

1 **PROVIDENCE CITY COUNCIL MEETING MINUTES**

2 **January 9, 2007**

3 **Providence City Office Building**

4 **15 South Main, Providence, UT**

5  
6 **Call to Order:** Mayor Simmons

7 **Roll Call of City Council Members:** Mayor Simmons

8 **Pledge of Allegiance:** Boy Scout Troop 357

9 **Opening:** Stacie Gomm

10  
11 Mayor Simmons welcomed everyone to the City Council meeting and invited Boy Scout Troop 357 (Riley  
12 Miller and Samuel Palmer) to lead the audience in the pledge.

13  
14 **PRESENTATIONS AND PROCLAMATIONS:**

15 Item No. 1. Thank you to Blaine Sorenson for serving two terms on the Planning Commission.

16 Blaine Sorenson was not in attendance.

17  
18 **APPROVAL OF THE MINUTES for the December 12, 2006 City Council meeting.**

19 Motion to approve the minutes for December 12, 2006 – D Johnson, Second – R Liechty.

20 Corrections: On page 3 of 7, line 46, blue dog democrat should be in quotes.

21 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty, T Rasmussen

22 Nay: None

23 Abstained: None

24 Excused: None

25  
26 **PUBLIC COMMENTS:**

- 27
- 28 • Linda Goetze encouraged the Council to vote for the inner block changes. She feels the Council  
29 was given a good opportunity to resolve traffic and public safety issues and should quickly  
30 incorporate the Provo livability standard discussed by the advisor hired by the City. She  
31 encouraged the Council to adopt similar standards for Providence. She explained that the  
32 standards adopted by Provo state that no residential street shall exceed 1800 cars per day. She  
33 admonished the Council to act quickly because over 200 acres are coming before the Planning  
34 Commission for rezone at the upcoming meeting. She also presented figures for traffic flow on  
35 various streets. She explained to the Council that 200 acres at four homes per acre comes to a total  
36 of 800 homes; 10 cars per home equals to 8,000 trips per day. She admonished the Council to act  
37 quickly in terms of livability standards for the roads.
  - 38 • Mayor Simmons would like Linda Goetze to e-mail him the links to the Provo City ordinance and  
39 he will make sure the Council receives a copy.
  - 40 • R Liechty questioned where she received the numbers being stated. She explained that it is in the  
41 Provo standards.
  - 42 • S Bankhead commented that she has a hard copy of the data Linda Goetze provided and will  
43 supply the information to the Council.
  - 44 • Linda Goetze also informed the Council that she helped to gather signatures on the petition  
45 requesting that a vote be held for the Redstone rezone, and those gathering signatures didn't have  
46 any trouble getting almost 1200 signatures. She believes the citizens want less development which  
47 will curtail traffic.
  - K Baker explained that the numbers she has seen suggest more cars use the roads per day than

1 what Linda Goetze presented.

- 2 • Linda Goetze feels that the City Council does have legal ways to stop new growth from  
3 subdivisions and feels that the Council should use a traffic engineer.
- 4 • S Gomm wondered if the standard should be adopted by ordinance or practice.
- 5 • Sharell Eames thanked Linda Goetze for her input and feels that she is not a vocal minority.
- 6 • Ron Smith acknowledged that he also helped gather names on the petition. He explained that he  
7 grew up on Long Island when there was massive growth. He saw land developed to make room  
8 for growth without enough parks and green space. He encouraged good planning.

9 •  
10 **NEW BUSINESS:**

11 **Item No. 1. Discussion. Jodi Hoffman and Neil Abercrombie, from the Utah League of Cities &**  
12 **Towns, will discuss land use concepts.**

- 13 • Mayor Simmons presented the fact that homeowners in PUDs (Planned Unit Developments) have  
14 asked the City to take over maintenance on their roads. He introduced Neil Abercrombie, who has  
15 been looking at the issue for the League of Cities and Towns, and Jodi Hoffman, who is a land use  
16 attorney working with the League. He invited Jodi Hoffman and Neil Abercrombie to identify for  
17 the Council what a PUD is and how they came about. Jodi Hoffman is currently involved with  
18 land use ordinances in the State legislature.
- 19 • Neil Abercrombie stated that growth has caused an increase in homeowner associations across the  
20 United States. The role of an HOA (homeowners association) is to provide lawn care,  
21 tree/shrubbery care, trash collection, water or sewer, street lighting, snow removal, sidewalks,  
22 recreation, and security. He explained the covenants, restrictions, and regulations in an HOA. He  
23 stated that there can be benefits of homeowners associations but questions how the partnership is  
24 working with the city government. He feels that the State code is vague in how cities are to govern  
25 with homeowners associations because they are not consistent across the nation.
- 26 • Jodi Hoffman feels that a push on broader statutes should be stressed to make it fair. Beaver  
27 Creek Colorado has a police force administered by a homeowners association. She explained that  
28 rights are not protected like it is with government.
- 29 • Neil Abercrombie said there is an incentive for many cities to have homeowners associations  
30 because the developer pays for the needs. The big question is who is going to continue to pay for  
31 infrastructure after the developer makes a community. The city usually has to take over the private  
32 roads. The city should ask the developer who is to take over those kinds of services. There is a  
33 perception of double taxation because citizens don't know where their property taxes go. In  
34 homeowners associations, it is easier to see where the money goes. He said his presentation is  
35 much more of a policy question area than providing answers. High growth areas are experiencing  
36 the most homeowners associations. He advised the Council to understand what the partnership is  
37 with an HOA and how it can be dealt with. He requested that the Council contact him if they have  
38 questions.
- 39 • Mayor Simmons asked if the same standards can be applied to streets within PUDs as to regular  
40 development in subdivisions. Jodi Hoffman advised him to hold to the same standards as PUD  
41 streets because there is a chance they will become City roads.
- 42 • Jodi Hoffman advised the City Council to assume to resist HOAs as long as possible. Be prepared  
43 to have them come, and become a public responsibility at some time.
- 44 • D Johnson asked if the associations are for profit or nonprofit.
- 45 • Jodi Hoffman stated that they are nonprofit. The users are usually not up on what the  
46 responsibilities are, and most homeowners associations fade away. She advised the Council that  
47 when issues are delegated to the homeowners association, assume that it will cause problems

