



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, May 21, 2019

Room 200, Municipal Council Chambers

351 W. Center Street, Provo, UT 84601

Opening Ceremony

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Councilor David Harding

Councilor David Knecht

Councilor David Sewell

Councilor Gary Winterton

Councilor George Handley

Councilor George Stewart

Councilor Vernon K. Van Buren

Mayor Michelle Kaufusi

Council Executive Director Cliff Strachan

Council Attorney Brian Jones

CAO Wayne Parker

Conducting: Council Chair David Harding

Prayer – Cassidy Hancey

Pledge of Allegiance – Cache Hancey

Tribute to Kathryn Allen ([0:05:23](#))

Chair Harding honored Kathryn Allen, a pillar of our community, who passed away last week. Ms. Allen's list of accomplishments were lengthy, including serving for years in the neighborhood program as well as the farmers market. Ms. Allen was heavily involved in the arts in Provo and was instrumental in bringing programs to the downtown area. Helping bring the Covey Center for the Arts to fruition was one of her major accomplishments. The council offered their condolences to her loved ones and echoed the sentiment expressed at her service last Sunday – "Get involved and put your time and effort into things that mean something to you."

Chair Harding also acknowledged the passing of Michael Hill, who served as Provo Mayor in 1993.

Presentations, Proclamations, and Awards

1. Provology Graduation. (19-067) (0:06:42)

Mayor Kaufusi reported that Provology was a class offered free to citizens. City leaders used presentations and field trips to teach how the city was run. This was the seventh year for the class. Mayor Kaufusi presented a plaque to the following graduates in attendance:

Cache Hancey	Ben Summerhalder
Pam Jones	Leslie Stilson
Colleen Christensen	Natalie Stilson
Rich Holloman	Robin Roberts
Lica Strasner	Lori Hill
Stephanie Ollerton	

2. A presentation by America's Freedom Festival. (19-068) (0:11:48)

Paul Warner, Executive Director of America's Freedom Festival for 12 years, presented. He reported that Jim Evans, former Orem mayor, would replace him as the executive director, but he would stay on board in a different capacity. The Freedom Festival Magazine would be mailed on June 1, 2019 to more than 235,000 homes in Utah, Wasatch, and Juab Counties. The magazine would highlight all the events culminating with the Stadium of Fire held on July 4, with special guest star Keith Urban.

Public Comment (0:26:00)

Chair Harding announced that Item No. 13 had been continued in work meeting but the council would still take public comment on the item. If residents did not want to wait for the item to be presented later in the meeting, they could give their comments during the open public comment period.

Tom Taylor, Provo, said that residents of the Foothills Neighborhood recently did some work at Kiwanis Park. The old sign was taken down while the work was being done. They asked that the sign be placed back in the park on 820 North.

Sam Oman, Provo, was representing a resident that told him a trail in the foothills area, and shown in the activity guide, did not have adequate parking. All parking within one-half mile of the trailhead was private and required a permit. He asked the city to address the issue.

Ruth Eldredge Thomas, Foothills Neighborhood Chair, asked that the old sign in Kiwanis Park be placed back on 820 North. She expressed concern about the legibility of signs in Provo, stating that many of them were difficult to read from the street.

There were no more public comments.

Approval of Minutes

March 19, 2019 Council Meeting Minutes – Minutes approved by unanimous consent.

Action Agenda

3. Resolution 2019-25 consenting to the appointment of George Stewart to the Library Board. (19-003) ([0:32:49](#))

Motion: An implied motion to approve Resolution 2019-25, as currently constituted, has been made by council rule.

Mayor Kaufusi asked the council to confirm the appointment of George Stewart to the Library Board. The Library Board met every other month and was responsible for setting policy and approving the budget.

Chair Harding invited public comment. There was no response to the request.

Chair Harding called for a vote on the implied motion to approve the resolution.

Vote: The motion was approved 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

4. Ordinance 2019-22 enacting a free expression ordinance in accordance with the Utah Code Title 11, Chapter 61. (19-058) ([0:34:47](#))

Motion: An implied motion to adopt Ordinance 2019-22, as currently constituted, has been made by council rule.

Brian Jones, Council Attorney and Assistant City Attorney, presented. The state legislature passed a bill in 2018 placing requirements on cities that were going to regulate expressive activities on public grounds. A free expression policy needed to be established through city ordinance. The proposed ordinance amended city code to enact a new section – Chapter 6.20.090 (Free Expression Regulation). The new code would recognize how state and federal law regarded free expression on public grounds. Free expression must be reasonably regulated with regard to the time, place, and manner rather than content.

Mr. Jones explained that the United States Supreme Court has recognized a difference between two types of sidewalks on public grounds. Sidewalks that were adjacent to roadways and used for travel throughout the city were considered public sidewalks. Free expression was unregulated on those sidewalks, but could not obstruct traffic. Sidewalks used to access a specific facility, such as from a parking lot to the door of a facility, were not considered public fora and could be subject to tighter free expression regulations. The law granted the mayor, on her own or by delegation to department directors, discretion to decide what policies were best

to protect the interests of people trying to access city facilities. Expressive activity could not block the use of any sidewalk.

