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PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, January 21, 2020
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 Shannon Ellsworth	Councilor Bill Fillmore
Councilor George Handley	Councilor David Harding
Councilor Travis Hoban	Councilor David Sewell
Councilor David Shipley	Chief Administrative Officer Wayne Parker
Council Attorney Brian Jones	Council Executive Director Cliff Strachan

Conducting: Council Chair George Handley

Excused: Mayor Michelle Kaufusi

Prayer – Hannah Salzal

Pledge of Allegiance – Kylee Hall

Presentations, Proclamations, and Awards

Chair Handley thanked Kyle Hanson, Provo City Information Systems, for his weekend repair to the sound system in the council chambers.

1. A presentation on the 2020 Census (20-028) [0:13:32](#)

Dixon Holmes, Deputy CAO, presented information on the 2020 U.S. Census. Beginning on April 1, 2020, anyone with access to a computer will be able to take part in the census. All residents (including students) were encouraged to complete the form online. In order to bridge the technology gap or language barriers, the census would also be mailed to all residents. If you do not fill out the form, the Census Bureau will send someone out to your residence.

Javin Weaver, Provo City Planner, gave a presentation providing an overview of the history of the census. The information gathered impacts our daily lives. Responses to the survey are

confidential, even from government entities like ICE. Responses should be based upon their residential address as of April 1, 2020. Students should not have parents report them.

Action Agenda

Approval of Minutes

The following minutes were approved by unanimous consent:

October 29, 2019 Council Meeting
November 19, 2019 Board of Canvassers Meeting
November 19, 2019 Council Meeting
December 10, 2019 Council Meeting

Public Comment [0:21:07](#)

Chair Handley opened public comment. There was no response.

2. **Public Works Dept. requests a General Plan Amendment to correct language in Area 5 of the Annexation Policy Map. North Timpview Neighborhood. PLGPA20190410** [0:22:50](#)

Motion: An implied motion to adopt Ordinance 2020-1, as currently constituted, has been made by council rule.

Austin Taylor, Provo City Parking and Sustainability Coordinator, presented. Provo City's annexation policy included six areas for possible annexation. The policy specified an elevation limit of 5,200 feet in order to provide adequate water services. This policy would affect areas five and six, which were in northeast Provo. If a proposal were made to develop land above an elevation of 5,200 feet, the city would have to make major changes to its infrastructure. He invited Shane Jones, Provo City Public Works Engineer IV, to present.

Mr. Jones stated there were several water pressure zones in Provo City. The intermediate pressure zone serviced most of the area extending north of Canyon Road. Annexation zone five, in northeast Provo, was bound on the west and south by existing Provo City limits and on the east by the national forest. The existing water pressure serving that zone could only provide service to a development up to 4,876 feet. The current code stated developers could build up to 5,200 feet. The code was misleading and needed to be clarified.

In response to a question from Mr. Sewell, Mr. Jones replied that the change would not impact any developers. For the past several years, they have been telling developers that they could only build up to 4,876 feet. Canyon Farms, a development recently approved in that area, was limited to the 4,876 feet elevation. They split their development into two phases in order to stay below that elevation.

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

Mr. Harding noted that the Planning Commission recommended approval for areas five and six. He asked Mr. Jones why the proposal was only for area five. Mr. Jones explained that area six was east of area five. While a 4,876-foot elevation ran right through area five, anything east of that area was well above the 4,876-foot elevation. Therefore, the city did not feel like it was relevant because we could not provide adequate service to area six.

In response to Ms. Ellsworth, Mr. Jones stated that a small portion of area six, located in Provo Canyon, was far removed from any infrastructure we had in the area.

Brian Jones, council attorney, clarified that annexation language concerning area six indicated that development in the area was not a possibility.

Chair Handley called for a vote on the implied motion.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Harding, Hoban, Sewell and Shipley in favor.

