



PROVO MUNICIPAL COUNCIL

Work Meeting Minutes

11:30 AM, Tuesday, October 17, 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 Chair David Sewell, conducting

Council Vice-Chair David Knecht

Council Member Kay Van Buren

Council Member George Stewart

Council Member Gary Winterton

Council Member David Harding

Council Member Kim Santiago, via conference call at 12:57 PM

Mayor John Curtis, arrived 1:00 PM

Prayer

The prayer was offered by Council member David Harding.

Business

1. A discussion on a conservation easement for Rock Canyon (17-085) ([0:04:03](#))

Brian Jones, Council Attorney, introduced the current draft of the conservation easement and noted several changes which resulted in a hybrid between the most stringent levels of conservation and moderate levels. Mr. Jones indicated that this document is sound from a legal perspective, but depends primarily on the policy direction in which the Council wishes to pursue.

Doug Robins, Parks and Recreation Assistant Director, shared concerns from their department. About a year ago, the department organized a committee with the Rock Canyon Preservation Alliance and local stakeholders to develop a master plan for Rock Canyon, including operational directives. The master plan is currently in the review process with the consultant, including coordination with other governing documents of related agencies such as the Forest Service. Mr. Robins indicated that the Department is supportive of creating an easement, but they suggest that it may be simpler (protecting the site from future development) and place much of the specific regulation within the purview of the adopted master plan. The master plan includes plans for ecological preservation, trail systems, and other aspects, which would allow the easement to be simpler in deference to the master plan.

Mr. Jones offered clarification on the recommendation from Parks and Recreation and the implications for utilizing the current iteration of the master plan, versus making provision for future amendments or updates to the master plan. Council member George Stewart believed the Parks and Recreation Department should be in agreement with what the Council approves.

Erik Davis, Rock Canyon Preservation Alliance, shared comments. Mr. Davis and members of RCPA had concerns about removing much of the specific preservation language to the master plan, as public comment is permitted but not required in that process under State statute. RCPA is concerned for the long-term preservation of the canyon, not just the area in question for the easement, and with different leaders in 50 or 100 years, having checks and balances in place with such an easement would provide the long-range protection that they have in mind. This still allows fluidity in amending the master plan, but does not centralize control of the easement in one place. It would require that the City, if desiring to make changes inconsistent with the goals, to consult the easement holder, RCPA. Mr. Davis appreciated the great position right now of working together with the same goals, but the way to protect and preserve the property the way that RCPA hopes to, is to have a specific agreement that covers many aspects of the conservation easement. Mr. Davis believed the drafted easement does provide for growth and change, as well as an incentive to cooperate and make changes together. As drafted currently, this easement covers the Liechty property, not the whole entrance of the canyon, which was purchased by funds from the RCPA.

Council members shared feedback on the proposal and requested further review of the draft from Parks and Recreation. ***Presentation only. This item will be brought back to a future Work Meeting.***

2. A discussion on the Geographical Information Systems (GIS) Division and the work they're doing for the 2020 Census (17-127) ([0:40:35](#))

Phil Uhl, GIS Administrator, presented. Mr. Uhl shared current projects of the GIS division, including preparation for 2020 Census, LUCA (Local Update of Census Addresses), maps.provo.org, boundary and annexation survey [making sure the Census Bureau has the current City limits], gishome.provo.org, and the Participant Statistical Areas Program (PSAP). PSAP is an opportunity to influence census tracts and block groups with the Mountainland Association of Governments to better align with neighborhood boundaries. They have used similar processes in the past to recommend adjustments to precinct boundaries. Mr. Uhl answered questions from Council members about redistricting, noting some of the inherent differences—voting precincts are balanced by the number of registered voters, whereas school districts are balanced by population. The process for mapping data differs depending on the type of redistricting. ***Presentation only.***

3. A discussion on a request for variance from Technology-Based Phosphorus Effluent Limits for the Wastewater Reclamation Facility (17-128) ([0:57:20](#))

Dave Decker, Public Works Director, presented, and introduced several staff members who work with wastewater systems: Gary Calder (Water Division Director), Shane Jones (Engineer), Jimmy McKnight (Financial Analyst), and Rebecca Andrus (Engineer). Mr. Decker gave background information on this request for a variance letter, which would need Council approval before the end of the year.