Mr. Handley wanted to make sure we were not sealing off any symbolic space in the city or any kind of demonstration. People that wanted to demonstrate for a particular cause wanted to be visible and heard. We needed to balance that need with showing respect to the citizens. He did not think it was possible to legislate the word “manner” because it seemed subjective. He wanted to make sure there was enough discretion that, if a request to express views in a particular place was approved, there was a commitment to a certain kind of civility and manner.

Mr. Jones reported that the committee considered publishing a map showing all the public fora in the city. When they realized there were miles of public fora in the city, they decided against the map. In any instance, there was a balance between the perceptions that all things should be open to the public because taxpayer dollars went into them and the fact that people who do not want to be subjected to incessant messages have paid those same taxpayer dollars. Regulation of free expression had to be content neutral. The city could not base their decisions on whether the message sounded benign or offensive.

Chair Harding invited public comment.

Sam Oman, Provo, said this reminded him of someone outside an abortion clinic preventing people from entering. Freedom of speech was to say something that someone else did not want to say. He saw constitutional issues with this and felt all sidewalks were public.

There were no more public comments.

Mr. Sewell appreciated the committee’s work on this issue. It seemed like a reasonable balance.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

5. Resolution 2019-26 approving the Municipal Wastewater Planning Program Report for 2018 in accordance with the Utah Pollutant Discharge Elimination System Report. (19-064) ([0:53:32](#))

Motion: An implied motion to approve Resolution 2019-26, as currently constituted, has been made by council rule.

Rebecca Andrus, Provo City Engineer IV, presented. Per state code, Provo City was required to complete an annual Wastewater Planning Program Report in order to qualify for state funding.

The goal was to prevent sanitary sewer overflows from the wastewater collection system from getting into the environment. The only place it should go was the wastewater treatment plant.

The report included Provo City's operation and maintenance plans. With the recent rate increases, Provo had money to complete current infrastructure needs. However, we did not have funds to cover all operating, maintenance, and infrastructure needs into the future. It was important for the city to qualify for additional funding through the state.

The System Evaluation and Capacity Assurance Program (SECAP) monitored 34 metering sites throughout the city for several months. Each site was sent through a series of checks and balances to determine if the system was working properly. Ms. Andrus reported that in 2018 we did not have any overflows and only two minor backups into one home. Since 2015, we have only had one sanitary sewer overflow. A detailed map had been prepared to help the city make better-informed decisions about the operations and maintenance of the system.

The proposed resolution would confirm council approval of the prepared report and acknowledge that Provo was doing everything possible to maintain the wastewater system.

Chair Harding invited public comment. There was no response to the request.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

6. Resolution 2019-27 appropriating \$119,238 in the Airport Fund and \$775,000 in the Water Resources Fund, applying to fiscal year ending June 30, 2019. (19-061) ([1:06:33](#))

Motion: An implied motion to approve Resolution 2019-27, as currently constituted, has been made by council rule.

Jimmy McKnight, Public Works Business Manager, presented. The proposed appropriation at the airport was for two projects – an airport revenue bond interest payment of \$98,238 for the Duncan Aviation project and \$21,000 for airport security fencing. Funding for the appropriation would be from the Airport Fund Balance.

The water appropriation of \$775,000 was for well development (\$200,000), airport contract services (\$75,000) and water reuse studies (\$500,000). The appropriation would be funded from higher than anticipated water utility revenues.

Chair Harding invited public comment. There was no response to the request.

With no council discussion, Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

7. Ordinance 2019-23 amending the Consolidated Fee Schedule relative to an Impact Fee charge. (18-099) ([1:11:50](#))

Motion: An implied motion to adopt Ordinance 2019-23, as currently constituted, has been made by council rule.

Mr. Van Buren explained that a special committee was created to review all the impact fees on the consolidated fee schedule. The committee met numerous times with each department and with outside entities to review and establish new impact fees. The decision was made to make the fees effective July 1, 2019 to give the public time to examine the fees and give input. The committee reviewed all citizen questions and fee adjustment requests, and they determined that one of the adjustment requests should be given further review by the council.

Mr. Winterton stated the decision to increase the fees was painful but very necessary. Zion's Public Finance helped work through the process. He noted the committee was able to work together with public interest groups (developers, homebuilders, etc.) to establish the fees. He felt the process went very well even though not everyone agreed with responses to the concerns and questions raised.

Susie Becker, consultant with Zion's Public Finance, was invited to address the council via telephone. Ms. Becker stated that one of the concerns raised by a developer, the police impact fee, was looked at using a different methodology. The basic change was to take out the portion of the new building that would serve existing development and make credits on the new police facility. The result was that new development would not pay an impact fee and then pay again through bond payments over time. The net present value of the future bond payments would be correctly credited and applied back against the impact fee. By doing this, the maximum fee would be reduced from \$425 to \$373.18. The parks impact fee may need further review but the new fee was not changed. Ms. Becker reported they had received input and questions from several entities and had provided a written response to each of their concerns.

