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PROVO MUNICIPAL COUNCIL

Regular Meeting Minutes

5:30 PM, Tuesday, November 13, 2018
Room 200, Municipal Council Chambers
351 W. Center Street, Provo, UT 84601

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Council Member David Harding	Council Member David Knecht
Council Member David Sewell	Council Member Gary Winterton
Council Member George Handley	Council Member George Stewart
Council Member Vernon K. Van Buren	Mayor Michelle Kaufusi
CAO Wayne Parker	Council Attorney Brian Jones

Council Executive Director Cliff Strachan

Conducting: Council Chair Gary Winterton

Prayer

David Graves

Pledge of Allegiance

Jake Hilton

Presentations, Proclamations, and Awards

A presentation of the Employee of the Month for October 2018 ([0:19:14](#))

Shilo Harris, Employees Association President-Elect, introduced Ryan Stewart, Engineering Technician, as the Employee of the Month for October. Chad Hill, City Surveyor, was Mr. Stewart's supervisor; he provided Council with a presentation of Mr. Stewart's projects and accomplishments.

Public Comment

Chair Winterton opened public comment.

Steve Christiansen, Provo resident, thanked the Council and Mayor for a well-run city with excellent people. To recognize Councilor Stewart's birthday, Mr. Christiansen asked everyone to join him in singing "Happy Birthday" to Mr. Stewart.

There were no other comments from the public.

Action Agenda

1. Ordinance 2018-31 to amend the General Plan Map regarding land west of the I-15 freeway and south of the Provo River. Lakewood, Sunset, Provo Bay, and Fort Utah Neighborhoods. (PLGPA20180225) ([0:31:04](#))

Motion: An implied motion to adopt Ordinance 2018-31, as currently constituted, has been made by Council rule.

Bill Peperone, Assistant Community Development Director, presented and the General Plan Map was displayed. He explained the areas defined on the map were general and did not follow property lines. Additionally, the acreage written on the map would be removed when adopted into the westside plan. The agricultural preservation area shown on the map was not intended to remain agricultural in perpetuity. The map would not change anyone's zoning, it would only change as property owners come to the city to request zone changes.

Mr. Handley stated the need for higher density housing but felt like no one wanted it in their area. He asked Mr. Peperone if the plan met the goals for higher density and affordable housing. Mr. Peperone explained that when the map was posted on Open City Hall, some people responded that too much density was being put into the area and at the time, that version of the map had even less density than the current version. The current plan, due to more recent public input, had nine percent of the property in either LDR or MDR. As a planner, Mr. Peperone thought this was still too low.

Mr. Handley asked Mr. Peperone if the limited amount of higher density housing would negatively impact the city's overall goals related to affordable housing and well-balanced neighborhoods. Mr. Peperone was not concerned because there were so many other areas zoned for higher densities throughout the city. Recently, approximately 70 acres on south State Street had just been dedicated for higher density housing. Mr. Peperone said the committee had been surprised to learn the average income in Provo was only \$42,600. To increase the average income, they added lower density areas to the plan to attract higher income families to the area. It was a balancing act to find the right mix of higher density housing while attempting to raise the average income in the area. Mr. Handley thought employment opportunities could help to raise the average income, but Mr. Peperone suggested that income was measured where people live, not where they work.

When Mr. Knecht was on the Council ten years earlier, the west side had been mostly starter homes and the concern at the time had been not having larger homes to grow into. The conversation about finding a mix of densities and incomes was new.

Mr. Winterton opened public comment to the members of the steering committee first.

Beth Alligood was a Steering Committee Member and Neighborhood Chair. She said it was a balancing act to preserve the nature of the area and fit in more density. Nearly 25 percent of the map was commercial; they tried to balance a work live area. The density had always been an issue because there were many water infrastructure and building issues in the area. They were happy to have a map in place, so these issues could be resolved as they arise. She said they lose many families from their area who need larger homes. Higher density seemed more appropriate in the ITOD zone where there was better access to public transit. Ms. Alligood thought the plan was a great starting place to move forward with.

