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## PROVO MUNICIPAL COUNCIL

### Work Meeting Minutes

1:00 PM, Tuesday, October 26, 2021

Hybrid meeting: [youtube.com/provocitycouncil](https://www.youtube.com/provocitycouncil) or 351 W Center Street, Provo, UT 84601

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

#### Roll Call

The following elected officials were present:

Council Chair David Sewell, conducting  
Council Vice-chair David Shipley  
Councilor David Harding  
Councilor George Handley  
Councilor Travis Hoban, arrived 1:02 PM  
Councilor Shannon Ellsworth  
Councilor Bill Fillmore  
Mayor Michelle Kaufusi, arrived 1:04 PM

#### Prayer

The prayer was given by Councilor David Shipley.

#### Approval of Minutes

October 12, 2021 Work Meeting  
*Approved by unanimous consent.*

#### Business

1. **A presentation regarding the review of Annual Fraud Risk Assessment. (21-106)**  
**([0:11:22](#))**

John Borget, Administrative Services Director, gave an overview of the annual fraud risk assessment. Finance began conducting this annual review last year. Mr. Borget noted that there are some situations in which fraud is still a possibility, but the results of this assessment demonstrate areas where the city has taken certain precautions to reduce those risks. Mr. Borget noted that last year an internal audit was conducted regarding city purchasing cards. Some items are still in the process of being implemented, but due to this focus, additional progress has been made on these audit controls. The current Councilors have all been trained, but there would be additional training opportunities with new Councilors being elected for 2022.

The City is currently conducting an internal audit on accounts payable. Mr. Borget is very pleased with the process and with the potential for strengthening the City's audit controls. The Council also has an Audit Committee and Mr. Borget's opinion is that the committee is functioning just the way it should—asking the right questions, including citizens and Councilors in the process, and examining important issues. Mr. Borget then reviewed the Separation of Duties portion of the risk assessment. During the review of this assessment, they realized that during the transition of Human Resources to the new Workday software, there were several items which had not been addressed in the new system. These issues have since been rectified.

Councilor Travis Hoban has served on the Audit Committee and he thanked Mr. Borget for his meticulous nature in managing the City's finances. Councilor David Harding asked about mitigating factors and whether the City was making changes to align those controls with the best practices. Mr. Borget explained that there were several situations, such as the City's compost yard, where one employee fulfills multiple functions due to the nature of the position and the cost-benefit of hiring an additional employee. They will continue to monitor these situations to ensure that the City is engaging in best practices. Mr. Harding commented that he has been impressed with how the Finance team has handled this risk assessment and taken proactive strides to make improvements to the City's processes. Council Chair David Sewell echoed the comments of other Councilors about the excellence in the Administrative Services Department and thanked Mr. Shipley and Hoban who serve on the Audit Committee. *Presentation only.*

## **2. A discussion on percent for the arts programs. (21-098) ([0:23:30](#))**

Cliff Strachan, Council Executive Director, presented. Mr. Strachan reviewed the past Council discussion on this topic. The basic concept of percent for the arts is to provide funding for public art by setting aside a specific percentage of capital improvement projects to be dedicated to the arts. Mr. Strachan reviewed several policy decision points for the Council, including formulating a specific policy and identifying the person or body assigned to review, plan for, and make recommendations for the program. Mr. Strachan highlighted the process used in several other Utah cities and shared details of the policies in those municipalities. Mr. Strachan reviewed other elements that are critical to percent for the arts programs.

Councilor David Harding commented that utility boxes with unique art contribute to the look and feel of a downtown or other area. He felt the Council should not immediately eliminate the possibility of a percent for arts for utilities and infrastructure. Mr. Strachan commented on this suggestion with some insight about how other cities have handled this particular policy decision. If the Council did not want to pursue a percent for arts program, there are other program formats which could be used to designate funding for the arts, such as establishing an arts fund, utilizing RAP tax funds, and other types of donations or grants. In response to a question from Councilor George Handley, Mr. Strachan illustrated some of the distinctions between a public art fund and grants. Mr. Strachan summarized by listing some of the possible actions the Council could take. Mr. Handley was interested in initiating a program like this. Mr. Strachan suggested establishing the committee in January, once the current year of committee assignments has wrapped up.

**Motion:** George Handley moved to create an ad hoc committee to explore and develop a recommended policy regarding a percent for arts program, and to defer selection

of the committee chair and vice-chair until January, with a target date of April to report back to the Council. Seconded by David Shipley.

