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## PROVO MUNICIPAL COUNCIL

### Regular Meeting Minutes

5:30 PM, Tuesday, March 30, 2021

Room 200, Municipal Council Chambers

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: Chair David Sewell

**Prayer:** Councilor David Harding

**Pledge of Allegiance:** Councilor George Handley

**Public Comment** ([0:14:06](#))

Chair Sewell opened public comment, there was no response.

### Approval of Minutes

- February 16, 2021 Council Meeting Minutes

The meeting minutes were approved by unanimous consent.

### Action Agenda

1. **Resolution 2021-16 appropriating \$105,000 from Wildland Fire Response Revenues into the Fire Department in the General Fund for an employee salary adjustment warranted by a recent salary market study. (21-048) ([0:18:00](#))**

**Motion:** An implied motion to adopt Resolution 2021-16 as currently constituted, has been made by council rule.

John Borget, Director of Administrative Services, presented. A salary market study had recently been performed, which warranted a salary increase in various positions from multiple departments in the City. Administration recommends implementing the proposed increase immediately for the Fire Department only. The impact the increase had on the Fire Department budget for the remainder of Fiscal Year 2020-2021 was \$105,000. The Fire Department had unallocated wildland fire response

revenue funds that could be used for this purpose in Fiscal Year 2020-2021. An increase for Fiscal Year 2021-2022 for the Fire Department and all other City departments affected by the market study would be part of the regular budget process for Fiscal Year 2021-2022.

Daniel Softley, Human Resources Director, explained that in the past two years several agencies in the area had increased their wages for public safety personnel, which made it more difficult for Provo City to compete. Typically, market adjustments were given at the first of the year, but it was prudent to implement this as soon as possible for the Fire Department only to meet current staffing needs, they were anticipating filling 9 vacancies by the start of the fiscal year and needed to be competitive.

Mr. Softley reviewed the proposed remedy which included increasing the starting pay, pay grades, add more levels for advancement, and formalize a lateral transfer program for fire personnel.

Chair Sewell opened public comment.

Ian Klosowiac, Provo, asked permission to speak about Slate Canyon since he had technical issues making the comment during the open public comment period. Chair Sewell permitted the comments even though they did not pertain to this item. Mr. Klosowiac was an avid user of our trails and parks, he encouraged the Council to put resources towards a park at Slate Canyon, including a bike park and skatepark.

There were no other comments from the public and with no further Council discussion, 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.

**2. A resolution approving the Program Year 2021 Annual Action Plan, second year update to the 2020-24 Five-Year Consolidated Plan. (21-050) [\(0:33:12\)](#)**

Dan Gonzalez, CDBG and HOME Administrator, presented. Mr. Gonzalez explained the CDBG and HOME Programs provide the City of Provo and other local governments with the opportunity to develop viable urban communities by funding activities that provide decent housing, a suitable living environment and by expanding economic opportunities, principally for low- and moderate-income persons. Funds were awarded to carry out a wide range of community development activities directed towards neighborhood revitalization, home ownership and condition of housing stock. The Programs were administered by the Community Planning and Development Office of the U.S. Department of Housing and Urban Development (HUD).

Every year, as Lead Entity for the Utah Valley HOME Consortium, Provo City submits an Annual Action Plan (an update to the Five-Year Consolidated Plan submitted to HUD) outlining the goals, objectives and the proposed use of federal CDBG and HOME resources to address housing, economic development, and community development projects to be undertaken.

A Public Comment Period (March 20, 2021 to April 20, 2021) was being conducted for citizens, partner agencies, and other interested parties to review and comment on the Plan. Along with the public comment period, two public hearings are held to receive input from Provo citizens and Consortium members' and citizens. The first public hearing on March 30, 2021 presented the Draft of PY-2021 AAP to Council members and the public in general. Copies of the PY2021 AAP Draft were available for public

review at the Community and Neighborhood Services Housing Division's office and electronically on the City's website.

The second public hearing on April 20, 2021 would close the Public Comment Period and provide the Municipal Council an opportunity to make final funding determinations for the HOME and CDBG programs for Program Year 2021, which begins on July 1, 2021 and ends on June 30, 2022.

In the meeting materials Mr. Gonzalez had provided exhibits that outline each of the proposed recommendations, he reviewed each of these with the Council ([0:35:05](#)). These documents are available online at [agendas.provo.org](http://agendas.provo.org).

Councilor Handley was appreciative of these programs. He noticed the denial rates for Hispanic mortgage applications was notably high. He asked if this problem was specific to Provo. Mr. Gonzalez said that was a County data point, it was not just Provo. They were working on ways to bridge this gap, including working with Centro Hispano to find solutions.