Jonathan Hill, Committee Member and Fort Utah Neighborhood Chair, echoed Ms. Alligood's comments. He thought the plan was a great balance. Just looking at the map and seeing nine percent LDR was a little deceiving because there were almost as many multi-unit homes as there were single-family homes. They often see applications for apartments and townhomes, but they rarely see applications for larger single-family homes for larger more mature families. He said the only undeveloped land in Provo was on the west side and it was the only land that could be developed for single family homes and still make a profit. He estimated there was still room for 3,000 units in the urban corridor and they would have access to mass transportation and other things needed to live in an urban area.

Chair Winterton invited the neighborhood chairs to speak.

Becky Bogdin, Lakewood Neighborhood Chair, thanked the Council for continuing this item to give her neighborhood a chance to review the plan. Ms. Bogdin said she was pretty certain she knew which grocer wanted to locate on the west side and she assured them it would bring in a lot of traffic. Bach Homes had submitted a plan that included a grocer, but Ms. Bogdin was concerned there was not direct access to the store from Lakeview Parkway. She said people wanted housing to help increase the average income in the area, they did not necessarily want apartments.

Chair Winterton opened public comment.

Kristen Randall had lived in the area for over 40 years. She was raised elsewhere but came to this area to build and she had certain expectations. Ms. Randall explained the land on the west side was delicate and fragile; building on the west side was unlike anywhere else in the city. There had previously been plenty of water under the ground but that had changed over time as storm drains were installed. She thought it was unwise to pack this area with people because there was limited access to emergency services. They were in a liquefaction zone that would make an earthquake in the area devastating. She said when the plan was developed the committee worked diligently to take these matters into consideration. Ms. Randall felt this map was the best option to protect the area and people.

Kellie Watson represented Bach Homes, she spoke about a plan they intended to submit for the area just west of the I-15 interchange in south Provo. She addressed some of the concerns previously mentioned by the neighbors. Ms. Watson wanted Council to reduce the amount of commercial that was being requested for the parcel they wanted to develop.

Karen Weight had lived on the west side since 1972 and owned just under 20 acres that was populated with horses and cows. She said water was a big problem in the area and it had been for years. Whenever there was more construction, the water table changed. She had a stock pond that had recently dried up. Roads also concerned Ms. Weight. She felt like homes were being built without consideration for traffic and roads.

Frank Stubbs and his brother were farmers in the area. Mr. Stubbs questioned how they determined where the higher density areas would go. He thought this was a financial benefit to those who had property in these areas. Part of his property had been condemned for a new road and at the time he was told there would be no construction south of his property which made his land worth less money, but now the map showed commercial areas where he was told there would be no development.

Matt Carter was in a situation similar to Mr. Stubbs, he said he had land go to the city at a cheap rate. He thought those who gave up land for roadway should be compensated and said everyone should have

the opportunity to rezone their land for high density housing if they wanted to. Mr. Carter said the land had dried out and he had moved his dairy farm south. He said many of the people who were opposed to the farmers from rezoning their land as high density were the same people the farmers allowed to build in the area some years ago. Mr. Carter was in favor of higher density.

Leanna Griffey was understanding of the farmers who were ready to move on from farming and wanted to convert their land to high density, but those who were opposed were not planning to leave the area and would be left to deal with the implications. She was in favor of single-family homes and thought this area should be preserved for this use only. Ms. Griffey suggested the commercial area should be moved to the other side of Lakeview Parkway where there was not residential development. She was in favor of the proposal by Bach Homes, she thought it was a good fit for her neighborhood.

Mr. Peperone would have liked to visit with Mr. Stubbs during the process. He said the Stubbs had been to every meeting and had been given Mr. Peperone's contact information, but they never contacted him, and his calls were not returned. He thought they could have had a productive conversation. The Stubbs were one of the few that still owned property south of the road. He would have liked to discuss a transfer of density from the property on the south side to the property on the north.

The commercial area on the south side was one of the areas debated by the committee. Mr. Peperone said if Bach Homes brought in a grocer, they would bend over backwards to make it happen and he didn't think the plan would need to be amended. He was open to whatever plan they brought in, but there needed to be a clear path to a grocer.