1 unless the city takes over the problem. Most things that the developer promises are lost. The  
2 charm of the neighborhoods is only as good as they are enforced, and in Utah the law says if they  
3 are not actively enforced, HOAs will be gone. She stressed that self reliance is the way.

- 4 • D Johnson asked if cities assess impact fees on homeowners associations or if the homeowners pay  
5 one lump sum, especially if the city is to take over down the line.
- 6 • Jodi Hoffman explained that no impact fees can be charged because it is not a new development.  
7 The associations do need to be kept up, and other than raise property taxes, there will be no way to  
8 take care of them. In the long term it is an obligation to the city.
- 9 • D Johnson wondered why it can be an impact to the city, but a fee cannot be charged.
- 10 • Jodi Hoffman encouraged the City to let the developer know that they are not going to get  
11 everything they requested just because they are a PUD. It should be assumed that the roads are  
12 city roads.
- 13 • Gary Stauffer questioned how effective the contracts are downstream if the homeowners  
14 association goes belly up.
- 15 • Jodi Hoffman warned that contracts are only as good as the people who make them. Once the  
16 developers are gone, they are gone. Developers are there to set up land development, and then  
17 they move on. She doesn't believe that it is a good practice for the city to rely on homeowners  
18 associations to deliver traditional home services.
- 19 • Randy Eck felt everything should be figured in at the first. All of the studies indicate that if areas  
20 are densely populated geographically, more road maintenance is required.
- 21 • Neil Abercrombie expressed that the push in Florida and California has been for retirement  
22 communities. Retirees want these services provided in a small community.
- 23 • Mayor Simmons noted that there are about five PUDs in the city, and each new subdivision has its  
24 own association. They feel Providence should take over maintenance of their roads.
- 25 • D Johnson asked if big homeowners associations provide their own water and sewer.
- 26 • Jodi said some do. They are becoming more common such as in resorts and remote subdivisions.  
27 Some water companies contract with the homeowners associations.
- 28 • Jodi explained that there are other reasons to say no to the associations.
- 29 • K Baker assumed that each homeowner will pay property tax.
- 30 • Neil Abercrombie stated that if it were here, each home would be assessed.
- 31 • Jodi Hoffman explained that each city has been asked to look at the land use law. She explained  
32 that many land use bills have been filed in the legislature since 2000. "The recent land use law  
33 changes have resulted from a widely held perception that local governments are oblivious to state  
34 law, enforce unwritten rules, engage in needless process delays and demand illegal exactings."  
35 She explained that Land Use training is more important than good intentions. In Utah there was a  
36 comprehensive rewrite in 2005 and revisions were made in 2006 after beating off a law, SV70  
37 which literally would criminalize land use laws in Utah. It states that:  
38 (1) Exactions practice must come up to date,  
39 (2) Bring conditional use standards up to date which should be put in the ordinances and  
40 expect CUPs (conditional use permits) in the zone. (It was not reflected in the state code,  
41 but you have to issue a conditional use permit if the applicant can litigate the use.)  
42 (3) Eliminate special exceptions or convert them to CUPs.  
43 (4) Modify nonconforming use section to allow reconstruction of a nonconforming  
44 structure if it is involuntarily destroyed or damaged nonconforming, noncomplying uses.  
45 (5) Add culinary water and sanitary sewer authority approval for subdivisions. The state  
46 law requires that someone sign on the dotted line that there is sewer and water available

1 for every lot in every subdivision.

