



PROVO MUNICIPAL COUNCIL Work Meeting Minutes

1:30 PM, Tuesday, November 12, 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, conducting
Council Vice-chair Kay Van Buren
Councilor Gary Winterton
Councilor David Sewell
Councilor David Knecht
Councilor George Stewart
Councilor George Handley
Mayor Michelle Kaufusi

Prayer

The prayer was given by David Rodgers, Council Intern.

Business

1. A discussion regarding voter participation areas. (19-127) ([0:03:53](#))

Brian Jones, Council Attorney, presented on House Bill 119, which amended the State's procedures regarding citizen referendums. Every city is mandated to create "voter participation areas," or compact and contiguous areas throughout a city of substantially equal population. In cities with council districts, a city may use its council districts rather than designate voter participation areas. A decision must be in place by January 1, 2020, and then a review process would take place about every 10 years thereafter. It was the recommendation and intention of Provo City's election officer to move forward using existing Council districts. Councilors shared comments and feedback on the subject. Mr. Jones clarified that the City must either use its council districts or create 8 voter participation areas. Councilors supported using existing Council districts. *Presentation only.*

2. A discussion regarding an amendment to Provo City Code regarding the disposal of certain confiscated guns and a resolution authorizing the Police Department to apply the proceeds of those sales to public interest use. (19-125 and 19-126) ([0:09:08](#))

Lieutenant Joseph Otte, Provo Police Department, presented. Lt. Otte shared updates to the State Law and the implications for the City. The law will not change what the City does substantially. Lt. Otte explained the change to State law and the process the City uses for returning or disposing of firearms. Firearms may be in police custody as a result of investigation, seizure, or lost

property. Depending on the nature of the case, after a designated amount of time, they can sometimes return firearms to the original owners. If they cannot (typically as a result of not being able to find or determine an owner), they can dispose or destroy the firearms. Another option is to sell firearms (through a State bid facility; they work with a wholesaler in Salt Lake City) with the proceeds going to the Police training budget. Councilors asked questions about the process. Doris Grant, Police Evidence and Property Supervisor, explained that some departments choose to destroy all weapons. The Police Department currently has 400 guns in their possession, some dating back to the early 2000s. The holding period depends on the particular case; if there is a warrant on a case, the Department must retain the weapon. Typically, the release process requires that the Police Department submit a petition to the City or County Attorney regarding custody of the gun, after which it is released to the owner. It is a lengthy process; this ordinance amendment is intended to clarify the sales part of the equation. ***Presentation only. This item was already scheduled for the Council Meeting on November 12, 2019.***

3. A discussion regarding affordable housing policy. (19-121) ([0:13:59](#))

Cliff Strachan, Council Executive Director, presented. Mr. Strachan outlined several elements for inclusionary zoning or housing policies:

- applicability threshold (how many units can be built)
- tenure (conditions under which properties are held or occupied)
- set-aside (percentage of homes to include in the policy)
- affordability level (qualifying income level)
- incentives (off-site construction, land dedication, fee in lieu, dedicate existing units, impact fee waivers)
- alternative satisfaction options (other ways for developers to achieve compliance with an inclusionary zoning/housing policy)

Mr. Strachan explained that some municipalities that codified such policies with an ordinance, such as Park City. Provo City officials may want to determine a policy and a different mechanism that meets the City's needs. Councilors shared comments and discussed various policy considerations, including:

- Councilor George Handley suggested that better data was needed regarding non-student populations and housing.
- Councilor David Knecht noted that the Provo City Housing Authority did not look at student housing.
- Councilor Kay Van Buren expressed that he was concerned about comparing Provo to Park City; for a developer to subsidize inclusionary housing, the cost typically had to be provided somewhere—often this results in medium-income families bearing some of the costs when they purchase homes. Mr. Knecht noted that density bonuses can help.
- Councilor David Harding commented on the economic sensitivities and implications of introducing these policies. Mr. Harding felt it was important to ensure that the City has a quality housing stock that serves a broad cross-section of the community. Mr. Harding shared additional thoughts on density limits and market demand.
- Councilor Gary Winterton was hesitant to have the full weight or burden of providing affordable housing placed on new development.
- Mr. Van Buren asked how infrastructure gets built if impact fees are waived for

developers. Mr. Harding suggested that improvements can happen at a slower pace or rates may need to be increased to compensate.

- Councilor George Handley thought that affordable home ownership was a priority, as well as addressing affordable rentals, which were becoming increasingly scarce. Mr. Handley was interested in obtaining more data on rental housing to get a better sense of where shortages were occurring in Provo. He noted that BYU had solid policies in place regarding student housing, but that did not pertain to married student housing or student housing of non-BYU students.
- Mr. Harding noted that some problems may be addressed through form-based code.
- Mr. Van Buren noted that the development in Spring Creek seemed to have identified a viable model for affordable home ownership. Mr. Knecht noted that part of it was the product and partly the profit margin.