Mr. Decker explained that 2020 water nutrient regulations permit no more than 1 milligram of phosphorus per liter of water. The Division of Water Quality (DWQ) anticipates a second step in 2030 moving the maximum between 0.05 to 0.5 mg/L. The Wasatch Water Quality Coalition and City staff are concerned about the lack of specific details for the 2030 changes. The City can obtain a variance to extend compliance for the 2020 regulations to 2025, however, this would shorten the time remaining to comply with the 2030 regulations, which are still unspecified at this time. Public Works staff recommend preparing a general variance request; this would permit more flexibility as staff identify and prepare the necessary solutions. There is a possibility that the State DWQ may not accept the variance, but this is something which other cities and agencies, such as Central Valley Water Reclamation, would face as well.

Mr. Decker noted that no matter the method, each possibility represents significant financial impact. The wide margin of the purported 2030 changes is concerning and the Wasatch Water Quality Coalition has represented this major concern to the State—there is not a specific target for 2030. The City could apply for revolving loan

funds from the State to utilize in addressing compliance needs, but Mr. Decker noted that these funds are not a gift or grant; they function as a loan and would need to be paid back to the State.

Mr. Decker will give a second presentation at the November 14, 2017 Work Meeting, which will cover financial details of the proposals, as well as west side wastewater treatment options. Mr. Decker noted that during budget discussions earlier in the year, Public Works incorporated a savings account for the 36” parallel line on the west side. This financial planning step will help the City avoid bonding for this improvement, however, there is still a limited capacity with the current wastewater system—equivalent to service for approximately 600 single-family homes. Wayne Parker, CAO, noted that introducing a new industrial area, airport terminal, or other commercial development would reduce that 600-unit capacity. ***Presentation only. This item will be brought back to the November 14, 2017, Work Meeting.***

4. An update on Council Communications (17-125) ([1:31:35](#))

Karen Tapahe, Community Relations Coordinator, presented. At the beginning of 2016, the Council established as a priority to improve public engagement with the Council. Ms. Tapahe reviewed several aspects of these goals and provided an update on efforts to achieve this goal. The aims of Council communications have been to decrease response time, and to provide more transparency and accessibility. There are many different tools used to accomplish this, but each caters to different citizens’ preferences and comfort with technology. Ms. Tapahe outlined some of these tools and shared statistics on: the neighborhood program, social media, news clips, Open City Hall, YouTube, newsletters, and Citizens Agenda. The Citizens Agenda explains and simplifies what is presented on the Council meeting agendas, demystifying legal jargon or other points of confusion. Ms. Tapahe outlined other on-going efforts and the process of making continual tweaks based on experience. Council members shared comments and feedback. Council Chair David Sewell expressed appreciation for Ms. Tapahe’s work with Council communications. ***Presentation only.***

5. A discussion on adopting the Provo Parking Strategic Management Plan as a guide for decision making and policy formation (17-126) ([2:03:15](#))

Cliff Strachan, Council Executive Director, introduced the discussion. While in the process of updating the General Plan, staff have identified a way to streamline the General Plan, by incorporating through reference the supporting master plans. While the Council held a parking retreat in late 2016, no plan was formally adopted at that time. Kimley-Horn, consultant on the strategic plan, have recommended adopting a vision statement, mission statement, and guiding principles. The Council could consider adopting action steps.

Matt Taylor, Parking Administrator, thought the Council should focus on policy outcomes; much of the rest of the document is advice and best practices on the administrative side of parking issues. Council member Kim Santiago shared feedback and concerns about sections of the strategic plan. Council member David Knecht commented on the existing parking permit programs in areas such as the Foothills neighborhood; while a bit of a hassle in its current iteration, it is expected that with the onset of Provo 360, more of the process can be handled online. Council members shared thoughts on having a parking committee or adding the scope of the parking management to the Transportation & Mobility Advisory Committee. Mr. Taylor thought keeping TMAC involved in the discussion was important, though they have a wide range of projects. Mr. Taylor suggested that the Council adopt a core set of guiding principles, perhaps to incorporate into Vision 2050, and to further adopt the strategic plan to direct the Parking Administration division’s work. ***Presentation only. This item will be brought back to the November 14, 2017, Work Meeting.***

6. A discussion on the batching overlay (17-124) ([2:24:39](#))

Jeremiah Maughan, Vision Real Estate, presented. Mr. Maughan talked about factors and conditions which have encouraged or resulted in batching single adults gravitating to traditional family neighborhoods. Many

City policies or ordinances explicitly reference neighborhood goals favoring permanent, family owner-residents, but south campus area housing does not meet the needs of working single adults and graduate students who do not want to live in undergraduate student housing. This population is underserved and there are definite needs to provide quality housing for this demographic. Council members David Sewell and David Harding shared feedback from a town hall meeting with single adult residents, many of whom shared comments about the negative impacts they feel and a sense of not being valued.

