



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Agenda

5:30 PM, Tuesday, November 30, 2021

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

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Councilor Shannon Ellsworth

Councilor Bill Fillmore

Councilor George Handley

Councilor Travis Hoban

Councilor David Sewell

Mayor Michelle Kaufusi

Chief Administrative Officer Wayne Parker

City Attorney Brian Jones

Council Executive Director Cliff Strachan

Excused: Councilor David Harding and Councilor David Shipley

Conducting: Chair David Sewell

Prayer – Councilor Bill Fillmore

Pledge of Allegiance – Councilor Travis Hoban

Public Comment [\(19:45\)](#)

Chair Sewell opened public comment.

Jim Kearn, Provo, urged Council to vote against additional housing.

Melanie McCoard, Provo, asked council to read emails and urged citizens to join Facebook group “Our Provo” to stay abreast of items being discussed each council meeting.

There were no other comments from the public. Chair Sewell closed public comment.

Action Agenda

1. **Resolution 2021-41 consenting to the mayor’s appointment of the City Engineer for Provo City. (21-111) [\(27:10\)](#)**

Motion: An implied motion to approve Resolution 2021-41, as currently constituted, has been made by council rule.

Mayor Kaufusi presented and announced Gordon Haight had been selected as the new City Engineer. Mr. Haight has degrees in engineering from BYU and has served in other cities as Engineer, Assistant City Manager, and Economic Development Director. His experience and interpersonal skills made him well qualified for this position.

Councilor Fillmore applauded City Administration for finding such a great candidate and believed we will be served well with his appointment.

With no other council discussion, Chair Sewell called for a vote on the implied motion.

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Vote: The motion was approved 5:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, and Sewell in favor. Councilors Harding and Shipley were excused.

2. Resolution 2021-42 consenting to the mayor's appointment of the Chief of Police for Provo City. (21-111) (31:09)

Motion: An implied motion to approve Resolution 2021-42, as currently constituted, has been made by council rule.

Mayor presented and announced Fred Ross had been selected as the new Chief of Police. Mr. Ross started as an officer and rose to be a deputy chief during his career with Salt Lake City. He served as the UTA Police Chief which had allowed him to make relationships with other police chiefs throughout the state. He was humble and approachable, he understood our community, was a great communicator, and a family man. Mayor Kaufusi invited Chief Ross to say a few words.

Chief Fred Ross thanked council for opportunity and looked forward to working for citizens of Provo, the officers of Provo, and the mayor.

Councilor Fillmore personally extended a welcome.

Councilor Ellsworth extended welcome and invited public to reach out and get to know the new Chief and Police Department.

Chair Sewell mentioned he served on the hiring committee for this appointment. He said there were several candidates who he thought would be marvelous police chiefs. This selection represented the committee's opinion of appointing the best of the best.

With no other comments, Chair Sewell called for a vote on the implied motion.

Vote: The motion was approved 5:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, and Sewell in favor. Councilors Harding and Shipley were excused.

Consent Agenda - (36:35)

Items on the consent agenda are to consider routine and noncontroversial dealing mainly with the administration of Council business. The following items were on the consent agenda:

- 3. Ordinance 2021-42 granting Teleport Communications America, LLC a nonexclusive franchise to operate a telecommunications network in Provo City, Utah. (21-057)**
- 4. Ordinance 2021-43 amending the Provo City Rate Schedule to set electric service rates for distribution Voltage Pilot Optional Time-Of-Use (TOU) and Shared Solar in Provo City, Utah. (21-109)**

Both items were approved by unanimous consent.

The Provo Municipal Council recessed and convened as the governing board of the Redevelopment Agency of Provo.

Redevelopment Agency of Provo (38:20)

Conducting: Chair Shannon Ellsworth

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5. RDA Resolution 2021-RDA-11-30-1 to approve a real estate purchase contract between Redevelopment Agency of Provo City and Evkell, LLC for the sale of property at approximately 1000 West Center Street for a commercial development. (21-116) [\(38:45\)](#)

Motion: An implied motion to approve RDA Resolution 2021-RDA-11-30-1, as currently constituted, has been made by council rule.