Mr. Strachan noted that there were many ways to achieve the policy aims, but first it was critical to identify the desired outcome. Provo already had a great amount of affordable housing, but if the goal were to promote affordable home ownership, the mechanism might look different. Mr. Knecht said that the Housing Committee would have a meeting before the end of the year in which they would present on their progress to the new/incoming Councilors. ***Presentation only.***

4. A discussion regarding the policy direction for the allocation of sewer connections for developments west of I-15. (19-110) ([0:53:02](#))

Brian Jones, Council Attorney, presented. Mr. Jones reviewed the latest version of the policy document, noting the criteria which had been identified for inclusion in city code. Councilors asked questions about the proposed policy:

- Councilor Kay Van Buren asked about an expiration on allocated sewer connections. Mr. Jones indicated that if an allocation was not used within 18 months, it would be rescinded. Bill Peperone, Development Services Director, clarified that this was consistent with the 18-month expiration on a project plan approval, if no progress had been made on the specific project.
- Cliff Strachan, Council Executive Director, explained that multi-family projects would be treated the same; phasing was encouraged for all project types.
- Councilor George Handley noted that the Provo School District bond did not pass; it was unclear if it would be coming back in a future year and in what form. Mr. Strachan noted that it would likely be several years before those projects were ready to operate; even if the bond included a move of Dixon Middle School in a future bond campaign, that would allow some advance time for the City to plan for related infrastructure needs.
- Councilor Dave Knecht asked about the written component southwest area plan. Staff indicated that it would likely be finished the following spring. Mr. Knecht noted that residential was only one component of many land uses identified for the west side.
- Councilor David Harding felt that communication with the development community was critical. He also felt that this particular policy on sewer capacity was only a small portion of the broader discussion on west side development. The Council still had responsibility during the rezone application process. Mr. Jones noted that this was a way to signal the Council's intent to developers regarding what they could expect in the rezone process. It

was also meant to steady the tide of projects on properties already zoned.

- Councilor Gary Winterton indicated that while the Council was not necessarily interested in acceleration steps, he would be open to entertaining a project proposal from a developer if they made a compelling case. Mr. Knecht noted that there were still bottleneck issues with the parallel 36” line which would not be resolved by acceleration.
- Mr. Van Buren that as time goes on, the Council and developers get closer to the point at which the timing of many infrastructure improvements becomes resolved.

Mr. Jones added a subsection to the policy document noting the 18-month expiry/time limit and which included references to the subsequent Planning Commission and Council Meetings.

Presentation only. This item was already scheduled for the Planning Commission on November 13, 2019, and on the Council Meeting on November 19, 2019.

5. A discussion regarding parking permit programs policy. (19-120) ([1:15:30](#))

Councilor David Harding introduced the discussion topic. He felt the Council discussion at the previous Work Meeting had covered most of what he hoped it would. Mr. Harding shared more thoughts about various iterations of permit parking programs in different neighborhoods in Provo. Mr. Harding shared some details on various proposals which were being reviewed by the Downtown Parking and Joaquin Parking Committees; he was interested in hearing resident feedback on how those programs could work. Councilor George Handley shared the impetus for a permit parking program which the Carterville Neighborhood had proposed and which was currently in review. ***Presentation only.***

Policy Items Referred from the Planning Commission

6. An ordinance amending Provo City Code to update Public Works Standards from 2019 standards to 2020. Citywide application. (PLOT20190366) ([1:35:20](#))

David Day, Development Engineering Coordinator, presented. Mr. Day highlighted the changes which were included in this ordinance amendment, including clarification on existing items and more thorough references to Utah Administrative Code. After last year’s extensive update to road cross-sections, there were simply some minor modifications this year. A notable addition was a cross-section detailing placement of gas, power, and communication lines to make the resources more usable for utilities. Councilor David Harding shared positive feedback on the bulb-outs design, as well as appreciation for seeing a digest of all the changes. ***Presentation only. This item was already scheduled for the Council Meeting on November 12, 2019.***

7. An ordinance applying the Supplemental Residential (S) overlay to the One-Family Res. (R1.8) zone for real property generally located between 2320 N and approx. 2100 N, and between 350 E and approx. 250 E. Pleasant View Neighborhood. (PLRZ20190094) ([1:45:10](#))

Dustin Wright, Planner, presented. Mr. Wright outlined the area for the proposal, which included 32 homes in the Pleasant View Neighborhood. The applicant has worked closely with the neighbors and has had support from the neighborhood. The Planning Commission recommended

approval in May. Following that meeting, the item went before the Council, where the item was continued to allow the consolidation and updates of the A and S overlay amendments. Now that the A- and S-overlay proposal has been approved, this item is being brought back to the Council.

Parking was another concern raised by the neighborhood. Parking can be challenging along 2320 North with Centennial Middle School and Rock Canyon Elementary School. Austin Taylor, Parking and Sustainability Coordinator, worked with Public Works to address parking concerns. On-street parking is no longer permitted and there are bike lanes along 2320 North.

