



## PROVO MUNICIPAL COUNCIL Work Meeting Minutes

2:30 PM, Tuesday, July 23, 2019  
Room 310, Provo City Conference Room  
351 W. Center Street, Provo, UT 84601

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

#### Roll Call

The following elected officials were present at the meeting:

Council Chair David Harding, conducting  
Council Vice-Chair Kay Van Buren  
Councilor Gary Winterton  
Councilor David Sewell  
Councilor David Knecht  
Councilor George Handley  
Mayor Michelle Kaufusi

*Excused:* Councilor George Stewart

#### Prayer

The prayer was given by Councilor George Handley.

#### Approval of Minutes

April 23, 2019 Work Meeting  
July 9, 2019 Work Meeting

*Approved by unanimous consent.*

#### Business

##### 1. **A discussion regarding the creation of a Downtown Parking Committee. (19-002)** ([0:01:52](#))

Council Chair David Harding introduced this item. Mr. Harding gave a background on the history of parking management in the downtown area, including highlights of the parking strategic management plan and other parking reports which have served as guiding documents for the City Council and Administration. Mr. Harding has proposed that the Council create a committee to identify the way forward to reach the Council's vision of downtown parking management, with input and consultation from community stakeholders and the Administration.

Mr. Harding invited comments from the Council regarding the committee and need for it. Councilor Gary Winterton was interested in hearing the vision that the Administration had for parking downtown before the Council created a committee. Mayor Michelle Kaufusi outlined

several recent initiatives which have been underway since hiring Austin Taylor, Parking Coordinator; Mr. Taylor has conducted a parking inventory and created a map and apps for parking in order to gather better data and to better publicize existing parking. He also took stock of the parking garages in which Provo City has an interest and what upkeep is lacking in them. Mayor Kaufusi felt the information was available and it was now just a matter of how to proceed.

Wayne Parker, CAO, provided a background on the original inception of many of the downtown parking garages, which were originally constructed to encourage, incentivize, and stimulate productive development and a solid employment base downtown in a time when development in the downtown area had stagnated. Mr. Parker also provided additional details on the current status of parking downtown. The City has worked with Downtown Provo, Inc. to identify preferred parking standards and to implement more regular enforcement. The changing dynamic of businesses downtown has created the perception problem that currently persists regarding downtown parking. Mr. Parker expressed that the Administration was fine with the Council examining the issues, but they have felt that they have taken some positive steps in the right direction. If the committee were to have a specific mission, targeted timeframes, and legislative outcomes, he felt that the Administration would be supportive of the effort.

Councilors shared additional comments. Councilor David Knecht emphasized the need for a unified approach to maintenance, monetization, and management of the parking garages. Mr. Harding shared insight gained from the parking tour that several Councilors attended recently in Salt Lake and Logan. Mr. Harding shared a draft mission statement and received feedback from Councilors, which resulted in several minor adjustments. Mr. Harding commented on several related elements in a downtown parking solution and shared thoughts on the format and structure of the committee, which he envisioned being similar to the Council's Development Approval Process and Review Committee. He and several other Councilors agreed that the ideal timeframe would be to implement the results of the committee's policy proposals before the year-end.

**Motion:** David Harding moved to create the Downtown Parking Committee, with the mission statement: "To review the current state of and demand for public on-street and off-street parking in Downtown Provo, as well as the Strategic Parking Management Plan, in order to propose a vision for a functional, convenient, productive, and sustainable parking ecosystem and a high-level plan to bring about that vision"; with David Harding as chair, Gary Winterton as vice-chair, and with David Knecht as a committee member. Seconded by George Handley.

**Vote:** Approved 6:0, with George Stewart excused.

**2. A discussion of proposed amendments to Provo City Code Section 15.03.035 (Grading) to clarify and change requirements related to grading and grading permits. (19-002) (0:27:12)**

Brian Jones, Council Attorney, introduced this item. The Foothills Protection Committee met yesterday and wished to see if there was Council consensus that the general framework of this is reasonably sound and should be sent to the Planning Commission and Administrative staff for further review. Mr. Jones reviewed the updates to the proposed language, which served to clarify the requirements for grading permits with or without construction of a single-family residences.