- 2 • Mayor Simmons asked if it should be written into the code that the public works director should be  
3 the water and sanitary use director.
- 4 • Jodi explained that it doesn't need to be written in code, but to make certain there is something  
5 from the public works director indicating that the subdivision has been reviewed and there is  
6 adequate water and sewer before the approval of a subdivision.
- 7 • K Baker asked who is responsible for inadequate water pressure.
- 8 • Jodi Hoffman explained that this process is to avoid liability. By putting this into the code, it  
9 indicates that somebody looked and thought about it.
- 10 • Jennifer Painter asked if there must be data to back up the water question.
- 11 • Jodi Hoffman explained that Park City has three different land use authorities. One third is  
12 serviced by a private water company; one third serviced by a water service district; and, one third  
13 by a municipal water plant.
- 14 • Jodi Hoffman explained that the subdivision process was rushed through. She recommended  
15 streamlining barriers to effective development such as public notice requirements. Local  
16 government should: 1. Review, modify notice provisions; 2. Review, modify appeals process  
17 (consider hearings examiner), 3. Explore streamlining options (take governing body out of  
18 subdivision approval process and delegate routine decisions to staff). She explained that appeals  
19 are tough. Having hearing examiners is a much better way of hearing appeals. An appeal  
20 authority must follow specific rules. She feels that it doesn't work when a panel of volunteers is  
21 used as judges. She advised the Council to find someone interested who will take role seriously  
22 and make it quick. Subdivisions are an administrative process. She directed the Council to have  
23 the Planning Commission build into the ordinances now the traffic generation if they aren't  
24 pleased with it. Developers want to know the rules, and they are willing to follow the rules. The  
25 clearer and firmer the rules, the easier it is for them to follow.
- 26 • R Liechty said we have rules. He questioned what should be done when the developers break  
27 them.
- 28 • Jodi Hoffman acknowledged that municipalities break the rules all the time. She said to sue if the  
29 current laws are being broken. It takes people enforcing the rules as written to make the whole  
30 system work. Often city councils want to hold back on hard decisions until the case comes to  
31 them. She recommended making the decision now before it comes to the council.
- 32 • Marilyn Bell feels that the administrative staff is holding decision making meetings at a bad time.  
33 She feels that the meetings are closed, and as a tax payer, she has no say.
- 34 • Jodi Hoffman stated that the administrative staff is to make administrative decisions. She  
35 acknowledged that staff meetings are generally not open. As long as a quorum of elected officials  
36 is not present, it is not a violation.
- 37 • Mayor Simmons explained that the staff is to go through the information to see if it meets criteria.
- 38 • Linda Goetze believes the administration should be limited to only discuss policy.
- 39 • Jodi Hoffman affirmed that this is what the staff does. Appointed bodies cannot have closed  
40 meetings. She applauded the citizens' interest in government.
- 41 • Mayor Simmons explained that if the staff were acting as the land use authority, those meetings  
42 must be open.
- 43 • Jodi Hoffman explained that all land use meetings are not necessarily open. Subdivision  
44 applications are open because public notice is required. She explained that it depends on what the  
45 requirements are. Staff makes building permit decisions all the time, but there are as many  
46 discretionary administrative decisions that are ordained that the policy is clear. Where the law is

1 clear, there is no suspicion. The Planning Commission should be able to focus on long range  
2 planning. They are to recommend to the governing body regarding the general plan and  
3 amendments, land use ordinances and amendments (including the zoning map), and the official  
4 map. The goal is to set policy in ordinance; delegate application of policy to staff. Land use  
5 ordinances have a public hearing requirement. The community must be made aware before  
6 decisions are made.

- 7 • D Johnson asked how movement is done through the narrow streets at Park City.
- 8 • Jodi Hoffman indicated that traffic and dogs are the biggest issues in Park City. They do traffic  
9 calming, which is a way to slow cars down. The police force put out traffic speed signs and uses  
10 narrow roads. Park City has tried everything and is still trying.
- 11 • Linda Goetze asked if a public works director signature gives stronger water rights.
- 12 • Jodi said no. The signature says that someone with the ability to figure out the water system gave  
13 it a look prior to giving it to the subdivision.
- 14 • Sharell Eames questioned the temporary zoning ordinance.
- 15 • Jodi Hoffman explained that it is issued during an emergency. The City Council and Planning  
16 Commission can come up with a solution during that time, and if they do, no rights for  
17 developments vest during that emergency. Vested applications are entitled to the law, in effect,  
18 when the application is filed. Laws cannot change for them, but are for anyone else applying after  
19 the change.
- 20 • Linda Goetze explained that the livability standard came up in December and that the Planning  
21 Commission has directed Mark Teuscher to rewrite the ordinances with public safety in mind.
- 22 • Jodi Hoffman explained that State ordinances are very specific. Temporary zoning ordinances can  
23 be for six months. If the criteria are not met, they fall under the current law. Temporary zoning  
24 does work, and she explained that telegraphing to the community that the law is going to change  
25 encourages developers to rush in and apply.
- 26 • Mayor Simmons asked for clarification on the Board of Adjustments. If it exists in the ordinance,  
27 then it exists in the appeal authority. The Board of Adjustments has five very specific property-  
28 based physical conditions to base their variance on.
- 29 • Scott Wyatt asked how many cities have their ordinances updated.
- 30 • Jodi Hoffman commented that 15 percent have come to some kind of compliance. She will leave  
31 the disk of her presentation for review.

32 7:30, Five minute break.

33  
34 Meeting commenced at 7:40. Mayor Simmons presented the following ordinance for recommendation and  
35 announced that the Planning Commission made the following recommendations to repeal the downtown  
36 zone and define the area.

