

PROVO MUNICIPAL COUNCIL Redevelopment Agency of Provo

Work Meeting

1:00 PM, Tuesday, January 04, 2022

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

This meeting will be conducted as a hybrid meeting, with some in-person components as well as continued virtual meeting access. The meeting will be available to the public for live broadcast and on-demand viewing on YouTube and Facebook at: youtube.com/provocitycouncil and facebook.com/provocouncil. If one platform is unavailable, please try the other. If both services are down or unavailable, after a reasonable (but short) time waiting to see if the services resume, the remainder of the meeting will be postponed to the next week, with appropriate public notice given of the rescheduled date. If you do not have access to the Internet, you can join via telephone following the instructions below. The in-person meeting will be held in the **Council Chambers**.

To listen to the meeting by phone: January 04 Work Meeting: Dial 346-248-7799. Enter Meeting ID 893 0253 7681 and press #. When asked for a participant ID, press #.

Agenda

Roll Call

Prayer

Approval of Minutes

November 8, 2021 Joint Meeting with State Legislators

Business

- 1. A training on the Open and Public Meetings Act and on Government Records Access and Management Act (GRAMA) requests. (22-002)
- 2. A presentation regarding the Council Handbook. (22-002)
- 3. A discussion regarding redistricting for Municipal Council and School Board districts. (22-003)
- 4. Parkway Village Tax Increment Finance reimbursement agreement third payment budget appropriation.
- 5. A discussion regarding the continued funding for the LeRay McAllister Fund. (20-007)

Policy Items Referred from the Planning Commission

6. An ordinance amending Provo City Code to adopt policies and procedures for the dedication of private streets and utilities. Citywide Application. (PLOTA20210360).

Policy Items Referred from the Landmarks Commission

7. Cindy L Caldwell requests Landmarks Nomination for a home at 1115 East 640 South, in the R1.8 (One-Family Residential) zone. Provost Neighborhood. (PLLN20210394)

Redevelopment Agency Governing Board

8. An appropriation for 200 Cityview Apartments. 22-006

Adjournment

Hybrid Meeting Protocol

For the past year, the Provo City Municipal Council has been meeting without an anchor location, pursuant to Utah's *Open and Public Meetings Act*, and has instead conducted all meetings online. Notwithstanding the ongoing coronavirus pandemic and Utah County's high level of coronavirus transmission, the Municipal Council has determined to hold its meetings at an anchor location AND online. We invite interested persons to participate:

- in the Council Chambers located at the City Center building; OR
- online by watching the live broadcasts at <u>youtube.com/provocitycouncil</u> and facebook.com/provocouncil.

We encourage attendees to maintain appropriate health protocols such as wearing masks and social distancing. Public comment may be received in person OR online (by calling in or logging onto the Zoom Webinar) which are detailed in meeting notices and agendas, and on the broadcasts. Follow the instructions provided on public notices of each meeting.

If you have a comment regarding items on the agenda, please contact Councilors at council@provo.org or using their contact information listed at: provo.org/government/city-council/meet-the-council

Materials and Agenda: agendas.provo.org

Council meetings are broadcast live and available later on demand at <u>youtube.com/ProvoCityCouncil</u> To send comments to the Council or weigh in on current issues, visit <u>OpenCityHall.provo.org</u>.

The next Work Meeting will be held on Tuesday, January 18, 2022. The meeting will be conducted **as a hybrid meeting**. Work Meetings generally begin between 12 and 4 PM. Council Meetings begin at 5:30 PM. The start time for additional meetings may vary. All meeting start times are noticed at least 24 hours prior to the meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative aides and services) during this meeting are invited to notify the Provo Council Office at 351 W. Center, Provo, Utah

84601, phone: (801) 852-6120 or email evanderwerken@provo.org at least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at youtube.com/ProvoCityCouncil.

Notice of Telephonic Communications

One or more Council members may participate by telephone or Internet communication in this meeting. Telephone or Internet communications will be amplified as needed so all Council members and others attending the meeting will be able to hear the person(s) participating electronically as well as those participating in person. The meeting will be conducted using the same procedures applicable to regular Municipal Council meetings.

Notice of Compliance with Public Noticing Regulations

This meeting was noticed in compliance with Utah Code 52-4-207(4), which supersedes some requirements listed in Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at agendas.provo.org. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

Please Note - These minutes have been prepared with a timestamp linking the agenda items to the video discussion. Electronic version of minutes will allow citizens to view discussion held during council meeting.



PROVO MUNICIPAL COUNCIL **Work Meeting Minutes**

4:30 PM, Monday, November 08, 2021 Room 310, Provo City Conference Room

Hybrid meeting: https://www.youtube.com/provocitycouncil or 351 W.

Center Street, Provo, UT 84601

Agenda (0:00:00)

Roll Call

The following elected officials participated in the meeting:

Council Chair David Sewell, conducting

Council Vice-chair David Shipley

Councilor David Harding

Councilor Shannon Ellsworth

Councilor George Handley

Councilor Bill Fillmore, arrived 4:37 PM

Representative Adam Robertson

Representative Marsha Judkins, arrived 4:37 PM

Representative Keven Stratton, arrived 5:40 PM

Mayor Michelle Kaufusi, arrived 4:39 PM

Wayne Parker, CAO

Isaac Paxman, Deputy Mayor

Brian Jones, City Attorney

Cliff Strachan, Council Executive Director

Excused: Councilor Travis Hoban, Senator Mike McKell, Senator Curt Bramble, and Representative Norm Thurston

Prayer

The prayer was offered by Cliff Strachan, Council Executive Director.

Business

1. A brief presentation from the Mayor's Office regarding funding and other priorities for the 2022 Legislative Session (0:10:35)

Isaac Paxman, Deputy Mayor, presented. He highlighted several significant projects for the City which they would love State assistance on. Provo's aquifer storage and recovery program is a regional and statewide solution to significant drought and water resource issues in Utah. Provo is requesting \$35 million from the State to aid in this effort. As part of the aquifer recharge effort, Provo is constructing a culinary water treatment plant. Mr. Paxman noted that the Salt Lake

Valley has six such plants, while Utah Valley has only the one in Orem. Having a second culinary water treatment plant in the valley would be a tremendous resource.

Mr. Paxman also highlighted Provo's Olympic facility, the Peaks Ice Arena. Mayor Michelle Kaufusi sits on the board for the Utah Olympic Committee and they are going out for bid for the Olympic Games in 2030 or 2035 by bidding on both. This would have a significant economic impact for the State and they anticipate approaching the State for funding if this opportunity were to present itself. *Presentation only*.

2. A brief discussion on Accessory Dwelling Units (ADUs) and housing affordability (0:18:35)

Council Chair David Sewell briefly introduced this item. The Council's intent is not to discuss and debate the whole of the issue, but to briefly highlight the Council's current approach to addressing the recent change in state law. They are interested in hearing from legislators about their thoughts and intent as well as any guidance they have for the Council on the topic.

Representative Adam Robertson summarized some of the ideas behind the recent changes to state law. In some communities, NIMBYism ("Not in my backyard") basically precludes or excludes affordable housing. As the legislature has reviewed a number of housing studies, data indicates that zoning laws are one of the reasons we don't have enough affordable housing. Provo was highlighted in several discussions of cities doing an extraordinarily good job at having affordable housing in the state. Local control is important to legislators, but there is a legitimate interest in the state in having affordable housing and each city needs to take this into account. They worked closely with many cities, especially Provo, and the intent was to have minimal impacts on Provo with this legislation.

Representative Marsha Judkins said that Rep. Robertson summarized the issues really well. She indicated that they did not know yet what bills would be coming in the 2022 legislative session. She hopes some bills will address the missing middle housing element that young families really need. If you're missing any level of housing structure, it will exacerbate homelessness and affordable housing and other issues. She suggested that if cities would like to have a say or if cities have ideas they would like to see legislators support, they should work with legislators.

Councilor Shannon Ellsworth commented that with housing bills in general, a one-size-fits-all approach or mandate is not preferable. Councilor David Harding commented on strategies he has noted during past legislative sessions that he felt were particularly helpful, including the bill of 27 strategies to address housing affordability (which required cities to do at least 3). He also felt the moderate income housing plans were a very useful tool and suggested incentives such as state funding to further encourage development of affordable housing. Mr. Harding later commented on his preference that ADUs be required to maintain an internal connection.

Rep. Robertson said he thought Provo was already compliant with regard to ADUs. He asked if the Council was approaching ADUs specifically because of HB082, and if so, he wanted to hear what suggested changes the Council had. Councilor David Sewell indicated that there has been a lack of clarity as to whether or not Provo already complies with HB082. Brian Jones, City

Attorney, elaborated on this comment and offered a legal perspective on some of the outstanding questions. Cliff Strachan, Council Executive Director, added that some legislators are telling some residents and some councilors that they think Provo complies because of the 65+ caretaker dwelling provision, however this is not addressed in state law and is difficult to define.

Rep. Judkins Marsha asked what Provo would want the legislature to adjust or fix in the law. Mr. Jones indicated that it would depend on the Council and what approach they took. If the Council decides to expand beyond the minimum stated in HB082, then there are probably no changes needed. If the Council does not do that, then it would probably be helpful for the legislature to make changes to follow more of the process of the marijuana dispensary law and mechanism. Rep. Robertson was interested in working with the Council and he indicated that the bill sponsor, Representative Ward, was very amenable to working with cities as well. Councilor George Handley added that there was also some ambiguity regarding how to expand beyond the current allotment. *Presentation only*.

3. A discussion on economic development incentives and possible restrictions on cities with regard to incentives (0:40:22)

Cliff Strachan, Council Executive Director, introduced this item. Isaac Paxman, Deputy Mayor, also shared some insight based on the Utah League of Cities and Town's coordination of this effort. There seems to be a basic push to take away all incentives due to cities giving away too much. Mayor Michelle Kaufusi is in ULCT leadership, and she has been involved in some of the briefings. Provo will keep monitoring what the League is doing and will vote on this at the League level. Overall, they don't like the idea of this tool being removed entirely. Mayor Kaufusi indicated that League leadership meets soon and this was their number one item to address with the Governor.

Councilor David Harding said he has fought against city using TIF for most of his time on the Council. It makes sense to use this for blighted areas, but he felt it made it difficult to have an even playing field. He thinks it is harmful and if there are no rules of cooperation among the cities, it's problematic. In general the process needed better ground rules and expectations. Mr. Strachan highlighted some of the recent discussion at the Utah City & County Managers Association. His sense is that ULCT thinks one size does not fit all cities, but there is some recognition that sometimes cities cannibalize each other through these programs. The Council is interested in knowing how this will affect Provo. Councilor Shannon Ellsworth thought incentives made sense for blighted areas and for other types of things like food deserts. She also thought there was a place for targeted and specific incentives, rather than just a grab for any type of sales tax. She thinks of grocery stores and food deserts because that is a reality in Provo. Mr. Strachan elaborated on how this has worked in Provo; he cited Day's Market, which used a tax increment incentive to fund a significant remodel of their store. *Presentation only*.

4. A discussion of topics as proposed by State Legislators (0:49:50)

Rep. Marsha Judkins said she has an open bill file for animal fighting penalties. She gave background information about this issue and asked for Councilors' feedback on this. Councilor David Harding did not see this as a big issue, but he also did not object to doing it. Councilor

David Shipley asked if there was nothing already in state code. Rep. Judkins elaborated on the current law and the changes she hoped to implement.

Rep. Adam Robertson was able to tour the Provo Airport today and he was pleased with what this will do for Provo and the region in the future. With the federal infrastructure bill, there would probably be some significant opportunities for one-time funding. He suggested Provo look into obtaining some of the infrastructure funds for expanding existing parks operations which are already very popular in the area, including Bridal Veil Falls, the Bonneville Shoreline Trail, Rock Canyon, and perhaps mountain biking facilities in Slate Canyon or other areas where the steepness and movement of trails don't make it very useful for other uses.

Councilor David Shipley asked if there were any other airports in the state that are in a similar position as Provo. Rep. Robertson thought Provo was the best-positioned with expansion opportunities; even thought it might be hard to get infrastructure funding for the project underway, there may be other opportunities to invest in the infrastructure of hotels, restaurants, other services, and possibly land acquisition for additional roads. There may be specific congressional requirements for spending on infrastructure items, but that is to be determined.

Councilor Shannon Ellsworth said Provo has been really proactive on infrastructure planning. She liked the ideas for recreation planning and funding. Provo is finishing its General Plan and also doing planning for foothills and canyons, river corridor and lakeshore, and city gateways. These all involve infrastructure and they will be planning for them in 2022. She also suggested land acquisitions along the Provo River corridor to make the river into an amenity and a jewel in the community. Ms. Ellsworth also said she would love to connect a bridge over 900 South to connect East Bay with southeast Provo.

Councilor George Handley said there were already master plans for Rock Canyon and Slate Canyon, which were mainly waiting on funding to put into action. Some revisions will be made to the Slate Canyon plan with Provo Parks and Recreation. Mr. Handley also highlighted a forthcoming proposal from the Utah Valley Trails Alliance on a trail plan for the foothills. The primary issue was prioritization and coordination of the items within these various plans as well as securing any necessary funding.

Rep. Judkins indicated that the special session began the following day, which would include redistricting. There are nine items on the agenda for the special session and she wondered if any Councilors had questions about any items. She noted she had also spoken with Councilor Ellsworth about Utah Lake, which would likely come up in the 2022 session. *Presentation only*.

5. A discussion of topics as proposed by Provo City Councilors (1:03:28)

Councilor George Handley commented on redistricting. He shared his strong support for the independent commission. The legislature's committee seems to have bypassed their recommendations and given the public a very short window on their current proposal. The referendum process made it clear that many voters in the state really wanted that independent process. Mr. Handley also shared some concerns about Utah Lake—the dramatic commercial proposal for dredging and constructing islands in the lake strikes him as bypassing a lot of

serious ecological issues based in data. He was concerned that the plans were moving forward faster than the data which should inform the process. He highlighted a report presented at the recent Utah Lake Symposium by area scientists. Redistricting and Utah Lake are massively important and affect quality of life for many years to come, and these issues also impact our confidence in the process and transparency of government.

Councilor Shannon Ellsworth said that most people here would support a cleaner lake and there are multiple avenues to accomplishing that. To Mr. Handley's statement, there was a study underway by the State's Division of Water Quality on Utah Lake; she would love to see the results of that study before the state restructures how the lake is governed.

Rep. Robertson asked the Council for their thoughts on the Utah Lake Authority. Ms. Ellsworth highlighted recent discussions she had with Reps. Judkins and Christofferson—she wondered why not expand the abilities of the current Utah Lake Commission by adding capability, capacity, or authority to the commission. She felt Rep. Christofferson's approach was a good way to move forward. Rep. Robertson said the Utah Lake Authority would make them more official, allow them taxing capacity, etc. Rep. Judkins wondered whether there was a way to continue to utilize the commission in order to give them more say without upsetting the balance and current power structure.

Councilor David Harding agreed that Utah Lake was a major issue for Provo. He supported a way of collaborating or coordinating the efforts around the lake with a unified voice and vision. Ms. Ellsworth spoke to some of the misconceptions people have about Utah Lake, whereas data over the last decade has shown a decrease of algal blooms and demonstrated that many of the mitigation measures have been successful and effective. She thought there were many opportunities to work with cities and scientists collaboratively to improve a shared asset. Rep. Judkins indicated that it was important to get those with interests and knowledge together to try address Utah Lake and she would welcome that. Ms. Ellsworth indicated that although there will be two new Councilors in January, there has definitely been a shared value of stewardship of natural resources among the current Council. Councilor David Sewell echoed Mr. Harding's and Ms. Ellsworth's comments.

Isaac Paxman, Deputy Mayor, commended Rep. Brammer who has made a good faith effort to get stakeholders in the room regarding Utah Lake. Mr. Paxman commented on some of the benefits of forming a Utah Lake Authority and commended Rep. Brammer's work on the issue.

Councilor Bill Fillmore asked whether there was any motivation to pursue improvement of the Provo marina. Mayor Michelle Kaufusi indicated that the City has met with Utah State Parks on several occasions, but the State was not interested in letting Provo manage Utah Lake State Park. The City thinks Provo Parks and Recreation would be the ideal entity to manage the park and would welcome legislators' collaboration on trying to make that happen. Reps. Robertson and Judkins indicated that this was just the type of issue the legislators could try and work with the state on, rather than the City trying to work with the state alone.

Mr. Fillmore asked about whether the legislature had any intent to tackle school choice (private schools and public schools getting a piece of state revenue and creating greater competition in K-

12 education system). He also wondered about tax reform to address the imbalance in the state constitution with regards to mandatory education funding.

Rep. Keven Stratton said these were important discussions regarding the financial vitality and health of the state. He gave background information on the state's tax equation—with the constitutional amendment last year, it seems like they have reached an equilibrium in the tax format. He shared background on school choice issue. School vouchers were rejected through the referendum process but was still supported in this area. He noted that Rep. Judkins is a great leader in education and that she would have good insights there. Rep. Judkins thought Rep. Stratton gave a good summary of the issues. She elaborated on how the process worked previously and how it has worked in recent years. Rep. Robertson was able to tour several charter schools last year. A lot of the charter schools have great results and a lot of growth with their facilities. They have done a lot of work at the state level to try to equalize funding throughout the state and these changes have really improved school choice tremendously.

Council Chair David Sewell invited any last parting questions or comments. Councilor David Shipley asked if there was any indication of major housing bills in the upcoming session, and how these might impact Provo. Rep. Judkins indicated that there was, as always, a lot of money going into housing issues. Mr. Shipley referred to Mr. Paxman's presentation and reiterated the regionally significant projects happening in Provo, including the regional sports park and airport. The City is ready to partner with the county and state on these improvements and the Council is happy to lend their support in whatever way is most helpful.

Ms. Ellsworth said the Council would love to give input to the legislators when it comes to housing. The Council makes a lot of land use decisions and water bills are also an important opportunity to partner with legislators. Rep. Stratton said the City's ASR project is notable. They appreciate the work Provo has done. The state is in the process of adding aquifer recovery to the state water policy. There are a lot of significant water issues at the state level, but he expressed the legislators' appreciation of the work, effort, and vision of Provo City in leading out.

Mr. Sewell expressed thanks to the legislators for taking time to meet with the Council on these important issues.

Adjournment

Adjourned by unanimous consent.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter:JMAGNESSDepartment:RecorderRequested Meeting Date:01-08-2019

SUBJECT: A training on the Open and Public Meetings Act and on Government

Records Access and Management Act (GRAMA) requests. (22-002)

RECOMMENDATION: Information only.

BACKGROUND: Utah State law requires Council members to receive annual training on the Open and Public Meetings Act. State Law 52-4-104 says, "The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter." This training will fulfill that requirement.

FISCAL IMPACT: None

PRESENTER'S NAME: Brian Jones, City Attorney

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 22-002

UTAH OPEN & PUBLIC MEETINGS ACT

UTAH CODE ANN. §§52-4-101 et seq.

52-4-104: "The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter."

DECLARATION OF PUBLIC POLICY

- The Legislature finds and declares that the state, its agencies and political subdivisions exist to aid in the conduct of the peoples' business.
- It is the intent of the Legislature that the state, its agencies and its political subdivisions: (a) take their actions openly; and (b) conduct their deliberations openly.

WHO IS SUBJECT TO OPMA?

Any administrative, advisory, executive, or legislative body that:

- Was created by the Utah Constitution, statute, rule, ordinance or resolution;
- Consists of two or more persons;
- Expends, disburses, or is supported in whole or part by tax revenue; and
- Has authority to make decisions regarding the public's business.

WHAT IS A "MEETING?"

- "Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power, about, or acting upon a matter over which the public has jurisdiction or advisory power.

"MEETING" DOES NOT MEAN?

A chance meeting

- A social meeting
- Meeting of a legislative body with both legislative and executive responsibilities, when:
 - No public funds are appropriated
 - Meeting solely for discussion of administrative or operational matters

CAUTION: Do not use chance or social meetings to circumvent the OPMA!

ELECTRONIC MEETINGS

- Can meet by phone, computer or other electronic means:
 - Notice requirements still apply, that is, written notice posted at the anchor location.
 - Public must have a means to attend or participate.
 - Must have adopted an electronic meeting policy by rule, resolution, or ordinance.

CLOSED MEETINGS

• A MEETING CAN BE CLOSED TO DISCUSS:

- An individual's character, professional competence, or physical or mental health.
- Collective bargaining.
- Pending or reasonably imminent litigation.
- The purchase, exchange, lease or sale of real property, IF public discussion:
 - would disclose appraised or estimated value; or
 - would prevent completion of the transaction on the best possible terms; AND for **sales** of real property, IF:
 - the Council/RDA board previously gave public notice the property would be offered for sale; and
 - the terms of sale are publicly disclosed before approval.
- Deployment of security personnel, devices or systems.
- Investigative proceedings regarding allegations of criminal misconduct.

PROCESS TO CLOSE MEETINGS

- A Quorum must be present.
- Two-thirds of the body must vote to close the meeting.
- The body must first hold a public meeting with proper notice before entering into the closed meeting.
- The body must publicly disclose:
 - The vote (by name) of each member for or against entering into the closed meeting,
 - The reasons for holding the closed meeting,
 - Location of the closed meeting.

CLOSED MEETING NO-NOS

- You may NOT:
 - Approve any ordinance, resolution, rule, regulation, contract or appointment.
 - Interview a person to fill an elected position or midterm vacancy.
 - Take any final action.
 - Final votes must be open and on the record.

NOTICE REQUIREMENTS

- Must be posted at the location where the meeting will be held.
- Must be published in at least one local newspaper.
- Must be posted to the "Utah Public Notice Website."
- At least 24 hours prior to meeting post:
 - Agenda
 - Date
 - Time
 - Place

EMERGENCY MEETINGS

The best notice practicable must be given.

 Must make an attempt to notify all of the members of the public body and a majority must approve the emergency meeting.

 The minutes must include a statement of the unforeseen circumstances that made the emergency meeting necessary.

MINUTES AND RECORDINGS

- Written minutes and a recording must be kept of all open meetings.
 - Recordings are not required for site visits or traveling tours.
- A recording must be kept of all closed meetings and detailed written minutes may be kept, except for:
 - A meeting closed to discuss the character, professional competence, or physical or mental health of an individual does not need to be recorded or written minutes kept, but the presiding person must sign a sworn statement.
 - A meeting closed to discuss deployment of security personnel, devices, or systems does not need to be recorded or written minutes kept, but the presiding person must sign a sworn statement.

AVAILABILITY OF RECORDS

- Written minutes shall be available to the public within a reasonable time after the end of the meeting; [pending minutes w/in 30 days; final minutes w/in 3 days of approval].
- Pending written minutes that are made available to the public shall be clearly identified as "awaiting formal approval" or "unapproved" or with some other appropriate notice that they are subject to change until formally approved;
- Requirement that a public body establish and implement procedures for approval of written minutes;
- Requirement that a recording of an open meeting must be available to the public for listening within three business days after the meeting;

REQUIREMENTS FOR WRITTEN MINUTES

- Minutes of ALL meetings must include:*
 - Date/time
 - Place of meeting
 - Names of all members present or absent
- Minutes of OPEN meetings must include:
 - Individual votes on each matter
 - The name of each person providing testimony or comments
 - Any additional information requested by a member
 - Substance of all matters proposed, discussed or decided^
 - Substance, in brief, of public testimony or comments[^]
- Recording or Minutes of CLOSED meetings must include:
 - The names of others present at the closed meeting, unless it infringes on the purpose of the closed meeting.

^NEW CHANGE: These requirements may now be met by links to publicly available online video.

^{*}If minutes of a CLOSED meeting are not kept, the recording must include these items.

VIOLATIONS OF OPMA

- "In addition to any other penalty under this chapter, a member of a public body who <u>intentionally</u> violates...the closed meeting provisions of this chapter is guilty of a class B misdemeanor."
- A court can also void any action taken in violation of the law.
- Sometimes a violation can be "cured" by discussing and taking a public vote in a subsequent open meeting.
- May have to pay court costs and attorneys fees

Common Violations Of OPMA

- Closing meetings without members of the body voting first in an open meeting to close the meeting
- Conducting a closed meeting for reasons other than those allowed by OPMA
- Taking official or final action in a closed meeting
- Failing to properly provide notice of a public meeting
- Failing to provide adequate notice of a public meeting



INTRODUCTORY THOUGHTS

1. GRAMA IS HARD.

- GRAMA is never as black and white as you hope it will be.
- There are few "hard and fast" rules —individual application of general and specific rules is required for each request.

2. GRAMA IS TIME CONSUMING

• In most cases, every record must be gathered and then reviewed before being provided to the requester.

3. GRAMA IS LEGAL ANALYSIS:

• When the going gets tough, you should consult an Attorney for assistance.

WHAT IS GRAMA

- GRAMA is the GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT.
- GRAMA governs how government records are:
 - Classified (labeled)
 - Retained
 - Archived
 - Destroyed
 - Provided to the public
 - Shared with other agencies
- TODAY, we are talking about
 Responding to GRAMA requests...
 But, there's a lot more to GRAMA



FIRST IMPORTANT POINT: LEGISLATIVE INTENT

GRAMA recognizes TWO constitutional rights:

- FIRST: the public's right of access to information concerning the conduct of the public's business; and
- SECOND: the right of privacy in relation to personal data gathered by governmental entities.
- NOTE: When the 2 constitutional interests are "equal"
 - ...GRAMA favors ACCESS.

63G-2-102

Responding to a GRAMA REQUEST:

STEP 1: determine if it's a GRAMA request

Step 1: Is it a GRAMA Request?

A GRAMA request must be:

- In writing
- A request must contain the name, address and telephone number (if available) of the requester
- A request must describe the records requested with "reasonable specificity"

Note: A request to MEET with the Mayor or a request to "answer my 10 questions about why the town is so incompetent" is NOT a request for Records subject to GRAMA.

REASONABLE SPECIFICITY: POP QUIZ

 A record request must contain a written description of the record requested that "identifies the record with reasonable specificity."

POP QUIZ:

- Please provide all records created by the City of Riverton since its incorporation.
- Please provide all records about my property located at 100 South Riverton Drive.
- Please provide all Emails ever written by or about Mayor Smith
- Please explain to me why my garbage is picked up so late in the day and why your incompetent people can't pick up my garbage sooner.

RESPONDING TO A GRAMA REQUEST

STEP 2: Establishing the deadline

HOW LONG DO I HAVE TO RESPOND TO A GRAMA REQUEST?