3. Community & Neighborhood Dept. requests Ordinance Text Amendments to amend permitted uses in the Neighborhood (SC1), the Community (SC2), and the Regional (SC3) Shopping Center Zones. Citywide application. PLOTA20190429 [0:31:36](#)

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

Javin Weaver, Provo City Planner, presented. Within the SC3 zones (Shopping Centers), we have permitted uses categorized by the standard land use code – a universal code that designates a number to specific uses. Under permitted uses there was a subsection called conditional uses. Staff felt the need to review the conditional uses and determine if they should be shifted to permitted uses. This would help streamline the process for people that would like to do business in Provo.

Staff also wanted to move some of the permitted uses into a broader range. For instance, a dental office, with a permitted code of 6513, would be changed to the 6500 code, professional office. This allowed more uses that were of a like nature within their zones.

Mr. Harding said he had several questions and, if continued, would meet with staff to get answers. He noted that this ordinance did not add new uses to the zone, but streamlined the permitted uses.

Chair Handley opened public comment. There was no response.

Councilors felt they needed more time to study the proposal. This item was continued to the next meeting.

4. Courtyard at Jamestown, LLC, requests an Ordinance Text Amendment to the Professional Office Zone (Section 14.16.120). Citywide application. PLOTA20190432
[0:39:36](#)

Motion: An implied motion to adopt Ordinance 2020-2, as currently constituted, has been made by council rule.

Brandon Larsen, Provo City Planner, presented. The applicant had received approval from the Planning Commission for expansion of his assisted living facility at the Courtyard at Jamestown. They began the building permit process and found there was an issue with the title on a portion of the land that was included in the expansion project. If the land in question were removed from the project, it would have about 35 percent lot coverage, exceeding the 30 percent lot coverage allowed in the Professional Office (PO) zone.

The applicant had proposed an amendment that would allow the Development Services Director to vary the permissible lot coverage by up to five percent if the property was adjacent to a public amenity (such as a park or trail). After working with the Planning Commission, staff was supportive of simply changing the lot coverage requirement in the PO zone from 30 percent to 35 percent. The amendment would apply citywide, not just for this development.

Chair Handley invited public comment. There was no response.

Mr. Harding said the original proposal would be applied citywide, but only for those PO zones that were adjacent to public amenities. Now they were to the point where the increased lot coverage would apply to any PO zone throughout the city. If the increase from 30 to 35 percent gave more flexibility to the property owners, why not increase the lot coverage to 40 or 45 percent. Was the increase to 35 percent just reacting to what the current developer needed because of a title conflict? Was this change in the best interest of the community for all of the areas that were affected?

Mr. Fillmore felt the increase from 30 to 35 percent was a reasonable change. He asked Mr. Larsen if they had considered different numbers or was it the Planning Commission that put forth that number.

Mr. Larsen stated that the Planning Commission recommended 35 percent. Earlier in the day, he looked at the General Commercial (CG) zone, which also allowed for professional offices, and found there was no block coverage requirement in that zone. Based on the CG zone, they could bump it up more. He noted that the objective of the PO zone was to create something different from the CG zone. The lot requirement gave a more open feel to developments in the PO zone.

Chair Handley asked if any councilor desired to consider this item at a future council meeting. Seeing no requests, he called for a vote on the implied motion.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Harding, Hoban, Sewell, and Shipley in favor.

5. Quinn Peterson, Downtown Neighborhood Chair, requests an ordinance amendment to allow approval of restaurants with ancillary microbrewing as a permitted use in the SC3, DT1, and DT2 zones. Citywide application. PLOTA20190378 [0:49:36](#)

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

Aaron Ardmore, Provo City Planner, provided an overview of the application. Staff supported the proposal – they felt it was not much different from what was currently available in a restaurant. The Planning Commission also recommended approval.

Quinn Peterson, Downtown Neighborhood Chair, presented. He stated that downtown Provo was unique with many historical buildings on the National Historic Registry. About 15 years ago, downtown Provo was becoming vacant and filling up with bars and pawnshops. The council took steps at that time put a stop to type of development and try to preserve the downtown buildings. Since that time, the downtown has changed drastically and we are filling up the vacancies. We are now fortunate to have 78 different eating establishments downtown, which offered a variety of food.