Mr. Knecht spoke about the area just off I-15 where Bach Homes was proposing their development. He thought it might be wise to have direct access via a one-way road that went directly into either the residential or commercial area from the freeway so that people did not have to drive to 500 West then turn to access these areas. Mr. Decker, Public Works Director, said from his standpoint there was not enough information available to know whether or not that would be allowed.

Mr. Peperone addressed Mr. Stubbs' question about how they determined which areas would be zoned for higher density. He explained the higher density areas were designated along arterial roads and near interchanges. It did not make sense to have the traffic going through neighborhoods to get to high density areas.

Mr. Knecht confirmed the plan would not need to be amended to accommodate Bach Homes' proposal. Mr. Peperone said he would need to see the exact numbers to be certain. If the density calculations increased, it would need to come back to council.

Mr. Harding said this was a future land use map for a neighborhood area masterplan. It set expectations and was a tool to communicate. He also echoed Mr. Peperone's comments about zoning and everyone having the same opportunity. He said zoning was not used to treat people preferentially, it was used to do what made the most sense for the land. It just depended on where the land was located and what the best use was to create the community that was desired.

Mr. Handley really liked this plan and thought it was a good balance. He had a lingering doubt about the MDR area by Center Street, he thought it was a good opportunity to go even higher. But overall, he was content with the balance and felt it represented good work and careful thinking.

Mr. Winterton said this was the second hearing for the item and there was an implied motion to approve the ordinance.

There had been a request from the public to reconsider the commercial node on 1100 West due to traffic concerns and the possibility of a school in the future. Mr. Knecht asked how the other councilors felt about changing this node.

Mr. Harding appreciated the public input. He felt strongly this plan was a good balance between the competing interests. He thanked everyone who served on the committee and worked on the plan. He said because of this, and learning that the nodes are optional, he preferred not to make changes. He had two specific requests but thought they could be resolved in the text of the plan.

Mr. Winterton did not want to make changes, he preferred the commercial node on 1100 West. He understood traffic could be a concern but said it would be dealt with.

Mr. Sewell appreciated the efforts that went into this plan. If he were to propose any changes, he would look into increasing the commercial nodes, he was not sure if there were enough commercial areas. He also agreed with Mr. Handley and thought there may be more opportunities for higher densities. Mr. Sewell thought these things could still be addressed in the future and he was supportive of the plan.

Chair Winterton called for a vote on the implied motion.

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

Because item three could be handled quickly, Chair Winterton moved on to item three and said they would go back to item two shortly.

3. Ordinance 2018-32 amending the Zone Map Classification of approximately 5.89 acres located at 1437 E 2300 N from Public Facilities (PF) to Residential Agricultural (RA). Rock Canyon neighborhood. (PLRZ20180239) (1:30:28)

Motion: An implied motion to adopt Ordinance 2018-32, as currently constituted, has been made by Council rule.

Aaron Ardmore, Community Development Planner, presented and displayed a map of the area. The item had been previously heard by council, but since the initial hearing, the zone request had changed, and the applicant was now requesting Residential Agricultural (RA). The owner had proffered a development agreement that would allow for three lots as previously presented, but the agreement would prohibit any additional animal rights above that of an R.1 zone. Additionally, they had eliminated any of the typical conditional uses found in the RA zone. The applicant and owner were in support of the new plan and development agreement.

Mr. Van Buren asked Mr. Ardmore to explain why RA with a development agreement had an advantage over the R.1 zone that was previously requested. Mr. Ardmore explained the RA zone would allow for the large accessory buildings that were not allowed in an R.1 zone; these buildings were very important to the owner. The height restrictions were the same in R.1 and RA.

Chair Winterton invited Dave Gardner to speak. He represented the owner and offered to answer any questions but there were none.

Chair Winterton invited neighborhood chairs to comment, there was no response.

Mr. Ardmore had received an email from the neighborhood chair stating they were in support of the proposal.

Chair Winterton opened public comment.

Joseph Valentine wanted confirmation that the agricultural uses would be limited to those allowed in an R.1 zone. Mr. Ardmore confirmed that was correct.

There were no other comments from the public.

