

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

Regular Meeting Minutes

5:30 PM, Tuesday, May 05, 2020

Room 200, Municipal Council Chambers

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

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 – Councilor Bill Fillmore

Pledge of Allegiance – Council Chair George Handley

Presentations, Proclamations, and Awards

1. A presentation regarding FY 2020-2021 budget. (20-008)

Mayor Michelle Kaufusi presented. Early FY 2021 budget presentations painted a positive picture – and then the COVID-19 pandemic hit. Having a pandemic in the middle of budget planning season was unprecedented and made this process challenging. While the greatest tragedy of the pandemic had been loss of life, the financial tragedy was also very real. Provo City Administration had risen to the budget challenge and spent many hours examining options and making tough decisions.

- A 1.5 percent budget cut was imposed on all general fund departments, except police and fire.
- Funds have been provided for a General Plan update.
- Most of the employee compensation package was funded except market-based increases and sick leave buyback. If revenues exceed projections, the programs may be partially reinstated.
- A soft hiring freeze was imposed. Directors would need mayoral approval before filling vacancies.

Mayor Kaufusi reported that Provo City's rainy-day fund had reached an all-time high. On June 20, 2017, the balance was \$13.6 million. By the end of fiscal year 2020, Provo City's fund balance was \$17 million (a 24 percent increase in two years). By saving the funds during the past two years, we have been able to limit the budget cuts for FY 2021.

John Borget, Provo City Administrative Services Director, was asked to provide a summary of the proposed budget. He said the submitted budget was conservative and utilized fund balance to address critical needs. With a drop in the economy due to COVID-19, Provo City anticipated a sales tax revenue drop of five percent from trends prior to COVID-19. An early estimate on the sales tax revenues for March 2020 was expected soon. This would be the first month showing a COVID-19 impact to the revenues. The information would immediately be shared with the council and the proposed budget would be reviewed and amended, if necessary. Mr. Borget shared the following proposed budget highlights with the council:

- Utility Rate Increases (per five-year plan adopted five years ago by council):
 - Wastewater Fund – 25 percent or \$13.77 monthly increase per average residential home on wastewater utility sales. This increase would be used to fund construction of a reclamation plant.
 - Water Fund – five percent or \$2.28 monthly increase per average residential home on water utility sales.
- Funded Personnel Costs:
 - Merit Increases (2.5 percent)
 - Career Series Advancements
 - Health Insurance Cost Increase (3.8 percent)
 - Utah Retirement System (increase of Tier II employee public safety retirement benefits - \$183,509)
 - Employee Appreciation
 - Birth Parent and Adoption Leave
 - COVID-19 Leave Benefits
- Supplemental Requests - As part of the FY 2020 budget, forty-two requests were made for a total of \$3,337,810. A total of \$406,214 of those requests were funded for FY 2021. They included:
 - Public Safety - \$55,766 for one new police officer to replace a patrol officer assigned as a School Resource Officer.
 - Fire Department - \$11,000 for a cardio monitor system to be used by ambulance crews.
 - Community and Neighborhood Services - \$150,000 to fund professional services for a General Plan update.
 - Parks and Recreation - \$15,000 for ADA improvements on properties scattered around Provo to help bring them into compliance.
 - Recreation Center - \$100,000 to cover increased child watch services at the recreation center. With the expanded service, we anticipate increased revenue so there would be no additional demands on the General Fund.
 - Airport - \$74,448 for a new Airport Security Specialist to comply with FAA requirements.

- Significant Capital Expenditures:
 - Airport Terminal - \$34,300,000. Most of the funding for this project would come from external sources including Utah State, Utah County, and Mountainland Association of Governments (MAG).
 - Wastewater Reclamation Plant - \$15,000,000. This is the first year funding for a multi-year project.
- Other Budget Items:
 - Funded Projected Revenues from Recreation, Arts, and Parks (RAP) Tax - \$1.325 million.
 - Funding provided for Vehicle Replacements.
 - Funding for completion of Provo 360 Project (including new Human Capital Management System).
 - Implementing a Soft Hiring Freeze (requires Mayor's approval for vacant positions to be filled).
 - Set aside savings from unfilled positions to offset potential revenue shortfalls from impacts of COVID-19.
- Items Not Funded:
 - Unused Sick Pay Buyout
 - Market Study Increases
 - Additional Funding for Recreation Center and General Fund Facilities Maintenance Accounts (there is a balance equal to the yearly budget already set aside in each account)

Chair Handley thanked Mr. Borget and Mayor Kaufusi for their presentation and thoughtful decisions. He invited council questions.

