



PROVO MUNICIPAL COUNCIL

Redevelopment Agency

Work Meeting Minutes

1:00 PM, Tuesday, March 27, 2018

Room 310, City Conference Room

351 W Center St, Provo, UT 84601

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

Roll Call

The following elected officials were present:

Council Chair Gary Winterton, conducting
Council Vice-chair David Harding
Council member Kay Van Buren
Council member George Handley
Council member George Stewart
Council member David Sewell
Council member David Knecht, arrived 1:19 PM
Mayor Michelle Kaufusi

Prayer

The prayer was given by Don Jarvis, Sustainability Committee Chair.

Approval of Minutes

January 30, 2018 Council Retreat
February 6, 2018 Work Meeting
March 6, 2018 Work Meeting
March 20, 2018 Council Retreat on Wastewater Treatment
Approved by unanimous consent.

Business

1. A discussion on a proposed amendment to the C-PACE agreement (16-092) ([0:02:10](#))

Shawna Cuan, Managing Director of the Governor's Office of Energy Development (OED), presented on the Commercial Property Assessed Clean Energy program. C-PACE provides financing for commercial (including 5+ unit apartments and industrial) properties to fund energy improvements. This program helps reduce energy inefficiency and dependence on traditional energy sources, which benefits cities, property owners, capital providers, and mortgage holders. Ms. Cuan shared updates passed during the 2017 Utah State Legislative session, which implemented specific changes to the program and its function.

C-PACE encourages a holistic perspective for improvements, first making buildings more energy efficient, then implementing renewable energy sources. Ms. Cuan outlined the proposed options for the City, noting that the OED recommended the first of these options for Provo:

1. Allow C-PACE to manage projects within Provo (they would manage from start to finish at no cost to the City), Provo would be part of the C-PACE district.

2. Assignable lien administered locally – the City would administer start to finish.
3. Assessment bond administered locally – the City would administer start to finish.

Council members asked questions about various components and aspects of the program. Ms. Cuan responded to these questions. Aspects of the conversation included:

- Parking improvements, seismic upgrades, and elevators can result in marginal energy savings.
- The OED has many partnerships they can leverage in order to educate cities about C-PACE. The program involves a significant education and outreach component, which are more easily done for an entire C-PACE district. Their preference is for Provo to opt in to the program for several years, providing some continuity. The agreement would include a clause stipulating the process for withdrawal, which the Council and Legal could review. The OED would develop case studies as they complete projects throughout the C-PACE district.
- There is a significant benefit to contractors and building owners to have consistency in the program and its implementation across many different cities.
- There is not a cap on the number of cities that can participate with the State as the administrator.

Several Council members were comfortable with option 1. Council member Gary Winterton had concerns about the status of the policy discussion regarding subsidization of solar power. He requested that the Energy Department provide input on this point and whether they foresaw any challenges with removing the solar restrictions. Council members shared additional comments. Council member David Sewell expressed that they hoped to have a motion from the Council which expressed the City's intent. Wayne Parker, CAO, said that setting up an administrative process for something which would happen infrequently would be difficult; as such, the Administrative was supportive of option 1.

Motion: David Harding moved that the Council request that the Administration enter negotiations with the OED, discuss with the Energy Department, move forward with option 1, remove solar restrictions stated in the previous version, and to return to discuss with the Council. Seconded by David Sewell.

Roll call vote: Approved 7:0.

