



PROVO MUNICIPAL COUNCIL Work Meeting Minutes

12:00 PM, Tuesday, June 18, 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:

Council Chair David Harding
Council Vice-chair Kay Van Buren, arrived 12:07 PM
Councilor David Sewell
Councilor David Knecht
Councilor George Stewart
Councilor George Handley
Councilor Gary Winterton
Mayor Michelle Kaufusi, arrived 2:42 PM

Prayer

The prayer was offered by Councilor Gary Winterton.

Approval of Minutes

1. Approval of Minutes

- March 5, 2019 Work Meeting
 - March 19, 2019 Work Meeting
 - March 28, 2019 Joint Meeting with Provo School District
 - May 28, 2019 Special Council Meeting
 - June 4, 2019 Work Meeting
- Approved by unanimous consent.*

Budget Committee

2. A discussion regarding changes to the FY 2019-2020 Tentative Budget. (19-004) ([0:02:12](#))

Kelsey Zarbock, Accountant, presented a reconciliation of the budget, highlighting several line items with additional explanations, and responding to several questions from Councilors throughout. Ms. Zarbock explained that the Police vehicle repair chargebacks had been over-budget; chargebacks are based on estimates and periodic adjustments are made as better information becomes available. The Police Department had sufficient funds for the needed repairs. Jimmy McKnight, Public Works Budget Analyst, also offered clarification on several items relating to Public Works funds. The wastewater fund balance is higher than several other

funds as funds will be put toward capital projects and the wastewater treatment plant. Mr. McKnight also clarified that during a typical year, there is generally a transfer from the wastewater fund to the water fund; there are several Public Works employees who do work for both funds, so rather than split their funding, it is treated as a transfer between funds. With the water fund in a healthier place, Public Works has kept those funds in the wastewater account. *Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.*

Business

3. A discussion regarding an appropriation for the Airport operating budget. (19-078) (0:15:46)

Brian Torgersen, Public Services Division Director, presented. This request for a \$60,000 appropriation will be applied to overages in the Airport operating budget, specifically for staff overtime and several property appraisals which were completed. Steve Gleason, Airport Manager, shared details on Airport revenues from hangar rental space and parking. Mr. Gleason explained that overtime is fairly standard when the airport has a full docket with full flights. Mr. Gleason covers many of the shifts, but his staff are all very responsive and work to cover overtime. In the new year budget, they have added one new full-time employee. Councilor Gary Winterton asked Mr. Gleason to thank his family for their sacrifices of Mr. Gleason's time. *Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.*

4. A discussion on the creation of Community and Neighborhood Services and Development Services. (19-036) (0:22:14)

Wayne Parker, CAO, presented and outlined the proposed changes. Changes included updated names and references to departments, structural changes, and realigning current responsibilities with the new organizational structure. Mr. Parker briefly outlined how the current City organization would be adapted under the new structure. Mr. Parker explained that a more extensive review of Titles 14 and 15 would take place in the near future, but the currently proposed changes would enact the changes quantified and introduced in the City budget.

Councilor Gary Winterton said he heard many complaints related to Engineering; he wondered how the organizational changes would improve the issues. Mr. Parker explained that the intent was to streamline the development review process and to make it more intuitive. Rather than a 100% accurate final submission, Public Works would be able to approve a project with conditions, which would streamline the approval process while still ensuring the needed results. Mr. Parker also said a new process would ensure each department had two chances to review a project; as long as all changes in the comments have been addressed, then the review is considered finished. The Coordinators' Review Committee would invite developers to the meeting, which allowed them to resolve issues during the CRC meeting. Mr. Parker was confident that the changes had already resulted in substantive progress. Mr. Parker was open to comments from developers regarding the CRC process. Mr. Parker also indicated that the online portal was up and running, with many builders and developers already utilizing the new system. *Presentation only. This item will be scheduled for the Council Meeting on July 9, 2019.*

5. A discussion regarding the parking requirements and Transportation Demand Management plans for multi-family developments. (19-074) (0:38:14)

Councilor David Harding introduced this item. The Housing Committee has been meeting as an executive group with several staff members to discuss parking. The City Code includes provisions for reduced parking, but explicitly prohibits residential uses. A development has been proposed for South State Street which would include residential units at an affordable price-point for medium income individuals. In other locations with similar projects, the parking required in Provo has proven to be excessive; in other cases, a PRO zone was used to accomplish those projects. Mr. Harding explained the policy questions for the Council, which was whether the Council was willing to examine parking ratios when a developer was willing to build affordable housing. There were mixed responses from the committee.