Chair Harding invited public comment.

Deann Huish, representing the Utah Valley Realtors Association (UVRA), stated they hired an outside consultant, LEI (a local engineering firm), to review the numbers for them. Most of the questions and concerns had been addressed, not always to their satisfaction, but they had been addressed. They appreciated the reduction of the police and public safety impact fee but there was still a question that the credit (net present value) was based on a higher note than the bond rate. For instance, if a building permit were initiated in 2019, the homeowner would be subject to the full bond payment over the 20-year life through property taxes. Yet, they were still required to pay an impact fee.

Ms. Huish stated that LEI's other concern was related to the park impact fee. The Parks Department had a fund balance but did not have a five to ten year plan for expending those funds. It raised the question of why have fund balances if there was not a plan to spend those funds. Ms. Huish stated the UVRA did not have any objections to adopting the proposed ordinance.

There were no more public comments.

Chair Harding stated the proposed ordinance would include the reduced impact fees for public safety. He noted there were other fees that may be reviewed later but, at this point, all other impact fees adjustments were included in the amended consolidated fee schedule.

As chair of the committee, Mr. Van Buren thanked those that participated. There were some large impact fee increases because it had been 15 years since the last adjustment. The new fees would affect anyone that built or bought homes or apartments. Legally they could increase the impact fees to the proper amount immediately, but he had wanted the committee to recommend a 50 percent increase this year and another 50 percent in a few years. He hoped the council understood the impact of these fees and applied them evenly and fairly and not give certain people a break. The fees needed to be reviewed and adjusted on a regular basis.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

8. Resolution 2019-28 tentatively adopting the proposed budget for Provo City Corporation for the fiscal year beginning July 1, 2019 and ending June 30, 2020. (19-004) ([1:31:28](#))

Motion: An implied motion to approve Resolution 2019-28, as currently constituted, has been made by council rule.

Kelsi Zarbock, Provo City Budget Analyst, presented. Councilors were earlier presented with a list of adjustments made to the budget during the past few weeks after budget hearings and department meetings. Ms. Zarbock stated the proposed resolution would allow the council to adopt a tentative budget. Public hearings on the final version of the budget would be held on June 4 and June 18 with final approval proposed during the June 18 council meeting. Possible adjustments to the tentative budget could be made after rates from the county and property tax projections were presented to the city. The tentative budget included total expenditures of \$254,958,760 (transfers out were not included). Ms. Zarbock reported that the General Fund only represented 23 percent of the budget (\$59,678,744). The largest increases to the General Fund came from sales tax and fee increases.

Chair Harding opened the public hearing. The public hearing was closed with no responses.

Councilors discussed the tentative budget and made the following comments:

- Provo City had enterprise funds that made our budget look larger than many other cities.
- Only 15 to 20 percent of Provo City's budget was discretionary.
- Provo City's General Fund budget was just under \$60 million compared to \$330 million in Salt Lake City's General Fund. By comparison, Provo's population was 116,000 and SLC's was 180,000.
- Factoring in inflation, new spending in this year's budget was only \$2 - \$3 million higher.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

The Municipal Council meeting was recessed and the Redevelopment Agency meeting was reconvened by unanimous consent at 7:08 p.m.

Redevelopment Agency of Provo

9. Resolution 2019-RDA-05-21-1 tentatively adopting a proposed budget for the Redevelopment Agency of Provo City Corporation for the fiscal year beginning July 1, 2019 and ending June 30, 2020. (19-005) ([1:40:20](#))

Motion: An implied motion to approve Resolution 2019-RDA-05-21-1, as currently constituted, has been made by council rule.

Ms. Zarbock explained that the Redevelopment Agency (RDA) would be moved to the new Department of Development Services Fund for FY 2020. There were two RDA funds – tax increment and new development. The RDA proposed budget was \$2,429,132 in expenses across the two funds.

Chair Knecht opened the public hearing. There was no response so the public hearing was closed.

With no board discussion, Chair Knecht called for a vote on the implied motion.

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

The Redevelopment Agency meeting was adjourned and the Stormwater Service District meeting was reconvened at 7:10 p.m. by unanimous consent.

Stormwater Service District

10. Resolution 2019-SSD-05-21-1 tentatively adopting a proposed budget for the Provo City Stormwater Service District for the fiscal year beginning July 1, 2019 and ending June 30, 2020. (19-006) ([1:42:36](#))

Motion: An implied motion to approve Resolution 2019-SSD-05-21-1, as currently constituted, has been made by council rule.

Ms. Zarbock reported the Stormwater Service District proposed budget for FY 2020 was \$5,123,278. This amount included the operating and capital improvement funds.

Chair Harding opened a public hearing. There was no response so the public hearing was closed.

With no board discussion, Chair Harding called for a vote on the implied motion.

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

11. Resolution 2019-SSD-05-21-2 appropriating \$100,000 in the Stormwater Service District for principal payments on Storm Drain Revenue Bonds, applying to fiscal year ending June 30, 2019. (19-062) ([1:45:01](#))

Motion: An implied motion to approve Resolution 2019-SSD-05-21-2, as currently constituted, has been made by council rule.

