meissen, which had outlasted changes in administrations, natural disasters, and changes of all kind.

Schulleiterin Heike Zimmer (Principal of the Franziskaneum Gymnasium in Meissen, Germany), addressed the council. She stated they had been met with openness, friendliness, and curiosity. This was an opportunity for the 26 students and 2 teachers to see the United States through their own eyes, not just through the media. They were given the opportunity to talk to the teachers
and attend the classes at Timpview High School. The purpose of the exchanges was to find both similarities and differences in order to create tolerance and respect between the two cultures.

**Public Comment  (0:35:27)**

Chair Sewell invited public comment and reminded citizens they would be allowed to speak for two minutes on items that were not on the agenda.

Howard Stone, Provo, stated he volunteered on a number of events in Provo, which ran on a shoestring budget. The city recently approved a fee schedule that would institute a charge for events that wanted to close streets. He felt the events would go bust if they had to pay this fee. He was told that closing the streets costs the city money and that was why the fee was implemented. He asked the council to reconsider charging fees for events in the future.

Eric Speckhard, Provo, was concerned with the Mayor’s message in the November newsletter sent with the utility bill. The newsletter stated that elections were a hallmark of a free nation and this year our election was historic. With Sherrie Hall Everett and Michelle Kaufusi emerging from the primary election as candidates for mayor, it made it possible for Provo to have its first female mayor. Mr. Speckhard asked the council why the write-in candidate was not mentioned in the article.

Mr. Speckhard was invited to speak with someone from the administration to address his concerns since the administration prepared the newsletter.

There were no more public comments.

**Action Agenda**

2 **Resolution 2017-48 consenting to the appointment of individuals to various boards and commissions. (0:43:43)**

**Motion:** An implied motion to approve Resolution 2017-48, as currently constituted, has been made by council rule.

Wayne Parker, Provo City CAO, presented. The proposed individuals were presented to the council for approval:

- Elizabeth Smart – Reappointment to the Library Board
- Ben Markham – Reappointment to the Transportation Mobility Advisory Committee (TMAC)
- Deon Turley – Appointment to the Planning Commission (as a member of TMAC)

Mr. Parker explained that Provo Code states that one member of the TMAC should also serve on the Planning Commission. The TMAC was created as an advisory group to the Planning Commission in addition to advising other organizations within the city. When the TMAC proposal was presented to council eight years ago, the ordinance was amended to create an overlap between the Planning Commission and TMAC. By having someone serve on both
boards, it would create an additional knowledge base and the ability to understand the interrelationship between the two groups.

There was no response to the request for public comment.

Chair Sewell called for a vote on the implied motion to approve the resolution.

**Roll Call Vote:** The motion passed 7:0 with Council Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.

3 Resolution 2017-49 consenting to the Mayor's appointment of Rich Ferguson as the Chief of the Police Department for Provo City. (0:48:08)

**Motion:** An implied motion to approve Resolution 2017-49, as currently constituted, has been made by council rule.

Mr. Parker presented Rich Ferguson to the council for their consent to appoint him as Provo City Police Chief. Chief Ferguson had a distinguished career with Provo City for more than 26 years. He had been involved in a wide variety of activities in law enforcement during that time. Chief Ferguson was widely respected in the department as well as the regional law enforcement community.

Chief Ferguson stated it was an honor to lead such a fine department. Provo was one of the best cities in American to raise families and to bring a business. This went along with having one of the finest police departments and fire departments in the United States.

Chief Ferguson introduced his wife Sally (a 911 dispatcher for the past 23 years), and his sons Gavin, Tyler, and Wade. His daughter and grandson was unable to attend that night.

Council members thanked Chief Ferguson for his willingness to serve in this position and his family for their support.

Chair Sewell called for a vote on the implied motion to approve the resolution.

**Roll Call Vote:** The motion passed 7:0 with Council Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.

**Stormwater Service District**

4 An ordinance amending the Stormwater Service District Consolidated Fee Schedule. (17-102)

Chair Sewell noted that a motion had been made during work session to continue this item.