Councilor Harding asked how much would be used from the rainy-day fund. Mayor Kaufusi said it was about \$811,000. Her goals were to avoid reducing employee benefits and to protect full-time employees. Councilor Harding was a little uncomfortable not contributing to the Recreation Center and General Fund Maintenance accounts. He hoped these were some of the first things funded if the revenues were higher than anticipated.

2. Small Business Loan Program in response to COVID-19. (20-081)

David Walter, Provo City Redevelopment Agency Director, presented. He spoke about the concept of "Economic Gardening" to help businesses grow. The RDA was funded by tax increment funding. Under state law, the agency was constrained on how the funds could be used. There was a provision that allowed funds to be spent outside of a project area as long as there was some benefit for the project area. With a fund balance of \$500,000, the RDA was hoping to use these funds for an emergency loan program crafted towards the smaller businesses in the community.

The program would provide a minimum loan of \$5,000 with a maximum of \$20,000. The interest rate would be 2.75 percent (50 basis points less than private lending rates). A \$20,000

loan, over a ten-year period, would have a payment of \$190 per month. A \$5,000 loan, with the same terms, would be \$47.71 per month.

Mr. Walter reported this item was a presentation only, it required a 10-day notice before the \$500,000 appropriation could be made.

Public Comment

Chair Handley opened public comment. There was no response.

Approval of Minutes

April 21, 2020 Council Meeting Minutes – The minutes were approved by unanimous consent.

Action Agenda

3. A resolution approving the 2020-2024 Consolidated Plan, and funding recommendations to the first-year action plan. (20-080)

Dan Gonzalez, Provo City CDBG/HOME Administrator, presented. Provo City received funds for two programs (CDBG and HOME) funded by the Department of Housing and Urban Development (HUD). To receive funding, cities must provide a five-year plan that included a strategy for using the funds. The plan included a community needs assessment and a housing marketing analysis.

Mr. Gonzalez reported the total CDBG funding for Project Year (PY) 2020 was \$2,019,511. He presented a slide showing the proposed allocations to the council:

- Administration - \$253,625
- Program Delivery
 - Commercial Façade Rehabilitation - \$6,000
 - Down Payment Assistance - \$32,000
 - Homeowner Rehabilitation - \$17,000
- Capital Projects
 - 108 Loan Repayment for Duncan Improvements at the Provo Airport - \$382,683
 - United Way – Community Services Building Project - \$94,918
 - Wasatch Mental Health Receiving Center - \$89,629
 - Provo City Public Works – 100 West Pedestrian Bridge - \$416,850
 - Provo City Community Neighborhood Services (CNS)
 - Emergency Home Repair - \$28,436
 - Downtown Redevelopment Improvement Program - \$100,000
 - Egress Window Program - \$50,000

- Code Enforcement Officer - \$83,150
- Utah Regional Housing for Carson Town Homes - \$275,000
- CDBG – Public Services Funding (15% of Entitlement)
 - Boys & Girls Club – Reading & Math Support - \$26,700
 - CASFB: Circles Provo site - \$10,300
 - CASFB: Housing Services - \$5,000
 - Community Health Connect/Medical Services - \$11,000
 - Friends of the Coalition (Food & Care) - \$20,000
 - Friends of the Utah County Children’s Justice Center - \$16,215
 - Mountainlands Community Health Center - \$36,754
 - Project Read - \$15,500
 - Provo City Police Department Victims Assistance - \$30,000
 - Share a Smile - \$8,750
 - Teens Act - \$10,000

Provo City was a member of the HOME Consortium. The HOME allocation for PY 2020 was \$1,409,127, with an additional \$925,976 for Program Income and \$75,150 for Reprogramming for a total of \$2,410,253. As the lead entity for that organization, Provo City will receive ten percent of the entitlement (\$140,913) to administer the program.