Jimmy McKnight, Public Works Business Manager, presented. The resolution would amend the current year budget by providing additional funds to make the \$610,000 principle interest on the Storm Drain Revenue Bonds. He noted the last bond payment for this bond would be made in FY 2024.

Chair Harding opened a public hearing. There was no response so the public hearing was closed.

With no council discussion, Chair Harding called for a vote on the implied motion.

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

The Stormwater Service District meeting was adjourned and the Municipal Council meeting was reconvened at 7:15 p.m. by unanimous consent.

Action Agenda

12. Ordinance 2019-24 amending the Zone Map Classification of approximately 1.92 acres of real property, generally located at 442 and 490 South State Street from General Commercial (CG) to High Density Residential (HDR). Maeser Neighborhood. (17-0010R) ([1:47:02](#))

Motion: An implied motion to adopt Ordinance 2019-24, as currently constituted, has been made by council rule.

Dustin Wright, Provo City Planner, stated this item had been heard and continued by the council two weeks ago. He did not have any additional information to give the council.

Bart Coon, representing the developer, stated that one of the primary concerns expressed about the project was the height of the building on State Street. At the time he presented to the neighborhood, he had a building that was 42 feet high. After reviewing his numbers, Mr. Coon determined that a single family home could be up to 42 feet high. With the current zone, he could build a five to seven story building and, if he had underground parking, could go as high as eight to ten stories. He appreciated the concerns of the neighbors but felt that he was building within the proposed zoning requirements. He felt he had made many concessions that would be good for the neighborhood.

Chair Harding invited the neighborhood chair to comment.

Martha Rasmussen, Maeser Neighborhood Vice-Chair, said the council had already heard the citizen's concerns and thanked them and the developer for listening to them.

Sam Oman, Maeser Neighborhood Vice-Chair, expressed the following concerns:

- The proposed development did not fit into the Maeser Neighborhood master plan.
- It would be spot zoning by placing an HDR zone in the middle of a single-family residential area. They would like more continuity with the rest of the neighborhood or have a gradual increase rather than HDR right next to single-family homes.
- Parking was a major concern. If each apartment was rented to three single individuals, there could be three cars per apartment.
- His immediate neighborhood would have almost 2,000 new apartments within the next few years. This type of development was happening all over Provo.
- It would be good for the developer to show similar developments that were successful and provided plenty of parking.
- The height was only part of the concerns. The neighborhood was also concerned with traffic, parking, and encroachment.

Chair Harding invited public comment.

Beth Alligood, Provo, said she had been following the development and gave the developer kudos for working with the neighborhood. The neighborhoods concerns about height were valid. Building up to the HDR density seemed more appropriate.

There were no more public comments.

In response to comments made earlier, Mr. Wright stated the property was located in the General Commercial zone and confirmed that there was no building height limit in that zone. The Maeser Neighborhood Plan showed the area as multi-family use. The council had previously approved an application for a General Plan amendment from Commercial to Residential. The development met the current parking requirements (if the council felt comfortable with those requirements) but did not provide any additional parking. Mr. Wright said there were four story developments in the downtown area and close to campus that were similar to the proposed project. A single family home was just north of the project although it was located in a commercial zone. On the northwest corner, the backyard of a residential home would border the property. The homes across the street were in a residential conservation zone.

Mr. Knecht stated he was not totally comfortable with the parking code. Sometimes it worked and sometimes it did not – there was the theory and then there was the reality. It was good to compare the project to similar developments and try to predict the outcome. Although the developments in downtown and near BYU were in zones with a parking reduction allowance, there was a higher level of confidence in this project.

Mr. Knecht said the neighborhood plan showed this area as higher density and emphasized the importance of long-term stability and owner occupancy. Unfortunately, this project did not add to that goal because they were all apartments (not for sale). There was no way to legislate or require developers to build owner occupied housing. He would prefer a different project but was not sure how to get there. He appreciated that the neighbors were involved and the current project was better than the original proposal.

Mr. Coon was invited to respond to the comments:

- They were requesting HDR but not building to HDR limits of 50 units to the acre. The project was 31.24 units per acre, slightly above the MDR zone requirements.
- The HDR zone allowed them to utilize setback requirements to make the project better.
- The neighborhood asked for ingress and egress off State Street. They went to UDOT with the request and it was granted, with the stipulation that there would be a right in and right out traffic pattern. They had to shrink the property to meet that request.
- They would enter into a development agreement that would limit the height of the any of the buildings to 43 feet.

Mr. Jones said the development agreement had been proffered and a draft was available for the council. He noted the implied motion did not apply because there were two versions of the ordinance in the materials, one that accepted the development agreement, and the second that did not include a development agreement. A motion would need to be made as to which of the two versions would apply to the implied motion.

Mr. Stewart stated he would be voting against the ordinance. He could not reconcile single-family homes next to the development. The development did not add to the long-term stability of the neighborhood.

