



## PROVO MUNICIPAL COUNCIL

### Work Meeting

1:00 PM, Tuesday, June 16, 2020

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

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

The following elected officials participated:

Council Chair George Handley, conducting  
Council Vice-chair David Harding  
Councilor Bill Fillmore  
Councilor Shannon Ellsworth  
Councilor Travis Hoban  
Councilor David Shipley  
Councilor David Sewell  
Mayor Michelle Kaufusi, arrived 1:08 PM

### Prayer

Councilor Bill Fillmore offered the prayer.

### Approval of Minutes

June 2, 2020 Work Meeting  
*Approved by unanimous consent.*

### Business

#### 1. A discussion regarding potential updates to the budget. (20-008) ([0:12:00](#))

Cliff Strachan, Council Executive Director, presented. Mr. Strachan responded to a question from Councilor David Harding and he shared a document highlighting the budget changes. In reference to the wording in part IX, the Administration indicated they were supportive of that section. Wayne Parker, CAO, however, outlined some concerns that they had with part IV. Mr. Parker pointed to the method in which carryover funds have historically been handled in Provo. Mr. Parker felt the Administration had made a conscious effort to meet articulated needs of the City with carryover funds by sharing with the Council what unfunded supplemental requests had been funded as a part of the carryover process.

Councilor David Shipley shared his thoughts on this subject, as one of the major roles of the Council is to appropriate funds and approve the Administration's proposed appropriations. Mr. Shipley acknowledged the extensive process that the Council and Administration undergo to reach the final budget; he felt that was a sound process and very effective. However, he noted that per State law, that carryover funds required a re-appropriation by the Council. He wanted to reaffirm the Council's responsibility to approve budgets for the City. Once carryovers become

designated for another purpose, this is no longer money that the Council has approved. During some years, carryovers constitute hundreds of thousands of dollars; Mr. Shipley indicated that it would be appropriate for the Council to simply review the carryovers, hold a public hearing, and to then approve those appropriations. The Council felt that the current process is out of touch with State code and they simply want to take the carryovers one step further by reviewing and approving them in the fall of each year.

Brian Jones, Council Attorney, shared some insight on the legal background for this issue. Mr. Jones noted that he has not been involved in any policy discussions on the matter; he simply wished to offer a legal perspective about compliance with state code. He noted that the concern from a legal standpoint was that the process described by Mr. Parker was not actually authorized by the language in the current budget ordinance. [State Code 10-6-130](#) stipulates that “[a]ll unexpended or unencumbered appropriations except capital projects fund appropriations shall lapse at the end of the budget period.” Mr. Jones indicated that any specific policy the City adopted would need to be expressly authorized in the budget ordinance.

Mr. Harding expressed that the Council’s carryovers committee was preparing language to bring to a future meeting that would clarify and authorize the process; by bringing this to a future meeting in the coming month or so, they could work to build consensus with the Administration on the final language. Mr. Parker noted that there were not likely to be much in carryovers this fiscal year as any remaining funds would be utilized to balance the loss of revenue during the coronavirus pandemic. ***Presentation only. This item was already scheduled for the Council Meeting on June 16, 2020.***

## Administration

### 2. A presentation regarding an update on the Innovation Grant Fund Program. (20-096) ([0:46:10](#))

Dixon Holmes, Assistant CAO, highlighted the six projects which were funded through the innovation grant program (about \$120,000 total in projects). The projects were submitted by the Police, Fire, and Community and Neighborhood Services Departments. Captain Brandon Post shared details of the peer support team program for the Police Department. This would provide additional emotional support to police personnel, who are frequently exposed to extreme and intense circumstances in the routine line of work. Councilor David Harding suggested that this type of program should be built into the City’s normal funding of the department.

Austin Taylor, Sustainability Coordinator, highlighted the ‘Purple Air’ air quality monitors project to place monitors throughout the City. This would provide more accurate and up-to-date data and information about air quality which residents can access online. Mr. Holmes highlighted the Fire Department’s projects, including smart dummies, which provide real-time analysis for CPR. This was critical equipment to ensure a consistent response from the EMTs and first responders. The equipment was also available to city staff and community groups who wanted to be CPR-trained. Mr. Holmes outlined the remaining projects: a mobile library unit, a painting robot, and GIS equipment. Innovation grant projects operate as a beta model or proof of concept for new ideas and are one-time expenditures initially. ***Presentation only.***

