



## PROVO MUNICIPAL COUNCIL Work Meeting Minutes

1:00 PM, Tuesday, May 05, 2020

Electronic meeting: [youtube.com/provocitycouncil](https://www.youtube.com/provocitycouncil)

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

#### Roll Call

The following elected officials participated:

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

#### Prayer

Councilor David Shipley offered the prayer.

#### Approval of Minutes

January 21, 2020 Work Meeting  
March 5, 2020 Council Retreat  
*Approved by unanimous consent.*

#### Business

##### 1. A discussion regarding beer licensing regulations and density restrictions. (20-077) ([0:16:18](#))

Councilor Shannon Ellsworth shared an overview of her proposal regarding the Class F license. Ms. Ellsworth shared information and recommendations from the Brewers Association and American Planning Association. She outlined the restrictions in her proposal, which were even more restrictive than she preferred but represented a compromise. She outlined each of the restrictions with the accompanying data that informed the recommendation:

- Employees under 21 cannot work as brewers or participate in brewing process (this is already a requirement under state law)
- Upper limit to production of no more than 15,000 barrels per year (one barrel = 31 gallons). This was recommended by the APA and would ensure that manufacturing was

indeed an ancillary use remaining subordinate to the primary restaurant use. In response to a question from Councilor Bill Fillmore, Ms. Ellsworth indicated that her intent was to indicate (perhaps in the definition of a brewpub) that this production was limited to onsite sale for those who dined on-premises.

- Prohibit all outdoor equipment and storage for brewpubs (an APA recommendation)
- Area used for brewing, bottling, and kegging should not exceed 30% of total floor area of commercial space; this was a pretty typical regulation and similarly worked to ensure that manufacturing and production were an ancillary use. Since storage would need to be indoors, she wanted to allow flexibility up to 30%.
- Require minimum separation between similar uses, not less than 200 feet, except in manufacturing zones, and permit no more than three Class F licenses per single incidence of a zone, excluding manufacturing. (Both numbers—200 feet and 3 licenses—could be further discussed or refined). 400 feet was a typical city block in Provo.
- The facility must have off-street or alley-accessible loading dock. Service truck loading and unloading would be restricted to the hours between 8 AM and 8 PM.

Councilors discussed the provisions. Councilor George Handley liked these restrictions as they were accompanied by clear rationale and precedents. He was concerned if the distance could still permit several brewpubs in close proximity. Ms. Ellsworth expressed her concern about being too restrictive downtown if it created issues for the Riverwoods or the mall. Councilor Bill Fillmore was interested in getting more data with which to make this decision. Ms. Ellsworth shared details from Springville's criteria; the population density-basis seemed more arbitrary, but the distance provision seemed to be more straightforward. Ms. Ellsworth noted that her proposals only applied to what makes the Class F license distinct.

Councilor David Harding outlined his proposal. Mr. Harding reviewed the basics of local consent, which the Council had previously delegated to the Mayor. He proposed a reevaluation of the local consent policy to consider alcohol outlet density as a deciding factor in granting licenses. Councilors George Handley and David Shipley were both disinclined to revisit local consent; they were not aware of existing issues with the current local consent policy. Mr. Shipley felt that the City needed a straightforward approach for the Class F license. It seemed problematic for the Council to review every single application for a restaurant or alcohol license, as it could create a chilling atmosphere for local business and unnecessarily raise contention in the community. Mr. Shipley noted that Provo already had a cap on bars—one per 60,000 residents. He thought the CDC data on bars might be more generalized and not necessarily appropriate to Provo. Mr. Shipley expressed his support for the basic regulations on brewpubs as outlined by Ms. Ellsworth. Ms. Ellsworth noted that there was not a problem with restaurants in Provo. The Planning Commission was trying to move away from doing routine administrative work; with a strong process in place, staff could make consistent, informed decisions allowing policymakers to focus on more significant issues. She reminded the Council of advice from Bill Hultstrom, United Way of Utah County CEO and President, at the Council retreat—he advised creating a process and then trusting the process. Ms. Ellsworth did not think the Council should micromanage every application; they should move forward with a proposal that was well-defined, intuitive, and addressed the problem at hand (of regulating the Class F license).

Councilor David Sewell suggested that any Councilors who haven't, should read the CDC guide for Measuring Alcohol Outlet Density. He felt that the CDC shared convincing rationale for the importance of measuring and tracking alcohol outlet density, as well as several methods for doing so. Mr. Fillmore expressed his appreciation to the Committee for their work and for the rationale they provided for their proposals. Mr. Harding shared issues he found with each of the restrictions that Ms. Ellsworth had proposed.