Adjourn as the Municipal Council and Reconvene as the Redevelopment Agency
Motion: Council Member David Harding moved to recess as the Municipal Council and reconvene as the Redevelopment Agency at 6:24 p.m. Council Member Kim Santiago seconded the motion.

Roll Call Vote: The motion passed 7:0 with Council Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.

Redevelopment Agency of Provo

5 Resolution 2017-RDA-10-03-1 authorizing the execution of a Tax Increment Funding Agreement with Provo City and a Development Agreement with Provo City and Duncan Aviation. (0:55:06)

Motion: An implied motion to approve Resolution 2017-RDA-10-03-1, as currently constituted, has been made by council rule.

David Walter, Redevelopment Agency Director, presented. The RDA met with the school district and other taxing entities and they had agreed with offering tax increment financing for Duncan Aviation. The development agreement would specify the requirements for Duncan to move forward with getting the tax increment. The tax increment would begin January 1, 2019.

Mr. Parker stated a resolution, authorizing approval of the sales tax bond parameters, would be presented at the next meeting. The bond would fund development of a ramp at the airport.

There was no response to the request for public comment.

Chair Stewart called for a vote on the implied motion to approve the resolution.

Roll Call Vote: The motion passed 7:0 with Board Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.

Adjourn as the Redevelopment Agency and Reconvene as the Municipal Council

Motion: Board Member David Harding moved to adjourn as the RDA and reconvene as the Municipal Council at 6:27 p.m. Board Member David Knecht seconded the motion.

Roll Call Vote: The motion passed 7:0 with Board Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.

Municipal Council

Action Agenda

6 A resolution authorizing the execution of a Tax Increment Funding Agreement with the Redevelopment Agency of Provo City and a Development Agreement with the Agency and Duncan Aviation. (0:55:06)
This item was a duplicate entry of the resolution just approved by the RDA board.

7 **Ordinance 2017-45 amending the zone map classification of approximately 1.056 acres of real property, generally located at 2585 North Timpview Drive, from R1.10 to R1.9. Rock Canyon Neighborhood.** (0:58:39)

Motion: An implied motion to adopt Ordinance 2017-45, as currently constituted, has been made by council rule.

Austin Corey, Provo City Planner, presented. The property owner requested that 1.056 acres located at 2585 North Timpview Drive be rezoned from R1.10 to R1.9 in order to facilitate a proposed four-lot subdivision. All four lots met, or exceeded, the minimum 10,000 square foot lot size requirement for the R1.10 zone; however, the widths along Timpview Drive for lots 1 and 4 were three and four feet smaller than the R1.10 zone required. The R1.9 zone would not allow the property owner to build additional lots on the property. Planning staff felt comfortable with the request and the Planning Commission recommended approval.

Chair Sewell invited the applicant to comment.

Ewan Davis Thompson, representing her mother Janice Davis, spoke. Ms. Thompson stated her mother was 90 years old and could not maintain the property any longer, even with the help of the neighborhood. At one point the city took 20 feet of the property to widen and extend Timpview Drive, and, at a later date, the street was widened further to accommodate a bike path. The request would not change the size of the lots it would simply change the lot configuration and dimensions.

Chair Sewell invited public comment.

Vickie Landon-Dudley, Provo, owned the home just west of the property. They spent a lot of time looking for a place to live and chose this place because they loved the larger homes and larger lots. She had not heard about this matter until just before council meeting two weeks ago. No one called or talked to her about the proposal. Since the last meeting, they had received three phone calls from the property owner’s children concerning the request. She asked the council to leave the area zoned R1.10 and the property owners could put in three lots instead of four.

The applicant, Gordon Jacobson, was assisting Mrs. Davis with the rezoning application. They met all efforts required by the city to meet with the neighbors. They held a neighborhood meeting approximately one year ago. At that time, a notice was sent out to the Edgemont and Rock Canyon Neighborhoods. There were no objections to the proposal at the meeting and all present were in favor. He noted that the two lots backing up to the Dudley property met the R1.10 zoning requirements. Only one of the two lots that did not meet the R1.10 requirements bordered another property.

