

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, June 07, 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 Chair Travis Hoban, conducting  
Council Vice-chair George Handley  
Councilor Shannon Ellsworth  
Councilor Katrice MacKay  
Councilor Bill Fillmore  
Councilor Rachel Whipple

*Excused:* Mayor Michelle Kaufusi and Councilor David Shipley

#### Prayer

Mark Eyo, Council Intern, offered the prayer.

#### Approval of Minutes

May 3, 2022 Council Meeting  
May 17, 2022 Council Meeting  
*Adjourned by unanimous consent.*

#### Business

1. **A resolution imposing fire restrictions due to hazardous environmental conditions. (22-048) ([0:12:47](#))**

Chief Jim Miguel presented. This resolution would close all the wildland areas to open fires and also gives the Fire Department the ability to enforce homemade fire rings and campfires in areas where it is not safe to have open fire. Councilor Shannon Ellsworth asked about the date. Chief Miguel indicated that by law, the Fire Marshal has enacted this and to be official, it requires the concurrence of the Council. The Fire Marshal has the legal right to do this prior to Council approval, but this is the process they typically follow. *Presentation only. This resolution was already scheduled for the Council Meeting on June 7, 2022.*

**2. An ordinance amending Provo City code to conform with Utah code requirements regarding emergency meetings of the Provo City Municipal Council. Citywide application. (22-041) (0:15:27)**

Gary Millward, Deputy City Attorney, presented. City code did not conform to state law in two regards for noticing emergency meetings: city code specified broad and general notice, while Utah code requires emergency meetings to be noticed in a specific nature. Under state law, an emergency meeting requires the approval of the majority of the Council (rather than only the approval of the Council Chair as in city code). This ordinance would amend city code to bring it into alignment with state code. *Presentation only. This resolution was already scheduled for the Council Meeting on June 7, 2022.*

**3. A presentation regarding a General Plan timeline update. (22-011) (0:17:12)**

Bill Peperone, Development Services Director, presented. They received over 900 responses from citizens on the survey conducted by Y2 Analytics on the General Plan. Mr. Peperone recommended that the City maintain a land use map as an accompaniment to the General Plan. He highlighted several elements that would be included as General Plan appendices as well as other components that would be completed separately so as not to delay adoption of the General Plan. Mr. Peperone highlighted the timeline for completion of the General Plan. The Conservation and Resiliency Plan will follow shortly after it; staff have been working with departments and collaborating on this plan while the main general plan survey was conducted.

Councilor Shannon Ellsworth asked what about the public participation for the water section required in the General Plan. Mr. Peperone indicated that any engineering plan, like the transportation master plan, would come to the Council for adoption, and would include a public hearing. Ms. Ellsworth was interested in the Council seeing earlier drafts of that document, rather than only seeing a final draft. Mr. Peperone indicated he would pass on that feedback to city engineering staff. *Presentation only.*

**Policy Items Referred from the Planning Commission**

**4. An ordinance enacting Provo City Code Chapter 14.14D (Mixed-Use Zones). Citywide application. (PLOTA20220144) (0:23:12)**

Javin Weaver, Planner, presented. He summarized many of the relevant sections of city code, the general plan, and neighborhood and area plans that refer to mixed use elements. Mr. Weaver displayed maps illustrating the areas referred to in these plans as appropriate locations for mixed uses or mixed-use zones. This ordinance would simply enact the mixed-use zones and would not apply rezones to any of these properties. Mr. Weaver also highlighted the permitted uses under the mixed-use zones as well as requirements for the mix of different types of uses within the zone. Some uses are applicable only for properties meeting specific zoning adjacencies.

Councilor Shannon Ellsworth asked about the 10,000 square-foot commercial component that is required. Mr. Weaver explained that a property must have at least a 20,000 square-foot area to have housing components under the mixed-use zone. Ms. Ellsworth clarified that 10,000 square-

feet creates a feasible massing for commercial use. Councilor Katrice MacKay was concerned whether this proposal would open up neighborhoods to inappropriate commercial uses. Mr. Weaver clarified the requirements for submitting a mixed use development proposal—the process is much more extensive if the area is not zoned or designated in the General Plan for mixed-use. Ms. Ellsworth referred to the recording studio question which was a minor or a major home occupation business, which has a lengthy list of requirements. Mr. Weaver explained the process for in-home businesses, which are evaluated based on the impact to the surrounding neighborhood and have different requirements. Ms. MacKay asked if there was language that could be added to this ordinance to indicate that a mixed-use development couldn't be placed in a primarily residential area. Gary Millward, Deputy City Attorney, clarified that this chapter creates the requirements of the zone, but that the discretion for applying the zone to certain properties is a decision of the Council at the time of future rezone applications.