Councilors shared comments on the proposed language. Councilor David Harding suggested that the process should be streamlined and efficient, but provide the value of the review which would protect our resources and community, while recognizing that the developers are important parts of the development happening in Provo; he did not want the review to be busywork but to have actual value as a step in the review process. Mr. Jones indicated that there was discussion in the committee and among staff regarding the criteria for requiring these extra steps. He suggested that this version was merely a starting point draft for discussion purposes; during the staff and Planning Commission review, they would analyze what were the right criteria.

**Motion:** George Handley moved to forward this draft for review by the Planning Commission. Seconded by David Sewell.

**Vote:** Approved 6:0, with George Stewart excused.

### **3. A discussion of possible legislative efforts to be undertaken by the Foothills Committee of the Municipal Council. (19-002) (0:35:00)**

Councilor George Handley, Foothills Protection Committee Chair, outlined several other legislative efforts that the committee plans to examine. The recent gravel pit issue had raised other questions regarding the broader implications and general protection of Provo's foothills. The committee has begun a review of a Salt Lake County ordinance for the foothills and canyons overlay zone (FCOZ). While the issues are different for Provo (Salt Lake County has ski resorts and related major concerns about development in their canyons), the committee hoped to study the FCOZ language for relevant application in Provo. Mr. Handley observed that while the City's existing sensitive lands ordinance had a different aim in mind, even that was vague as to recommended practices; the sensitive lands ordinance primarily included what not to do, but did not include recommended practices as an alternative. Mr. Handley felt that having one comprehensive ordinance about criteria and restrictions for development in the foothills would be important—by identifying the gaps in the existing law, the City could better define and include proactive elements that would be helpful to developers.

Mr. Handley outlined several policy considerations that have been raised during the committee's study of the FCOZ ordinance and other related foothills protection issues:

- FCOZ utilizes clustering; in order to protect the openness of a place, the ordinance ensures that what is developed is developed in a cluster form to retain the openness.
- Preserving public access in certain areas, such as the Bonneville Shoreline Trail; if there is private development, how much public access is preserved for the open space?
- Consideration of engineering, planning, aesthetics, community desires for the foothills
- Would any new ordinances apply to existing homes that are prime for redevelopment; what will guide redevelopment in the foothills?
- Public input from citizens regarding Provo Canyon, Rock Canyon, and Slate Canyon
- Where would an overlay zone be applied? Input from engineers and planners to identify vulnerable areas will be critical.

Councilors shared additional comments and feedback, including:

- Councilor David Knecht noted that for areas which have yet to be developed, it was

- important to consider road access, infrastructure, and the City's annexation policy.
- Councilor Gary Winterton felt that it was important to establish standards to protect the foothills, as well as to define the intended uses that could take place there.
  - Council Attorney Brian Jones noted that zoning was a principal issue for the foothills; risks arose particularly when a property was already zoned for the intended project that a developer wanted to build.
  - Councilor David Harding felt that Salt Lake struck a good balance between many competing interests in outlining the purposes of the FCOZ document. Mr. Handley added that they had met with the Salt Lake officials involved in developing the FCOZ ordinance; they had tried to balance economic development and private property rights with adequate protections for these natural resources.
  - Mr. Handley noted that the existing sensitive lands code was vague and did not provide a strong basis for enforcement. He felt the City would not want to be in a vulnerable legal position if a developer were to bring in a geotechnical assessment suggesting they could do a certain project that was not explicitly prohibited by city code. He felt that the City's ordinances needed to be more specific regarding aesthetics and ecological sensitivities.
  - Mr. Harding felt it advantageous for Provo City to get ahead of this issue and to determine what Provo as a community wants to be and to become. This would eliminate surprises for developers down the road.