Chair Sewell opened public comment, there was no response.

Councilor Harding was just concerned that so little of the HOME money was being used in Provo, especially since it was the most urban in the County. Mr. Gonzalez explained that as the County became larger and with more cities joining the consortium, Provo's percentage had decreased to about 43 percent.

**3. Ordinance 2021-12 amending Provo City Code regarding the hold times for electronic signs and sign size limits. Citywide Application. (PLOTA20210046) ([1:03:52](#))**

**Motion:** An implied motion to adopt Ordinance 2021-12, as currently constituted, has been made by council rule.

Because Chair Sewell was the presenter, Vice Chair Shipley introduced the item. This had been presented previously, but Chair Sewell gave a brief overview of the proposed ordinance. Up to 2013, the City did not have any regulations regarding digital signs. Members of the public expressed concerns about certain aspects of these signs. At that time, the Council passed an ordinance to regulate digital signage and it listed nine sections of streets in commercial areas where these signs would be allowed with a minimum hold time of eight seconds, which matched the highway standard. All other digital signs, except those grandfathered, were banned.

Around 2016, the Council heard from businesses that wanted a digital sign but were not located on one of those nine streets previously authorized. It seemed reasonable that other businesses might want a digital sign but did not need to change the display often, maybe a few times a day. Council decided they wanted to accommodate businesses and residents. Council amended the ordinance to allow digital signs everywhere, except in residential zones, but they could only change their message up to three times per day.

Chair Sewell wanted to chart a course that was sustainable long into the future that suited both the business and the residents. Churn frequency was the first focus of the proposed amendments. One concern was causing a distraction for drivers if the sign changed more than once while passing. The goal was to minimize the number of times a passing driver would see more than one change while passing the sign which could be a distraction. Council thought seconds was not a long enough hold and could

have some safety implications. Aesthetics were also a factor. So, it was proposed that the ordinance regulating the signs that were located on one of the nine streets with an eight second hold time, be amended to allow a change every minute. There were exceptions if the business were in the SC-3 Zone and it represented 20 or more tenants, if so, they could have a hold time of 15 seconds. If a sign were freeway facing, they would be allowed to follow the highway regulations which permitted an eight second hold time.

For the other signs in non-residential areas, they determined that only being allowed to change the sign three times per day may have been too restrictive, so this had been changed to allow a change every hour. These were typically mixed-use areas and gateways to the City.

This ordinance would not address video boards which had been banned in 2013, but there were several that existed prior to 2013 and those were grandfathered.

Vice Chair Shipley opened public comment.

Dr. Wendell Gibby, Mapleton, was the owner of Blue Rock Medical located on University Avenue in Provo. He was opposed to these proposals. He felt there had not been sufficient rationale for these changes. Dr. Gibby alleged a hold time of one hour would be damaging to their sign. Additionally, he thought this discriminated against certain businesses. Dr. Gibby encouraged Provo to be more business friendly.

James Carpenter, Utah Sign Association, said the complexity of the proposed ordinance would make enforcement difficult. It was not easy for businesses or staff to understand. Enforcement of the brightness standards was the most important regulatory aspect. On behalf of his association, they requested additional discussions with all stakeholders occur to find a more balanced and equitable solution.

Rick Magness, Salt Lake City, worked for YESCO and read a letter from one of their clients, Utah Community Credit Union. They had ten branches in Utah County and wanted to make sure they were all beneficial to the community. They hoped material changes that hampered use of LED signage would be carefully scrutinized.

Jeff Young, Salt Lake City, was the Senior Vice President for YESCO. They were not in favor of these restrictions. He thought the City should do everything they could to help businesses thrive. Mr. Young thought supporting this amendment would drive business elsewhere. He said this was the most restrictive hold time anywhere in the State.

Scott Bowls, Provo, was the manager of Provo Town Centre. Mr. Bowls did not believe this was intended as a suppression of free speech. Since 2013, he thought there had been significant improvements to embrace modern business practice. However, signs were an important way for businesses to spread their message and could also be used to benefit the public. The complexity of signs needed broader discussions.

There were no other comments from the public.

Brian Jones, City Attorney, clarified that this lessened the restrictions on signs in the long hold time tier, like the Blue Rock Medical sign. By asking Council to table this, they were essentially asking to keep the

current churn rate of three times per day, instead of once every hour. The exception would be the short hold time areas.

Councilor Hoban stated that LED bulbs could run for 50,000 hours and can run 24/7, he did not think a hold time of one hour would cause damage to the sign. The idea behind this proposal was to plan for the future. As the price of the LED signs decreases, the number of signs would increase.