Ken Dudley, Provo, sent an email to all council members expressing his concerns. He was torn because it was not his right to encroach upon what other people did with their property. However, he did not want encroachment upon his property. He felt the subdivision, with flag
lots, would decrease his property value. Zoning was important to maintain the integrity of growth. He wanted to keep the area as open as possible.

There were no more public comments.

Mr. Knecht noted that one key element of zoning was the lot size and all four lots met, or exceeded, the minimum 10,000 square foot requirement of the R1.10 zone. There might not have been a problem if the city had not needed the 30 feet of right-of-way.

Chair Sewell called for a vote on the implied motion to adopt the ordinance.

Roll Call Vote: The motion passed 7:0 with Council Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.

8 Ordinance 2017-46 amending Provo City Code regarding setbacks for front yards and side street yards in the Campus Mixed-Use Zone. Joaquin Neighborhood. (1:13:47)

Motion: An implied motion to adopt Ordinance 2017-46, as currently constituted, has been made by council rule.

Josh Yost, Provo City Planner, presented. The proposed ordinance would increase the required front and side street yard setbacks for both residential and commercial frontage in the Campus Mixed-Use zone. Residential setbacks would increase from 0-foot minimum and ten-foot maximum to ten-foot minimum and 20-foot maximum. Commercial setbacks would increase from 0-foot minimum and 10-foot maximum to five-foot minimum and 20-foot maximum.

These amendments were the first of a number of changes Community Development would request in order to address design and development concerns in the zone. This amendment would have affected the development that was recently built on the corner of 700 North and 900 East.

There was no response to the request for public comment.

Mr. Harding stated he had not received a lot of feedback on the issue. He recently spent some time visiting another city and, after walking 26 miles through different neighborhoods, saw many examples of varying setbacks and design elements in those setbacks. He felt comfortable moving forward with the proposed ordinance and looked forward to the future amendments that were promised.

Chair Sewell called for a vote on the implied motion to adopt the ordinance.

Roll Call Vote: The motion passed 7:0 with Council Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.
9 Ordinance 2017-47 amending the Zone Map Classification of approximately 0.642 acres of real property, generally located at 925 East 1140 South, from Residential Conservation (RC) to Low Density Residential (LDR). Spring Creek Neighborhood. (1:21:28)

Motion: An implied motion to adopt Ordinance 2017-47, as currently constituted, has been made by council rule.

Brian Maxfield, Provo City Planning Supervisor, presented. The infill property was surrounded by twin homes on the north and east with mobile homes south and an industrial building west of the property. The proposed development would be a nine-unit townhome complex. The LDR zone, if approved, would allow up to 15 units per acre. The neighborhood plan showed LDR for the area.

The principle concerns in the neighborhood were related to traffic and parking. The applicant would provide two garage spaces underneath the units, two spaces on the driveway directly behind the units, and three additional visitor spaces in the complex. This would be two spaces above the required 2.25 units per acre.

Dave Gardner, representing the owner of the property, was invited to comment. He repeated that it was an infill project. Since there was no other vacant ground in the area, this would be the last of the development in the area. John Destor would build the development.

Council Members felt this would be a good project for this area.

Chair Sewell invited Mary Millar, Spring Creek Neighborhood Chair, to comment. Ms. Millar stated the neighborhood seemed to be in favor and was looking forward to this development but they were not blind to the possible parking problems it might add. They hoped the parking provided for the townhomes would be adequate to serve the resident’s needs.

There was no response to the request for public comment.

Chair Sewell explained a new procedure that was implemented recently concerning land use items. The Planning Commission heard this item six days ago. There would be two opportunities for public comment unless all members of the council felt another meeting was not necessary. Any council member could ask to have the item continued until the next meeting.