- 10 BUSINESS DAYS: MORE OR LESS.
- If the requester asks for an "expedited" response, AND shows that expediting the request "benefits the public" that shortens time to 5 business days
 - Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person. (63G-2-204)

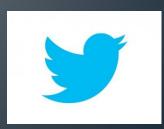
DISCUSSION: What is "a story for publication?"



Bloggers? Facebook? Twitter?







"EXTRAORDINARY CIRCUMSTANCES" 7 ways to get more time to respond

7 TYPES OF EXTRAORDINARY CIRCUMSTANCE

- 1. Another governmental entity is using the record (including auditors)
- 2. The request is for a voluminous quantity of records or a record series containing a substantial number of records
- 3. The requester seeks a substantial number of records or records series in requests filed within five working days of each other
- 4. The governmental entity is currently processing a large number of records requests
- 5. The request requires the governmental entity to review a large number of records to locate the records requested; (as opposed to: 'there are a lot of records requested')
- 6. The decision to release a record involves legal issues that require the governmental entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law
- 7. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing or computer programming.

Responding to a record request: Step 3: Gathering RECORDS

- GRAMA only requires you to provide RECORDS.
- WHAT IS A RECORD?
 - "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:
 - (i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and
 - (ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.
- NOTE THE LANGUAGE: PREPARED, OWNED, <u>RECEIVED OR</u> <u>RETAINED</u> BY THE GOVERNMENTAL ENTITY.
- A REQUEST DOES NOT GIVE RISE TO AN OBLIGATION TO CREATE A RECORD.

WHAT IS A RECORD? WHAT IS NOT A RECORD?

| RECORD | NOT A RECORD |
|---|---|
| Record means: A book, letter, document, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form that is: PREPARED OWNED RECEIVED or RETAINED by a governmental entity or political subdivision | *Personal notes *Copyrighted material & Proprietary software *Books contained in libraries *junk mail *Certain insurance info used to calculate county rates *information provided by an owner of unimproved property in certain situations *And others You should review and know what they are 63G-2-103(22)(b) |

POP QUIZ: IS THIS A RECORD?

- 1. A phone call made that is not recorded?
- 2. A recording of that phone call?
- 3. The Mayor's handwritten notes about a phone call?
- 4. Your Text message wishing your grandmother a happy birthday, made on your office phone.
- 5. Your text message to the Mayor about an upcoming meeting with the city manager, made on your personal cell phone?
- 6. An IM between you and your coworker complaining about the Mayor forgetting her meeting with the city manager, after you reminded her by text.
- 7. A tweet made by the City?
- 8. A tweet made by you about the City?

To be a record, or not to be a record, that is the question



RESPONDING TO A GRAMA REQUEST:

Step 3: locating and gathering the Records

- You have a GRAMA request
- It's reasonably specific, so you know what the requester is looking for....
- You have your deadline calendared....
- The request is for RECORDS.
- DISCUSSION: HOW DO YOU GO ABOUT FINDING WHETHER YOU HAVE RESPONSIVE RECORDS, AND WHERE THEY MIGHT BE????
- DISCUSSION: Searching Emails... Searching Archives, etc.



Responding to a Records Request: Step 4: CLASSIFYING THE RECORD

Once you have the records in front of you, you follow a three step process

- 1. Is the record EXEMPT (GRAMA doesn't apply)
- 2. Is the record subject to or governed by a more specific statute or federal regulation (More specific statute trumps);
- 3. If the Record is NOT exempt and is NOT governed by a more specific statute: GRAMA applies. Look at whether, under GRAMA, the record is:
 - PUBLIC
 - PRIVATE
 - PROTECTED
 - CONTROLLED:
- This is the RECORD'S CLASSIFICATION (63G-2-301 et. seq.)

CLASSIFYING RECORDS



- Classifying the record means more than scanning GRAMA and finding something that "kinda sorta fits"
- In order to Classify a Record, you must review:
 - Other law—particularly your own municipalities' GRAMA policies or Ordinances statutes or Federal Law if your entity is involved in a federal program.
 - GRAMA itself
 - Archives/Records Schedules
- When in doubt, remember that GRAMA favors public access to records.
 - But, consult an attorney if you aren't sure.

CLASSIFICATIONS: EXEMPT RECORDS

- EXEMPT means that GRAMA does NOT apply. GRAMA typically does NOT apply to records where Federal Law governs the release.
- EXAMPLES:
 - Medical Records where HIPPA applies
 - Education records where FERPA applies.
 - Substance Abuse treatment records subject to federal privacy laws
 - RECORDS OF SECURITY MEASURES: The records of a governmental entity regarding security measures designed for the protection of persons or property are not subject to GRAMA. Includes: security plans; security codes and combinations, and passwords; passes and keys; security procedures; and building and public works designs, to the extent that the records or information relate to the ongoing security measures of a public entity. (63G-2-106, 107)

Classifying under GRAMA, Continued

- If the Record isn't EXEMPT, and release isn't governed by another statute

 then GRAMA controls.
- The Next Step is to determine whether the records is:
 - PUBLIC
 - PRIVATE
 - PROTECTED or CONTROLLED















Public Records:

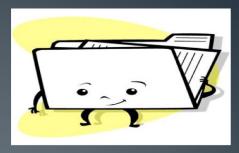
ALL RECORDS NOT EXEMPT,
PRIVATE, PROTECTED, OR
CONTROLLED ARE <u>PUBLIC</u> UNDER
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Exception: *Private information about Government Officials:

At Risk government employees can file a written request to keep their home addresses and home phone number and social security protected.

| Job titles, salaries, and description of government employees | Final opinions made by an ALJ or city court judge | Transcripts of open and public meetings held by the city |
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| Records showing title to Real property* | Records showing restrictions on use of Real Property * | Tax status of real and personal property * |
| Commerce records about corporations, name changes, UCC filings | Compensation that a government provides to a contractor | Information about public official can be reached—public phone number (Access to elected Officials Act) |
| Voter registration records -* | Contracts entered into with a government entity | Drafts that have been circulated outside of government of that have been relied upon |
| Arrest warrants AFTER issuance (unless access restricted by Court order) | Search warrants (unless access is restricted by a Court) | Records regarding formal discipline of a government employee (if discipline upheld) |

PRIVATE RECORDS



- Generally, Private records are those where the subject of the record is entitled to have them but they aren't subject to public disclosure.
- Examples:
 - Records showing an individual's eligibility for insurance, social services, welfare benefits.
 - Records indicating a social security number or federal employer Identification number (generally).
 - Records that show Driver's License number
 - Criminal Background Checks or credit history reports
- In general you can provide private records to the "SUBJECT of the record"
 - If the "subject of the record" is a child, then the parent or guardian can request the records.
- Private records can also be disclosed if the subject signs a notarized release, to other agencies under record sharing provisions, or through a GRAMA compliant Court Order.

MORE EXAMPLES OF PRIVATE RECORDS

- Records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities;
- Most records describing an individual's finances,
- CATCH-ALL (Sort of): Other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy.
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- <u>Generally, protected records are those that are not about a specific person, but it isn't in the state's interest to release them.</u>
- There are 75+ categories of protected records—you should familiarize yourself with the ones that apply to your municipality.
- Protected records can only be provided to:
 - The person who submitted the record;
 - Anyone who has a power of attorney for ALL persons and governmental entities whose interests are protected by the classification" (I have never seen one);
 - Other governmental entities through record sharing provisions
 - With a GRAMA compliant Court Order.

EXAMPLES OF PROTECTED RECORDS:

63G-2-305

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| Records maintained for civil or criminal enforcement if release of the records would interfere with the audit, disciplinary or enforcement process | Records which, if disclosed, would jeopardize the life or safety of an individual, or the security of governmental property | Records that, if released would jeopardize the safety of a correctional facility |
| Governmental Audit records during the audit process, if release would threaten the audit process | Attorney client privilege | Records that reveal the location of historic prehistoric paleontological records if security would be compromised |
| Transcripts and minutes of the closed portion of a closed meeting | Records that show the location of explosives | AND LOTS OF OTHERS |

CONTROLLED RECORDS

- A record may be classified as CONTROLLED if:
 - 1. The record contains medical, psychiatric, or psychological data about an individual;
 - 2. The governmental entity reasonably believes that:
 - (a) releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or
 - (b) releasing the information would constitute a violation of normal professional practice and medical ethics; and
 - 3. The governmental entity has properly classified the record.
- Psychological Evaluations and Plethysmographs are the most commonly classified Controlled Records.
- This category doesn't come up too often—seek legal advice.
- 63G-2-304

RESPONDING TO A GRAMA REQUEST

- Suggested Procedure
 - 1. Gather ALL records that may be responsive to the request
 - 2. Review the records (yes, ALL OF THEM)
 - Determine what's exempt
 - Determine what's governed by other statutes
 - 3. Determine what **the Requestor** can have:
 - The requester may be entitled to everything, or nothing.
 - The requester may be entitled to most records, but some records have to be denied, or some portions of records need to be redacted.
 - 4. Keep track of What you think they can have, what you think they can't have and WHY.

REDACTION AND SEGREGATION

- If a governmental entity receives a request for access to a record that contains <u>both</u> information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect <u>is intelligible</u>, the governmental entity:
 - (1) shall allow access to information in the record that the requester is entitled to inspect under this chapter; and
 - (2) may deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in Section 63G-2-205.
- This is done through either "segregation" (taking a whole page or record out) or "redaction" (redacting certain portions of a document)

RECORD SHARING

- It is possible to share records (even if they are private, protected or controlled) with other government and contract agencies: GRAMA details the situations when sharing is OK.
- Generally, you can share records with any agency that litigates or investigates civil, criminal or administrative law, as long as the record is necessary for the investigation.
- If a record is not public, then the entity receiving the record should honor the sending entity's classification.

63G-2-206

APPEALS







- A requester can appeal a denial of records, or a denial of a fee waiver request, or a claim of extraordinary circumstances.
- Most appeals go first the to "chief administrative officer" and then to the State Records Committee.
- If you receive notice of an appeal, contact an attorney for help.
- Archives has a "records ombudsman" who helps requestors negotiate to get records. If the records ombudsman contacts you, seek direction from your attorney.

Final Thought: The Death of Talking

- People now use EMAIL or text messages as the equivalent of "chatting"
- Unfortunately, once this "chatting" becomes a RECORD, it is subject to GRAMA.
- There is very little in GRAMA that protects a government person from the embarrassing things that they put in text messages or emails that they would NEVER put in an official government communication.
- TAKE-AWAY:DON'T PRESS SEND UNLESS YOU WOULD BE OK WITH THE EMAIL/TEXT/IM on THE COVER OF THE SL TRIBUNE

UTAH OPEN & PUBLIC MEETINGS ACT

UTAH CODE ANN. §§52-4-101 et seq.

52-4-104: "The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter."

DECLARATION OF PUBLIC POLICY

- The Legislature finds and declares that the state, its agencies and political subdivisions exist to aid in the conduct of the peoples' business.
- It is the intent of the Legislature that the state, its agencies and its political subdivisions: (a) take their actions openly; and (b) conduct their deliberations openly.

WHO IS SUBJECT TO OPMA?

Any administrative, advisory, executive, or legislative body that:

- Was created by the Utah Constitution, statute, rule, ordinance or resolution;
- Consists of two or more persons;
- Expends, disburses, or is supported in whole or part by tax revenue; and
- Has authority to make decisions regarding the public's business.

WHAT IS A "MEETING?"

- "Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power, about, or acting upon a matter over which the public has jurisdiction or advisory power.

"MEETING" DOES NOT MEAN?

A chance meeting

- A social meeting
- Meeting of a legislative body with both legislative and executive responsibilities, when:
 - No public funds are appropriated
 - Meeting solely for discussion of administrative or operational matters

CAUTION: Do not use chance or social meetings to circumvent the OPMA!

ELECTRONIC MEETINGS

- Can meet by phone, computer or other electronic means:
 - Notice requirements still apply, that is, written notice posted at the anchor location.
 - Public must have a means to attend or participate.
 - Must have adopted an electronic meeting policy by rule, resolution, or ordinance.

CLOSED MEETINGS

• A MEETING CAN BE CLOSED TO DISCUSS:

- An individual's character, professional competence, or physical or mental health.
- Collective bargaining.
- Pending or reasonably imminent litigation.
- The purchase, exchange, lease or sale of real property, IF public discussion:
 - would disclose appraised or estimated value; or
 - would prevent completion of the transaction on the best possible terms; AND for **sales** of real property, IF:
 - the Council/RDA board previously gave public notice the property would be offered for sale; and
 - the terms of sale are publicly disclosed before approval.
- Deployment of security personnel, devices or systems.
- Investigative proceedings regarding allegations of criminal misconduct.

PROCESS TO CLOSE MEETINGS

- A Quorum must be present.
- Two-thirds of the body must vote to close the meeting.
- The body must first hold a public meeting with proper notice before entering into the closed meeting.
- The body must publicly disclose:
 - The vote (by name) of each member for or against entering into the closed meeting,
 - The reasons for holding the closed meeting,
 - Location of the closed meeting.

CLOSED MEETING NO-NOS

- You may NOT:
 - Approve any ordinance, resolution, rule, regulation, contract or appointment.
 - Interview a person to fill an elected position or midterm vacancy.
 - Take any final action.
 - Final votes must be open and on the record.

NOTICE REQUIREMENTS

- Must be posted at the location where the meeting will be held.
- Must be published in at least one local newspaper.
- Must be posted to the "Utah Public Notice Website."
- At least 24 hours prior to meeting post:
 - Agenda
 - Date
 - Time
 - Place

EMERGENCY MEETINGS

- The best notice practicable must be given.

 Must make an attempt to notify all of the members of the public body and a majority must approve the emergency meeting.

 The minutes must include a statement of the unforeseen circumstances that made the emergency meeting necessary.

MINUTES AND RECORDINGS

- Written minutes and a recording must be kept of all open meetings.
 - Recordings are not required for site visits or traveling tours.
- A recording must be kept of all closed meetings and detailed written minutes may be kept, except for:
 - A meeting closed to discuss the character, professional competence, or physical or mental health of an individual does not need to be recorded or written minutes kept, but the presiding person must sign a sworn statement.
 - A meeting closed to discuss deployment of security personnel, devices, or systems does not need to be recorded or written minutes kept, but the presiding person must sign a sworn statement.

AVAILABILITY OF RECORDS

- Written minutes shall be available to the public within a reasonable time after the end of the meeting; [pending minutes w/in 30 days; final minutes w/in 3 days of approval].
- Pending written minutes that are made available to the public shall be clearly identified as "awaiting formal approval" or "unapproved" or with some other appropriate notice that they are subject to change until formally approved;
- Requirement that a public body establish and implement procedures for approval of written minutes;
- Requirement that a recording of an open meeting must be available to the public for listening within three business days after the meeting;

REQUIREMENTS FOR WRITTEN MINUTES

- Minutes of ALL meetings must include:*
 - Date/time
 - Place of meeting
 - Names of all members present or absent
- Minutes of OPEN meetings must include:
 - Individual votes on each matter
 - The name of each person providing testimony or comments
 - Any additional information requested by a member
 - Substance of all matters proposed, discussed or decided^
 - Substance, in brief, of public testimony or comments[^]
- Recording or Minutes of CLOSED meetings must include:
 - The names of others present at the closed meeting, unless it infringes on the purpose of the closed meeting.

^NEW CHANGE: These requirements may now be met by links to publicly available online video.

^{*}If minutes of a CLOSED meeting are not kept, the recording must include these items.

VIOLATIONS OF OPMA

- "In addition to any other penalty under this chapter, a member of a public body who <u>intentionally</u> violates...the closed meeting provisions of this chapter is guilty of a class B misdemeanor."
- A court can also void any action taken in violation of the law.
- Sometimes a violation can be "cured" by discussing and taking a public vote in a subsequent open meeting.
- May have to pay court costs and attorneys fees

Common Violations Of OPMA

- Closing meetings without members of the body voting first in an open meeting to close the meeting
- Conducting a closed meeting for reasons other than those allowed by OPMA
- Taking official or final action in a closed meeting
- Failing to properly provide notice of a public meeting
- Failing to provide adequate notice of a public meeting



INTRODUCTORY THOUGHTS

1. GRAMA IS HARD.

- GRAMA is never as black and white as you hope it will be.
- There are few "hard and fast" rules —individual application of general and specific rules is required for each request.

2. GRAMA IS TIME CONSUMING

• In most cases, every record must be gathered and then reviewed before being provided to the requester.

3. GRAMA IS LEGAL ANALYSIS:

• When the going gets tough, you should consult an Attorney for assistance.

WHAT IS GRAMA

- GRAMA is the GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT.
- GRAMA governs how government records are:
 - Classified (labeled)
 - Retained
 - Archived
 - Destroyed
 - Provided to the public
 - Shared with other agencies
- TODAY, we are talking about
 Responding to GRAMA requests...
 But, there's a lot more to GRAMA



FIRST IMPORTANT POINT: LEGISLATIVE INTENT

GRAMA recognizes TWO constitutional rights:

- FIRST: the public's right of access to information concerning the conduct of the public's business; and
- SECOND: the right of privacy in relation to personal data gathered by governmental entities.
- NOTE: When the 2 constitutional interests are "equal"
 - ...GRAMA favors ACCESS.

63G-2-102

Responding to a GRAMA REQUEST:

STEP 1: determine if it's a GRAMA request

Step 1: Is it a GRAMA Request?

A GRAMA request must be:

- In writing
- A request must contain the name, address and telephone number (if available) of the requester
- A request must describe the records requested with "reasonable specificity"

Note: A request to MEET with the Mayor or a request to "answer my 10 questions about why the town is so incompetent" is NOT a request for Records subject to GRAMA.

REASONABLE SPECIFICITY: POP QUIZ

 A record request must contain a written description of the record requested that "identifies the record with reasonable specificity."

POP QUIZ:

- Please provide all records created by the City of Riverton since its incorporation.
- Please provide all records about my property located at 100 South Riverton Drive.
- Please provide all Emails ever written by or about Mayor Smith
- Please explain to me why my garbage is picked up so late in the day and why your incompetent people can't pick up my garbage sooner.

RESPONDING TO A GRAMA REQUEST

STEP 2: Establishing the deadline

HOW LONG DO I HAVE TO RESPOND TO A GRAMA REQUEST?

- 10 BUSINESS DAYS: MORE OR LESS.
- If the requester asks for an "expedited" response, AND shows that expediting the request "benefits the public" that shortens time to 5 business days
 - Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person. (63G-2-204)

DISCUSSION: What is "a story for publication?"



Bloggers? Facebook? Twitter?







"EXTRAORDINARY CIRCUMSTANCES" 7 ways to get more time to respond

7 TYPES OF EXTRAORDINARY CIRCUMSTANCE

- 1. Another governmental entity is using the record (including auditors)
- 2. The request is for a voluminous quantity of records or a record series containing a substantial number of records
- 3. The requester seeks a substantial number of records or records series in requests filed within five working days of each other
- 4. The governmental entity is currently processing a large number of records requests
- 5. The request requires the governmental entity to review a large number of records to locate the records requested; (as opposed to: 'there are a lot of records requested')
- 6. The decision to release a record involves legal issues that require the governmental entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law
- 7. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing or computer programming.

Responding to a record request: Step 3: Gathering RECORDS

- GRAMA only requires you to provide RECORDS.
- WHAT IS A RECORD?
 - "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:
 - (i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and
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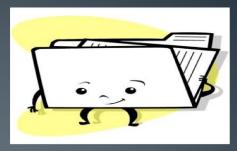
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 - 3. Determine what **the Requestor** can have:
 - The requester may be entitled to everything, or nothing.
 - The requester may be entitled to most records, but some records have to be denied, or some portions of records need to be redacted.
 - 4. Keep track of What you think they can have, what you think they can't have and WHY.

REDACTION AND SEGREGATION

- If a governmental entity receives a request for access to a record that contains <u>both</u> information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect <u>is intelligible</u>, the governmental entity:
 - (1) shall allow access to information in the record that the requester is entitled to inspect under this chapter; and
 - (2) may deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in Section 63G-2-205.
- This is done through either "segregation" (taking a whole page or record out) or "redaction" (redacting certain portions of a document)

RECORD SHARING

- It is possible to share records (even if they are private, protected or controlled) with other government and contract agencies: GRAMA details the situations when sharing is OK.
- Generally, you can share records with any agency that litigates or investigates civil, criminal or administrative law, as long as the record is necessary for the investigation.
- If a record is not public, then the entity receiving the record should honor the sending entity's classification.

63G-2-206

APPEALS







- A requester can appeal a denial of records, or a denial of a fee waiver request, or a claim of extraordinary circumstances.
- Most appeals go first the to "chief administrative officer" and then to the State Records Committee.
- If you receive notice of an appeal, contact an attorney for help.
- Archives has a "records ombudsman" who helps requestors negotiate to get records. If the records ombudsman contacts you, seek direction from your attorney.

Final Thought: The Death of Talking

- People now use EMAIL or text messages as the equivalent of "chatting"
- Unfortunately, once this "chatting" becomes a RECORD, it is subject to GRAMA.
- There is very little in GRAMA that protects a government person from the embarrassing things that they put in text messages or emails that they would NEVER put in an official government communication.
- TAKE-AWAY:DON'T PRESS SEND UNLESS YOU WOULD BE OK WITH THE EMAIL/TEXT/IM on THE COVER OF THE SL TRIBUNE

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter:JMAGNESSDepartment:CouncilRequested Meeting Date:01-04-2022

SUBJECT: A presentation regarding the Council Handbook. (22-002)

RECOMMENDATION: Presentation only.

BACKGROUND: The Council Handbook are the codes that set out how the Council operates and the rules that govern how the council's work is accomplished. There is a yearly review to keep the Council informed of any changes that have happened in the prior year as well as to refresh the Council on how to use and find information within the handbook.

FISCAL IMPACT: none

PRESENTER'S NAME: Brian Jones, City Attorney

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 22-002

Foreword

In the course of serving as a public official, you will be involved with numerous issues. This Handbook attempts to centralize information on common issues related to Provo's form of government and your role as a member of the Provo Municipal Council.

The issues addressed are often complex and sometimes subjective. Thus, this Handbook is intended only as a guide and is not a substitute for the counsel, guidance, or opinion of Council Staff or the Council Attorney, nor is it intended to supersede any City ordinance or other applicable law. Any failure to follow a procedure described in this Handbook shall not invalidate any action taken by the Council, except as may be otherwise provided by law.

However, although much of the handbook is background information provided to assist the Council Members in their duties, sections that describe procedures and rules in addition to applicable law are viewed as the "rules regulating the business of the Council and the conduct of its members" per Provo City Code Section 2.50.010. In particular, Chapter IX Rules and Procedures for Meetings constitutes the rules of order and procedure governing public meetings of the Council that are required by UCA 10-3-606.

The Council intends to review and revise the contents of this Handbook as needed or at least every two years.

This Handbook was comprehensively updated and approved on December 5, 2017 at Council Work Meeting. This update supersedes and replaces all prior versions of the Handbook and any policy or procedure referenced herein. (The Handbook was originally adopted by the Council in Study Meeting on June 6, 2006.) Subsequent amendments should specify the meeting in which the amendment was adopted by the Council and are listed in the footnotes.

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I. Provo's Form of Government

As a political subdivision of the state, the powers of the City spring from the Utah Constitution and from powers specifically given it by the State Legislature. The State of Utah's enabling acts are generally found in Title 10 (the Utah Municipal Code) of the Utah Code (UCA). One of those powers, commonly known as the "police power" is the power to "pass all ordinances and rules . . . as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city." See UCA 10-8-84. The Utah Supreme Court has held that this power is to be broadly interpreted unless specifically preempted or limited by state law. State v. Hutchinson, 624 P.2d 1116 (Utah Sup.Ct. 1980).

The Mayor-Council Form of Government

In 1977, the Utah State Legislature approved the Optional Forms of Municipal Government Act, which authorized a council-mayor form of government based on the constitutional framers' ideal of "separation of powers" between legislative and executive branches.

In 1982, Provo City shifted from a Mayor and two Commissioners to a Mayor and seven Council members. "The municipal government of Provo City is vested as two (2) separate, independent and equal branches of municipal government; the executive branch consisting of a mayor, a chief administrative officer, and the administrative departments and officers; and the legislative branch consisting of a municipal council having seven (7) members." Provo City Code (PCC) 2.01.010.

Checks and Balances

The Council-Mayor system has definite checks and balances and, in this respect, is similar to the Federal and State systems of government. For example, the Mayor must receive a majority confirmation from the Council on appointments of Department Heads, statutory officers, and members of City boards or commissions. Similarly, the Mayor may veto legislative acts of the Council, but a veto may be overcome by a 2/3 majority vote of the Council.

However, in some other respects, the Council-Mayor form of municipal government is not directly analogous to the State and Federal systems. For

example, the elected offices are all non-partisan and the Mayor is authorized by statute to attend and participate in meetings of the Council, but may not vote.

First Class City

With a population greater than 100,000 residents, Provo is classified by state law as a city of the first class. In certain respects defined by state law, such cities are subject to requirements that other cities may not be, for example with respect to budgets and financial reporting.

II. The Mayor

The Mayor exercises executive power. The extent of that power is described and defined more fully in Utah Code and Provo City Code.

Utah Code 10-3b-202 describes the role of the Mayor in the Council-Mayor form of government and, as of this writing, states that the Mayor:

- is the chief executive and administrative officer of the municipality;
- exercises the executive and administrative powers and performs or supervises the performance of the executive and administrative duties and functions of the municipality;

• shall:

- o keep the peace and enforce the laws of the municipality;
- o execute the policies adopted by the council;
- o appoint, with the council's advice and consent, qualified persons to certain mandatory city positions;
- provide to the council, at intervals provided by ordinance, a written report to the council setting forth prescribed budgetary matters;
- report to the council the condition and needs of the municipality
- o report to the council any release of a person from imprisonment for violation of a municipal ordinance;
- report to the council at its next meeting any fine of forfeiture remitted; and
- perform every duty prescribed by state statute or required by a municipal ordinance that is not inconsistent with state statute;

may:

- subject to budget constraints, appoint deputies or administrative assistants to the mayor and create administrative offices and appoint persons to such offices;
- appoint, with the council's advice and consent, department heads, statutory officers, and members of city commissions, boards, or committees;
- o dismiss any person appointed by the mayor;
- o as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation passed by the council;
- exercise control of and supervise each executive or administrative department, division, or office of the municipality;
- regulate and prescribe the powers and duties of each other executive or administrative officer or employee of the municipality (consistent with applicable statutes and ordinances);

- attend each council meeting, take part in council meeting discussions, and freely give advice to the council;
- appoint a budget officer to serve in place of the mayor to comply with state statutes regarding fiscal procedures;
- execute an agreement on behalf of the municipality, or delegate, by written executive order, the authority to execute an agreement on behalf of the municipality if within budget appropriations and countersigned by the city recorder;
- at any reasonable time, examine and inspect the official books, papers, records, or documents of the city or any officer, employee, or agent;
- o remit fines and forfeitures;
- o if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality; and
- o release a person imprisoned for a violation of a municipal ordinance; and
- may not vote on any matter before the council.

