



PROVO MUNICIPAL COUNCIL

Work Meeting

12:15 PM, Tuesday, November 14, 2017

Room 310, City Conference Room

351 W Center, Provo, UT 84601

Agenda ([0:00:00](#))

Roll Call

The following elected officials were present:

Council Vice-Chair David Knecht, conducting
Council member David Harding
Council member George Stewart
Council member Kim Santiago
Council member Kay Van Buren
Council member Gary Winterton
Council Chair David Sewell, Acting Mayor

Prayer

The prayer was given by Council member Kim Santiago. Council member George Stewart shared happy family news about his granddaughter's heart condition, with which complications had subsided.

Council Chair David Sewell noted that Mayor John Curtis resigned on November 13, 2017 in order to fill his duties as a representative for Utah's Third Congressional District. Per statute, the Council Chair is the acting mayor. As such, Vice-Chair David Knecht has graciously offered to conduct the day's meetings.

Approval of Minutes

August 8, 2017 Work Meeting
August 10, 2017 Joint Meeting with Provo School Board
August 17, 2017 Economic Development Retreat

Motion: Gary Winterton moved to approve the minutes. Seconded by Kim Santiago.

Roll call vote: Approved 7:0.

Business

1. A discussion on tools for implementing Westside Policies (17-129) ([0:05:54](#))

Mr. Knecht recognized and welcomed members of the Agricultural Commission in attendance. Kelsey Zarbock, Policy Analyst, presented. Ms. Zarbock outlined the goals in the Westside Development Policies. Many of these goals represent some degree of competing interests, but all have merit. Development of a toolkit to provide options and tools for implementing these policies is the ultimate goal.

Gary McGinn and Bill Peperone, Community Development Director and Assistant Director, presented several comparisons about how different densities would affect design on the west side. As Community

Development staff review projects, there is disconnect between the goals and policies that the Council has adopted, versus the feedback staff receives in neighborhood meetings. They hoped to address this and then discuss tools, including Transfer of Development Rights, open-space subdivisions, and others.

Mr. Peperone noted the difference between gross and net density. Generally about 30% of developable land is lost to the road/right of way, after which the net total units per acre is applied to the remaining 70% area. The gross-vs.-net comparison is a significant factor to consider in the economic costs of providing infrastructure. Mr. McGinn explained that the City will probably subsidize both of these alternatives as a city, though the City would subsidize a gross density of 4 units/acre less than a net density of 4 units/acre. The image below, from Mr. Peperone's presentation, illustrates a comparison.



Mr. Peperone noted that Community Development staff senses major neighborhood opposition to the version on the left, so they wanted to bring this concern to the Council. Mr. Harding noted that the West Side Planning Committee had discussions utilizing a gross density figure. Likewise, Community Development has been operating under the assumption of a gross 4 units/acre total. Dave Decker, Public Works Director, also confirmed that infrastructure and master plans are figured based on the gross 4 units/acre calculation. Mr. Peperone noted that with a proposal such as the one on the left, Woodside Homes is meeting the Council's goals of providing a mixture of different housing types. Mr. Harding noted that this helps meet demands from different demographics.

Mr. Peperone and Mr. McGinn noted several questions regarding open space requirements. City staff in Planning, Engineering, and Parks & Recreation have created a comprehensive park plan for the west side. They suggest a five-acre City-maintained neighborhood park with a trail system on collector roads. Mr. McGinn noted impediments to development south of Lakeview Parkway; this area would likely remain as open space. If the City is pursuing a park or similar open space requirements, staff wanted direction from the Council on how that affects the remaining area and permissible density (more smaller lots, stacked units, attached dwellings, etc.). Another consideration is the direction for the sewer system. Public Works intends to bring back options for the sewer plan in approximately 90 days. The Council may need to determine how to allocate the limited existing sewer connections.

Council members expressed a desire to have neighborhood and/or area plans in place before approving major projects. The policies are very high-level and Council members saw the potential to approve something not fitting with the vision for the area. Community Development is moving forward on creating the steering committee for the area plan, recruiting individuals with a variety of points of view.

Mr. McGinn and Mr. Peperone shared background information on several tools for agricultural preservation, including TDRs (transfer of development rights), PDRs (purchase of development rights), and open space subdivisions (which are already an option as this is codified in City code). TDRs would require significant research to create a process for handling these transfers and determining sending and receiving areas. TDRs are also heavily market dependent on both ends of the transaction. PDRs have come recommended from the Agricultural Commission; PDRs can allow the City to play a role in preserving agriculture while still compensating landowners.