Mr. Peterson said the Utah Valley Convention Center, in downtown Provo, was a big economic driver of businesses downtown. He helped work with different groups interested in using the convention center. When he took them to lunch, they were surprised at how much Provo had to offer. However, he stated the number one reason they do not choose the convention center was the lack of adequate alcohol establishments. The current bars in downtown Provo were a relic of 15 years ago. There had been many changes in the industry since that time and brews pubs were one of the changes.

Mr. Peterson said they had 15 restaurants in downtown Provo that currently have alcohol licenses. The license required that 70 percent of sales needed to be generated from food with 30 percent from alcohol.

Mr. Hoban asked about the enforceability of the 70/30 percent rule. Mr. Peterson said an annual audit was performed on each business.

Hannah Salzl, Provo Council staff, stated that the Utah Department of Alcoholic Beverage Control (DABC) audited restaurants that sold alcohol periodically. The business had to provide receipts that proved they had a 70/30 split. They also had to show they were meeting requirements when they applied for their annual business license. She also noted that detailed background checks were performed anyone that tried to open a business selling alcohol.

Mr. Harding asked about the licensing process. He initially understood that amending the land use ordinance would allow this ancillary use. Mr. Peterson confirmed that the business would also need a beer license in order to sell alcohol.

Brian Jones, council attorney, stated that the mayor's office and legal had been working on amendments to the current license that would allow an establishment with ancillary brewing. In addition to a local license, the business would also have to get a state license. The state code required that local consent be obtained from the governing body. A section of Provo City code delegated that authority to the mayor.

In response to a question from Ms. Ellsworth, Mr. Peterson stated he did not do any research into comparable businesses in Lehi and Springville. Several people in the Economic Development Department did the research, which was part of the two years studying this issue.

In response to a question from Mr. Fillmore, Ms. Salzl said the DABC audit was random and was not sure how frequently they perform the audit. She confirmed that the establishment had to prove they were meeting the requirements when they applied for their annual license from the city. The Department of Public Safety also sent undercover officers to various establishments to make sure they were not serving to minors or breaking any other laws.

Mr. Peterson said he was told that the DABC performed an annual financial audit as part of the license renewal, in addition to having undercover officers perform spot audits.

Chair Handley felt there was a contradiction in that this was going to meet the demand for more alcohol served in the city but it was not any different from a restaurant serving alcohol. This implied that there would be more alcohol sales than would normally be met in a restaurant.

Mr. Peterson replied that many people wanted to have a good drinking experience and to be social with family or professionals with a meal included. He said you could have a unique drinking experience in a brewpub that you could not have in a standard restaurant. People might go to Lehi or Springville where they could experience a local brew.

Chair Handley opened public comment. In order to hear from as many people as possible, the time limit per comment was two minutes. He asked the public to be mindful of the time.

David Acheson, Wasatch Neighborhood, said there were two schools of thought in his neighborhood. Some felt that microbreweries would be good for business and tourism. Others felt this would allow the brewery to export beer to other cities claiming it was a separate business entity from the restaurant.

Mr. Harding stated that the proposal did not allow for any host sale of alcohol. The current proposal stated that all alcohol brewed on site would have to be consumed on-site.

Mr. Sewell clarified that state law allowed outside sales so it would have to be a city ordinance that prevented it. Most cities in Utah with brewpubs allow wholesaling.

Blue Adam, owner of Black Sheep Café in downtown Provo, supported the brewpub. From a culinary standpoint, it was an opportunity to showcase their product and offer a unique locally brewed product.

Steve Christensen said that Joe Raker, President of Explore Utah Valley, said that brewpubs and microbreweries were one of the hottest destinations and drove people to a community. Mr. Christensen said what that means is that for Provo to be unique, we had to be just like everyone else. We need to do better marketing if alcohol is the number one reason why people do not come to Provo.

Sage Pierson, Joaquin neighborhood, loved living in Provo and being able to walk to a restaurant downtown and have a glass of wine with her dinner. She and her family of five will now eat at Strap Tank or some other kind of brewpub at least once per month, even though it is more expensive. She wanted to find more options in Provo and have Provo benefit from her spending.