Because this proposal had gone back to the planning commission, this would be considered the first hearing since the planning commission and the Council had the option to hear the item again at the next meeting. No Council Member expressed interest in this option.

Mr. Handley was grateful for the cooperation of the property owner and the community.

Chair Winterton called for a vote on the implied motion.

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

2. A resolution approving an Environmental Assessment and a proposed Land and Water Conversion Fund property conversion. (17-036) [\(1:37:31\)](#)

Motion: An implied motion to adopt the resolution, as currently constituted, has been made by Council rule.

Mr. Jones, Council Attorney, asked to report on the exact scope of the item before any presentation was given. He said section 6(f)(3) of the Land and Water Conversion Fund (LWCF) Act required that any conversion to another use had to be approved by the Secretary of the National Park Service. However, before the Secretary can approve conversion, there must be an environmental evaluation conducted. There were regulations specific to Utah that stipulate that in order to do the environmental evaluation there needed to be a public comment period of at least 30 days. The public comment period began October 1 and lasted until October 31. This included a previous public hearing on October 23. Mr. Jones believed the process for creating the environmental assessment was over and the public comment period was also over. The next step was to submit the environmental assessment to the State Park Service which will review it and send it to the National Park Service if the criteria are met. The National Park Service may then approve the fact that a conversion may take place, if the approval is received at that point, then the terms of the sale necessary for the conversion to take place would still need to be negotiated and approved by the city. The approval of this resolution did not approve the sale, it only approved the environmental assessment as a factually accurate description of the proposed conversion.

Mr. Winterton read the following statement: *“The Parks and Recreation Department is still in the process of finalizing the Environmental Assessment prior to sending it to the state. At the conclusion of this item, when Council is voting, staff requests two weeks to finalize that document and requests this item be placed on the Consent Agenda for the November 27, 2018 Council Meeting.”*

Mr. Sewell maintained the purpose of the consent agenda was for items without substantial opposition; he didn't feel this met that criteria. He preferred to see this on the regular agenda in two weeks.

Mr. Jones clarified that comments from the public this evening did not need to be included with the Environmental Assessment. From a legal standpoint, he believed the comment period was over. Although, the Council could specify that they wanted the comments included.

Mr. Handley reiterated this was not a debate about whether or not to sale the property.

Scott Henderson, Parks and Rec Director, turned the time over to Ron Clegg the consultant who had been assisting with the mitigation process. Mr. Clegg provided a short presentation about the purpose and need for the conversion, as well as the next steps in the process. ([1:45:21](#))

Chair Winterton invited the neighborhood chairs to comment.

Marian Monahan, Edgemont Neighborhood Chair, said no other project in her neighborhood had taken as much time and energy as this one. Ms. Monahan said 100 percent of the people who had attended the neighborhood meetings were opposed to the conversion. The neighborhood had invested time and money in park and considered it an asset to their neighborhood. She hoped they would consider that federal money was used to build the park with the promise to keep this a park in perpetuity. She hoped there would be a written commitment that this would remain shared open space available to the community.

Sharron Memmott, Edgemont Neighborhood Vice Chair, she was not satisfied with the amount of time they had been allotted to speak at the previous meeting. Ms. Memmott had read both versions of the assessment. She did not believe the criteria for conversion had been met and was not clearly identified in the Environmental Assessment. She believed the vast majority of the neighbors opposed the sale of the park to the school. Those who were in favor hoped it would remain open space for fields, but this was also not included in the assessment.

Pam Jones, Edgemont Neighborhood Vice Chair, said Mr. Sewell sends a regular email with updates about upcoming meetings. Ms. Jones was upset over the implication that money from the sale would be applied to the regional park. She felt it was not right to take assets from the northeast area to give to the southwest, without giving them an equitable alternative. Mr. Henderson had mentioned developing land to the north of the school into a park, but she had heard rumors about whether or not the land had been set aside for a new park. She thought the neighborhood was owed a reasonable promise that they would be compensated as closely as possible by getting a new park.

Chair Winterton opened public comment.