Councilor Harding was supportive of the proposal. He said depending on different technology, there could be some risk of burn-in. He added that this ordinance would not require anyone to have an electronic sign, but it would allow them in some areas where they were previously not allowed.

Chair Sewell wanted to clarify that they had originally intended to include downtown in the long churn hold time area, but the businesses in this area petitioned the Council and asked them to ban digital signs downtown.

Councilor Fillmore noted there had been several objections from the business community, but he wanted to know if Mr. Sewell felt the need to respond to any of the concerns. Chair Sewell said he sympathized with the small businesses, but the intent was really to expand the use of digital signage in a way that would not negatively impact residents. They would continue to look for ways to improve the ordinance and address the concerns of brightness.

Vice Chair Shipley 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.

**4. Ordinance 2021-13 approving the petition to annex approximately 9.5 acres of property generally located at the intersection of Colorado Avenue, Bullock Lane, and 1860 South. East Bay Neighborhood. (PLANEX20210019) (1:45:30)**

**Motion:** An implied motion to adopt Ordinance 2021-13, as currently constituted, has been made by council rule.

Robert Mills, Planning Supervisor, presented. This item was an annexation request for property located at 1640 S. Colorado Avenue. The subject area was located on the south edge of the current Provo boundaries, on the north side of 1860 South, and on the east side of the Western Metals Recycling property. A portion of two of the parcels to be annexed were already within the City boundary. The total property proposed for annexation was approximately 9.5 acres. The applicant was the project engineer, but the petition signer was Spencer Wright, representing East Bay Self Storage, LLC. These parcels were included in the Annexation Policy Plan. Mr. Mills added that the Planning Commission recommended the lowest intensity zone, which for this area would be M1.

Chair Sewell opened public comment, there was no response. With no further discussion from the Council, he 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 54 acres of real property, generally located at 3450 W Center Street, from (A1.10) to (M1), (R1.8PD), and (RA). Provo Bay and Fort Utah Neighborhoods. (PLRZ20180197) (1:59:04)**

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

Brandon Larsen, Planner, described the property. There were three parcels all currently zoned A1.1. The applicant had requested that approximately 32 acres included in the parcel located on the north side of Center Street be rezoned R1.8PD, with approximately 2 acres that had existing homes be rezoned as RA. The two parcels on the south side of Center Street equaled approximately 31 non-contiguous acres and an M1 Zone had been requested.

Mr. Larsen spoke about the two parcels to the south of Center Street. Approximately 300,000 square feet would be light industrial, and 100,000 square feet would be flex space that had store fronts with a warehouse in the back.

The plan for the parcel to the north of Center Street would include 72 new one-family homes with lots ranging from 6,000 to 13,669 square feet. Because this zone was Performance Development, this gave them flexibility with lot size in exchange for open space and amenities.

The Planning Commission recommended approval with a Development Agreement that included three additional requirements: They wanted the applicant to work with the City regarding the fencing type along the river, consideration given to the applicant dedicating five acres of open space to the City, and three access points to the river.

Mr. Larsen said there had been many apartments and townhomes approved in the City, so one-family homes would be a good balance. The neighborhood was supportive, and Staff recommended approval.

The five acres of open space intended to be deeded to the City were located north of the residential development between the homes and the river. Councilor Ellsworth asked how wide the buffer was between the development and the river, Mr. Larsen believed it was 100 to 150 feet wide. This was acceptable under certain conditions. Councilor Ellsworth thought the open space would be more accessible if the right of way was closer to the river, so people felt safer by the area being more open.

Chair Sewell invited the applicant or their representative to speak. Dave Morton with RD Development in Sandy spoke to the Council. They had been working with the City on this project for several years. He had also been working with the neighborhood to ensure this was something the neighbors wanted. He said typically the larger lots are catered towards the river, but they opted to put the smaller lots near the river so first-time buyers have the opportunity to be near the river.

Mr. Jones asked if Mr. Morton had proffered a development agreement. Mr. Morton said they had proffered the agreement, but he wanted to work on incorporating the suggestions from the Planning Commission. It was likely the item would need to be continued by council rule to the next meeting to provide the time needed for these revisions.

Johnathan Hill was the Fort Utah Neighborhood Chair. Mr. Hill said this project had been ongoing for a long time. Mr. Hill said the neighborhood was supportive and liked the density, they felt it was a good fit for the area. It provided a much-needed housing type.

This item had also been posted on Open City Hall and did not receive any additional input other than what Mr. Hill had described.

Chair Sewell opened public comment, there was no response.