Steven Clark, tree streets neighborhood, did not think microbreweries would help Provo's economic development and add a lot of money to the city's revenues. The council needed to look at the big picture with economic development. The mall was only one-half full, Dillard's was leaving, and our strip malls were half-empty. Provo was in trouble as far as retail revenues. The council needed put more money into economic development instead of spending time in microbreweries.

McKay Lenker lived in downtown Provo and was a teacher in Provo. She loved the downtown so much she was called the Queen of Downtown Provo. She felt we should welcome a new type of people into our downtown and a brewpub would bring something new to the community.

Diane Christensen, Provo, said that a drunk driver killed her brother 40 years ago. This issue had not yet been addressed. She felt there was a difference between having a glass of alcohol with your food and going to a place to experience the alcohol and the food was ancillary. She hoped the council would consider the safety aspect of this decision.

Chad Prichard, owned Oregano's in Provo, and was planning to open a new restaurant in downtown Provo. It would not be a microbrewery but felt there was a place in Provo for one. He served on the board of Explore Utah Valley, and said that conventions come into Provo and leave because there was no place like a brewery for them to eat. During the legislative session last year at Capitol Hill, they said the safest place to drink was a microbrewery because food had to be served with the alcohol.

Chris Kendrick, tree streets, came to Provo in 1989. Provo has changed since he was a student. His wife Kortney had been instrumental in some of the downtown growth, including starting the rooftop concerts. He supported the microbrewery. Why not build a place where families can go and have a good experience.

Matt Beatty, Provo, said he had always wanted to leave Provo but was now a Provo apologist. He loved living near the river and the canyon. He said the difference between a restaurant and a brewpub was the craft beer, something that was brewed locally. He felt there was a lot of value to offering something brewed locally with a distinct flavor named after a local landmark.

Kay Van Buren, Provo, started with a quote from Norm Thurston with the state legislature. Mr. Thurston said, "The current fad of brewpubs had only one objective, to make the consumption of beer and alcohol more appealing." Mr. Van Buren asked at what cost would this have in Provo. Provo's City Vision Plan 2030 included objectives that encouraged fostering a healthy lifestyle, promote drug free lifestyles, and reduce the number of fatalities and injuries from traffic accidents. National attention has been dominated by opioid additions, which claimed roughly 42,000 lives in 2016. During that same year, alcohol killed roughly 88,000, more than double opioid deaths. He encouraged the council to vote against the ordinance that night. A few dollars in tax revenue was not worth the damage and destruction caused by alcohol consumption and abuse.

Sherry Spencer, Provo, has lived in the Maeser neighborhood since 1992. Microbreweries were just something to make Provo trendy. If you want to take something home from a city you visit, you want to make it something unique to that city. Brigham Young University (BYU) has been nationally recognized as the most stone cold school in the nation. We do not have to be like everyone else. She said the reason many people do not live in Provo was because of housing issues.

Janelle Aslett, Provo, was supportive of a brewpub. When she entertained for work she had to go to Salt Lake City or Park City because there was not anywhere in Provo to take them. She agreed that Provo was unique but did not feel that strip malls would not increase revenue for Provo. We need other things to draw people to Provo.

Lacy Rogers, Provo, worked in the residential treatment center industry. Many of the behaviors they dealt with included drug and alcohol additions. It was her professional and personal opinion that a brewpub would not be perpetuating addiction within our community. She felt it would provide a wholesome family experience.

Cindy Richards, Provo, lived downtown Provo for 40 years. When she served on the council for 12 years, she was told that legislation and laws should be based on the public good. Statistics showed that one-third of crime in the city occurred within blocks of the Provo City Center Temple. Security issues in the downtown area involved addiction and homelessness. She did not see enough public good compared to the risks.

Jared Nisonger, Provo, felt there had been some false equivalencies presented. Not everyone that goes to a brewpub would be an alcoholic. These are responsible adults at a place that serves beer. A strange loophole excluded breweries. If a business can serve it from a liquor store, why can't they make it themselves?