Chair Harding appreciated the developer working with the neighborhood to find solutions to the concerns. The development would have two story townhomes on the south and west, one three story building on the north that abutted single family homes in a commercial zone, and four story apartments on State Street. He said Provo was a desirable place to live and had housing demands for students, young professionals, families, and retirees. He believed that building more high-density apartments would relieve some of the pressure on our single-family homes rather than turning them into duplexes.

That being said, Mr. Stewart said it would still be a hard sacrifice for the neighbors

Mr. Winterton agreed it was a sacrifice but felt that south State Street was underutilized. He hoped this development would be the beginning of new developments.

Mr. Handley said the current version was much improved from earlier versions, which was a result of conversations with the neighborhood and compromises that had been made. He did not know if it was the perfect project but was inclined to believe that if we did not build these kinds of units we created the temptation for single-family homes to become rentals. He was in support of the project.

Mr. Knecht said the neighborhood plan was an important part of each neighborhood. If the area was designated as MDR, this was probably the best development they could get. Other than being 1.5 units over the MDR requirement the developer had met the mark. He would be voting for this proposal.

Mr. Sewell appreciated the efforts made to address the neighbor's concerns. The height seemed reasonable and was almost the same height as a single family home. The density of 1.5 over MDR was appropriate for south State Street and was in a reasonable location. If he tried to visualize living in that neighborhood, he felt he would prefer the HDR zone and this project rather than leaving it zoned general commercial. He would be voting in support of the zone change.

Motion: Councilor Sewell made a motion to choose the development agreement version of the ordinance (as proffered by the developer) as the implied motion. The motion was seconded by Councilor Handley.

In response to a request from Mr. Handley, Mr. Jones reviewed the height limitations in the development agreement. Section Four of the development agreement limited the development to sixty total units with one three-story building, four two-story units, and one four-story building that would not exceed 44 feet in height. The project would be developed consistent with the site plan. If the zone change was approved without the agreement, the developer could build up to the HDR density.

Chair Harding called for a vote on the motion to make the version with the development agreement the subject of the implied motion.

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

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 6-1 with Councilors Handley, Harding, Knecht, Sewell, Van Buren and Winterton in favor and Councilor Stewart opposed.

13. An ordinance amending the Zone Map Classification to adopt a Supplemental Residential (S) overlay zone in a One-Family Res. (R1.8) zone generally located between 2320 N, approximately 2100 N, 350 E and approximately 250 E. Pleasant View Neighborhood.(PLRZ20190094) ([2:29:25](#))

Chair Harding noted that, during the work meeting, the council voted to continue this item with no date certain. Even though the council would not be voting on the item, a presentation and public comment would be heard.

Dustin Wright, Provo City Planner, stated the applicant had asked for an S overlay in his Pleasant View neighborhood. The majority of the neighborhood already had the S overlay. The overlay would allow accessory apartments in single family homes as long as they were owner occupied and met other requirements. The applicant reported he had support from the majority of the 32 residents in the neighborhood. There were concerns about how the extra parking would affect the neighborhood. The S overlay zone required additional parking for single-family homes to accommodate the additional tenants. Mr. Wright said that, while there were 32 homes in the area, not all of the homes would meet the S overlay requirements. He also reminded the council that there was a proposal to combine the A and S overlays, which the council would hear soon. If approved, it would affect this request.

Mr. Knecht said there had been discussions on how this action would affect the schools, traffic, and parking on 2320 North. One option would be two hour parking Monday thru Friday from 8 a.m. to 4 p.m. It would allow people to go to school activities but discourage long-term parking. He noted that, although the parking problems predated the request, it highlighted the need to do something.

Chair Harding invited the applicant, Kyle Wright, to address the council.

Mr. Wright said they were able to get a majority of the 32 homeowners to agree to have the S overlay applied to their R1.8 zone. Of the 32 homes, 16 dwellings were owner occupied, with 11 of those owners in favor of the S overlay. By applying the S overlay, homeowners could offset their housing costs by renting accessory apartments. More young professionals with families would be able to afford a home.

Mr. Wright knew that parking would be one of the big issues. There were only three homes in his area that were on 2320 North. One of those homes had already received a variance to allow an accessory apartment. Therefore, this action would only be an increase of two homes with accessory apartments. Those two homes would still be required to have adequate off-street parking. He did not feel it would increase the parking problems. They understood that homes qualifying for accessory apartments would have to obtain permits and make sure the homes met current building codes. They just wanted the same rights and increased home values as the surrounding R1.8 communities with an S overlay.

In response to a question from Mr. Handley, Mr. Wright replied that the S overlay would help residents offset their debt service by renting an accessory apartment. With a \$1,500 mortgage, and renting an accessory apartment for \$500, it would be competitive with living in an apartment in Provo. It helped grow equity in the home. It also made the area more stable and desirable.

Mr. Handley said it was not always interpreted that way. Some people felt it made the neighborhood unstable or transient. He was intrigued with the idea that the neighborhood felt it would make it more stable and accessible to young families.

