

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

1:00 PM, Tuesday, January 04, 2022

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

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

#### Roll Call

The following elected officials participated:

Council Vice-chair David Shipley, conducting  
Councilor Katrice MacKay  
Councilor George Handley  
Councilor Shannon Ellsworth  
Councilor Bill Fillmore  
Councilor Travis Hoban, arrived 1:19 PM  
Councilor Rachel Whipple, arrived 1:23 PM

*Excused:* Mayor Michelle Kaufusi

#### Prayer

The prayer was offered by Councilor Bill Fillmore.

#### Approval of Minutes

**November 8, 2021 Joint Meeting with State Legislators**  
*Approved by unanimous consent.*

#### Business

**1. A training on the Open and Public Meetings Act and on Government Records Access and Management Act (GRAMA) requests. (22-002) ([0:19:32](#))**

Brian Jones, City Attorney, presented. Mr. Jones reviewed information about the Government Records Access and Management Act (GRAMA) and how records are managed. GRAMA recognizes the public's right to access of information as well as the right to privacy. When these two rights are equal, the right to access is generally favored. The City Recorder is responsible for responding to GRAMA requests and within the city organization, department representatives may help coordinate the department's responses. He reviewed various scenarios for requests.

Councilor Bill Fillmore asked whether Councilors should refer information requests to the City Recorder. Mr. Jones said that is an option and he offered additional clarification between

requests for records versus requests for information. Mr. Jones continued with the presentation, outlining the process of responding to a request and gathering records. He reviewed guidelines the Councilors should consider as they respond to the records officer preparing the request. Mr. Jones highlighted examples of items that do or do not constitute records under GRAMA.

Mr. Jones reviewed the classifications of records, including public, exempt, private, protected, and controlled records. Councilor George Handley asked about voicemails and if voicemails are deleted how that should be handled. He also asked what the penalty was for overlooking or missing a record. Mr. Jones referred to a recent case involving Utah County in which the records in question did not exist and could not be provided on that basis. Mr. Jones also clarified that the statute is written such that the penalties only apply when there was intent to exclude relevant records, rather than someone inadvertently overlooking a responsive record. Mr. Jones resumed presenting on the categories of records and gave more detail on private, protected (specific categories identified by the state), and controlled records. If records contain partial information that crosses into a different category, redaction may be appropriate. Mr. Jones offered guidance on casual communications such as text or email and the implications under GRAMA.

Mr. Jones then presented on the Open and Public Meetings Act (OPMA). He outlined situations subject to OPMA and how this applied to the Council or to different types of committees. He also outlined situations which did not constitute meetings, open versus closed meetings, and the requirements for a closed meeting. A new element of the law passed in SB 72 prohibits the taking of a vote during a closed meeting except on a motion to end the closed session. Councilor Shannon Ellsworth asked what made up two-thirds of the seven-member Council; Mr. Jones confirmed that two-thirds is five Councilors. Mr. Jones reviewed the provisions for emergency meetings. Minutes and recordings are required to be kept of all open meetings and recordings are required for closed meetings, with one exception. Mr. Jones reviewed the availability of records and requirements for written minutes and recordings. Councilor Katrice MacKay asked if closed meetings are put up for the public to review the same way as open meetings. Mr. Jones explained that recordings of closed meetings are not made public and offered clarification on this. The violation of OPMA includes a criminal penalty for intentionally violating the law; he reviewed the consequences of inappropriate actions under OPMA. *Presentation only.*

## **2. A presentation regarding the Council Handbook. (22-002) (0:53:10)**

Brian Jones, City Attorney, presented. He focused on several chapters of the Council handbook, beginning with Provo's form of government. Mr. Jones outlined the powers and responsibilities of the Council and the Mayor. He reviewed the power and duties of the Council in more detail, offering clarification about the authority of the Council as a whole versus that of individual Councilors. Councilor Bill Fillmore asked for clarification about the police power. Mr. Jones clarified what is authorized under the police power by the state law and how this compares to other states versus Utah specifically. Mr. Jones continued with the presentation and highlighted several things the Council may not do, with some additional guidance on how to avoid abuses of the powers granted to the Council. One of the significant powers granted to the Council is executive oversight and Mr. Jones issued guidance as to the types and nature of oversight. Mr. Jones noted an unclear definition in state statute regarding the governing body of the city and he highlighted some of the legal questions raised by the definition, as well as how this impacted the

Council. Mr. Jones continued by covering ethics rules. He reviewed specifics of the Ethics Act which apply to the Council, as well as the process for declaring conflicts of interest. State law does not require recusal, but it is required under city code when the action produces an individualized material effect. Mr. Jones also reviewed special rules which the Council has put into place and how these apply to Council business. *Presentation only.*

**3. A discussion regarding redistricting for Municipal Council and School Board districts. (22-003) ([1:20:15](#))**

Cliff Strachan, Council Executive Director, presented. He thanked several staff members who have been involved with this effort. Mr. Strachan reviewed the timeline for the redistricting for the Council and Provo School Board districts to take place and the Council's role in that process. Mr. Strachan reviewed the requirements of the districts for each body. The 2012 maps were based on 42 precincts, whereas the 2022 maps will be based on 59 precincts. Precincts have varying populations between about 500 and 1250. Mr. Strachan shared a more detailed timeline for the redistricting process with an alternate timeline which would defer action to a later time. Mr. Strachan noted the potential for the Council districts to move from five districts and two citywide districts to a seven single-member districts composition. A memo was distributed to the Council addressing this in more detail. They have proposed a three-week period for the public to submit maps. The online mapping tool includes a feature that prevents duplicate submissions.