## Business

**3. A presentation regarding the State Auditor's Office Fraud Risk Assessment. (20-012) ([0:57:16](#))**

John Borget, Administrative Services Director, presented. Mr. Borget and David Mortensen, Budget Officer, reviewed each section of the assessment in detail and explained each question and the related controls in the City's processes. *Presentation only.*

**4. A discussion regarding a Letter of Intent with PEG Development. (20-097) ([1:14:43](#))**

Keith Morey, Economic Development Division Director, presented an update on the letter of intent with PEG Development. Mr. Morey felt that they had reached consensus and made progress on finalizing the letter of intent. He has presented the terms to the Redevelopment Agency Executive Committee and to individual Councilors for their feedback. *Presentation only.*

**5. A resolution approving a substantial amendment to the Program Year 2019 Annual Action Plan to incorporate additional funds from the Coronavirus Aid Relief and Economic Security Act into the Community Development Block Grant Coronavirus funds. (20-093) ([1:17:20](#))**

Dan Gonzalez, Management Analyst, presented. Mr. Gonzalez shared an update on CARES Act funding and how they were preparing to utilize these funds to the best effect. Mr. Gonzalez outlined several programs which would be eligible for CARES Act funding, including food assistance, health assistance, and small business assistance. In response to a question from Councilor David Harding, Mr. Gonzalez indicated that the Provo Housing Authority and the Utah County Housing Authority were separate and distinct agencies; the City did share some overlapping areas of service with those entities and there is a memorandum of understanding outlining the key community partners and the services they provide. *Presentation only.*

**6. An ordinance amending Provo City Code to adopt additional regulations for the Class "F" Beer License for restaurants with ancillary breweries. (20-098) ([1:37:05](#))**

Hannah Salzl, Policy Analyst, presented on the latest draft of the ordinance regarding the class F beer license for restaurants with ancillary breweries. Brian Jones, Council Attorney, added that staff tried to take elements highlighted in the Council's survey and to put these into an ordinance draft as simply as possible. Due to the differences of opinion among committee members, there was not a formal recommendation to the Council. The committee hoped to gain insight into the Council's support for different elements of the code and to proceed accordingly.

Councilor Bill Fillmore raised a point of discussion around the number of restaurants with ancillary breweries allowed in each zone. Mr. Jones clarified that the language in the current draft of the ordinance referred to each specific instance or occurrence of a zone. For instance, there are several areas of Provo with the SC3 zone, so each specific instance of that zone could have the permitted number of premises in each separate area of the zone. Several Councilors

suggested that the total be lowered from two per each zone occurrence to one per each zone occurrence. Councilor Shannon Ellsworth noted that with only one permitted per zone, proprietors in that zone would have less competition and no motivation or incentive to improve. Others thought that by having multiple brewpubs in the city, that inherently introduced competition into Provo's broader market.

Motion: Bill Fillmore moved to amend the language in the proposed ordinance from two to one, to read: "No more than one premise located within the same contiguous incidence of the [zones]". Seconded by David Sewell.

Councilors discussed the motion further. Some felt it was a good compromise while others felt that the choice of two had already been a compromise. Councilor Travis Hoban asked why it would make a difference, or what problem Councilors wished to address by decreasing the number from two to one. Mr. Sewell noted that he felt limiting the number was prudent as the presence of brewpubs in the community would involve marketing of unique flavors of alcohol which would make alcohol consumption more popular in the community. Councilor George Handley also suggested limiting the number to one would help avoid the feel of an alcohol district. Several Councilors indicated support for beginning with a more stringent approach and indicated their willingness to vote in favor of the motion.

Vote: Approved 7:0.

**7. A resolution approving and adopting the Community Reinvestment Project Area Plan and Budget for the Riverwoods Community Reinvestment Project Area. (20-094) (2:05:17)**

David Walter, Redevelopment Agency Division Director, presented on Qualtrics' proposed expansion in Provo. Qualtrics planned to expand on their existing property to add office space and a parking structure. They anticipated the addition would allow them to add 1000 employees over the course of 10 years, at an average income of \$80,000. This presented great benefits for growth of workforce opportunities in Provo. Councilor George Handley expressed concern about the lack of transit infrastructure in the area. Councilor Bill Fillmore thought it made sense and was a good way to keep an important business in Provo. Councilor David Harding expressed his reticence to use tax increment funding and acknowledged that it was a challenge for the City to provide services if the property tax increment was being dedicated toward other purposes. Mr. Walter clarified that all taxing entities would still receive the full amount of the base-year value tax. *Presentation only.*

**Policy Items Referred from the Planning Commission**

**8. An ordinance amending Provo City Code relating to permitted uses and yard requirements of the M1 Light Manufacturing Zone. Citywide application. (PLOT20200117) (2:27:40)**

Robert Mills, Planner, presented. Mr. Mills shared background information and updates on the proposal. The changes were intended to make the existing instances of the zone safer, especially

in areas where M1 parcels were adjacent to residential areas. Christensen Oil had proffered a memorandum of understanding (MOU) to establish thresholds and outline its future plans for use of the site; with the MOU, Christensen Oil was voluntarily restricting some uses of their site beyond what was required by the ordinance. Mr. Mills invited questions and noted that Lynn Schofield, Fire Marshal, and Gary McGinn, Community and Neighborhood Services Director, were also available to respond.