37  
38 **Item No. 2. Ordinance No. 001-2007. The Providence City Council will consider for adoption an**  
39 **ordinance amending Providence City Code 10-1-4 Zoning, General Provision, Definitions by adding**  
40 **a definition for Downtown Area; Providence City Code 10-5-6 Zoning, Overlay Zones, Lot**  
41 **Downsize by repealing the lot downsize zone; and Providence City Code 10-14-1 Zoning, Cluster**  
42 **and Inner Block Development by prohibiting inner block development in the defined downtown**  
43 **area.**

- 44 • Mayor Simmons explained that this ordinance repeals the lot downsize zone and cluster inner  
45 block development in the downtown area.

46 Motion to approve Ordinance modification No. 001-2007 – R Liechty, Second – D Johnson.

- 1 • Mayor Simmons explained that the Council agenda packets are missing one page and explained  
2 that inner block development is prohibited in areas where city blocks are defined as an area of land  
3 where public streets are on four sides and streets range from approximately 660 feet and are  
4 located in the downtown area. K Baker noted it that should say ‘existing streets.’
- 5 • Stacie Gomm believes the verbiage in the ordinance is confusing.
- 6 • Mayor Simmons gave an example that if someone was to put a road into the middle of the block,  
7 in order to develop the land on either side of the block, the road would have been built after  
8 September 2006. He felt it probably should say ‘and located.’
- 9 • S Bankhead passed out a copy of the proposed ordinance change and read the definitions to Title  
10 10-1-4. She then explained that the area is a portion of the incorporated area of the City generally  
11 located from 200 North south to 400 South and from 200 West east to 100 East and from 200  
12 North south to 200 South and from 100 East east to 300 East. She explained that she would be  
13 open to changes if they weren’t involved in a legal type. The Planning Commission backed it to  
14 400 South. She explained that it was difficult to put the area in square blocks. The Planning  
15 Commission opted not to include east of 300 East. She also presented blocks the Planning  
16 Commission had considered adding.
- 17 • R Liechty wondered why it could not go from 200 North to 500 South and from 200 West to 400  
18 East. S Gomm explained that it is not all in the downtown area.
- 19 • K Baker stated that changing the boundaries could add questionable areas. The proposed change  
20 is more clearly defined because the roads are straight.
- 21 • D Johnson commented that in questionable areas, if inner block development is proposed, it is  
22 governed and ruled by a special committee.
- 23 • Mayor Simmons clarified that inner block development is prohibited in areas where the city block  
24 is defined as four sides and is located in the downtown area. S Bankhead explained that where  
25 there is no block, there is no inner block.
- 26 • Mayor Simmons explained to the audience where the block is defined.

27 Motion to amend Ordinance No. 001-2007 to include the two blocks (500 South from 200 West to Main) –

28 R Liechty, Second – D Johnson.

29 Vote: Yea: K Baker, S, Gomm, D Johnson, R Liechty, T Rasmussen

30 Nay: None

31 Abstained: None

32 Excused: None

- 33 • S Bankhead explained that she is not a proponent of design review. Now it is being defined, she  
34 would like to appeal to the City Council strongly to place design elements in the area. She  
35 explained to the Council that the Campbell home at 98 South is currently less than 1,600 square  
36 feet. The building plan for the remodel for the home encircles it and will have a living space of  
37 over 6,000 square feet. She conveyed to the Council that if they want to truly protect the  
38 neighborhood and heritage, give the tools necessary to the staff to do that because any type of  
39 home that meets the zone ordinance must be approved.
- 40 • K Baker felt that design review has to be a separate issue.
- 41 • Mayor Simmons explained that either the Planning Commission should write the ordinance, or K  
42 Baker’s group could write the ordinance and present it to the Planning Commission.
- 43 • K Baker volunteered her committee to write it. She will get a copy of the ordinance used in the  
44 Avenues in Salt Lake City.
- 45 • Mayor Simmons asked that her committee consider outbuildings.
- 46 • Denise Strong asked if a moratorium can be put on the historic district until the ordinance is

1 implemented.

- 2 • Linda Goetze asked for livability standards on historic roads.
- 3 • S Bankhead explained that state code must be followed. It will require proper noticing before any
- 4 changes can be made and she will discuss the matter with Scott Wyatt.

- 5 • Vote: Yea: K Baker, S, Gomm, D Johnson, R Liechty, T Rasmussen
- 6 Nay: None
- 7 Abstained: None
- 8 Excused: None
- 9

10 **Item No. 3. Ordinance No. 002-2007. The Providence City Council will consider for adoption an**  
11 **ordinance amending Providence City Code 3-5 Solicitors, Canvassers, Peddlers and Itinerant**  
12 **Merchants and adding 3-8 Residential Solicitation.**

- 13 • Mayor Simmons asked S Bankhead to present this ordinance amendment.
- 14 • S Bankhead explained that standards were set for solicitors which home businesses and those with
- 15 long term business licenses were not required to meet. As a result of litigation, the Utah League of
- 16 Cities and Towns came up with an ordinance. She asked the Council to look at the information 3-
- 17 5 in their packet which is the current ordinance with highlighted suggested changes. She
- 18 explained that solicitors and canvassers should have their own regulations. The template from the
- 19 Utah League of Cities and Towns' recommendation was put into the City format. It does allow for
- 20 door-to-door solicitation. Background checks must be provided to the City. She explained that
- 21 since Utah is a closed record state, the sheriff's records could not be shared with the City.
- 22 Ordinances could not be met as is and must be changed in order to avoid a lawsuit such as the one
- 23 with the Kirby Vacuum Co.
- 24 • S Gomm explained that legal peddlers go door-to-door, and some saying buy this and we will
- 25 bring the stuff later is a solicitor or canvasser. She wondered where Avon representatives, school
- 26 children selling items, etc., would fit in. She requested that the title be edited.
- 27 • S Bankhead explained that exceptions are made for girl scouts, band, etc.
- 28 • Sharell Eames asked if she (Sharell Eames) can get signatures legally.
- 29 • Mayor Simmons asked if it should be adopted or reviewed.
- 30 • S Bankhead explained that she must reference Section F and put in the current numbers.