Lynn Garner moved into the Edgemont area in 1968. He believed the Environmental Assessment did not adequately address the history of the park. In 1968, Junior Bounous was approached by the school

district and given a mild threat of imminent domain. In response, Mr. Bounous secured an attorney and decided instead to sale the land to the city with the idea it would remain a park in perpetuity. A sale did not honor the Bounous family according to Mr. Garner.

LaDawn Christensen, said a neighbor in the Edgemont area, Jay Goodliffe, was an expert in dealing with the formulation of Environmental Assessments and he had concerns about the accuracy of the assessment. She said the need of the school district had nothing to do with the environment and the Environmental Assessment should be revised before it is submitted. Only eight families along the shared fence line wanted the land to remain a park. She said many new families were moving into the area and were not aware of what was being considered for the park. Ms. Christensen had photos and other documentation that demonstrated how often the park was used.

Charlene Goodliffe, Edgemont Timpview Area, was seeking clarification. The draft assessment said the school should own adjacent land for safety reasons. It was her understanding that the land would remain as it was now. Mr. Jensen assured her the area would be maintained and available to the public. Yet, the environmental assessment said it would be closed off for safety reasons. Ms. Goodliffe thought the adults at the park had a tempering influence on the teenagers at the school. She had intervened with littering and had discouraged truancy and tardiness. She thought it was a mistake to remove the buffer zone.

James Benson, Provo, said the Environmental Assessment mentioned Timpview High School needed more land to meet a specific requirement. The school was already using the land on a daily basis. Additionally, the superintendent said his priority was to obtain the ground north of Timpview, he stated that Provo would not sale this. He said the Environmental Assessment didn't address the large canal with an easement through the park, he owned some of the water in the canal.

Elda Benson, Edgemont Neighborhood, referred to Mr. Jones' comment about the factual accuracy of the document. She said there were multiple inaccuracies in the document and read from the revised Environmental Assessment. Ms. Benson said the ballfield was available for use by the public and was used by the public on a regular basis. Next, she stated that neither the boys or the girls had a field on the Timpview Highschool property and therefore, there was not a Title IX issue. (The ballfield referred to as the boys' field was not on school property.) The assessment also said there was a plan for building a girls' ballfield in the future, but Ms. Benson doubted that simply having a plan would resolve any issues. Lastly, she said the pathway referred to as an access road was built in the 1970's for children to walk to school. It was never intended to be an access road.

Derek Hansen, Pleasant View, did not live very close to the park but was there daily coaching the cross-country team. He said it was concerning the first version of the assessment seemed like a sales pitch and was not an attempt to assess the impact from an unbiased perspective. The current version also did not address the well. It gave him little confidence this had been done objectively. He said the park was used often. He was concerned about using this for a staging area for expansion of the school and the potential impact on the well.

Jay Goodliffe was a Provo resident of 21 years. He said Mr. Clegg was correct that the reasons for the conversion were given much more prominence in the revised report but this concerned Mr. Goodliffe because it should be treated as a principal document that would eventually become a federal document. The first reason given in the report was that the school district needed to expand to meet state guidelines. Of 18 schools in Provo, 17 of them did not meet the guidelines, said Mr. Goodliffe. If the city

wanted to sale the park to Timpview Highschool, would they also be willing to sale the park next to Centennial, Footprinter, or Dixon to provide those schools with more space to meet the criteria? Another reason listed for selling was safety. Mr. Goodliffe said that there were many other parks adjacent to schools that were also being used by the schools. He didn't think this should be a reason for the sale. He asked, as a matter of principal, what are the reasons the City was willing to sale a park. Mr. Goodliffe did not believe these were good reasons to sale the land.

McKay Jensen, Provo School District, appreciated the process and felt both parties had learned a lot from it. The school district was interested in the property. They believed this was the right thing to do and would benefit the City as whole. He acknowledged the fear this would eliminate public access to the park. He said they would not change the nature of the park drastically. There was a letter from the superintendent included in the assessment that said the board was willing to record something against the property, like a deed restriction, to guarantee future use by the public. It was not something they had to do, but it was an opportunity.

Mr. Winterton clarified that Mr. Jensen was allotted a little extra time due to his position on the school board, just as the neighborhood chairs were given additional time to speak.

