

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



PROVO MUNICIPAL COUNCIL

Regular Meeting Minutes

5:30 PM, Tuesday, March 31, 2020

Room 200, Municipal Council Chambers

Electronic meeting: <https://www.youtube.com/user/provocitycouncil>

This meeting was conducted entirely via electronic means. Due to the risks of public gatherings associated with the spread of COVID-19, Governor Gary Herbert waived the anchor location and other requirements for public meetings/noticing, as outlined in Executive Order 2020-05.

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

Mayor Michelle Kaufusi

Chief Administrative Officer Wayne Parker

Council Attorney Brian Jones

Council Executive Director Cliff Strachan

Conducting: Council Chair George Handley

Prayer

Travis Hoban

Pledge of Allegiance

Dixon Holmes

Presentations, Proclamations, and Awards (0:11:24)

Chair Handley wished Elizabeth VanDerwerken, Executive Office Assistant, a very happy birthday. She was invaluable to the Council.

Mayor Kaufusi said these were unique times with COVID-19 and the recent earthquake. She shared her appreciation for Council, Staff, and the Provo City Citizens. People were working hard to make sure services were up and functioning.

At the time, there had been 2,513 tests with 887 positive tests, 73 hospitalizations and five deaths. In Utah County specifically there were 71 cases, one of those was a visitor. The City's website had been updated with information about COVID-19 and the City's plan going forward.

Mayor Kaufusi said it was important to remain calm but practice common sense. She called on citizens to be a positive influence in the community and help where possible. Provo would come out of this better and stronger.

Chair Handley was grateful to Mayor Kaufusi and the City's Public Safety Staff. There were many people not only in the City, but the health industry too, who would be making sacrifices to respond to the pandemic. Council Staff had been integral in setting up the virtual meeting and making the meeting possible. This was a caring community that knew how to take care of the most vulnerable. Those who were already struggling economically and socially before the pandemic would be hit hardest by this. As a Council, they remain committed to be responsive to any concerns. The Council needed to hear the voices of the community.

1. 2020 Census Complete Count presentation. (20-028)

Javin Weaver, Planner, provide an update on the 2020 US Census. Using the website, www.2020census.gov, he demonstrated how someone would participate in the census online. He noted that any students who have returned home due to COVID-19 should report where they would have been living prior to the pandemic.

Consent Agenda

January 21, 2020 Council Meeting Minutes ([0:18:43](#))

The January 21, 2020 Council Meeting Minutes were approved by unanimous consent.

Public Comment ([0:26:28](#))

Clifford Strachan, Executive Council Director, explained the process for providing public comment in the electronic meeting. Instructions were displayed for the public that included the phone numbers, a meeting ID, and participant information.

Chair Handley opened public comment and waited several minutes but there were no comments from the public. He closed public comment.

Action Agenda

2. Resolution 2020-10 to amend the Planning Commission bylaws to permit electronic public hearings. Citywide application. (PLOT20200095) ([0:33:20](#))

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

Aaron Ardmore, Provo City Planner, presented. He said this was a continuation of the Governor's Executive Order to allow electronic meetings considering COVID-19. The text change was displayed for review.

Chair Handley opened public comment. There was no response.

Chair Handley called for a vote on the implied motion.

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

3. Resolution 2020-11 appropriating \$2,184,800 in the general CIP fund for the implementation of a Human Capital Management System and authorizing an interfund loan from the Energy Fund to the ERP Debt Service Fund as a funding source. (20-062) (0:37:43)

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

John Borget, Director of Administrative Services, was joined by Daniel Softley, Division Director of Human Resources. Mr. Softley spoke about the timing of implementing a Human Capital Management System (HCMS) during a pandemic, which would require the system to be implemented remotely. The preferred vendor, Workday, typically provided onsite implementations but had confirmed they were confident in their ability to implement a system remotely and deliver on time. Mr. Softley said the events of the last few weeks had strengthened his belief in the need for a cloud-based product that would allow functions to be performed remotely by logging into secure website. Workday had an online collaboration product which would be extremely useful in times like these.

Mr. Borget explained the Administration was recommending the appropriation of \$2,184,800 in the General CIP fund for the implementation of a HCMS and the approval of a five-year interfund loan from Energy to the ERP Debt Service Fund to provide the funding. The interest rate on the interfund loan Would be 2.5 percent and an annual transfer from the following funds would provide the annual funding:

General Fund	\$235,136
Water fund	\$49,587
Wastewater	\$31,110
Sanitation	\$21,892
Storm Drain	\$14,979
Energy	<u>\$117,568</u>
	\$470,272

Mr. Borget explained some of the risks involved with the project, this included a decrease in sales tax due to a potential recession as a result of COVID-19. Another consideration was the closure of various city facilities, including the Library and Rec Center. The total estimated impact of having certain city facilities closed for up to four months would have a total impact of \$1,429,517. Staff was looking at ways to offset expenses for these facilities. Mr. Borget said this would be a very difficult year to balance the budget; it would be balanced, but not without difficulty. There would not be money available for supplemental requests and reductions would need to be made to fund those that were dire.