There was no request to continue this item so Chair Sewell called for a vote on the implied motion to adopt the ordinance.

Roll Call Vote: The motion passed 7:0 with Council Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.

10 An ordinance amending the Zone Map Classification of approximately 2.29 acres of real property, generally located at 1282 North Geneva Road, from Agriculture (A1.5) to One-Family Residential (R1.8). Lakeview North Neighborhood. (1:34:54)
Austin Corey, Provo City Planner, presented. The applicant submitted a similar request one year ago. The Planning Commission discussed the item at that time and recommended approval of an R1.10 zone with the understanding the applicant would modify the subdivision plans to meet the R1.10 zone. When the council heard the item, there were a number of unresolved issues so they denied the application.

The request before the council included the exact same subdivision plan but the applicant was now requesting the council approve a rezone to R1.8. Since the R1.8 zone allowed up to four units per acre, staff was uncomfortable with approving the rezone request. The neighborhood has indicated they would like to compromise on some issues.

The Planning Commission recommended denial of the R1.8 and asked that the subdivision be modified to meet the R1.10 zone requirements.

Mr. Van Buren noted that the plan included seven lots on 2.29 acres, which would be less than four units per acre. Mr. Corey said the council was not approving the subdivision they were approving the rezone. Once the zone was changed, the applicant could change the subdivision to meet R1.8 requirements and the city could not deny the plan at that point. The R1.8 zone had the potential of more than four units per acre.

Mr. Corey said they would still need modifications to the current plan to meet the R1.8 zone. The applicant agreed to sign a development agreement but the details had not been worked out.

Ms. Santiago asked about UDOT approval of a road into the subdivision. Mr. Corey stated the applicant provided UDOT approval of a driveway access when the current two-lot subdivision was approved. Staff was requesting (as required by a subdivision application) UDOT approval for road access. The applicant had not provided this.

In response to a question from Mr. Winterton, staff was concerned about access into the undeveloped property north of the applicants land. The council was working on ensuring that any development considered surrounding property, rather than just focusing within the property lines. Staff did not have enough concrete evidence to feel comfortable that an additional road access from the property to the north onto Geneva Road would be allowed by UDOT.

Mr. Van Buren expressed concern that the city was holding the applicant hostage to the property owner on the north, even though there were no plans at that time to develop the property. Mr. Corey stated property owners on the north do not have anything specific but have discussed potential development in the future to make sure they were not hindered. Staff felt comfortable with development happening but felt that R1.10 was the minimum. He explained that when a developer proposed a subdivision within 500 feet of property that had not been fully developed; the applicant had to provide a graphic example that the undeveloped property could be developed in an equitable way.

Chair Sewell invited the applicant, Nathan Chappell, to comment. Mr. Chappell asked the council to continue this item until the next meeting so he could meet with staff and address their concerns.

Chair Sewell invited public comment.
Beth Alligood, Lakeview North Neighborhood Chair, stated the proposal had reached a stalemate and they needed to find a way to move forward. She noted the property was illegally subdivided on the county records. The neighborhood could support the development if the applicant would sign a development agreement agreeing to certain conditions. They included:

- Adjust lot lines in the subdivision plan to reflect R1.10 zoning compliance;
- Include a block plan with a cul-de-sac location for the property on the north;
- Provide written approval from UDOT for road access from both cul-de-sacs;
- Do not allow a variance for lot width or depth; and
- Create green space for lot 1 of the subdivision or sell the property to a contiguous property owner.

Melanie McCoard, Provo, said this was typical of the same old subdivision plans throughout Provo. It was not creative. The design was more important than the density. If the city would exercise their political will, this would be a perfect location to build a pocket neighborhood.

There were no more public comments.

Mr. Harding stated that if there were additional information that had not been seen or processed, he would want to hear how the Planning Commission felt about the new information.

Ms. Santiago requested that this item be continued to the next meeting. She asked for a full vote of the council to confirm their agreement to continue by making the following motion:

**Motion:**  Council Member Kim Santiago moved to continue this item to the October 17, 2017 meeting. The motion was seconded by Council Member David Knecht.