Several Councilors asked about the house neighboring the Christensen Oil property which was also zoned as M1. Mr. Mills indicated that Christensen Oil was working through some boundary line issues regarding the house property. Mr. Mills noted that while Christensen Oil has included in their agreement/memorandum that the uses would be limited to their site, the actual text of the ordinance limits the added uses to the entire block on which Christensen Oil is located. Councilor George Handley asked whether the issue with the neighboring house should be resolved before the Council's approval. Mr. McGinn explained the process of pending legislation and how this would affect the neighboring parcel. Councilor David Sewell asked for clarification on the setbacks; Mr. Mills clarified details about the transitional setback between zones.

Councilor Bill Fillmore asked about the safety implications; Mr. Schofield explained that permanent storage is much safer. Councilor David Harding was interested in reducing the uncertainty of this property regarding permitted uses; Mr. Schofield reiterated that the MOU would offer further clarity to the City and the neighborhood regarding the future of the property. Councilor David Sewell asked for clarification on what Christensen Oil could do under the current/status quo conditions; he hoped that the city could make this site safer for the neighborhood, while offering stability and predictability for the operations of a business which has been located in Provo for many years. Mr. Schofield explained that if nothing changed [if the ordinance amendment was not approved], that Christensen Oil would need to build a containment system for the plastic totes and they would likely remain in place. Similarly, other temporary storage would continue to be utilized on the site. Mr. Schofield explained that their end goal was to contain all temporary storage inside a warehouse; he and Mr. McGinn noted that approval of the MOU and text amendment would result in critical improvements to the current conditions.

***Presentation only. This item was already scheduled for the Council Meeting on June 16, 2020.***

**9. A discussion regarding updates to ordinances amending Provo City Code to establish a Critical Hillside Overlay (CH) Zone and applying the zone to multiple areas on the East Bench. Citywide application. (PLOT20200077 and PLRZ20200078) ([2:53:36](#))**

Brandon Larsen, Planner, presented with assistance from several other staff members. Mr. Larsen shared details of the last round of edits, including mapping adjustments, wall height requirements, and a density bonus for cluster development. David Day, Development Engineering Coordinator, shared enhanced aerial imagery with the ridgelines noted. They both responded to questions from Councilors, including:

- In response to a question from Councilor David Harding, Mr. Day explained that the mapping highlighted all ridgelines in the city, whether or not they were to be impacted by the zone change/designation. Mr. Larsen clarified that if a particular ridgeline was not in the overlay zone, there would be no change to it.

- Councilors David Sewell, George Handley, and Bill Fillmore, who had each been involved in developing the map and criteria as part of the committee, variously shared background insight into how the final mapping had been achieved.
- Bill Peperone, Development Services Director, and Mr. Larsen further clarified how the map was refined based on specific criteria:
  - Elevation of 4875' on the west (illustrated with a light blue line)
  - A division between private and public property on the east
  - All dwelling sites were removed (including subdivided residential lots, whether or not the homes had been built)
  - For 'island' pieces left, any which were a half-acre or less were removed
  - In some areas of the city, such as on Canyon Road, there were several properties which did not conform to the slope requirements and were consequently removed.
- There was some discussion of the 'islands' and whether such undeveloped parcels should be included or not. Throughout the process, the committee members had sought to make the process clear and transparent, as well as fair to the property owners involved.
- Councilor David Shipley found these explanations very helpful; he wanted to ensure that the impetus behind the mapping decisions was very clear to the public or property owners that the map was drawn up based on specific criteria. For instance, publicly owned land for county and federal entities was excluded, which comprised significant areas of foothill lands. Mr. Shipley wondered whether this could be better illustrated.

Bill Peperone, Development Services Director, and Mr. Larsen shared insight about the maps and how areas were designated for inclusion as part of the zone change, as well as distinctions between what areas were included and which areas were not. ***Presentation only. This item was already scheduled for the Council Meeting on June 16, 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.***