2. An update on Downtown Provo, Inc. (18-027) (0:30:52)

Quinn Peterson, Director of Downtown Provo, Inc., gave an update on the organization and its operations, highlighting the origins of DPI and the composition of its Board of Directors, which includes several primary funders as well as several downtown business owners. Mr. Peterson recognized two board members who were present at the meeting, Jeff Rose (partner at Wallaroo Media) and Julie Hatchett (BYU Community Relations Manager). Mr. Peterson explained that their priority list has a lot to do with infrastructure improvement, vacancy policies, public art, and parking. DPI tries to make a large list of their priorities downtown and they expend their efforts on projects and initiatives that will make the most impact as well as make ready progress. Mr. Peterson shared information on several initiatives:

- Artwork for BRT/Utah Valley Express stations
- Working to educate about perceived vs. actual vacancies
 - Center Street interactive LED light display installation in storefronts where office space is being used but the building appears vacant.
- Downtown restaurant guide
- Budget savings and hiring of an assistant to manage programs and projects
- Art Stroll
- Consistent/standardized membership fees & structure
- Parking policy change downtown
 - Survey of downtown business owners identified these suggestions:

1. Consistent enforcement
2. Implement effective signage and way-finding for parking
3. Address lease agreements with structure management and other parking lots

Council members expressed appreciation for Mr. Peterson's creativity, energy, and effective management of the DPI organization. Mr. Peterson said that DPI would love to have access to RAP (Recreation, Arts, & Parks) tax funding for public art projects downtown. ***Presentation only.***

3. A presentation on the Parks and Recreation Department and potential budget requests (18-005) ([0:56:00](#))

Scott Henderson and Doug Robins, Parks & Recreation Director and Assistant Director, presented. Mr. Henderson introduced several staff and board members in attendance and shared background information on the department and its many operations and areas. The department has received accolades around the country for their great success, not always common in the industry. Mr. Robins gave an update on department initiatives, efforts with efficiency and sustainability, upcoming facilities and projects, and an update on the cemetery expansion project, noting in response to a question from Council member David Knecht that the expansion should cover the City's needs for the next 25 years. Administrative Services Director John Borget offered clarification on the bond for the cemetery expansion project.

Other areas and operations of the Parks and Recreation Department include:

- Greens and grounds
 - Weed abatement and snow removal on City properties/facilities, boulevard right-of-way landscaping, and parks grounds responsibilities. They use volunteers whenever possible, but with increasing labor costs, hiring a full-time field supervisor will lower costs.
- Covey Center
- Special events
 - As scale of events increases and large-scale events continue to be successful, there are related needs for more supplies and more staff. They intend to move some seasonal staff to part-time regular status, and will continue to involve (unpaid) university interns.
- Sports programs
 - New web-based scheduling has enhanced customer satisfaction.
 - Increased participation in youth and adult programs
 - Future needs will include more field spaces, as currently there is a high rate of utilization and demand for facilities and facility rentals.
- Recreation Center
 - Development of an app to handle reservations for child watch, fitness programs, and racquetball courts has allowed the Rec Center to staff more efficiently.
 - As membership continues to increase, they are facing the most challenges with their budget in this area—those revenues have not turned into additional revenue operating dollars to help keep the facility at a high-level operation with increased members. The department encourages investing in the success of this facility and keeping this in mind during the budget season.
- Peaks Ice Arena
 - The former Olympic venue has received statewide recognition as an event host facility. The Arena hosts public open skating, as well as team programs, and indoor turf areas.
 - The Ice Arena operations are moving toward self-sufficiency as the annual subsidy decreases year-by-year.
 - Challenges for the arena include resolution of the City-County issues as well as a need to renovate the front entrance and controls to make the facility more secure and functional.
- East Bay Golf Course

- Mr. Henderson highlighted the successes of the golf course operations. Future needs will include hiring a coordinator to assist in clubhouse operations. They are also performing studies to address mitigation of the three holes being moved for the medical school, design studies for the relocation of the three holes, and developing master plans for the golf course and potential for a mountain course.

