

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.



PROVO MUNICIPAL COUNCIL

Work Meeting

12:30 PM, Tuesday, April 14, 2020

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

Agenda ([0:00:00](#))

Roll Call

The following elected officials were present:

Council Chair George Handley, conducting
Council Vice-chair David Harding
Councilor David Sewell
Councilor David Shipleys
Councilor Travis Hoban
Councilor Shannon Ellsworth
Councilor Bill Fillmore
Mayor Michelle Kaufusi

Prayer

The prayer was offered by Councilor David Sewell.

Business

1. A presentation from Provo Power regarding their 5-year Strategic Plan and their Action Plans. (20-066) ([0:11:15](#))

Travis Ball, Provo Power Director, presented. Mr. Ball shared projections and a timeline for resource generation for different energy sources. As resources and contracts expire, Provo Power hopes to move to more renewable sources. The Energy Board set a renewable energy goal for 50% by 2030. Mr. Ball shared additional details about the way energy resources are calculated and he shared specific examples of sources that are part of the City's energy portfolio. He noted that the cost-effectiveness of many renewable has improved drastically in recent years. Mr. Ball thanked the Council and Sustainability Committee who have been instrumental partners in moving toward this goal. Councilors applauded the advances of the Energy Department and the progress that has been made toward sustainability. Councilor Bill Fillmore asked whether the Energy Department would welcome a more aggressive goal set by the Council. Mr. Ball indicated that it was certainly the Council's prerogative to do so. ***Presentation only.***

Administration

2. A presentation regarding the adoption of policies allowing for the use and establishment of Public Infrastructure Districts (PIDs). (20-063) ([0:44:58](#))

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Dixon Holmes, Assistant CAO, presented. Mr. Holmes shared background information about this item and the state law which recently created PIDs as a funding mechanism. Randy Larsen, Gillmore & Bell, gave additional insight into the political and legal parameters for PIDs. In response to a question from Councilor Shannon Ellsworth about what made this situation unique, Mr. Holmes shared context on the project. The site is a former landfill and the City is requiring improvements in the public right-of-way; a great deal of remediation is needed in order to make the improvements. Mr. Holmes explained that the developer would still pay all of the costs, but that this was a funding mechanism to make the process feasible, given the extraordinary costs associated with remediation of the former landfill. Mr. Holmes also explained that implementing a PID was a discretionary decision on the part of the city.

Brian Jones, Council Attorney, offered additional clarification. He noted that while this item was related to the golf course/medical school, it could be helpful for the Council to consider this in the context of a broader policy direction and criteria. Staff have evaluated the process for creating a PID. The Administration's intent is to create an internal directive or policy that describes the process by which they will accept and review applications to later bring to the Council for approval. There is not a decision point for the Council at this time; they wished to get feedback from the Council about the process of a PID. Mr. Jones clarified that they are operating from the assumption that state law authorizes the City to create PIDs; they are not presuming a certain position or receptiveness of PIDs on the part of the Council. Simply put, if a request comes to the City, it is helpful have a sense of what process was in place. Ms. Ellsworth noted that there are thousands of special service districts in the state which have very little oversight—what made a PID different and what kind of oversight, accountability, and transparency a PID would have? Mr. Jones explained that part of any formal request would include the governing documents for the proposed PID, which would provide oversight.

Mr. Larsen added that a PID is different from a special service district—it doesn't have operation and maintenance expenses, zoning or permitting functions, or set fees; it is simply a legal mechanism to set a property tax and once paid off, it goes away. A PID creates separation from the City and places liability for the debt on the PID. It is a unique type of entity with limited abilities: to charge the authorized level of property tax, issue bonds, and repay bonds.