Councilor George Stewart asked about the number of area homeowners who felt favorably toward the proposal. Mr. Wright explained that 18 out of 36 households were in favor, with just two that they could reach who were opposed. Many homes have non-resident landlords who live out-of-state; those homes would not be eligible given that owner occupancy is a requirement, but the renters in those homes were supportive of the proposal as it impacted the rest of the neighborhood. Mr. Wright clarified that the 18 homes in support were all owner-occupied; an additional 3 or 4 homes were renters in favor. *Presentation only. This item was already scheduled for the Council Meeting on November 12, 2019.*

Redevelopment Agency

8. A resolution approving the Assignment & Assumption of Parking License Agreement between the RDA and 63 East Investors to Base Camp 63, LLC. (19-123) ([1:51:16](#))

David Walter, Redevelopment Agency Division Director, presented. He explained that as the property at 63 East Center Street has been sold, the new owners have asked for the parking to be transferred to them. The RDA Board would be considering a resolution to allow the Mayor as CEO of the RDA to execute a parking assignment agreement with the new owners.

Councilor David Harding asked about the RDA's involvement with the project. Mr. Walter explained that the RDA had participated through assembling property and providing some funding. Mr. Walter explained the parameters of the original development agreement and parking lease/agreement, which allowed the owners to take this step. This parking arrangement was part of a broader approach to revitalizing downtown and providing a more vibrant atmosphere. Bringing this apartment building of 42 residential units, with commercial development on the ground level, brought more of a population base to downtown. Councilor Gary Winterton echoed that this was one of the first residential projects built in downtown Provo. In reply to a question from Mr. Winterton, Mr. Walter indicated it was for about 40 years. *Presentation only. This item was already scheduled for the Council Meeting on November 12, 2019.*

Business

9. A discussion regarding electronic sign policy. (19-118) ([1:56:49](#))

Brian Jones, Council Attorney, shared a summary of previous research and case law relating to signage, which is generally regarded as commercial speech and protected under the Constitution. Mr. Jones noted several particularities and characteristics of laws which were upheld or struck down by the courts in various states, and how that could impact the policies pursued in Provo.

The Sign Committee had felt it would be important to hold a discussion with the entire Council. Mr. Jones summarized several components the committee wished to discuss. Mr. Jones noted that no other cities use the terminology “churn;” part of the city’s difficulty was in the ambiguity of this term. The industry standard was hold time, or how long an image must remain static before it can be changed. Mr. Jones outlined several of the questions for the Council:

- Should the current low-churn hold time be reduced [from three times per day]?
- Should a hold time be established?
- Should that hold time be less than three times per day?

Mr. Jones noted that several areas the Committee had been weighing were business interests, impact to residents, enforcement, and whether the standard was legally defensible.

Motion: George Stewart moved to amend Provo City Code to allow hold times as low as 8 seconds everywhere in the City. No second was made and the motion was tabled.

The Council held a lengthy discussion on various elements of electronic sign standards. The topics and considerations raised included:

- Light pollution, community aesthetics
- Safety (of drivers, passengers, and pedestrians)
- Hold time duration
 - There was not an agreed-upon recommendation from the committee.
 - Suggestions in the discussion varied from eight seconds to one minute.
 - Staff cited example cities with hold times of 3, 5, 20 minutes, and one hour.
 - Some Councilors felt that a one-minute hold time was legally defensible and an easy standard for enforcement (rather than having different areas with different duration standards, which complicates enforcement). Committee members noted that having hold times longer than one minute created additional complications because the City could not regulate sign content.
 - One citywide standard versus different hold times in different areas.
- Possibility of buffer areas adjacent to residential properties
- Other methods of addressing signage issues that did not hinge on hold times (for instance, the Council could address spacing requirements, quantity of signs, etc.)

Mr. Strachan explained that staff’s goal was to try to help the Council get to a policy. First, the Council needed to decide whether or not the three-times-per-day limitation should be considered for revision, if acceptable solutions could be found for the other concerns. Many issues were interrelated, but if the Council was agreed that they did not want to change from three-times-per-day, the discussion was moot. Mr. Strachan indicated that staff could prepare a survey to take to the public if the Council had a general direction they were comfortable with exploring. Mr. Jones also noted that sometimes consensus was not possible and he asked whether the Council wanted to move forward with a policy decision despite not having consensus. Councilors mentioned throughout the discussion their desire to request feedback from the community on the topic.

Motion: David Knecht moved to direct the committee to have one area for the whole city with a one-minute hold time. Seconded by David Sewell.

Vote: Failed 2:5, with David Harding, Kay Van Buren, George Handley, George Stewart, and Gary Winterton opposed.

Please Note – These minutes have been prepared with a timestamp linking the agenda items to the video discussion. Electronic version of minutes will allow citizens to view discussion held during council meeting.

Councilor David Sewell posed the question of what felt like the longest reasonable citywide hold time. Gary McGinn, Community and Neighborhood Services Director, felt that the one-minute hold time was rational and logical, and that the argument for that was not arbitrary. He was concerned about moving to hold times longer than one minute, as that weakened the arguments.

Motion: George Stewart moved to refer a question to the Committee to consider and evaluate a citywide hold time of one minute or less, and to bring to the Council a proposal of how that would be implemented. Seconded by David Knecht.

Vote: Approved 5:2, with David Harding and George Handley opposed.

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. *None requested.*

Adjournment

Adjourned by unanimous consent.