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PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, March 06, 2018

Room 200, Municipal Council Chambers

351 West Center, Provo, Utah

Meeting convened at 5:45 p.m.

Opening Ceremony

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Council Member George Handley
Council Member David Knecht
Council Member George Stewart
Council Member Gary Winterton
Council Attorney Brian Jones
Mayor Michelle Kaufusi

Council Member David Harding
Council Member David Sewell
Council Member Kay Van Buren
Council Executive Director Clifford Strachan
Chief Administrative Officer Wayne Parker

Conducting: Chair Winterton

Prayer – Brenda Brown

Pledge of Allegiance – Tess Nielsen

Approval of Minutes

- **January 23, 2018 Council Meeting**

Approved unanimously.

Presentations, Proclamations, and Awards

- 1 A presentation from Sarah Simons and Utah County Health Department regarding vaping. (0:19:53)**

Ruby Cooper and Claire Lemmon from Utah County Health Department’s Youth Outreach Program presented the dangers of smoking and e-cigarettes. Ms. Lemmon explained that vaping and e-cigarettes were becoming increasingly popular among youth. She said vaping was still fairly new, so all of the associated risks were not yet known. Ms. Lemmon described the risks of using e-juice containing nicotine, a highly addictive substance with many side effects. Use rates of e-cigarettes had nearly doubled since 2013. More and more middle and high school students were using e-cigarettes and vaping. Ms. Lemmon believed the products were designed and targeted toward youth. Ms. Cooper said vaping was still allowed in city parks. Her concern was that children were being exposed to this behavior and may be tempted to try the products. Ms. Cooper encouraged the council to place restrictions on the use of vaping and e-cigarettes in city parks.

Scott Henderson said there was an administrative policy directive regarding smoking in parks but suggested it needed to be updated. Mr. Henderson said he would work with the administration to make revisions that would include e-cigarettes.

2 A presentation of the Golden Spoke Winter Bicycle Commuter Award. (0:26:20)

Rachel Whipple presented the Golden Spoke Winter Bicycle Commuter Award to Colby Sanford. She explained the Provo Bike Committee had been recognizing outstanding bicycle commuters of Provo for seven years. She had previously been a recipient. Recently, they created a Winter award to recognize those who still use their bicycles, even in inclement weather. Their goal was to create a cleaner, healthier, and safer community. The committee noted Mr. Sanford's efforts to use his bicycle, regardless of the weather conditions.

3 A presentation of the January 2018 Employee of the Month. (0:30:30)

Chaz Addis, President of the Provo City Employee's Association, announced Robbie Lamb as the recipient of the January 2018 Employee of the Month Award. Karen Larsen, Customer Service Director, presented Mr. Lamb with the award. She said Mr. Lamb has worked for Provo City for 30 years and was a veteran of the Utility Operation, he currently worked as the Utility Billing Manager. He was responsible for overseeing a staff of billing editors and ensuring accurate bills were being sent to Provo residents each month.

4 A presentation by the Covey Center of "Barefoot in the Park." (0:34:25)

Paul Duerden, Covey Center Manager, introduced the play "Barefoot in the Park" by Neil Simon. Sierra Christensen and TJ Thomas played the parts of Cory and Paul and performed a scene from the play for the council.

Public Comment (0:42:50)

Fifteen minutes had been set aside for any person to express ideas, concerns, comments, or issues that are not on the agenda. Chair Winterton opened public comment.

Scott Taysom, Provo, spoke to Council regarding affordable housing. Mr. Taysom said he read a touching story on a community Facebook page about a family who had struggled to find affordable housing due to singles and rising rental costs. Mr. Taysom said in the last three years, the average price in Provo had risen by 9.5 percent per year. He noted the increase applied across the entire city, not just in southeast Provo, which was comprised of many singles. He felt it was impossible that singles were driving the prices higher, since housing prices in southeast Provo were less than other parts of the city.

Ben Freeze, Provo, commented about the Freedom Festival Parade route. He asked the council to clear the path of trees for the balloons and floats.

Dianne Christensen, Provo, spoke to the council about a gravel mine at the mouth of Provo Canyon. She had spoken with several people in Public Works who explained the owner had obtained a grading permit. Ms. Christensen said it was not grading, it was mining. She noted the material was being processed on-site. She said the land was in a design corridor and included in the general plan. Further, she explained the permit application indicated the applicant planned to remove 90,000 cubic yards of

material and an administrative hearing was required for more than 25,000 cubic yards. Ms. Christensen said no administrative hearing had been held. She read additional requirements from Provo Code that she believed had been violated. Ms. Christensen asked the council to consider issuing a stop work order.