Robert Mills, Planner, had been asked to work on drafting some initial legislation, including a mechanism for applicants to apply for a conditional use permit (CUP) through the Planning Commission. By making this request part of the project plan approval, staff could outline a more robust list of conditions which would allow for a CUP.

Councilors shared comments throughout the discussion, including:

- Councilor Gary Winterton felt there had been some back-and-forth over the years with parking reductions and parking standards.
- Mr. Harding felt it was a complicated question, as it is very site-specific and can change so much over time. He felt that rather than a de-facto reduction, perhaps having additional requirements in place which would qualify an applicant for a reduction.
- Councilor David Knecht shared information about parking in the Joaquin Neighborhood.
- Mr. Harding noted that the intent of this discussion was to gauge the Council's support before proceeding too far with the proposal. If the Council were generally supportive, then Mr. Mills would finish the draft legislation and submit it to the Housing Committee.
- Mr. Winterton asked whether there would be a required base amount of parking. Mr. Mills explained how the process would work, modeled after what was in place for DT1.
- Councilor George Handley asked if the proposal was intended to incentivize non-auto transportation. Mr. Harding said there were several elements, but this was a component.

Presentation only. This item would be presented to the Housing Committee for review after a proposal is drafted.

6. A discussion on a proposed ordinance amendment to Provo City Code Chapter 9.17 (Civil Infractions) parking violations (19-023) (0:53:13)

Laramie Gonzales, Customer Service Business Analyst, presented. He outlined the fee structure changes for the parking enforcement fees. The average fee would increase from \$30 to \$55, with a \$15 discount (or 28%) if the ticket were paid early. Councilors shared comments and feedback on the increase and the policy considerations for such a discount. Mr. Gonzales clarified that the standard fee would be quoted at \$55; the impetus behind offering a discount was to incentivize people to pay the fine in a timely manner. Customer Service intended to create a built-in incentive that offered some benefit to paying on time, rather than a penalty for paying late. The effect was similar, but the intent was to bring the fees into compliance with a recent change in

the State law. Mr. Gonzales outlined the code changes accompanying the fee change, and he also noted one minor error in the text, which would be adjusted in the approved version of the code.

Councilors shared additional comments, including:

- Councilor Gary Winterton wondered whether the fee or discount were justified. Wayne Parker, CAO, clarified that the City was never allowed to charge more than the real costs associated with the service, but there was no requirement against charging less.
- Councilor David Harding noted that it was not simply the cost of issuing a ticket that was a factor, but the costs associated with enforcing City parking ordinances in general.
- Several Councilors had concerns with whether the format was consistent with State law on the issue; while on the surface it complied with the State law, essentially it had the same effect as what was being prohibited.
- Councilor David Sewell suggested that in a business setting, the reason to provide a discount is to incentivize timely payment, as for a business-owner, there was typically a cash-flow reason or other advantage to receiving payment sooner.
- Brian Jones, Council Attorney, provided additional context for the State law change, which was intended to eliminate heavy fines doubling and tripling.
- Councilor David Knecht did not share the same concerns with the discount. He wondered, though, whether State law allowed a discount versus a penalty.
- Mr. Harding wanted to make sure that the change did not violate the spirit of State law.

Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.