George Stewart, Provo, asked why they would put a brewery in downtown Provo just to increase the sale and consumption of beer. People will come here from other places to drink beer so it would also increase the transportation risks. Vaping had become a problem in our society. It became more popular, and increased the usage, when flavor was added. Specialty beers would increase the amount of beer served, causing more DUI's and accidents.

Gary Winterton, Provo, said they worked hard to get the Utah Valley Convention Center. We implied that we would do what we could to make people feel welcome and experience what Provo was all about. We are also increasing the size of our airport and inviting people to come to Provo. Mr. Clark recognized something to encourage economic development. It probably would not make much of a difference, but it might create an atmosphere of attracting business.

Dave Knecht, Provo, could see both sides of the issue. Years ago, when Mayor Stewart closed the pool on Sunday, it was considered the community standard. Things have changed. You could put it to the public and see how they feel. If we take family to a place like this, some would think that alcohol was a fun family thing. Was Provo ready to be like every other city? He was not sure.

Scott Glenn, Pleasant Grove, was a business owner in Provo. He was not a drinker but he supported the legislation.

Noah Kershnik, Provo, supported this. He did not see any drinking in high school or college because people needed to hide it. People that hide drinking are alcoholics. He felt the culture in Utah County was that people had to hide their drinking. A clean atmosphere with responsible consumption was important.

Russ Evans, Provo, left Provo for a while because he said the culture was not always embracing. He owned two businesses in Provo. When people came in and asked where to get a drink there was a negative connotation. Breweries owners were craftsmen and provided better food products. San Diego was a bedrock of breweries and there were never drunk people. A brewpub was a way to have a family experience and not make it appear as if everyone had to drink.

Jordan Crandall, Provo, said there were already bars in Provo. The type of people who go to a brewery are not the type to get drunk - they would like to separate themselves from the bar culture. A brewery would be a better place to have a drinking experience.

Dean Chessman, Provo, said he was the founder of the Buzzards and Bees Music Festival, held in Provo. He was a former Qualtrics employee and was familiar with the Provo tech community. He loved to support local business and expressed his support for a brewpub.

Scott Bowles, Provo, noted this was a land use ordinance. A land use designation would never change who Provo was. Provo was the people. We can have differences and still come together. A brewpub was not going to change who we are.

Chair Handley closed public comment and invited council discussion. [2:11:08](#)

Ms. Ellsworth said this was a land use item, which would allow alcohol manufacturing on site rather than importing. It would have similar restrictions as other restaurants in that total alcohol sales could not exceed 30 percent of total revenue. There were 15 restaurants in the downtown area selling alcohol with those restrictions. We could have other restaurants that are coming in with alcohol sales. The only difference is that they are not manufacturing it on-site.

Wayne Parker, Provo City CAO, agreed this was a land use discussion. Would we permit a place that could serve beer today, as opposed to brewing on site, in these zones? The ordinance would only apply to the DT1, DT2, and SC3 zone, which included downtown Provo, the Provo City Centre Mall, Riverwoods, and a portion of The Mix. He noted that the council had yet to consider licensing issues, which would include limiting quantities brewed on site and restricting use to onsite consumption. From an administrative perspective, this had been considered for a long time. The action was a result of an application from DPI, which is a private, non-profit entity. We have the responsibility to consider this fairly.

Mr. Sewell shared a graph representing several scenarios showing how the per capita alcohol consumption rate could differ if we allowed local manufacturing. If a brewpub would not make a difference there would be no reason to deny the request. The concern is what would be the long-term effect of alcohol consumption in the city? Health and safety was his responsibility and, if this increased alcohol consumption, it could result in more accidents, deaths, etc. He felt that some people could be negatively affected by this. He could not support the legislation. A primary advantage would be a social benefit, providing a place for people to socialize. According to the Center for Disease Control, there was a cost to society related to alcohol consumption that would reduce any economic benefits for a city.