Mr. Borget made it very clear that that funding these implementation costs, especially in this first year with COVID-19, would be difficult. Reductions in other areas would be necessary.

Councilor Harding appreciated the difficulty of the current situation and the challenge of planning for the future with so much uncertainty. He encouraged the City to carefully consider opportunities that

might be available to help small businesses in the community during this difficult time. Mr. Borget said they were carefully watching for reimbursement opportunities that might be available through FEMA or other sources for the losses endured.

Councilor Hoban agreed the City was in good hands with the balance of emergency funds available, he thanked Mr. Borget for the good work managing these funds. He asked what programs might be cut and whether any reductions in staffing would be necessary. Mr. Borget said the management team had been discussing this; it was important to retain employees and reach objectives.

Chair Handley opened public comment. There was no response.

Councilor Harding knew these were difficult and uncertain times, but the need for a new system was not going away. It made sense to move to a more robust solution. The City was well positioned with the funds that were available. He was comfortable moving forward.

Councilor Fillmore confirmed whether Mr. Borget would support this with or without the current pandemic. Mr. Borget said he was fully supportive, but he wanted to be very clear that it was a difficult economic climate and future appropriations might be necessary to cover payments.

Councilor Ellsworth moved to adopt the resolution appropriating \$2,184,800 in the general CIP fund for the implementation of a Human Capital Management System and authorizing an interfund loan from the Energy Fund to the ERP Debt Service Fund as a funding source.

Councilor Hoban asked Mr. Borget what the cost was to maintain the current system. He recognized that over time it would cost more to maintain the current system, but he wondered if it would be prudent to postpone this for a year until the economic climate was stable.

Mr. Borget said the current system was unsupported and it was being maintained by a third-party consultant. He thought Josh Ihrig would say that if the system ever failed there was a possibility it would be unfixable. It was possible they could stay on the system for a year, but it was risky and not his recommendation. Mr. Borget said if they stayed on the current system it would require an upgrade which would be more expensive than implementing Workday.

Mr. Softley echoed Mr. Borget's comments. He said the annual cost to support the current system is the same as the new system. Staying on the current system would necessitate an upgrade. His team started looking to move off the current system back in 2010 but they instead decided to supplement the system with third-party systems which was no longer sufficient. In 2015 they began the task of looking for a new system because the current system was sunsetting. He said this decision would serve the short- and long-term needs of the system.

Mr. Sewell seconded Ms. Ellsworth's motion. He noted a motion was not necessary because there was an implied motion, but there was no harm in going forward with the motion. There was no difference between Ms. Ellsworth's motion and the implied motion.

Chair Handley called for a vote on the motion.

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

4. An ordinance amending the zone map classification of approximately 0.34 acres of real property, generally located at 164 s 400 w, from Residential Conservation (RC) to Low Density Residential (LDR). Franklin Neighborhood. (PLRZ20200041) ([1:07:58](#))

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

Aaron Ardmore, Provo City Planner, presented. An aerial map was displayed, and he showed the property was near City Hall. The land was currently occupied by a delapidated home. If approved, this change would allow three homes to be built on the property. One of the units would face the street and the other two units would be behind the first home with a shared drive. Off-street parking standards were being met for the LDR zone with three spaces per unit, plus some. A concept design of the homes was shown. Open space would be shared between the three homes with an HOA.

Mr. Ardmore reviewed some of the questions and issues that had been brought forth since the Planning Commission meeting. Some of the concern had to do with the format of the Planning Commission meeting because it was held electronically due to COVID-19. He assured Council all the proper procedures and guidelines had been followed. A sign had been placed in front of the home and postcards had been sent to the neighbors within 500 feet, this was the standard process.

Another concern was the Neighborhood Plan and General Plan were not fully recognized; these plans are a vision of what the neighborhood wanted to see. Mr. Ardmore was aware of the recommendation for this block, but as staff reviewed the plan, they determined this proposal provided more diverse and affordable housing options. This was an oversized property and the proposed plan allowed for the land to be fully utilized and provide additional housing. The property's adjacency to downtown was also a contributing factor to the recommendation for approval. They felt the housing was congruent with the neighborhood. Both Staff and the Planning Commission were recommending approval.