Several Councilors expressed that this seemed like an appropriate tool for the medical school. However, many were concerned if this became a frequent request. Mr. Jones clarified that the Council is already authorized by state code to create a PID, but the discussion was raised in case the Council wanted to create a more formal policy. Mr. Holmes explained that a PID request would be much like a Planning Commission item in that the administrative staff would review it and bring a recommendation to the Council. Having any criteria in place before applicants approach the City is helpful for the Administration so that they can review applications against any predetermined City standards. ***Presentation only.***

Policy Items Referred from the Planning Commission

3. An ordinance amending Provo City Code to establish a Critical Hillside Overlay (CH) Zone. Citywide application. (PLOTA20200077) ([1:07:41](#))

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Brandon Larsen, Planner, presented. He aided the Foothills Protection Committee in the drafting of this ordinance. The committee studied Salt Lake County's FCOZ (foothills and canyons overlay zone) and examples in other Utah jurisdictions in creating legislation appropriate to the needs of Provo's foothill region. Mr. Larsen outlined elements of the Critical Hillside Overlay Zone (CHOZ), including slope protection requirements, ridgelines, detention basins, streets, trail and trailhead dedications, tree and vegetation protection, design standards, and rights-of-way.

Councilors asked questions and shared comments, including:

- Councilor Shannon Ellsworth appreciated the attention to aesthetics; she suggested that this should be done throughout the City and not just in foothill areas. She noted that the Bureau of Land Management specifies colors of buildings, pipelines, etc. in their visual resource management plans so that those elements blend in with the surrounding landscapes. She also suggested editing language in the ordinance so that it was gender-inclusive (e.g., human-made).
- Regarding the possible rezone of areas which have not yet been annexed into the City, Mr. Larsen explained that staff would be bringing a future General Plan amendment which would address the policies for future annexations. Land in this general area would typically be annexed into the city as part of the CH overlay. Bill Peperone, Development Services Director, suggested that a reference to this effect would also be helpful on the annexation policy map in the General Plan.
- Ms. Ellsworth also shared comments on the feel of the built environment; Mr. Larsen clarified that some requirements are contingent on the building code. Ms. Ellsworth suggested that retaining walls have steps at 4 feet instead of 8 feet, which creates a cave-like feel for ground floor dwellings; stepped walls would allow for more natural grading.
- Ms. Ellsworth also suggested that trail planning should also involve the long-range planning division, in addition to the parks and recreation staff and engineers. She noted an abundance of photos emphasizing lawn and turf; hopefully native plantings can be encouraged and emphasized instead. She also noted that large power poles have been excavated around the base, creating eyesores in developments in the foothills. She felt this was a development pattern which should not be continued.
- Councilor David Harding asked about the timing and whether the Council could take a few more weeks to solidify the items in question. Councilor George Handley explained that the committee hoped to pass legislation before April 29 in order to have it passed within the six-month window of time for pending legislation.
- Mr. Harding shared comments on several illustrations of cluster development as having photos and visuals of what was or was not allowed was very helpful.
- Councilor Bill Fillmore thought that Ms. Ellsworth had made some great suggestions for refinements to the ordinance; he wondered how best to incorporate these into the ordinance within the necessary time frame. Mr. Handley felt these items could be incorporated in time to bring them back to the Council Meeting the following week.
- Several Councilors had questions related to the boundaries of the CHOZ area; Mr. Larsen suggested these questions could be raised during the presentation of the next item.
- Mr. Handley asked Mr. Larsen to elaborate on the process for getting input and feedback from property owners and the broader community. Mr. Larsen explained that comments varied; many people were supportive of these foothill protection efforts. Others were concerned about the impacts to properties included in this designation. Bill Peperone,

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Development Services Director, explained the challenges with public feedback; there are always going to be people who are late to the process and felt that they did not have adequate time to voice their concerns. He noted, though, that there were many thoughtful comments presented at the Planning Commission hearing.