Ms. Ellsworth asked what additional refinement the Council as a whole wished to see and she wondered whether that could be accomplished by the subcommittee. In response to a question from Mr. Handley about regulating density, Brian Jones, Council Attorney, clarified that the State regulates alcohol licenses based on the distance from specified public amenities such as a park or religious institution. Mr. Fillmore felt that the Council still needed to continue to discuss the proposals in Work Meetings. Mr. Handley asked whether the subcommittee had obtained sufficient feedback to return to their discussions at the committee level. Mr. Harding was interested in talking to business owners in affected areas, as well as working with GIS to model some sample densities. Ms. Ellsworth felt that with two tracks of thinking (one proposal to regulate only Class F licenses, while the other would regulate bars, brewpubs, and restaurants), that the Committee needed more focus or clarity. Cliff Strachan, Council Executive Director, indicated that Hannah Salzl, Policy Analyst, could work with the Council to gather feedback about the two specific proposals which could be shared with the committee. **Presentation only.**

**2. A discussion regarding the Council Code of Ethics and the use of social media during Council meetings. (20-082) ([1:24:48](#))**

Cliff Strachan, Council Executive Director, introduced the discussion. Mr. Strachan referenced the Utah League of Cities and Towns' training on the ethics act and indicated that the Council had the option of adopting a formal ethics policy into the Council Handbook which would indicate that the Council would work with the City's Human Resources department to complete the annual conflict of interest disclosure.

**Motion:** David Sewell moved to adopt the following statement and to insert it at an appropriate place within the Provo City Municipal Council Handbook as the policy of the Council, applicable to Council members, the Municipal Council Executive Director and full-time employees in the Council Office: *"The Municipal Officers' and Employees' Ethics Act" (Utah Code §10-3-1301 et seq.), applies to municipal councilors and the municipal council's staff. The Council considers it a best practice to revisit and remind the councilors and council staff of the limits and responsibilities of our unique positions. It is the policy of the Provo City Municipal Council that every Council member, the Municipal Council Executive Director, and all full-time employees of the Municipal Council complete and file annually with the City the Administrative Code of Ethics and Conduct and the Gift & Conflict of Interest Disclosure forms provided by the Administration generally to city officers and employees.*" Seconded by Bill Fillmore.

**Vote:** Approved 7:0.

Brian Jones, Councilor Attorney, introduced the second half of the discussion. He reiterated that there was already an established process for the Council to receive public comments as part of the formal record of the meeting. Recently, activity on social media and YouTube comments have raised some issues. Staff recommended that Councilors not engage in social media regarding Council business while Council meetings were underway. Council Chair George Handley asked for clarification about whether it would be appropriate to communicate with staff regarding a question related to the meeting using text messages. Mr. Jones advised that if staff shared information that influenced the Council's deliberations, it would be best to officially read that information into the record.

### **3. A discussion regarding Provo City's goal of renewable energy. (20-043) (1:50:31)**

Council Chair George Handley presented. In discussions with Travis Ball, Provo Power Director, he has said that a goal of achieving 60% green, renewable, and no-carbon sources by 2030 was both a realistic goal, but also one that would help the City to stretch. Mr. Handley highlighted information from Mr. Ball's memo on what qualified as different sources to meet the specific criteria stated in the goal. This is part of the City's larger approach to sustainability. Several Councilors discussed the need to formulate a broader sustainability plan for the City. Brian Jones, Council Attorney, indicated the Council could implement this policy in one of several ways; he noted that resolutions were typically better to indicate the City's position to outside entities. The Council handbook would also be an appropriate place to adopt this type of policy.

**Motion:** Bill Fillmore moved to adopt into the Council handbook, and refer to the Energy Board, a goal of achieving 60% green, renewable, and carbon-free power sources by 2030. Seconded by Shannon Ellsworth.

**Vote:** Approved 7:0.

## **Administration**

### **4. 2020-2024 Five-Year Consolidated Plan and First Year Action Plan (PY2020) Approval of CDBG & HOME funding recommendations. (20-080) (2:00:17)**

Dan Gonzalez, Management Analyst, presented on upcoming projects for CDBG, CDBG Public Services, and HOME. Mr. Gonzalez shared more details on a few notable projects:

- Use of CDBG to fund one code enforcement officer who would focus on code inspections and enforcement in several CDBG-eligible neighborhoods
- Repayment of Section 108 loan for Duncan Aviation construction
- Grant to Utah Regional Housing to facilitate projects with their Community Land Trust
- Down-payment assistance projects
- Administrative costs of administering programs, as permitted