Action Agenda

- 5 *****CONTINUED to a future Council Meeting*** A resolution to adopt the Complete Streets Policy as a component of the Provo City General Plan. (PLGPA20180028)**
- 6 *****CONTINUED to a future Council meeting*** An ordinance amending requirements for street access into buildings in the General Downtown (DT1) and Downtown Core (DT2) zones. Downtown, Timp, Joaquin, North Park, Maeser, Franklin, and Dixon Neighborhoods. (PLOT20180032)**
- 7 **Ordinance 2018-08 amending Provo City Code regarding Fire Alarm Regulations and Provo City Consolidated Fee Schedule to prevent over-frequency of false alarms. (17-133) ([0:55:40](#))**

Motion: An implied motion to approve Ordinance 2018-08, as currently constituted, has been made by council rule.

James Miguel, Provo City Fire Chief, presented proposed changes to the consolidated fee schedule for false alarms. Chief Miguel explained the intent was to clarify certain terms to ensure it was understood those with commercial alarms were required to provide contact information for someone who could be reached 24 hours a day, in the case of an alarm. He also proposed changes to the consolidated fee schedule to prevent the over-frequency of false alarms.

Chief Miguel presented statistics regarding false (or malfunctioning) alarms.

- 382 false alarms in 2016
- 449 false alarms in 2017
- 17 false alarms in a single business in 2017

Chief Miguel explained if they respond to a false alarm and are unable to make contact with the owner or designated contact, there were many complications. It prevented or delayed services to other alarms and emergencies, and there was tremendous liability in leaving without being able to go inside the property. He suggested a mandatory alarm registration. This registration would provide critical information during and after business hours, would require periodic testing, and there would be no cost to the business.

Chief Miguel explained the proposed updates to the consolidated fee schedule:

- First three false alarms in twelve months: Warning and education
- Fourth false alarm in twelve months: \$100
- Fifth false alarm in twelve months: \$200
- Sixth and subsequent false alarm in twelve months: \$300
- Failure to respond when requested: Additional alarm count

Mr. Stewart asked what the cost was to respond to a false alarm. Chief Miguel explained it was \$300 per piece of required apparatus, and depending on the type of alarm, they could get as many as four apparatuses.

Chair Winterton called for a vote on the implied motion.

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

8 An ordinance amending Provo City Code regarding major home occupations. Citywide impact. (17-0025OA) ([1:03:31](#))

Robert Mills, Community Development Planner, presented. He explained as part of a conditional use permit for a major home occupation, residents could have one non-occupant employee working in the home during permitted hours. Code allowed the employee to be in the home from 8:00 a.m. to 5:00 p.m. The applicant requested an extension to 7:00 p.m. Staff and planning commission recommended approval of this change, but suggested 9:00 p.m. instead.

Because of several questions that arose in work meeting, Chair Winterton said they would hear the item again on March 27, 2018. He invited the applicant to speak to the council.

The applicants, John and Laura Johnson, asked council to consider that because their business was permitted under a conditional use permit, approval was site specific. They did not believe that having an employee in the home until 9:00 p.m. would impact their neighbors. Mr. Handley asked if there had been any feedback from the neighbors. Mr. Johnson said their neighbors were supportive and had not voiced any concerns.

Chair Winterton asked Mr. Mills to explain conditional use permits. Mr. Mills explained a conditional use, was a permitted use within the zone. The code identified the use as having a potential impact to the area, such as parking or traffic.

Mr. Knecht asked if students would also be permitted in the home as long as the employee was there. Mr. Mills said the code allowed the owner of the resident to operate their business at any time of day or night. The amendment would only extend the amount of time the additional employee would be permitted.

Beth Alligood, Lakeview Neighborhood Chair, suggested the owner of the home was still allowed to operate the business, even after the employee had left. Ms. Alligood said the neighbors were generally supportive, especially since the number of students permitted would not be increased. They were not concerned about having one employee there a little longer. However, Ms. Alligood was concerned about restricting hours of operation for home businesses in general. She appreciated that conditional use permits allowed enforcement of certain conditions on a case by case basis.

