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PROVO MUNICIPAL COUNCIL

Council Meeting Minutes

5:30 PM, Thursday, August 20, 2020

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

Opening Ceremony ([0:00:00](#))

Roll Call

The following elected officials participated:

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

Excused: Council Vice-chair David Harding

Prayer

The prayer was offered by Tracie Kilcrease.

Pledge of Allegiance

Councilor Bill Fillmore led the pledge of allegiance.

Action Agenda

1. Consideration of a resolution calling for increased efforts to mitigate the COVID-19 pandemic. (20-117) ([0:05:05](#))

Council George Handley shared introductory remarks regarding the Council's responsibility toward the health and safety of the public. He cited statistics supporting the efficacy of mask-wearing as a means of reducing community spread of COVID-19. He noted the Council's desire to balance an important health-related commonsense measure, with not creating an additional burden with enforcement of such a provision. As the city anticipated the return of thousands of university students to the Provo area, it was critical that the City prepare for the possibility of increased infections in the community. The Council meant to use the best information available to proactively anticipate and minimize risk going forward, and to do so expeditiously.

Mr. Handley expressed gratitude to BYU for their proactive and thoughtful approach to implementing pandemic restrictions and precautions on campus. He indicated that the Council's

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[\(0:14:17\)](#) Mayor Michelle Kaufusi shared her prepared comments. She emphasized several principles that have guided her decisions during the pandemic:

- Following guidance of health authorities in state and region; Provo does not have a health department and she is not a health expert, but there are many resources from state and local health agencies to monitor and provide guidance.
- Exercising respect for and partnership with community partners, including universities, non-profits, and elected officials in our area.
- A preference for persuasion and education over authority or mandates.
- Her esteem for the people in our city; not instituting a mandate sends a message of trust and keeps citizens on the level of equal partnership with government leaders in addressing the pandemic.
- Respect for the views of Provo’s Police Chief, who was against any form of mandate.

Mayor Kaufusi hoped to continue education about self-regulation to incoming students. She appreciated the opportunity to share her views with the Council and Provo’s citizens.

[\(0:18:26\)](#) Police Chief Rich Ferguson shared comments. He felt that the recommendations from the Governor and Mayor to wear a mask were wise and that all citizens should be following that guidance when in public. However, he did not feel that a mask mandate was appropriate. He echoed some of Mayor Kaufusi’s reasoning and added that the use of armed officers to enforce health codes would increase problems and reduce trust. He felt this approach sent the wrong message and would result in hundreds of calls, typing up police and emergency response resources. He did not have resources to respond to calls that the City did not want to enforce in the first place and was therefore against a mandate.

[\(0:19:34\)](#) Cliff Strachan, Council Executive Director, presented background information and highlighted some of the broad concerns and considerations recently raised by the Council. Mr. Strachan also highlighted the public input that the Council has received in the form of phone calls, emails, and Open City Hall responses. He acknowledged that recommendations have changed as new data has become available to health officials.

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(0:26:07) Karen Tapahe, Community Relations Coordinator, shared an overview and summary of the Open City Hall responses. This topic had a record number of participants—nearly 2700 responses in 26 hours. This was not a scientific sample but provided valuable feedback.

(0:38:28) Mr. Strachan shared information from the COVID-19 studies from BYU. He then reviewed the proposed resolution and invited questions from the Council prior to opening the public comment period.

Council Chair George Handley observed that there was a disconnect between purported feelings on mask wearing versus the actual rate of compliance. This gap has been very concerning to him all along. Mr. Strachan agreed and noted that there may be a contingent of citizens that support mask-wearing but not a mask mandate.

(1:00:08) Councilor Shannon Ellsworth reiterated Mr. Strachan’s comments from the BYU studies. She asked what staff have gathered from other cities, counties, or states that have a mandate about enforcement or non-enforcement of that mandate. Mr. Strachan shared insight from the approach taken in other municipalities. Councilor Travis Hoban asked if staff could highlight the differences between a resolution and ordinance for the benefit of the public. Brian Jones, Councilor Attorney, shared background on this distinction. Based on the separation of powers associated with Provo’s form of government, the Council exercises legislative power. This is done through ordinances which change the city code. A resolution is a way for the Council to exercise the administrative powers that the Council has; Mr. Jones cited several examples of routine city business which the Council conducts via resolution. Resolutions can also be used by elected policymakers to state a position they have and call others to action. A resolution can also be used to set forth a policy direction that the Council wants for the City. Mr. Jones clarified that these solutions (by resolution) are non-binding and do not change the law, but just state what the Council’s definitive position is.