Mr. Weaver reviewed some of the requirements for the mixed-use zones, including building heights and residential components in commercial projects. Councilor Travis Hoban asked about why the 800-square foot average was removed for housing. Bill Peperone, Development Services Director, shared some insight in response to this question. A developer came in and asked about doing a building of 300-350 square foot microunits. Council asked staff to look at ways to address that issue. Comparing Provo apartment complexes with those of surrounding cities, it became clear Provo is getting more studios and one-bedroom units, while other communities were getting two- and three-bedroom units. Although the data showed this, Mr. Peperone pointed out that a more urban area like Provo with more transit is more likely to get smaller units. They should have been comparing Provo with other cities with strong downtowns and urban corridors. Mr. Peperone indicated some developers have projects in process where they are really trying to make the square footage work, and it is not always possible—some of these decisions will ultimately be up to the Council. They are loosening the requirement here because smaller units would be able to work without having to enforce an average unit size. Mr. Hoban asked how this would impact parking and parking projections. Mr. Peperone said that studio and one-bedroom units typically need 1.5 parking spaces per unit. The parking ratio, building height, and property setbacks are the factors in determining your density.

Mr. Weaver explained that these zones primarily function as a residential zone, so they matched the design standards of residential zones. Mr. Weaver shared images and examples of different projects that utilized a lower square-foot unit size. Ms. Ellsworth commented on the types of appliances in these units—she hoped these could be full-scale appliances to allow residents to stay in units for longer periods of time. She asked if “stove” was defined in the ordinance. Ms. MacKay wondered whether dishwashers should be required. Mr. Weaver indicated that developers found tenants usually wanted them, so they kept it as a requirement. Mr. Weaver reviewed the sign code for mixed-use areas—this section was taken from and based on the existing sign ordinance. Ms. MacKay clarified that the ordinance had a minimum of 500 square feet and Mr. Weaver confirmed this was the case.

Mr. Morey commented that as the market continues to respond to the demands and increase of housing costs, developers are trying to respond to that demand for smaller units. Councilors discussed market demand and how this might shape the future of housing in Provo. Mr. Hoban asked if this was the right fit for Provo, given that much of the County's affordable housing was

already located in Provo. Ms. Ellsworth did not think it was necessarily an answer to affordable or the missing middle housing; she saw it mainly as another option for developers to allow flexibility as they consider projects. Ms. MacKay saw the need for this type of housing, and she particularly liked situating amenities, storage, and parking along with this kind of housing. Councilor Rachel Whipple thinks the city will have demand for this type of product; she noted the Motel 8 that was converted to small housing units illegally as an indicator of the demand. Mr. Peperone indicated that a lot of these provisions seem obvious but many of them came out of a project where a developer tried to do this illegally. Mr. Weaver also indicated they were adding the neighborhood mixed use and mixed use zones to the existing residential design standards, parking standards, and landscaping standards. *Presentation only. This item was already scheduled for the Council Meeting on June 7, 2022.*

**5. A presentation regarding a comparison of General Fund revenues per capita in Utah cities (22-016) ([1:05:11](#))**

John Magness, Interim Council Executive Director, presented. Different cities structure their general plan in slightly different ways—airports, parks and recreation departments, and cemeteries are treated differently by various cities. Next year, staff will evaluate these factors more closely in order to provide a more useful comparison. Mr. Magness highlighted the cities used in the comparison and noted that West Jordan, although located in Salt Lake, is very similar in population and structure to Provo.

Provo comes in near the high end of the total general fund expenditures. For per capita spending, Provo is towards the low end at \$583.03 per capita (which means that the City is providing more services for lower costs to residents). Councilor George Handley asked for some clarification about how these graphs compared. In response to a question from Councilor Travis Hoban, Mr. Magness explained that some of the larger or more established cities utilize enterprise funds which changes how general fund is used.

Wayne Parker, CAO, shared comments. There are some substantial fixed costs for the city regardless of the population. It makes it a bit easier for larger cities to be more efficient. For cities that have a large employment base in the city, that also helps defray some of the costs for taxpayer residents. *Presentation only.*

**6. A presentation regarding the relationship between utility rates, property tax rates, and fees. (22-016) ([1:27:54](#))**

John Magness, Interim Council Executive Director, presented. He highlighted how utility rates, property tax rates, and fees and how these are interrelated and can impact the City during a recession. Mr. Magness addressed the usual financial trends in city fees and taxes during a recession. Property tax typically remains a stable revenue source, while fees and sales tax typically experience reductions during a recession. Mr. Magness reviewed Provo's revenue makeup of different types of fees and taxes, general fund revenues, and enterprise fund transfers. For some of the utilities, if residents conserve and spend less on utility fees, the City can usually recover those costs by purchasing less of the commodity in question. The impact, however, will be felt more in the context of the enterprise fund transfers to the general fund, which would be

impacted. Research shows that cities that have a strong general fund balance can usually survive a recession by making short-term cuts and being more prudent with fund balance. Mr. Magness noted some situations in Provo that would uniquely help the City during a recession—since many of the properties in Provo are owned by non-profit entities, the City has relied on City utilities making a transfer from the enterprise funds to compensate. Provo also owns its own power utility, which research has shown helps cities better weather an economic downturn.