***Presentation only. The committee will continue their work on these policy subjects and bring back future recommendations to the Council.***

**4. A discussion regarding a proposed Permit Parking Plan ordinance amendment. (19-002) (0:54:11)**

Brian Jones, Council Attorney, presented and outlined the proposed ordinance amendment for the City's permit parking program. Mr. Jones noted that there was a provision potentially building in obtaining Planning Commission feedback. Cliff Strachan, Council Executive Director, shared feedback received from Community Development; the Planning Commission had indicated that they did not feel their review was necessary, but they recommended that the Transportation and Mobility Advisory Committee (TMAC) be involved in the review. Mr. Jones explained that the Policy Governance Committee had initially included this in the proposal, because the committee had felt there was utility in getting feedback. Mr. Jones invited comments from the Council on this point. Councilors shared comments, including:

- Several Councilors felt that there was some value in involving TMAC and they were in favor of replacing the Planning Commission with TMAC in the drafted proposal.
- Mr. Strachan suggested that rather than have TMAC provide a formal report, they could simply be included in the Council's noticing of such proposals.
- Council Chair David Harding asked if there were objections to sending the item back to the Policy Governance Committee to review the TMAC question. Mr. Jones indicated that delaying this would mean that any applications submitted would simply follow the existing/former process for review and approval.

**Motion:** David Sewell moved to refer this item back to the Policy Governance Committee and continue the item at the Council Meeting on July 23, 2019. Seconded by George Handley.

**Vote:** Approved 6:0, with George Stewart excused.

**5. A discussion regarding a resolution authorizing the Mayor to sign a water carriage agreement with Central Utah Water and the US Department of the Interior. (19-083) (1:06:38)**

Gary Calder, Water Resources Division Director, presented. Mr. Calder outlined the terms of the 40-year agreement for use of pipes owned by Central Utah Water and the Department of the Interior for transferring water down Utah County. The City pays approximately \$25,000 per year, a percentage of which is applied to operations and maintenance, repair, and replacement of the pipes. Public Works has consulted the City's water rights attorneys, John Mabey and Jon Shutz, who did not see any problems with the agreement.

Councilor David Sewell asked if everything had proceeded as usual since the previous agreement had lapsed in 2015. Mr. Calder indicated that operations continued using the terms of the old agreement in the interim. Wayne Parker, CAO, further clarified that part of the reason for the delay of renewing the agreement was to allow for the completion of the Olmsted Power plant, which had introduced several complications.

In response to a question from Councilor Gary Winterton, Mr. Calder explained that this had no bearing on the adjudication process. Per the terms of this contract, Provo City only paid for the cost of the water that Provo uses which comes through the Central Utah Water treatment plant.

Mr. Calder explained that the agreement would begin in 2019 for 40 years. Generally, they expect that the City will renew the agreement every 40 years. Typically, it is Provo's water going through the pipeline, which is cheaper for the City; the agreement outlines use of the pipeline to transfer City-held water for treatment by Central Utah. The agreement also includes provisions for providing Provo advanced notice of any changes. *Presentation only. This item was already scheduled for the Council Meeting on July 23, 2019.*

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

**6. A discussion regarding a resolution authorizing the Chief Executive Officer to enter into an Owner Participation Agreement with Mill Race Development, LLC for a project located between 500 S and 600 S, 100 W and University Avenue. (19-084) (1:12:53)**

David Walter, Redevelopment Agency Director, presented. Mr. Walter outlined the owner participation agreement regarding the IFA block property, including the repayment terms, tax-increment financing (TIF), and public parking. Mr. Walter shared details of the project, noting that a portion of the office tower may change taxable status depending on whether space were rented or purchased for ecclesiastical use. Mr. Walter also highlighted the workforce housing component as well as benefits of the project locating in an opportunity zone.

During the presentation, Councilors shared comments and asked questions, including:

- Councilor David Knecht had recalled mention during a previous presentation that some units may be restricted to owner-occupants; owner-occupancy was a very important outcome for him. Mr. Walter was not aware of any plans for deed-restricted units.

- Following Mr. Knecht’s comments and questions, there was some discussion of the development agreement, which the Council had approved with Ordinance 2019-21 at the Council Meeting on May 7, 2019. Councilor Gary Winterton shared Mr. Knecht’s concern with owner-occupancy, but Mr. Winterton felt that it was a separate discussion as the Council had already agreed to the development agreement.
- Councilors discussed the incentives and TIF. Several Councilors wished to examine the rationale behind the request and whether use of public funds was justified. The proposed TIF would result in approximately \$1 million over 20 years.