Mr. Henderson indicated that he and his staff are still working with the Mayor on the final budget proposals, but he said that the Council could expect that they will bring a concept to revolutionize their delivery of efficient and highly used Parks and Recreation facilities. Parks and Recreation Board members Bruce Snow and Brent Edgington commended the department on their transparency and success of their operations. In response to questions from Council members, staff indicated that facilities or amenities done with RAP tax funds would have some type of marker or identification so residents will know what they have funded by voting for the tax. Regarding the Rock Canyon Master Plan, staff indicated that they are currently working with the Provo Police Department to better enforce leashed dogs in the mouth of the canyon. Council members thanked Parks and Recreation for their work—Council member George Handley said that what they do gives Provo an identity and a character that is central to who we are and what people love about living here. **Presentation only.**

4. A presentation on the Five-Year Capital Improvement Plan (18-005) ([1:29:49](#))

Dustin Grabau, Budget Officer, presented a review of the Capital Improvement Plan. He noted several changes which have been made to this document during the last several years to facilitate simpler review and comparison. Projects are separated into funded, partially funded, and unfunded projects to help distinguish between those funding statuses. Projects new to this year's CIP (either entirely new or projects which have undergone major funding changes) have been marked with an asterisk. Unfunded projects include projects which would be funded through funding sources which have not yet been identified—either currently being discussed, future grants, etc. or may not have a potential funding source and simply identify needs in future years. Based on these categorizations, Mr. Grabau shared some guidance with the Council, noting that he would be concerned about projects with a priority level of 1 which were unfunded.

Mr. Grabau invited questions from Council members throughout the review. Several areas which Council members and staff discussed were the following:

- Provo Power new substation on 900 East
- Nevada Avenue trail/path (page 43)
 - The Administration is currently in the process of determining whether or not the City can acquire the property. There has not yet been an appropriation for the property acquisition, but this project would account for additional property acquisition as well as construction of the path. They hope to begin construction next summer.
- Freedom Boulevard Bridge at 600 South
 - The listed project cost is the total estimated cost—the City would seek out UDOT funds as well as funding from other sources, so the full cost would not be borne by the City.
- Fire Station 22 (page 54)
 - Station 22 is the County's designation for what is considered Provo Station 2.
- Infrastructure at Provo City Center complex (facilities systems replacement)
- Parks & Recreation Adaptive Playground (page 72)
 - This is technically considered unfunded as it will be funded through CDBG funds.
- Regional sports complex
- Tennis court renovations
- Slate Canyon Park
- Provo 360 project (page 92)

- Because this touches so many areas of the City operations, they have accounted for this project independently. Utility billing and other systems are going live and other portions continue to be implemented.
- Roads B & C Funds – many status quo projects (page 94)
- Sanitation projects (page 120), Public Works facilities improvements, Fleet building diamond lift
- Storm drain projects (page 123)
- Transportation Fund – many status quo projects (page 133)
 - Dave Decker, Public Works Director, said a consultant has recommended a priority list for road overlays which Public Works follows. The focus is to keep the good streets in good condition; tackling the worst streets is the worst way to use street funding, so a lot of funding is focused on annual maintenance. Mr. Decker indicated that next year, staff and the consultant will reevaluate the condition of all Provo's roads. Mr. Grabau explained that a portion of utility revenue is directed to the engineering fund—this covers the operations of the engineering fund and any excess pays for additional new roads.
- Vehicle replacement (page 136)
 - For future years, the allocation is categorized as “non-departmental”; the division of funds across departments may be influenced by factors such as police staffing, etc. As it is too far in the future to know for certain the department-specific vehicle replacement needs, the full amount was placed in this category rather than attributing arbitrary amounts to specific departments. Wayne Parker, CAO, indicated that this will allow the City to be on a sustainable path regardless of what happens with the economy in the future. Council members and staff discussed sustainable vehicle considerations, many of which have been examined by the fleet committee.
- Wastewater (page 137)
 - This portion is subject to change depending on the Council's decision regarding wastewater treatment facilities. This information has been included and presented for informational purposes, though the adoption of the budget will go through the normal review and approval processes by the Council.
- Water Department (page 154) – many status quo projects