Shawn Miller, Agricultural Commissioner, shared some insight on purchase of development rights, including local applications of the concept. Instead of selling development rights to a developer, rights are transferred to a government entity. There are state and federal grants which allow the municipality to place a conservation easement on farmland. Thus the government would take a more active role in compensating farmers. There is some interest, but it is a complicated process and there are so many questions that it's hard to satisfy farmers with good answers. Most cities and states have utilized PDRs rather than TDRs; it is a way to be fair to farmers while giving the City what they desire for open space and preserved farmland. Dr. Miller appreciated the goodwill in the room and the work this involves. Utah does not have good food security and he'd love to see Provo create a model for other cities in the valley.

Cliff Strachan, Council Executive Director, noted that open space can be preserved as farmland, but could also be park land or wetlands. In trying to anticipate how to bring the west side plan into fruition, Community Development needs to know affirmatively whether the Council wants to do certain things or not, otherwise there is a lot of discussion about hypothetical situations without the actual tools in place. Staff noted that in recent meetings with West Side committee members, neighborhood chairs, and citizens who had worked on the plan, these individuals had begun to shift their modes of thinking. Many had started to recognize a need to increase density in some areas in order to attract needed commercial and retail services, and to be able to preserve agriculture in other areas.

Council members had varying opinions on the use of either TDRs or PDRs:

- Mr. Stewart did not support using City funds to purchase development rights and preserve farmland, and he felt that TDRs were not worth a lot of time and effort.
- Mr. Sewell noted that the West Side Committee's recommendations mentioned the LeRay McAllister fund. If this were of interest, the Council could pass a resolution encouraging the State to dedicate more to this fund for agricultural preservation.
- Kay Van Buren was interested in exploring PDRs further, rather than TDRs; the management and up-front coordination of TDRs is more complex, and he thought that PDRs were a more sustainable tool in the west side where the amount of developable property is small and it may be difficult to sufficiently raise density in appropriate areas to make TDRs viable.
- Council members were interested in more discussion once property owners had given feedback.

Community Development staff will develop a land use map and survey farmland-owners on the west side, with the intent to return for a presentation at a Work Meeting in February. **Presentation only.**

2. A discussion on adopting the Provo Parking Strategic Management Plan as a guide for decision making and policy formation (17-126) ([1:28:57](#))

Matt Taylor, Parking Administrator, presented. Mr. Taylor reviewed the plan at a high level and invited feedback from the Council on its content, objectives, and goals. Mr. Taylor noted areas and specific examples where the City has been focused or making progress. Council members shared comments:

- Council members had concerns about creating an entirely new department. Many thought that Parking Management was better suited as part of Community Development. Wayne Parker, CAO, agreed that this had been the intent of the Administration.
- Of the various models, while some were not suited to serve as the main organizational structure, several Council members thought there was value in examining elements of these models, such as the Business District model, which might have relevance to specific situations or areas of Provo.
- Ms. Santiago suggested adding “plans” to the vision statement; reference to the General Plan and neighborhood plans is essential for correlating implementation of a Parking Master Plan.
- Ms. Santiago also asked how the City ensures that parking funds do not get funneled into transit. Mr. Taylor explained that there are correlated efforts with UTA to encourage ridership and use of existing/forthcoming transit, but that the parking funds would not be put toward transit projects.
- Mr. Stewart suggested an edit to section 8 (Budget and Training)—the parking budget should not be an enterprise fund, but a department or division fund.

Mr. Taylor noted that the key outcomes did not include the overall chapters focused on: background information, other cities’ plans, parking studies and data collection, management approaches, or organizational structure; these chapters were more informational in nature, rather than supportive as specific policy statements. Council members had various opinions on the final outcome—some advocated adopting the entire document, while others suggested following the Strategic Plan recommendation of adopting a vision statement, mission statement, and guiding principles, with the rest as an appendix. ***Presentation only. There will be further discussion on this item at the November 21, 2017 Work Meeting.***

3. A discussion on proposed new Fire Department fees (17-133)
This item was continued to the November 21, 2017 Work Meeting.
4. A discussion on above 25kW distributed generation (17-130) ([2:45:46](#))

Travis Ball, Provo Power Director, reviewed the information presented at the previous Work Meeting. This code change would provide an option for commercial and industrial customers (over 25kW) to generate extra power. Mr. Ball noted that this change does not increase the City’s costs, but the current costs levels will essentially offer an incentive to commercial and industrial solar users. ***Presentation only. This item was already scheduled for the November 14, 2017 Council Meeting.***

5. A discussion on a proposed zoning ordinance amending Provo City Code 6.26.150 (17-104) ([2:54:59](#))

Council member Kim Santiago, Zoning Committee Chair, presented on the ongoing discussion on rental dwelling licensure and using this as a tool to prevent over-occupancy. The Housing Committee was surveying neighborhood chairs about accessory apartments and related concerns. Council members shared feedback on various iterations of the ordinance and language changes. Version 2-1 was referenced and Council members and staff worked from this version. There were concerns from Council members that the current version did not address instances where a tenant sublets to others.