31 **Motion to adopt Ordinance 002-2007 with the editing of references and changing the heading an ordinance**  
32 **amending Providence City Code 3-5 Solicitors, Canvassers, Peddlers and Itinerant Merchants and adding**  
33 **3-8 Residential Solicitation – S Gomm, Second – T Rasmussen.**

- 34 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty, T Rasmussen
- 35 Nay: None
- 36 Abstained: None
- 37 Excused: None
- 38

39 **Item No. 4. Resolution 07-001. The Providence City Council will consider for adoption a resolution**  
40 **approving the Employee Emergency Procedures Manual.**

- 41 • Mayor Simmons stated that OSHA requires that the City adopt a resolution for the manual.
- 42 • K Baker explained that she made a few edits to the manual and gave them to S Bankhead. She
- 43 would like to see them when they are made before approving the resolution.
- 44 • Mayor Simmons asked if the Council would like to see the changes before the document is
- 45 approved.
- 46 • R Liechty replied that he cannot accept the manual before he sees it in order to know what changes

1 were made.

- 2 • S Gomm would like K Baker's changes highlighted.

3 Motion to adopt Resolution 07-001 approving the Emergency Procedures Manual with the edits suggested  
4 by K Baker – S Gomm, Second – R Liechty.

5 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty, T Rasmussen

6 Nay: None

7 Abstained: None

8 Excused: None

9  
10 **Item No. 5. Resolution 07-002. The Providence City Council will consider for adoption a resolution**  
11 **approving an agreement with Bryon Smith and IHC for the installation of street lights along a**  
12 **specific portion of SR165.**

- 13 • Mayor Simmons presented it and asked that this ordinance not be voted on tonight until there are  
14 dollar amounts. He also feels there may be a policy question. He asked R Eck if he had any  
15 concerns.
- 16 • R Eck felt that someone is trying to get out of something they are already committed to. The letter  
17 in the packet was drafted by Bryon Smith. Mayor Simmons noted that he would like to make  
18 changes to the letter before it is adopted. R Eck explained that the idea of decorative street lamps  
19 was to make an inviting landscape for the city. AMSOURCE has installed their lamps. The next  
20 phase will continue from 100 South to the buffer zone. Mr. Smith is asking the City to pay  
21 \$50,000 for lamps in front of his business. If approved, there would be a light in front of Edwards  
22 Furniture, a dead spot, a light in front of IHC, a dead spot, and then the AMSOURCE  
23 development.
- 24 • Mayor Simmons explained that the Edwards agreement suggests that their responsibility is for  
25 conduit and landscaping. He asked the Council if the funds should go for trees or for two lamps.  
26 He questioned how many lamps the City would need to purchase if Edwards and IHC each paid  
27 for two.
- 28 • R Eck explained that the lights average 100 feet apart. Four lamps would be needed in front of  
29 IHC and Edwards Furniture. Fixtures cost \$2,000 each for the lamp. The footing, transformer,  
30 and wiring, etc., would be extra. The cost of each light would be approximately \$5,000. He feels  
31 that if the City is going to help pay for the landscape, the City should be able to do what they want.  
32 He would like to see continuous lights placed. This letter commits \$10,000 this year and each  
33 year after until the lights are installed
- 34 • R Liechty asked if Edwards Furniture would be installing lamps instead of planting trees. He feels  
35 that they should do as the agreement states.
- 36 • R Eck stated that the trees on 300 South aren't what the code specifies.
- 37 • Marilyn Bell felt that Edwards Furniture would not put more money into lights when they agreed  
38 to plant trees originally.
- 39 • S Gomm felt that Edwards Furniture should pay the difference between one-inch trees and two-  
40 inch trees.
- 41 • Mayor Simmons commented that one-inch trees are an issue to be looked at in the future. He  
42 asked the Council whether to have them take the money they were to put into trees and install  
43 lamps, or should Edwards Furniture plant trees and the City install lamps moving south or east to  
44 the middle school.
- 45 • S Gomm stated that if lamps were put in at the City's leisure, she would like a say as to where the  
46 trees go.
- 47 • R Eck indicated that some citizens may not like the lamps.

- 1 • Mayor Simmons acknowledged that he has talked to Edwards Furniture about planting trees on the  
2 east of the sidewalk, and he pointed out that Edwards Furniture cannot be forced to put trees there.  
3
- 4 • Marilyn Bell commented that lights put out pollution.
- 5 • R Eck explained that the lights are dark sky lights and do not cause that problem. They should be  
6 lit by the end of the week.
- 7 • K Baker prefers no trees because Highway 165 is dark.
- 8 • Mayor Simmons asked two members to look at the lights and make a recommendation as to what  
9 should happen. K Baker, T Rasmussen, and S Bankhead agreed to do it.