(1:04:55) Public Comments

The Council received call-in public comments. The comments are summarized below, with the speakers’ names and city of residence noted:

- Aaron Davidson, American Fork – He felt that most studies on mask wearing focused on clinical environments rather than everyday environments. He felt that many people wear masks incorrectly and that by touching, moving, taking off, etc. their masks, that they pose greater risks of spreading COVID-19.
- Kristen Koffman, Provo – She supports the resolution and appreciates the care being taken. Since COVID-19 is an aerosol pathogen, she felt that even improper mask-wearing was still an important precaution. She felt the city should err on the side of caution.
- Nicole Candie, Provo –She did not understand the focus on this deadly disease that has a 99% survival rate. She did not agree with the mandate and felt the city should trust citizens to make their own decisions.
- Jessica Johstoneaux, Provo – She appreciated the wording of mandate and felt that wearing masks would allow everyone more freedom during a pandemic.
- Jennifer Stringham, Provo – She felt the Open City Hall survey was not representative of the city and citizens’ feelings. She thought most people are already wearing masks.
- Chad Pritchard, Provo – He did not believe a mandate was needed. He thought an unenforced mandate weakens other laws and was concerned about having to enforce the mandate as a business owner who respected the choices of his patrons.

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- Mike Preston, Orem – He uses Provo’s recreation center and was not in favor of a mandate. He thought the decision should be entrusted to the people and felt this was a civil right being taken away.
- Devony Roberts, Provo – She thanked the Mayor for her position. She agreed with other comments that a mandate would cause problems. She felt that children were low risk and shouldn’t be required to wear masks. She shared an anecdote of her daughter’s experience wearing a mask in school.
- Carolyne Ambert, Highland – She felt that it was important to be discerning with risks. She was against a mask mandate.
- Alice Willow, Provo – She strongly supported a mask mandate. Evidence suggests that a mandate would improve mask wearing and decrease COVID-19 transmission. Wearing masks during a pandemic was incredibly important to the community’s survival.
- Terri Mahaffee, Provo – She was totally against a mandate. Her family in California and Michigan have to wear masks but some have still contracted COVID-19. She didn’t think it was as contagious as everyone makes it out to be. She also worried about sexual assault victims feeling suffocated by wearing a mask. She supported the Mayor’s comments.
- Brigham Daniels, Provo – With the return of thousands of university students, Provo was very likely to experience community spread at a level we have not seen. He noted that it is well within the prerogative of government to limit people’s freedom when there was a danger of hurting others. He felt that a mask mandate, while not fun, was the simplest thing our community could do to alleviate illness and suffering, and in some cases, death.
- Quinton Anderson, Provo – He is a UVU student and volunteers in schools as part of his program. He felt that the community needed to do the very best to protect life—wearing a mask is easy. Kids are getting used to wearing masks and don’t have issues breathing; exceptions were rare. He noted the decrease in cases in Salt Lake County after a mandate was implemented. He felt that his freedom to live a healthy life was more important than the freedom of not wearing a mask in a literal pandemic. He felt the choice was an easy one when considering the value of a life.
- Angela Faulconer, Provo – She felt that adults needed to work with children to educate them about the importance of masks. It takes getting used to, but it is possible to breathe through a mask. She has seen the impact of a mandate play out at BYU, where there has been a dramatic improvement in mask compliance since requiring it.
- Matt Peterson, Provo – He was troubled by commenters’ repeated appeals to the 99% survival rate; COVID-19 was an extremely serious disease. Mask-wearing can increase economic activity and make things safer. People will die in proportion to the degree we do not take adequate measures. He was very supportive of a mask mandate.
- Thad Brown, Provo – He felt that there should absolutely be a mandate; the scientific evidence is there and the arguments against doing a mandate were bogus and laughable.
- Peter Madsen, Provo – Mr. Madsen is a professor at BYU and supported a mandate. He felt that BYU and schools had great measures in place, but was much more comfortable about being part of the community if we are confident that other members of community wear masks. A mask mandate was a public health issue, not an issue of personal freedom. If masks are not required off-campus, many students won’t voluntarily comply. A mask mandate was a necessary step at this unusual time in our history.
- Tara Bishop, Orem – She works in Provo and felt this community values preventative care. She appreciated the speed with which the Council was addressing this issue.