In response to a question from Council member David Harding, Mr. Decker said that Public Works could work with Finance on a street funding report which listed all the funding sources in one place, allowing for easier Council review. Mr. Grabau invited the Council to send any other questions to him or to the relevant department director. ***Presentation only.***

Policy Items Referred from the Planning Commission

5. A discussion on a proposed Zoning Ordinance amendment to Section 14.41 Major Home Occupations to extend daytime business hours from 5:00 pm to 7:00 pm, and a discussion of possible changes to the Home Occupations chapter generally. (17-0025OA) ([2:07:47](#))

Robert Mills, Planner, presented. Mr. Mills gave background information on this application and request of specific changes to the employee hours. Currently the code only regulates the hours that an additional employee can be at the site. Council member David Sewell shared a proposal which is independent from the aforementioned proposal, but they are somewhat related. Mr. Sewell outlined the purpose and intent section in Provo City Code chapter 14.41.010. Mr. Sewell thanked several constituents, Rachel Luke and David Wright, who were helpful in developing this proposal. Mr. Sewell highlighted elements listed in the executive summary, which outlined various problems with the current ordinance and identified the proposed solutions and clarifications:

- Defined a customer as an individual patron of the business.

- Currently there are no limits for hours of customer visits. Many other cities regulate the hours that customers can patronize a home business. The proposal would limit higher impact customer visits to the same time frame as the hours for outside employees to between 8 AM and 5 PM, and limit lower impact customer visits to between 8 AM and 9 PM.
- If an accessory apartment is present, do not allow a major home occupation.
- Require sufficient off-street parking for a home occupation business, even if employees or staff may still choose to park on the street; in situations when there have been parking problems, this would ensure that a solution is readily available and viable.
- Defined employee to clarify that a volunteer worker is also considered an employee.
- The code proscribes a limit to the frequency of promotional meetings, but no maximum to the number of attendees. The proposal would be a limit of 12 people maximum attending a meeting. Mr. Sewell explained additional context for this particular number.
- Eliminate the petition process for waiving the conditional use permit fee.

Mr. Sewell shared a chart comparing Provo and 10 other cities, noting key differences and how Provo aligns with or differs from the regulations elsewhere.

Council members shared a number of comments and questions for consideration in the policy discussion:

- Would this ordinance hinder Provo's reputation as a startup community?
- Would these changes limit the ability of Community Development to determine the impacts on a neighborhood of a particular home-operated business? Bill Peperone, Community Development Assistant Director, indicated that it might, but would be in balance with better protection of the neighborhoods. He said that lately there has been a shift in home occupation businesses bearing greater impacts to a neighborhood than a neighborhood is willing or able to handle.
- What are the implications for multi-level marketing, a homeowner and author, home photo studio, etc.? Several Council members had many questions needing clarity about specific situations.
- Mr. Sewell noted that there is a provision in the ordinance which would permit home occupation businesses that have no home customer visits to have up to 3 outside employees.
- A home-owned business that has no employees and no customers must still have a license. Community Development is working on a process to handle these more quickly and easily over the counter, as having routine licensing and permitting would ultimately help them in tracking and regulating home businesses when there are problems that arise.
- Gary McGinn, Community Development Director, noted that by placing a lot of business regulation in the zoning code, it can inadvertently create non-conforming rights. He suggested a similar approach to that of signage—the Council recently relocated certain aspects of electronic signage to the licensing section of the City Code to provide more consistent regulation.
- Mr. Sewell indicated that he was open to meeting with Council members and constituents to review questions; it is difficult to codify every exception. The current approach is complaint-based enforcement, but perhaps there are ways to find answers to these questions along the way.

Motion: Dave Knecht moved to send this to the Planning Commission. Seconded by George Handley.

Several Council members had questions about the nature of a home occupation business and whether a startup is constituted as such. Mr. Peperone noted that there would be additional time as the item goes back to the Planning Commission before it comes back to the Council. Several Council members expressed concern about continuing to adapt and tweak elements of the ordinance even after a vote by the Planning Commission, as the nature of the ordinance could change.