Councilor Bill Fillmore thanked Mr. Strachan for his presentation and indicated his general support for public art. Mr. Fillmore was concerned about committing the City by an ordinance to an arbitrary amount of 1% per year. He referenced some financial constraints which had been imposed on the State Legislature and he hoped to avoid a similar situation with the City's financial commitments. He wondered about a more discretionary approach that could leave allowance for other budgetary constraints and priorities.

Mayor Michelle Kaufusi liked the idea of a percent for the arts program, but she thought that additional parameters were needed. She noted that 1% of all CIP funds would be an enormous sum; she thought the City could formulate an effective program that didn't have an outsized budget. Wayne Parker, CAO, echoed Mayor Kaufusi's comments. He agreed that 1% of CIP would be out of scale for a city of Provo's size. He thought doing a review or possibly a public art master plan would be helpful. Mr. Strachan added in response to Mr. Fillmore's comments that those same concerns have come up from many department directors. As the committee explores the parameters of a percent for the arts program, they could consult department representatives to work through these related issues.

The Council discussed the timing of the committee formation and selection of the committee chair and vice chair. Mr. Handley revised his motion to reflect the intended timeline. Mr. Handley also stated his intent that the committee include department representatives.

Councilor David Harding suggested a simply policy that permits the necessary flexibility. He suggested 1% of capital improvement costs and allowing the City Administration the ability to determine use of that 1%. Mr. Harding was also open to limiting the 1% to the costs of buildings, parks, and streetscapes. Mr. Strachan shared another possible approach of adopting intent language in the budget or city financial policies.

Councilor Shannon Ellsworth supported the creation of a committee. She thought the committee should work through the details, include citizen involvement, and determine a scope for use of the funds. She noted that art can be interpreted broadly or narrowly, and as a recent example, there was not a lot of citizen engagement in the early stages of planning the water feature. Mr. Strachan noted that a reality of the situation was that opinions will differ on what constitutes art; having an Arts Council in place to aid policy and decisionmakers will help.

**Vote:**           Approved 7:0.

**3.       A presentation from the Kem C. Gardner Institute: "A Time to Build: Physical, Human, and Social Capital" (21-094) ([1:18:03](#))**

Natalie Gochmour, Director of the Kem C. Gardner Institute, presented. Ms. Gochmour explained that investment and productivity encourage growth in the economy or a business context. Provo City is currently dealing with the growth dynamics of Utah County, which could have a negative impact on the community if certain investments are not made in order to deliver on the promise

of a prosperous community. Ms. Gochnour commented on growth, structural changes, and decline in institutions. She elaborated on what decline in institutions means, including real decline in certain institutions as well as decreased or lack of trust in various civic, religious, and community institutions. Ms. Gochnour reviewed population changes in Utah and highlighted some different factors. Utah has now reached the rank of a “mid-sized” state. In 2010, Utah was the 34<sup>th</sup> largest state and in 2020 it is the 30<sup>th</sup> largest state. Utah County has grown about 28% in the last decade, with Wasatch County as the highest growth county in the State with almost 50% growth. As the County seat, Provo is one of the centers of tremendous urban growth seen in the area. Councilor David Harding asked about Utah County’s internal growth and Ms. Gochnour indicated this figure would include county-to-county interflow—it includes all forms of migration, including from another county, state, or country.

From 2019 to 2021, the country saw decreased jobs and increased unemployment. The opposite was seen in Utah. Utah County experienced even higher job growth and lower unemployment than the state average. Ms. Gochnour shared a graph of national infrastructure spending, which has fallen significantly as a percentage of the GDP. Ms. Gochnour isolated Utah infrastructure funding; the trends are different, but it has fluctuated over time. Mr. Harding expressed that this presentation was very helpful and informative. Ms. Gochnour said the presentation was developed for the business community, but certainly had a lot of application in the public sector.

Ms. Gochnour highlighted some types of structural changes, including behavioral, technological, demographic, and new paradigm changes. With a lot of structural changes, investment in people is important. Education is one area of investment in people. Ms. Gochnour shared statistics of Utah youth mental health and suicide indicators from 2013, 2015, and 2017. Each of the indicators has increased (i.e., worsened) over time. She thinks investment in people relates well to the Council’s consideration of the future of the City’s neighborhood program. Ms. Gochnour defined social capital as a network of trust which allows society to function successfully. The Joint Economic Committee in Congress has examined about 42 factors to calculate social capital for each state and Utah has extraordinary levels of social capital in the country. In sum, Utah can turn the incoming challenges of growth, structural changes, and decline in institutions into competitive advantages if leaders and policymakers invest in physical, human, and social capital.