Councilor George Handley commented on the utility transfer and asked why the publicly owned power company helps during a recession. Mr. Magness said the research was sparse on that point; Mr. Handley shared some observations, including that publicly owned power companies returned the cost savings to citizens instead of collecting that as profit. Councilor Katrice MacKay also commented on this subject with some observations about Provo Power and the benefits it has for the City and for residents and utility users. Ms. MacKay also highlighted how much some large commercial entities such as the hospital and BYU pay toward public power, so although they don't pay property tax they contribute significantly in ways that are captured toward the general fund.

Councilor Bill Fillmore asked what percentage of his property tax bill was for the City. Mr. Magness responded with additional details on this; the City has not received this year's property tax mill rates from the County. Wayne Parker, CAO, said the City is generally usually somewhere between 20-22% of a typical resident's County property tax payment. Mr. Magness indicated that property tax makes up 7% of this year's general fund revenues. About 35% comes from sales tax. Mr. Fillmore asked what percentage comes from other sources. The utilities transfer into the general fund accounts for about 20%. Other fees include franchise fees, fees for services, RAP tax, B&C roads, licenses, fines, miscellaneous, and other. Mr. Fillmore asked for a chart illustrating these general fund revenue sources.

In response to several Councilors' questions about sales tax, Mr. Parker clarified some aspects of sales tax. All sales tax is collected by state tax commission. Of the amount collected, 50% is distributed to jurisdictions based on the point of sale and the other 50% is distributed based on population. This balance has been pretty effective for helping local gov taking care of their needs. Mr. Handley commented on how infill is less costly to the city in terms of new infrastructure needed; he suggested this as a factor when creating housing policy.

Ms. Whipple question asked how they update the population numbers. Mr. Parker indicated the population figures are recalibrated every 10 years with the census. Then every two years, the state does a two-year population estimate and the sales tax is adjusted every two years based on that. Mr. Fillmore asked for Mr. Parker's thoughts on how the 2020 Census went. Mr. Parker relayed some of the challenges with accuracy due to the early pandemic. Census tracts besides those located near BYU showed significant growth, but in the final numbers this was offset by lower populated census tracts near campus where students went home early during the semester due to the pandemic. The Administration is making a major effort now to work with the State about making a realistic two-year adjustment. Dixon Holmes, Deputy CAO, also shared comments on the 2020 Census. **Presentation only.**

**7. A presentation regarding the Consolidated Fee Schedule for the FY2023 budget. (22-016) ([2:03:17](#))**

Kelsey Zarbock, Budget Officer, presented. She noted that there were extensive changes to the Consolidated Fee Schedule. The tentative budget book includes a lot of detail and there is also a summary of changes. Ms. Zarbock referred to the full fee schedule document, which will be adopted as an exhibit in the final budget ordinance. She reviewed a detailed summary of the fee schedule changes, providing additional context on the changes and effective dates where applicable. Councilor Bill Fillmore asked which fees Finance thinks are not recovering costs. Ms. Zarbock thought most fees were probably in line but could benefit from a review compared to state code and what the city is allowed to charge. She would suggest Development Services fees for a review. John Borget, Bill Peperone, and Hanna Mauga all worked closely with those fees. Ms. Zarbock said she could pass along that feedback. *Presentation only.*

**8. A presentation regarding the Council's budget intent statements and priorities. (22-016) ([2:10:07](#))**

John Magness, Interim Council Executive Director, presented. Mr. Magness reviewed the draft letter that Council staff prepared under the Council's direction regarding the Council's budget priorities. Councilor George Handley wanted to clarify several aspects of the letter. One item related to public safety in the area surrounding BYU campus; Mr. Handley recognized that there were broader issues for many areas of the city that the Police Department could be more proactive about if they had more resources at their disposal. He welcomed input from Police Chief Fred Ross in this conversation. Councilor Katrice MacKay commented on cyber-security; she wanted to ensure that the City was addressing backups and the patches for the existing system. Mr. Magness confirmed that those items were contemplated in the Council priorities. Mr. Magness reviewed the other priorities included in the letter. He noted that the Slate Canyon and Rock Canyon Plans may be able to be moved up on the CIP list depending on the availability of funds. Some of the other priorities were simply not funded due to most of the increased revenues going toward the 5% cost-of-living increase.