Provo City Code Section 2.10.030 also describes the role of the Mayor. Much of this section duplicates provisions of state code listed above, but it states, as of this writing, that the Mayor's duties and powers also include:

- being the City's official head for ceremonial purposes;
- hiring, disciplining, and terminating all executive employees;
- supervising and/or coordinating the administrative functions of those authorities and agencies which are related to or affect City operations, such as Housing and Redevelopment, to the extent requested or delegated by the officers or bodies having primary responsibility for the operation of such authorities or agencies;
- recommending to the Municipal Council for adoption such measures as may be deemed necessary or proper for the efficient and proper operation of the City;
- authorizing the issuance of such executive rules and regulations for the general operations of the City which are not in conflict with the laws of the State, the Provo City Code or other City ordinances;
- preparing and submitting to the Municipal Council a State of the City report and an annual report of the City's financial affairs;
- supervising the purchase of materials or services and authorizing expenditure of funds in accordance with applicable law; and
- issuing proclamations.

The Mayor, as chief executive officer, has broad discretion in the administration of City government.

III. The Council

Election of Council Members

Five of the Municipal Council's seven members are elected from geographical council districts and two are elected to city-wide seats. Council members are elected for terms of four years, which are staggered. Three district council seats and one city-wide seat are elected during one election. The remaining two district seats and one city-wide seat are elected two years later, along with the mayoral election. All municipal elections are held in the odd-numbered years and are considered non-partisan. See PCC 2.01.050. See Chapter VII for additional information on elections.

Council Members Represent the City and Act as a Body

Council members represent the Council and the City through public appearances, speaking engagements, and through media communications. Council members should always clarify whether they are acting in a Council capacity or as private individuals.

Official Council positions should be communicated by the Council Chair after they have been approved by a majority of the Council.

In addition, when a Council member is responding to a question, it is important to publicly note that a Council majority is required for any Council action. When discussing the enforcement or interpretation of an existing City ordinance, good judgment would include a referral to the appropriate administrative staff for the final word.

Service on City-Related Organizations

Council members also serve, by virtue of their election, in certain City-related organizations. The Redevelopment Agency Board (referred to by State Code as the Community Development and Renewal Agency Board) is the most notable example. Others include the Municipal Building Authority of Provo City, the Provo City Stormwater Service District, and service by the Council Chair on the board of the Provo Foundation.

These organizations usually meet during or after a regularly noticed Council meeting. For example, when a meeting is needed for one of these bodies, the Council meeting is formally recessed, and the Council reconvenes as the governing board of the entity. The governing board will

discuss and take action on business items as needed. For an action to be taken, four or more members of the governing board must vote in the affirmative. See PCC 2.31.

Powers and Duties

The Council exercises the City's legislative power. The extent of that power is described and defined more fully in Utah Code and Provo City Code.

Utah Code 10-3b-203 describes the role of the Council in the Council-Mayor form of government and, as of this writing, states that the Council:

shall:

- legislate the manner in which city property is bought and sold and how subdivisions and annexations are considered or regulated;
- o pass ordinances, appropriate funds, and review municipal administration;
- o perform all other legally imposed duties; and
- o elect a chair;

may:

- adopt a municipal administrative code dividing the administration into departments and defining the functions and duties thereof;
- adopt an ordinance creating, consolidating, or abolishing administrative departments or altering the functions and duties thereof:
- make suggestions or recommendations to subordinates of the mayor;
- appoint, and delegate investigative power to, committees of council members or citizens to investigate any officer or department of the city or matter relating to the welfare of the city;
- o make rules or regulations for the governance of the council; and
- take any action under the general "police power;"

may not:

- o direct or request, other than in writing, the appointment or removal of a person to or from an executive office;
- interfere with an executive officer's performance of their duties;
 or
- give orders to a subordinate of the mayor.

Provo City Code Section 2.50.070 also sets forth powers and responsibilities of the Council and states:

"The Municipal Council is the policy making body of the City and thus shall exercise the legislative powers of City government, including the adoption of the Provo City Code, other ordinances and resolutions, approving long-term contracts or commitments of City resources beyond current fiscal budget, setting appropriate tax levies, adopting the City budget, setting sewer, water, and power rates, and other general and service rates, and will exercise other rights and responsibilities accorded the Council by law."

The above powers can be categorized into the three core functions of the Council: making law; appropriating money (including budget approval); and executive oversight. See particularly UCA 10-3b-203(1)(a)(ii).

MAKING LAW (AND EXERCISING ADMINISTRATIVE POWERS)

Ordinances

The Council exercises its lawmaking power by passing ordinances. See UCA 10-3-701. Various state laws govern the form, procedure, and effective date of ordinances. See UCA Title 10, Chapter 3, Part 7.

Resolutions

In addition to its legislative powers, the Council also holds certain defined administrative powers. These powers are generally exercised by resolution and include:

- establishing water and sewer rates;
- establishing fees for city services;
- establishing Council personnel policies and guidelines; and
- regulating the use and operation of city property. See UCA 10-3-717.

Resolutions are also used to consent to Mayoral appointments, fill midterm vacancies in elected offices, and to express the will, intent, or view of the Council

Maintaining the Municipal Code

The Council is responsible for the accurate maintenance of the Provo City Code. The Council is also responsible to provide public access to the Code. The Council staff manages this responsibility though the annual publication of the code and the updating of the Code on the City website. See PCC 2.60.

APPROPRIATING FUNDS

The Council principally exercises its power to appropriate funds by passing a City budget. Additionally, the Council may appropriate specific amounts of money for specific purposes from time to time.

City Budget Oversight and Process

The budget is one of the Council's strongest policy-making tools. Each year the Council expresses its priorities though annual City budget appropriations. A good budget can be used as a planning tool because it conveys what the government expects to accomplish during the coming year. Ultimately, the budget should be a reflection of policy priorities, a financial operating plan, and a tool for communicating with the public about how money is spent.

Mayor's Budget Recommendation

It is the responsibility of the Mayor to make recommendations regarding budget expenditures. The Mayor also determines the most efficient and effective way of using resources to achieve the policy priorities established by the Council. Ultimately, the administrative staff are the experts on the "how to" part of the budget.

Mayor's Annual Tentative Budget

As provided by UCA 10-6-111, the Mayor's Annual Tentative Budget must be submitted to the Council by the first regular Council Meeting in May.

Adoption of the Annual Budget

Prior to adopting the annual budget, the Council receives the Mayor's tentative (proposed) annual budget. The Council is charged with determining if the Mayor's tentative annual budget reflects an appropriate funding balance of public service levels, personnel costs, creation and operation of City departments, operation and maintenance of City facilities and equipment, level of City reserves, and capital improvement projects.

The Council has the right to adjust the Mayor's proposed budget to reflect Council priorities as long as the budget remains balanced. The Council amends the budget by passing the budget changes to the Mayor's proposed budget. See UCA10-6-135(4). In addition, the Council may, by following legal procedure, adjust tax rates and implement or adjust fees.

Unless the Council sets a "Truth in Taxation" hearing to consider changing the property tax rate, the final budget must be adopted before June 30th.

Property Tax Increases

If a property tax increase is under consideration as a part of the budget process, the Council must provide notice of and hold a public hearing before adopting the tax increase. Pending adoption of a final budget, the City may operate on the approved tentative budget or on the previous year's final budget if readopted by resolution. Following the public hearing on the tax increase, the final budget must be adopted before September 1st.

EXECUTIVE OVERSIGHT

The Council has an express mandate under state law to "review municipal administration." Consistent with the strict separation of powers found in Provo's form of government, Utah law prohibits Council members from interfering with officers and the performance of their duties. The Council may not give orders to any subordinate of the Mayor either publicly or privately, but may make suggestions and recommendations. However, the Council may investigate the administration of City government and make policy recommendations. Such oversight may take a number of forms, some of which are described below.

Yearly Audit and Financial Report

Each year, following an audit by an independent auditor selected by the Council, the audit findings and a financial report must be presented to the Council. The annual audit and financial report assist the Council in reviewing municipal administration and providing financial oversight of the City's financial affairs.

Requests for Information

Council members or Council Committees may request readily available information which normally would require only the copying of

existing documents from individual Department Heads or the Mayor. This information will be delivered to the Council Executive Director and distributed to all Council members.

If, at the Mayor's discretion, the requested information requires sufficient effort, the Mayor will notify the Council Chair of the need for approval by four or more Council members. When approval is obtained, the request will be forwarded by the Chair to the Mayor for action. At this time, the Chair and the Mayor should agree upon a date of delivery. This information will be delivered to the Council Executive Director and distributed to all Council members.

City Board Member Approval

City Board members are appointed by the Mayor with the advice and consent of the Council. Upon the Mayor's presentation to the Council of City Board nominees, the Council must decide if the Mayor's appointments are appropriate. Among other things, consideration may be given to geographic place of residence, length of residence, ability and willingness to serve, availability of time, ethnic diversity, and depth of expertise. A majority vote of the Council in a Council Meeting is required to approve a Mayoral appointment. See PCC 2.50.080.

On a related note, the Metropolitan Water District Board is a separate legal entity from the City and is a political subdivision of the state in its own right. However, pursuant to state law, the members of its board are appointed by the Council. This is a statutory duty imposed on the Council and differs from the routine practice of consenting to Mayoral appointments, with a statutory process for considering applicants.

Process to Approve Mayoral Appointments

- 1. After receipt of the Mayor's recommendation for Board and Commission appointments and reappointments, along with specified supplemental information, the Municipal Council Executive Director will distribute the recommendation and supplemental information about each nominee to all Council Members for their review and evaluation.
- 2. Council Members will have fourteen days following receipt of each recommendation and supplemental information to evaluate the nominee (which may include communicating with the nominee and/or gathering additional information) and provide feedback, including objections, directly to the Mayor and to Council Leadership.
- 3. After delivering any feedback from Council Members, the Municipal Council Executive Director shall confirm with the Mayor whether or not

- to schedule a vote. (Note that prior to a vote, discussion may take place in a closed session regarding a nominee's character, professional competence, or physical or mental health. This is preferred to presenting such issues for the first time during the vote on the appointment.)
- 4. When a vote is scheduled, Council Staff will notify the nominee of the scheduled vote and will invite the nominee to be introduced to the Council prior to the vote (this may take place in Work Session, closed meeting, or Council Meeting at the nominee's convenience).
- 5. If the nominee cannot be introduced to the Council prior to the scheduled vote, the consent resolution will be continued to a subsequent meeting.
- 6. At the discretion of Council Leadership, nominees for reappointment to a Board or Commission may be forwarded for approval without first scheduling an introduction. Nominees for an initial appointment may also be forwarded for approval if Council Staff has been unsuccessful in scheduling the nominee's introduction for more than 30 days and Council Leadership feels moving forward with the appointment is appropriate.

IV. Role of Council Leadership

Election of Council Chair & Vice-chair

At the first Council Meeting of each year, as required by City ordinance, the Council elects a Chair and Vice-chair. The elections are listed as an action item on the Council's agenda.

Chair and Vice-chair Election Process

- The current Council Chair conducts the Council Meeting until after the election process is completed.
- When the Chair-election agenda item is reached, the current Chair asks for nominations from Council Members for a new Chair (no second is required for a nomination).
- By Code, no discussion on the nominations is allowed.
- When all nominations have been made, the Chair then calls for a separate vote on each nominee in the order of their nomination. As soon as any nominee receives four or more votes, that nominee is elected as the new Chair and no more votes are held. Likewise, it is not necessary to ask for, or record, votes against a nominee, as the number of affirmative votes alone will be determinative.

- If no nominee receives four or more votes in the first round of voting, then subsequent rounds of voting will continue until a majority vote is accomplished.
- The current Chair then repeats the process for the office of Vicechair.

Election Resolution

Immediately following the conclusion of the Leadership election for Chair and Vice-chair, the Council will consider a resolution acknowledging the election of the Municipal Council Chair and Vice-chair for the calendar year. The new Chair and Vice-chair then exchange seats with the outgoing leadership. The newly elected Chair assumes leadership and conducts the remainder of the Council Meeting. See PCC 2.50.020.

Chair Responsibilities

The duties of the Chair are:

- Conduct all meetings of the Council as a whole
- Set Council meeting agendas
- Sign all ordinances and resolutions
- Sign all other documents on behalf of the Council as a whole
- Communicate with the Mayor on the Council's behalf
- Communicate official Council position statements that have been approved by a majority of the Council
- Disseminate information from the Mayor to the Council
- At the beginning of each year after the election of the new Chair, propose to the rest of the Council for approval all committee and liaison assignments, including the Chair and Vice-chair for each committee
- Direct the operation of the Council Office and staff See PCC 2.50.030

The Chair is elected to represent the Council and is considered the Council's spokesperson to the:

- Media
- Public
- Mayor

The Vice-chair may exercise all the powers and authority of the Chair in the Chair's absence or inability to act or at the Chair's direct request. See *PCC* 2.50.030(5).

V. Council Committees and Liaisons

Municipal Council Committees¹

When the Council forms a new committee, it shall vote to designate the name and mission statement of the committee, its designation as standing or ad hoc, to appoint the voting members, and to select the Chair and Vice-chair of the committee. Each year, following the election of the Council Chair, the new Council Chair has traditionally proposed updated Committee assignments, which are then voted on by the Council. The Chair usually asks Council members to indicate their interests and time constraints prior to the Chair making assignments. See Handbook Appendix 4, and PCC 2.50.110.

At times Council members serve on boards that require Mayoral appointment and Council advice and consent. See Handbook Appendix 4.

Citizen Involvement in Committees²

It is common for Council committees to invite private citizens to provide information, advice, or counsel to the committee. Additionally, pursuant to Utah Code 10-3b-203, the Council may appoint committees of citizens to conduct investigations into any matter relating to the welfare of the City. These are different than City Boards whose members are appointed by the Mayor in that they are typically formed to advise the Council rather than the administration. On occasion such bodies may be formed jointly with the administration.

Two such organizations have been created by ordinance:

The **Neighborhood Advisory Board** is a citizen program which provides a vital link between neighborhood concerns and local government. To foster the consistency this program needs to be effective, the Council staff has the responsibility of coordinating the day to day needs of the Neighborhood program. Neighborhood Chairs are selected by residents in their neighborhood and serve on a volunteer basis. See PCC 2.29. To learn indepth information about Provo City's Neighborhood Program, visit the Provo City Neighborhood Program Handbook.

¹ Amended August 7, 2018 Work Meeting

² Amended August 7, 2018 Work Meeting

Provo Youth City Council is a youth citizen program coordinated by Council staff. The program is designed to allow high school youth of our City to actively participate in local government to achieve the quality of leadership Provo City needs and deserves in the future. See PCC 2.37.

Communication with Boards

By statute, the Municipal Council has established standing boards that are advisory to the Mayor and the Municipal Council. In most instances, members are appointed by the Mayor, with the advice and consent of the Council. Other boards that are independent from the City are also closely linked with the City, such as the Metropolitan Water District Board. In an effort to improve communication with these organizations and enhance the Council's ability to receive, understand, and consider advice relative to outcome policies affecting the City, the following internal governance policies are adopted:

Council Member Ligison

Annually, and after considering Council Members' interests, the Municipal Council Chair shall appoint a Council Member to serve as a liaison to:

- Airport Board
- Energy Board
- Landmarks Commission
- Metropolitan Water District Board
- Parks and Recreation Board
- Student of Higher Education/Young Adult Advisory Board (inactive)
- Transportation and Mobility Advisory Committee
- Utah Municipal Power Authority

Annual Joint-Meetings

The Municipal Council shall have an annual joint-meeting to discuss issues of City policy and oversight with the following:

- Airport Board
- Energy Board
- Landmarks Commission
- Metropolitan Water District Board
- Parks and Recreation Board
- Planning Commission
- Transportation and Mobility Advisory Committee
- Utah Municipal Power Authority (the annual UMPA conference satisfies this requirement)

Advice to Council

When advising the Municipal Council on outcome policy issues, advisory organizations best assist the Council when they prepare and deliver written advice to the Council for deliberation.

Distribution and Review of Records

Council Staff will ensure Council Members are informed of any policy advice, recommendations, or requests received from these boards and have access to agendas and meeting dates.

VI. The Council Office

Provo City Code 2.50.090 enables the Municipal Council to appoint legislative staff to support the Municipal Council in the exercise of its powers and in the performance of its responsibilities.

The Council Chair supervises the Council staff and is responsible for the operation of the Council Office. Traditionally, and by City Code 2.50.130(1)(k), these duties have been delegated to the Council Executive Director.

Council Office staff are City employees and receive the same salary and benefits as other City employees as outlined in City Code 4.04. Council Office employees are at-will and are not part of either the City's classified or unclassified civil service.

Executive Director

The Municipal Council may appoint an Executive Director to exercise duties consistent with Council's primary functions pertaining to legislation, appropriations, and review of municipal administration. The Municipal Council has set forth the Executive Director's powers and duties (such as coordination of Council activities, supervision of Council employees, and operation of the Council Office) in Provo City Code 2.50.130.

Policy Analysts

Policy Analyst(s), formally classified as Management Analysts, support the City Council by performing policy research and analysis, preparing reports and drafting legislation, preparing agendas for and providing support at Council and committee meetings.

Community Relations Coordinator

The Community Relations Coordinator, formally classified as a Management Analyst, performs duties in support of the City Council's community outreach and communications efforts with news media, social media, newsletters, broadcasting of Council meetings, and coordination of the Neighborhood Program.

Executive Office Assistant

The Executive Office Assistant performs necessary secretarial, clerical and specialized duties in support of the Council and the Executive Director, including record keeping, minutes, correspondence, scheduling, purchasing, and interacts with the public. As assigned, the Executive Office Assistant also supports or coordinates various programs, such as matching grants for the Neighborhood Program, and others.

Intern(s)

The Executive Director may engage interns (typically university or high school students) to assist the Executive Director and the Municipal Council in a variety of assignments and administrative projects. At the discretion of the Executive Director, internships may be paid or unpaid.

Individual Council members may engage interns (typically university or high school students) to assist the Council member in a variety of assignments or projects of interest to the Council member. Interns engaged by individual Council members will not be paid by the City. The use of City offices, equipment, or materials is at the discretion of the Executive Director and is subject to City policies.

Council Attorney and Outside Counsel³

Provo City Code 2.10.110 establishes a City Attorney and the Office of Legal Services which are responsible for the proper administration of the legal affairs of the respective executive and legislative branches of City government. The City Attorney, or a designee, located in the Office of Legal Services, serves serve as counsel for the Municipal Council to:

- to furnish legal advice, counsel and assistance to the Municipal Council in relation to their duties and the business of the City;
- to direct and/or coordinate as determined by the Municipal Council respectively all legal services performed by special counsel for the City who may be employed from time to time to provide legal services for the City;
- to prepare as requested or approve as to legal form all ordinances and resolutions presented to the Mayor or Municipal Council;

³ Amended May 4, 2021 Work Meeting

Confidentiality⁴

When articulated to the City Attorney or an attorney assigned to the Municipal Council, Council Members and the Executive Director have a right to request and expect attorney/client confidentiality, unless said confidentiality violates legal and ethical standards as determined by the City Attorney.

Outside Counsel

PCC 2.10.110 also enables the Municipal Council to retain separate counsel to assist in legal issues, arising out of differences between the two branches. The following policies also pertain to the retention of outside counsel.

Budget for Separate Legal Counsel

The Municipal Council shall annually allocate monies to provide for the retention of separate legal counsel, to be used on an as-needed basis by the collective Council or individual Council Members. A minimum of \$15,000 shall be allocated. Any unused monies for this purpose in a previous budget year will be rolled over to the subsequent Council Office budget with a cap of \$30,000. The Council may appropriate additional funds at any time for this purpose by resolution.

Retention of Separate Legal Counsel

The following procedures shall be followed for the retention of separate legal counsel:

- 1. All Municipal Council Members shall have access to separate legal counsel for the purpose of preliminary research or questions relative to Council business. Retention of such counsel shall be coordinated with the Executive Director, who shall, upon request, identify appropriate legal counsel (based on experience and expertise) for the legal question presented. The cost of such access shall not exceed \$2,000 per Council Member annually. Each contracted separate legal counsel shall be contractually obligated to terminate service to the individual Council Members once \$2,000 in cost is reached.
- 2. Council Members may pool their individual legal counsel allocations for a common research question.

⁴ Amended May 4, 2021 Work Meeting

3. If additional monies are needed to study an issue beyond what the individual resource allocation may cover, or where appropriate under PCC 2.10.110, the Council may, by majority vote, adopt a legal question as a Municipal Council work project and utilize additional budgeted monies for that purpose.

Other Professional Services⁵

The Municipal Council shall appropriate funds necessary to perform required annual audits and any internal audits it deems appropriate. All such funds are in addition to funds budgeted for the retention of separate legal counsel.

Additionally, the Municipal Council may, by majority vote, adopt any question or issue as a Municipal Council work project, and retain other professional services relative to Council business. The Municipal Council may choose to use funds appropriated for the retention of separate legal counsel.

Council Requests of Staff

Staff will respond to requests from Council members with resources that are readily available in the Council Office. Out of respect for other Council members and in consideration of Office priorities, Council member requests that could require extensive research or extensive staff time should be made to the Council Chair or the Executive Director. The Chair and the Executive Director will decide how to best facilitate the Council member's request.

Council Office Hiring Process⁶

The Executive Director shall be recruited by establishing an ad-hoc hiring committee that determines the steps to recruit and select candidates that shall be approved by the Council in a Work Meeting. These processes may include other mechanisms beyond standard City hiring practices. Any Council Member desiring to be a part of the final candidate interviews and evaluation are permitted to do so.

All other Council Office positions as stipulated above, are hired through standard City recruitment processes by the Executive Director and under the direction of the Council Chair.

⁵ Amended May 4, 2021 Work Meeting

⁶ Amended May 4, 2021 Work Meeting

VII. Election Information

Municipal elections are non-partisan. If required, primary elections are held the first Tuesday after the first Monday in August in odd numbered years. See UCA 20A-1-201-5.

General elections are held the first Tuesday after the first Monday in November in odd numbered years. See UCA 20A-1-202.

Council Candidates:

- Are elected by a majority of the votes cast in a general municipal election
- Take office at noon on the first Monday in January following their election. See UCA 10-3-201.
- State law also requires that the oath of office be administered at this same time, or as soon thereafter as is practical. The oath may be administered by a judge, notary, or the city recorder and is required to be taken before council members enter into their duties. This may be part of or separate from any inauguration ceremony. See UCA 10-3-828.
- Are elected for a term of office of four years and until his or her successor is chosen and qualified. See PCC 2.50.060, UCA 10-3-202.
- Are responsible to comply with required campaign finance disclosures as outlined by state and city law. See PCC 2.05, UCA 10-3-208.

An elected office may be vacated by one of the following:

- Moving outside of his or her district boundaries. See UCA 20A-9-203.
- Resignation, disability, death, removal, or disqualification from office. See UCA 20A-1-102(82).
- A continuous absence from the municipality of more than 60 days. In some circumstances this period may be extended with the consent of the Council. See UCA 10-3-301.

A vacated elected office (either Council or Mayoral) may be filled by appointment of the City Council. The appointment is until the January following a municipal election. In some circumstances, this may require an election to fill the vacancy in the middle of the normal four-year term for that office. The process for making the appointment is outlined in state code. See UCA 20A-1-510.

VIII. Ethics Rules

Elected and appointed officers and employees are required to comply with the disclosure requirements of the Municipal Officers' and Employees' Ethics Act (the Ethics Act) with regard to actual and potential conflicts of interest. (The requirements of the Ethics Act are discussed in more detail below.) To facilitate this compliance, the City has required annual completion of a Conflict of Interest Disclosure Form. See Appendix 6. The purpose of this procedure is to avoid conflict of interest problems.

The Municipal Officers' and Employees' Ethics Act (Utah Code § 10-3-1301 et seq.), applies to municipal councilors and the municipal council's staff. The Council considers it a best practice to revisit and remind the councilors and council staff of the limits and responsibilities of our unique positions. It is the policy of the Provo City Municipal Council that every Council member, the Municipal Council Executive Director, and all full-time employees of the Municipal Council complete and file annually with the City the Administrative Code of Ethics and Conduct and the Gift and Conflict of Interest Disclosure forms provided by the Administration generally to city officers and employees.

While the City seeks to assist its officers and employees in disclosing actual or potential conflicts of interest, the duty of disclosure falls on the individual. If an actual or potential conflict of interest arises during the year, a Council Member should use the Disclosure Form to disclose the matter in accordance with the Act's requirements as soon as possible and not wait for the City's annual disclosure process to occur.

Withdrawal Due to Conflict of Interest

In addition to meeting disclosure requirements, in certain circumstances a Council Member may also be required to recuse (or disqualify) himself or herself from deliberating, deciding, and/or voting on an issue where a conflict of interest exists. See PCC 2.70.

Other instances may not require recusal, but a Council Member may elect to recuse himself or herself from deliberating, deciding, or voting on an item whenever this seems appropriate to avoid any appearance of impropriety.

Ethics Review Commission

Pursuant to a Joint Resolution of the Mayor and Municipal Council approved on September 2, 2014, Provo City will refer all complaints of violations of the Ethics Act to the Political Subdivisions Ethics Review Commission as provided for in Utah Code Section 10-3-1311(2)(b)(ii). (See Joint Resolution 2014-48.)

The Municipal Officers' and Employees' Ethics Act

The Ethics Act applies to all elected and appointed City officers and employees (both full- and part-time). This includes persons serving on special, regular, or full-time committees, agencies, or boards whether or not they are compensated for their services. This state law does two things. It establishes standards of conduct for municipal officers and employees and it requires disclosure of certain actual or potential conflicts of interest between one's public duties and personal interests.

Standards of Conduct

The Ethics Act makes it a crime for a Council Member to do any of the following:

- 1. Disclose or improperly use private, controlled, or protected information acquired as the result of your official position or duties in order to substantially further your personal economic interest or to secure special privileges or exemptions for yourself or others. Private, controlled or protected information is information classified as such under the Government Records Access and Management Act.
- 2. Use or attempt to use your official position to substantially further your personal economic interest or secure special privileges for yourself or others.
- 3. Knowingly receive, accept, take, seek, or solicit, directly or indirectly, for yourself or another, a gift of substantial value, or a substantial economic benefit tantamount to a gift (i) that would tend to improperly influence a reasonable person holding your position to depart from the faithful and impartial discharge of your public duties or (ii) that you know, or a reasonable person in your position should know under the circumstances, is primarily for the purpose of rewarding you for official action taken.