During the presentation, Ms. Gochnour referenced the writer Yuval Levin and his book “A Time to Build: From Family and Community to Congress and the Campus, How Recommitting to Our Institutions Can Revive the American Dream.” Councilor George Handley said he had read and enjoyed Levin’s book and Mr. Handley asked Ms. Gochnour why she thought it would look like for Provo to invest in human and social capital. He noted that the Council is not in the business of education, but from a municipal government perspective, he wondered what the Council could do to invest in human and social capital. Ms. Gochnour referenced work by Raj Chetty (<https://www.nber.org/papers/w23001>) which showed the effects of neighborhoods on the long-term outcomes of children. She also referenced the work of David Brooks, who has also written about using neighborhoods as a building block for creating greater social outcomes. She thought these sources had great information that could inform the Council’s approach. Councilor Shannon Ellsworth asked a more subjective question regarding the role of government and use of the limited resources of a municipality in this sphere. Ms. Gochnour felt that government exists to help create a more prosperous society for the people. She thought that the way the government

does this must be limited in scope and carefully executed, or it created problems or unintended consequences. It was important to be careful and measured with investments, including careful prioritization of things which were in the realm of local government, as well as adherence to best practices and partnership with local organizations offering necessary services and support. Lifting disadvantaged sectors of society helps everyone but it must be done well.

Councilor Travis Hoban asked what the consequences were to not making these investments. Ms. Gochmour said the decreased liveability of our communities is the main consequence. If people struggle, they don't succeed and their families struggle, and this has cascading problems as a result. She felt that there was no state as well-positioned as Utah to come out of this very challenging time and improve. There are only three states which have seen their economies grow from August 2019-August 2021—Idaho, Arizona, and Utah, with Utah at the top of these three. Utah has money in rainy day funds, strong sales tax collection, and is in the midst of a prosperous time economically. The unemployment rate is below 2.6%. Utah communities should take these assets and put them to use to invest in a better long-term future.

In the remaining time, Ms. Gochmour spoke briefly about housing affordability and the housing crisis in Utah. She reviewed data that illustrated housing shortage. Although Utah is at record levels of construction, there is still a significant housing shortage. She shared two resources with more data and information which the Kem C. Gardner Institute has produced:

- <https://gardner.utah.edu/wp-content/uploads/StateOfState-Oct2021.pdf?x71849>
- <https://gardner.utah.edu/wp-content/uploads/Best-Practices-Dec2020.pdf?x71849>

Ms. Ellsworth thanked Ms. Gochmour for this information as this data is so important to making informed decisions. She asked if the Gardner Institute saw a horizon for the housing shortage and whether wages and construction would catch up with the housing crisis. Ms. Gochmour referenced the State of the State Housing Study, which will be an annual report looking at related factors to the housing crisis. She and her colleagues through their study of the issues think that there may be a decade of dealing with this issue. With land constraints, supply chain issues, labor shortages, and many other factors, it was a very difficult problem to solve. The housing shortage was a very serious issue that would require incredible leadership and forward thinking. The Council thanked Ms. Gochmour for her presentation. *Presentation only.*

#### **4. A presentation on proposed Chapter 9.90 On-Street Parking Management. (21-028) (2:02:04)**

Javin Weaver, Planner, presented. Mr. Weaver reviewed the sections in the proposed Chapter 9.90 and reviewed what these sections would do as a framework for on-street parking management in Provo. He reviewed section 9.90.040 for Paid Timed Parking and Permits in more detail, highlighting different parameters as outlined in the ordinance. Section 9.90.050 outlines the different methods by which a parking area can be designated, including the process for a resident-initiated application.

Councilor David Shipley asked whether Chapter 9.90 allowed the parking manager to administer all decisions or if it required specific authorization for all affected areas by the Council. Mr. Weaver clarified that the Council would designate the area and the parking manager would

administer the specific parking mechanisms of 9.90 (such as paid parking or permits) within that area. Mr. Shipley wondered if there were certain decisions like very small areas whether those areas would need an area plan or if the parking manager could just make some needed adjustments. Robert Mills, Planning Supervisor, explained that currently they have the ability to regulate parking on the street, but for paid parking it would need to be part of an area authorized by the Council. Mr. Weaver continued outlining the remaining sections of Chapter 9.90. He also shared the preliminary survey data on this topic from Open City Hall. He noted they would discuss the OCH results in detail once the topic closed. They have observed that some additional education is needed in the community. Early responses to the survey have noted that important elements include clear signage, ease of payment for parking, permit for property owners, and resident input. Respondents felt that these elements were not important: time limits, cost recovery, parking fees, and more enforcement.