10 Motion to continue the resolution approving an agreement with Bryon Smith and IHC for the installation  
11 of street lights along a specific portion of SR165 – R Liechty, Second – D Johnson.

12 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty, T Rasmussen

13 Nay: None

14 Abstained: None

15 Excused: None

16 5 Minute break at 8:25

17  
18 **STAFF REPORTS:**

19 **Skarlet Bankhead will report on the Administrative, Community Development, and Finance &**  
20 **Records Departments.**

- 21 • S Bankhead expressed that the office is getting busier because of business and dog licenses, and  
22 she encouraged everyone to come in for their licenses before they are charged a late fee. Soccer  
23 and recreation season has started.
- 24 • She explained that the DRC looks at the ordinances and says yea or nay. USU Community Credit  
25 Union came in with a site plan. She read the ordinance on subdivisions (11-2-2 and 11-2-3) and  
26 explained that there is a case where a development started out as one big piece of property with  
27 multiple buildings. When it started, everything was fine. As time progressed, the developer  
28 decided to subdivide the parcel. The City agreed to issue building permits to them as long as the  
29 subdivision process was completed. It has been going on for a long time. The original developers  
30 have not filed the final plat with the City. The development has continued to grow and is a  
31 wonderful development. The tenants are great. At this time, they selling the development to  
32 another developer. When the City found it was not working with the original developers, it was  
33 decided in DRC that no more permits could be issued until the final plat was recorded. It has been  
34 difficult for those who want to come, and several businesses would like to do away with temporary  
35 signs and put in permanent ones. She asked the City Council if they would be willing to work  
36 with the new businesses as along as the developers continue with the subdivision process.
- 37 • S Gomm would like to see a firm deadline with milestones along the way.
- 38 • John Russell, USU Charter Credit Union, indicated that he has been trying to get a full service  
39 branch in Providence. His requirements have been fulfilled and met. He feels the credit union is  
40 being held up because something else was not followed up on. Many other businesses have been  
41 allowed to come in and set up shop and provide services to the community. He feels he is being  
42 penalized because the previous owners didn't do what they were to do several years ago.
- 43 • Andrew Daines explained that the issue at hand would have been resolved a long time ago. There  
44 is a boundary line dispute that the property owners will not sign. They are trying to get this issue  
45 resolved, and until then, they cannot file the plat.
- 46 • K Baker asked if the possibility can be resolved within the next month.
- 47 • S Gomm asked when the boundary line dispute came about.

- 1 • Andrew Daines felt it was in the last three or four months.
- 2 • S Bankhead explained that it came through the Planning Commission. Alliance is doing the final
- 3 plat, and they found a dispute on the west side of the property. They have probably known about
- 4 this for four months.
- 5 • K Baker asked if it is a serious dispute.
- 6 • S Bankhead explained that the boundary line on the paper is 25 feet east of where the fence is.
- 7 She read that the Council can vary their requirements provided variations will not impair the
- 8 development. The Planning Commission felt that when it started, there were unusual conditions
- 9 and felt that the City was okay as long as the subdivision process was completed. When the staff
- 10 became aware that the original players were selling their interest, they became very concerned
- 11 because the plat should have been done several years ago. She empathizes with the owners and
- 12 can see both sides. The staff feels they cannot give any more permits until it is resolved.
- 13 • K Baker asked Andrew Daines if their agreement has been signed. He explained that he is
- 14 committed to see it through the end.
- 15 • K Baker asked if the new owner is a local individual. Andrew Daines answered no.
- 16 • Marilyn Bell asked if the Council allowed it to happen.
- 17 • S Bankhead reminded the audience to remember that it was not a subdivision when started.
- 18 • Marilyn Bell inquired why the subdivision was allowed to proceed if there was not a final plat.
- 19 • S Gomm commented that it is because the previous Council allowed for it to go forth. Mayor
- 20 Simmons explained that once the staff found what happened, they did stop it. R Eck
- 21 acknowledged that it was the DRC who found the problem.
- 22 • S Bankhead explained how the ordinance was discovered. K Baker informed the Council that she
- 23 was there and knows that is when the decision was made to not allow more building permits.
- 24 • S Gomm emphasized that the City is on the third administration in eight years.
- 25 • Mayor Simmons explained that before anything is authorized, the final plat has to be recorded.
- 26 • S Gomm asked how many permits have been approved.
- 27 • S Bankhead added that many have been approved. Taco Maker and Rocky Mountain Sports came
- 28 in under another administration. She feels that the staff is taking a lot of heat and can't go forward
- 29 without someone giving permission to proceed. USU Credit Union would like to remodel Cajun
- 30 Bobs.
- 31 • Sharell Eames inquired about Casper's Ice Cream.
- 32 S Bankhead said she was not involved with previous agreements, but Casper's had their permit for
- 33 quite awhile.
- 34 • K Baker commented that it is unfortunate the problem arose when the USU Credit Union wanted
- 35 to come.
- 36 • S Bankhead does not want to hold the credit union up any longer. She asked the Council for their
- 37 support of the no more permit policy or to allow them a permit.
- 38 • D Johnson would like to see this issue go back to the Planning Commission before he rules.
- 39 • S Bankhead explained that this involves more than the credit union. The City must move ahead on
- 40 other permits as well. The exception is on the entire development, not just the credit union.
- 41 • D Johnson felt that if the building has already been built, the permit has been given.
- 42 • S Bankhead explained that the building will be modified and it requires a new permit.
- 43 • D Johnson felt that a remodel is different than issuing a new permit. He would like to see their
- 44 recommendation approved.
- 45 • T Rasmussen asked if more is to be built on that site. The answer was three.
- 46 • K Baker feels the Council should hold firm with no more permits given out until the problem is