Marion Monnahan, Edgemont Neighborhood Chair, explained when the item was presented at planning commission they proposed 7:00 p.m., not 9:00 p.m. But then after public comment was over, they changed it to 9:00 p.m. and recommended approval. She thought 7:00 p.m. was the better option to maintain a quiet single-family neighborhood.

Sharon Memmott, Edgemont Neighborhood, had the same concerns as Ms. Monnahan. She agreed that 7:00 p.m. was the ideal time. Ms. Memmott explained she had learned customers or students were allowed to come and go at all hours, which was a concern for her.

Mr. Harding said if council was considering substantial changes, he wanted the planning commission to review it again.

Motion: Council Member Stewart moved to continue the item to the next work meeting for further discussion. Council Member Sewell seconded the motion.

Mr. Handley asked Mr. Mills to explain why the planning commission changed the time after public comment had ended. Mr. Mills said the original request from the applicant was 9:00 p.m., but staff recommended 7:00 p.m. The planning commission did not think 9:00 p.m. was unreasonable for this particular use, so they changed the time before recommending approval. It was known there would be another opportunity for public comment.

Chair Winterton asked if the request from The Johnsons was a time-sensitive issue. Mr. Jones said that Mr. Sewell had proposed several other changes regarding home occupations, which had raised questions and required further discussion. He said one option was to hear the item again in the next council meeting, and make a decision based upon this request only. Then Mr. Sewell's proposed changes could be dealt with separately. Mr. Mills said the planning commission felt there was no need to delay the Johnson's any further, because their conditional use permit had been granted. He said any other changes made later to the code would be conditioned on their permit.

Mr. Harding asked the applicant if their request was time sensitive. Mr. Johnson said he wanted the council to have thorough conversation and he thought it might be in their interest. He was not concerned about waiting another five weeks.

Mr. Sewell recognized the Johnsons had neighborhood support, but he wanted to be cautious because the decision would have a city-wide impact. He thought their decision would likely become the default and he wanted to be mindful of that. Another issue that needed to be addressed was hours of operation for customers. Mr. Sewell was surprised to learn there were no limits in the ordinance. He said community development had also been working on changes that should be incorporated into the next discussion at work session.

Mr. Knecht was interested in the changes Mr. Sewell wanted to discuss, but he wondered if those decisions could be made separate from this request. He was comfortable passing the ordinance, as staff had recommended, which would allow an employee in the home until 7:00 p.m. He thought the other changes could be applied subsequently. Mr. Sewell believed it would be better to handle this in a single discussion and evaluate the whole situation. Mr. Stewart agreed with Mr. Sewell, he wanted to have more discussion before making a decision.

Mr. Harding was supportive of Mr. Sewell's direction, but thought the application had been properly vetted. He suggested amending the ordinance to 7:00 p.m. and calling for a vote. Mr. Sewell was not supportive of 7:00 p.m.

Chair Winterton called for a vote on Mr. Stewart's motion.

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

9 Ordinance 2018-09 amending Provo City Code to increase the minimum number of residential units giving rise to a requirement for recreational amenities in the General Downtown (DT1) Zone. Downtown Neighborhood. (16-00023OA) (1:36:12)

Motion: An implied motion to approve Ordinance 2018-09, as currently constituted, has been made by council rule.

Dustin Wright, Community Development Planner, presented. He explained the applicant, Greg Sotor, requested to amend City Code to change the minimum number of residential units giving rise to a requirement for amenity space from 5 to 20. At the previous council meeting, Mr. Wright had been asked to find out if staff would be in favor of applying this change to DT2 as well. He said staff was supportive of applying the change to DT1 and DT2 zones.

Mr. Winterton noted the required amenity space had to be a percentage of the building size. He asked Mr. Wright if this was based upon the size of the units or the size of the building including hallways and other common areas. Mr. Wright said it was the residential gross floor area, which did not include hallways and utility rooms.

Mr. Handley asked Mr. Wright to review the boundaries of DT1 and DT2. Mr. Wright said it extended roughly a few blocks from either corner of the intersection of Center Street and University Avenue. A zoning map was displayed for council to review.

Chair Winterton opened public comment, there was no response.

Mr. Harding thanked Mr. Wright for finding these answers. He was supportive of the change and recognized how important smaller developments were to the downtown area. He wanted to do whatever he could to encourage this type of redevelopment in downtown. Mr. Harding noted he didn't think amenity space was a bad thing, but for smaller projects, this change would leave decision to the developer.