Mr. Maughan outlined policy considerations and statistics and answered questions from Council members:

- Vision Real Estate surveyed approximately 600 former tenants; 75% of results came from female respondents (there are likely differences for male residents). Results showed a preference for private rooms, 93% of respondents owned one car, only 3-5% preferred apartments.
- The current scope of the batching overlay is limited to the south campus planning area. There is a large demographic of single adults that do not wish to live there—they may not want student roommates, may like the feel of a traditional neighborhood, or may financially be able to afford more space and a nicer living space than the typical student apartment; quality and parking are major amenities for many single adults. Mr. Maughan emphasized that batching should be available in neighborhoods, but done in conjunction with projects that fit the area and meet parking requirements.
- Rather than converting existing neighborhoods for batching uses, Mr. Maughan suggested utilizing redevelopment, master plans, or new construction areas, starting with areas where single adults already congregate (east of State Street, downtown, etc.).
- Mr. Maughan stated several recommendations: future batching needs to bring back the 5 to 6 option, with specific criteria to reach the conditions desired in the neighborhood. Batching areas need to have at least a parking ratio of 1:1 cars to residents, with an additional 10% factored in for guests (alternatively streets wide enough for guest street parking).
- Mr. Maughan noted that zoning such as HDR (high-density residential) could be helpful in accomplishing these aims; a developer could be approved for HDR zoning, allowing them to build closer to the road, but then complete a project with medium density, utilizing the additional space to create sufficient parking. Mr. Maughan noted often the parking ratio is problematic.
- Gary McGinn, Community Development Director, clarified that there is no batching singles overlay; currently this is a permitted land use which is incorporated into specific zones within the City. Council member David Knecht expressed a desire to create an overlay, which would be visible on a zoning map, rather than a permitted use which can be buried in the text of city code.

Presentation only.

7. A discussion on a proposed zoning ordinance amending Provo City Code 6.26.150 (17-104) ([3:03:35](#))

Brian Jones, Council Attorney, presented the current version of the drafted ordinance, noting several changes in the current draft. Council members shared comments on these differences, notably the update from “contract” to “disclosure and agreement.” Council members were of differing opinions on this change; several thought changing the definition of a commonly used term was confusing and contributed to unnecessary friction with the public. Proponents of the “contract” version worried that changing this watered down or weakened use of the ordinance by zoning staff to enforce in the necessary manner.

Mr. Jones addressed some comments of Council members, offering clarification on those concerns. One concern was that with a sub-lessee, there is not a contract between the *owner* and the sub-lessee. Mr. Jones noted that even the second version of the ordinance does not require there to be one, only a document called a contract that consists of the rental dwelling license approval letter, tenant rights and responsibilities, and acknowledgment that landlord knows sub-lessee is living there. Mr. Jones thought that the difference between the two versions was a matter of perception of who is reading the ordinance—the definitions are specific as to what is required. Gary McGinn, Community Development Director, echoed this sentiment,

noting that it was a distinction without a legal difference and it does not change the legal meaning of what the ordinance does. He thought it came back to the message and tone the Council wants to send on enforcement. Marcus Draper, Assistant City Attorney, said that from a prosecution standpoint, the definitions are the same, though there may be a slight difference from an investigation perspective (with evidence gathering) if “contract” is specified in the ordinance. Ms. Santiago thought this was simply a semantic difference and thought it made sense to use what people understand.

Motion: Kim Santiago moved to keep the wording as contract. Seconded by George Stewart.
Roll call vote: Approved 5:2, with David Sewell and David Harding opposed.

Council Chair David Sewell noted several other items he was interested in deciding on as a Council. In the interest of increased public acceptance, he proposed reducing the penalty from a Class C misdemeanor to an infraction, with escalation to a Class C and Class B for second and third offenses, respectively. Mr. Sewell invited a motion to that effect. No motion was made.

