



## PROVO MUNICIPAL COUNCIL

### Work Meeting Minutes

12:00 PM, Tuesday, December 05, 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, Acting Mayor; conducting

Council Vice-Chair David Knecht

Council Member Kay Van Buren, arrived 12:04 PM

Council Member George Stewart

Council Member Gary Winterton

Council Member David Harding

*Council Member Kim Santiago was excused for the meeting but participated in some discussions via phone.*

#### Prayer

The prayer was given by Council member George Stewart.

#### Approval of Minutes

June 6, 2016 Budget Retreat

October 18, 2016 Work Meeting

September 19, 2017 Council-Planning Commission Joint Meeting

November 14, 2017 Work Meeting

*Approved by unanimous consent.*

#### Business

1. A presentation on Wastewater planning (17-131) ([0:02:50](#))

Dave Decker, Public Works Director, introduced Cory Christiansen (Consultant on Wastewater Treatment Master Plan), Brent Ventura (Horrocks Engineers, consultant for piping system and large projects on west side involving Duncan Aviation and other developments), and Public Works staff. Mr. Decker highlighted several items from previous discussions and presentations:

- Capacity of existing infrastructure on west side
- Inflow and infiltration (I&I) issues with the water system/infrastructure and projects to address this (monitoring by consultant, flexible lining project, installation of new pipe in select areas)
- Review of nutrient regulations and proposed options for compliance, including exploration of a new treatment plant and financial implications of the various options
- Update on variance letter (the City will likely hear back from the State in January; the request is in line with other municipalities' requests and staff do not anticipate having any problems)

Mr. Decker noted that much of his presentation that day would be based on option 4 ('pay-as-you-go' option) due to Council feedback during previous discussions. Mr. Decker shared an updated figure with the comparison of rates under each option, including project costs *and interest*. Staff have verified that after determining the net present value (NPV) calculation, option 4 was still the least expensive option.

The City has identified a potential site for a new treatment facility on the west side of Provo, where the City owns about 20 acres near the airport and Lakeview Parkway. Mr. Decker noted that 2050 West is an extension of Geneva Road and would likely continue due south to connect to Lakeview Parkway. There is a parking lot there for trail access; visiting the parking lot may help Council members conceptualize the site.

Mr. Decker noted industry forecasts based on changes in California and Arizona. There are risks and unknown variables with any of the proposed options, many of which are difficult to anticipate. Mr. Decker responded to a question regarding reverse osmosis and direct reuse of water; he had concerns with the public perception issues, but observed that because Provo has many high-quality, high-priority water rights, he did not foresee this as a necessity for Provo, though it would certainly be an option with a new treatment plant.

Mr. Decker shared graphics created by Horrocks Engineers showing the existing sewer capacity in specific areas, along with a proposed schedule for phased expansion (beginning with key areas such as Duncan Aviation and on 620 North) based on development potential. Mr. Decker shared additional details on financial implications should a master lift station be built. Any revenue savings from the Geneva Road sewer line project are factored into the appropriate fiscal years' budget for west side sewer CIP 2018-2026. Mr. Decker clarified that the proposed pipe plan is development driven, but that the treatment plant is not, however the timing of both projects is closely connected (with the treatment plant scheduled to be up and running in 2022 and the pipe plan completion slated for 2021), and both carry considerable financial impacts. Based on impact fee revenue for the past five years, it is anticipated that after completion of the impact fee study, fees may double or even triple, as these fees have not changed in many years—this will play a role in financing these projects, as impact fee revenue is dedicated towards many of these projects impacting development. Because impact fee revenue comes in after the fact, there may be short-term cash flow problems, which would affect how the City may choose to approach the financing. Mr. Decker also shared insight and implications of the City's past fee increases and the State requirements for such.

