



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, December 15, 2020

Electronic meeting: <https://www.youtube.com/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

Clifford Strachan

Pledge of Allegiance

Chair George Handley

Presentations, Proclamations, and Awards

1. A presentation of the Comprehensive Annual Financial Report (CAFR) by the Provo City Finance Division and HBME. (20-251) ([0:12:50](#))

John Borget, Administrative Services Director, presented the 2020 CAFR. He read from the report that can be found online at <https://www.provo.org/departments/finance/financial-reports>. Mr. Borget formally thanked the finance staff for their hard work, as well as the departments for their support. An increase in revenues was contributed to \$6 million the City received from the CARES Act relief fund. The amount of money in the unassigned fund balance had increased. Mr. Borget explained this was due to careful planning and scrutinization of any carryover funds.

Dan Follet, Finance Director, reviewed parts of the report and explained that the city was in a strong financial position and well diversified.

Jeff Miles of HBME, LLC reviewed the audit firm's reports that confirmed the City was in compliance with General Accounting Principles (GAP). There were no significant deficiencies in internal controls. There was a single instance of non-compliance with HOME grants, this was self-reported by the City. The City was in the process of working with HUD to remediate this issue. Overall, Provo had a good year, especially considering the challenges that came with COVID.

Mr. Fillmore asked if the sick leave buy back might be reinstated, given the positive financial position. Mr. Borget said things were looking better, but there was still a bit of uncertainty. During the pandemic, there had been a number of employees who had been unavailable due to either COVID-19 or other illness. He said this was not a good time to buy back sick leave in a time when it might be needed. They would consider reinstating this in the planning of the FY 2022 budget.

Mayor Kaufusi also responded to Councilor Fillmore's question. She said this was not a decision taken lightly. She did come up with some creative ways to help employees this year, including providing each employee with 40 hours of Mayor Appreciation Time. Mayor Kaufusi also increased the annual holiday gift card amount to \$100 per fulltime employee.

Public Comment (0:47:30)

Chair Handley opened public comment, there was no response.

Consent Agenda

Approval of Minutes

The following meeting minutes were approved by unanimous consent.

- October 6, 2020 Council Meeting Minutes
- October 6, 2020 Council Meeting Minutes

Action Agenda

2. Resolution 2020-45 appropriating a combined \$134,000 in the General Fund for a wildland mitigation program, a behavioral-health services provider, and a continuity of operations plan. (20-252) (0:51:26)

Motion: An implied motion to adopt the Resolution 2020-45, as currently constituted, had been made by council rule.

Fire Chief Jim Miguel presented to the Council. The Provo City Fire Department requested that an appropriation to the General Fund be approved for a combined \$134,000. The appropriation included \$45,000 for a wildland mitigation program, \$79,000 for public safety behavioral-health services, and \$10,000 for a continuity of operations plan. The appropriations would be funded using fiscal year 2021 wildland fire response revenues.

Chair Handley opened public comment.

Mary Howell, Provo, asked if there were funds in the education program that would help with enforcement to protect property from fire. Chief Miguel said there would be enforcement included with this program. Their goal was to prevent fires, and if they do get started, stop them quickly. (1:13:25)

There were no other comments from the public. 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.

3. Resolution 2020-46 transferring \$235,000 from the General Fund to the Golf Fund. (20-245) (1:16:58)

Motion: An implied motion to adopt Resolution 2020-46, as currently constituted, had been made by council rule.

David Mortensen, Budget Officer, presented. The Golf Fund suffered operating losses as a result of a combination of events that had a negative impact on operations, namely, the golf course hole realignment construction project and the COVID-19 pandemic. State code required the fund to have an unrestricted fund balance of at least 5% of revenues. A transfer of \$235,000 from the General Fund was required to bring the Golf Fund unrestricted fund balance into compliance. A more detailed presentation had been given during [work session](#) on December 1, 2020.

Chair Handley stated there had been an email from a citizen questioning why the course was not self-sustaining. Mr. Mortensen explained the issues that had caused this were temporary and he did not think this would be an issue going forward.