Motion: David Harding moved to change the language: “...excluding tenant or sublessor of a single-family dwelling” **No second was made.**

Motion: George Stewart moved to accept the proposed language as shown on the screen, which included the addition of “except on-site property managers of multifamily properties.”
Seconded by Kim Santiago.

Roll call vote: Approved 7:0.

Motion: David Harding moved to use the language from version 3: ‘disclosure and acknowledgment’ rather than ‘contract.’ Seconded by David Sewell. **No vote was taken.**

Council members held varying opinions on the use of “contract” in the proposed ordinance. Some suggested that it redefined a commonly understood term and not specifying what the City actually wanted; best governance is to use language that accurately describes a situation. Other Council members believed that for practical purposes, a disclosure and acknowledgment is confusing and may not be the actual language used by zoning staff in communication with tenants. Some Council members proposed including both phrases with “or” so that either could serve the purpose.

Substitute Motion: Gary Winterton moved to change the language to read “contract or disclosure and acknowledgment.” Seconded by David Sewell. **No vote was taken.**

Mr. Sewell had concerns that with the version stating “Contract Required,” he has seen multiple instances of confusion with the wording “contract.” He was in favor of clarifying and making this simpler, and thought Mr. Winterton’s substitute motion achieved that aim. Brian Jones, Council Attorney, and several Council members requested an updated version on the screen prior to further discussion or a vote. Ms. Santiago consulted Carrie Walls, Zoning Administrator, and Marcus Draper, Attorney, about which language would best assist them and zoning staff in their enforcement work.

Motion: Kim Santiago moved to keep the language the same (the updated version 2 which included the update to 1(a)). Seconded by Kay Van Buren.

Mr. Jones clarified that the intent of the discussion and these motions during Work Meeting is to create the exhibit to which the implied motion will refer during the evening Council Meeting. Mr. Harding and Mr. Sewell reiterated the confusion and ambiguity that this change creates, evidenced even by the back-and-forth nature of this discussion.

Roll call vote: Approved 4:3, with David Harding, David Sewell, and Gary Winterton opposed.

Ms. Walls presented on Community Development’s plan for publicity and education of the public. Measures and materials will include:

- Letter explaining details of the ordinance (once passed) and open house events
- Two open house opportunities for citizens to ask questions or receive more information
- Draft version of Tenant’s Rights and Responsibilities
- Council blog and Mayor’s blog
- Updates to Zoning FAQ and page on Community Development website

Mr. Harding wondered whether it was reasonable to expect compliance by the dates stated; he had concerns with the timing of education initiatives and allowing residents adequate time to make reasonable efforts to comply. Ms. Walls indicated that usual procedure for zoning enforcement makes provision for unique situations; staff try to work with property owners to help them come into compliance and stay in compliance. She noted that this is just one of many tools used by zoning staff and that it will be used with care and consideration. ***This item was already scheduled for the November 14, 2017 Council Meeting.***

Policy Items Referred from the Planning Commission

6. A discussion on a request for a Street Vacation for 40 East from 3700 North to 3800 North, and 3800 North from University Avenue to 40 East to facilitate the Olde Ivy Development. Riverbottoms Neighborhood. (17-0001SV) ([3:48:41](#))

Due to the time shortage, Brian Maxfield, Planning Administrator, deferred to questions from Council members; there were none. An earlier presentation pertaining to the related rezone also covered this street vacation. *This item was already scheduled for the November 14, 2017 Council Meeting.*

7. A discussion on an amendment to Provo City Code Sections 15.03.300; 15.03.310; and 15.04.130 of the Provo City Land Use and Development Ordinances, to clarify minimum required submittals for Project Plan Reviews. Citywide impact. (17-0018OA) ([3:49:45](#))

Austin Corry, Planner, presented. The ordinance as currently written was a frequent source of confusion in the development community. Developers would often incur many up-front costs to deliver items which may not actually be needed for a particular project or at that particular stage in the process. This ordinance change came from recommendations of the Development Approval Process Review Committee. The main change for the Community Development portion of the ordinance mainly addresses the use of a concept plan. Public Works staff in attendance suggested including a reference to the Public Works Development Guidelines, which provide more specificity about items needed for various types of projects or situations, but is more readily updated on an Administrative level. Brian Jones, Council Attorney, and Mr. Corry discussed either implementing these changes to the draft of the ordinance to be presented at the evening meeting, or to continue its adoption to the next Council meeting in order to allow a more in-depth review. *Presentation only. This item was already scheduled for the November 14, 2017 Council Meeting.*

Closed Meeting

8. The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with § 52-4-204 and 52-4-205 et. seq., Utah Code.

Motion: David Sewell moved to close the meeting. Seconded by David Harding.

Roll call vote: Approved 7:0.

Adjournment

Adjourned by unanimous consent.