Several Council members shared feedback on the proposed options:

- George Stewart wanted to look at impact fee increases with 6% growth.
- David Harding asked whether Public Works had considered following option 4 as closely as possible, while doing some bonding early on to help keep the fund balance positive, rather than having sharp increases or decreases. Mr. Harding thought this was something to consider on behalf of constituents.
- David Sewell asked whether selecting the pay-as-you-go or another option would slow development. Mr. Decker indicated that various options could enhance or inhibit progress for development.
- David Knecht thought financial ability should be a determining factor for growth and infrastructure.
- George Stewart still believed option 4 was the best option.

Mr. Ventura and Mr. Christiansen observed that as other Utah facilities will be making significant updates, it may be prudent for the City to make a move early on to secure State funding. The Council understands the complexity of the issues and concerns of staff; it seems the City is on the right track. **Presentation only.**

## 2. A discussion on Police fees (17-142) ([1:39:54](#))

Cliff Strachan, Council Executive Director, presented, and acknowledged Police Chief Ferguson who was in attendance. The proposed fee updates focused primarily on the false alarm fees and traffic accident (TA) report fees. Additional minor changes to the consolidated fee schedule would be submitted in the next

budget cycle. Staff assessment found the Police fees to be fairly comparable to other cities, though some were low. Mr. Strachan shared data on the false alarms that received a response from the Police Department and noted that while most false alarms for the Fire Department involve commercial or business properties, the majority of false alarms for the Police Department involve residential calls.

Council members shared comments and feedback on the fees for these areas:

- David Knecht wondered about the volume of users who reach the five or six false alarms and whether it would be beneficial to begin charging for the third or fourth false alarm.
- David Harding offered a counter argument to raising the traffic accident fee; responding to traffic accidents is the kind of police service which is paid for by taxes rather than by fees. As a note of policy discussion, did the Council feel that traffic accident reports are of a different nature such that it would make sense for them to be paid for out of fees instead; increasing this fee added insult to injury.
- David Knecht recommended cost recovery as much as possible. Mr. Strachan clarified that the intent would be to recover the paperwork charge, not the fieldwork involved in initially creating the traffic accident report in the field; the City wants people to call in an emergency and for the City to continue to provide those services.
- Several Council members were interested to know statistics about the number of reports sent out per year and whether there were unique circumstances above and beyond the typical process which involve more work for the city hall Police staff.
- Chief Ferguson indicated that the Police Department is supportive of the recommendation; they do not want to gouge a citizen, but generally these reports are obtained for the insurance company and as such, it was felt that the fee increase was warranted.

Brian Jones, Council Attorney, indicated that the City ordinance regarding the Government Records Access and Management Act was in need of several revisions in order to comply with changes at the State. Some of the outcomes of these fee recommendations may be useful in the context of the Police Department fees and he suggested coordinating to make that available. Chief Ferguson expressed that Council members were more than welcome to attend a ride-along with an officer or meet individually with him. **Presentation only.**

### 3. A discussion on proposed new Fire Department fees (17-133) ([2:01:37](#))

Chief Jim Miguel presented on this request for a fee and process change to address persistent problems with specific, problematic users of commercial fire alarm systems. Chief Miguel clarified what does or does not constitute a false alarm, sharing an example in which the department responded to an alarm at the hospital, which responders determined was set off by burnt popcorn; Chief Miguel emphasized that in this situation, the alarm system did exactly what the system is designed to do, so it was not a false alarm. Chief Miguel explained how fire alarms operate and how this change would make the ordinance more effective: by defining terms, requiring free commercial alarm registration with the Fire Department, listing 24-hour contact personnel for each commercial alarm system, and making updates to the false alarm fee schedule.

The Fire Department had 382 false alarms in 2016, and 449 false alarms thus far in 2017—17 of which occurred at a single address. Responding to false alarms with such frequency means deploying emergency equipment and personnel who are then out of commission to respond to other calls. The Fire Department also faces increased risk and liability in leaving what appears to be a false alarm without fully investigating.