Chair Handley opened public comment.

Jared Curtis, Provo, had concerns about the golf course. He said there had been many promises they would be solvent, but they were not. Mr. Curtis was also opposed to the golf course being open on Sundays. He thought it was time to sell the course.

There were no other comments from the public.

Councilor Shipley clarified this money was not earmarked for anything specific, it was simply to satisfy a state requirement and would not fund their budget going forward and it was not going to be used to expand services. Mr. Mortensen agreed, this would not be spent on operations or projects. It just rebuilds the fund balance to comply with state code. Any use of the funds would require an appropriation, public hearing and approval by the Council.

Chair Handley called for a vote on the implied motion.

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

4. Ordinance 2020-63 amending Provo City Code to allow more options for conducting Neighborhood Chair elections. (20-253) (1:28:32)

Motion: An implied motion to adopt Ordinance 2020-63, as currently constituted, had been made by council rule.

Karen Tapahe, Community Relations Coordinator, presented. Provo City Code 2.29.030 required that those voting in the election of a Neighborhood Chair and Vice Chair(s) be present in person at the neighborhood meeting where the election is being held. The pandemic conditions had restricted in-person gatherings in the interest of safety and health. There were some neighborhoods with Neighborhood Chair vacancies and others where the Chair's term has expired. Neighborhood meetings had moved entirely online because it was too cold for an outdoor meeting option. An adjustment to the

City Code was needed to allow the elections to be held in an online meeting. This was also an opportunity to establish a consistent set of rules to guide the elections. The Neighborhood Advisory Board met November 23, 2020, to review the proposed amendment and gave a unanimous recommendation to bring it to the Municipal Council for approval.

Chair Handley opened public comment.

Jared Curtis, Provo, wanted to know why there was a concern about voting in person. He did not think that in person neighborhood meetings had been the source of any mass COVID transmission. He thought the election should take place in person.

Mary Howell, Provo, was supportive of this measure. One reason there was little involvement in the neighborhood program was because people tend to have families and other responsibilities that prevent them from attending in person. Having the ability to vote on a virtual platform could increase the involvement, said Ms. Howell.

Ms. Tapahe responded to Mr. Curtis and said the few events held since the pandemic had been outdoor meetings that allowed for physical distancing, but now it was too cold. Neighborhood Chair Elections required someone from the Council Staff to be present, and they preferred to meet virtually during the pandemic for their own safety.

Chair Handley noted that COVID-19 had created many new opportunities for flexibility in the way meetings are held and it helped in accommodating specific needs with technology.

Councilor Ellsworth was supportive of these updates. It provided more access to these meetings. She did not feel these were serious elections, they were more informal selections of Chairs. Ms. Tapahe agreed and said the Neighborhood Chair did not have power in being able to vote on projects, they were only responsible for the transfer of information, hence the casual nature of these elections.

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. An ordinance amending the Zone Map classification of approximately 8.5 acres, generally located at 1724 South State Street, from CM, RA, R1.6, R1.10, and A1.5 to the MDR Zone. Spring Creek Neighborhood. (PLRZ20190356) [\(1:42:49\)](#)

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

Brandon Larsen, City Planner, presented. There were 14 parcels with various zones in the proposed location, the applicant proposed rezoning approximately 8.5 acres to MDR. Mr. Larsen described 1640 South State Street as the northern boundary, and the access point was at 1724 South State Street, which was the current access for Treeside Charter School (TCS). The project was bisected by the entrance to TCS. This request was compliant with the area plan and General Plan recommendations of mixed use and compliant with the Southeast Area Plan recommendation of MDR zoning designation.

There would be 30 townhomes, 30 studio apartments, 64 two-bedroom apartments, and 80 one-bedroom apartments. Each building would be three or four floors. There were two different amenity spaces located within the development. The building materials would be a hardy board and stone exterior. If this were approved, there would still need to be project plan approval before beginning construction.