One of the requirements of the HOME program was that fifteen percent of the entitlement should be used for Community Housing Development Organization (CHDO). The proposed allocation for CHDO was \$211,369, which would be used by NeighborWorks Provo for construction at the Orem Senior Center. Mr. Gonzalez presented the following proposed allocations for the HOME program.

- Home Administration - \$140,913
- Required HOME-CHDO Funding - \$211,369
- Habitat for Humanity – Geneva Road Projects - \$130,000
- NeighborWorks Provo – Orem Senior Housing Project - \$188,631
- Provo City, CNS-HOME Purchase Plus - \$300,000
- Provo City, CNS-Loan-to-Own County Wide DPA - \$400,000
- Utah Regional Housing – New Construction Project at 85 North Provo - \$1,039,340

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

Mr. Harding said much of the affordable housing in the county was located in Provo. There was a desire to encourage other communities to take a bigger share. He said the residents of Provo might benefit from investing the CDBG funds in the Community Land Trust. He asked if the funds allocated directly to Provo being used in Provo.

Mr. Gonzalez said that 47 percent of all CDBG funds would be used for projects in Provo. In addition, the Utah Regional Housing project would be built in Provo. That project would bring in an additional \$1,039,340. This meant that, for this year, Provo would be receiving more than their usual amount of CDBG funding.

In response to a question from Ms. Ellsworth, Mr. Gonzalez replied that Provo City recruited neighborhood chairs or vice-chairs to serve on the CDBG committees. The HOME consortium specified the number of members from each of the jurisdictions.

Representing Provo City on the three CDBH/HOME committees:

Regional Collaborative Joint Committee for CDBG Funds

- Sarah Asay – Carterville Neighborhood Chair
- James Stewart - Franklin Neighborhood Vice-Chair
- Sariah Hillam - Maeser Neighborhood Vice-Chair

Provo CDBG Committee

- Mary Millar - Springcreek Neighborhood Chair
- Ruth Eldredge Thomas - Foothills Neighborhood Chair
- Sandy Otting - Joaquin Neighborhood Vice-Chair
- Joy Burton - Wasatch Neighborhood Vice-Chair
- Eric Chase - North Park Neighborhood Chair
- John Borget - Administrative Services Director
- Karen McCandless - Community Action Services and Food Bank Executive Director
- Brad Bishop – Self-Help Homes Executive Director

Utah Valley HOME Consortium Advisory Board

- Jonathan (last name indiscernible) – Provo City Housing Authority

Mr. Harding noted that this was the first year of a five-year plan (PY 2020-2024). He felt the councilors should also spend some time reviewing the entire plan to ensure it matched their vision for the community.

Chair Handley said this was the first of two public hearings so no action would be taken that night.

4. Ordinance 2020-14 amending Provo City Code relating to parking lot landscaping. Citywide application. (PLOTA20190433)

Motion: An implied motion to adopt Ordinance 2020-14, as currently constituted, has been made by council rule.

Austin Taylor, Provo City Parking and Sustainability Coordinator, presented. Mr. Taylor presented a map showing that areas with more pavement were hot and heated up the area around them. Some of these areas included the airport, mall, hospital, etc. The proposal would require planting trees in some of these hot parking lots. The current code applied to lots with six or more parking spaces and required 40 square feet of landscaping per stall, six percent of interior needed to be landscaped, one tree for every 120 square feet of parking lot landscaping area, 50 percent plant ground cover, two types of landscaping shapes (rows or islands), and 25 percent of tree canopy.

The proposed code would:

- Increase parking lot tree canopy coverage from 25 percent to 50 percent within 20 years of planting.
- Require one tree per four parking spaces.
- Specify 19 approved tree species.
- Reduce required plant ground cover from 50 percent to 25 percent (allowing for xeriscaping).
- Require drainage inlets in curbing and allows for parking stops.
- Specify that landscaping must be concave for drainage.
- Display approved landscaping designs (rows, islands, and diamonds).
- Allow developers to substitute required trees with landscaped stormwater control features.