This item was presented by Tara Riddle, City Ombudsman and Property Coordinator. The property was cooperatively owned by Provo City and the Redevelopment Agency (RDA) resulting in three parties in contract. The sales price would be \$835,000. Ms. Riddle noted that \$50,000 will be put into escrow to be distributed to Buyer for improvements made to the façade of the new warehouse building. Additionally, \$35,000 shall be placed in an escrow account for easement to be granted in favor of the city for future 'Welcome to Provo' signage on property. The total Revenue of \$750,000 would be split between Provo City and RDA; Provo City would receive \$592,139.25, minus closing costs and the RDA would receive \$157,860.75, minus closing costs. Ms. Riddle addressed concern over the Community Garden on property. The buyer had agreed to continue working with Community Action Services and Food Bank in hosting the community garden until they were ready to develop.

Chair Ellsworth invited public comment. There was no response to the request.

With no council discussion, Chair Ellsworth called for a vote on the implied motion.

Vote: The motion was approved 5:0 with Board members Ellsworth, Fillmore, Handley, Hoban, and Sewell in favor. Board Members Harding and Shipley were excused.

With no objections, the Governing Board of the Redevelopment Agency of Provo adjourned and reconvened as the Municipal Council with Chair David Sewell conducting.

Provo City Municipal Council [\(43:25\)](#)

Conducting: Chair David Sewell

Action Agenda

6. Resolution 2021-43 to approve a real estate purchase contract between Provo City and Evkell, LLC for the sale of property at approximately 1000 West Center Street for a commercial development. (21-116) [\(43:31\)](#)

Motion: An implied motion to approve Resolution 2021-43, as currently constituted, has been made by council rule.

Councilor Fillmore expressed appreciation for Tara Riddle and city staff on their hard work to secure aesthetics for a welcoming element.

Chair Sewell opened for public comment. With no comments from public or discussion from Council, Chair Sewell called for a vote on the implied motion.

Vote: The motion was approved 5:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, and Sewell in favor. Councilors Harding and Shipley were excused.

7. An ordinance amending Provo City Code Chapter 6.06. establishing nighttime brightness standards and zones. (19-102) [\(45:40\)](#)

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

John Magness, Policy Analyst, presented. The sign committee had been working on this issue for the past 6 months. No curfew was being presented. They decided that zones would be created to divide residential and commercial areas.

Chair Sewell opened for public comment.

Jeff Young of Young Electric Sign Company (YESCO) agreed with James Carpentier's letter sent to Council on the 16th day of November recommending that Provo stick with foot candle above ambient light approach. He spent numerous hours in Provo and received various readings with nit gun.

Danny Ramirez of YESCO discussed his concern for the business owners who were not being represented but would be affected most by this change. He proposed going back to committee so business owners could be represented. Mr. Ramirez stated if that was not possible, he agreed with James Carpentier's suggestion.

Rick Magness of YESCO seconded Danny Ramirez' comment of allowing more time for business owners to provide input.

James Carpentier of Utah Sign Association stated that the current standards provided by the study RP-39-19 are flawed and recommended existing standards be enforced and utilized. Mr. Carpentier proposed more time to be allowed for field study and volunteered to participate in the study.

Brian Brown of YESCO echoed comments of James Carpentier and coworkers of YESCO. He stated there were hundreds of customers who YESCO represented within the city. Mr. Brown recommended more time for discussion.

Chair Sewell closed public comment to allow for council discussion.

Councilor Hoban asked the YESCO team if the University Place sign was based on the same standards of the recommended limits. Jeff Young responded that he has not measured the University Place sign himself so he could not answer specifically. He urged council members to park at the hospital to view the signs and how they relate to each other.

Paul Evans of Provo suggested it would be helpful to have an idea of where the light zones would be located. He also wanted to have examples of local signs that were legal to compare to the recommended limits of both suggestions.

Chair Sewell explained that at the time of the study, the sign committee was not aware of a conversion method from foot candles to nits. He stated after reviewing James Carpentier's letter, the sign committee would be interested in reconsidering recommendation. He recommended that the Council continue this item for sign committee to have more discussion. Mr. Sewell also commented on differences between types of measurement methods.

Councilor Hoban stated he had a few more comments but wanted to allow other Council members the opportunity to ask any questions.

Councilor Handley recommended that the item be continued. He also stated that his concern was that this would become a war of brightness for businesses.

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Councilor Ellsworth stated she wanted to be fair to business owners but also wanted to make the city a safe place to drive. She did not want anyone to have a poor experience trying to navigate the city after dark.

Councilor Hoban expressed concern that the signs' brightness was being measured by ambient light. He wanted to create a standard that was not relative to ambient light so there was not a race and wanted the standard to be fair to business owners and citizens.

Chair Sewell answered Paul Evans questions regarding the lighting zones. He said that the standard under this proposal matched the zones of what was already set in the Code.

Chair Sewell called for a motion.