Chief Miguel explained the proposal: every business would register their fire alarm with the City, including alarm address, alarm company, and at least two 24-hour contacts. This database would be integrated with the Fire Department computerized dispatch for ready access to current contacts while out on a call. The State requires fire alarms to be tested annually, so this database would also track compliance with testing requirements. These services will be provided to Provo businesses at no cost. The fee schedule will also be

updated to specify that a fee is charged after the first three false alarms which occur at a property in a rolling 12-month period, rather than each calendar year. This is not intended to raise revenue, but as a disincentive which would encourage business owners to keep their alarms in proper working condition.

Chief Miguel reiterated that the Department's goal is to drastically reduce the number of false alarms they go to—fire prevention is their first priority, and they have other goals with inspections, testing, assistance, and enforcement. This is an important step in helping make businesses accountable and keep their alarm systems in good repair and will reduce the time the Fire Department spends responding to false alarms. In response to a question from Council member George Stewart, Chief Miguel indicated he did not see any reasons not to make these changes. Steve Schreiner, in the City Attorney's office, has reviewed the draft and the final version will be brought to the Council in the future. Implementation (including building up the database) will likely take a year, after which annual renewals can be easily managed. **Presentation only.**

4. A discussion on adopting the Provo Parking Strategic Management Plan as a guide for decision making and policy formation (17-126) ([2:21:40](#))

Matt Taylor, Parking Administrator, briefly presented an update on the materials, focusing in particular on the executive summary, guiding principles, and the implementation/action steps for first 12-24 months. Council members had concerns about the length of the strategic plan, its structure, and the implications of adopting it in its entirety as a policy document. Council member David Harding thought that the mission statement, vision statement, and guiding principles were well done, but that the action items contained superfluous items and some needed to be updated. He suggested following a similar approach as the bicycle master plan, a portion of which was adopted as a short chapter in the transportation master plan, with the entire bicycle master plan as an appendix or reference. Cliff Strachan, Council Executive Director, suggested holding a further discussion with the Administration, as they have viewed parking as a service related to economic activity and other areas, rather than something solely related to Public Works; the transportation master plan is more about infrastructure and less about the parking services the City provides.

Council member David Sewell shared similar concerns to other Council members about the length of the document and non-relevant portions, but asked whether it would be sufficient to adopt the vision, mission statement, and principles. Several Council members shared this view and were comfortable with the first two chapters of the document.

**Motion:** David Harding moved that the Council proceed at the December 5, 2017 Council Meeting with the option of considering adopting chapters 1 and 2 of the proposed Strategic Parking Management Plan. Seconded by George Stewart.

Council member Kay Van Buren suggested clarifying the motion to state that chapters one and two specifically include the mission statement, the vision statement, and guiding principles.

**Amended motion:** David Harding amended the original motion to indicate that chapters 1 and 2 include the mission statement, vision statement, and guiding principles. The amended motion was seconded by George Stewart.

Mr. Strachan and Gary McGinn, Community Development Director, suggested that as staff update the General Plan, that could be an opportune time to better align the action steps with the City's policies. Council member Kim Santiago joined the discussion by conference call at approximately 2:45 PM and suggested Council members read the plan in full at some point, as it contained beneficial information.

**Roll call vote:** Approved 7:0.

5. A discussion on proposed Neighborhood Program changes (17-138) (3:21:06)

Cliff Strachan, Council Executive Director, presented on the proposed changes to the ordinance regulating the Neighborhood Program, as well as several changes which have been tabled for the present:

- References will be updated to refer to the Neighborhood Program, rather than a board, making clear the ordinance pertains to the already-established neighborhood program.
- Language using the standard outlined in the Council Handbook (commission, committee, board)
- The Neighborhood Advisory Commission (previously Board) will include: a Council member will serve as chair, area representatives, and other members as appointed by the committee (could be community members or former neighborhood chairs familiar with the program).
- Changes to the Downtown Neighborhood were removed from this draft. Mr. Strachan and Council Chair David Sewell invited comments from Quinn Peterson, Downtown Provo Inc. Director, who noted the demographic composition of downtown has shifted (from exclusively commercial to a mixture of commercial and residential) since the creation of the neighborhood. The aim is to give a voice to residents, but to maintain the unique character and vibrancy of downtown Provo.
- Clarifications to the section about the role of a neighborhood chair regarding development proposals and neighborhood meetings; the majority of pushback from neighborhood chairs was regarding this section. For now, the Committee returned this to the original language, and will continue to review in more detail in tandem with the Development Approval Process Review Committee and staff to determine how to better coordinate these components.
- Clarifications to the matching grant review process: the Neighborhood Advisory Commission can make recommendations on matching grant proposals, but ultimately the discretion for how the City's funds are spent lies with the Executive Director, subject to direction of the Council Chair.