Mr. Larsen displayed the various elevations and renderings. He also spoke the other developments that had recently been approved in the area and the mix of zoning and demographics in the Spring Creek Neighborhood. ([1:48:24](#))

Chair Handley invited Mary Millar, Neighborhood Chair, to speak. She felt the applicant had worked well with staff and the neighbors had learned a lot about the economic development of this area. The subject property had been vacant for 44 years prior to the school going in. The neighbors liked having Treeside Charter School in the area and wanted additional development. The neighborhood was supportive and thought this would be a good thing for the City.

Chair Handley invited Erin Preston, representing Treeside Charter School (TCS), to speak to the Council. TCS had a 20-year lease with a purchase option. They had not been included in the planning process, most of the information obtained had been received through GRAMA requests. Traffic was discussed in the neighborhood meeting, but there was not a recent traffic study available. Later, the project was denied for multiple reasons, including the need for a traffic study. In December, the application was approved but she felt the project had been misrepresented. One issue for TCS was the traffic analysis, the traffic study being used was outdated. The parking in front of the school was dedicated and already short seven required spaces. They worried overflow parking would end up in the school's parking lot. The primary access point was currently used for the school pickup and drop-off, it was utilized heavily. The available parking study for State Street traffic shows accidents and issues. Ms. Preston requested a continuance for an updated traffic study. She felt approval of this project would create a dangerous situation for the students and all those involved. ([2:12:25](#))

BJ Taylor, Salem, was a school board member and volunteer teacher at TCS. He said there was already inadequate parking at the school. They would welcome the homes, it is likely they would feed into the school, but they were concerned about the safety of the school. Charter schools did not have bus programs, so there were even more cars than a typical school. Using the school's lanes did not seem reasonable for entering and exiting the portion of the development south of the school.

Todd Hepworth, Santaquin, was the Director of TCS. He said TCS brought value to the community by providing employment for 45 employees. Students came from all over the valley and their parents supported the local economy. The school also brought in millions of dollars in grants. He said any rumors of the school closing were very untrue, they had a 20-year lease, and they were only five years into it.

Chet Barber, Bountiful, owned land adjacent to this project. They support the rezone but said the exhibit shown was showing his property as retail, which was not what they intended, they would be applying for an MDR rezone too. He also noted that the property to the south was also shown as retail, but they did not see this as being developable, it was a large culvert. He was a commercial real estate broker and thought the reason commercial does not work in this area was a lack of rooftops. He thought proper MDR developments would help to eventually bring in quality commercial developments.

Mary Howell, Provo, had three children attending school at TCS. There had been rumors of what would be done with the land. Originally, she was okay with the development because it was supposed to be a preschool. She was not in favor of adding 1200 additional cars to her kids' pickup lane. She was fearful a child would be harmed; it was already concerning as it was today.

Lindy Townsend, TCS Consultant, said Ms. Millar was a great Neighborhood Chair. She explained that Chett Barber, who spoke earlier, was planning to develop high-end townhomes and never made any assumptions about using the school's property for access. The process had taken a year because the glaring issue of child safety was being ignored. Collaboration and friendliness were needed. She had development experience across the world and thought TCS should not be compelled to allow this developer to profit from TCS, a non-profit entity. She thought the item should be continued.

April Clausen was the school board chair one of the founders of TCS. She thought the school needed to be involved in the process.

Chair Handley allowed David Gardner to address the Council, he was the developer of this project. He explained the units were condominiums that would be sold, not rented. He felt there was a strong demand for this type of housing. The townhome units were 3 bedrooms with a studio unit on top that could also be purchased with the townhome or sold separately. The one- and two-bedroom units were in high demand for owner occupancy. A total of 14 parcels were acquired for this project with the intent to remove any blight. They had not requested any parking waivers and had 140 percent of what was required for open space. The building materials were superior to other projects. He said their traffic study showed they were not significantly increasing the traffic on State Street.

Councilor Hoban asked Mr. Gardner if he shared the same concerns with cross pollination of traffic during drop-off times and the apartments to the south having to use the same driveways as the school. Mr. Gardner was not aware of another option for accessing that parcel. It was possible a signal might be installed so there were breaks between traffic pods. He thought this development could be helpful to the school.