- Mr. Handley clarified that this was not meant to be an exhaustive ordinance for protection of the foothills; it was one piece of the broader foothill protection efforts and intended to be a rigorous set of standards in the critical hillside areas that already exist. He noted that there will still questions related to the broader foothill area, including areas outside of city boundaries which may be considered for annexation, Provo and South Fork Canyons, and broader discussions of the future General Plan overhaul.
- Mr. Peperone explained that some language would be added to the General Plan map to better communicate the intent to the public, by designating what land was under federal versus private ownership. Gary McGinn, Community and Neighborhood Services Director, added some comments about the annexation policy discussion.
- Councilor David Sewell asked about property owners whose property crosses the boundary of the proposed CHOZ designation. He wondered whether it would make it less confusing to adjust the boundary line for these properties where there was not a significant elevation difference or change. He acknowledged the advantage of using a uniform height standard for the area, but he thought it was challenging where specific properties were impacted and it could be confusing to property owners.

Presentation only. This item was already scheduled for the Council Meeting on April 14, 2020.

4. An ordinance amending the Zone Map classification of multiple East Bench properties to include them in the Critical Hillside Overlay (CH) Zone. Citywide application.
(PLRZ20200078) ([1:53:02](#))

Brandon Larsen, Planner, also presented this item. He explained that the 4875' elevation was a key boundary in this proposal because this relates to the City's ability to provide water. Mr. Larsen explained that they have also tried to illustrate the division between private and public land; they tried to include all privately owned with exception of BYU property at the Y trailhead.

The Planning Commission had concerns about some other foothill areas in Provo that were not included. Mr. Larsen explained the challenges to objectivity; the 4875' elevation and distinction between private and public property helped to make the result more objective. He also explained the challenges with mapping. For instance, the Utah State Hospital parcel actually extends far into and up the mountainside; they did not want to include all of this area, so the elevation of 4750' was used to cut through the Utah State Hospital property. Approximately 2060 acres were included in the proposed boundaries after adding additional land recommended by the Planning Commission, however owners of the added properties did not receive notices as other property owners did prior to the Planning Commission hearing.

Mr. Larsen shared a map showing a bird's eye view of the proposed zone boundaries. He addressed a question from Councilor David Sewell, noting that it was a challenge for individual property owners trying to refer to this broad map. Mr. Larsen worked closely with Rachel Luke, Rock Canyon Neighborhood Chair, to create some maps that would be of more utility to property owners so they could see how their specific property lines would be impacted. Mr. Larsen

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provided additional clarification about the Utah State Hospital property and south Provo. He noted that some areas were already limited by the underlying zoning requirements. Gary McGinn, Community and Neighborhood Services Director, would be working on addressing concerns about land left out of this zone designation at a future date.

Councilor David Harding asked if there was any concern about whether the land east of the Utah State Hospital was at risk of future development. Staff clarified that the slope requirements in Title 15 of Provo City Code restrict development in those areas. Councilor Shannon Ellsworth suggested that since the state hospital parcel is such a large tract of land, that development guidelines for that area would be critical. She suggested that perhaps the City should make a blanket statement about federal public land being largely protected if it became part of the city. Mr. McGinn would be addressing these issues in the work his department was bringing back.

Presentation only. This item was already scheduled for the Council Meeting on April 14, 2020.

5. An ordinance amending the Provo City General Plan relating to the Transportation Master Plan. Citywide application. (PLGPA20200038) ([2:22:20](#))

Shane Winters, Engineer, presented. Mr. Winters welcomed several staff members and consultants who were participating in the discussion. They hoped to address various comments and feedback they received regarding the Transportation Master Plan (TMP). Mr. Winters shared the two main concerns which had been raised: mobility issues with 820 North and exploring additional mobility throughout the City. He explained that they have proposed adding an additional section to the TMP to memorialize and specifically identify the additional studies and information which has been requested for the future. They wanted to ensure that they continue to look at very valid points raised by the Council. The additional studies table was created based on comments or additional studies that were suggested to them, including an I-15 Provo North Interchange Study by UDOT, Provo Travel Demand Modeling study, 2230 North Corridor study, and an 820 North Railroad crossing study.