7. A discussion regarding the HOME Consortium Interlocal Agreement. (19-075) ([1:24:04](#))

Dan Gonzalez, CDBG and HOME Administrator, presented. Mr. Gonzalez outlined the history of the HOME Consortium, which was formed in the 1990s, and is currently comprised of the cities of Provo, Orem, and Lehi, along with Utah County. The Department of Housing and Urban Development requires renewal, every three years, of the interlocal agreement governing the consortium. Provo City has been the lead entity of the consortium in the past, and it is proposed to continue this assignment, as Provo is well-equipped with trained staff. The agreement was essentially the same as the previous agreement, but would cover fiscal years 2020-2022. Lehi and Utah County have approved the agreement, and Mr. Gonzalez noted that the Orem City Council would consider it on their meeting that evening. *Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.*

8. A presentation regarding the annexation process. (19-076) ([1:30:25](#))

Cliff Strachan, Executive Director, presented a brief review of the annexation process. Some changes may be needed in City code to be consistent with State code. Mr. Strachan highlighted relevant provisions of the City Code and General Plan pertaining to annexations, including a map illustrating several areas that were not currently part of Provo City.

Gary McGinn, Community Development Director, added to Mr. Strachan's introduction, noting that while the process was referenced in City Code, it was primarily governed by State code. Provo City has published an annexation guide, which familiarizes applicants with the steps of the process. Most inconsistencies were the result of having quoted provisions of State code

which have been changed in recent years. Mr. McGinn suggested that a more accurate process would be to refer directly to the State code. Mr. McGinn reviewed a flowchart which outlined the annexation process, including the petition and application processes at the State and City levels. Mr. McGinn explained that when an annexation petition is received, if the Council does nothing, the petition is automatically accepted and a more in-depth study of the annexation ensues. Mr. McGinn said that often, proposed annexations are inconsistent with the City's General Plan; it is common for an applicant to submit an annexation application with a General Plan/ordinance amendment or rezone. Mr. McGinn highlighted additional sections of the annexation policy plan as contained in the General Plan.

Councilor Gary Winterton asked Mr. McGinn about reasons why the City may choose not to annex a property. Mr. McGinn explained the City's process to assess the area and the ability for the City to provide necessary services. The staff analysis of the annexation proposal would necessarily include review of existing utilities in the area, as well as an analysis of the needs for police, fire, sewer, water, stormwater, and electricity. During the discussion, several other Councilors shared observations and comments about the annexation process.

Wayne Parker, CAO, explained that the law was structured as it is to provide transparency; the further a developer goes in the process, the more expensive it is for them, and typically the more difficult for the City to deny the annexation. With the petition process, if the City knows they wish to deny the petition, they have the ability to do so in the very early stages of the process. A developer may wish to first submit a General Plan amendment; this allows the City to vet the potential density, design, and use before accepting the annexation petition. There is an extensive public process involved with both applications which involves community input.

Mr. McGinn noted that the Peay annexation, which had raised considerable public concern, has been withdrawn. *Presentation only.*

9. A discussion regarding the East Bay Annexation. (PLANEX20190140) (2:07:35)

Brian Maxfield, Planning Administrator, presented. The General Plan for this area of the city recommends an industrial use; the applicant has proposed to construct storage units, which was compatible with an industrial use. *Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.*

Redevelopment Agency

10. A discussion regarding a resolution authorizing the Chief Executive Officer to enter into a lease agreement with Blue Sky Development to allow them to utilize parking spaces for a pending mixed-use project at 105 East Center Street. (19-070) (2:10:56)

David Walter, Redevelopment Agency Director, presented. Mr. Walter outlined the concerns and related proposal of McKay Christensen, Blue Sky Development, regarding parking. Residential parking for Blue Sky Development is located on-site, however he has requested parking spaces from the Redevelopment Agency to meet the needs of his commercial tenants. Councilors discussed the possibility of allocated versus dedicated spaces, though the general

impression was that Mr. Christensen had been firm on needing dedicated spaces. Additional comments from Councilors included:

- Councilor Gary Winterton observed that in his experience, dedicated parking tends to tie up parking spaces. With multiple tenants, each tenant starts requesting dedicated parking. With other businesses located closer to the Wells Fargo parking structure, Mr. Winterton was adamant in not wanting to dedicate parking spaces for Blue Sky.
- Councilor David Harding wondered whether the prospective tenants had requested dedicated parking specifically. Mr. Harding was sympathetic to the concerns of the potential commercial tenants, but he felt that it was the sense of many downtown businesses about parking and how it hinders or helps their business.
- Councilor George Handley wondered whether a combination of allocated and dedicated parking spaces could work. Perhaps the contract could divide the total number of spaces between these types, with a provision to reevaluate the arrangement in a year.
- Councilor George Stewart felt it was too risky to tie up a public asset in such a commitment for so many years without knowing what the future held for downtown.
- Mr. Walter added that the owner of the Los Hermanos building had plans to add two stories of residential units above their existing two levels of commercial and office space. They have also expressed an interest in dedicated parking in the Wells Fargo structure.
- Mr. Harding shared Mr. Stewart's concern about making a commitment that would last for over 20 years. He did feel there was some built-in synergy between the peak uses of the different types of tenants and businesses. Mr. Harding also mused on the idea of a parking permit program and whether that would work for restaurants; staff noted that a restaurant has two groups of users, patrons and employees, and a permit program could certainly be crafted to meet the needs of employees.
- Mr. Handley noted that some of the prospective tenants were gems of the Utah dining scene and would be a huge asset to the downtown scene. He did not want to endanger such opportunities, particularly where this development was exactly what the Council wants to see downtown. Mr. Handley wondered whether there was a possibility of addressing parking downtown and proper management of the City's parking assets in such a way that would ease some of the pressures felt by Blue Sky Development.

Mr. Harding invited comments from the Administration. Wayne Parker, CAO, shared that the original intent in constructing structured parking was to incentivize development downtown. Mr. Parker shared some policy considerations, noting that the more dedicated spaces were doled out, the less flexibility there was over the long-term. Typically dedicated stalls are empty more of the time than they are occupied; the best way to manage parking is to maximize the value of a parking stall by rationing parking either by price or permit. Mr. Parker acknowledged that permit parking could work in a parking structure; recognizing that parking is a limited commodity, a certain number of permits could be issued. While the City owned parking stalls in several structures downtown, the City was not involved with operating any of the garages. Offering validation was another potential solution, but again, the City did not operate any parking structures, so it would involve coordination with the management of each structure.

Councilors shared additional comments and feedback, including:

- Councilor David Knecht asked Mr. Walter about ownership of the Wells Fargo parking structure and whether the City even had the ability to designate dedicated parking spaces.

Mr. Walter explained that the City has rights to 204 spaces in the Wells Fargo structure, but there was also no method in place to monitor use of those spaces.

- Mr. Harding noted that as the parking structure becomes more heavily used by office workers or the general public, if Blue Sky was paying per month for use of stalls, at some point they may argue that they are paying for stalls which were not available. Mr. Harding wondered if some type of gate or permitting system could be utilized; with the retail and restaurants off-site, it would be more difficult to patrol or manage.
- In response to a question from Councilors, Mr. Walter said that he felt allocating parking spaces met the intent of what the City originally chose to do.
- Mr. Harding still struggled with the 24-year term of the agreement; he felt that 5 years was a reasonable length of time to promote a long-term restaurant lease while allowing for time to negotiate as the City continued to resolve unmanaged parking downtown.
- Mr. Knecht wondered what had been implied or promised during past discussions.
- Mr. Winterton felt it was important to be realistic about the parking demands.
- Cliff Strachan, Council Executive Director, observed that by providing a covered parking spot, that was essentially a direct subsidy to a developer for their parking needs.

Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.