Motion: Councilor Handley made a motion to continue the ordinance until the sign committee could conduct an additional field study. The amended ordinance would then be the subject of the implied motion. The motion was seconded by Councilor Ellsworth.

Chair Sewell called for a vote on the motion.

Vote: The motion was approved 5:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, and Sewell in favor. Councilors Harding and Shipley were excused.

8. An ordinance amending Provo City Code to allow Accessory Dwelling Units (ADUs) in the Agricultural (A1), Residential Agricultural (RA), and Residential (R1) Zones and to refine the development standards for ADUs. Citywide Application. (PLOT20210345) [\(1:30:30\)](#)

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

This item was presented by John Magness, Policy Analyst. Mr. Magness turned time over to Melissa McNalley to present feedback from the planning commission.

Melissa McNalley, Analyst, mentioned the planning commission met last month and discussed the items with the committee to provide feedback and recommendations to council. She also mentioned during their discussion, they had several citizens call in and offer comment. One of the concerns raised was if this ordinance was made citywide, what the capacity of utilities would be, specifically water and sewer. Melissa said that Public Works was looking into this. Another concern was enforcement and how it will be handled. Zoning staff was present in discussion and answered some of those concerns. The recommendation provided from committee was first to have a phased approach starting with R1.10 zones. As the planning commission tried to decide which zones to include and exclude, they could not define a reasonable criterion to deny ADUs in one zone versus another. Their final recommendation was to pass ordinance as proposed.

Councilor Handley asked if the committee talked about enforcement issues. Melissa answered there were concerns were raised by zoning officers that included ensuring the units were owner occupied at the time the Rental Dwelling Permit was issued. They would review annually to ensure owner was still living in dwelling.

Councilor Fillmore asked if there was any discussion about Mr. Kearl's comment this evening regarding the massive reduction of wealth in our community.

Melissa answered that the experience of one committee member was that property values would increase with ADUs.

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Councilor Fillmore clarified that Mr. Kearl was convinced that if allowance of citywide ADUs and that it seemed like the committee hadn't discussed this as a serious concern.

Councilor Ellsworth asked Mr. Magness about the property values in the California after they passed the ordinance statewide. Similar question regarding the surrounding cities who have passed the ordinance.

John Magness answered that since the ordinance was relatively new to Utah, there had not been a large change. He mentioned that the first wave of people applying would be those that needed to come into compliance. The second wave would be mainly senior citizens who need extra income. The third and fourth wave would be people who are trying to purchase a house. In California, property values had continued to increase. John stated he did not expect the property values to be impacted that much.

Councilor Hoban stated his primary concern was about the enforcement. He asked if we had investigated the tools or resources to enforce and encourage owner occupancy?

Mr. Magness suggested sending this information to the zoning committee. He also mentioned the possibility of using utility billing to help monitor dwellings of residences that are not owner occupied. John stated this haven't fleshed it all out yet.

Councilor Hoban said he would love to see this investigated more. He wanted to ensure that owner occupancy was a priority to mitigate absentee landlords.

Councilor Handley echoed statements by Councilor Hoban. He stated the crux of the issue was reasonable enforcement. Mr. Handley also mentioned that citizens who own homes have the right to decide to allow an ADU on their property or not. He encouraged more information from enforcement side.

Councilor Ellsworth asked if the administration would be able to provide a sneak peek or adoption plan. She expressed that providing more knowledge to citizens would build confidence.

Bill Pepperone, Director of Community and Neighborhood Services, stated he was happy to provide the requested information. He pointed out that he was not convinced a large amount of people would rush to get accessory dwelling licenses. Mr. Pepperone recommended taking a phased approach if council was worried about a flood or rush of people.

Councilor Ellsworth also asked about occupancy allowances and gave two examples: 33 percent with three different occupancy allowances or a 66 percent with a uniform occupancy allowance. She asked which example would be easier to manage.

Bill Pepperone answered that the city preferred uniformity to allow for simplicity.

Councilor Fillmore stated he does not believe a citywide approach is the best choice. He stated his preference is to wait to see how other cities in Utah County are affected and to see what amendments are made in Legislature. He mentioned the issues citizens currently complain about is enforcement, he would like to see if more enforcement takes place within the next 6 months. He stated he is not convinced the city has the capacity to enforce or the will to enforce and monitor. Mr. Fillmore wanted more feedback from Community Development and Planning Commission. He stated his opinion is to allow ADUs incrementally instead of citywide.

Chair Sewell reminded council that they are straying into the council discussion portion of the agenda and recommended public comment be allowed prior to more comments from council members.