Council members shared comments and discussed the changes presented. The Neighborhood Program Review Committee planned to continue discussion on the postponed changes.

**Motion:** David Harding moved to proceed at the December 5, 2017 Council Meeting using a version of the ordinance that continued to use "Neighborhood Advisory Board" and omitted the sections with changes to the downtown plan and neighborhood meetings with respect to the land use development process. Seconded by David Knecht.

**Roll call vote:** Approved 6:0, with Kim Santiago excused.

6. A discussion on proposed Council Handbook amendments (17-037) (2:52:38)

Brian Jones, Council Attorney, presented. The last official revision of the Handbook occurred five years previously and throughout 2017, the Rules Committee has completed a revision of the entire Handbook. Mr. Jones and Cliff Strachan, Executive Director, highlighted several of the more substantive or drastic changes. Council members expressed appreciation to staff for their work on this ambitious project.

Mr. Jones introduced a discussion regarding Council committees (chapter 5 in the Handbook). He suggested lessening confusion by using different names for groups with distinct purposes or structures. Mr. Jones read definitions from the Oxford English Dictionary that outlined the differences between these bodies:

- *board*: group constituted as the decision-making body of an organization;
- *committee*: a group of people appointed for a specific function by a larger group and typically including some of the people of the larger group; and
- *commission*: a group of people entrusted by a government with authority to do something.

Mr. Jones noted that in the City of Provo, the ability to form boards and commissions is not exclusively an executive power. Mr. Jones outlined how the Council's existing boards and committees might be delineated according to the standard definitions he shared previously. He recommended if the Council intended to implement this suggestion that a decision be made prior to establishing the 2018 committee assignments for Council members. Chair Sewell invited a comment from Odell Miner, a citizen in attendance, who noted that *standing* or *ad hoc* are statutory terms used nationally and at the state level. Council member David Harding suggested examining how a committee has been functioning historically, and how it would function under those changes. Mr. Jones agreed it was critical to decide how the Council would specifically use these terms, as maintaining consistency with the State ordinances was not always feasible.

Council member Kim Santiago shared her concerns with several sections of the handbook:

- She felt that simultaneous noticing of planning commission has created a very congested agenda, as items were unnecessarily listed on an agenda and being continued.
- She also disagreed with allowing one council member choosing to continue an item.
- She was not supportive of approving the updated handbook based on these issues.

Council members wished to leave the boards and commissions terminology as currently stated, and spend more time discussing the terminology with the intent to make a determination on that at a future time.

**Motion:** Gary Winterton moved to adopt the Council Handbook as it has been presented to the Council. Seconded by Kay Van Buren.

**Roll call vote:** Approved 6:1, with Kim Santiago opposed.

7. A discussion regarding the Provo City Audit Report and Comprehensive Annual Financial Report for the fiscal year ending June 30, 2017. (17-134) ([3:47:45](#))

John Borget, Administrative Services Director, introduced Ed Erickson of Hansen, Bradshaw, Malmrose & Erickson. Mr. Erickson presented the letter of transmittal and the independent auditor's report which accompany the Comprehensive Annual Financial Report (CAFR) prepared by Provo City staff. Mr. Erickson gave an overview of the analysis and financial highlights from the fiscal year. The City's assets have increased and liabilities have decreased, with the City's net position increasing. Most of this is not spendable and is invested in infrastructure, physical facilities, or other fixed assets, but the City has good liquidity. Mr. Erickson believed the City is in excellent financial position. The economy has rebounded and recovered; property, sales tax, and other revenue sources are strong; and the net increase was very similar from 2016 to 2017. Council member George Stewart noted increased fund balance in the Energy Department.