Mr. Henderson said they have never questioned the popularity of the parks. None of the parks in Provo are obsolete. His department was not in a position to deny a school district need, so they brought this issue to the council and the process began. There was a real need for space. The city was not denying use of the park. The ballfield was scheduled and maintained by the school district year-round. In athletics, maintenance of athletic turf was a major issue, as was defined responsibility of the maintenance. When Timpview's field was on their property, it was clear they needed to be responsible for the maintenance and scheduling of the field. The city has tried to protect the park amenities and he thought they would see that as indicated in the letter provided by the school district. Mr. Henderson said the Parks Department did own the entire park to the north that could potentially be developed, but it needed a road that was master planned. They have committed that if this goes through, they will move this park to the top of the list for future funding and development.

Mr. Sewell said there were numerous aspects that everyone could agree on. The regional sports park was not opposed and would be a good asset to the city. He hoped it would proceed regardless of what happened with Bounous Park. It had been a difficult process and he wished they could have had a conversation with the Bounous family and representatives in the area to discuss this early on. He was supportive of the main objectives, but he had concerns about the process and the Environmental Assessment itself. Mr. Sewell read some of the 6(f) requirements and doubted these had been met. Had Mr. Sewell been involved in the decisions made 30 years earlier, he would have strong feelings about whether spirit of the agreement had been met. Many of the people who knew the Bounous family had concerns about the way this process had transpired. He felt like trust in government was on a decline, even in local government. It mattered when the city makes commitments; the spirit and intent of the agreement mattered. He supported the objectives but would not be voting in support. He said a recorded deed restriction would be close to a win-win resolution and come close to honoring the spirit of the original agreement. Another option would be partial conversion with the city retaining ownership of the southern piece of the land. He thought there were alternate options that could satisfy the needs of everyone involved.

Mr. Harding commented that everything Mr. Sewell mentioned was still on the table. At this point in the process the goal was to approve the environmental assessment to send it to the Federal Government.

Once they had an answer, they could go to the school district and work out the arrangement. Mr. Sewell agreed, he hoped this vote would pass even though he was not comfortable with the Environmental Assessment. After reading Mr. Goodliffe's emails, Mr. Sewell thought there were too many holes.

Mr. Knecht noted there had been concerns raised by Mr. Sewell and others that should be addressed in the assessment. Some of the environmental issues were not addressed in this draft. He hoped it would include the history of the park and concern of the neighbors. Keeping their word to have the park in perpetuity was important. He thought a deed restriction was a good way to control how the property would be used in the future.

Mr. Handley was grateful for those involved and thought everyone was acting in good faith. He felt the only win-win was doing something like a deed restriction to ensure the land remain protected and indistinguishable from its current state, regardless of ownership. He understood why people wanted the park to remain unchanged. Neighbors also did not want the school to move. He said it seemed there were competing needs that required adequate compromise. The school's needs had to be addressed somehow to prevent them from moving. It was a difficult situation. Nothing could be guaranteed unless the conversion was granted. He was confident and optimistic. He trusted the school and the government. He laments the spirit of distrust because the parties involved knew each other well and were capable of having open conversations. He thought this would be worked out.

Mr. Clegg clarified they asked for two more weeks was in order to address the comments that were received. He assured Council the comments were not being ignored.

Mr. Stewart wanted to recognize that while some concerns would be resolved, others may not because they were sometimes personal, not citywide. He hoped the Council could look at these objectively.

Motion: Council Member David Sewell moved to formally close the public comment period and continue the resolution to November 27, 2018 to allow time to incorporate comments in the draft. Seconded by Council Member George Stewart.

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

4. ****CONTINUED** An ordinance amending Provo City Code Section 15.03.020(3) to update 2018 standards to 2019 standards. Citywide impact. (PLOT20180348)**
5. ****ITEM WITHDRAWN** An ordinance amending Section 14.06.020 to redefine "Family" to include four unrelated individuals. Citywide application. (PLOT20180169)**

Adjournment

The meeting was adjourned by unanimous consent at approximately 8:12 p.m.