Amended motion: Dave Knecht amended the motion to bring this item back to the Council Work Meeting on April 10, 2018. Seconded by George Handley.

Roll call vote: Approved 7:0.

6. A discussion on a General Plan Map Amendment from Commercial to Residential for 1.52 acres of land located at 490 South State Street. Maeser Neighborhood. (17-0002GPA) ([2:45:09](#))

Dustin Wright, Planner, presented. The applicant has requested a General Plan map amendment from commercial to residential to match adjacent parcels of land. The neighborhood has supported the general plan map change, as have staff and the Planning Commission. Mr. Wright noted the acreage between this item and the following related item are different as another parcel is already designated as a residential zone. ***Presentation only. This item was already scheduled for the March 27, 2018 Council Meeting.***

7. A discussion on a Zone Change from General Commercial (CG) to High Density Residential (HDR) for 1.92 acres of land located at 422-490 South State Street. Maeser Neighborhood. (17-0010R) ([2:45:09](#))

Dustin Wright, Planner, presented. This proposal was to rezone the property from general commercial to a high-density residential zone (which permits up to 50 units/acre). The proposed project falls just above the limit for medium-density residential (40 units/acre), which is why the applicant has requested a HDR zone designation. The Planning Commission was aligned with the staff recommendation, which was to recommend approval with the condition or suggestion that the applicant build the project to three stories rather than the proposed four stories. The neighborhood had concerns that four stories was much taller than what is existing in this area. The applicant would like to build their original proposal at 4 stories.

Several Council members asked questions regarding various aspects of the project, including permitted height and access points. The HDR zone permits a building height of 55 feet, whereas the MDR zone permits a height of 45 feet. Because the apartments are designed with a flat roof, they fall into the 45-foot limit of the MDR zone, although the applicant has requested HDR zoning to accommodate the number of planned units. Staff explained that effectively, if the applicant does not change the footprint, changing the zoning to MDR would require that one floor be removed on one building to bring them within the permitted number of units for the MDR zone. Staff and the Planning Commission discussed several scenarios regarding number of stories and their recommendation was three stories.

Regarding access points, State Street is a state road and thus within the jurisdiction of the State regarding access points. Shane Jones, Engineer, shared details about the traffic impact study. Most of the traffic for this project was well below all the environmental concerns outlined in the ordinance. The access is placed on 500 South, with most traffic subsequently exiting to State Street. Moving the access to directly on State Street would create safety concerns; there are other apartment units across State Street which do exit onto State Street, but these are preexisting conditions which both UDOT and the City prefer to minimize in future projects. Several council members were concerned with traffic backing up or being rerouted through the neighborhood. Mr. Jones indicated that the level of service at the intersection of 500 South and State Street was still much lower than what Engineering would be concerned about and the traffic study did not identify any issues in this regard.

Council member David Harding thought this was a good step toward addressing housing availability, particularly for married students. He was concerned, however that the project may not integrate well with the neighborhood, and he shared several suggestions which could help the project to have better reception with the neighborhood. Several Council members were concerned that the developer was not amenable to any adjustments to the project in response to the concerns raised by the neighborhood. ***Presentation only. This item was already scheduled for the March 27, 2018 Council Meeting.***

8. A discussion on a text amendment to Chapter 14.30 (Supplementary Apartment Overlay) to adjust the parking standards. Citywide impact. (PLOTA20180025) (3:05:49)

This item was already scheduled for the March 27, 2018 Council Meeting. The presentation for this item was continued to the evening Council Meeting.