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- Jerom Petritch, Provo – He works at BYU and was opposed to the mask mandate. He believes in the goodness of our community and felt that people can make their own choices. He worried about government overreach in the medical realm and personal sovereignty. He thought that local government was where the people had the most power to set positive or negative precedents for how government should behave. He was concerned with the long-term implications.
- Faith Buttrick, Syracuse – She felt she had the freedom to breathe as a free person in America. She thought that passing a mask mandate violated the Council’s oath to the Constitution. She referenced hundreds of studies affirming her views.
- [This commenter did not provide his name], Provo – He felt the mandate was invasive and that mandates were already in place at BYU and in most businesses.
- Jim Tracy, Provo – He felt that a mandate was basically worthless without enforcement. Enforcement through code enforcement for health not law enforcement.
- Austin Simcox, Provo – He is a high school teacher in Provo and fully supported a mask mandate. Data should prevail over emotion when making policy decisions; it was not appropriate to put entire community at higher risks because a few exceptions. We have been trying the good-decisions-on-their-on-own for months and it is not working. This is the best way to reopen the economy and more quickly return to normal.
- Eleanor Smith, Provo – She is a high school student in Provo and strongly supported a mandate. Asking people to wear masks was not enough; they needed a requirement and a consequence. Some people have argued that a mandate takes away liberties—but if we don’t have our health, what liberties do we really have? She did not want her loved ones or our community to suffer during the pandemic—it is better to be safe and responsible.
- Hannah Faulkner, Provo – She lives in campus housing at BYU and is already concerned about the urgency of this situation. She felt mask mandates were like other laws—we have speeding laws and a mask mandate was a similar type of law to help protect those around us. Many people have not complied with voluntary mask-wearing; but if there is a mandate and a compelling purpose behind it, compliance greatly increases.
- Blake Tierney, Provo – He thought that the survey results and calls have been interesting to hear but was concerned with the number of anecdotes and outright misinformation. The data is compelling behind the efficacy of mask wearing and the data from BYU and Salt Lake County support this as well. Masks have no impact on oxygenation levels—doctors and nurses wear masks all day every day. A 1% failure is not okay when talking about life and death. He knows two people who have died of COVID-19 who were friends of his. The Council can literally vote on this and save lives. It may not be perfect and it will be temporary, but it seems like an obvious call.
- Maren [did not provide surname], BYU student – She would be returning to campus soon. She supported a mask mandate and appreciated BYU’s efforts. Spread of the virus was very likely to happen off-campus with friends, social outings, housing—having a mask mandate with the same standards in all settings was so important and easy to do.
- Betsy Croft, Provo – She supported the mask mandate. We have passed the point of debating the science—mask-wearing protects others and is an act of compassion. She felt that trust needs to go both ways; Provo has given people plenty of chances and they have not met their end of the social bargain. With another dance party by Young/Dumb planned for September 4, this was the kind of activity that would continue without decisive action by City leadership.

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(2:12:09) Council Discussion

Following the public comment period, the Council discussed the resolution. The Councilors' comments are briefly highlighted and summarized below.

- Council Chair George Handley clarified that the present discussion was about the resolution, which was simply a call to action to the community to increase their compliance with mask recommendations. Mr. Handley hoped the Council would pass both the resolution and the ordinance, though the ordinance introduced the challenging issue of enforcement. Mr. Handley suggested the Council pass the resolution unanimously during the meeting, and then discuss the options for an ordinance.
- Councilor David Shipley supported the resolution and guidelines the state has put out, but that has not been enough to result in compliance so far. He felt that it made sense to align an ordinance to be consistent with the state, BYU, the Church of Jesus Christ of Latter-day Saints, and businesses, and he asked the City Administration to require masks in city buildings and facilities.
- Councilor David Sewell echoed Mr. Shipley's sentiments regarding setting an example of mask-wearing conduct within city facilities. He thanked all involved with the education and communication efforts on mask-wearing. He strongly supported the resolution. Mr. Sewell also expressed appreciation for the ongoing cooperative nature of the Council's relationship with the Mayor and hoped the cooperation would continue.
- Councilor Shannon Ellsworth supported the resolution but felt that much more was needed. She appreciated the work staff and Councilors have put into addressing the pandemic and public health measures.
- Councilor Travis Hoban registered his support for the resolution but expressed that he still had concerns about the ordinance.

Motion: Bill Fillmore moved to adopt the resolution. Seconded by David Sewell.

Vote: Approved 6:0, with David Harding excused.

2. Consideration of an ordinance related to COVID-19 pandemic responses, including face coverings and public gatherings. (20-118) (2:29:20)

Councilor Bill Fillmore thought that the ordinance needed further study, as well as input from schools, businesses, and an extended public survey.