Councilor David Harding commented that Chapter 9.90 creates a new toolbox and does not apply it to specific places. In the future, the Council can apply this chapter to certain areas and then the parking manager can apply the designated tools within area. He noted that the past approach to parking management was more of a legislative approach to outline and determine the actual management of the area. This new mechanism will allow the Council to draw a broad boundary and grant the Administration the discretion to decide what to do within that area.

***Presentation only. This item is still open for additional feedback on Open City Hall***

#### **5. An ordinance on towing fees (21-105) ([0:53:14](#) and [2:18:35](#))**

Cliff Strachan, Council Executive Director, presented. Mr. Strachan reviewed the draft ordinance and highlighted the changes based on the rates in state code. The proposed ordinance would tie the City rate to a percentage of the State rate, so that the rate would automatically adjust when the State rate was adjusted each year. Mr. Strachan noted that several Councilors asked for more information about how other cities have banned patrol towing; Councilor David Shipley said that he was satisfied with the information sent about the mechanism employed by Salt Lake. Mr. Shipley felt that Provo's ordinance made sufficient allowance for an appeal process and a fair approach. Councilor Bill Fillmore echoed these comments and thanked Brian Jones, City Attorney, for his very thorough research on the question.

Councilor David Harding commented on the nature of contracts which can allow the owner of the property to waive the tow fee. Mr. Harding gave a background of patrol towing as it was tackled by a previous Mayoral Administration under former Mayor John Curtis in 2013. He was hesitant to make extensive changes to something that was heavily vetted by previous elected officials. Councilor David Sewell felt this proposed change was not to undo what was done in 2013 but to protect what was done in 2013. He thought that imposing a fixed fee on a business and never adjusting it for inflation was problematic and introduced potential legal problems for the City. Wayne Parker, CAO, said Mr. Harding gave a good overview of the towing issues in 2013. He said the City was loath to interfere in the contractual relationships between towing operators and property owners. The City chose to intervene in other ways, including by requiring notice (onsite and in apartment contracts) and to try to distinguish between predatory towing by requiring the default of a call-per-tow and a higher threshold for patrol towing. It is a delicate balance and it took a long time to work out in 2013. Early enforcement was helpful in setting the

tone of the changes. It is definitely a complex issue and Mr. Parker agreed with Mr. Sewell's characterization of the inflation impacts to the rates and potential legal issues.

The Council returned to further discussion of this item after the previous items on the agenda were concluded. Councilor George Handley shared his philosophical questions about this type of business and whether this provided benefits to the city and the public. He was unsure if the proposed changes would incentivize or disincentivize the ideal behavior and he was also concerned about the potential impacts in the area of permit parking programs.

Mr. Harding commented and thanked Brian Jones, City Attorney, for clarifying the definitions of patrol and predatory towing. Mr. Harding commented on those distinctions; he felt that allowing patrol towing was necessary to allow private property owners to protect their property interests and usage. Mr. Parker thought removing the statutory limit on the towing fees might result in increased types of towing behavior that city officials had tried to limit. A fixed fee incentivized proper behavior and he thought as long as it is below state maximum (as with a percentage), it was effective. Mr. Parker elaborated on his concerns with restricting this business type—he thought it created a slippery slope if the city became involved in controlling contractual relationships between two private parties. The City tried to create a better environment in which this business operated by requiring more information to be provided to drivers about the issues and consequences. The current law also had a mechanism for property owners to relieve the burden on those who were unjustly treated. If a landlord was too constrained by the policies, it could push parking onto the street and create a burden for landlords. Mr. Parker thought a reasonable limit on towing fees probably achieved the right balance. Mr. Handley clarified that he did not suggest the City control contractual relationships; rather, his concern was about whether the change was necessary. Mr. Parker thought that question probably merited an examination of the number and whether the percentage selected struck the balance or whether it was better to reevaluate on an annual basis. Councilor Travis Hoban asked what the difference was to the larger fee if the Council moved to the 80% of the state rate. Mr. Strachan replied that it would result in a fee of \$19.40 more with the rate at 80%. ***Presentation only. This item was already scheduled for the Council Meeting on October 26, 2021.***

### **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.

Gary Millward, Assistant City Attorney, highlighted the purposes for the Closed Meeting, including a real estate purchase and discussion on personnel character and competency.

**Motion:** David Harding moved to close the meeting. Seconded by George Handley.

**Vote:** Approved 7:0.

### **Adjournment**

***Adjourned by unanimous consent.***