Mr. Winters acknowledged other suggestions received regarding 600 South, 500 North, and 900 South and introducing additional connectivity in these areas of the City. He explained some of the complications with adding additional connectivity in the City; they recommend completing a Provo Travel Demand modeling and see what that does—anything that is added to the map will change the current volumes shown on the map. The city engineers wanted to have better information about the impacts for overall connectivity and mobility, so they could make informed decisions with the proper context sensitivity.

Councilor George Handley asked about the plans for 1450 East in the Oak Hills area and the connector street proposed in 2025. He had concerns about adding this connector, as it would encourage more traffic on a road that already has serious safety concerns. He wondered whether it would be better to put mitigation measures in place first, evaluate the impact, and then decide on the connector. Mr. Winters acknowledged that they have had both positive and negative feedback on the mitigation measures; the neighborhood struggled to come to an agreement about mitigation measures and it has been challenging to reach a consensus. Mr. Winters shared more details on the traffic counts they did on 1450 East; their projections show that making the connector would not increase traffic counts significantly but would provide mobility which was

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currently lacking in that area. Dave Graves, Engineering Division Director, explained some additional concerns for this area. Due to the steep grade of the access points to this area, the connector would allow for more functional operation of sanitation trucks and snowplows. He also noted that there were additional utility connections needed in that corridor; there are multiple purposes to roadways. Mr. Handley acknowledged the broader issues at play. He appreciated the amendments and felt it would benefit the City to be precise in development, as larger roads invite higher speeds and higher maintenance obligations. Mr. Winters agreed and noted that this process would coincide with the General Plan and evaluating future decisions.

Councilor David Harding appreciated the efforts of the city engineers; they have been very responsive to concerns and questions raised by the Council. He sees the wisdom in the path forward with identifying future studies, but he was concerned that development coming in the near future along 600 South will make it more difficult to incorporate appropriate connectivity in the future. He hoped that development in the interim would not complicate possible connections. Mr. Winters noted that if there was a high priority for certain studies, they can move those forward; it would be driven by the Council's rating of its importance. Councilor Travis Hoban also thanked the engineering team for their responsiveness in identifying creative ways to accomplish these questions and goals. Mr. Winters also addressed questions about 820 North and the proposed bridge. They wanted to make sure the bridge is a project that moves forward, as it is a critical project they need to address. ***Presentation only. This item was already scheduled for the Council Meeting on April 14, 2020.***

Business

6. A discussion regarding a policy statement asking the Administration to pursue alternative fuel vehicles where possible when purchasing new vehicles for the city's fleet. (20-075) ([2:46:15](#))

Council Chair George Handley introduced this item. Mr. Handley shared a draft policy, which was designed to allow enough flexibility that the City could meet their operational needs:

Whereas as the Provo City Council, we are guided by the principles of our General Plan related to the stewardship of natural resources and of our quality of life. For this reason, we believe it is our responsibility to promote policies that will specifically contribute to improved air quality in Utah Valley.

Therefore, going forward, the policy of Provo City, when replacing automobiles and other fleet vehicles, is to purchase electric and other alternative fuel vehicles rather than standard gasoline or diesel vehicles, where not imprudent.

We request the Administration report to the Municipal Council annually on the application of this policy.

Wayne Parker, CAO, responded to Councilors' questions about the City's fleet. Some operations are not practical applications for electric vehicles, such as large trucks, dump trucks, and snowplows. There is some terrain in the City that is steep and dangerous to safely ascend or

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descend in an electric vehicle. Mr. Parker acknowledged that as technology improves, costs decrease, and the availability of alternative fuel improves, more options were becoming available to them. He said that in the annual report, the Administration could share their rationale behind each vehicle acquired. Mr. Parker also shared examples of where electric vehicles were working well and other areas of the City organization that could incorporate electric vehicles.