**Roll Call Vote:**  The motion passed 7:0 with Council Members Harding, Knecht, Santiago, Sewell, Stewart, Van Buren, and Winterton in favor.

**11 An ordinance enacting a new Provo City Code provision regarding rental contracts.**

Brian Jones, Council Attorney, presented. Mr. Jones stated that one of the council’s top priorities was zoning compliance. The purpose and intent of the proposed ordinance was to aid in enforcement of an occupancy law that was already on the books. The amendment was requested by zoning officials. Objections about occupancy limits were irrelevant to this ordinance. He noted that occupancy limits were common throughout the state and county. Over occupancy, a Class C misdemeanor, was difficult to enforce due to lack of cooperation by landlords and tenants. Requiring tenants and landlords to sign an agreement defining the occupancy limits would educate the tenants and make enforcement more efficient.

Mr. Jones noted several amendments made to the ordinance since the previous meeting.

- Instead of including the actual text of the code in the ordinance, the text was now shown as an exhibit.
• Subsection (1) was added which included definitions to address some of the feedback from the previous meeting and to make the rest of the ordinance read more concisely (no need to be redundant).
• Subsection (1)(a) amended the definition of owner to include authorized agents of a property owner, including an authorized property manager.
• Subsection (1)(c) defined a contract and stated it only needed to meet the requirements in Subsection (4).
• Added Subsection (4)(c) which required an acknowledgement of occupancy regulations by both the owner and tenant in the tenant’s lease of the premises. Nothing in the ordinance required the length or amount of the lease to be included in a contract required to meet the proposed ordinance.
• Amended Subsection (7) to make the initial offense a Class C misdemeanor.
• Added Subsections (7)(c) and (d) to make the second or subsequent conviction a Class B misdemeanor (the standard offense for a business licensing violation).
• The ordinance effective date was changed to January 1, 2018.

Mr. Jones noted that enforcement would be complaint driven, as all zoning and licensing enforcement issues were. The procedure allowed those being investigated six or more weeks to come into compliance. Representatives from a major property manager, apartment owners association, and representatives from the realtors association all concurred with the proposed amended ordinance.

Mr. Jones addressed concerns raised during previous public comments.
• This did not violate Utah State’s good landlord program because we were not collecting copies of the agreements. The ordinance only required the landlord to make the contract available when there was probable cause a violation was occurring.
• This did not create an additional burden on sub lessees. The only requirement between a sub lessee and owner was to acknowledge the lease and ensure the sub lessee was informed about the occupancy limits and tenants’ rights documents.
• There was some additional burden by landlords and tenants because it required something to happen. The current version reduced the requirements of the contract. Every adult tenant could sign a single document to meet the requirement – multiple leases were not required.
• In addressing possible language barriers, it was best practice to have a written contract so the terms were clear and spelled out.
• The only liability was for an individual (landlord or tenant) that intentionally, knowingly, or recklessly violated the ordinance.
• This was a citywide change. It was not focusing on a particular part of town or group.

Mr. Harding noted the ordinance was defining disclosure responsibilities, define tenants’ rights, held educate tenants and landlords, and to facilitate better zoning and self-enforcement.

Chair Sewell reviewed a chart showing the zoning enforcement expenditures over the past 20 years had gone down. The primary purpose of the ordinance was to help those zoning investments become more efficient.
Chair Sewell explained one of the main reasons they were postponing the vote on this item was to do a better job of educating and informing the citizens about the purpose of the ordinance. The council wanted to provide better tools for enforcement as well as better cooperation in obeying the law. He invited public comment.

Adam Arnett, Provo, appreciated some of the adjustments but felt it removed the right to have a lease and legally sublease it without having to register the sub lessee. He felt it removed privacy. He was told that when a missionary returned home, and lived with his parents, he would have to sign the contract but it would not be enforced. This proved it was targeting singles and minorities.