Business

11. A discussion regarding an update to Provo City Code Title 10 making amendment to the Sewer and Water Chapters of the Title. (19-072) [\(3:09:23\)](#)

Gary Calder, Water Resources Division Director, presented. Mr. Calder outlined several of the proposed changes in Chapters 10.02, 10.03, and 10.04 of Title 10. Rebecca Andrus, Engineer, noted that there had been several slight adjustments in Chapter 10.02 made by the Legal Department since an earlier presentation of this material. Specifically, language was adjusted to state “it shall be unlawful,” rather than “is not allowed,” in Sections 10.02.040 and 10.02.060 to strengthen the enforcement ability of these provisions. Mr. Calder also highlighted Chapter 10.04 which outlined the pretreatment program, which was mandated by the State and EPA and utilized a template provided by those agencies. ***Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.***

12. A discussion of proposed amendments to Provo City Code 15.03.035 (Grading) to clarify and change requirements related to grading and grading permits. (19-002) [\(3:20:02\)](#)

Councilor George Handley introduced this item. The Council briefly discussed this item several meetings ago to gauge the general direction or approval of the concept, after which the Committee has moved forward to draft more specific language. The Committee wished to receive approval from the Council to send this to the Planning Commission for approval, after which the Council would consider the proposal in more detail. Mr. Handley outlined three main issues that the Committee hoped to address with the proposed ordinance amendment:

- Require a project plan for any grading permit (excluding permits under 50 yards of material)
- More stringent bonding requirements (which would protect against project abandonment)
- Required landscaping plan as part of the project plan

Councilor David Sewell clarified that the new requirements were going to apply to grading permits involving cutting. Councilor Kay Van Buren asked whether there was a distinction made between grading permits versus any grading involved in the construction of a residence. The committee members believed the intent had been that the requirements would not apply to home construction, as there were already other bonding and landscaping requirements involved for a residence. As this was not clear in the proposal, the committee planned to meet with Community Development and Engineering to clarify this point and to make any needed adjustments to the ordinance text.

Presentation only. Additional clarification is needed on whether or not these proposed amendments apply to grading occurring in conjunction with a building permit, after which the item was scheduled to return to the July 9, 2019 Work Meeting.

Policy Items Referred from the Planning Commission

- 13. A discussion about a Zone Change from Public Facilities (PF) to Low Density Residential and a General Plan Amendment from PF to Residential for 0.78 acres to allow 4 townhomes at 862 E Quail Valley Drive. Edgemont Neighborhood. (PLGPA20190009 & PLRZ20180430) ([3:31:04](#))**

Robert Mills, Planner, presented. The applicant has requested a zone change from Public Facilities (PF) to Low-Density Residential (LDR), which would permit single-family detached or townhomes to be constructed. The LDR zone would permit up to 6 units on the site, but the applicant has recently adjusted their proposal to 4 townhomes, with no plans to increase to 6. The applicant has proffered a development agreement outlining the details, which would be reviewed by the Council attorney. Mr. Mills indicated that the developer was prepared for the Council meeting that night, though the neighborhood chair had requested to continue the item.

Councilors discussed traffic and parking concerns for Timpview High School and on the surrounding roads. Mr. Mills indicated that in several visits during school and business hours, there was sufficient parking for the neighboring office building. The applicant has provided a parking study which indicated that the parking and traffic generated by this project would not contribute to the existing issues. Councilor George Stewart noted the safety concerns with street parking in the area, particularly during winter conditions.

Staff analysis shows the proposal supports the General Plan goal to provide housing of various types in the neighborhood. The neighborhood disagreed and wanted to see single-family homes in a R1.10 zone, which would only allow three single-family detached dwelling units, given the area and topography. Staff felt the project was an excellent use of infill property which has remained vacant for decades. The project would provide a type of housing not readily in the neighborhood. Due to the location of the site, there was a separation between the site and the neighborhood, providing a natural transition between housing types. Councilors discussed whether the proposal was consistent with the feel of the neighborhood. Mr. Mills also shared details of a project in recent years in the Lakeview neighborhood, which was similar in scope and had a similar reaction from the neighborhood. The twin-homes built there have since integrated very seamlessly into the neighborhood and have provided an alternative housing type.

Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.