4. Receive compensation for assisting any person or entity in any transaction with the City without making a written and oral disclosure to the Mayor and the public. This rule does not apply to an occasional nonpecuniary gift having a value of less than \$50, an award publicly presented in recognition of public service, a loan made in the ordinary course of business, or a political campaign contribution actually used in a political campaign. An economic benefit tantamount to a gift includes loans at substantially less than commercial rates and compensation for services at a rate substantially higher than fair market value.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally engages in any of the above must be removed from office or dismissed from employment and is guilty of:

- 1. A second degree felony if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000.
- 2. A third degree felony if (i) the total value of the compensation, conflict of interest, or assistance is more than \$250 but less than \$1,000, or (ii) the elected or appointed officer or municipal employee has been convicted twice before of violating the Ethics Act and the value of the conflict of interest, compensation or assistance was \$250 or less.
- 3. A class A misdemeanor if the value of the compensation or assistance was more than \$100 but less than \$250.
- 4. A class B misdemeanor if the value of the compensation or assistance was \$100 or less.

Disclosure Requirements

The Ethics Act requires that a Council Member disclose any of the following:

Receiving or agreeing to receive compensation for assisting any person or business entity in any transaction involving the City. Disclosure must be provided by filing a sworn statement with the Mayor giving your name and address, the name and address of the person being assisted, and a brief description of the transaction and service to be performed. The statement must be filed 10 days before the date of agreement or receipt of compensation. Council members must make the disclosure in an open Council meeting before the matter is discussed. Council staff must make the disclosure to his or her immediate supervisor and any other person who may evaluate or approve the activity.

Being an officer, director, agent, employee, or owner of a substantial interest of a business entity regulated by Provo City. A "substantial interest" means legal or equitable ownership by an individual, spouse, or minor children, of at least 10% of the outstanding shares of a corporation or a 10% interest in any other business entity. Disclosure must be provided upon election, appointment, or employment by filing a sworn statement with the Mayor disclosing the position held, and the nature and value of the interest. Disclosure is required again if the position changes or the interest value increases significantly. Within 30 days of receipt, the Mayor must report the substance of the disclosure to the Council or give the Council a copy of it. Two exceptions apply. First, an interest valued at less than \$2,000 is not required to be disclosed. Second, life insurance policies or annuities do not need to be considered in determining the value of an interest.

Being an officer, director, agent, employee, or owner of a substantial interest of a business doing business with Provo City. Disclosure must be made to the Council in a public meeting prior to any discussion involving the entity and must be entered into the meeting minutes.

Any personal interest or investment which creates a conflict between your personal interest and your public duties. Disclosure must be made to the Council in a public meeting in the manner described above.

The Ethics Act requires that a person who knowingly and intentionally violates any of the above-listed activities be removed from office or dismissed. A related contract or transaction may be voided.

IX. Rules and Procedures for Meetings

This chapter contains two major sections. The first presents general background information regarding the handling of Council business in meetings of the Council body and summaries of some relevant rules and laws existing outside this handbook. The second section sets forth special rules of procedure specifically adopted by the Council to supplement or supersede those rules found elsewhere.

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1. Background Information and Summaries of Governing Laws

a. General Principles Applicable to Meetings of the Council

i. Council Actions Are Taken at Properly Called Meetings⁷

Robert's Rules states that "... to become the act or choice of the body, a proposition must be adopted ... in a regularly or properly called meeting of the body." Mason's Manual of Legislative Procedure explains the principle like this: "Decision-making powers of a group can be exercised only at a meeting of the group. Any understanding or agreement made before, after or outside a legal meeting is not valid or binding."

ii. The Open and Public Meetings Act

Public notice is required when a quorum (four or more Council Members) are present at a meeting convened (called by someone with authority) for the purpose of discussing or acting on a subject over which the Council has jurisdiction.

Different types of Council actions require different types of noticing. Generally, Council meetings require 24 hours' notice, with agendas placed in three public places and submitted to the press. The notice must include the place, date, and time, as well as the agenda. A topic of discussion not on the agenda that is raised during an open meeting may be discussed, but no final action may be taken during the meeting.

Different types of Council action may require additional legal notice. For example, General Plan amendments require 10 days' notice.

iii. Voting or Abstaining

Voting upon City issues and policies is the privilege and the responsibility of each Council member. The choice to vote in the affirmative or negative, or to abstain is a personal and often weighty decision.

⁷ Added August 7, 2018 Work Meeting

To pass or amend an ordinance or resolution or take any other action, four (a majority) or more Council "yes" votes are required, even if less than all Council members are present, unless the law provides otherwise for a specific

type of matter. When a Council member chooses to abstain from a vote, at least four affirmative votes are still required for the vote to succeed. Thus, even though an abstention is not a vote, it may contribute to a motion's failure. See UCA 10-3-504 and 10-3-507.

iv. Checks and Balances

Patterned after both State and Federal governments, the Council-Mayor system has definite checks and balances. For example, the Mayor must receive a majority confirmation from the Council on appointments of Department Heads and statutory officers and proposed appointments to City boards or commissions. State law also dictates that the Mayor may join in the discussion during Council meetings, but does not vote.

v. Mayoral Veto

The Mayor can veto an ordinance, tax levy or appropriation. If the Mayor vetoes a Council action, the Mayor must return the action to the Council within 15 days with a written statement of explanation. If, after considering the Mayor's objections, the Council feels justified in its original action, it can override the Mayor's veto with a vote of at least two-thirds of the members (5 votes) at the next Council Meeting. If the Mayor does not return an item within 15 days, the action takes effect without the Mayor's signature. See UCA 10-3b-204.

vi. Undoing or Amending a Prior Action

(1) Reconsideration

A Council member may move to reconsider a vote of the Council held earlier during the same meeting, but only if that Council member voted originally with the prevailing side. A motion to reconsider requires a second, which may be made by any Council Member. If a motion to reconsider passes with four or more votes, the motion to be reconsidered is immediately undone and is once again before the Council to be debated and voted on.

(2) Rescinding an Action Not Yet Executed

A motion to rescind may be made with respect to an action that the Council approved at a previous meeting as long as it is still possible to undo

the action. An ordinance or a portion of an ordinance that has not yet gone into effect may be rescinded. For example, a zone change may be rescinded before the effective date of the ordinance, but approval of a contract may not be rescinded after it has been executed and gone into effect.

A motion to rescind may be made by any Council Member and requires a second. If public notice of consideration of the motion to rescind was given not less than 24 hours in advance of the meeting during which it is considered, the motion may be passed by a vote of four or more Council Members. If a motion to rescind is considered in an emergency meeting for which less than 24 hours public notice is given, the motion may be passed by a vote of five or more Council Members. When a motion to rescind passes, the previously approved action is immediately undone as if it had never been approved.

(3) Repealing an Action Already Executed

Where a previously approved action has gone into effect and may no longer be rescinded, it may be repealed. There is no time limit on making such a motion after the adoption of the original action. Repeal is accomplished by a formal resolution or ordinance that does away with the resolution or ordinance that is being repealed. Repeal is effective only after the resolution or ordinance accomplishing the repeal becomes effective under state and local law. (So for example, a repeal ordinance may be vetoed by the Mayor, and would only go into effect if subsequently passed over the Mayor's veto.) Therefore, a resolution or ordinance that is later repealed is still considered to have been in effect from its effective date until the effective date of the repeal and may potentially create some vested rights during that effective period.

(4) Amending Something Previously Adopted (Rescinding Differences)

A previously approved action may also be amended rather than being undone entirely. However, a distinction must be made with regard to whether the action to be amended has already gone into effect or not. If not, then it may be amended in accordance with the rules pertaining to a rescission, and if such a motion to amend passes, the previously approved action is immediately amended as if it had originally been passed in its new, amended form.

(5) Amending Something Previously Adopted (Repealing Differences)

If the action to be amended has already gone into effect, then it may be amended in accordance with the rules for repeal, but, just as with a repealed action, the original version of the action is considered to have been in effect from its original effective date until the effective date of the amendment. Similarly, this type of amendment may be vetoed and the original version may have created some vested rights during its effective period.

vii. Council Minutes

Council minutes are not intended to be a verbatim record. A digital sound and visual recording exist and are available to the public as an exact record of the proceedings. In addition to the written minutes, recordings will be kept in perpetuity (beyond existing records retention requirements under Utah State Government Records and Management Act). The medium in which they are stored will be updated by Council Staff every five years to prevent data corruption and file loss.

Regular Council Meeting minutes are maintained by the City Recorder. Council minutes are a written record of the proceedings during an actual time period. They reflect the substance of what actually occurred in Council meetings. Their purpose is to legally record the official actions that were taken by the Council.

To conserve Council Staff time and resources, Work Meeting minutes are intentionally brief and need only capture the substance of the topics discussed.

Council members are required to approve the minutes. Corrections, deletions or additions to factual information, quoted statements, meeting events and official Council actions should be made during the Council meeting prior to the vote when minutes are approved. The Council should view this as an opportunity to correct the record of the actual Council meeting, not an opportunity to revise history.

After minutes are approved, any additional corrections, deletions, clarifications or additions should be submitted in writing to the Chair, other Council members, and the Council Director. The Council as a whole, will review the submitted document and will vote to determine if the document is:

a. a factual correction and will be inserted into the previously approved minutes; or

- b. a necessary and pertinent clarification and will be attached to the minutes as an addendum; or
- c. insignificant, unrelated or inappropriate information that will not be included or attached to the minutes.

viii. Council Meeting Rules

By City and State law, the Council is required to adopt rules to regulate the Council's meetings. Section 2 of this Chapter describes the rules adopted by the Council. By state law, those rules shall be made available at each meeting of the Council and on the City website.

The Executive Director or designee shall fill the role of parliamentarian. This Handbook helps to solidify some of the Council's internal procedures and should be reviewed by the Council at least every two years. See PCC 2.50.010 and UCA 10-3-606.

b. Types of Council Meetings

i. Work Meeting

(1) Work Meeting Agenda

The following types of information are usually considered in a Work Meeting:

- Presentations and reports from community organizations or City Departments;
- Previews of proposed new or amended ordinances/resolutions; and
- In-depth discussion of internal Council processes, procedures, missions, and/or goals.

(2) Work Meeting Schedule

Council Work Meetings are usually held in the afternoon prior to regular Council Meetings, and are usually followed by a meal for Council Members, the Mayor, and select staff. Work Meetings are designed to be a less formal venue for discussion among Council Members. Generally, no public input is taken during the meeting.

(3) Work Meeting Actions

Work Meetings are legally noticed by staff and must list all topics proposed for discussion and action. In a Work Meeting, the Council may:

- Vote to move an item forward to the next available Council Meeting for final action.
- Vote to move an item forward to a future Council Meeting when more information on the issue will be available (on a specific date or at the Chair's discretion if no date is specified).
- Vote to refer an item back to another Work Meeting (on a specific date or at the Chair's discretion if no date is specified).
- Vote to refer an item (if appropriate) to the Planning Commission for further review.
- Vote to refer an item to a Council Committee for study, usually with a specific report date.
- Vote to deny any further action (the issue is dead).
- Take such further action as the Municipal Council, by majority vote, shall approve.

ii. Council Meeting

(1) Council Meeting Schedule

By City ordinance, regular Council Meetings are held on select Tuesdays of each month (generally the first and third) at 5:30 p.m. unless otherwise legally noticed. See PCC 2.50.035. Each meeting usually begins with a ceremonial portion which may include the Pledge of Allegiance, an invocation, presentations of merit, City-wide proclamations, and a Public Comment period.

The Chair, the Vice Chair at the Chair's direction, or a Leadership designee conducts the Council meeting. State law requires that certain actions be conducted as a public hearing. Other items may be opened for public comment at the discretion of the Chair or by majority vote of the Council.

(2) Council Actions

Typical actions on Council Meeting agenda items include the following:

- Approve an action.
- Reject an action either by (1) an explicit motion to reject or (2) as the result of a failed motion to approve.
- Continue an item to a future specified date.
- Move an item to an unspecified date. (This may affect the validity of the current legal notice. The Council may want to check with staff or plan for the City to pay for additional legal noticing of Land Use or

- appropriation items if no specific date is included in the motion to forward an item.)
- Refer an item back to a Work Meeting or Council Committee, convene an Ad Hoc Committee, or refer to Council or Administrative Staff for more study or information. It is usual to designate a "report back to Council" date and a lead person.

iii. Other Meetings

Other meetings, such as Closed Meetings or joint meetings with the Orem City Council, the Provo School Board, or City Boards and Commissions, are scheduled on a regular basis or as needed. The Mayor is always invited to all noticed meetings, and his or her schedule is taken into consideration whenever possible.

Notice for these meetings shall be given by staff as required by law.

2. Special Rules of Order

a. General Rules

i. Robert's Rules of Order8

The rules contained in the current edition of Robert's Rules of Order Newly Revised (RONR) shall govern in all cases to which they are applicable and in which they are not inconsistent with the Special Rules of Order in this handbook, with Provo City Code or with Utah State Code. For ease of reference a simplified version of Roberts Rules of Order used by many State boards and a list of practice pointers can be found in Appendix 9. (Those documents are for informational purposes only and insofar as there is any conflict, they do not supersede the rules in this Chapter or in RONR.) Pursuant to PCC 2.50.010, the Council may adopt or repeal any rules by majority vote. Rules may also be suspended in a given meeting by a 2/3 vote of those present. Violation of a rule contained herein shall not be the basis for invalidating any ordinance, resolution, or provision of City Code.

⁸ Amended August 7, 2018 Work Meeting

ii. Requests for Council Action

A request for Council action may be brought forward by two Council members, the Council Chair, or the Mayor. When a private individual or group sees a need for new or changed legislative policy, they may bring their proposal to an individual Council member and request sponsorship. When a Council member is willing to sponsor proposed legislative changes, he or she should work with the Chair or gain support from a second Council member.

The legislative change process is set in motion when the sponsoring Council member has secured support from the Chair or a second Council member and then delivers a memo to Leadership and the Council Executive Director by noon, at least seven days prior to the Work Meeting where it could first be considered. The memo should be dated, and should include a description of the proposal, the desired outcome and any pertinent background information. If the Chair is not a sponsor, the memo should include communications of support from the sponsoring members or their signatures.

Council staff, under the direction of the Chair, will coordinate scheduling, legal noticing, informing the Mayor, and gathering any additional legal information for the Council members' packet.

iii. Rules Governing Meetings of the Council

The following rules/procedures shall govern the conduct of any meeting of the Council, unless superseded by a more specific rule in subsection 2.b. of this Chapter:

- The Council Chair shall call an agenda item or items and describe the item(s);
- As needed, Administration or Council Staff shall present relevant information regarding the item(s);
- Council members may ask questions of the presenter(s);
- At the discretion of the Chair, or if legally required, the floor shall be opened for public comment;
- Following public comment, if any, the Chair shall invite comments or motions from Council members;
- Once a motion has been made, the Chair shall ask if any Council member wishes to second the motion (which merely indicates a desire to discuss the motion further, not necessarily to approve it);
- If there is no second, the motion dies;
- If there is a second, the Chair shall clarify the motion and invite discussion on it;

- If the measure is a resolution or ordinance, the Chair shall ask that a written version of it be displayed or distributed to Council members;
- During discussion of a measure, a Council member may move to amend it in part or in whole;
- Once discussion of a motion concludes, the Chair shall call for a vote;
- The Chair shall announce the result of the vote;
- Throughout this process, the Chair shall control who has the floor and shall make rulings on motions or questions of procedure as needed;
- Any member may move to appeal a procedural ruling of the Chair and, if seconded, the question shall be decided by majority vote. Members may not criticize a ruling of the Chair unless they make such an appeal;
- Council members and City staff shall be recognized and given the floor by the Chair before speaking;
- Members of the public shall refrain from comment except as called upon and recognized by the Chair or in accordance with the procedures for a formal public comment period;
- Only one person may speak at a time.

iv. Debate

The following rules apply to the discussion of, and debate on, any pending motion and are intended to preserve the rights of Council Members to express their opinions and arguments, while simultaneously promoting efficiency in reaching decisions. The Council Chair has discretion to apply or interpret these rules in the way that best serves these twin purposes. However, that discretion is a procedural decision that is subject to majority vote of the Council or, in the event of a seconded motion to extend or limit debate, a 2/3 majority.

- Members shall be recognized by the Chair before speaking.
- Council members may speak twice on any debatable motion on the same day, for up to ten minutes each time. Speaking time cannot be saved or yielded to someone else.
- The maker of a motion gets preference to speak first in debate.
- A member who has not yet spoken on the same motion gets preference over someone who has already spoken on it.
- Members may be permitted to speak more than twice to clear up a
 matter of fact or to explain some material part of their speech. While
 they don't have the right to discuss the question itself more than twice,
 they may be permitted to do so.
- A member who has spoken twice on the main question may again speak twice on an amendment.

- In practice, a member is often given the privilege of speaking more than twice when that member can explain any point misunderstood and present facts to refute arguments by those opposed.
- The rule that no one shall be permitted to speak more than twice should not be so strictly enforced that someone who has spoken twice cannot clear up some question that has arisen in the debate.
- When members are known by the Chair to have opposite opinions on a motion, the Chair should try to alternate between speakers who favor and those who oppose the motion under discussion.
- During debate, Council member speech must relate to the topic under discussion. Comments should be germane to the question of whether the pending motion should be adopted.
- Debate on a measure is confined to the measure under consideration and does not extend to criticism of other measures before the Council or in committee, even though they relate to the same subject.
- It is out of order to refer in debate to potential committee recommendations or findings not yet reported by the committee.
- Vigorous debate about the merits of a motion is healthy to achieving a
 good result. However, the proposal is the subject of the debate, not
 any member. Personal attacks are not allowed. Ideas or likely results
 of a proposal may be attacked but not personalities. The motives of
 another member should not be attacked or impugned.
- To decrease the danger that debate becomes personal, certain formalities of speech are encouraged – such as speaking as though talking to the Chair, using titles instead of names, and using last names instead of first names. Work Meeting may be somewhat less formal than Council Meetings.

v. Motions9

The following rules shall govern the making of, and voting on, motions during the various Council meetings:

- Procedural motions such as approving minutes, recessing, or adjourning may pass without a motion by Unanimous Consent. To obtain Unanimous Consent, the Chair asks if there is any objection to taking the procedural action. If not, the Chair declares the action to be taken by Unanimous Consent. If there is an objection, the Chair shall call for a vote.
- A Main Motion regarding a resolution or ordinance must refer unambiguously to a written copy of the resolution or ordinance that is available for Council members to view before discussion or voting proceeds.

⁹ Amended August 7, 2018 Work Meeting

- Secondary amendments (second degree) which amend an amendment are allowed. Third degree amendments are not allowed.
- Substitute Motions that combine a proposed amendment of a resolution or ordinance and passage in one step are not allowed. Such substitute motions introduce the possibility of "on the fly" amendments that are ambiguous. The written draft should be amended first so that Council members may view it. Additional amendments may be considered and voted on. After the draft has been amended, possibly multiple times until there are no further amendments, the Council votes separately on whether to pass the amended draft.
- Other Substitute Motions are allowed. For example, assume there is a
 Main Motion that does not deal with a resolution or ordinance, but
 instead moves to form a committee with a certain makeup and
 mission statement. A Substitute Motion to request a report from the
 Administration rather than form a committee would be in order.
- There can be up to three motions on the floor at the same time.
- Motions carry by simple majority vote unless the law, Robert's Rules, or these rules specifically requires otherwise (for example, motions to go into a closed session or suspend the rules, which require a two-thirds majority of those present to carry).

b. Rules for Certain Meetings

i. Electronic Meetings

This rule was adopted to satisfy UCA 52-4-207: Electronic Communications. Council Members may, on occasion, participate in Council meetings by electronic communication if the required technology is available and the meeting is legally noticed in accordance with the Utah State Law. The Council must provide space and facilities at a location where the public may attend, monitor and participate in the open portions of the meetings as specified in UCA 52-4-207.

It is the expectation of the Municipal Council that each council member should regularly attend regular and work meetings in person, whenever possible, and participate by electronic communication only when necessitated by business-related or personal travel, personal or family illness, or when no in-person meeting is held.¹⁰

¹⁰ Amended July 20, 2021 Work Meeting

ii. Work Meeting

(1) Moving Items from Work Meeting to a Council Meeting Agenda

All proposed legislative changes must be discussed in a Council Work Meeting prior to being heard in a regular Council Meeting. A Council majority must vote to move each item forward from Work Meeting to a future Council Meeting agenda. The date of the future Council Meeting is either specified in the motion or left to the discretion of the Council Chair, if not specified. (See subsection iii.(4) below regarding items that are given a date certain by the Council.)

If proposed legislation has not already been drafted, then once a majority has voted to move an item from Work Meeting to a Council Meeting Agenda, Council staff will work with the sponsor to draft the proposed legislation for Council action. Input should be solicited from the Mayor and other affected parties at all stages of this process.

Because of the depth of information provided by Community Development through Staff and Planning Commission reports, Land Use Items may, at the Chair's discretion, be placed directly on the Council Meeting Agenda. Executive Sessions may also function as a Council Work Meeting. See PCC 2.60.040.

(2) Consideration of Planning Commission Items

Certain items that are reviewed by the Planning Commission for recommendations are then forwarded on to the Council for ultimate action. Planning Commission staff have agreed that they will simultaneously provide legal notice of such items for the for the Planning Commission meeting and for the next Work Meeting and Council Meeting (both on the

same day). Such items will normally be heard at the noticed meetings. However, where appropriate, the Chair or the majority of the Council may change when the item is heard. When such changes occur, the new date shall be indicated on the agenda of the meeting for which the item was originally noticed or by the Chair during the meeting. (See Section 2.b.iii.(3) for additional rules concerning these items.)

(3) Work Meeting Procedure

Work Meetings shall generally follow the rules of order stated in Section 2.a. of this Chapter, except that the Chair may, at his or her discretion, cut off

discussion of an agenda item. A decision by the Chair to cut off discussion may be overruled by majority vote of the Council.

iii. Council Meeting

(1) Council Meeting Procedure

Council Meetings shall generally follow the rules of order stated in Section 2.a. of this Chapter, with the following differences:

- Following any presentations and public comment on an agenda item, rather than inviting a motion, the Chair shall declare that, by rule, an implied motion is on the table, without need of a second, to affirmatively pass the measure under consideration and shall then invite discussion among Council members;
 - The affirmative nature of this implied motion does not signify that any Council member is necessarily in support of the measure:
- Once discussion has concluded, no additional motion is necessary to approve the measure as currently constituted. If no other motion is on the
 - table, such as a motion to amend, the Chair shall simply call for a vote on the implied motion.
- If prior to a vote on the implied motion, a motion is approved that changes the original measure, such as a motion to amend, then the implied motion to approve shall then apply to the amended or updated measure.

(2) Consent Agenda

The purpose of the Consent Agenda is to quickly and efficiently handle agenda items that may not require further discussion, such as approval of:

- Minutes;
- Routine contracts or agreements that meet criteria set forth in ordinances and policies;
- Resolutions or Ordinances that have been fully vetted in other meetings; and
- Other items that require formal approval, but do not need Council Meeting discussion.

The following rules govern the placement of items on the Consent Agenda:

- Approval of Council Meeting minutes will automatically appear on the Consent Agenda, unless the Council Chair directs otherwise;
- Items that legally require a public hearing may not appear on the Consent Agenda; and
- Other items may be placed on the Consent Agenda by unanimous vote of the Council Members at a prior meeting or by the Council Chair.
 - A motion to place an item on a Council Meeting agenda must specify if the item is intended to be on the Consent Agenda. Otherwise, the item will be placed on the regular agenda.
 - The Council Chair may not place an item on the Consent Agenda if the Council has already voted to place it on the regular agenda.

Once placed on the Consent Agenda, items shall be handled as follows:

- The Council Chair shall introduce the Consent Agenda and list all the items that are currently on the Consent Agenda;
- The Chair shall then ask if any Council Member desires to remove any item from the Consent Agenda;
- Any item that is removed by a Council Member shall be handled individually following the conclusion of the Consent Agenda;
- During the Public Comment period, a member of the audience may encourage that an item be removed from the Consent Agenda, but the item will remain on the Consent Agenda unless a Council Member requests removal.
- If there are items remaining on the Consent Agenda, the Council Chair shall, without discussion or the need for a motion, call for a vote to collectively approve all the remaining Consent Agenda items.
- If four or more Council Members vote for approval, all items on the Consent Agenda are approved.
- If the Consent Agenda is not approved in this manner, then any Consent Agenda items shall be handled individually as part of the regular agenda.

(3) Consideration of Planning Commission Items¹¹

An agenda item coming forward from the Planning Commission for Council consideration shall be handled as follows:

¹¹ Amended May 4, 2021 Work Meeting

- It will normally be considered in Council Meeting on the same day it is presented in Work Meeting. It is intended that the noticing done by Planning Commission staff prior to Planning Commission consideration will also include notice of this meeting.
 - Deviations from this schedule may be approved by the Chair or the majority of the Council.
 - If the Council will not consider the item at the noticed meeting, the new date for consideration of the item will be stated on the agenda for the originally noticed meeting and/or announced by the Chair during that meeting.
- If heard in Council Meeting for the first time on the same day it is heard in Work Meeting, the item will automatically be continued to the next Council Meeting if any two Council Members so desire.
 - Accordingly, following the presentation and consideration of the item, the Council Chair will ask if any Council Member desires to consider the item again at the next meeting.
 - If any member responds affirmatively, the Council Chair will ask if a second Councilor supports the request. If a second member responds affirmatively, the item will automatically be continued to the next regularly scheduled meeting, unless a motion is made to set a different date.
 - If there is not a continuation request supported by another member, the Chair will entertain motions and/or call for a vote on the implied motion as otherwise provided in these rules.
- Notwithstanding the above, the item will also automatically be continued to the next regularly scheduled Council Meeting for additional consideration unless, no later than 6:00 pm on the Thursday prior to the first consideration of the item by the Council:
 - The Planning Commission Report of Action for the item has been finalized and made available to Council members; and
 - Any proposed ordinance or ordinance amendment has been reviewed by Council Staff and made available to Council members.

(4) Items with a Date Certain¹²

Once an item has been scheduled for a date certain by majority vote in a Work Meeting or a prior Council Meeting, it may not be removed from the Council Meeting agenda prior to presentation and public comment, unless:

- removal is requested by the item's sponsor in writing;
- in a public meeting on an earlier date, a motion passes to postpone the item indefinitely or to a different date certain.