Councilor Shannon Ellsworth asked whether the policy would change anything for the Administration. Mr. Parker said the annual report was a new element and he suggested that they would incorporate the hierarchy into their requisition process. Councilor David Sewell asked whether the Administration had any estimates on the fiscal impact of this policy, as he did not want it to present an undue burden and wanted to be sensitive to budget needs. Mr. Parker shared more detail on the analysis they will conduct; the capital cost is just one factor. They also look at the vehicles' operations and maintenance, efficiency, miles per gallon, etc. All these elements are factors in the lifecycle decision, practicality, and total cost of ownership. They already generally approach things this way, so this policy will simply formalize that process. If a vehicle purchase is not cost-effective or prudent, they will simply need to define why that was the case.

Motion: Bill Fillmore moved to adopt the policy statement. Seconded by David Sewell.
Vote: Approved: 7:0.

7. Ordinances amending Provo City Code regarding beer regulations to streamline it and bring it into alignment with state regulations (20-076) and amending Provo City Code regarding beer licenses and regulations to create a Class "F" license. (20-057) ([2:57:41](#))

Brian Jones, Council Attorney, briefly presented the changes and invited questions from the Council before ceding the time to the committee members to share their proposals. Councilor Bill Fillmore asked a series of clarifying questions about the proposals; he felt the cleanup ordinance was prudent, but he had concerns about the second portion of the proposal. Mr. Jones explained that the Class F license was new and applied specifically to brewpubs. He suggested that when the ordinance was passed, that the Council should articulate the difference between restaurants and brewpubs in the preamble. Mr. Jones indicated that there were no demographic or geographic restrictions on alcohol licensing besides what was in State code. Mr. Jones explained that since this was related to licensing, it was not the same situation as land use laws where property owners may have vested rights.

Councilors shared other questions and comments, including:

- Councilor Shannon Ellsworth was partial to having the other restrictions in place before approving the F license; she wanted businesses to be fully aware of the limits in place so they had accurate expectations.
- Councilor David Sewell offered clarification on what the committee recommended; the committee was unanimous in wanting to have the Council hear the two proposals and in their recommending approval of the cleanup ordinance. However, the committee was not unanimous in recommending adoption of the brewpub ordinance.
- Gary McGinn, Community and Neighborhood Services Direction, suggested that due to the lengthy process of obtaining state and federal licenses for brewing, the Council would likely have time to put the additional restrictions into place in the interim.

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- Councilor David Harding referred to the previous direction from the Council on timing; the deadline for referendums meant that anything passed after April 15 that was brought to a referendum would not appear on the ballot until November 2021. He and others were concerned about dragging out the process for that long. Mr. Harding also desired to have a timely response to the interest of a restaurant owner in the community. Mr. Harding thought the cleanup ordinance was straightforward and that the class F license was consistent with the charge given the committee.
- Councilor David Sewell expressed that his preference was to regulate alcohol outlet density at the same time as the licensing component, however the committee felt that they did not have time to prepare that proposal in time to meet the deadline set by the Council.
- Mr. Jones added that another option could be for the Council to approve the class F license before April 15 in order to meet the deadline for referendums, but to stipulate an effective date for later in the year; the additional regulations would be approved before that effective date. He noted that this was an idea and the committee had not made any formal recommendation on this approach. Mr. Fillmore said that this addressed his concern about a restaurant owner acquiring quasi-vested rights by obtaining a license before the referendum results, if the licensing provision were then to be overturned. Mr. Jones noted that part of the indeterminate nature of this proposal was because the committee first wished to see if there was consensus around additional regulation.
- Mr. Sewell thought it would be important to determine whether a Council majority wanted to explore density regulation. He was interested in doing so, based on recommendations from the CDC.

Motion: David Sewell moved that the Council instruct the Alcohol Licensing Committee to explore regulation of alcohol outlet density and bring back a recommendation. Seconded by George Handley.