Motion: Bill Fillmore moved to table the ordinance and to renew the discussion of an ordinance that was limited in scope, not a criminal offense, and would address only the most urgent of circumstances. Seconded by David Sewell.

Councilors discussed the motion. Council Chair George Handley supported tabling the ordinance until further study could be completed, but he disagreed with the scope Mr. Fillmore suggested in his motion. Councilor Shannon Ellsworth asked Mr. Fillmore about some of his comments, which Mr. Fillmore clarified to mean anecdotal arguments he has heard. Councilor David Sewell noted that in his experience, it can be challenging to amend an ordinance extensively on the dais and felt this required more time to better prepare for the discussion. He hoped to continue the dialogue with Mayor Kaufusi and Rich Ferguson, Police Chief, regarding their concerns and hoped to identify some middle ground in a proposal. Ms. Ellsworth suggested passing an

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Ms. Ellsworth shared comments on the Open City Hall (OCH) topic and whether it should be extended or not. Mr. Fillmore clarified that reopening the existing topic would allow more citizens a chance to respond to it. Cliff Strachan, Council Executive Director, clarified that OCH was not intended to be a scientific surveying tool; rather, it was a tool to help the Council receive comments and public input. He highlighted the tremendous response on this OCH topic and how staff had worked to summarize the results. Mr. Strachan advised that flexibility, rather than determining a meeting date to resume discussion of the ordinance at that time, would likely be helpful to the Council and staff as the proposal was revised.

Amended Motion: Bill Fillmore moved that the Council table a vote on an ordinance tonight, while still discussing the key issues; to seek additional input from businesses, schools, the City Administration, and Police Department; and to extend the Open City Hall topic. Seconded by David Sewell.

Councilors briefly discussed the reopening and extension of the OCH topic and discussed meeting dates for the next meeting. Mr. Handley called for a vote on the amended motion.

Vote: Approved 6:0, with David Harding excused.

Mr. Handley expressed concern about the high level of distrust and misunderstanding about the role of city government in our community. Mr. Fillmore felt the Council had the prerogative to act in the interest of health, safety, and welfare of the community. Ms. Ellsworth echoed these sentiments about the importance of the broader community’s health and safety.

Mr. Jones highlighted several specific policy questions and considerations for the discussion and drafting of the ordinance, including:

- Does the requirement apply only indoors? Or does it apply outdoors as well?
- Does it apply generally without regard to specific situations? (such as social distancing)

Councilors discussed these and other elements of a proposed ordinance. Mr. Jones suggested that Councilors speak up if they disagreed with a general principle, otherwise he would continue moving through the questions and discussion points.

Councilors’ general comments during this portion of the meeting are summarized briefly below:

- Mr. Handley suggested a greater focus on indoor settings (both for individuals and for groups/events) due to the nature of spread.
- Ms. Ellsworth felt outdoor worst-case scenarios should be contemplated, including scenarios typical of everyday life (not just special events or large gatherings).
- Mr. Hoban felt indoor settings were more problematic than outdoor. He also shared concerns about the nature of large events, regardless of social distancing.

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- Councilor David Shipley agreed that indoor situations were riskier but worried that ignoring outdoor settings would simply cause problematic events to move outdoors.
- Mr. Sewell hoped to identify common ground with the City Administration; perhaps a limited mandate which targeted the most egregious situations would be suitable.
- Mr. Fillmore preferred a limited mandate focused on groups, rather than individuals.
- Mr. Hoban echoed Mr. Sewell's comments regarding the Administration and mentioned the importance of getting buy-in from local businesses as well. He was also interested in whether something less drastic than a mandate might still have the desired effect with regards to encouraging compliance.
- Several Councilors expressed that they did not want this ordinance to be criminal in nature, but perhaps it would escalate to an infraction or a citation. Councilors also did not want enforcement to be a burden on city law enforcement.
- The general discussion of large events was that they should not be banned, but that face coverings should be required. Mr. Jones asked several clarifying questions on this point. Mr. Jones also suggested that discussion may be more effective if Councilors would make a motion to gauge support for a certain provision, thereby working their way through the various elements of the ordinance. Cliff Strachan, Council Executive Director, suggested that another approach could be to distribute a survey to Councilors over the weekend to gauge general support of provisions to include or exclude. Mr. Jones appreciated the discussion about the logistics of enforcement, as that would be an important consideration as well.

Adjournment

Adjourned by unanimous consent.