If an item is removed pursuant to this rule without setting a new date certain, rescheduling the item shall be:

- At the discretion of the Council Chair in coordination with the sponsor; or
- Accomplished by bringing the item back to a Work Meeting through the normal procedures for that meeting.

¹² Added August 7, 2018 Work Meeting

APPENDICES

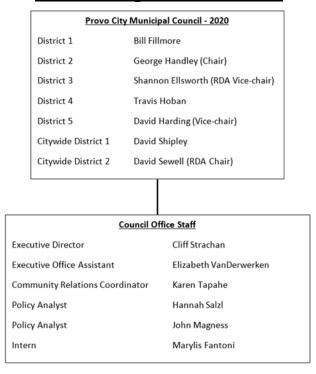
Council Staff are responsible, and authorized, to update the Appendices as necessary. Except for the actual text of the Council Priorities and Policies included herein, Council Staff may update, amend, format, and organize the Appendices without first seeking Council approval.

Appendix 1 - Organizational Charts

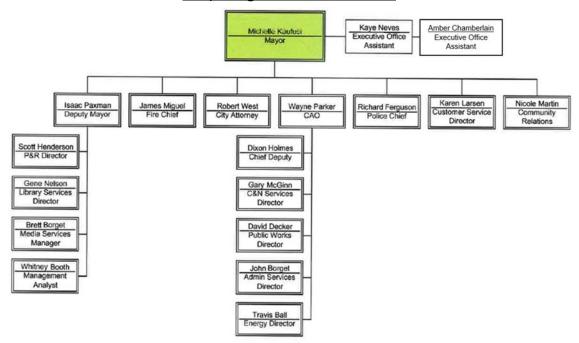
- Council Organization Chart
- City Organization Chart
- **Appendix 2 Council Priorities**
- Appendix 3 Council Agenda Process
- Appendix 4 Council Committees and Liaison Assignments
- **Appendix 5 Select Council Policies**
 - 1. Prayer in Public Meetings
 - 2. Protected Records Under GRAMA
 - 3. Severance Compensation for At-Will Appointed Employees 4.
- **Appendix 6 Ethics Disclosure Form**
- Appendix 7 Glossary of Acronyms
- Appendix 8 Table of Provo City Zones and Land Use Laws
- Appendix 9 Roberts Rules Simplified Rules and Practice Pointers

Appendix 1 - Organizational Charts

Council Organization Chart



City Organization Chart



Appendix 2 - Council Priorities

Provo City Municipal Council

2021 Priorities¹³

General Plan

- o A high priority is the General Plan rewrite.
- Do more workshops on General Plan elements (transportation, sustainability, land use, etc.) to increase awareness of the impact of choices.
- Improve understanding of the interconnectivity of land uses in terms of the General Plan and in Neighborhood Plans, engage the community in the work, and to better address a variety of issues.

• Sustainability/Conservation/Preservation

- Preserve the foothills and canyons, resolve the conflicts over various parcels there, perhaps trade property and make a park up there.
- Clean up, preserve, and enhance the Provo River, protect the delta, and determine how to conserve farmland for those who wish to farm for life.
- Promote sustainability as a priority from the Mayor's Office by locating the sustainability responsibility in her office.

Zoning

- o Develop a comprehensive, coherent Short-Term Rentals Policy.
- o Address Code Enforcement staffing issues from understaffing to turnover.
- Form Based Code and Mixed Housing work on zoning and how we approach it.
- o Improve housing affordability by creating policies and financial incentives for inclusionary zoning.
- Determine how to address the various types of housing and how and where they fit together.

Signs

 Complete digital sign regulation update and determine ways to bring nonconforming or grandfathered signs into compliance.

(Continued on next page)



¹³ Excerpted from a November 24, 2020 memo from Cliff Strachan, Executive Director, to the Council summarizing Councilors' priorities.

• Economic Development

- o Create an Economic Development Committee to:
 - Develop a research park affiliated with the university.
 - Enhancing and beautifying the entrances to the City.
 - Support progress with Airport development and the Regional Sports Park.
 - Support for commercially focused projects, both new and existing.
 - Support for a westside grocery and shopping opportunities.
 - Develop a data driven approach to economic development.
 - Develop a policy and formula around TIFs and other incentives.

• Governance

- o Build on the relationship with the Mayor's Office.
- o Adopt Rank Choice Voting for the 2021 Municipal Election.
- o Figure out the art of making good development decisions.

Parking

- o Adopt a Joaquin Parking Permit Program.
- o Develop parking policy with city wide application.

• Public Safety

- o Plan for and make needed decisions on Fire Station 1.
- o Continue support for Police.
- o Develop parking policy with city wide application.

Other

Alcohol outlet density

Appendix 3 – Council Agenda Policy

POLICY

- o Work, Council, RDA Meetings, or any meeting where 4+ Council members will be in attendance must be noticed or published at least 24 hours in advance. For Work, Council, and RDA meetings, the best practice is to notice them on the Thursday prior to the meeting date.
- o The Policy Analyst will notify the Executive Assistant that the agenda is ready to notice. Since December 2016, the Executive Assistant has noticed these meetings.

Appendix 4 - Council Committees and Liaison Assignments Council Committee Assignments

Last Updated: January 19, 2021

City-Related Organizations

Council Members act as board members of several other city-related boards, including:

- The Redevelopment Agency of Provo
- The Municipal Building Authority
- The Board of Canvassers
- The Stormwater Service District

Other Boards, Committees and Liaisons

Individual Municipal Council members may be appointed to various other City boards, commissions, and committees, or act as a liaison to them.

Leadership Responsibilities (*first name is Chair, second name is Vice-chair) (one-year terms)

| Group | Appointed By | Current Appointment | Meeting Time |
|------------------------------|---------------|-------------------------|-------------------------|
| Municipal Council Leadership | Municipal | *David Sewell | Thurs. 7:30 |
| | Council | David Shipley | AM |
| Provo Redevelopment Agency | Municipal | *Shannon Ellsworth | 5 PM on 2 nd |
| Executive Committee | Council | Bill Fillmore | Tues. |
| | | Mayor Kaufusi | |
| Municipal Building Authority | MBA | Council Chair and Vice- | |
| Leadership | Bylaws | chair | |
| Stormwater Service District | SSD Bylaws | Council Chair and Vice- | |
| | | chair | |
| Provo Foundation | Articles of | Council Chair | Quarterly, or |
| - see <u>PCC 2.34</u> | Incorporation | | as needed |

Council Committees (PCC 2.50.110) (*first name is Chair, second name is Vice-chair)

| Committee | Councilors | Mission Statement | |
|-----------------------------|--------------------------------|--|--|
| STANDING COUNCIL COMMITTEES | | | |
| Council Budget Committee | Council committee of the whole | The mission of the Budget Committee is to review and make recommendations concerning the City's annual budgets, which should be results-oriented and structurally balanced, have sustainable revenues, and promote cost effective management of programs and capital infrastructure. | |
| Audit Committee | *David Shipley Travis Hoban | The mission of the Audit Committee is to review and make recommendations to the Mayor and City Council concerning the City's financial reporting processes, standards, financial statements, and internal controls, as audited by the City's independent auditors; and other audit related assignments as requested by the City Council. | |
| Neighborhood | *David Harding | The Neighborhood Program is intended to provide | |

| Advisory Board | Shannon Ellsworth | advice and recommendations to the Municipal Council |
|-------------------------|---------------------|--|
| Advisory Board | Shannon Ensworth | to aid them in their decision making, and to provide |
| (see <u>PCC 2.29</u>) | | the citizens of Provo additional opportunities for input |
| (SCC <u>1 CC 2.2)</u>) | | and feedback regarding land use decisions that affect |
| | | their communities. |
| AD HOC | L COUNCIL COMMIT | |
| | *Shannon Ellsworth | |
| Housing Committee | David Harding | The purpose of the Housing Committee is to research best practices and make recommendations for: |
| Committee | David Harding | 1. Understanding what characteristics meet the tenets |
| | | of a balanced and healthy neighborhood that promote |
| | | owner occupancy and long-term residency; and |
| | | 2. How best to proactively address housing issues |
| | | countywide by engaging surrounding cities, the school |
| | | board, housing advocates, and other experts. |
| Foothill | *George Handley | Review the current staff report on the gravel pit issue |
| Protection | Bill Fillmore | and bring it to the Council for approval to release to |
| Committee | Shannon Ellsworth | the public. Bring recommendations to the Council for |
| | | legislative changes to consider as a result of the |
| | | lessons learned. |
| Zoning | *David Sewell | Review recommendations from citizens and the |
| Compliance | Shannon Ellsworth | Administration pertaining to zoning enforcement and |
| Committee | | compliance, and to advise the Council on how to move |
| | | forward with those recommendations. |
| Sign Committee | *David Sewell | Review sign ordinances and how they are applied and |
| | Travis Hoban | enforced in various areas of the city. Review design |
| | | corridors and evaluate how the current sign ordinance |
| | | aligns with the interests of these areas and evaluate the |
| | | compatibility with other zones in surrounding areas. |
| | | Study how the sign ordinance aligns with the General |
| | | Plan. Recommend improvements as a result of lessons |
| | | learned and input from committee members, |
| | | Community Development, and stakeholders including |
| | | neighborhoods and business representatives. Bring legislative recommendations to the Council for |
| | | consideration. |
| Carryover Policy | *David Shipley | To prepare a proposal, having engaged with the |
| Committee | David Harding | Administration to update the budget policies, |
| | | particularly as regards surplus money at the end of the |
| | | budget year. |
| Economic | *Bill Fillmore | To focus on various policy alternatives, fresh ideas, |
| Development | Shannon Ellsworth | best practices and budgetary elements related to (1) |
| Committee | David Shipley | enhancing the City's long-term tax base, (2) making |
| | | Provo more attractive and accessible for (a) high-tech |
| | | and other promising startups, (b) established, high |
| | | growth potential businesses and (c) major out-of-state |
| | | businesses seeking a new and better location, (3) |
| | | exploring possibilities for support and incubation of |
| | | promising local startups and university technology |

| | | spinoffs, and (4) enhancing our City's various arterial gateways in terms of both aesthetics and revenuegenerating retail businesses. |
|------------------------------|--------------------------------|---|
| Council Parking Committee | *David Harding David Sewell | Review the Provo Strategic Parking Management Plan and current City parking policies and programs. Recommend adjustments to policies, if needed. Recommend steps to more fully implement the Strategic Parking Management Plan. |

City-Related Boards with Council Appointment

| Board | Appointed By | Current | Term | Term | Meeting Time |
|-----------------------------|--------------|----------------|---------|------------|----------------------------|
| | | Appointment | | Expiration | |
| Library Board | Mayor with | David Shipley | 3 years | December | 2 nd Wed 4 PM |
| - see <u>PCC 2.26</u> | Council A&C | | | 31, 2023 | odd months |
| Provo Housing | Mayor with | George Handley | 3 years | June 30, | Monthly 3 rd or |
| Authority* - see <u>UCA</u> | Council A&C | | | 2022 | 4 th Wednesday |
| 35A-8-404 | | | | | at 4:15 PM |

City Advisory Boards with a History of Council Liaisons

| Board | Current Liaison | Meeting Time |
|--|-----------------|-----------------------------------|
| Agricultural Commission | David Shipley | 3 rd Thursday 7 PM |
| | | Rec Center |
| Airport Board – see PCC 2.21 | Travis Hoban | Quarterly 2 nd Tuesday |
| | | 12:30 |
| Arts Council – see PCC 2.22 | David Shipley | Inactive |
| Energy Board - see PCC 12.01 | David Shipley | 1st Monday 4 PM |
| Transportation and Mobility Advisory Committee | David Harding | 3 rd Thursday 12 PM |
| - see <u>PCC 14.04B</u> | | |
| Parks & Recreation Board - see PCC 2.38 | Bill Fillmore | 3 rd Thursday 12 PM |
| Sustainability and Natural Resources Committee | George Handley | 3 rd Tuesday 7:15 AM |
| CDBG General Committee | Travis Hoban | 2021 Schedule TBD |
| CDBG Social Services Committee | Travis Hoban | 2021 Schedule TBD |

Non-City Boards with City/Council Appointments/Liaisons (by rule, tradition, or request):

| Board | Appointed By/ | Current Assignment | Meeting Time |
|--|-------------------|---------------------------|----------------------------------|
| | Assignment Type | | |
| Downtown Provo, Inc. | Liaison appointed | David Harding | 3 rd Wed monthly 8:00 |
| | by Council Chair | | am |
| Rock Canyon Advisory | Liaison appointed | George Handley | Twice annually |
| Committee | by Council Chair | | (spring & fall) |
| Utah Valley Clean Air Task | Liaison appointed | Shannon Ellsworth | 4 th Monday 2 PM |
| Force | by Council Chair | | |
| South Utah Valley Solid | SUVSWD Bylaws | George Handley | 3 rd Wed every other |
| Waste District (SUVSWD) | | | month |
| Utah Municipal Power | Mayor with | Mayor Kaufusi | 4 th Wed 6 PM |
| Agency (UMPA) Board of | Council A&C | | |
| Directors - see <u>PCC 2.20.040(3)</u> | | | |

| Metropolitan Water Board - see PCC 2.20.040(1) | Board members appointed by Council; Liaison appointed by Council Chair | David Harding | Quarterly provometrowater@gmail.com 801-465-5205 |
|---|--|---|--|
| Utah Lake Commission | Bylaws | Mayor Kaufusi | Quarterly (7:30 AM 3 rd Thursday) |
| Mountainland Association of Governments Executive Council | Bylaws | Mayor Kaufusi | Bylaws stipulate 4 th Thursday |
| ULCT Legislative Policy Committee | Bylaws; city may have up to three | *Mayor Kaufusi Isaac Paxman | Mondays at 12 PM (not holidays) during |
| | but only one staff member; *if Board member then four | Shannon Ellsworth Dave Harding Alt: (not named) | Legislative Session |

City Administrative/Quasi-judicial Boards without Council Liaison (Not Recommended)

- Board of Adjustment (Zoning) (see PCC 14.05)
- Board of Appeals (Building Code) (see PCC 2.20.010)
- Classified Civil Service Commission (see PCC 4.01.010)
- Landmarks Commission (see PCC 16.02)¹⁴
- Planning Commission (see PCC 14.04)¹
 - o Design Review Committee (see <u>PCC 14.04A</u>)
- Record Appeals Board (see PCC 3.13.090 and UCA 63G-2-701)
- Unclassified Civil Service Appeals Board (see PCC 4.03)

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¹⁴ These bodies also act as City Advisory/Policy Recommending Boards.

Appendix 5 – Select Council Policies

Prayer in Public Meetings

Background

The regular bimonthly Municipal Council meeting has traditionally begun with prayer (an invocation). Prayer at the beginning of official government meetings in the United States has a long and rich history. Prayer was offered at one of the first meetings of the First Continental Congress at Philadelphia in 1774. In the case Society of Separationists, the Utah Supreme Court determined that the practice of opening a city council meeting with prayer is constitutionally permissible if allowed on a nondiscriminatory basis and equally accessible to all. Additionally, in Snyder v. Murray City, the Utah State Supreme Court held that government may not control the content of a prayer offered by the person invited by the Municipal Council to pray.

However, nothing in these cases prohibits a City from establishing a reasonable policy that would uniformly govern when a prayer may be offered, set time limits for the length of the prayer, and/or require that it be offered in a manner that does not disrupt the business of the meeting. The following policy is therefore established by the Municipal Council to assure prayers at Municipal Council meetings conform to constitutional requirements:

Nondiscrimination

Allowing prayer on a nondiscriminatory basis means "without regard to the belief system of the [person offering the prayer]." Therefore, when invited to pray at a Municipal Council meeting, a prayer-giver may say or not

Congress began its session with prayer and prayers have opened sessions of Congress ever since.

¹⁵ As used herein, "prayer" means an "address of entreaty, supplication, praise or thanksgiving directed to some sacred or divine spirit, being or object." Society of Separationists v. Whitehead, 870 P.2d 916, 921 (Utah 1993) (citing with approval this definition of prayer in Karen B. v. Treen, 653 F.2d 897, 901 (5th Cir. 1981)).
¹⁶ In footnote 11 in Marsh v. Chambers, 463 U.S, 783, 791-792 (1983), the United States Supreme Court noted that John Jay and John Rutledge had opposed a motion that sessions of the Continental Congress begin with prayer on the ground that the delegates to the Congress "were so divided in religious sentiments . . . that [they] could not join in the same act of worship." Their objection was met by Samuel Adams, who stated that "he was no bigot, and could hear a prayer from a gentleman of piety and virtue, who was at the same time a friend to his country." The Continental Congress voted to begin its next session with prayer. The next day the Continental

¹⁷ Separationists, 870 P.2d at 937-938.

¹⁸ Snyder v. Murray City, 2003 UT 13, ¶ 30, 73 P.3d 325, 331-332.

¹⁹ Snyder, 2003 UT 13, at ¶ 28, 73 P.3d at 331.

say in the prayer whatever that person desires for up to two minutes.²⁰ After two minutes, the Council Chair may interrupt and ask the prayer-giver to stop praying and withdraw. If the prayer-giver's conduct is disruptive,²¹ the Council Chair may interrupt and ask the prayer-giver to stop and withdraw.

Equal Accessibility

The opportunity to give a prayer shall be equally accessible to all persons attending a Council meeting. On behalf of the Municipal Council, the Chair, Council Executive Director, or their designee shall select a person to offer a prayer from persons present in the room where the Council meeting is held, without regard to a person's race, religion, national origin, sex, or religious attire. A person who wishes to give a prayer shall be given the opportunity to do so. The request must be made in person to the Council Executive Director immediately prior to the meeting in which he or she wishes to pray, but in no event later than five minutes before the meeting is scheduled to begin.

Requests will be granted on a first-request basis. However, repeated requests by the same person to pray shall be granted only once every three months and only if others, who have also requested an opportunity to pray, have had a similar opportunity. The Municipal Council's intent is that fair access to pray be afforded to all those who wish to pray.

Protected Records under GRAMA

The Municipal Council interprets that UCA 52-4-206 of the Government Records Access Management Act does not prohibit the Council from releasing protected records, including records of closed meetings, to governmental agencies, as required by law. Requests for such records will be reviewed and released by the Municipal Council on a case by case basis.

²⁰ Content-neutral and uniformly applied time restrictions for items on a council meeting agenda have been upheld on grounds that they "... preserve a board's legitimate interest in conducting efficient, orderly meetings." Kindt v. Santa Monica Rent Control Board, 67 F.3d 266, 271 (9th Cir. 1995) (three minute time restriction). Tannenbaum v. City of Richmond Heights, 663 F.Supp. 995, 997 (D.C. Mo. 1987) (two minute time limitation).

²¹ Courts have held that disruptive conduct can be regulated. 8 E.g., Jones v. Heyman, 888 F.2d 1328,1333 (11th Cir.1989) (concurring opinion); Rowe v. City of Coca, 358 F.2d 800, 803 (11th Cir. 2004). But opinions also emphasize that the threatening or disruptive conduct must be the reason for removing the offender, not the content of the speech. Brammer v. KB Home Lone Star, 114 S.W.3d 101, 113 (Tex. App. 2003). The speaker cannot be stopped merely because the moderator disagrees with the speaker's viewpoint. Jocham v. Tuscola County, 289 F.Supp.2d 887, 894-895 (D.C. Mich. 2003)(citation omitted).

Severance Compensation for At-Will Appointed Employees

The Municipal Council adopted Administrative Directive 2013-01 as their own policy on December 4, 2012, Work Meeting. However, references to the Mayor would naturally refer to the Council should the policy be applied.

Purpose:

Severance pay may be implemented when a designated at-will appointed employee, such as a department director, is involuntarily terminated from Provo City within the scope of employment. This applies to full-time employees, not independent contractors, not covered by the classified or unclassified Civil Service.

<u>Definitions:</u>

"Severance Pay" as used herein shall mean: A sum of money that an employee is eligible to receive upon involuntary termination of employment, based on the length of employment or, if so provided by contract or other agreement, an unfinished term of employment. It shall not refer to salary or wages earned during the term of employment, compensation for unused leave authorized under the pay plan, early retirement incentives, back wages, or other payments not paid as severance pay. Severance pay shall generally be based on years of service.

"Involuntary Termination" as used herein shall mean:

- a. Termination of employment contrary to the will or desire of the employee;
- b. Resignation of employment by employee upon the request or option given by the Mayor or other officer or body with termination authority and approved by the Mayor; or
- c. Resignation of employment upon a demotion or a reduction in pay not generally applicable to other similar non-merit employees.

Directive:

- 1. Employees with less than one (1) year of service in an at-will appointed position are not eligible for severance pay unless otherwise expressly provided for by written contract. In such case, the contract provision shall govern.
- 2. Severance benefits shall be calculated using the employee's salary rate in effect on the employee's date of termination.

- 3. Receipt of severance benefits is contingent upon employee's releasing City of any claims arising out of employee's employment with City and employee's execution of a document evidencing the release of all claims as approved by the Provo City Attorney.
- 4. Severance pay shall be an amount equivalent to a minimum of twelve (12) weeks of pay with an additional four (4) week of pay for every full year of completed service over two (2) years, up to a maximum of 26 weeks. Time shall not be prorated for partially accrued years. Only continuous time up to termination in an appointed at-will position will be considered for calculating severance pay eligibility.
- 5. The City will pay up to one (1) month of Employee's COBRA payments for City's medical and dental group insurance premiums for every four (4) weeks of eligible severance pay, (maximum of six (6) months payments) provided Employee qualifies under COBRA, makes a timely COBRA election, and provides to the City COBRA invoices within ten (10) business days after Employee's receipt of each invoice.
- 6. The City also agrees to allow Employee to complete any current counseling with the City Employee Assistance Program under the terms and conditions of that program.
- 7. The severance pay is to be made in a lump sum within fifteen (15) days of the effective date of the termination. This severance payment will be in addition to any other benefits to be received on termination, as authorized under the pay plan.
- 8. Severance pay does not include any payment which an employee is entitled to for accrued leaves, any other pay, or benefits accrued and vested to the employee. Accrued and vested leaves shall be governed by applicable federal, state, laws, and/or city ordinances, policies and procedures.
- 9. Any severance payments may be conditional, as determined by the Mayor, and must be made from actual and current budget appropriations.
- 10. No employee receiving severance pay may be rehired with the City within one year of the effective date of termination, whether as an employee, contractor, or as a principal of an independent contractor providing employment or other professional services. This prohibition may be waived if severance pay is repaid upon a rehire within the period of limitation.
- 11. Severance pay shall not be paid to an otherwise eligible employee who:
- A. Has been terminated or requested to resign because of bona fide charges of nonfeasance, misfeasance or malfeasance in office; or
- B. Has been terminated or requested to resign upon being convicted, indicted, charged or is under criminal investigation concerning a public offense involving a felony or offense or moral turpitude; or
- C. Voluntarily resigns or terminates employment with the City under circumstances not defined herein as an "involuntary termination."

D. Accepts another, including lower paid, position with the City in-lieu of termination or is extended a contract for completion of projects or assignments.

This severance directive does not and shall not create employment or compensation rights.

Renewable Energy Policy²²

In order to meet our responsibilities to future generations and to be better stewards of natural resources and better citizens of the state, nation, and globe, we resolve as the Provo City Council that the City of Provo will pursue a goal to have a portfolio of energy sources that will be 60% green, renewable, or carbon-free by 2030. Green, renewable, and carbon-free sources include wind, solar, geothermal, hydro-electric, bio-gas, waste gas and waste heat capture or recovery, carbon sequestration, nuclear, battery, new technologies and renewable energy credits.

We request that Provo Power work closely with the Utah Municipal Power Agency and that city agencies and departments work closely together to help us to meet this goal.

Alternative Fuel Vehicles Policy²³

Whereas, as the Provo City Council, we are guided by the principles of our General Plan related to our stewardship of natural resources and of our quality of life. For this reason, we believe it is our responsibility to promote policies that will specifically contribute to improved air quality in Utah Valley.

Therefore, it is the policy of Provo City, when replacing automobiles and other fleet vehicles, to purchase electric and other alternative fuel vehicles rather than standard gasoline or diesel vehicles, where not imprudent; and for the Administration to report to the Municipal Council annually on the application of this policy.

Open City Hall

The Provo City Council has adopted a policy guide for the use of Open City Hall (OCH) as a public engagement tool. While the Open City Hall Policy

²² Adopted February 18, 2020 Work Meeting

²³ Adopted April 14, 2020 Work Meeting

document is a guide to policy development and expectations, the authorization to use OCH is as follows:

All topics or policy questions to be posted to Open City Hall are subject to approval by a majority authorization of Council. Normally, we will do this by a process akin to common consent. A proposed topic or policy question will be sent via email to Council members and they will have 24 hours to object. If the majority of the Council does not submit an objection then the topic is approved.

Council staff is authorized to exempt planning proposals from the policy for Council approval of Open City Hall topics, to post these planning topics as they arrive, and to report back to the Council with the results as usual.

Appendix 6 - Ethics Disclosure Form

Conflict of Interest Disclosure Form

This is a disclosure form intended to assist elected or appointed officers and employees of Provo City to make disclosures in compliance with the Municipal Officers and Employees Disclosure Act (Utah Code §10-3-1301 through §10-3-1312).

| Disclose any personal benefits, special privileges or compensation received for assisting any person or business in transactions involving Provo City, giving your name, the name of the person or business and a description of the transaction, activity or involvement: |
|--|
| 2. Disclose whether or not you are an officer, director, agent, employee or owner of a substantial interest* of a business entity regulated by Provo City: |
| 3. Disclose whether or not you are an officer, director, agent, employee or owner of a substantial interest* of a business entity doing business with Provo City: |
| 4. Disclose any personal interest or investment which creates a conflict between your public duties and such personal interest: |
| Date: |
| (Signature) |
| (Print or type name) |

* "Substantial interest" means the ownership, either legally or equitably, by an individual, his spouse, or his minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Appendix 7 – Glossary of Acronyms

APPA - American Public Power Association

BOA - Board of Adjustment

CAFR - Comprehensive Annual Financial Report

CBD - Central Business District

CDBG - Community Development Block Grants

CDRA - Community Development and Renewal Agency, formerly the RDA CIP - Capital Improvements Projects

CNRCC - Central Neighborhood Revitalization Coordinating Committee

CNRRF - Core Neighborhood Revolving Revitalization Fund - a revolving fund established by the Provo Municipal Council in FY 2001-2001 to earmark Community Development Block Grant (CDBG) funds for revitalization activities in the Pioneer Neighborhoods.