Mr. Walter highlighted several other elements of the proposal: permanent access for the City to 20 parking stalls, extension of the pedestrian bridge to the Mill Race project, and for structured parking to be made available on off-hours during evenings/weekends.

The item on the Council Meeting agenda for approval was the Owner Participation Agreement (OPA), which outlined the commitments of the developer and the terms for both the developer and the City if the developer did not deliver on the project or sold/cashed out early. Of the 3.7 acres on the block, a .92-acre parcel is owned by the City; the OPA would allow for the City to receive appropriate compensation if the project were not successful. Brian Jones, Council Attorney, noted that the OPA referenced as exhibits several interlocal agreements related to TIF (which had not been approved or executed at this time); Mr. Walter clarified the implications if the TIF did not take place. In response to concerns raised by Mr. Knecht, Mr. Walter indicated that he could speak with the developer further regarding owner-occupied units. ***Presentation only. This item was already scheduled for the Council Meeting on July 23, 2019.***

**7. An ordinance to amend Provo City Code regarding design standards in various Higher Density Residential and Campus Mixed Use zones. City-wide impact. (PLOTA20190025) (1:44:19)**

Bill Peperone, Community Development Assistant Director, presented. Mr. Peperone reviewed the setback changes for the high-density and campus mixed use zones, as well as the changes to design guidelines for those zones. Mr. Peperone explained that design guidelines were intended to provide more confidence to City officials of the quality of projects, rather than reverting to PRO zones for each project. For context, Mr. Peperone explained that City Code currently contained 60 residential zones and 36 PRO zones.

Mr. Peperone shared recent instances of projects which were successful due to the early collaboration between Community Development and the architects and developers. Mr. Peperone cited specific examples of features of Liberty Center and Mill Race, which projects both exhibit design features that connect and provide transitions between public right-of-ways and private/residential areas. Mr. Peperone also noted several built projects where design requirements could have averted negative elements which disrupt the cohesiveness of the area.

Mr. Peperone highlighted substantial changes, including design standards for commercial, industrial, and higher-density projects; habitable floor depth; and building materials. The proposal was prepared by staff and has been reviewed by the Design Review Commission, as well as several local developers. It is ready for the Council’s review and a first hearing.

Councilors acknowledged Dave Cabanilla, a local developer who has experience building in these zones, who was present at the meeting. Mr. Cabanilla shared brief comments regarding the proposal, noting that a one-size-fits-all requirement may not work in certain high-density projects. Mr. Peperone explained that the provision allowing the Planning Commission some leverage was helpful. Mr. Peperone noted that projects which located parking behind and above the street level, in exchange for placing units with doors facing the street, created a more welcoming environment. In contrast, the Pacific Heights project on 900 East 700 North had only one door on the entire 900 East frontage, which leads to the rental office. Many students walk in those areas and having doors to the units from the street would have made it more cohesive with the surrounding residences and neighborhood feel. Mr. Peperone indicated that he could discuss security concerns and other issues with Mr. Cabanilla prior to the evening Council Meeting.

Council Chair David Harding suggested that this was not a routine land use item; it was likely that it would simply have a first reading at the Council Meeting, and by continuing it to a second hearing, other developers could continue to review the proposal. ***Presentation only. This item was already scheduled for the Council Meeting on July 23, 2019.***

### **Administration (0:00:00)**

The Council reconvened in the Council Conference Room in anticipation of the closed session. The Administration shared a presentation before the closed session began and introduced Kyle Wilson, a developer working on the former ‘Roasted Artichoke’ property in downtown Provo. Mr. Wilson shared several conceptual drawings and details with plans for the area. Many surrounding businesses have expressed interest in having employee parking in the area. Mr. Wilson responded to several questions from Councilors and he also noted that some groundwater mitigation may still be needed before the environmental mitigation is complete. ***Presentation only.***

### **Closed Meeting**

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.

Brian Jones, Council Attorney, introduced the statutory basis for holding a closed session.

**Motion:** David Knecht moved to close the meeting. Seconded by David Sewell.

**Vote:** Approved 6:0, with George Stewart excused.

### **Adjournment**

***Adjourned by unanimous consent.***