Melanie McCoard, Provo, did not think the missionary would need to sign a contract because he was living with his parents. She was committed to helping opponents of the proposed ordinance understand the proposal. Neighborhood groups were ready, and willing, to hire an attorney to litigate against HOA’s that were not enforcing city ordinances (specifically the PD’s). Statistics from Provost Elementary and Spring Creek Elementary prove there was a problem with losing students because of the loss of single-family housing.

Tatiana Quinn, Provo, was not opposed to enforcement, compliance, or spreading awareness of occupancy ordinances. However, she felt the proposed ordinance was intrusive and changed the documents from a lease to a contract. She encouraged the council to work with citizens targeted by this ordinance to find better incentives to obey the ordinances. They need to look at the underlying laws and make suggestions for occupancy rules that were fair to everyone.

Cody Cutler, Provo, stated the proposed ordinance would not solve the problems with dwindling student populations at the local schools. The only way for this ordinance to solve the problem would be to make it economically unsupportable for young singles to stay in the area. This would be a form of socio and economic discrimination based on income and marital status. He was not aware until that night that the ordinance was only about compliance. Young professionals wanted to be valuable members of the community.

Eric Chase, Provo, suggested that the landlord should be required to compensate renters if they were evicted when the landlord rented the home illegally. Other states required this renter compensation and it was an effective enforcement tool. It put the responsibility of property zoning compliance with the landlord and not the renter.

Daniel Jensen, Provo, asked for clarification on the definition of a family. In addition, who would be required to sign the agreement? If the lease was for the entire home/apartment and the renter had his family (which under the code could be two friends) staying with them, would the two friends have to sign the agreement? If he were married, would a spouse or children need to have a contract with the landlord? In addition, if he carried the lease, how would zoning know if more people were living with him?

Mr. Jones replied that the definition of family was irrelevant to the ordinance. The two friends would have to comply with the ordinance because every adult tenant in the unit would be required to sign the agreement. As for Mr. Arnett’s concern earlier, a missionary living with his parents would be required to sign the agreement if the parents were renting the unit, not if they owned it. The city would enforce compliance if there was a complaint.
Vickie Knecht, Provo, stated that the Pioneer neighborhood was built for single-family ownership. That was why Mr. Knecht stated it was the preferred family home ownership. Parking was not available for everyone living in that neighborhood. A plan needed to be developed which would allow additional people and parking in a housing unit.

Kelly Orr, Provo, did not feel this was necessary because there were already laws in place for enforcement efforts. A bigger issue was the housing demand in Provo as well as Utah County. She worked for the 211 Department with United Way and received calls constantly about trying to find housing. The Provo Housing Authority only had a small percentage of their vouchers filled because there were no housing units that wanted to take the affordable vouchers. The council needed to focus on the bigger issues concerning housing that would continue to be an issue with the growth in Utah County.

There were no additional comments.

Chair Sewell invited council discussion.

Mr. Knecht said discussion during a recent open house included what type of new housing could be built in southeast Provo to meet the demand for housing that would have the amenities and parking necessary for young professionals. However, that was a separate discussion from this ordinance. The proposed ordinance was just a tool to use for current zoning compliance.

Mr. Harding noted that, in an effort to have further engagement and discussion on broader issues, a town hall meeting would be held next week. The meeting would focus on young, single professionals and address the question of discrimination.

Mr. Parker agreed that the council had defined zoning compliance as their number one priority. The council and administration had looked for opportunities to create tools to enforce the zoning ordinances. This was one of those tools. He looked forward to potential revisions that could help the process.

Chair Sewell stated that families and young, single adults needed to work together, in an atmosphere of respect, to address the concerns. He recommended that, after a new council and mayor had been elected, they could form a committee to address those concerns. The committee would have several members, with different viewpoints, that could work together to come up with solutions that would draw support from all parties.

Adjourn

Chair Sewell adjourned the meeting at 8:20 p.m. by common consent.