COLA - Cost of Living Adjustment

COP Program - Community Oriented Policing

CUP - Central Utah Project (Water Project)

DRC - Design Review Committee

EDI - Economic Development Initiatives - a Federal grant program through which cities apply for funds to help undertake specific economic development projects.

EIS - Environmental Impact Study

HOME - HOME Investment Partnerships Grant (HOME doesn't stand for anything) - a HUD grant to assist localities to undertake a variety of affordable housing activities

MAG - Mountainlands Association of Governments

NLC - National League of Cities

NUSA- Neighborhoods USA

NHS - Neighborhood Housing Services

PC - Planning Commission

RDA - The Redevelopment Agency was renamed by the 2006 Legislature as the Community Development and Renewal Agency. It will probably continue to be referred to as the "RDA"

ROA - Report of Action

RSVP Volunteers - Retired Seniors Volunteer Program

TIF – Tax Increment Financing - The financial tool granted to redevelopment agencies under Utah law. As the property tax base in a designated area increases because of redevelopment, the resulting net increase in property tax revenues may be used for several years to help finance redevelopment activity in the area. This net increase is the tax increment.

ULCT - Utah League of Cities and Towns

UMPA - Utah Municipal Power Association

Appendix 8 – Table of Provo City Zones and Land Use Laws

| Appendix 6 - Table of Provo City Zones and Lan | a use taws |
|--|-------------------|
| A - Accessory Apartment Overlay Zone | Chapter 14.46. |
| A1 - Agricultural Zone. | Chapter 14.08. |
| CA - Automotive Center Commercial Zone. | Chapter 14.25. |
| CBD - Central Business District Commercial Zone. | Chapter 14.21. |
| CG - General Commercial Zone. | Chapter 14.22. |
| CH - Highway Service Commercial Zone | Chapter 14.23. |
| CM - Heavy Commercial Zone. | Chapter 14.24. |
| Enforcement and Penalties. | Chapter 14.42. |
| FP - Flood Plain Zone. | Chapter 14.33. |
| Home Occupations. | Chapter 14.41. |
| MI - Light Manufacturing Zone. | Chapter 14.27. |
| M2 - Heavy Manufacturing Zone | Chapter 14.28. |
| MP - Manufacturing Park Zone. | Chapter 14.26. |
| Nonconforming Uses. | Chapter 14.36. |
| Off-Street Parking Standards. | Chapter 14.37. |
| PD - Performance Development Overlay Zone. | Chapter 14.31. |
| PF - Public Facilities Zone. | Chapter 14.17. |
| PIC - Planned Industrial Commercial Zone. | Chapter 14.29. |
| PO - Professional Office Zone. | Chapter 14.16. |
| PRO - Project Redevelopment Option. | Chapter 14.50. |
| R&BP - Research and Business Park Zone. | Chapter 14.44. |
| R&BPS - Research and Business Park Support Zone. | Chapter 14.45. |
| R1- One family Residential Zone. | Chapter 14.10. |
| R2 - Two-Family Residential Zone. | Chapter 14.11. |
| R2.5 - Low Multiple Residential Zone. | Chapter 14.12. |
| R3 - Medium Multiple Residential Zone. | Chapter 14.12A. |
| R4 - High Multiple Residential Zone. | Chapter 14.13. |
| R5 - Very High Multiple Residential Zone. | Chapter 14.14. |
| RA - Residential Agricultural Zone. | Chapter 14.09. |
| RC - Residential Conservation Zone. | Chapter 14.32. |
| Relocation of Buildings. | Chapter 14.40. |
| RM - Residential Manufactured Home Park Zone. | Chapter 14.15. |
| S - Supplementary Residential Overlay Zone. | Chapter 14.30. |
| SC1 - Neighborhood Shopping Center Zone. | Chapter 14.18. |
| SC2 - Community Shopping Center Zone. | Chapter 14.19. |
| SC3 - Regional Shopping Center Zone. | Chapter 14.20. |
| SDP - Specific Development Plan | Chapter 14.49. |
| Signs and Outdoor Advertising. | Chapter 14.38. |
| SOB - Sexually-Oriented Business Overlay Zone. | Chapter 14.48. |
| SPRO - Schematic Project Redevelopment Option | Chapter 14.50.030 |
| SSC - Specialty Support Commercial Zone. | Chapter 14.47. |
| Supplementary Development Standards. | Chapter 14.34. |
| Temporary Uses. | Chapter 14.35. |
| Travel Trailer Parks. | Chapter 14.39. |
| | |

Appendix 9 – Roberts Rules – Simplified Rules and Practice Pointers

Roberts Rules of Order - Simplified

Guiding Principle:

Everyone has the right to participate in a discussion before anyone may speak a second time.

Everyone has the right to know what is

happening, always. Only urgent matters may

interrupt a speaker.

Only one thing (motion) can be discussed at a time.

A **motion** is a formal proposal by a member of a deliberative body that the body take certain action (e.g., "I move that we add a coffee break to this meeting"). After being recognized by the chair or presiding leader of the board, any member can introduce a motion when no other motion is on the table. A motion requires a second by another member to be considered. Each motion must be disposed of (passed, defeated, tabled, referred to committee, or postponed indefinitely) before the chair may allow another motion before the body.

How to do things:

You want to raise a new question or topic for the group to discuss.

After recognition by the Chair of the board, present your motion. A second is required for the motion to go to the floor for discussion, or consideration.

You want to change some of the wording in a motion under discussion.

After recognition by the chair, move to amend by

- adding words,
- striking words or
- striking and inserting words.

You like the idea of a motion being discussed, but you need to reword it beyond simple word changes.

Move to substitute your motion for the original motion. If it is seconded, discussion on both motions will continue and eventually the body will vote on which motion they prefer.

You want more study and/or investigation given to the idea being discussed.

Move to refer to a committee. Try to be specific as to the charge to the committee.

You want more time personally to study the proposal being discussed.

Move to postpone to a definite time or date.

You are tired of the current discussion.

Move to limit debate to a set period or to a set number of speakers. Requires a $2/3^{\text{rds}}$ vote.

You have heard enough discussion.

Move to close the debate. Requires a $2/3^{\text{rds}}$ vote. Or move to previous question. This cuts off discussion and brings the assembly to a vote on the pending question only. Requires a $2/3^{\text{rds}}$ vote.

You want to postpone a motion until some later time.

Move to table the motion. The motion may be taken from the table after 1 item of business has been conducted. If the motion is not taken from the table by the end of the next meeting, it is dead. To kill a motion at the time it is tabled requires a $2/3^{rds}$ vote. A majority is required to table a motion without killing it.

You want to take a short break.

Move to recess for a set period.

You want to end the meeting.

Move to adjourn.

You are confused about a procedure being used and want clarification.

Without recognition, call for "Point of Information" or "Point of Parliamentary Inquiry." The Chair of the board will ask you to state your question and will attempt to clarify the situation.

You have changed your mind about something that was voted on earlier in the meeting for which you were on the winning side.

Move to reconsider. If the majority agrees, the motion comes back on the floor as though the vote had not occurred.

You want to change an action voted on at an earlier meeting.

Move to rescind. If previous written notice is given, which would be required by the Open and Public Meetings Act, except possibly for an emergency meeting, a simple majority is required. If no notice is given, a 2/3^{rds} vote is required.

You may INTERRUPT a speaker for these reasons only:

to get information about business – **point of information** to get information about rules – **parliamentary inquiry** if you can't hear, safety reasons, comfort, etc. – **question of privilege** if you see a breach of the rules – **point of order** if you disagree with the Chair of the board's ruling – **appeal**

| Quick Reference | | | | | |
|--------------------------|---------------------|---------------------|-------------------|-----------------------------------|--|
| | Must Be Seconded | Open for Discussion | Can be Amended | Vote Count Required to Pass | May Be Reconsidered or Rescinded |
| Main Motion | $\sqrt{}$ | $\sqrt{}$ | $\sqrt{}$ | Majority | $\sqrt{}$ |
| Amend Motion | $\sqrt{}$ | $\sqrt{}$ | | Majority | |
| Kill a Motion | $\sqrt{}$ | | | Majority | |
| Limit Debate | V | | $\sqrt{}$ | 2/3 ^{rds} | |
| Close Discussion | | | | 2/3 ^{rds} | |
| Recess | $\sqrt{}$ | | $\sqrt{}$ | Majority | |
| Adjourn (End meeting) | $\sqrt{}$ | | | Majority | |
| Refer to Committee | V | | $\sqrt{}$ | Majority | |
| Postpone to a later time | V | | | Majority | |
| Table | V | | | Majority | |
| Postpone Indefinitely | | $\sqrt{}$ | $\sqrt{}$ | Majority | |

Rules of Order Practice Pointers

- A motion to Refer to Committee may be used to refer a pending question to a Council committee or city board for a recommendation. Any specific instructions for the committee should be specified in the motion. The motion carries by majority vote.
- A motion to Postpone to a Certain Time may be used to delay further debate or action on a pending question to a specified meeting date. This motion suspends debate on the pending question if the date specified is less than one month in the future. The motion carries by majority vote.
- A motion to Postpone Indefinitely may be used to kill a measure. Postpone Indefinitely carries by majority vote but does not suspend debate on the prior pending question.
- If debate has not started on a question, a motion for Objection to the Consideration of a Question may be used instead of Postpone Indefinitely. It requires a two-thirds majority vote of those present to carry.
- A motion to Postpone (either to a Certain Time or Indefinitely) an agenda item made prior to the usual time for Council discussion of the item (which is after any scheduled presentations and after any public comment) should be treated as a specialized case of a motion to Suspend the Rules and therefore requires a two-thirds majority vote to carry.
- A motion for the Previous Question may be used to close debate on the pending
 question and bring it to an immediate vote. It requires a two-thirds majority vote of
 those present to carry. The proper wording for this motion is "I move the previous
 question."

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter:JMAGNESSDepartment:CouncilRequested Meeting Date:01-04-2022

SUBJECT: A discussion regarding redistricting for Municipal Council and School Board

districts. (22-003)

RECOMMENDATION: Discussion; direction to proceed with the proposed redistricting process.

BACKGROUND: In November 2021, using data from the 2020 US Census, the state legislature completed its decennial redistricting of federal and state legislative areas. Counties and some cities are also required to re-divide legislative areas based on the same census data. Because Provo City and Provo City School District share the same boundaries, Provo's legislative body is responsible, per Utah State Code, for setting both the Municipal Council and School Board districts. Cities must complete any redistricting of municipal legislative areas within six months of the state's adoption of new maps; that deadline is in May 2022. School Boards must be redistricted within every ten years. With the candidate filing period nearing (March 7-11, 2022), now is the time to redistrict the school board legislative areas. According to the Utah County Elections Office, the latest it can wait for the City's new maps is February 17 if redistricting will affect the school board elections.

Utah County has now provided precinct data (based on the number of voters registered) to Provo City GIS staff who have added population data to each precinct, updated the web application used in 2012 to create districts on city maps, and are prepared to launch the web application on January 10. Where current maps are based on 42 precincts, the 2022 maps will be based on 59 precincts.

Staff has prepared a proposed timeline to proceed now with both redistricting matters such that the Council may receive public comment and adopt new districts by ordinance at the February 15, 2022, Council meeting. Staff proposes to open the web application (to be located at redistricting.provo.org) to the public for three weeks where anyone can propose and draft maps for either entity. Any submitted maps will be sent to the Municipal Council and, if the Council wishes, the School Board, for review and recommendation.

Both the School Board and the Municipal Council have seven members. While the School Board is prohibited from having at-large members, the Municipal Council has two at-large or city-wide members and five members representing smaller districts. The Council has the option of revisiting this arrangement; however, such a process of

consideration or direction to make the change should be decided before opening the Council map portion of web application to the public. That may require a delay on starting the Municipal Council portion of redistricting.

Should redistricting proceed, any changes to the School Board areas will be the subject of the upcoming elections and take effect in January 2023. For the Council areas, any redistricting will affect any election or mid-term vacancies after the ordinance is adopted.

FISCAL IMPACT: None

PRESENTER'S NAME: Cliff Strachan, Council Executive Director

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

See Provo City Code (PCC) 2.01.050 for Council Districts See PCC 2.24.010 for Provo City School Board Districts

CITYVIEW OR ISSUE FILE NUMBER: 22-003

REDISTRICTING 2022: COUNCIL AND SCHOOL BOARD



January 4, 2022 Council Work Meeting

Redistricting: To re-divide legislative areas based upon results of the decennial census

- Applies to federal, state, county, local, and school districts
- Legislature completed its redistricting process in November 2021
- Provo's legislative body is responsible for setting the Council and School Board districts
 - There is no requirement to consider maps proposed by the School Board



Redistricting: To re-divide legislative areas based upon results of the decennial census

- County provides precincts based on the number of registered voters and aligned with federal and state districts
- City adds population per 2020 Census to the precincts
- Redistricting relies on substantially equal populations per district
- City GIS staff have updated the 2012 application for use in 2022; ready to launch



COUNCIL DISTRICTS

UCA 10-3-2 Election of Governing Body

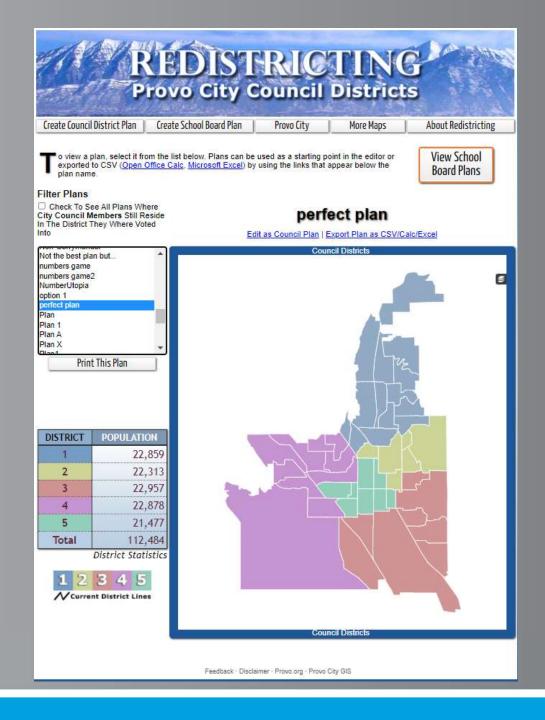
- 205.5(2)(a) "may by ordinance provide for the election of some or all ... Council members ... by district"
- 205.5(2)(b) "Each district shall be of substantially equal population"
- 205.5(2)(b) Shall make adjustments in boundaries within six months of the Legislature's districting process
- Shall apply to subsequent vacancies and elections



COUNCIL DISTRICTS

2012 maps (shown)Based on 42 precincts5 district and 2 citywide

2022 mapsBased on 59 precincts5 districts and 2 citywide?





SCHOOL BOARD

UCA 20A-14-2 Election of Members of Local Boards of Education

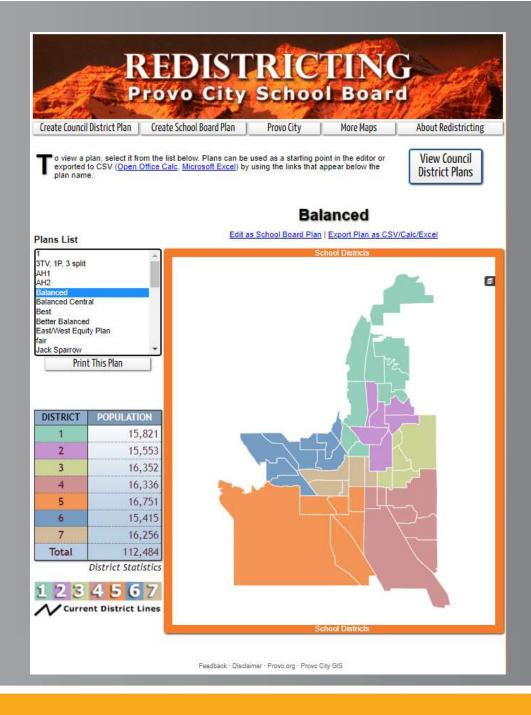
- 201(1)(b) "...substantially equal in population and are as contiguous and compact as practicable"
- 201(2)(a) "at least once every 10 years"
- 201(3)(a) "does not affect the right...to complete the term"
- 201(3)(b) addresses if 2+ members end up in same district
- 201(5) an accurate map is to be sent to UGRC within 10 days
- 202(1)(f) seven member boards stay at seven members
- No provision for at-large seats



SCHOOL BOARD

2012 maps (shown)Based on 42 precincts7 districts

2022 mapsBased on 59 precincts7 districts





REDISTRICTING 2022: PROCESS/TIMELINE

- Option 1: Proceed now
 - Council districts could be done now with effect on any subsequent vacancy
 - Council needs to decide how many citywide versus specified area districts
 - School Board candidates for 2022 begin filing in March
- Option 2: Proceed later
 - Council districts aren't necessarily affected until 2023 elections
 - School Board districts need adjustment every ten years



REDISTRICTING 2022: PROCESS/TIMELINE

- Option 1: Proceed now
 - Council needs to decide how many citywide versus specified area districts
 - Proposed timeline
 - January 10 Launch redistricting.provo.org application
 - January 31 Close submissions to the application; distribute maps to the Council and School Board
 - February 1 Council meets to review maps; maps can be added to OCH
 - February 8 School board meets to review maps
 - February 15 Council receives public comment and adopts new districts (maps) by ordinance(s)
 - February 17 City submits new maps to Utah County and UGRC
 - March 7 Candidates may file for School Board election



PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: RBREEN

Department: Development Services

Requested Meeting Date: 01-04-2022

SUBJECT: Parkway Village Tax Increment Finance reimbursement agreement - third

payment - budget appropriation.

RECOMMENDATION: Budget Appropriation approval of \$37,050 from the General

Fund.

This is for a Work Meeting and then to be placed on the next available Council Meeting.

BACKGROUND: On November 15, 2016 the Municipal Council approved a resolution authorizing the Mayor to execute an agreement between Provo City and Parkway Village LLC, the ownership group of the Parkway Village shopping center located at 2255 North University Parkway. At the meeting the Council was presented with a request to reimburse the ownership group for certain extra-ordinary demolition, development and construction costs associated with the removal of an existing occupied retail pad, participation of the installation of a new traffic signal and the construction of a replacement retail pad. The reimbursement would be funded through retail sales tax increment above the established predetermined sales tax revenue actually generated by the retail center as of a certain date. The baseline revenue was established at \$136,476, which represents one half of one percent of total sales generated at the center, or that portion of sales tax revenue received by Provo City from the retail center, as provided by the State of Utah. In this agreement, Provo City will continue to receive the baseline amount of \$136,476. The developer/owner will receive, on an annual basis, a reimbursement against their actual out-of-pocket expenses, that is, any additional sales tax revenue above and beyond the baseline amount of \$136,476. The term of the agreement runs for ten years. In that time the developer/owner will be able to be reimbursed for up to one half the out-of-pocket costs for the above-described expenses. The target reimbursement amount as per the agreement is \$1,053,395.86 which is one half of the total out-of-pocket expenses which were \$2,106791.72. As this is the third payment in the ten-year agreement, that is \$37,050, which represents that amount over the baseline of \$136,476, it is not likely that full reimbursement amount will be achieved. Total received in 3 years is \$76,725.

FISCAL IMPACT: \$37,050

PRESENTER'S NAME: Keith Morey, 801-852-6432, kmorey@provo.org

REQUESTED DURATION OF PRESENTATION: 10 minutes

<u>COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:</u> As a part of the resolution approved by the Municipal Council on November 15, 2016, it was determined that in this specific instance a reimbursement agreement of this nature was appropriate and consistent with economic development initiatives to encourage investment and bring more retail opportunities and sales tax revenue to Provo City.

CITYVIEW OR ISSUE FILE NUMBER:

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter:
Department:

Requested Meeting Date:

SUBJECT: A discussion regarding the continued funding for the LeRay McAllister

Fund. (20-007)

RECOMMENDATION: Presentation and discussion.

BACKGROUND: The LeRay McAllister Critical Land Conservation Fund is an incentive program providing grants to encourage communities and landowners to work together to conserve their critical lands. The fund targets lands that are deemed important to the community such as agricultural lands, wildlife habitat, watershed protection, and other culturally or historically unique landscapes. The LeRay McAllister Critical Land Conservation Fund is an incentive program providing grants to encourage communities and landowners to work together to conserve their critical lands. The fund targets lands that are deemed important to the community such as agricultural lands, wildlife habitat, watershed protection, and other culturally or historically unique landscapes.

In 2020, the McAllister Fund contributed \$300,000 to help conserve the 40-acre Robin's Ranch in Northwest Provo.

In 2021, the Quality Growth Commission is considering applications for four additional farms on Provo's west side, 80 acres of agricultural and critical open space between the Provo River, Utah Lake State Park, and the new Provo River Delta Restoration Project

FISCAL IMPACT:

PRESENTER'S NAME: Councilors Handley and Ellsworth

REQUESTED DURATION OF PRESENTATION: 15 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 22-007

for the LeRay McAllister Fund, administered by the Utah Quality Growth Commission, for the

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preservation of farms and open land in Utah. We also support all other measures that will advance our state's critical interest in securing food security for our current residents and for future generations.

BE IT FURTHER RESOLVED, that the Clerk of Provo City transmit duly authenticated copies of this resolution to the President of the Utah Senate, to the Speaker of the Utah House of Representatives, to the Clerk of the Legislature, and to the news media of Utah.

END OF RESOLUTION





Provo City (Legal)

Staff Memorandum

Ordinance for Dedication of Private Streets to Public Ownership

December 8, 2021 Planning Commission

Department Head

Brian Jones (801) 852-6143

Memorandum Author

Matthew Griffiths (801) 852-6359

Case File # (if applicable)
N/A

Purpose of Proposal

 To move forward on a Provo City Code ordinance establishing criteria and procedures for petitions that request dedication of privately owned streets to public (City) ownership.

Action Requested

Approval of proposed ordinance.

Relevant City Policies

• Provo City Code Chapter 15.23.

Description of this item (at least 2 paragraphs)

- The City has recently received multiple requests from owners (mainly HOAs) of private roads in Provo that their streets and/or utilities be converted to public ownership. However, the City Code does not currently have a procedure in place for accomplishing this, nor does it list factors to consider when evaluating such a request. The proposed ordinance achieves both objectives. It creates a new Chapter with three Sections.
- Section 15.23.010 explains the purpose of the new Chapter.
- Section 15.23.020 contains the dedication policy, which is

divided into 11 subsections.

- The requirements for submitting a petition under subsection (1) include obtaining signatures from all applicable property owners, or in the case of an HOA, those with authority to legally bind the HOA. The petition must state reasons for the request and explain how dedication is in the public interest. Public Works and Development Services will then evaluate the petition and identify deficiencies, if any. Petitioners may elect to have the City Council consider appropriation of certain costs to remedy deficiencies. Once all deficiencies have either been corrected or the Council has authorized appropriation of funds to correct them, the petition is forwarded to the Coordinators Review Committee (CRC) executive team for final approval.
- Subsection (2) gives factors to be considered when determining whether dedication is in the public interest.
- Subsection (3) explains certain standards which, if not met, will disqualify a private street from being approved for public ownership.
- Subsections (4), (5), and (6) explain that the City will not pay the cost of certain improvements and lay out other possible funding options for those improvements.
- Subsection (7) explains that if a private street was created as part of a planned development, an amendment to the development approved by the City Council is required before the street can be dedicated to public ownership.
- Subsection (8) explains that a street may require an evaluation or audit to ensure it complies with ADA standards.
- Subsection (9) states that the City will not take ownership of a street that does not allow for public access.

- Subsection (10) states that the City will not take ownership of a street targeted for redevelopment.
- Subsection (11) explains that no specific rights or guarantees for use of the street will be conveyed to private street owners once the street becomes publicly owned.
- Section 15.23.030, the last Section in the Chapter, explains that the Mayor may adopt additional procedures necessary to implement this policy.
- The procedures and requirements in the dedication policy are intentionally strict because of the potential downsides to the City in accepting such a dedication. There would be, of course, additional City cost and labor in having to maintain and repair roads and utilities that in some cases have been privately owned for decades. Additional staffing may be required. Some utilities do not have current equipment (water meters, etc.) and in some cases would require extensive work to meet City standards. Some private roads do not have sidewalks on one or both sides of the street, and some roads/utilities may be difficult to access by repair and maintenance crews.

CHAPTER 15.23 DEDICATION OF PRIVATE STREETS TO PUBLIC OWNERSHIP

Sections:

15.23.010 Purpose 15.23.020 Policy

15.23.030 Administrative Procedures

15.23.010 Purpose.

This Chapter establishes policies and procedures for the dedication of private streets and utilities to public ownership. Private alleys are not eligible for dedication under this Chapter.

15.23.020 Policy.

- (1) Property owners may request that existing private streets and/or utilities be considered for dedication to public ownership, using the following process:
 - (a) The request must come in the form of a private dedication petition, which must be signed by property owners representing one hundred percent (100%) of the total linear frontage of the street and 100% of the ownership of the utility. In the case of a Homeowners Association (HOA), the petition must be signed by the board of trustees representing the owners or those with express authority to legally bind the HOA.
 - (b) By signing the petition, each petitioner agrees it is that petitioner's intent to dedicate the street or utility that is the subject of the petition to public ownership.
 - (c) The petition shall set forth the reasons for the proposed dedication and explain how dedicating the street or utility is in the public interest.
 - (d) The City's Public Works and Development Services departments will review the request and identify any deficiencies, including, but not limited to, ways in which the street or utilities do not satisfy the factors set forth in this Chapter and potential costs, liabilities, or logistical/maintenance/infrastructure problems the dedication may impose on the City if approved. If no deficiencies are identified, or all identified deficiencies have been corrected, the petition will be forwarded for final approval as provided in subsection (1)(g).
 - (e) The identified deficiencies will be communicated to the petitioners. Petitioners may choose to correct any or all of the identified deficiencies at their own expense prior to the Municipal Council review described in subsection (1)(f).
 - (i) No later than 30 days after receiving the list of deficiencies from the Public Works and Development Services departments, petitioners must notify the City in writing whether petitioners elect to correct deficiencies or request the petition be forwarded to the Municipal Council for consideration of an appropriation.
 - (ii) If petitioners elect to correct deficiencies, they must notify the City in writing when the corrective work is complete. The Public Works and Development Services departments will then review the request again as set forth in subsection (1)(d).