Mr. Knecht noted that one-half of the homes were rentals. If one of the rentals came up for sale, someone could buy it, live there, have an accessory apartment, and lower their housing costs. It made financial sense and might encourage owner occupied homes rather than investor purchases.

Chair Harding invited Paul Evans, Pleasant View Neighborhood Chair, to comment. The majority of homes in the Pleasant View neighborhood were in an S overlay zone. Parking problems with accessory apartments were no worse than single-family homes with children driving. The zoning ordinances allowed the neighborhood to control parking, which required an off-street parking spot for every vehicle maintained at the home. It was just an issue of enforcement of the ordinance. Applying the S overlay to the area in question did not cause any problems for the rest of the neighborhood, except for traffic on 2320 N. When the council was ready to vote Mr. Evans wanted them to consider the following points:

- Try to ensure that homes were owner occupied and did not turn into duplexes.
- There were 21 open cases in Community Development. If approved, the administration needed to commit to making sure the area was compliant.
- For the past three years, there had been no applications to BYU for singles approved accessory apartments in the Pleasant View Neighborhood. It looked like BYU had stopped approving four singles living in an accessory apartment in the surrounding neighborhoods.
- The city needed to consider a rental dwelling license for all accessory apartments.
- Consider how current legal accessory apartments would come into compliance with meeting current building code.

- Consider a crosswalk at the intersection of 2200 N. and 2320 N. to aid in the movement of students/pedestrians going to and from Rock Canyon Elementary and Centennial Middle School.
- Put in traffic calming measures on 2200 N. Widening the road would not solve the problems; it would just make them worse.
- Two hour restricted parking on 2320 N. during school time may not be enough. It might be better to have pick-up and drop-off parking spaces with time limits during school time.

Chair Harding invited public comment.

Mike Sellers, Provo, had lived on 2200 North for 36 years and had seen many changes over the years. The S overlay was intended to recognize community demand for student housing yet protect and enhance family residential zones. He said the proposed area was left out of the original S overlay because the roads were not conducive to more parking. Even with a parking program in place, enforcement would be a problem. As for the affordability of the homes, he said when you make it affordable for one person you have made it less affordable for another. The market should determine affordability.

Ben Jensen, 2150 N. 250 E., purchased his home four years ago. He was a young professional and his wife was a nurse. They were attracted to the area and wanted to offset their debt service. When they moved in, they realized the zoning was not the same as adjacent homes. He spoke with neighbors that lived in the rental homes. Some of them were interested in purchasing the homes and renting out a portion of the home. He could rent out a portion of his home now and, if his family grew, kick out the renters and still stay in the neighborhood.

In response to a question from Mr. Knecht, Mr. Jensen said that neighbors parking on the street was a problem. However, the biggest concerns were people that cut through his neighborhood to beat the light.

Julie Grant, Provo, stated they were renting in Kyle Wright's home. She said Mr. Wright purchased the home believing there was already an S overlay. They loved the area and planned to stay there for three to four more years. It was nice to live close to BYU campus and liked the schools. They wanted to live in the area without having the purchase commitment. She supported the S overlay and felt it supported families. Renting an apartment in some of the older homes would make it more affordable for home improvements. She supported a crosswalk on 2320 N. because it was a dangerous area for children walking to school.

Sherrie Hendricks, 320 E. 2100 N., was in a lease to own home and her landlords were supportive of the change. She agreed there needed to be crosswalks in the area for the students. She noticed there were several open off-street parking spaces so parking was not a problem in her area. Many of the residents assumed the area was zoned the same as the surrounding neighborhoods, with homes advertised as having an accessory apartment when

they were put up for sale. Some of the people have moved out when they realized they could not have an accessory apartment.

Marcel Bowman said he lived on 2100 N. the Garden Villa Apartments were in his backyard, so he lived in a high-density area. He owned a 4200 square foot home and it would benefit him to have the S overlay. There was plenty of parking in front of his home except during football season - they even had trouble getting people to pay for parking in his driveway for the games because they parked on the street.

There were no more public comments.

Chair Harding reminded the council that this item had been continued and invited council discussion.

Mr. Handley said the issues related to safety of children needed to be addressed. He wanted to make sure we made a commitment to have city staff look at the possibility of a crosswalk and come up with a parking program for 2320 N. However, those issues were not part of this proposal and they would not need to be decided before voting on the proposed S overlay.

Mr. Parker indicated Paul Evans would reach out to our parking coordinator to address parking solutions. Safe Route to School, a program defined by state law, gave specific laws and regulations about how we considered school safety issues. They looked at issues such as how many school kids cross, at what times, and prevailing speeds and traffic. The program was designed to make school crossings uniform across the state and it started with the community council at the school. If the crosswalk issue were broader than just during school hours, the city would want to have our engineering staff give us the best alternative for the area.

Mr. Handley noted that the school fields were used for athletic events outside of school hours.

Chair Harding said that eight years ago the PTA and community council made efforts to address the safety concerns in this area. For some reason the process was dragging. The city could get something started until the other process was completed.