Councilor Ellsworth stated she felt like most council members agreed to continue this item and asked if council should let the public know that was their intent, so citizens did not have to stay longer.

Chair Sewell discussed the intent of the agenda item was to hear feedback during the public comment and not vote until next meeting.

Chair Sewell opened item for public comment.

Jana Garrett of Provo stated she had lived in Provo for more than 30 years. She mentioned this is not her first time commenting on defending her single-family neighborhood. Ms. Garrett called the city to ask about enforcement and was told the city relied on neighbors to police neighborhoods. She said she had personally spoken to neighbors and asked that they comply with City Code. She has serious doubts in the city's ability to enforce. When single-family homes were originally built, they were built with a single family in mind, which made on-street parking an issue. Ms. Garrett felt like this change would negatively affect neighborhoods. She Believed there were certain areas of the city where ADUs could be allowed but there are also areas where single-family neighborhoods should be protected. She respectfully requested that council votes no on this change.

David Wright of Provo and neighborhood chair in Rock Canyon Neighborhood stated he has had many conversations with numerous people regarding this bill. He proposed that council reads HB-82. He stated that Provo City was already at 68 percent but BYU campus was not included in those percentages. Mr. Wright requested that council look at the numbers again.

Austin Taylor of Provo stated he was a homeowner in the Dixon Neighborhood and had an ADU. He discussed his work with the zoning department and said he believed the city was capable of enforcement. Mr. Taylor stated that Salt Lake City did not experience the floodgates that Provo had reservations about. He mentioned that we should be looking at this as a benefit to people instead of looking at people as a burden. He also stated we should be saying Welcome Home to neighbors. Mr. Taylor requested council to move forward with change to legalize ADUs citywide.

Hugo Boren of Provo, read a statement on his neighbors' behalf. The letter stated the issue was not older couples renting basements for supplemental income but rather the entrepreneurs who would be using an ADUs as an investment while living outside the residence.

Melanie McCoard of Provo stated in absence of ordinance approval, ADUs would be allowed everywhere. She asked council if pending legislation, new applications could be placed on hold. She believed Shannon was trying to get this ordinance passed before Dave Harding's term ended and that they were both trying to get it passed too quickly. She believed applying this citywide was a mistake and it should be applied surgically. She requested more action and consideration to be taken first.

Samantha Lao, a graduate student of BYU, stated she fits the demographic of those looking for an ADU. She mentioned that being a student who was looking for housing in Provo had been difficult. Ms. .Lao Believed owner occupied ADUs were a great resource to have. Said her sibling lives in an owner occupied ADU and enjoys it. Also stated that she lives in an apartment next to ADU home that is run down. She expressed her concern for safety and felt that enforcement should include on-site living. She believed that homeowners should be allowed to open their home if they decide to.

Rachel Benson of Provo said she was surprised that more of the realtor community had not been made aware of this. Stated she has owned three homes with basement apartments and believed it was beneficial for many residents seeking homes. She had multiple families looking to purchase homes with an ADU for supplemental income. Ms. Benson expressed that with proper enforcement and permitting, ADUs should not affect neighbors. She also mentioned people are willing to pay more for ADU options.

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Laura Middleton of Provo expressed opposition for citywide approach. She stated that affordable housing needed to be looked at, but this was not the answer. She said ADUs should be in areas that are equipped with infrastructure that can handle more residents. Ms. Middleton Hoped council would vote against citywide ADUs.

Brian Henry stated that every city in Utah County allowed ADUs except for Provo. He said Orem lists address of all legal ADUs online. He said that illegal ADUs would be a problem whether it is approved or not but approving it allowed more individuals to participate in having an ADU the right way. Mr. Henry did not believe this would overtake and destroy neighborhoods. He suggested council move forward with change.

Paul Evans of Provo stated that since Provo city had a two person occupancy limit prior to HB-82, they could still limit the occupancy to two people even though HB-82 suggests a three person limit. He asked why Provo City Code required internal connection but it was not even mentioned in HB-82. Further, he stated that Provo City can and must take enforcement action based on our own City Code.

David Magleby of Provo said he had been resident of Provo for over 40 years. He thought that not facing reality that BYU housing would increase demand of rental apartments for much of Provo. He asked why citywide instead of incremental and said a small change would suffice. Mr. Magleby also asked why not demonstrate a serious effort of enforcement. He has not had good experience with city zoning officials and did not have confidence that new or changed enforcement would be real. He said enforcement should be demonstrated and warned that there was no going back so we need to have a plan. Property owners had expectations for zoning and making this change fundamentally altered the property rights of owners.