- (iii) The process set forth in subsections (1)(d)-(e) will repeat until no further deficiencies are identified or until petitioners elect to submit the deficiencies to the Municipal Council for review.
- (f) Upon election by the petitioners, any deficiencies identified through the City's review and uncorrected by the petitioners will be reviewed by the Municipal Council to consider appropriation of the estimated costs necessary to remedy the deficiencies. However, the Council may not appropriate money to correct deficiencies that this Chapter specifically states will not be paid for by the City. If all remaining deficiencies associated with a petition are of this type, the petition will not be sent to the Municipal Council for review and will be deemed rejected.
 - (i) If the Municipal Council does not authorize the appropriation, the petition shall be deemed rejected and the street or utilities will not be dedicated to public ownership.
 - (ii) If the Municipal Council authorizes the appropriation, the petition will be forwarded for final approval as provided in subsection (1)(g).
- (g) Upon referral under subsection (1)(d) or (1)(f), the petition will be considered by the Coordinators Review Committee (CRC) Executive Committee, consisting of the Chief Administrative Officer and directors of the following departments: Public Works, Development Services, Parks and Recreation, Fire, and Energy. The CRC Executive Committee will decide whether to grant final approval of the petition under subsection (1)(h).
- (h) Dedication to public ownership may be approved by the CRC Executive Committee only if a finding has been made that dedication is in the public interest and all the conditions in subsection (3) have been met. The mere fact that the conditions in subsection (3) are met does not guarantee that the street will be approved for public ownership.
- (2) The following factors, among others, may be considered by the CRC Executive Committee in determining whether dedication is in the public interest:
 - (a) The street provides or can provide access to open space, public facilities/uses, or other public amenities.
 - (b) The street provides or can provide an improvement to the surrounding pedestrian or vehicular circulation pattern.
 - (c) The street provides or can provide an identified planning goal as noted in the adopted master plan for the neighborhood.
 - (d) Dedicating the street or utility to public ownership will encourage reinvestment in the community.
 - (e) Dedicating the street or utility to public ownership will improve water conservation in the community.
 - (f) Dedicating the street or utility to public ownership will increase maintenance efficiency for City workers.
 - (g) Dedicating the street or utility to public ownership will mitigate a hazardous condition and/or will lead to an improvement in health or safety conditions in the community.
 - (h) Dedicating the street or utility to public ownership will enhance public safety for the

community and surrounding area (e.g. access, certified maintenance, and use of fire hydrants for a high-risk fire danger area).

- (3) Private streets and utilities will not be approved for public ownership unless:
 - (a) The street surface features and/or utilities meet current City standards, the petitioners have received funding to bring them up to current City standards, or it is demonstrated that the key objectives of current City standards are already being met by existing conditions.
 - (i) In determining whether street surface features meet these requirements, the CRC Executive Committee may specifically consider:
 - (A) The street's grade, surface, and width as they relate to health, safety, and the ability of the City to provide services;
 - (B) Fire Code standards; and
 - (C) Current state and federal standards, such as those contained in the Americans with Disabilities Act of 1990 (ADA).
 - (b) Deteriorated retaining walls and other private property features abutting the proposed public ownership have been removed, repaired, or replaced by the property owners to ensure public safety.
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- (5) If matching funding is requested from the City through the CDBG or CIP programs, or through creation of an SAA, the request will be considered through the routine processes for allocation of those funds and will not be given priority.
- (6) The City will not agree to split the ownership of utilities and streets unless the public interest in dedication is compelling.
- (7) If a private street was created as part of a planned development:
 - (a) The City will not pay or share the cost of repairing or improving the street. However, property owners may pursue funding options as described in subsection (4)(a).
 - (b) An amendment to the planned development is required.
 - (c) The amendment process will be reviewed by the planning commission with a recommendation forwarded to the Municipal Council.

- (d) The petition for dedication for such a street will only be forwarded to the CRC Executive Committee for final approval under subsection (1)(h) if the Municipal Council approves the amendment.
- (8) The City may determine that a street proposed to be dedicated requires an evaluation or audit to ensure compliance with ADA standards as described in subsection (3)(a)(i). Petitioners will be responsible for funding any evaluation or audit deemed necessary.
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- (11) No specific rights or guarantees for use of the street, such as on street parking, are conveyed to private street owners when a private street becomes publicly owned.

15.23.030 Administrative Procedures.

The Mayor is authorized to adopt additional, consistent administrative procedures necessary to implement this policy.



PUBLIC WORKS

TEL 801 852 6780 1377 S 350 E PROVO, UT 84606

Public Works Staff Report Hearing Date: 12/8/2021

PLOTA20210360 - Ordinance Text Amendment

Item #1 Summary:

Matthew Griffiths requests an Ordinance Text Amendment to Title 15, to add a new chapter establishing policies and procedures for the dedication of private streets and utilities. City-wide application.

Staff Recommendation:

Public Works has reviewed the Ordinance Text Amendment, and recommends **Approval**.

Dave Decker, Public Works Director David Day, Development Engineering Coordinator

| 1 | | ORDINANCE 2021 | |
|----------|--|---|--|
| 2 | ANT | DRIVINGE AMENDRIC BROWN CITY CODE TO A DORT BOLIGIES | |
| 3 | | ORDINANCE AMENDING PROVO CITY CODE TO ADOPT POLICIES | |
| 4 | | PROCEDURES FOR THE DEDICATION OF PRIVATE STREETS AND | |
| 5 | UIIL | LITIES. CITYWIDE APPLICATION. (PLOTA20210360) | |
| 6 | WILL | EDE AS it is an an accept that Draws City Code Chanton 15 22 he are stady and | |
| 7 | WHE | EREAS, it is proposed that Provo City Code Chapter 15.23 be enacted; and | |
| 8 9 | WHE | DEAS on December 8, 2021, the Planning Commission held a duly noticed public | |
| 10 | WHEREAS, on December 8, 2021, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission | | |
| 11 | recommended approval to the Municipal Council by a vote of 9-0; and | | |
| 12 | recommende | a approval to the Mullicipal Council by a vote of 7-0, and | |
| 13 | WHE | REAS, on December 14, 2021, the Municipal Council met to ascertain the facts | |
| 14 | regarding this matter and receive public comment, which facts and comments are found in the | | |
| 15 | public record of the Council's consideration; and | | |
| 16 | puelle receiv | 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 | |
| 17 | WHE | EREAS, after considering the Planning Commission's recommendation and facts and | |
| 18 | comments presented to the Municipal Council, the Council finds (i) Provo City Code should be | | |
| 19 | amended as described herein and (ii) the proposed amendment reasonably furthers the health, | | |
| 20 | | eneral welfare of the citizens of Provo City. | |
| 21 | | | |
| 22 | | 7, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as | |
| 23 | follows: | | |
| 24 | | | |
| 25 | PART I: | | |
| 26 | D | | |
| 27 | Provo | O City Code Chapter 15.23 is enacted as set forth in Exhibit A. | |
| 28 | | | |
| 29 | PART III: | | |
| 30 31 | rani III. | | |
| 32 | A. | If a provision of this ordinance conflicts with a provision of a previously adopted | |
| 33 | 11. | ordinance, this ordinance shall prevail. | |
| 34 | | oramanee, and oramanee shan prevan. | |
| 35 | B. | This ordinance and its various sections, clauses and paragraphs are hereby | |
| 36 | В. | declared to be severable. If any part, sentence, clause or phrase is adjudged to be | |
| 37 | | unconstitutional or invalid, the remainder of the ordinance shall not be affected | |
| 38 | | thereby. | |
| 39 | | | |
| 40 | C. | The Municipal Council hereby directs that the official copy of the Provo City | |
| 41 | | Code be updated to reflect the provisions enacted by this ordinance. | |
| 42 | | <u>-</u> | |
| 43 | D. | This ordinance shall take effect immediately after it has been posted or published | |
| 44 | | in accordance with Utah Code 10-3-711, presented to the Mayor in accordance | |
| 45 | | with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713. | |

47 <u>END OF ORDINANCE.</u>

Exhibit A

CHAPTER 15.23 DEDICATION OF PRIVATE STREETS TO PUBLIC OWNERSHIP

Sections:

15.23.010 Purpose15.23.020 Policy15.23.030 Administrative Procedures

15.23.010 Purpose.

This Chapter establishes policies and procedures for the dedication of private streets and utilities to public ownership. Private alleys are not eligible for dedication under this Chapter.

15.23.020 Policy.

- (1) Property owners may request that existing private streets and/or utilities be considered for dedication to public ownership, using the following process:
 - (a) The request must come in the form of a private dedication petition, which must be signed by property owners representing one hundred percent (100%) of the total linear frontage of the street and 100% of the ownership of the utility. In the case of a Homeowners Association (HOA), the petition must be signed by the board of trustees representing the owners or those with express authority to legally bind the HOA.
 - (b) By signing the petition, each petitioner agrees it is that petitioner's intent to dedicate the street or utility that is the subject of the petition to public ownership.
 - (c) The petition shall set forth the reasons for the proposed dedication and explain how dedicating the street or utility is in the public interest.
 - (d) The City's Public Works and Development Services departments will review the request and identify any deficiencies, including, but not limited to, ways in which the street or utilities do not satisfy the factors set forth in this Chapter and potential costs, liabilities, or logistical/maintenance/infrastructure problems the dedication may impose on the City if approved. If no deficiencies are identified, or all identified deficiencies have been corrected, the petition will be forwarded for final approval as provided in subsection (1)(g).
 - (e) The identified deficiencies will be communicated to the petitioners. Petitioners may choose to correct any or all of the identified deficiencies at their own expense prior to the Municipal Council review described in subsection (1)(f).
 - (i) No later than 30 days after receiving the list of deficiencies from the Public Works and Development Services departments, petitioners must notify the City in writing whether petitioners elect to correct deficiencies or request the petition be forwarded to the Municipal Council for consideration of an appropriation.
 - (ii) If petitioners elect to correct deficiencies, they must notify the City in writing when the corrective work is complete. The Public Works and Development

Services departments will then review the request again as set forth in subsection (1)(d).

- (iii) The process set forth in subsections (1)(d)-(e) will repeat until no further deficiencies are identified or until petitioners elect to submit the deficiencies to the Municipal Council for review.
- (f) Upon election by the petitioners, any deficiencies identified through the City's review and uncorrected by the petitioners will be reviewed by the Municipal Council to consider appropriation of the estimated costs necessary to remedy the deficiencies. However, the Council may not appropriate money to correct deficiencies that this Chapter specifically states will not be paid for by the City. If all remaining deficiencies associated with a petition are of this type, the petition will not be sent to the Municipal Council for review and will be deemed rejected.
 - (i) If the Municipal Council does not authorize the appropriation, the petition shall be deemed rejected and the street or utilities will not be dedicated to public ownership.
 - (ii) If the Municipal Council authorizes the appropriation, the petition will be forwarded for final approval as provided in subsection (1)(g).
- (g) Upon referral under subsection (1)(d) or (1)(f), the petition will be considered by the Coordinators Review Committee (CRC) Executive Committee, consisting of the Chief Administrative Officer and directors of the following departments: Public Works, Development Services, Parks and Recreation, Fire, and Energy. The CRC Executive Committee will decide whether to grant final approval of the petition under subsection (1)(h).
- (h) Dedication to public ownership may be approved by the CRC Executive Committee only if a finding has been made that dedication is in the public interest and all the conditions in subsection (3) have been met. The mere fact that the conditions in subsection (3) are met does not guarantee that the street will be approved for public ownership.
- (2) The following factors, among others, may be considered by the CRC Executive Committee in determining whether dedication is in the public interest:
- (a) The street provides or can provide access to open space, public facilities/uses, or other public amenities.
- (b) The street provides or can provide an improvement to the surrounding pedestrian or vehicular circulation pattern.
- (c) The street provides or can provide an identified planning goal as noted in the adopted master plan for the neighborhood.
- (d) Dedicating the street or utility to public ownership will encourage reinvestment in the community.
- (e) Dedicating the street or utility to public ownership will improve water conservation in the community.
- (f) Dedicating the street or utility to public ownership will increase maintenance efficiency for City workers.
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- (3) Private streets and utilities will not be approved for public ownership unless:
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15.23.030 Administrative Procedures.

The Mayor is authorized to adopt additional, consistent administrative procedures necessary to implement this policy.

Provo City Planning Commission

Report of Action

December 08, 2021

*ITEM 1 Matthew Griffiths requests an Ordinance Text Amendment to Title 15, to add a new chapter establishing policies and procedures for the dedication of private streets and utilities. City-wide application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20210360

The following action was taken by the Planning Commission on the above described item at its regular meeting of December 08, 2021:

RECOMMENDED APPROVAL

On a vote of 9:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Lisa Jensen Second By: Ally Jones

Votes in Favor of Motion: Lisa Jensen, Ally Jones, Daniel Gonzales, Laurie Urquiaga, Brian Henrie, Robert Knudsen,

Dave Anderson, Peter Fife, Miles Miller Laurie Urquiaga was present as Chair.

• Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

• The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

• City-wide application; all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Mrs. Hatfield stated her support for the intent of the ordinance but is not in favor of the current version and would like to see some changes in the text.
- Ms. Gibbons stated her support for the Quail Valley HOA to be able to have their roads and utilities be public.

APPLICANT RESPONSE

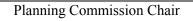
Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Provo staff clarified that Quail Valley HOA was the start of the proposed ordinance, but the language was written in a way that it will be able to apply to any future request.
- Staff believes that the language gives the right amount of discretion to staff to use current City standards and staff judgement in determining that best choice for the City.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

• The Planning Commission asked staff about the ability to take aged infrastructure and what the costs to the City would be. They wanted to ensure that the City would not have the burden of up-front costs when roads or infrastructure go from private to public. They determined that if the Public Works and Legal staff are confident in the language, then they support it.



Director of Development Services

Bell Peperane

See <u>Key Land Use Policies of the Provo City General Plan</u>, applicable <u>Titles of the Provo City Code</u>, and the <u>Staff Report to the Planning Commission</u> for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

<u>Legislative items</u> are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) may be appealed by submitting an application/notice of appeal, with the required application and noticing fees to the Community and Neighborhood Services Department, 330 West 100 South, Provo, Utah, within fourteen (14) calendar days of the Planning Commission's decision (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

Matthew Griffiths requests an Ordinance Text Amendment to Title 15, to add a new chapter establishing policies and procedures for the dedication of private streets and utilities.

Citywide Application
PLOTA20210360

CHAPTER 15.23

DEDICATION OF PRIVATE STREETS TO PUBLIC OWNERSHIP

Sections:

15.23.010 Purpose

15.23.020 Policy

15.23.030 Administrative Procedures

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5.23.030 Administrative Procedures.

The Mayor is authorized to adopt additional, consistent administrative procedures necessary to implement this policy.

From: RaDene Hatfield

Sent: Monday, December 6, 2021 12:56 PM

To: Aaron Ardmore

Cc: Harlan Hatfield; Amber Gudmundson; Tom Sturtevant; David Sewell; Bill Fillmore

Subject: A message for Planning Commission regarding the proposed ordinance amendment to Title 15

Dear Planning Commission:

First, we want to express our thanks for the work of the Commission and City staff in addressing private to public infrastructure transfers. We are writing to try to identify the issue we see with the current version of the dedication ordinance.

After reviewing and commenting on several drafts by now, we see that the drafters' primary position is that private property is ineligible for transfer to the city unless it meets current standards. This is appropriate for newly constructed assets. Developers and owners should not be permitted to build off spec assets and then turn them over to the City.

But a "current standards" criteria is inappropriate for assets that were adequately designed before current standards existed. So long as older assets were adequately designed in their era and have been maintained since the time of construction, such assets are of no greater burden to the city than other older assets already owned and maintained by the City. Indeed, that defines most of the City. Unless the transfer criteria take into account the change in city standards over time, the dedication ordinance will serve no real purpose because all but the very most recently designed and constructed assets will be outside of the ever-evolving "current standards."

On the other hand, there are important public goods achieved by transferring to public ownership adequately designed and reasonably maintained older assets. Professional oversight and management of infrastructure is a basic responsibility of city government for good reason--groups of citizens are not well equipped to take care of roads and utilities. That is a fundamental purpose for the taxes that citizens are required to pay. Public safety, transportation, fire suppression, water conservation, drinking water quality, sewage removal, and other critical goods are diminished over time without the City's professional oversight. Concerns about more City work or incrementally more potential future costs do not outweigh the public goods achieved by dedication of adequate infrastructure, even if designed and constructed in an earlier time.

We ask that you not dismiss the seriousness to the City and its citizens of a contaminated water system that could have been avoided or a conflagration because of an inoperable fire hydrant that could have been prevented. The public interests are best served by a dedication ordinance that is not limited solely to current standards but allows for incorporation of assets adequately designed when constructed and reasonably maintained since then. The current version of the dedication ordinance that will be presented to you on Wednesday evening is antithetical to these public interests.

Respectfully, Harlan & RaDene Hatfield

Provo, Utah



Landmarks Commission Staff Report

DEVELOPMENT SERVICES Hearing Date: December 15, 2021

*ITEM # 2 Cindy L Caldwell requests Landmarks Nomination for a home at 1115 East 640 South, in the R1.8 (One-Family Residential) zone. Provost Neighborhood. Dustin Wright (801) 852-6414 dwright@provo.org PLLN20210394

Applicant: Cindy L Cladwell

Staff Coordinator: Dustin Wright

Property Owner: CALDWELL, ROBERT

DAVID SR & CINDY LEE (ET AL)

Parcel ID#: 22:032:0003

Acreage: 0.37

Current Zone: R18

Council Action Required: Yes

ALTERNATIVE ACTIONS

- Continue to a future date to obtain additional information or to further consider information presented. The next available meeting date is January 19, 2022, at 12:30p.m.
- Recommend denial of the requested Landmarks Nomination. This action would not be consistent with the recommendations of the Staff Report. The Landmarks Commission should state new findings.

Current Legal Use:

Single Family Residence

Relevant History:

The property is not currently listed on the National Register of Historic Places, but the current property owner/applicant has provided research and data gathered for the property. This research could be used in requesting the property to be listed on that register.

Neighborhood Issues:

No issues have been presented to staff.

Summary of Key Issues:

- The Landmarks Commission will consider if the proposed nomination meets the criteria for designating property to the landmarks register.
- If the Landmarks Commission will have their recommendation sent to the Municipal Council to make the final decision on the nomination.

Staff Recommendation:

Staff recommends that the Landmarks Commission forward a positive recommendation to the Municipal Council to approve the home located at 1115 E 640 South to be placed on the Provo City Landmarks Register.

BACKGROUND

Cindy Caldwell has nominated their house located at 1115 East 640 South to be placed on the Provo Landmarks register. City staff and the Landmarks Commission review these types of nominations for compliance with the requirements and standards set forth in Provo City Code 16.05.020. The Landmarks Commission will review the documentation for completeness, accuracy, and compliance with the "Criteria for Designating Historic Properties to the Provo Landmarks Register" per 16.05.030(3) and make its recommendation to the Municipal Council.

FINDINGS OF FACT

- 1. The applicant is the property owner and is permitted by 16.05.030(1) to nominate this property to be considered for the Landmarks Register.
- The applicant has provided Intensive Level Survey documentation for the nominated property.

STAFF ANALYSIS

Section 16.05.020, Criteria for Designating Properties to the Landmarks Register, outlines specific requirements that must be met for a property to be designated. The section reads as follows: (staff responses in bold)

Any district, building, structure, object or site may be designated to the Historic Landmark Register if it meets the first three (3) criteria below, and at least one (1) of the other criteria outlined in numbers (a) through (f) below:

(1) It is located within the official boundaries of Provo City;

The property is located in Provo at 1115 East 640 North.

(2) It is at least fifty (50) years old; and

The applicant has submitted documentation that shows construction of the house circa 1885, 136 years old.

(3) It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that would destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original

location to one (1) that is dissimilar to the original, additions which significantly detract from or obscure the original form and appearance of the building or structure when viewed from the public way.

No additional stories have been created. There were additions done in the 1920's and 1940's on the back of the house. A new roof was added that covered the original house and the additions. The additions on the back are like most properties that change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

The research states that there used to be a porch on the west side of the home that was removed when the south side of the home became the front. The roof pitch has not likely been altered on the original structure construction. Overall, the structure appears to maintain its historic integrity.

(a) It is currently listed in the National Register of Historic Places, or it has been officially determined eligible for listing in the National Register of Historic Places under the provisions of 36 CFR 60.6(s). Properties listed on or determined to be eligible for the National Register must still retain their integrity;

The property has not been listed on the National Register of Historic Places. They have provided their research and Historic Site Form that they could use to nominate the property for the National Register.

- (b) It is associated with events that have made a significant contribution to the broad patterns of the history of the City, State, or Nation;
- (c) It is associated with the lives of persons significant in the history of the City, State, or Nation;

The Milner-Wright home was built in 1885 for Benjamin F Milner by Joab Collier, a brick mason from England. Charles Wright and his wife Julia purchased the home, and what had become a dairy farm, in 1918 from James O Stewart. Charles Wright became a well-known dairy farmer in Provo. They operated this business of delivering bottled unpasteurized milk to the door here in Provo. He was a member of the Federated Dairies group, board member of the East Union Upper Irrigation, and charter member of the Provo riding club. By the late 1950's, federal regulations for the dairy industry caused the Wrights to close the business which had provided for their family for 40 years. They sold their equipment, cows, most of their farm, and a few building lots to their children. They donated part of the ground for the Provo

10th and 16th Ward Chapel on 745 S Utah Ave which was completed in 1962. Charles lived there until his death in 1971. Julia died in 1969.

(d) It embodies the distinctive characteristics of a rare or unique type, period, or method of construction; or that represents the work of an architect or builder recognized as a master in the field; or that possesses high artistic values or style; or that represents a significant and distinguishable entity whose components may lack individual distinction;

Cross-wing or "T-cottage style" was built in two stages. The west wing, or the cross bar of the T, of the Milner-Wright home was completed in 1885. Collier spread a large patch of mortar on the interior chimney in the attic where he etched his name and the date he completed it, November 27, 1885. The east wing was added a few years later. A small frame work room for milk bottling was added to the NE corner in 1920's, and in the 40's, indoor plumbing was added as well as a cinder block bedroom on the North side of the home.

The kiln-fired clay brick for the Milner-Wright home came from Thomas Cook, who "was one of Provo's most important brick manufacturers of the 1880s. All three of his brick plants lay along the road between Provo and Springville. [They] furnished bricks for the main building at the Utah State Hospital, the Provo Tabernacle, the Old Utah County Courthouse, the smokestack of the Provo Woolen Mills, and many of the city's older brick homes."

- (e) It has yielded or may be likely to yield, information important in prehistory or history (archeological sites, for example); or
- (f) Because of its prominent spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the City, and contributes to the distinctive quality or identity of its neighborhood or the City.

STAFF RECOMMENDATION

Staff recommends that the Landmarks Commission forward a positive recommendation to the Municipal Council to approve the home located at 1115 E 640 South to be placed on the Provo City Landmarks Register.

ATTACHMENTS

- 1. Site Location
- 2. Photographs
- 3. Historic Site Form

Attachment 1 – Site Location

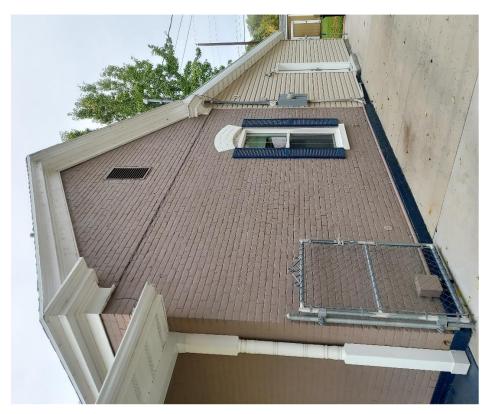


Attachment 2 – Photographs













Attachment 3 – Historic Site Form

(See separate attachment)

HISTORIC SITE FORM

Name of Property: Milner-Wright-Caldwell Home

Address: 1115 E 640 S, Provo, Utah 84606

Current Owner and Address: Robert and Cindy Caldwell, address is the same

Legal description:

1918

Commencing at a point 0.87 chain North of the quarter section corner between Sections 7& 8, in Township 7 South Range 3 East of the Salt Lake Base and Meridian; thence West 9.00 chains; thence South 13°45! West 0.90 chain; thence West 0.29 chain; thence North 0.23 chain; thence West 4.89 chains; thence North 0.75 chain; thence West 8.48 chains; to the County road; thence along the East side of county road North 29° West 3.24 chains; thence East 57.48 chains; thence South 14° East 4.19 chains more or less to quarter section line; thence West 13.99 chains; thence North 0.87 chain; thence West 20.00 chains to the place of beginning. Area 17.92 Acres. Together with 12 shares of stock in Upper East Union Canal Co., and all other water rights pertaining to said land.

1985

the following described tract of land in State of Utah:

UTAH

County,

Commencing at the Southwest corner of Lot 10, Plat "C", Hillsdale Heights, Subdivision, Provo, Utah, said point being located 89.27 feet North and 398.68 feet West of the East quarter corner of Section 7, Township 7 South, Range 3 East, Salt Lake Base and Meridian; thence South 85°43'30" West along the North boundary of 640 South Street, Provo, Utah 102.30 feet; thence North 6°14' East along the East side of a concrete wall 171.67 feet; thence East along a fence line and the South line of Highland Terrace Subdivision, Plat "C", Provo, Utah 93.78 feet; thence South 3°39' West along a fence line and the West line of said Lot 10, Plat "C", Hillsdale Heights Subdivision 163.36 feet to the point of beginning. (Situate in the Southeast of the Northeast of Section 7, Township 7 South, Range 3 East, Salt Lake Base and Meridian.)

LESS: Any portion lying within 670 South Street.

Status/Use: building, eligible/contributing, residential originally and currently

Building Style/Type: Built in the Utah residence vernacular common from 1880-1910, the cross-wing or "T-cottage style", it has one story and a small cellar under one room of the home with an outside entrance.

Building material: Foundation is stone and mortar. Original walls are kiln-fired clay brick. Two minor additions consist of a bedroom of cinder block added in the 1940's; and of an office, laundry room, and ½ bath of wood frame.

Alterations: The home originally had a front porch on the West side. This was removed when the porch on the South side became the front of the home. This porch roof, posts, and balustrade were removed and the roof and posts replaced in 1995. At this time the original front door on the West side was removed and the door opening

framed in and closed. The door was restored and became an interior door. The balustrade was replaced with a PVC one in 2020.

The office/laundry/bath addition replaced a lean-to on the back of the home used for washing milk bottles as a dairy, then as a storage/laundry room. We replaced it in 2015, building it up to code with concrete footings. The plumbing and electricity were also installed according to current code. At this time, we replaced the entire roof of the original home and the two additions so it was one continuous roof instead of three separate ones.