Mr. Erickson touched briefly on the City's liability share of the State retirement/pension system, on page 30 of the report. He clarified that the State's system itself is not entirely funded (currently about 82-84% funded), but the City has paid everything the City owes, and does so on a continual basis with each payroll.

Mr. Erickson explained portions of the report which address the methodology, internal controls, and reporting methods, which help the auditors to complete their assessment. Mr. Erickson noted the Provo 360 finance software update, during which capital asset records were transferred to the new system. Some errors occurred during the transfer process, which resulted in some fairly significant adjustments. The auditors would recommend another party review the report, but it may have been a unique situation this year with the software change over. After booking the pension liability, the fund balance went from a positive to a negative balance. The City will increase the billing rate charged to other funds to help balance that, as it is technically a violation of State law, although there are no repercussions for it. Mr. Erickson highlighted the report on compliance with major federal programs. The City has received and spent \$5.7 million in federal

funds. The auditors tested some programs and have found no issues or items to report—the City is in compliance with federal requirements for grants received. **Presentation only. This item was already scheduled for the December 5, 2017 Council Meeting.**

8. A discussion on the Accessory Apartment Overlay Zone, the Supplementary Residential Overlay Zone, and related zoning topics (17-137) (video 2/2 [0:09:06](#))

Gary McGinn (Community Development Director) and Carrie Walls (Zoning Administrator) presented. Ms. Walls outlined various housing scenarios and the types of family or individual living arrangements permitted by city ordinance. Ms. Walls clarified that her focus was primarily on what is contained in city ordinances, but based on the federal Fair Housing Act [which states that if there is an adult living in a home, their minor children can always live in the home], Provo City would permit minor children of roomers and boarders.

Mr. McGinn and Ms. Walls answered questions from several Council members about various scenarios and how the examples relate to what city law permits. Mr. McGinn and Ms. Walls explained what constitutes a kitchen, as defined by city ordinance, noting differences between what “may” equal a kitchen, as opposed to what “does” equal a kitchen. Ms. Walls clarified that the existence of a second kitchen is not permitted for use as a separate unit; an agreement stipulating the conditions of the second kitchen must be signed and filed with the City. Mr. McGinn and Ms. Walls also answered questions about batching uses and where these are permitted in the city; Mr. McGinn was not aware of any batching uses outside of the Joaquin Neighborhood. Elsewhere, a single-family is comprised of a family or up to three unrelated adults. **Presentation only.**

## **Policy Items Referred from the Planning Commission**

9. A discussion on a request to amend Provo City Code Subsection 15.03.020(3) to update 2017 standards to 2018 standards. Citywide impact. (17-0022OA) (video 2/2 [0:00:07](#))

David Day, Engineering Development Coordinator, presented on updates to 2018 standards for Public Works. The relevant provision in the City code regarding standards for public works projects was recently adopted by the Council, per State statute; this discussion is the annual adoption of updated standards for the coming year. Mr. Day noted the addition of some other state standards which are applicable in Provo (for UDOT roads and projects, etc.). Wayne Parker, CAO, suggested that staff make available online any of the standards adopted from external agencies. Mr. Day noted several standards not available digitally, but indicated that Public Works maintains print copies of those materials for staff use and public reference. Mr. Day shared updates on specific standards which changed between 2017 and 2018 and explained the reason for the recently added State statutory requirement. The State now requires municipalities to adopt public works design standards for any aspects of a project which will require capital investment by a developer or owner; some cities had been routinely rejecting aspects of a project based on arbitrary or non-existent criteria, which frequently resulted in costly re-dos by developers. Council member David Harding asked in future years for a summary of changes, so Council members may review what they are potentially adopting. **Presentation only. This item was already scheduled for the December 5, 2017 Council Meeting.**

## **Closed Meeting**

No closed meeting was held.

## **Adjournment**

Adjourned by unanimous consent.