Mr. Handley thought the plan was well done. There was some concern the proposal was not in harmony with the Neighborhood Plan, he asked for additional clarification on this concern. Mr. Ardmore said the Neighborhood Future Land Use Plan showed this block as R1.6, which was similar to this request. In the past staff had recommended LDR as a buffer from the downtown areas to the neighborhoods. Mr. Ardmore thought this was very similar to R1.6 and staff felt the additional unit was congruent with the plan's recommendation.

Chair Handley invited the applicant to speak and asked how large the units were. The applicant, Rob Slater, said the units were about 2100 to 2200 square feet. Mr. Slater owned a 115-year-old home next to the subject property, they had completely remodeled the home and would have a very vested interest in the development. Mr. Slater was involved in various city committees and initiatives. He said there had been rumors that he had misrepresented the project. They followed every step and requirement, there was a neighborhood meeting, but no one came.

Chair Handley opened public comment.

Matt Taylor, Provo, told Council there had been extensive public input on the Franklin Neighborhood Plan. The area where it was proposed to be LDR was an issue of several council meetings before it was removed. He assured council this was not just a random or last-minute change. This neighborhood plan

was more recent than the General Plan and was a guiding document. The neighborhood plan was not acknowledged in the staff report or the Planning Commission meeting. When staff has a differing opinion, it should be acknowledged that their opinion differs from the plan. He thought the Planning Commission should have a discussion with this understanding.

Menahn Getmar, Cedar Hills, worked in Provo and was familiar with this neighborhood and wanted to show her support for any improvements to this area; she thought it could be improved.

Aaron Oldham lived in Orem, but he owned real estate in Maeser Neighborhood, and was a real estate agent in Downtown Provo. He had no financial interest in this project but wanted to support the project. He respected long term planning, but he thought exceptions should be made, which is why overlay zones were allowed. He thought this would strengthen the southwest area of Provo that has not always been as desirable as other areas of the city. He saw this as a positive addition to bring new construction that matched the style of the neighborhood. He noted many landlords lived out of state and did not manage their properties as well as local landlords, which Mr. Slater was. He believed this would help the growing downtown area.

There were no other comments from the public. Chair Handley closed public comment.

Councilor Harding displayed page 15 of the Franklin Neighborhood Plan, it showed this area as R1.6(A) and other areas shown as LDR. He said it was currently RC which would only allow for a single unit and maybe an accessory unit. If they followed the plan and rezoned the property to R1.6(A), it could be subdivided, and with use of the accessory overlay, they could add two additional accessory apartments. If rezoned to RDL, it could fit either 3 single-family detached homes or five townhomes, Council might need some reassurance this wouldn't happen.

Councilor Harding liked the proposal, he thought it would fit-in well and look nice. Mr. Harding previously voted against the Franklin Neighborhood Plan four years ago because of the concession to R1.6(A), he thought LDR was a better buffer which was why he voted against it. Regardless, this request was not in alignment with the adopted plan for the area. This was a good plan, but he was not willing to vote against the neighborhood plan. Mr. Harding was not opposed to updating the neighborhood plan, but until that was done, he would not go against the plan. Councilor Harding had spoken with the applicant and neighbors; he was hopeful they would be able to find a middle ground. He noted R1.6(A) could allow for four structures.

Mr. Handley allowed two more comments from the public.

Catherine Smith, Provo, said she was not informed of the neighborhood meeting and was not contacted by the applicant. She attended a secondary neighborhood meeting held on Zoom a few days ago. She agreed with Matt Taylor's comments. She was worried these homes were going on to smaller lots than allowed by the plan. They enjoyed the lower density nature of the neighborhood. She hoped this would go back to the Planning Commission to find a compromise. She was in favor of two homes, but not three. If the City makes an exception in this case, it could happen over and over creating an overpacked neighborhood.

Heidi Green, Provo, lived adjacent to this property. She thanked the Council for the opportunity to protect her home. She lived in a small home, just 580 square feet. She purchased her home two years ago and is raising her children there alone. She was highly passionate about this decision. She said many

neighbors were now speaking up and had no knowledge of the neighborhood meeting. She felt there had been misrepresentation about the feedback from the neighborhood. She wanted to be able to live in a neighborhood that looked the way it did when she purchased her home, the proposed homes were too dense and too tall for the neighborhood. To improving the local schools, she hoped the homes would attract long-term residents.

Chair Handley recognized LDR was different as a zone, but in this case, three single-family detached homes were only very slightly different than two single homes, each with accessory units. If the request were to be approved, Mr. Handley wanted a way to ensure no more than three homes would be built.