- 1 taken care of. She feels sorry for the credit union.
- 2 • T Rasmussen would like to see a deadline set.
- 3 • Andrew Daines felt that a deadline won't work.
- 4 • R Eck felt that the water loop should have been completed eight years ago, but it hasn't been done.
- 5 The water line on 100 North was to be tied in last year when Maceys construction was going on.
- 6 He has a hard time telling people in that development that it is okay to cut the road. He feels that
- 7 just because the City was wrong in the past does not mean it must stay wrong.
- 8 • Andrew Daines explained that he has come in on the tail end and is trying to do what he can at this
- 9 point to resolve the issues.
- 10 • R Liechty said it has been known for four months and questioned when the credit union came to
- 11 the City.
- 12 • S Bankhead explained that the credit union came in last Friday, but they were told some time ago
- 13 that there were problems with the final plat.
- 14 • S Gomm asked what has to happen before this is resolved. It was explained that someone must
- 15 decide to resolve the property line dispute; recognizing that the physical line has been there for 25
- 16 years. Kate's Kitchen and Sager Family Trust owns the land. They have flooding because of
- 17 improper storm drains. Kate's Kitchen will not resolve this issue until the flooding is taken care
- 18 of. The property owner, Jacobson Development, is involved in this dispute and is included in this
- 19 subdivision.
- 20 • K Baker would like to make a motion to hold firm.
- 21 • S Bankhead explained that this isn't a motion item and asked if it is to be placed on hold.
- 22 • R Eck felt that the driveway, curb and gutter, and storm water system will affect the subdivision.
- 23 It may affect the side yard setback if they give up 25 feet.
- 24 • John Russell feels that the credit union will lose the most. Other businesses trying to improve their
- 25 business in the community will lose. He respects the Council's desire to get this resolved. He has
- 26 come into this with good intentions. USU Credit Union was informed that the problem had been
- 27 resolved. If they had known it wasn't they would have looked into another area. He feels it would
- 28 be unfortunate if a moratorium is put on when the credit union has put all their good faith into this
- 29 project. They have spent several thousands of dollars and will now be penalized.
- 30 • Andrew Daines feels the new owner will have a lot to lose.
- 31 • S Gomm asked who is responsible. Andrew Daines acknowledged that he is. There is great
- 32 pressure on him.
- 33 • D Johnson asked if the remodel will have new cuts for the entrance.
- 34 • R Eck said no. The credit union has done everything possible to make it a nice place.
- 35 • S Bankhead explained that she and the staff are not against anyone. The staff would like to have a
- 36 decision made.
- 37 • K Baker asked if other businesses besides the credit union are affected. S Bankhead explained
- 38 that said there are three businesses waiting for sign permits as well as the credit union.
- 39 • Mayor Simmons felt that R Liechty agrees with K Baker. Andrew Daines explained that he had
- 40 not been involved with the subdivision until six months ago, and he feels the City shouldn't have
- 41 anything come in until the subdivision has been completed.
- 42 • R Eck predicted that if the credit union cannot locate in Providence soon, they will go somewhere
- 43 that will give someone else their business.
- 44 • D Johnson feels the building is up and will not need a new building permit.
- 45 • John Russell of USU Credit Union feels there is enough leverage under Andrew Daines to get this
- 46 resolved.

- 1 • R Liechty asked to see it in writing. Andrew Daines said it is in the County courthouse. He is
- 2 trying to do the best he can.
- 3 • Mayor Simmons acknowledged that the sale cannot legally happen until the final plat has been
- 4 approved or Providence may be in violation of their ordinance.
- 5 • R Liechty suggested not making a decision tonight and check to see if it is legal.
- 6 • Andrew Daines explained that three property owners need to agree. Two have agreed; the Sager
- 7 family, Don Searle of Kate's Kitchen, and Randy Johnson. Larry Jardine is taking a look at the
- 8 agreement and will get with him tomorrow. He mentioned another name who is involved.
- 9 • Mayor Simmons inquired as to what would happen if the issue is resolved.
- 10 • S Bankhead explained that it does not go to a public hearing. It will go to DRC, then to the
- 11 Planning Commission. They will first look at it as a study item, and then an item of
- 12 recommendation, and the last meeting will be to approve their minutes. From there it would come
- 13 to the City Council. It will take at least two months if she has it in her hands tomorrow. She feels
- 14 it is important to remember that once a decision is made for this title, leverage is lost because an
- 15 exception has been made, and the City cannot accept the credit union application but not Casper's
- 16 request for a sign.
- 17 • S Gomm asked why everything in the system cannot be completed up to now, and then stop later
- 18 development.
- 19 • T Rasmussen likes that option because it will fix the problem.
- 20 • S Gomm said it will not hurt those who have not done anything wrong.
- 21 • S Bankhead asked if her instructions were to follow up with the attorney and get back to the City
- 22 Council.
- 23 • The Council answered yes.
- 24 • Andrew Daines asked what would happen if the boundary decision was made before then.
- 25 • Mayor Simmons said they would want a bond in place on finishing the water line.
- 26 • S Bankhead felt that since there is no final plat, a decision could not be made.
- 27 • S Gomm feels it would be a favorable step to help the businesses.
- 28 • T Rasmussen asked Andrew Daines if he were anxious to get out of this process.
- 29 • Andrew Daines commented absolutely.
- 30 • Mayor Simmons questioned if it would be legal if the final plat isn't recorded, and if the sale is
- 31 legal, and if it would be grandfathered into the previous decision.
- 32 • T Rasmussen commented that the City Council will do everything to accommodate the credit
- 33 union.
- 34