Mr. Sewell was also concerned about the effective date of the ordinance, which was currently stated as January 1, 2018. He requested more details on a plan from the Administration regarding education and notification of landlords and tenants, as well as a timeline in which residents are expected to comply. Mr. Sewell proposed that by November 14, 2017, when the vote is scheduled, that the Administration would have a plan in place and the effective date could be based on this. Ms. Santiago thought the administrative processes for zoning compliance and business license renewals already built in time for compliance. Several Council members desired a direct or educational approach with outreach. Council member David Harding expressed a desire that all renters have the rights and responsibilities document, not only the small margin of rental units which are subjected to investigation for zoning enforcement; this universal requirement of the zoning disclosure was a major aspect of his support of the tool.

Motion: George Stewart moved to use January 1, 2018, as the effective date and instruct zoning enforcement under Community Development to use every means possible to advertise to people affected by the ordinance that this law is now in effect and to come back to council on November 14, 2017, with a plan and a budget. Seconded by David Knecht.

Mr. Sewell had concerns for advertising the ordinance when it has not yet been approved or put into official effect. Mayor John Curtis indicated that the Administration could return to the Council with a plan to present on November 14, 2017, which they would not implement until a decision had been made. They will make the necessary preparations but will not put the plan into action until a decision by the Council.

Roll call vote: Approved 7:0.

8. A discussion on above 25kW distributed generation (17-130) ([4:00:54](#))

Travis Ball, Energy Director, presented. This change to the code would allow commercial and industrial customers to utilize solar or other means of power generation and to connect to the Provo City power grid. Currently there is no provision to allow this for commercial/industrial customers. This proposal would create a provision to facilitate this, while not creating undue impacts or implications for the City budget. In cooperation with Utah Municipal Power Agency (UMPA), these customers would have a buy all, sell all arrangement; UMPA would buy all generated power at their going rate (regularly sending those customers a check for the total amount purchased), and Provo City would continue to supply power to these entities at the retail utility rate. This is metered differently than the net metering for residential solar customers, but presents a fair way to make this option possible for commercial and industrial users. This proposal has been reviewed and approved by the Provo Energy Board, UMPA Board of Directors, UMPA technical committee, and UMPA member cities. Typical residential users are on systems between 8 to 10 kW, with a

maximum of 20 kW; this provision would apply only on 25kW or above systems, primarily used by commercial and industrial users. Mr. Ball answered questions from Council members, who expressed appreciation to Mr. Ball and staff for reaching this solution. *Presentation only. A draft of the ordinance will be brought to the November 14, 2017, Work and Council Meetings.*

Policy Items Referred from the Planning Commission

9. Provo City Economic Development Department requests amendments to the General Plan text for the Spring Creek Neighborhood to allow for SLU#6614 Contract Construction Services and Heavy Manufacturing (M-2) Zoning, located at approximately 4000 South 2300 East. Current zoning is Planned Industrial Commercial (PIC). Spring Creek Neighborhood. (17-0004GPA)
10. Paul Washburn requests a Zone Change from Planned Industrial Commercial (PIC) Zoning to the Heavy Manufacturing (M-2) Zone for approximately 64 acres located at 3750 South Mountain Vista Parkway. Spring Creek Neighborhood. (17-0013R) ([4:11:12](#))

Items 9 and 10 were already scheduled for the October 17, 2017, Council Meeting and the presentations were continued to the evening meeting.

Business Continued

11. A discussion on the Transfer of Development Rights (17-129) ([4:13:08](#))
This item was continued to the November 14, 2017, Work Meeting.

Closed Meeting

12. 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.

Council Attorney Brian Jones noted that separate motions would be needed to close separate sessions of the Governing Board of the Redevelopment Agency and the Municipal Council, respectively. RDA Board Chair George Stewart invited a motion to close the meeting of the Governing Board of the Redevelopment Agency.

Motion: David Harding moved to close the meeting of the Redevelopment Agency Board.
Seconded by David Knecht.

Roll call vote: Approved 7:0

Council Chair David Sewell invited a motion to close the meeting of the Provo Municipal Council.

Motion: Kay Van Buren moved to close the meeting of the Provo Municipal Council. Seconded by Gary Winterton.

Roll call vote: Approved 7:0.

Adjournment

Adjourned by unanimous consent.