Brian Jones, Council Attorney, was not aware of any assurances that had been provided. Once the rezone was approved, anything that fits in the zone could go on the property. The developer could proffer a development agreement if they wanted to.

Councilor Ellsworth said overall this was a smart project. It provides an important housing type for the community. It was not an apartment and not a giant home. She appreciated the diversity of the housing type which created housing stock that had a different timeline than those around it – different lifespans. She thought this was a smart zone change.

Councilor Sewell was concerned about the mismatch with the neighborhood plan. He thought Mr. Taylor's comments were valid and the deviation should be discussed with the Planning Commission. He was not convinced that LDR was the right zone, even though the project itself looked good. He was trying to separate this project from the rezone because there were no assurances in place that the presented plan was what would be built. He also worried about HOAs; he did not have experience with HOAs this small and did not know if it provided critical mass, and so he was not sure if that was viable.

Councilor Fillmore's concern was the alleged inadequacy of neighborhood notice. In response, Mr. Ardmore assured him postcards were mailed out to all homes within 500 feet of this property. He personally posted a yellow public notice sign a week before the meeting and to his knowledge it was up the entire week.

Chair Handley asked if the pandemic restricted the ability to get feedback from the community. Ms. McCabe, Neighborhood Chair, had informed Mr. Ardmore the meeting was held, and she shared the video online.

Chair Handley thought this was a good project but worried they might end up with something other than what was being proposed. He also had concerns about the perception of inadequate noticing. He said this was a small enough neighborhood and group of people, but a large group had concerns. He didn't want to see this project not happen, but he wanted it done properly and with assurances.

Councilor Harding wanted to continue this item to the next meeting as this was not a routine item. He liked the project, but he agreed that it did not align with the neighborhood plan, as it was currently written.

Councilor Ellsworth asked Mr. Ardmore what happened with the neighborhood plan. She thought it was compatible with what was shown in the plan. She asked what would be done differently that had not already been done. Mr. Ardmore said he would happily send a memo to Council to address this concern.

This was the first hearing and under council rules this item would be automatically continued to the next meeting.

5. Ordinance 2020-09 amending Provo City Code to allow for permeable driveways and parking lot surfaces. Citywide application. (PLOTA20190411) ([1:57:15](#))

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

Austin Taylor, Provo City Parking and Sustainability Coordinator, presented. The code currently required that every parking space be paved with asphalt or concrete. This could sometimes create flooding because the water could not infiltrate, and the pipes could not keep up. He explained that with permeable asphalt water could go into the soil through the asphalt. Pollutants were filtered by the permeable asphalt. The proposed amendment would allow for permeable pavement, brick pavers, stabilized gravel, grasscrete and other similar materials as approved by the Development Services department. He discussed the conditions that would be required for permeable surfaces. Accessible parking spaces would still need firm and slip-resistant surfaces and to comply with ADA requirements. He demonstrated various examples of this working in different climates.

Mr. Fillmore asked if a hazardous waste spill would be problematic. Mr. Taylor explained they had established well protection zones that would not permit permeable asphalt in these areas. So, if there were a spill in those areas, it would not end up in the water source.

Chair Handley opened public comment.

Sam Oman, Provo, was generally supportive but thought each case should be carefully evaluated by an engineer before it is permitted.

Rob Hunter, Provo Storm Water Engineer, said the concerns that had been discussed were addressed in the Storm Water Quality Manual.

There were no other comments from the public.

Councilors Handley and Harding voiced their appreciation for this amendment.

Chair Handley called for a vote on the implied motion.

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

- 6. ***CONTINUED*** Daniel LaFontaine requests a Zone Change from R1.10 to Low Density Residential for 1.07 acres for a townhome development, located at 50 E 3900 N. Riverbottoms Neighborhood. (PLRZ20190265)**
- 7. ***CONTINUED*** An ordinance amending the Provo City General Plan relating to The Transportation Master Plan. Citywide Application. (PLGPA20200038)**

8. *****CONTINUED*** Comm. & Nbhd. Services Dept. requests ord. amend. to City Code 15.20.090--Parking Lot Landscaping. Request seeks to increase the min. canopy coverage & landscaping arrangement within new parking areas. Citywide appl. (PLOT20190433)**
9. *****CONTINUED*** A resolution appropriating \$4,900,526 in the Airport Fund for the acquisition of land near the airport, applying to fiscal year ending June 30, 2020. (20-067)**

Adjournment

The meeting adjourned by unanimous consent at approximately 7:45 p.m.