Mr. Knecht asked Gary McGinn, Community Development Director, if the S overlay would require residents to bring their basement apartments up to current building codes. Mr. McGinn said no, it was not true. There were some requirements, such as appropriate egress windows in a basement bedroom and smoke detectors, but they would not make the entire home come up to today's building codes.

Mr. Knecht said the state legislature was considering legislation that would allow accessory apartment in all residential R1 zones. Mr. McGinn said neighboring states had passed that type of law. It might come to the state in the future but he had not heard of any concrete proposals.

Mr. Knecht said if we do not enforce the zoning rules then everyone gets upset. What could they do in Mr. Evan's neighborhood to help raise the level of confidence? Mr. McGinn said part of enforcement was full disclosure of the rules in the rental dwelling license. It was an effective tool to educate people and help them understand the rules and come into compliance.

Chair Harding felt accessory apartments could be an important tool for providing stability in neighborhoods. It added the stability at both ends of the life cycle of many owner occupants. Enforcement was the key to any zoning decision. It was a detriment to the neighborhoods when there was little confidence in enforcement. Many homes large enough to house families had become defacto duplexes with neither side large enough for long-term residents.

Chair Harding stated this item would be continued to some future date until a resolution on the proposal to combine the A and S overlay was approved or denied. They were also considering requiring rental dwelling licenses for accessory apartments.

Mr. McGinn stated that rental dwelling licensing fell under Title 6, which did not allow non-conforming rights, and required an owner to come into compliance if they were renting out their property. Owner occupied homes, with the A or S overlay, were not currently required to have a license. He did not see a compelling reason to delay combining the A and S overlay.

14. Ordinance 2019-25 amending the General Plan to add the Utah Transit Authority Station Area Plan to the Downtown Master Plan as an appendix. City-wide impact. (PLGPA20190059) ([3:28:55](#))

Motion: An implied motion to adopt Ordinance 2019-25, as currently constituted, has been made by council rule.

Javin Weaver, Provo City Planner, presented. When the Downtown Master plan was adopted in 2015, the Interim Transit Oriented Development (ITOD) zone was already in existence. Provo City Mountainland Applied Association of Governments collaborated with UTA and various stakeholders to develop the Utah Transit Authority Station Area Plan. The purpose was to ascertain the potential use of land around the Provo FrontRunner station and add that plan to the Downtown Master Plan. They determined that about 900,000 square feet of mixed-use development (including low and high-rise residential units) could occur in the ITOD zone.

Chair Harding invited public comment.

Kevin Leo, Provo native but living in Salt Lake City, worked at UTA. He was glad that Provo was considering integrating the UTA Station Area Plan into the General Plan. He said UTA met with the Franklin neighborhood to present their proposals and talk about what the future might hold.

Mr. Leo responded to questions from the councilors:

- It was important to have a mixture of uses in the area. Different types of housing, like apartments, condominiums, townhomes, and single-family homes would bring a little bit of something for everyone.
- They would build a parking garage to accommodate parking demands. Right now, Provo City was the end of the line for FrontRunner. They wanted to extend FrontRunner south to Payson. If approved, it might reduce the demand for parking in Provo.
- Some units would have space on the bottom levels that could be used for residential or business use. Residents could own a business on the ground level and live above the business in the same building. This was a concept idea they were encouraging the developer to use in the design.

There were no more public comments.

Chair Harding said the Planning Commission heard this item and it met all the requirements for voting on that night. It could be continued at the request of any councilor.

Mr. Knecht had reservations that they were not getting commitments towards condominiums or townhomes.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 6-1 with Councilors Handley, Harding, Sewell, Stewart, Van Buren, and Winterton in favor and Councilor Knecht opposed.

15. Ordinance 2019-26 amending the Zone Map Classification of approximately 31.06 acres of real property, generally located at 178 E 1860 S, from Regional Shopping (SC3) to Health Care Facilities (HCF) and Campus (CMU). East Bay Neighborhood. (PLRZ20180321) (3:39:35)

Motion: An implied motion to adopt Ordinance 2019-26, as currently constituted, has been made by council rule.

Josh Yost, Provo City Planner, presented. The proposal encompassed three parcels –

1. GT Medical Holdings – 22.12 acres for development of the Noorda College of Osteopathic Medicine – to be zoned Health Care Facilities (HCF).
2. TG Development, LLC – 8.94 acres for development of associated apartment housing – to be zoned Campus Mixed Use (CMU).
3. Provo City – 2.11 acres – applicant working with the city to acquire this piece to include in the apartment development.

The planning commission approved a concept plan as part of the rezone applications with a 3-1 vote. The dissenting commissioner cited the location as their reason for voting against the proposal.

Todd Sinks, developer for both the medical school and housing projects, presented. He introduced Curtis Leetham, MHTN Architects, and invited him to give a brief presentation on the conceptual plan for the medical school.

Mr. Leetham said the site for the school of medicine was on a portion of the Provo City golf course. When the conceptual plan was developed, they had to deal with several issues such as wetlands, water conveyance, I-15, the existing golf course, and 1860 South. An environmental analysis was made which determined the prevailing winds and solar patterns so the building could be economically maintained from an energy standpoint. Mr. Leetham reviewed the project diagrams with the councilors.