Mr. Sewell asked if he could make a motion to amend the proposal to include DT2. Mr. Jones said it was not advisable because planning commission had not reviewed that change.

Chair Winterton called for a vote on the implied motion.

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

10 *CONTINUED to a future Council Meeting*** An ordinance amending Provo City Code to allow Dental Laboratories as a permitted use in the Community Shopping Center (SC2) Zone. Citywide impact. (18-0001OA)**

- 11 *****CONTINUED to a future Council Meeting*** A resolution amending the General Plan Land Use Map designation for property generally located at 490 South State Street from Commercial to Residential. Maeser Neighborhood. (17-0002GPA)**
- 12 *****CONTINUED to a future Council Meeting*** An ordinance amending the zone map classification of approximately 1.92 acres of real property, generally located at 422-490 South State Street, from General Commercial to High Density Residential. Maeser Neighborhood. (17-0010R) ([1:48:08](#))**
- 13 **Ordinance 2018-10 amending the previously enacted Ordinance 2017-51 regarding rental contracts. (17-104)**

Motion: An implied motion to approve Ordinance 2018-10, as currently constituted, has been made by council rule.

Mr. Jones explained Ordinance 2017-15 was passed in November 2017 and had an effective date in January. At a council meeting in January, there was a decision made by council to extend the effective date of the ordinance to March. Meanwhile, the zoning compliance committee discussed various amendments to the ordinance. The committee proposed changing the terms tenant and landlord to lessee and lessor. Additionally, they suggested changing the term contract to rental disclosure and change how the rental disclosure would be created. Rather than a document provided as part of the rental dwelling letter, it would be a document furnished by community development to the lessor.

Chair Winterton opened public comment, there was no response.

Chair Winterton said several people had contacted him with concern regarding the implementation strategy. Gary McGinn, Community Development Director, explained their notification strategy would include a letter sent to rental dwelling license holder to inform them of the ordinance. They would also receive a copy of the rental disclosure. Mr. McGinn said they planned to work with BYU to send notifications to their approved group of landlords. It was possible an open house would be held, depending on the reaction to the letters. Mr. McGinn emphasized his goal was to make the process as easy as possible. He said they would like to give an update to council in an upcoming work meeting.

Mr. McGinn addressed concerns regarding enforcement. He said in the event of an enforcement issue, enforcement staff would explain what was expected and allow 14 days for the landlord or tenant to come into compliance. If there was no response, the issue would be referred to the legal department. The legal department would send a letter and allow 30 more days for compliance. If there was no response, the issue would be referred to the Justice Court. He felt it was unlikely someone would not be able to resolve violation within this amount of time. Mr. Jones added that taking care of the issue before it was referred to the Justice Court would be the last opportunity to resolve the issue without penalty.

Mr. Knecht commented the intent was education and transparency. He hoped for more voluntary compliance, but recognized this would be a tool to help with enforcement issues as needed. Mr. McGinn agreed it would help with transparency and education.

Mr. Handley asked Mr. McGinn to address concerns that the proposed changes might somehow weaken the ordinance. He wanted to know if Mr. McGinn was satisfied with the changed. Mr. McGinn said as amended, the ordinance more clearly and directly addressed some of the confusion that existed in

previous drafts. He thought extending the effective date was helpful because the news of the ordinance was already spreading. He said most of the fall semester contracts would be signed in April, and an August 1 deadline would allow people to know what coming. He was not concerned the changes had weakened the ordinance in any way.

Mr. Sewell, Stewart, and Knecht took a few moments to thank all of the people who had contributed and helped the ordinance come to fruition. Many people had been involved.

Mr. Harding also appreciated the efforts of those involved. He believed the current version was better than previous versions, but he still had some concerns. He worried the language change reduced accountability for the landlord. Mr. Harding also said there had been discussion about civil penalties, some people thought it made the ordinance laxer because the penalties were civil instead of criminal. He said he would support moving forward, but asked council to monitor and evaluate the performance of the ordinance once it has been implemented.

Mr. Knecht asked Mr. Jones to explain why the change in terminology was important. Mr. Jones said former council attorney, Neil Lindberg, pointed out there were unintended consequences of using the terms owner and tenant. Mr. Knecht explained that many landlords did not reside in Provo, so it was important to be able to allow the landlord's agent to sign as the lessor.

Chair Winterton called for a vote on the implied motion.

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

Adjournment

The meeting was adjourned by unanimous consent at approximately 7:46 p.m.