In response to a question from Chair Handley, Mr. Taylor said the new guidelines had the potential to decrease water usage. The current code required curbing around all parking lot landscaping. Rainwater from parking lots would go into the storm water system and not the landscaping. The change allowed inlets in the curbing or parking stops, allowing water to flow into the landscaping. Dropping the ground cover requirement meant people could use less grass or shrubs.

Ms. Ellsworth said she worked on a similar project when she was an intern with Provo City. She appreciated the selection of large trees. This was a phenomenal addition to the code.

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.

5. Ordinance 2020-15 amending Provo City Code updating the development requirements of lands located within the Special Flood Hazard Area. Citywide application. (PLOTA20190328)

Motion: An implied motion to adopt Ordinance 2020-15, as currently constituted, has been made by council rule.

Robert Mills, Provo City Planner, presented. The proposed ordinance would update our flood plain ordinance to meet FEMA requirements. Staff wanted to amend Title 15 of the Provo City Code (relating to sensitive lands) to include the flood plain managements standards. This would eliminate Section 14.33 and add section 15.05.180. The update would also adopt the Provo City flood insurance rate maps. FEMA and the state had recently released the new flood plain maps, effective June 19, 2020. It was important, for compliance and insurance purposes, for Provo City to adopt these maps before that date. He noted that continued work was being done on flood plain mapping so there would be additional maps in the future.

Mr. Mills said there were development standards related to the flood plain, but also related to development within 100 feet of the Provo River. This area was usually in the flood plain area, but it sometimes extended beyond that. The code prohibited any structures, parking lots, or fill to be constructed within that 100-foot requirement. However, there may be exceptions in certain circumstances (it was not a FEMA requirement).

In response to a question from Mr. Shipley, Mr. Mills said these maps would not require citizens in certain areas to obtain flood insurance. The state and FEMA were studying the Provo River and our levy system. In the future, some residents may be mapped in, but not at this time.

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

With no further council discussion or questions, 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.

6. An ordinance amending Provo City Code relating to permitted uses and yard requirements of the M1 Light Manufacturing Zone. Citywide Application. (PLOT20200117)

Robert Mills, Provo City Planner, presented. He was joined by Gary McGinn (Community and Neighborhood Services Director) and Lynn Scofield (Provo City Fire Marshall). The proposed ordinance would make the following amendments to the M1 Light Manufacturing zone.

- Added SLU Code 5132 – allows the sale of specific combustible and flammable petroleum products as a conditional use in the M1 zone.
- Amended SLU 4823 – Removed natural gas storage and distribution uses and stipulated natural gas could only be an accessory to a primary use and limits tank to 500 gallons.
- Added language to allow the Development Services Director to modify yard requirements in the M1 zone if the changes result in more efficiency and no undue hardships were created.

These amendments were proposed to make an unideal situation safer and adding regulation for uses that were existing and would remain. The current use at Christensen Oil was considered a legally non-conforming use. The Christensen Oil site and operation were expanded over time, but the use remained the same.

Mr. Mills pointed out several M1 zoning areas throughout the city, with several of them bordering/abutting residential areas. There were other areas that would be impacted by these changes, not just Christensen Oil. Councilor Harding had questioned whether this legislation should be more specific to the Christensen Oil site.

Staff felt that was a good point so they proposed additional language that would be specific to the Christensen Oil site. The new amendments would apply only to property east of 200 East,

north of 600 South, west of 300 East, and south of 500 South. It also stated the site must have frontage on an arterial or collector street, all flammable liquid must be clearly marked and follow regulatory code requirements, and all flammable liquids must be located a minimum of 25 feet from any property line.