Ms. Ellsworth spoke about needing integrated and diverse housing types throughout the City, not just in one area or another. She would have preferred a mixed housing type.

Councilor Harding wanted to continue this to the next meeting. He wanted to see the recommendations from the Planning Commission included in the development agreement. He said there was a lot to like about this proposal.

Councilor Shipley thought it was worth considering ways to prevent a homeowner from changing the fence that backs up to the trail. He also wanted to ensure the language about the open space was specific. Mr. Larsen said a legal description of the open space could be included in the agreement.

Councilor Handley said big developments like this in open areas are eventually going to cost more than it would bring, so if the west continued to grow, they needed to look for infill development opportunities. The City needed more economically sound forms of growth and development.

This item would be continued to April 20, 2021.

**6. An ordinance enacting Provo City Code Chapter 9.81 (Carterville Parking Area). Carterville Neighborhood. (19-108) ([2:36:56](#))**

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

Javin Weaver, Planner, presented. This item was presented previously on January 19, 2021, where a resolution of intent to create a permit area passed. Since then, the text for the ordinance had been created. Notice had been sent to those in the neighborhood, there had been no feedback. The permit area would include 1625 North and the northern section of 300 West. The fee for a permit was \$100 per permit with a limit of two permits to area.

Councilor Ellsworth asked if there had been feedback about the fee. Mr. Weaver said there had been none.

Councilor Harding asked if there would be visitor permits available. Mr. Weaver said there would be visitors permits, as described in Provo City Code 9.80.160. This would allow each residence up to 18 temporary one-day permits and one seven-day permit.

Chair Sewell opened public comment, there was no response.

Brian Jones, City Attorney, explained a few years ago they created Chapter 9.80 which were the default rules for all parking permit areas, and the specific Section for the area would describe rules unique to the permit area.

Councilor Handley asked if the applicant was aware of the most recent proposal. Mr. Weaver informed the Council he had made her aware of it, but she had not responded.

Councilor Harding the language required a permit for on street parking from 11 p.m. and 6 a.m. Monday through Saturday, Mr. Harding asked what that would look like on a Saturday night. Mr. Weaver said only permitted areas would be allowed Saturday from 11 p.m. to midnight, and then any vehicle would be allowed to park on street on Sunday. Mr. Harding thought several issues might be resolved by moving the start time to 1 a.m. instead of 11 p.m. so people visiting friends and family did not have to leave or move their vehicles by 11 p.m.

Councilor Ellsworth was in favor of reconsidering or continuing this item to resolve other parking related goals and conversations. Chair Sewell agreed and said ideally this would be a good place to implement a new paid on street parking model that was more flexible.

Councilor Handley was concerned about the applicant's interest in this since it had already taken so long. He preferred picking another project as a pilot program and passing this now for the applicant. He was open to waiting a little bit but was not comfortable with a waiting a long time. Mr. Weaver stated he had not heard back from the applicant in some time, so he was a little uncomfortable, but he understood it had taken longer than anticipated to get to this point. Parking Enforcement had not had any requests from the applicant regarding enforcement. Councilor Handley suggested waiting until April 20<sup>th</sup> to get feedback from the neighborhood or applicant.

Councilor Harding liked many of the parameters of the proposal, but he thought there may be a good opportunity to combine models, the paid permit or pay-to-park model. He wanted the parking committee to discuss the options and asked to continue this item to April 20, 2021.

**Motion:** Councilor Harding moved to continue the item to the next meeting on April 20, 2021. Chair Sewell seconded.

Chair Sewell called for a vote on the motion.

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

**7. Ordinance 2021-14 amending Provo City Code regarding legislative staffing. (21-049)(3:00:40)**

**Motion:** An implied motion to adopt Ordinance 2021-14, as currently constituted, has been made by council rule.

Clifford Strachan, Council Executive Director, presented. This ordinance was intended to clarify the role of the Executive Director as being responsible for all aspects of personnel management in the Council Office, save for his/her own position. The requirement that the Council appoints policy analysts by resolution was a remnant from before the creation of the Executive Director position, which position is appointed by resolution of the Council. While the Council Chair retains overall authority for the Council Office, many duties have been delegated by ordinance to the Executive Director. Currently the Executive Director's personnel role is essentially managing, supervising, and evaluating but not selecting and if necessary, terminating as other department directors have authority to do. The proposed amendments to the Provo City Code would remove the appointment by resolution requirement for a Policy Analyst and set personnel decisions as a responsibility of the Executive Director.



Chair Sewell opened public comment, there was no response.

There was no further Council discussion, 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

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Approximately 8:30 p.m.