Councilor Shannon Ellsworth asked if all of these items had at least four Councilors in support. Councilor Bill Fillmore said he supported everything on the list. He did note his concern about the lack of support for roundabouts on Slate Canyon Drive. It seemed like area residents showed more support for code enforcement. Ms. Ellsworth thought there were a number of issues there and opinions of residents in the area varied somewhat based on where specifically they lived. She was supportive of this as a speed management solution, as that is the biggest complaint. She was concerned that the Council made code enforcement a priority the previous year and yet still have not received an accounting of how additional funds were used and don't have any performance measures. She thinks that is a broader and separate conversation and would be helpful to discuss in a future work meeting. Mr. Fillmore did think the monthly reports from the zoning administrator were very helpful.

Mr. Handley also expressed support for everything on the list. He noted that a five-year plan for public safety staffing was crucial. Mr. Handley noted that the City has made an expanded commitment to public safety through sales tax; he was concerned about the viability of this

funding mechanism and whether it would be sustainable over time. He thinks that is an important conversation that needs to happen. Mr. Fillmore supported Mr. Handley's comments about public safety and thought the City needed to be proactive about the long-term plans for public safety. Mr. Magness will submit the final letter to Mayor's office. *Presentation only.*

**9. A presentation regarding current budget changes and reconciliations requested by the Council. (22-016) ([2:26:53](#))**

Kelsey Zarbock, Budget Officer, presented. There have been a few changes to the budget, which are listed in detail showing debits and credits, as well as the status and source of the corrections. The meeting packet also includes a one-page summary that details how the changes impacted other things in the budget. Ms. Zarbock reviewed these corrections to the budget and provided additional clarification on each. The budget errors resulted in savings to the final budget total of about \$1.3 million. *Presentation only.*

**10. A presentation regarding potential new budget changes requested by the Council. (22-016) ([2:39:13](#))**

John Magness, Interim Council Executive Director, presented. If the Council would like to propose any changes or requests with the budget, these should come from a majority of Councilors. The first budget hearing would be at the Council Meeting that evening, with a second hearing in June. Councilor George Handley asked what information would be needed for the Council to discuss Truth in Taxation. Mr. Magness indicated that the Council making a motion and voting on it would be helpful in order to initiate the process and signal the Council's intent. If this takes place, the Council's budget adoption would be delayed until August. The fee schedule, pay tables, Redevelopment Agency, and Stormwater Service District budgets would all still be approved, along with a tentative budget, in June in order to facilitate the process in the meantime. Mr. Handley asked if the Council would have more time before August to review new projections of revenue based on a tax increase. Mr. Magness indicated that would be the case.

Councilor Bill Fillmore asked what would be the nature of the motion that night. Gary Millward, Deputy City Attorney, explained that if the Council decides to do truth in taxation, it triggers a series of public hearings and notification to Utah County. During that time, they have to either adopt last year's budget or this year's tentative budget in order to function through early August. In the motion they also have to indicate the maximum increase to the mill rate that the Council would consider. Mr. Fillmore asked if the motion would simply be a motion to start the process, or does it need to be a Council commitment to the hearing. Mr. Millward said the Council has until the end of June to trigger the process, so they could wait two more weeks to do this.

Brian Jones, City Attorney, addressed this question. Once the Council passes the resolution, the process is triggered. The Council can go through the process and decide not to raise the tax in the end, but starting the process commits them to following the entire process, including public hearings and the revised budget adoption timeline. Mr. Jones indicated he could help prepare language for that motion. Mr. Fillmore asked about what model to use for a tax increase. Mr. Magness explained there would be several different models the Council could follow. Staff have not yet received the new mill rates from Utah County; staff recommend using a 10-year rolling

average based on the western states Consumer Price Index. Mr. Fillmore asked about possible methodologies for making inflation adjustments on a more consistent basis. Mr. Magness indicated the Council could write into City code that there would be an automatic truth-in-taxation process each year unless the Council took an affirmative action to not pursue it.

Brian Jones, City Attorney, indicated that the required public notice only needs to list the proposed percentage by which the property tax budgeted revenue is going to increase. Staff can draft language to this effect. *Presentation only.*

### **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.

**Motion:** Rachel Whipple moved to close the meeting. Seconded by Katrice MacKay.

**Vote:** Approved 5:0, with David Shipley and Shannon Ellsworth excused.

### **Adjournment**

*Adjourned by unanimous consent.*