Phil Uhl and Stan McShinsky, GIS Analysts, presented the online mapping tool. Councilor George Handley asked how the student population was calculated and balanced within districts. Mr. Uhl explained some of the challenges of the recent census; due to BYU's closure during the pandemic and students leaving town early, students were likely undercounted in the most recent census as a result. Councilor Katrice MacKay asked about the Council map whether boundaries would need to be changed if the Council remained with the five-member districts. Mr. Strachan indicated the maps would likely need to be changed due to changes to the precincts. Mr. Uhl indicated that they gave feedback to Utah County regarding precinct areas but were somewhat limited as the precinct boundaries could not cross state legislative districts. Councilor Shannon Ellsworth asked whether the Council asked for districts to align with neighborhood boundaries. Mr. Uhl said that was not direction received from the Council. Councilor David Shipley asked how a decision on five- versus seven-member districts for the Council would play into the timeline. Mr. Strachan explained that the Council needed to move forward soon with the School Board districts. Mr. Shipley was supportive of the basic timeline and he also supported exploring seven districts. Councilor Bill Fillmore asked whether Council districts needed to align with the School Board districts. Mr. Strachan indicated it was not required but may be simpler. He noted that the School Board is required to have seven districts and may not have a citywide district.

Councilor Shannon Ellsworth indicated her support for seven districts. She felt any negative impacts of having seven districts would similarly apply to the current five districts. She also felt positively about this because so many citizens have expressed a serious desire to have more vocal representation. She thought doing so would allow better geographic distribution of Council representatives. Councilor George Handley was open to exploring the pros and cons. For a city the size of Provo, there was not strong evidence one way or another, so he was hesitant to change unless there was a compelling reason that the change would improve a problem the city desired

to fix. Council Vice-chair David Shipley suggested the Council move forward with the School Board districts and continue discussing potential changes to the Council district apportionment. Mr. Strachan indicated the process for staff moving forward to accommodate these requests. ***Presentation only. This item will return to a future Council meeting.***

**4. A discussion regarding the Parkway Village Tax Increment Finance reimbursement agreement - third payment - budget appropriation. (22-008) ([1:40:33](#))**

Keith Morey, Development Services Assistant Director, presented. Mr. Morey outlined the terms of the agreement and how this type of arrangement has played out in past projects. The Parkway Village group is entitled to a reimbursement of about \$37,000. ***Presentation only. This item will return to a future Council Meeting.***

**5. A discussion regarding the continued funding for the LeRay McAllister Fund. (20-007) ([1:43:57](#))**

Councilor George Handley gave a brief overview of the LeRay McAllister Fund, which is used to further agricultural preservation in the state. In 2017, the Council passed a resolution that encouraged the State Legislature to continue to fund this program. The Council is requested to consider a similar resolution now as there are several parcels in Provo which could benefit from this funding. Don Jarvis, Mayor's Sustainability Committee Chair, shared a map and brief history of the parcels. Councilor Shannon Ellsworth added to Mr. Handley and Mr. Jarvis's comments that during the last year the Quality Growth Commission considered disbursement of over a million dollars but received requests for 10 times that amount. It is challenging to make those decisions, so more funding directed to this program would allow more properties to be designated for open space. Councilor David Shipley clarified the contents of the resolution for the Council. Councilor Bill Fillmore asked how the properties are purchased with state funds; Mr. Jarvis explained that the state funds only comprise a portion of the funds used to purchase conservation easements, with funding from other private or nonprofit partners. In response to additional questions, Ms. Ellsworth, Mr. Jarvis, and Mr. Handley offered clarification about the process for designating preserved parcels and how private property owners have full discretion.

Ms. Ellsworth had recommended several edits. Several Councilors preferred a formal resolution. Mr. Shipley suggested since they did not have input from the Mayor, the Council should schedule the resolution for a future meeting. Councilor Katrice MacKay asked for clarification—the conservation easement still allows farming but prevents development. Mr. Handley explained that it allows the property owner to access some of the financial benefit that might otherwise only be available through development of the property while the space is preserved as agricultural use in perpetuity. ***Presentation only. This item will return to the Council Meeting on January 18, 2022.***

## **Policy Items Referred from the Planning Commission**

**6. \*\*\*CONTINUED\*\*\* An ordinance amending Provo City Code to adopt policies and procedures for the dedication of private streets and utilities. Citywide Application. (PLOT20210360).**

## Policy Items Referred from the Landmarks Commission

7. **\*\*\*CONTINUED\*\*\* 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) ([1:43:57](#))**

Bill Fillmore, RDA Vice-chair, chaired this portion of the meeting. David Walter, RDA Division Director, presented. He outlined the agreement for tax increment financing which was approved several years ago for the Cityview Apartments project. The resolution would appropriate funds and authorize the mayor to complete paperwork that would facilitate the development of a pocket park by Provo Parks and Recreation at the location of the Cityview Apartments. Mr. Walter gave a brief history of the parcel in question. Mr. Fillmore asked several follow-up questions about the proposal and invited any questions or comments. RDA Board Member David Shipley asked if this park would be a private or public amenity; Mr. Walter indicated it would be public and would likely include a public art component. *Presentation only. This item is scheduled to return to the Council Meeting on January 18, 2022.*

## Closed Meeting

The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with 52-4-204 and 52-4-205 et. seq., Utah Code. *None requested.*

## Adjournment

*Adjourned by unanimous consent.*