Mr. Scofield reviewed this history of Christensen Oil. The bulk oil storage started in 1947 and in 1954, Provo City classified the area as an M1 property. From 1954 to 1999, Christensen Oil continued to add both flammable and combustible liquid storage. During that time, the permitted uses in M1 zones changed. When Christensen Oil was replacing some tanks in 1999, the City issued a stop work order because Christensen Oil was expanding a non-conforming use. Christensen Oil appealed to the Planning Commission and the Board of Adjustments. Both entities ruled in favor of the City. In 2001, Christensen appealed this decision to the Fourth District Court. The court ruled that Christensen Oil was legally established on that property in 1947. At that time, no building permit was required for installation of tanks, only a fire department permit. Christensen Oil had property rights and was a legal non-conforming use.

Mr. Scofield addressed some of the concerns about the site.

Fire Code Issues

- There were no fire code violations noted during any of the past hearings.
- Mr. Scofield had personally inspected the site several times during the past year. They were currently no fire code violations.
- Combustible materials were stored near flammable liquid tanks. Upon inspection, the pallets were an adequate distance from the gasoline, diesel, and DEF tanks. On April 28, 2020, it was suggested to use jersey barriers to provide thermal protection to the piping under the stacks.

Ground Water Protection

- The last reportable spill occurred 20 years ago. The issue was resolved immediately. There have not been any reportable spills since that time.
- A new complaint was received just prior to The COVID 19 pandemic. Because of the DWQ history with Christensen Oil, it was deemed not immediately dangerous to life, health, or the environment. Investigation was given a low priority.
- The ground water protections they had in place satisfied Provo City Code, Provo Public Works requirements, and the Utah Division of Water Quality.

Miscellaneous concerns

- Christensen Oil meets the setback requirements.
- Truck and Trailer Parking is provided within the yard.
- They are located on a Hazardous Materials Route
- The following secondary hazardous material routes have been established.
 - 600 South east to US 90
 - 600 South west to 100 West then north to 400 North then on to University Avenue
 - 900 East from US 90 to University Parkway, then west to University Avenue
 - Hazardous materials deliveries may circle one block to deliver to gas stations and/or convenience stores, or other receiving businesses.

Mr. Scofield said there were two options for Christensen Oil. First, the City could adopt the proposed ordinance amendments. This option allowed the current use to continue as a permitted use. It required a conditional use permit for any additional flammable liquid storage and administrative approval for additional lubricating oil tanks. This option would be the minimal cost to the city. Second, the City could help move Christensen Oil. The estimated cost would be \$47.5 to \$50 million. The problem was who would bear the cost and what would we do with the site. If Christensen Oil was moved, the site could continue with the M1 zone or rezone the area to high-density residential or mixed use.

Chair Handley invited council discussion.

Mr. Fillmore said that Christensen Oil ran a very good business and worked hard to comply with regulatory requirements. The cost of moving them was prohibitive. He asked what risks were involved with them in their current location, especially in the case of an explosion.

Mr. Scofield said there was flammable material (gasoline in tall tanks) and combustible (lubricating oils in plastic totes) on site. Most of the lubricating oil flash point was 300 degrees or higher. The flammable liquid flashpoint was less than 100 degrees. In the types of containers they were in, the materials were very safe. Fire would be the biggest danger, but it would take an incredible amount of heat to cause one of the tanks to fail. He felt Christensen Oil was a safe operation. In 2001, Liberty Safe (across from Christensen Oil) caught fire and burned for 4 ½ hours. There were no issues with Christensen Oil. If the ordinance were adopted, Christensen Oil would be installing an additional seven steel storage tanks for lubricating oils. This would eliminate almost one-half of the oils stored in the plastic totes and would make the area safer.

Mr. Hoban said one of the concerns was allowing the business to grow in their current location. Should they stay at the level they were at and find another location to add additional storage? Could they add more tanks or hazardous material?

Mr. Scofield said there was space on the current lot to add more tanks for lubricating oil. Yes, it expanded their capacity but their lot was already prepared with ground water protection and it would have to meet safety requirements. They recognize they were running out of space to grow.

In response to a question from Mr. Hoban, Mr. Scofield said Christensen Oil had lubricating oil in temporary storage. About half would go into permanent storage with the steel tanks. Some of oil in the totes was specialized so the product did not have a high turnover rate.