Redevelopment Agency Item

9. A discussion on the Downtown Provo Parking Structure terms of agreement (18-034) (3:06:35)

Wayne Parker, CAO, reviewed the terms of agreement with Utah County regarding a downtown Provo parking structure. Mr. Parker shared background information regarding the City's commitment to providing parking for the Utah Valley Convention Center and the legal action taken by the County. The County had filed a lawsuit and an eminent domain action related to what the County viewed as a breach of contract. Provo City had challenged the breach of contract assertion. The parties involved included Provo City, Redevelopment Agency, Utah County, and PEG Development. Mr. Parker highlighted information about the Freedom Plaza Community Development Area (CDA) and shared points of the development as originally proposed. Mr. Parker acknowledged the efforts of Mayor Kaufusi, Deputy Mayor Isaac Paxman, and Provo City Legal in regards to negotiating an agreement and he outlined the terms in detail, referring to points outlined in his presentation slides.

The terms would include relocation and expansion of the Freedom Plaza CDA. The City would contribute land toward the development and the tax increment on the expanded CDA. With the proposed arrangement, PEG would assume the City's obligation for Convention Center parking. Mr. Parker explained that it is common to use tax increment from CDAs to provide parking; the downtown Zions Bank and Wells Fargo buildings are recent examples in Provo—the tax increment on these CDAs was used to build structured parking. This helps level the playing field as structures are more costly than paving greenfield areas to acquire necessary parking amounts.

Mr. Parker outlined the proposed phases of the project and PEG's agreement and plan for providing the obligated parking to the Convention Center. Mr. Parker explained that the parking structure will match the height of the five-story office building, but because parking level height is shorter than a standard office building, there will be more parking levels in the same amount of space. Mr. Parker outlined the other factors and obligations of the County, and explained that after 15 years of the free parking arrangement, then the County would contribute toward the operations and maintenance for those stalls.

Per the terms of this agreement, Provo City would continue with many of the same commitments, including facilitating City processes (working with RDA to expand CDA, operation of current surface parking, contribute 100% of the CDA tax increment toward the expanded area for parking [which was the same arrangement for the initial Freedom Plaza CDA], facilitate the development and entitlement process for PEG (zone change, review process, etc.). The apartments would wrap around the parking structure and there would be habitable space along 100 West, adding to the walkability and vitality of the surrounding neighborhood.

Mr. Parker outlined the actions which would be needed by the Council and RDA to make the deal work:

- Resolution at the March 27, 2018 Council Meeting to authorize the Mayor to execute an agreement based on these terms
- RDA approval of the property transfer
- RDA approval to move and expand the Community Development Area
- Council and RDA approval of interlocal agreements
 - Move and expansion from the old Freedom Plaza CDA to the new Freedom Plaza CDA

- New interlocal agreements between all agencies
- Council consideration of impact fee issues

The benefits to the City are manifold: the Convention Center parking obligation is met, the effort supports the Convention Center's success, the proposal results in increased tax revenue for all taxing agencies, the proposal brings in urban office space, promotes BRT (by proximity of these apartments and office space to a future station), supports a walkable downtown through mixed-use components, and continues to promote redevelopment downtown. There are two versions of the resolution which are before the Council for consideration at the evening Council Meeting and Mr. Parker highlighted the differences between these.

Motion: George Stewart moved to consider the first resolution as the implied motion for the resolution on the March 27, 2018 Council Meeting. Seconded by Kay Van Buren.

Council member David Harding expressed concerns with the arrangements. Staff clarified that the City would not lose all tax revenue from this area—the tax increment refers to the revenue growth experienced in the designated area as measured from a specific starting point or amount. Mr. Harding also expressed concerns about the precedent this arrangement would set. Mr. Parker and David Walter, RDA Department Director, clarified that the agreement was between the City, Utah County, RDA, and PEG; it is not compulsory for the School District to agree and they have opted out of some past tax increment projects.

Roll call vote: Approved 6:1, with Council member David Harding opposed.

Closed Meeting

10. 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: Kay Van Buren moved to close the meeting. Seconded by George Stewart.

Roll call vote: Approved 7:0.

Adjournment

Motion: Kay Van Buren moved to adjourn. Seconded by David Knecht.

Roll call vote: Approved 7:0.