Mr. Harding said we already have 15 restaurants in downtown Provo with liquor licenses. The only difference with a brewpub was that beer could be manufactured onsite. He had a hard time seeing a negative impact to the community because of this decision. He was not sure that a brewpub would make drinking more appealing. Mr. Harding reviewed some of the data driven consequences of alcohol consumption and asked if this was a safer alternative. Those statistics show the harmful abuse of alcohol. Was a brewpub a safer alternative? Because a brewpub was similar to a restaurant serving alcohol, he was inclined to approve the proposal. In terms of the costs to the community, that was something that could be regulated by licensing (which would include restaurants also). He said if we elevate the quality of establishments by quantity, we might have better health outcomes and create an environment that has the benefits of pubs.

Chair Handley said this was a difficult decision and could talk himself into either position. Initially it is not a big distinction; it was just a matter of where the alcohol was produced. The goal was to meet a higher demand than they were currently meeting. They could settle the land use question first but take good look into the licensing restrictions. He had an alcoholic friend that spent time in Provo. The friend said he was healed by the sobriety of the community. A brewpub would not instantly change that, but it was an important quality to the community that he did not want to lose. He would like more time to discuss some of the ideas being presented and to help him understand a little bit more. He also wanted the public to get a clearer understanding of the proposal and possible ramifications.

Mr. Fillmore said it was possible for good and honest people to disagree. He did not think we wanted to be like every other place. There were serious health and safety issues that merited consideration. Alcohol was a drug that generated problems that spilled over to other people. It would be jarring for Provo to be known for home brews. However, there had been good points made about welcoming visitors. He would like to study the issue more, preferably with more hard data and polling data to see where the citizens stood on this issue.

Chair Handley noted that, at a councilor's request, a land use item could be continued for two weeks. He suggested continuing this item to the February 18, 2020 council meeting. That would give them time to obtain more information and to poll the citizens. The poll, with council approved questions, could be up and running for two to three weeks and then the item brought back to the council for discussion. That would also give them time to revisit with Mr. Peterson about the business perspective, gather more data from other cities with brewpubs, and explore some ideas about licensing.

Motion: Chair Handley made a motion to continue this item to the February 18, 2020 council meeting. The motion was seconded by Councilor (inaudible).

Mr. Sewell responded to the difference between a restaurant and brewpub. While a restaurant sells alcohol, a brewpub owner with a vested interest was motivated to market and advertise alcohol. They would need to sell more in order to recoup their investment.

Mr. Sewell said the vast majority of problems came from problem, or binge, drinking. However, even with social drinking there is a risk if you are drinking and driving. Especially since the blood alcohol legal limit in Utah was reduced to 0.05 percent. Mr. Sewell shared a graph showing the number of drinks it took by body weight to reach the legal limit. For the majority it was two drinks. Anything we do to make drinking more appealing will be a detriment to the health and safety of the residents.

Mr. Hoban said there were seven gourmet cookie shops in Provo and cardiovascular disease was a major cause of death in the United States. He did not want to close down businesses because they serve alcohol. They have to balance economic development and safety and sometimes they had to take calculated risks. We needed to provide certain accommodations for tourists and accommodate those outside of the traditional culture of Provo. This was not a

strip club or a bar. We do not want to send the message that we are not open to business. People who visit Provo want this and, if not provided, they will go somewhere else.

With no further council discussion, Chair Handley called for a vote on the motion to continue this item until the February 28, 2020 council meeting.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Harding, Hoban, Sewell, and Shipley in favor.

6. *****CONTINUED*** The Community and Neighborhoods Department requests on Ordinance Text Amendment to remove the R2.5, R3, R4, R5 and Campus High Density Residential zones from the city code. PLOTA20190428**
7. *****CONTINUED*** Comm. & Neighborhoods Dept. requests zone changes to all properties zoned R2.5, R3, R4 to Low Density Residential, Medium Density Residential or High Density Residential so the former zones may be removed the city code. PLRZ20190427**

Adjourn

The meeting was adjourned by unanimous consent at 8:25 p.m.