Mr. Gonzalez responded to questions from Councilors. Councilor Bill Fillmore asked about the formula used to divide CDBG funds between different agencies. Mr. Gonzalez explained that the recommendations for projects were determined by a committee for each funding source. The CDBG-related funds were allocated to projects in Provo. The HOME Consortium was comprised of several agencies, of which Provo was the lead entity, and funds were allocated to Orem, Utah

County, and Provo, with input from each member entity. Councilors were interested in who was on the committee for each entity; Mr. Gonzalez did not have a list of participants with him, but he indicated that there were some neighborhood chairs, local business owners, and non-profit organizations involved. Mr. Gonzalez also answered questions regarding the COVID-19 funding received by CDBG. Keith Morey, Economic Development Division Director, was also present and clarified some of the criteria associated with the COVID-19 funds. ***Presentation only. This item was already scheduled for a public hearing at the Council Meeting on May 5, 2020.***

#### **5. Small Business Loan Program in response to COVID-19. (20-081) ([2:42:48](#))**

This item was presented by Keith Morey, Economic Development Division Director; David Walter, Redevelopment Division Director; and Dixon Holmes, Assistant CAO. They outlined a general format for a small business loan program which could help existing businesses continue to succeed and grow, despite financial setbacks that many may have experienced as a result of the pandemic. They have tried to structure the program to benefit businesses in many areas of the City, not just the CDBG-eligible areas. Councilors asked questions and discussed the proposal:

- Councilor Shannon Ellsworth shared her concern about the potential opportunity costs of using funds for non-CDBG areas.
- Councilor George Handley appreciated the creativity of this solution; he did not think it made sense to retain funds for redevelopment when existing business sectors were struggling. He thought that the principles identified demonstrated appropriate caution.
- Several Councilors asked for more clarification on what the vision was for the program. Most Councilors voiced some concerns with having the loans be forgivable, the liability for the City, and a general desire to target resources for businesses that had a better chance of remaining viable in the long run. With forgivable loans, there would be a lot of applications no matter what.
- Councilor Bill Fillmore suggested that the terms of the loan could be very favorable, but still require some accountability from the borrowers.
- Councilor David Shipley suggested a payment deferral program.
- Councilor David Sewell suggested implementing a low interest rate and deferring the initial repayment.
- Councilor David Harding suggested a matrix factoring in the number of employees.

Mr. Holmes explained that the intent with these loans was to try to help where they could, realizing that this was only a small amount of funding to help a business bridge gaps between other funding sources. If a business was already likely to fail at this point, this funding would not help much to allay their greater financial struggles. Mr. Morey added that they had tried to build a lot of flexibility into the program, realizing that there were many kinds of businesses with many kinds of needs and they wanted the program to be as useful as possible. This conversation was helpful to direct their efforts towards identifying necessary criteria. This item would come back to a future Council meeting for the appropriation of the associated funds, at which time they would review the final parameters of the program with the Council. ***Presentation only.***

### **Policy Items Referred from the Planning Commission**

**6. An ordinance amending Provo City Code Chapter 14.27 (M1 - Light Manufacturing Zone) regarding permitted uses and yard requirements. Citywide application (PLOT20200117) (3:10:38)**

Robert Mills, Planner, presented. The proposal was to amend the M1 zone to add certain uses which would impact Christensen Oil. Mr. Mills reviewed the proposed additions, a removed conditional use, and neighborhood feedback. Mr. Mills noted that this was not typically a zone recommended adjacent to a neighborhood, but the business has been there for over 70 years and has attained a legal non-conforming status. These changes would put in place additional safety measures onsite as well as in other M1 Zones. If the Council felt that it would be more appropriate to limit these changes to this specific site, they could draft language to that effect. Mr. Mills invited Lynn Schofield, Fire Marshal, to present. Mr. Schofield gave a background on the past history of this site and project, noting that there were no code violations at Christensen Oil. Mr. Schofield explained why the Fire Department felt that changing from a non-conforming use to a permitted use would benefit the site and the neighborhood. Councilors asked questions. Councilor George Handley asked about the estimate for relocating the operation. Councilor David Harding did not think that the City should do that. In response to another question from Mr. Handley, Mr. Mills explained that there were no safety concerns with the operation's location; simply, there are often logistical issues and the factor of attractiveness which would typically avoid locating the M1 zone next to a residential area. Mr. Harding shared concerns about applying these changes to all M1 zones in the City; he requested a visual of all the affected areas of the City prior to the Council making a decision in their later meeting. ***Presentation only. This item was already scheduled for the Council Meeting on May 5, 2020.***

### **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.***