Outbuildings: Sometime in the 40's or 50's, Wright moved a small wood frame "garage" located on State Street by towing it on skids with a tractor and relocating it near the home. In 2006, a microburst from the West lifted one side of it since it was only sitting on the ground. We tore it down that summer and rebuilt a proper free standing garage with electricity, a concrete floor and footings in the same location. We also built a storage shed at the back of our property.

Architect/builder: Joab Collier, a brick mason from England, residing in Provo in the late 1800's. The main purpose of this property was agricultural. The main owner, Charles Wright, contributed significantly to the community with his dairy, and to the religious and social history of the area.

History:

History of the Milner-Wright-Caldwell Home 1115 E 640 S, Provo, Utah

The Milner-Wright home was built in 1885 for Benjamin F Milner by Joab Collier, a brick mason from England. Benjamin, a farmer and the son of the Honorable John B Milner, was born in Provo in 1855. He married Sarah E Kinsmen, from Logan, in 1886. They had 4 of their 7 children while living here until the farm was sold in 1894.

From 1894 until 1918, the home and farm, which covered approximately 20 acres, was owned by several different individuals. Charles Wright and his wife Julia purchased the home, and what had become a dairy farm, in 1918 from James O Stewart. Charles lived there until his death in 1971. Julia died in 1969. After Charles' death, his son, John M Wright acquired the home by decree. A year later, John's sister and husband, Mary W and Ned M Morgan, acquired it by quit claim deed. Robert D and Cindy L Caldwell, current owners, purchased the home in 1985, its 100th anniversary. By the time of his death, Mr Wright had sold or donated his surrounding property, retaining .37 acres on which the home still stands.

Born in Charleston, Utah, in 1885, Charles Wright became a well-known dairy farmer in Provo. He and Julia had around 30 cows that they milked by hand until they could buy milking machines. "Wrights dairy became a big business... delivering bottled unpasteurized milk to the door". He was a member of the Federated Dairies group, board member of the East Union Upper Irrigation, and charter member of the Provo riding club. By the late 1950's, federal regulations for the dairy industry caused the Wrights to close the business which had provided for their family for 40 years. They sold their equipment, cows, most of their farm, and a few building lots to their children.

Charles Wright was an active member of the Church of Jesus Christ of Latter-day Saints. He served as YMMIA Superintendent, president of the genealogy committee, and chairman of the Bonneville Ward and Provo Utah Stake Old Folks Committees. He donated part of the ground for the Provo 10th and 16th Ward Chapel on 745 S Utah Ave which was completed in 1962.

For Charles and Julia Wright, "A beautiful climaxing party to 50 years of wedded life came in May of 1956 when an open home at their home helped them celebrate their Golden Wedding Anniversary. At this time they received congratulatory messages from Elias L Day, Atty at Law; Arthur V Watkins, State Senator; J Bracken Lee, Governor

of Utah; Wallace F Bennett and William A Dawson, Representatives from Utah."³ (Former Provo mayor, Lewis Billings, is one of Wright's great-grandchildren.)

Built in the Utah residential vernacular common from 1880-1910, the cross-wing or "T-cottage style" was often built in two stages- a single section of a cross wing, then the other wing added at a later time. The West wing, or the cross bar of the T, of the Milner-Wright home was completed in 1885. Collier spread a large patch of mortar on the interior chimney in the attic where he etched his name and the date he completed it, November 27, 1885. The East wing was added a few years later. A small frame work room for milk bottling was added to the NE corner in 1920's, and in the 40's, indoor plumbing was added as well as a cinder block bedroom on the North side of the home. In 2015, the frame workroom was replaced with a larger frame room built to code and a half-bath added. At this time, the roof of the home and the two additions were replaced with one continuous roof.

The kiln-fired clay brick for the Milner-Wright home came from Thomas Cook, who "was one of Provo's most important brick manufacturers of the 1880s. All three of his brick plants lay along the road between Provo and Springville. [They] furnished bricks for the main building at the Utah State Hospital, the Provo Tabernacle, the Old Utah County Courthome, the smokestack of the Provo Woolen Mills, and many of the city's older brick homes."⁴

The home and farm were located on the East side of the "Springville road", across from the Provo City Cemetery, and faced West with a lane leading to the home. When Wright started selling his property, the South side became the front of the home facing what is now 640 South Street.

Another historic home, around the corner from the Milner-Wright home, is the home of Daniel Graves (1806-1892). It is a two-story English style home built in 1865.

List of documents included:

Milner-Wright-Caldwell

- 1. Chain of Title
- 2. Warranty Deed of 1882, Holdaway to Milner
- 3. Milner obituary from 1926
- 4. Warranty Deed of 1918, Stewart to Wright
- 5. Parcel plot of property in 1902 and today by Utah County Recorder
- 6. Property legal description, 1918
- 7. Polk City Directory, Provo, 1915-1916- Dairies, Stewart
- 8. Polk City Directory, Provo, 1922- Wright farmer
- 9. Polk City Directory, Provo, 1929- Dairies, Wright
- 10. Wright Dairy stats article from Family Search
- 11. Quit Claim Deed of 1959, Wright to The Church of Jesus Christ of Latter-day Saints

^{1"}Julia Edora Mecham (1886)", told in part in 1958 to Rosella Rieske and Carrol Sorenson

² Obituary of Charles Wright, The Herald, Provo, UT. Mon, Dec 13, 1971, pg 4

³ "The Story of Charles Wright (1885)", History told to Rosella Rieske and Carrol Naylor in 1958

⁴ https://jacobbarlow.com/2017/10/04/several-brick-manufacturing-companies-once-operated-in-provo/

- 12. Quit Claim Deed of 1963, Wright to Beesley
- 13. Quit Claim Deed of 1965, Wright to The Board of Education
- 14. Wright obituary from 1971
- 15. Warranty Deed of 1985, Morgan (son-in-law of Wright) to Caldwell
- 16. Warranty Deed of 1985 schedule B
- 17. Trust Deed of 1985, Morgan & DeGraw (Morgan's daughter) to Caldwell
- 18. Utah County Plats map, Section 7, Township 7, Range 3
- 19. Home footprint on lot, 2010
- 20. Floor plan pre-1940 and 2015
- 21. Parcel color map, 2021
- 22. Aerial photo parcel map, 2021
- 23. Research log spreadsheet with links

List of photos included:

Milner-Wright-Caldwell

- 1. Benjamin Franklin Milner
- 2. Joab Collier, mason
- 3. Date of home in attic
- 4. View of area from Y Mountain, 1930
- 5. Charles and Julia Wright, about 1930
- 6. Chas. Wright Dairy milk bottle cap
- 7. View of home from Provost Elementary before opening day, 1949
- 8. View of Provost Elementary from Wright property, 1949
- 9. Charles and Julia Wright 50th anniversary, 1956
- 10. Home and farm, Eastern view, 1960s
- 11. Home and "garage", 1985
- 12. Original front door
- 13. Original front door restored
- 14. South side of home, 2021
- 15. West side of home, 2021
- 16. North side of home, 2021
- 17. East side of home, 2021
- 18. West side of garage, 2021
- 19. View of home and garage from sidewalk on 640 S, 2021

Provo City Landmarks Commission Report of Action

December 15, 2021

*Item 2 Cindy L Caldwell requests Landmarks Nomination for a home at 1115 East 640 South, in the R1.8 (One-Family Residential) zone. Provost neighborhood. PLLN20210394

The following action was taken by the Landmarks Commission on the above described item at its regular meeting of December 15, 2021:

RECOMMENDED APPROVAL

On a vote of 4:0, the Landmarks Commission recommended that the Municipal Council approve the above noted application.

Motion By: Jeff Ringer Second By: Jaisa Bishop

Votes in Favor of Motion: Jeff Ringer, Jaisa Bishop, Mathew Christensen, Jessie Embry

Votes Opposed to Motion: None

Mathew Christensen was present as Chair

• Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Landmarks Commission determination <u>is generally consistent</u> with the Staff analysis and determination.

STAFF PRESENTATION

The Staff Report to the Landmarks Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

NEIGHBORHOOD AND PUBLIC COMMENT

No comments we made during the public comment period.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Landmarks Commission included the following:

- The applicant explained the reasons for wanting to be on the Landmarks Register were that it would be an honor and pay tribute to the families that built and lived in the home before.
- The applicant is also interested in placing the home on the National Register of Historic Places.

LANDMARKS COMMISSION DISCUSSION

Key points discussed by the Landmarks Commission included the following:

• The applicant responded to questions from the Commission about the storm cellar door, condition of the home when they purchased the property, and if there are other historic homes in the area. The applicant said there is an older home in the area. The original front door has been saved and is now an interior door in the home.

Landmarks Commission Chair

Bell Peperare

Director of Development Services

See <u>Key Land Use Policies of the Provo City General Plan</u>, applicable <u>Titles of the Provo City Code</u>, and the <u>Staff Report to the Landmarks Commission</u> for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Landmarks Commission differ from findings of Staff, those will be noted in this Report of Action.

<u>Legislative items</u> are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Landmarks Commission provides an advisory recommendation to the Municipal Council following a public hearing.

<u>Administrative decisions</u> of the Landmarks Commission (items not marked with an asterisk) **may appeal** that decision to the Mayor, subject to the procedures in Section 3.06.010, Provo City Code.

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

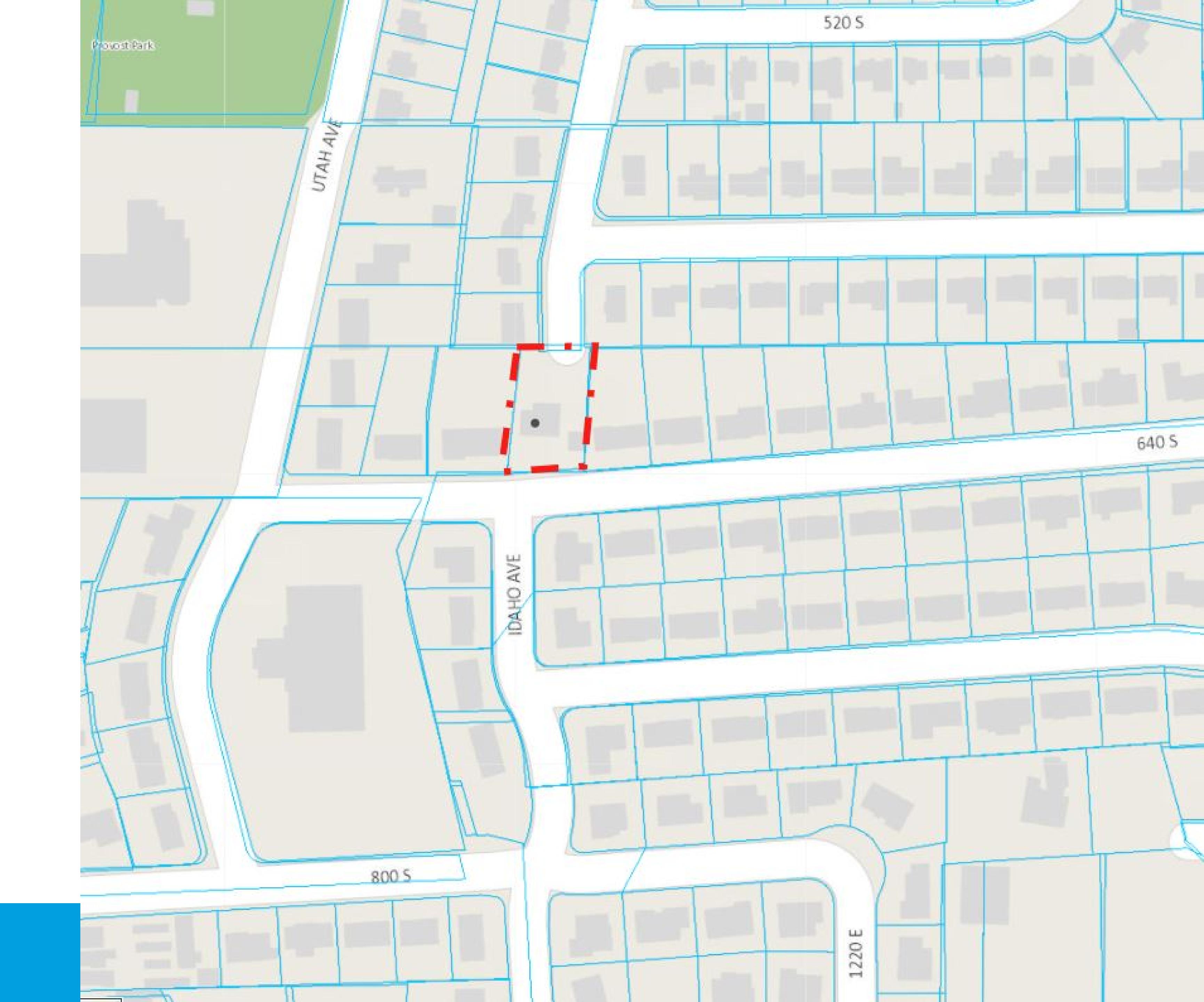
ITEM 2*

Cindy L Caldwell requests Landmarks Nomination for a home at 1115 East 640 South, in the R1.8 (One-Family Residential) zone.

Provost Neighborhood

PLLN20210394

1115 E 640 S



Milner-Wright Home



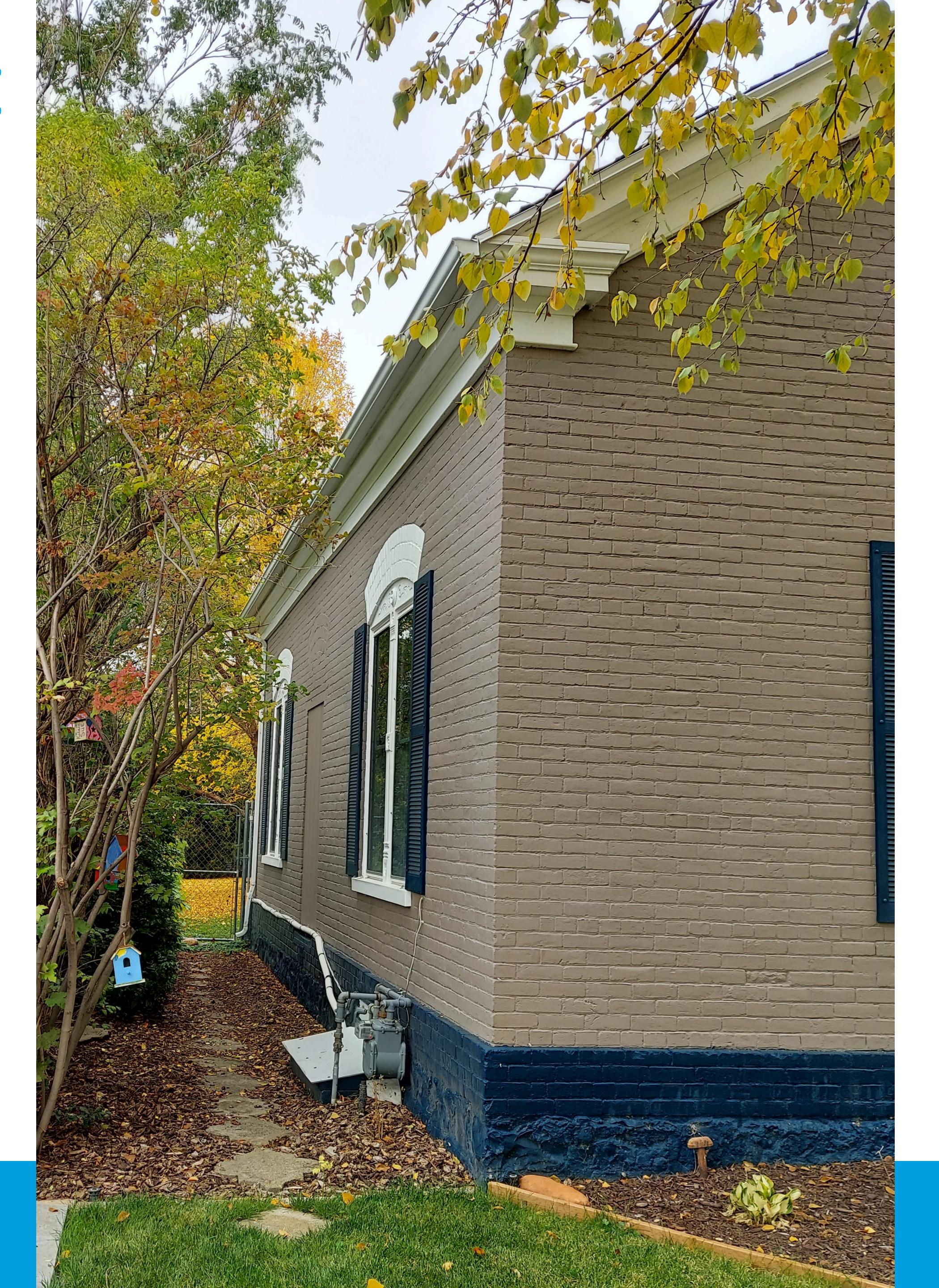
South



Morth



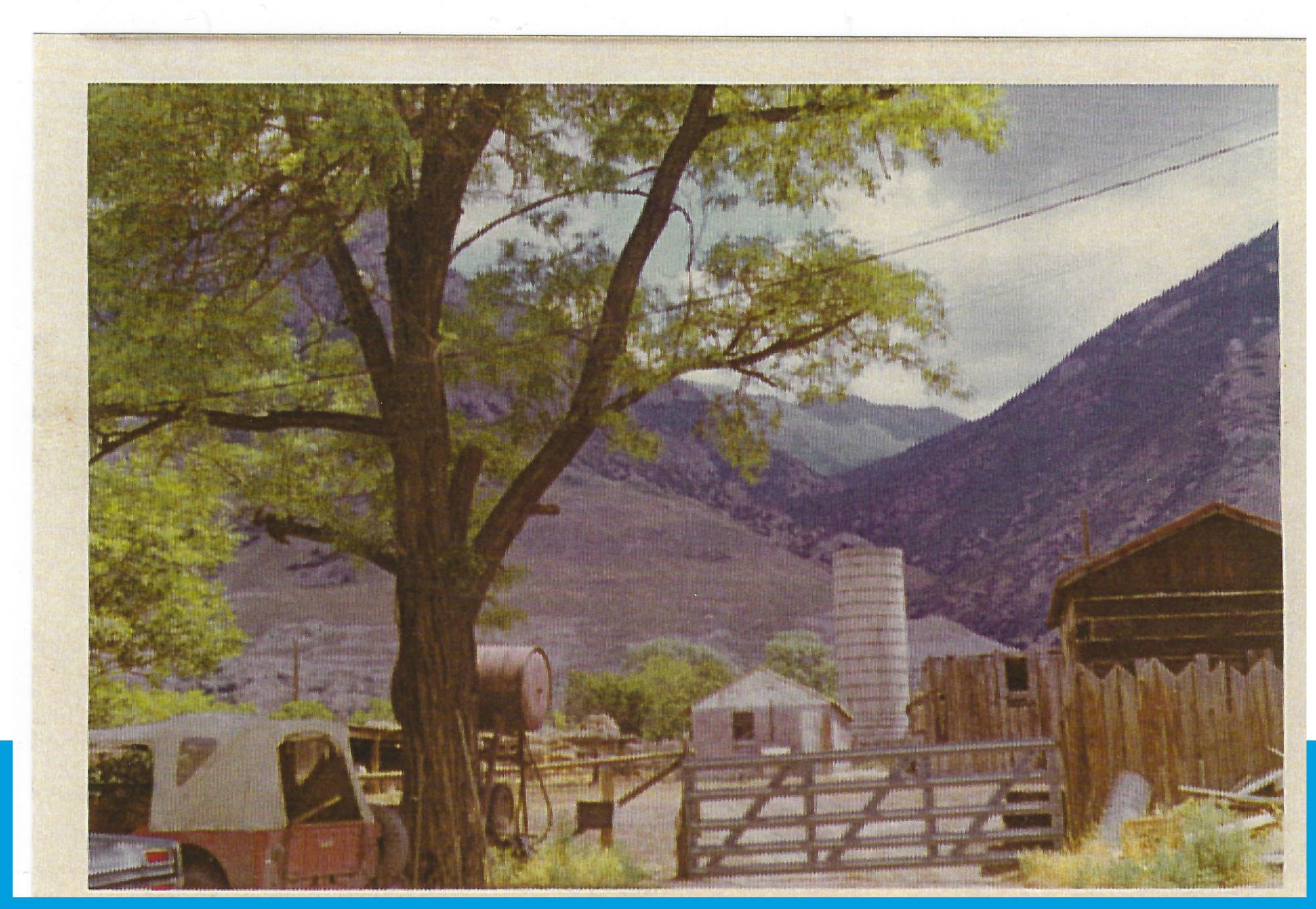
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PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: DWALTER

Department: Development Services

Requested Meeting Date: 01-04-2022

SUBJECT: An appropriation for 200 Cityview Apartments. 22-006

RECOMMENDATION: Adopt a resolution approving the appropriation of fund balance in Fund 274, the tax increment fund, to pay the park impact fees for 200 Cityview Apartments

BACKGROUND: In August 2016, the Redevelopment Agency agreed to use tax increment to pay for the Park Impact fees for the development of 200 Cityview apartments due to the higher than anticipated construction bids PEG received.

The Parks and Recreation Department is now ready to improve the property identified as Assessor's Parcel Number 05:013:0027 and needs these Park Impact Fees to complete those improvements.

FISCAL IMPACT: \$442,974

PRESENTER'S NAME: David Walter

REQUESTED DURATION OF PRESENTATION: 15 Minues

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

Pursue economic development initiatives Eliminate blight

Provide a vibrant downtown environment

CITYVIEW OR ISSUE FILE NUMBER: 22-006

Redevelopment Agency of Provo City Corporation

Staff Memorandum

Appropriation of tax increment fund balance

December 16, 2021

Department Head

Bill Peperone 852-6402

Presenter

David Walter 852-6167

Required Time for Presentation
15 Minutes

Is This Time Sensitive

Yes

Case File # (if applicable)

Not applicable

Purpose of Proposal

 Approve the appropriation of tax increment fund balance to pay the Park Impact fees pursuant to the Memorandum of Understanding with PEG Development for 200 Cityview Apartments

Action Requested

 Staff recommends that the Redevelopment Agency Board approve the attached resolution appropriating the funds to pay the Park Impact fees for 200 Cityview authorizing the Chief Executive Officer or her designee to sign the Exclusive Right to Negotiate

Relevant City Policies

- Pursue economic development initiatives
- Eliminate blight
- Provide a vibrant downtown environment

Budget Impact

• \$442,974, Source of funds, fund balance Fund 274

Description of this item

- In August 2016, the Redevelopment Agency agreed to use tax increment to pay for the Park Impact fees for the development of 200 Cityview apartments due to the higher than anticipated construction bids PEG received.
- The Parks and Recreation Department is now ready to improve the property identified as Assessor's Parcel

| Number 05:013:0027 and needs these Park Impact Fees to complete those improvements. |
|--|
| • The attached resolution appropriates the funds from the Tax Increment fund balance. Staff recommends that the Redevelopment Agency Board approve the attached resolution appropriating the payment for Park Impact fees for 200 Cityview apartments and authorizing the Chief Executive Officer or her designee to sign any and all paperwork necessary for that transfer. |
| |

| 1 | RESOLUTION RDA 2021 | | |
|----------|--|--|--|
| 2 | | | |
| 3 | A RESOLUTION APPROPRIATING \$442,974 IN THE REDEVELOPMENT | | |
| 4 | AGENCY DIVISION IN THE TAX INCREMENT FUND FOR A TAX | | |
| 5 | INCREMENT POST PERFORMANCE PAYMENT TO THE PARKS AND | | |
| 6 | RECREATION DEPARTMENT ON BEHALF OF PEG DEVELOPMENT. | | |
| 7 | THE FUNDING SOURCE OF THE APPROPRIATION IS THE TAX | | |
| 8 | INCREMENT FUND PROPERTY TAX REVENUES. () | | |
| 9 | | | |
| 10 | WHEREAS, the Redevelopment Agency of Provo City Corporation entered into a | | |
| 11 | Memorandum of Understanding with PEG Development to pay impact fees for the development | | |
| 12 | of Cityview Apartments (Cityview) on August 16th, 2016; and | | |
| 13 | WHITEDEAG ALCO II. C. A. | | |
| 14 | WHEREAS, the funding source for the appropriation is Tax Increment Fund property tax | | |
| 15 | revenues received because of the development of Cityview; and | | |
| 16 | WHIEDEAC 4b. Dealer and Decreeding Description in the immediate income of the immediate | | |
| 17 | WHEREAS, the Parks and Recreation Department is now ready to improve the property | | |
| 18 | identified as Assessor's Parcel Number 05:013:0027 and needs these Park Impact Fees to | | |
| 19 20 | complete those improvements; and | | |
| 21 | WHEREAS, on January 04, 2022, the Redevelopment Agency of Provo City Corporation | | |
| 22 | Board met to ascertain the facts regarding this matter and receive public comment, which facts | | |
| 23 | and comments are found in the public record of the Agency Board's consideration; and | | |
| 24 | and comments are round in the public record of the rigology Board's consideration, and | | |
| 25 | WHEREAS, all persons for and against the proposed appropriation were given an | | |
| 26 | opportunity to be heard; and | | |
| 27 | | | |
| 28 | WHEREAS, after considering the Chief Executive Officer's recommendation, and facts | | |
| 29 | and comments presented to the Agency Board, the Agency Board finds the proposed | | |
| 30 | appropriation reasonably furthers the health, safety, and general welfare of the citizens of Provo | | |
| 31 | City. | | |
| 32 | | | |
| 33 | NOW, THEREFORE, be it resolved by the Board of the Redevelopment Agency of | | |
| 34 | Provo City Corporation of Provo, Utah as follows: | | |
| 35 | | | |
| 36 | PART I: | | |
| 37 | | | |
| 38 | The Chief Executive Officer is hereby authorized to appropriate \$442,974 in the Tax | | |
| 39 | Increment Fund of the Redevelopment Agency for a property tax increment post performance | | |
| 40 | payment to the Parks and Recreation Department of Provo City for the Park Impact fees | | |
| 41 | associated with the development of Cityview Apartments. | | |
| 42 | | | |
| 43 | PART II | | |

The Chief Executive Officer or their designees is authorized to make minor changes and

| 46 | to sign any other documentation necessary to facilitate this transaction. |
|----|---|
| 47 | |
| 48 | PART II: |
| 49 | |
| 50 | This resolution shall take effect immediately. |
| 51 | |
| 52 | END OF RESOLUTION. |