Mr. McGinn said they would not expand from the site they were located – they could not buy one of the adjacent homes and put in tanks. Under this ordinance, they could increase the capacity of the oil on site. They were actually making the site better by reducing the number of totes and using the steel tanks. This ordinance gave predictability to the property owner and provided better protection for the neighborhood.

Christensen Oil did not need a building permit to add a tank onsite. The tanks were permitted by the manufacturer and must comply with fire code. He was not sure that merely putting in a tank was an expansion of their non-conforming right. If they were putting in the tanks to make the site safer, but not increasing capacity, they were probably not expanding.

Chair Handley expressed concern that we were providing more code to bring it into tighter regulation. We were giving more permanency to something that was problematic. His concern was the desirability for this type of business in that location. He said it was a balancing act between the rights of the business and rights of the neighborhood.

Responding to Chair Handley, Mr. McGinn said the theory behind non-conforming issues was that the problem would go away. Unless a city came in and moved a business or purchased the business, it would not go away. We would need to work with the property owner to agree to limit expansion onsite.

Chair Handley asked Karen Tapahe, Council Communication Coordinator, to give a summary of the neighborhood meeting. Ms. Tapahe said a meeting was held last Thursday with some of the neighborhood. The residents were split so it was difficult to say how the neighborhood feels about this issue. She said the residents against Christensen Oil have been very vocal and active on social media.

Ms. Ellsworth attended the neighborhood meeting. She agreed that the neighborhood was split. Last summer she attended a gathering at the Maeser Park where citizens expressed concern with Christensen Oil. Hopefully, the neighborhood understood the situation a little better. It was typical for people that were opposed to an issue to be vocal. Those that were not opposed did not speak up.

Chair Handley invited public comment.

Ted Beuhler, Provo resident next door to Christensen Oil, understood that Christensen Oil was grandfathered in and not allowed to expand. However, they have added an oil tank, several temporary totes, two warehouses, and other things. The expansion degraded his quality of life, his health, and the value of his home. He was opposed to allowing diesel fuel, allowing them to have temporary storage adjacent to the neighborhood, and removing the setback requirements. He said if they want to expand, they should find suitable land elsewhere and move part of their operations there. He agreed that the M1 amendment should apply only to the current site. They also needed to exclude the house at 554 S 300 E which was zoned M1 so Christensen Oil could not purchase it and use it as part of their facility.

Carolina Allen, resident near Christensen Oil, was concerned that many in her neighborhood did not know this was happening. She said that people were shocked that Christensen Oil could potentially expand. She obtained more than 36 signatures on a petition that stated people did not know this was happening. She asked the council to postpone the vote on the ordinance so they could get more input from the neighborhood.

Rachel Favero, resident near Christensen Oil, said the City acknowledged that this was not an ideal situation so why allow them to continue to expand. Wouldn't this just make it worse? They had been told these changes would allow for better regulation but there were already processes in place, such as permitting and safety, which had not been followed. She said they have been excluded from neighborhood meetings and had been disregarded and told there were no problems. Todd Christensen told her that they plan on expanding and adding more materials. There were no guarantees in writing.

Sam Oman, Maeser Neighborhood Vice-Chair, lived near Christensen Oil. He requested that the vote be delayed because there were so many unanswered questions. He said he could refute many of the statements made by the Fire Marshall with details from the fire code. In addition, the containment issues, from an engineering standpoint, were seriously flawed. He was told by a city employee that, with this change, Christensen Oil could expand across the street and buy three other properties adjoining their business. There were hundreds of apartments being built on the proposed truck route. He said there were infractions every day with trucks running stop signs and driving through the neighborhood.

Ryan Hays, in Joaquin Neighborhood, had friends in Maeser Neighborhood. He did not think they should incentivize Christensen Oil to grow where they were. The closest neighbors did not like what was going on there. He did not know if the City could help them move. It was not safe because low risk meant there was some risk.

With no more public comment, Chair Handley invited council discussion. He reminded the council that this was the first time this item was being heard. The item could be continued at the request of any of the councilors.