Councilor Harding desired for this item to be heard for a second time.

Councilor Ellsworth was passionate about this area, she worked in the area and was very familiar with it. She wanted to preserve the quality of the neighborhood. Ms. Ellsworth was not sure this met the requirements of the 2015 Southeast Area Plan. She had received emails about having more of this type of development, these constituents preferred commercial development. She thought everything south of 1640 South should be primarily commercial. Her preference would be for this to be a commercial node. The area plan said this was compatible with MDR, but she thought it was her job to course correct and continuing with this trend would create more problems. Only 15 percent of the project would be townhomes. She was concerned about a balance of commercial and residential. She was willing to wait for the right type of development. She wanted to make decision on what was best for Provo over the next 40 years.

Chair Handley thought the presentation helpful and he appreciated the effort that went into it. There were some differences of opinions with the school and developer. He thought there needed to be more dialogue between the developer and TCS. Mr. Handley did not think the issue of safety had to do with State Street, rather the road into the school where the children were.

Councilor Harding wanted to understand who owned the road going into the school. Whenever they review these greenfield developments there have been too many times when a development goes in and blocks good use of adjacent land. One step was to create a concept plan for a property adjacent to it to ensure there was still a viable way to develop the other land. He wondered if this was taken into consideration when the school went in.

Councilor Sewell was sympathetic to the long process the developer had gone through. He appreciated having more time for the school and developer to communicate. He tried to imagine what might go here, if not this development, but he thought commercial use could actually be worse for the school. Residential use seemed more compatible to Mr. Sewell. He hoped they could figure out a way for a smooth pickup and drop-off pattern.

Councilor Ellsworth thought there were commercial developments that would be compatible, banks, cellular phone stores, medical, etc. She appreciated the work of the developer and understood delays were costly. The higher value for Ms. Ellsworth was the people who had to live with it for 100 years.

Councilor Shipley asked what the developer would be interested in terms of rescheduling. Mr. Gardner said he did not know how fast they could work through this, but tentatively wanted to be on the next meeting agenda.

6. *CONTINUED* An ordinance amending the zone map classification of approx 5.33 acres of property, generally located at 1724 S State St, from Agricultural (A1.5) and Residential (R1.6) to Community Shopping Center (SC2). Spring Creek Nbd. (PLRZ20190426)

By unanimous consent, the Council adjourned and reconvened as the Redevelopment Agency of Provo.
Redevelopment Agency of Provo

7. Resolution 2020-RDA-12-15-1 authorizing the Chief Executive Officer to sign a lease agreement with PEG Development for office space in Downtown Provo. (20-248)

Motion: An implied motion to adopt Resolution 2020-RDA-12-15-1 as currently constituted, had been made by council rule.

David Walter, Redevelopment Agency Director, presented. The Redevelopment Agency had been working to develop additional office space and parking in the downtown area. PEG had been through the development approval process and has had the development approved. Their construction financier requires that at least 60 percent of the proposed office space be committed by leases prior to releasing the funds for construction. PEG has asked the Agency to lease the space with the understanding they will continue to look for alternative office users prior to the Redevelopment Agency taking possession of the premises.

Chair Sewell read in the next agenda item as well, they were related.

Councilor Ellsworth added that this would also help to resolve litigation over parking issues with the County.

Chair Sewell opened public comment. There was none.

Councilor Fillmore said there were multiple upsides to this agreement with no downside for the City, as there was no liability for the City.

Chair Sewell called for a vote on item 7.

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

8. Resolution 2020-RDA-12-15-2 authorizing the Chief Executive Officer to sign a joint development agreement with PEG Development for the development of office space in Downtown Provo. (20-249)

Motion: An implied motion to adopt Resolution 2020-RDA-12-15-2 as currently constituted, had been made by council rule.

This item was presented with the previous item. Chair Sewell 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.

Adjournment

The meeting was adjourned by unanimous consent at 8:33 p.m.