Mr. Fillmore suggested that the committee explore demographic or population-based restrictions, as well as density/proximity limitations. He felt Provo was a unique city with unique needs and he thought it would be prudent to explore regulation that went beyond national norms. Mr. Sewell clarified that the CDC did not actually recommend a specific density, just the recommendation that it be regulated. The CDC highlights three ways to do so: by population, distance, or a more sophisticated gravity-based model. Mr. Handley was not comfortable making a motion as specific as what Mr. Fillmore suggested; he felt that first the Council should determine whether a majority wanted density regulations and then the committee could return with specific proposals. Mr. Fillmore expressed that he did want to address the question of a delayed effective date. Mr. Sewell indicated that was a separate issue that could be addressed at the Council meeting that evening. Ms. Ellsworth asked whether alcohol outlet also meant restaurants; several Councilors expressed that they were not interested in additional restrictions for typical restaurants that serve alcohol. Councilor Travis Hoban asked whether this motion was specific to the F license; Mr. Harding asked that the committee have flexibility in exploring that.

Vote: Approved 4:3, with David Shipley, Travis Hoban, and Shannon Ellsworth opposed.

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8. A discussion regarding Council Budget Priorities for Fiscal Year 2020-2021. (20-007) ([3:44:25](#))

Cliff Strachan, Council Executive Director, presented. Mr. Strachan shared background information on the State's budget and special legislative session, impacts to property and sales tax, and various considerations with the coronavirus pandemic. He indicated that the intent of this discussion was for the Council to determine what priorities or principles they wanted to see reflected in the Mayor's proposed budget. Mr. Strachan shared a list of the priorities set by the Council at their priority retreat:

Values:

- Healthy environment
- Responsible government
- Thriving commerce
- Vibrant community

Priorities:

- General Plan/Vision
- Inclusive outreach/community-building
- Enhance gateways to the City
- Research park – economic incubator
- Housing sustainability
- Natural amenities: Plan, Preserve, Promote

The Administration has been doing a lot of work with the Council's priorities and supplemental requests to present a balanced budget. Due to the impacts of the pandemic, they anticipate a budget gap of \$1.4 million in fiscal year 2020 and \$2.4 million the next year. Wayne Parker, CAO, shared their concerns about the status of the budget for this and next year. The Mayor continues to meet with department directors to explore solutions for the shortfall. They have identified six general areas with opportunities for cost reductions:

- Employees and compensation (hiring freezes, wage freezes, and employee benefits)
- Global or across-the-board cuts (a certain % or certain categories like travel and training)
- Capital-to-operations (generally not a sound budget principle, but using one-time money to cover some areas could help for the short-term)
- Position reassessments (there may be some areas where certain positions could be reassigned to be grant-funded)
- Longer-term solutions (exploring long-term solutions such as efficiency analyses, privatized operations, retirement incentives, or other savings opportunities)
- Use of the rainy-day fund

Mr. Parker noted that there have been a large proportion of delinquencies on utility bills in the last few weeks. Councilor George Handley was concerned about delinquencies; he wanted to find ways to support community members who were experiencing financial challenge with making ends meet. He wondered whether the City had a policy to be lenient on those deadlines; obviously utility revenues were critical to the City as well, but he did not want to use this against residents struggling financially during the pandemic.

Mr. Parker asked for any feedback the Council had on the six general areas the Administration identified. Mr. Parker noted that the Administration did not want to cause undue alarm among City employees and the broader community, so they would continue to explore solutions internally in order to identify their highest priority. Councilors shared comments, including:

- Councilor David Sewell suggested that with personnel, it was better to start with attrition before making cuts. If wage freezes were necessary, they should be relatively short-term.

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He also thought trying to keep full-time employees and reducing part-time and seasonal positions would be better where possible. Councilor Bill Fillmore echoed this sentiment.

- Councilor David Harding wanted to be sure that any actions taken now would not set the City back too far in the future.
- Mr. Handley was grateful for the City's past prudence in shoring up the fund balance. He thought it was important to keep this option in consideration, as these were unprecedented times and could be an appropriate time to utilize this resource. ***Presentation only.***

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.

Motion: Bill Fillmore moved to close the meeting. Seconded by Shannon Ellsworth.

Vote: Approved 7:0.

Adjournment

Adjourned by unanimous consent.