Ms. Ellsworth preferred to continue the item. She expressed concern about the two different land uses that had grown up next to each other for the past seven decades. She hoped the council did not perpetuate similar problems. She said there were two separate issues – updates to the manufacturing zone and a separate issue that addressed Christensen Oil regulations. She was not sure how to delineate between the needs of Christensen Oil and the Maeser Neighborhood.

Chair Handley said they were told it was a complicated process to explore the possibility of amortization or purchase and relocation for Christensen Oil. He did not want to walk past those options without further information to help them make a decision. The city was not in a position to make a massive purchase at this point. He assumed the number given to relocate Christensen Oil did not include resale of the property that would return some of the expense.

Mr. Hoban ventured to say that nearly everyone that lived near Christensen Oil bought their home after the business existed. We need to make sure we do not set a precedent where people move next to a business and then want the business moved. He asked Mr. Scofield if there was a report that Christensen Oil had to file, showing how much oil they had onsite.

Mr. Scofield said there was a tier two report that was supposed to be filed. He had a copy but could not find it. He will follow up on that.

Mr. Hoban asked if the business was non-conforming, could we say we would not kick them out but they could not grow anymore. The storage tanks would be conforming and safer, but they would add capacity. How do we stop them from using temporary storage again?

Mr. McGinn said that, legally, a non-conforming use could not expand. However, what did expansion mean? Is putting in a new tank expansion? Were their proposed changes an expansion or was it just making the site better. We have not gone down that road legally. It would be good for Christensen Oil to address some of the concerns and questions. A continuance would allow council to meet with Christensen Oil officials.

Ms. Ellsworth said that most residents moved in the area after Christensen Oil was built. She said there might be case law that addressed this situation. She would be interested to know if there was another company in town similar to Christensen Oil. How would this action affect them?

Mr. Mills said there were no comparable businesses in the M1 zone throughout the City. Chevron Oil, along 900 South (south of the railroad tracks) was in an M2 – Heavy Manufacturing zone. They were primarily gasoline and were not next to residential homes.

Chair Handley said there was legal precedent, even if residents moved in after the business was established. He said that Kuhni's was an example of this. Mr. McGinn said that Kuhni's applied to nuisance laws, not land use laws.

In response to a question from Mr. Sewell, Mr. Mills responded by saying that the home on 554 South 300 East was in the M1 zone.

Mr. Harding was skeptical that it would make financial sense to move Christensen Oil, even if we rolled in the property value. An amortization might be seen as hostile to the business. He was not opposed to looking at those options again. Continuing this item would allow the public to study and respond to the new proposal. Would they still be non-confirming if we changed the zoning again in order to better regulate the business? He would like to get a legal agreement with Christensen Oil stating they agree to follow new zoning requirements. In addition, they need to work with the neighborhood and try to find some middle ground. Most of his safety concerns had been addressed.

Mr. Fillmore said there were too many questions about setbacks, annual inventory reports, defining expansion, and having this a citywide application. He liked the idea of a legal agreement with Christensen Oil. As a practical matter, he did not see the City paying \$50 million to purchase the business. It would be hard to convince our citizens that this would be a good purchase. There would be significant remediation costs before we sold the property. We needed to find as good a compromise as we could and then compliment that with a legal agreement with Christensen Oil.

With no further council discussion, this item was continued, per council rule.

7. ***** CONTINUED*** The Provo City Community and Neighborhood Services Department requests amendments to Section 14.34.295 Downtown Development Design Standards to clarify architectural requirements in the Downtown Zones. Citywide application (16-0005OA**
8. *****CONTINUED*** Paul Washburn requests a General Plan amendment from Commercial to Mixed Use for the Super 8 Motel, located at 1555 N Canyon Road in the General Commercial (CG) zone. Carterville Neighborhood. (PLGPA20200062)**
9. *****CONTINUED*** Paul Washburn requests a Zone Change from General Commercial (CG) to Campus Mixed Use (CMU) for the Super 8 Motel, located at 1555 N Canyon Road. Carterville Neighborhood. (PLRZ20200085)**

Adjourn

The meeting was adjourned at 9:00 p.m. by unanimous consent.