- The wetlands had to be mitigated on a 2 to 1 ratio.
- The water conveyance that went through the site would be simplified. The new flow would create a natural barrier between the golf course and the campus.
- There would be water features on site, while still maintaining the wetlands.
- Parking would be on the perimeter of the school.
- Pedestrian and bike paths would be built throughout the development.
- Roads in the interior of campus were private and for emergency vehicles only.
- A public transit node was adjacent to the academic building.
- Buildings were east-west orientated to minimize solar heat gain.

The campus would be built in three phases. Phase 1 would be the academic and student center. Phase 2 would be two parking structures. Phase 3 would be two additional buildings, one for research and the second for Rocky Mountain University. Mr. Leetham displayed renderings of the project.

In response to a question from Mr. Handley, Mr. Leetham said the UVX stop was on the north side of the development but they would propose a new stop in the interior of the campus. Mr. Handley said there had been concerns that the development would house many people remote from other areas. However, public transit could be the major connector to shopping, etc.

Mr. Van Buren noted the architectural style was less traditional than originally presented. Dr. John Doherty, Dean of the College, stated the original drawings were a rendering from a college at Virginia Tech. They were trying to transition the educational model from the old traditional classrooms to a model of adult learning with small group interactions. The structure of the building was designed around that new theory, with more individual spaces and contact with the students.

In response to a question from Mr. Van Buren, Mr. Leetham said the academic center was four stories. The first floor would be 16 feet high with levels two, three, and four 14 feet high. The student center, which housed the gymnasium, was just over 30 feet tall.

Chris Huntsman, architect for the residential portion, gave a brief presentation of how the project was being developed.

- The main boulevard ran north to south and would connect to the medical school.

- The buildings on either side of the boulevard had 331 units in one and 401 units in the other.
- Rooftop amenities would be included on both buildings.
- Rooftop solar arrays would be built on both buildings.
- The proposal included a five-story building with studio apartments on the first level and four stories of apartments above.
- A bicycle path would be built throughout the development.
- Entry canopies in the middle of the development would drop down to underground parking for each building.
- Amenities included an atrium, fitness center, pool, open space, pickleball courts, parking areas, barbeque areas, and open space.

In response to questions from Mr. Strachan, Mr. Huntsman stated they were aware of the water table and were working on designs to resolve the water issues. The apartment living was for young families with one, two, or three bedroom apartments.

Chair Harding asked what percentage of the 732 units would be occupied by people having a relationship with the school. Mr. Sinks replied that at first there would be students from BYU and UVU occupying the housing. The osteopathic school would have 750 students and Rocky Mountain University would have 1,000 students. Most of the housing would be reserved for those students after both schools were up and running in about three to four years.

Chair Harding invited public comment. There was no response to the request.

Mr. Stewart said he would love to see this development and wanted it approved as soon as possible. It would change that area of the city.

Mr. Sewell felt this was a wonderful project and thanked them for bringing it to the residents of Provo. He could not think of a better place for a high-density project – right next to a campus, public transit, and the freeway.

Mr. Handley felt it was a great project and was very supportive.

Chair Harding said there was a drastic change in the look and feel from the original presentation. Although he appreciated the thought that had gone into the buildings, he said it was unfortunate that the previous skin had to change so drastically.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

16. An ordinance amending the Zone Map Classification of approximately 7.71 acres of real property, generally located at 1060 East 1320 South from One-Family Residential

(R1.10) to Light Manufacturing (M1). Provo Bay Neighborhood. (PLRZ20190117)
[\(4:11:11\)](#)

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

Dustin Wright, Provo City Planner, presented. The applicant had 7.71 acres that was recently zoned R1.10. He stated the property had gone through recent changes and would like to have it rezoned back to the M1 zone. The proposed rezone did not conform to the neighborhood plan, which showed this area as residential, so staff and the planning commission recommended denial.

There were no questions for the applicant's representative. The neighborhood chair was not present.

Chair Harding invited public comment. There was no response.

Mr. Knecht said there was a lot happening in the southeast part of town. The area was ready to be developed as residential. The direction had been set and the developer would have to follow the lead. Approving the request would be a step in the wrong direction.

Chair Harding called for a vote on the implied motion.

Vote: The motion failed 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton opposed.

17. Ordinance 2019-27 amending the Provo City Code regarding Election Code to better align with Utah State Code and streamline and clarify portions of the code. (19-002)
[\(4:18:14\)](#)

Motion: An implied motion to adopt Ordinance 2019-27, as currently constituted, has been made by council rule.

Brian Jones, Council Attorney, presented. The ordinance streamlined the election code and cleaned up areas that were redundant with state code.

Chair Harding invited public comment. There was no response.

Chair Harding called for a vote on the implied motion.

Vote: The motion was approved 7-0 with Councilors Handley, Harding, Knecht, Sewell, Stewart, Van Buren, and Winterton in favor.

Adjourn

The meeting was adjourned at 9:51 p.m. by unanimous consent.