Maureen Adams of Provo said she is in support of what David Magleby said. She did not see any reason why we could not pursue the change incrementally. She urged the council to set up plan for better and more effective enforcement so all areas of Provo do not feel like BYU areas. Ms. Adams was afraid that there would be an increase in absentee landlordism and without proper enforcement, the character of Provo would degrade.

Chair Sewell closed public comment to allow for council discussion.

Brian Jones responded to public comments. He agreed with Mr. Wright that we should focus on the 67 percent of areas that ADUs may be prohibited. He read a section of HB-82 which said, "in any area zoned primarily for residential use, the use of an internal accessory dwelling unit is a permitted use." He said that HB-82 makes ADUs a permitted use in all residential zones in the state. He went on to say that HB-82 then allowed cities to ban up to 67 percent of areas zoned primarily for residential use. Mr. Jones said the Public Facilities Zone, which included BYU, had a purpose and objective statement which stated it is for public services and does not include residential. He answered a question that Ms. McCoard asked about pending legislation, as well as Mr. Evans question about occupancy limits.

Councilor Handley stated it would be less expensive to allow ADUs than to expand more housing areas in west Provo.

Councilor Ellsworth said that in January of 2021, she became aware of HB-82 and started working with other cities. She said the concern primarily was that ADUS's were required in every city without exception. She stated that she fought for individuality of cities, and it resulted in the flexibility provided for college cities. She was in support of ADUs but was concerned about the code enforcement. Ms. Ellsworth believed we could trust city staff and their belief that they can adequately provide proper and effective enforcement.

Brian Jones mentioned that his intent with his previous comments was not to take a stand on what the council should do but to provide the information on what the State Legislature says regarding the consequences of not acting.

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Chair Sewell asked Brian Jones about the motion from the previous meeting and if a new motion would be needed to continue.

Brian Jones answered that if two council members moved for the item to be continued, it would have to be.

Motion: Councilor Handley made a motion to continue the ordinance. The motion was seconded by Councilor Fillmore.

Chair Sewell called for any other council members comments.

Councilor Hoban said he is in support of ADUs but has reservations on moving so quickly. Proposed staff to come to next weeks meeting with a few options/ideas for further discussion to see what the best solution would be moving forward.

Councilor Ellsworth stated she drafted an email to staff for 3 alternatives that have some decent rationale.

Cliff Strachan reminded council that they need to identify 4 areas to determine what the proposed policy would be.

Councilor Ellsworth responded that most council members are on the same page with their proposal.

Brian Jones stated that there should not be many changes to what has already been written in the policy draft. He stated that after some language was added, they hoped council will be able to reformat the scope piece of the draft to modify the verbiage on the fly in the next meeting.

Chair Sewell suggested two options to consider regarding the addition to the four zones added and if the question should be asked to neighborhoods.

Councilor Fillmore asked if anyone had given any thought to which areas of the city would have more desire to allow ADUs as opposed to council deciding.

Chair Sewell answered that was a mechanism for neighborhoods to apply for zone changes that had happened in recent years.

Councilor Ellsworth stated that a quick way to find out which neighborhoods were in favor would be to allow ADUs citywide then see where we see the biggest impact. She did not want to get that granular unless there was a poll of every subdivision. Said that council was elected to make these kinds of decisions. She talked about how Logan City selected which areas would be included in the allowance of ADUs with respect to the campus.

Councilor Fillmore said the fundamental flaw of Councilor Ellsworth's suggestion to open it up citywide was that it would be nearly impossible to reverse.

Councilor Ellsworth stated that her suggestion would be one way to determine the percentage of respondents but acknowledged it was not the only way.

Councilor Fillmore suggested they find a feasible way to get feedback from each neighborhood.

Councilor Hoban agreed with the statement from Chair Sewell that there might be some rationale behind the larger zones/lots. He asked Brian Jones if Provo City must achieve the exact percentage the bill required or if close enough would be sufficient.

Brian Jones responded that the Legislature wanted action. He did not see the risk being terribly high.

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Councilor Hoban asked that the options being presented by staff in future meetings would define how it would get Provo to achieve 67 percent.

Cliff Strachan said there was a practical challenge in how council determined if neighborhoods wanted ADUs. He reiterated that the housing committee would be meeting again and would present in the next work meeting.

With no other council discussion, Chair Sewell adjourned the meeting.

Adjournment: The meeting was adjourned by unanimous consent at approximately 8:30 PM