14. A discussion regarding a request for an ordinance text amendment to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone. City-wide application. (PLOT20190120) (3:55:51)

Brian Maxfield, Planning Administrator, presented. Mr. Maxfield outlined the proposal, which would consolidate the ordinances regulating the A- and S-overlays, with several additional changes. Mr. Maxfield indicated that comments from Paul Evans, Pleasant View Neighborhood Chair, had been reviewed by the Planning Commission. The Planning Commission has recommended approval of this proposal, but has requested that the Council examine several items, notably the parking requirements; the Commission felt that the parking requirements seemed excessive in some instances. The result is that more of the neighborhood lots are paved than might otherwise be necessary, which detracts from the residential feel of the neighborhood more than the presence of residents who are renters.

Councilors shared comments and feedback on the proposal. Councilor David Harding asked for clarification on the rental dwelling license fee, which went toward licensing rather than the inspections conducted by the zoning division. Mr. Harding also wished to further examine the issue of detached accessory dwellings, which was something not permitted under the existing code. He felt that this needed more review, as there were broader implications. He has seen the impacts of lack of enforcement in his neighborhood under the existing program. Mr. Harding shared additional comments on the impacts for the RC zone, which permitted an A-overlay. Councilor David Knecht noted that enforcement was an issue with most proposals. Mr. Harding expressed general support for the proposal, though he was not ready to vote on it at the Council Meeting that evening. Councilors requested that Karen Tapahe, Community Relations Coordinator, prepare a summary of the changes (detached units, combining the A- and S-overlay provisions, and the licensing impacts) which could be distributed for further review by neighborhood chairs and Councilors. *Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.*

15. A discussion on a request for a zone change for approximately 2.12 acres of real property, from R1.10 to a Project Redevelopment Option Zone (PRO), generally located at 1320 S State Street. Spring Creek Neighborhood. (PLRZ20190100) (4:10:33)

Robert Mills, Planner, outlined the proposal, which was a second attempt returned by the applicant. Originally the applicant had proposed Medium-Density Residential zoning, which was consistent with the General Plan and future land use map. The revised proposal is for a PRO zone. The applicant has proposed constructing 64 two-bedroom condo units for sale, which would be able to be backed by FHA mortgages; this would allow younger families trying to get into the real estate market the ability to do so, where there may otherwise be a financial hurdle.

The site is able to accommodate 130 parking stalls, which was slightly under the required 1.25 spaces per unit in the MDR zone. A previous request to amend the parking allowances raised concern among neighborhood chairs, who felt that the amended parking requirements being applied citywide to accommodate one project was not consistent with the original requirement.

To accommodate the request for this specific project, the applicant has requested a rezone to a PRO zone. There were many PRO zones already existing in City code, including one which was consistent with this project and had been left unused by a previous project. Utilizing this PRO zone would avoid making a citywide change in order to accommodate a site-specific project.

Mr. Mills shared the proposed site plan, along with photos of two similar projects underway in Orem by the same applicant. Mr. Mills indicated that the PRO zone request was consistent with the MDR-style housing included in the General Plan and future land use map. The applicant has proffered a development agreement which would further restrict what was buildable in the project than what would be allowed by the PRO zone; the PRO zone would permit one unit per 500 square feet of lot, or up to 184 units given the size of the site. The applicant has written into the development agreement that they would build no more than 64 two-bedroom condo units. The development agreement also outlines the parking (130 stalls or 2.03 stalls per unit, versus only the 90 required by the zone). The project would need to have at least 60% owner-occupancy in order to maintain FHA mortgage backing. Although the City has experienced challenges with regulating a fixed percentage of owner-occupancy in the past, the FHA status would be a compelling factor for the management team of the development as well as individual condo owners who relied on that avenue of financing.

Staff have recommended approval to the Planning Commission and several conditions were outlined in the staff report. The Planning Commission has also recommended approval. The neighborhood chair has spoken favorably of the proposal as well, with positive feedback from the neighborhood. Councilors shared several comments and feedback on the proposal. The recent completion of Spring Creek Park to the north would be a huge asset to the development. ***Presentation only. The item was already scheduled for the Council Meeting on June 18, 2019.***

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.

Gary Millward, City Attorney, outlined the statutory basis for the closed session.

Motion: Gary Winterton moved to close the meeting. Seconded by Kay Van Buren.

Vote: Approved 7:0.

Adjournment

Adjourned by unanimous consent.