35 **R Eck will report on Public Works, Water and the Sewer Departments.**

- 36 • R Eck reported that the sewer system is being worked on, and many manholes in the sewer system
- 37 are not in the road. One is in someone's back yard and is buried. The previous mayor promised
- 38 the homeowner that it would not be dug up. He has found manholes on private property twice in
- 39 two weeks. He feels it does not make sense to forget important manholes because of agreements
- 40 made ten years ago.
- 41 • Mayor Simmons asked if the agreements were verbal. His recommendation is to take care of the
- 42 system.
- 43 • K Baker asked if they signed over the easement. R Eck stated that Nate Done has a signed
- 44 agreement. He feels that since it has happened more than once, it will occur again.
- 45 • K Baker explained that she was told it happened three times and she refused to sign the easement
- 46 on her home. She knew it had been happening

- 1 • D Johnson wondered why this kind of easement was given.
- 2 • R Eck explained that the City has to dig up the manhole and then fill it up again. He felt that it
- 3 becomes a possibility for a flood. With two feet of frozen snow and frost, it will take a long time
- 4 to find the manhole and dig it up. He feels this has it taken care of for the time being.
- 5 • Mayor Simmons requested that the easement be researched to see what occurred, and then decide
- 6 how to proceed.
- 7 • Gary Stauffer questioned sewer on Highway 165. He wondered if the line was small on the west
- 8 end of town. He wondered if the sewer system was being monitored, and he is concerned about a
- 9 backup of the sewer system. He explained that he was not allowed to install a valve.
- 10 • R Eck noted that it is in the code now.

11  
12 **COUNCIL REPORTS:**

- 13 • K Baker reported that she has been to three different Historic Preservation meetings. At the first
- 14 two, there were arguments that a new book should be written to replace the original that came out
- 15 in 1974. One group wanted to completely redo the book and put different items in. This last time
- 16 a compromise was agreed upon that they would put a short summary in of what was covered in the
- 17 book of 1974 and go from there. They had talked to Ken and Audrey Godfrey and asked them to
- 18 help. The Godfreys were too busy, so someone else is needed to do it.
- 19 • Mayor Simmons gave a few suggestions to K Baker. The person who wrote the Rich County
- 20 history is available and would cost \$10,000 to \$12,000 dollars. The money can be found in the
- 21 donation account.
- 22 • K Baker is in favor of a short summary with no pictures.
- 23 • T Rasmussen suggested letting the Youth Council collect information for the book.
- 24 • T Rasmussen reminded the Council to mark their calendars for the June 8 and 9 summer
- 25 celebration. There are great ideas for the City Celebration. A movie may be held Friday night on
- 26 Zollinger's field with the theme 'Take me out to the ball game.' Softball, baseball, and soccer
- 27 tournaments might be held on Friday and Saturday. There will be vendors and fireworks. He has
- 28 made contact with Ginger Jewell who is involved in the hot air balloon festival every year. They
- 29 are looking for fun activities that will spark interest. He feels it will be a fun summer tradition.
- 30 • D Johnson hopes the City realizes what the benefits are with the services the new sewer vacuum
- 31 truck is providing.
- 32 • R Liechty feels those collecting signatures should be honest with whom they go to. The
- 33 information has been so wrong. He was appalled at what his wife was told when she was
- 34 contacted to sign the petition. He sees no credibility in it and sees no strength in the petitions. He
- 35 feels that if the citizens want to vote then that is fine. But he is appalled at how the City is being
- 36 represented in a negative and false way. He would be glad to speak with anyone who is concerned
- 37 with the facts.
- 38 • Mayor Simmons has three draft copies of the EIS on the 400 East extension from Logan to
- 39 Providence in his office. K Baker has agreed to go to the meeting on January 17.
- 40 • Mayor Simmons explained that Providence is a member of the Mosquito Abatement District. The
- 41 previous person who represented the City attended one out of eleven meetings. Mayor Simmons
- 42 would like to have names suggested who would be interested in this position soon. It involves
- 43 attending meetings and getting back with the City. Millville and Lewiston had not joined until this
- 44 year.
- 45 • K Baker asked if everywhere is sprayed for mosquitoes. R Eck explained that every street in
- 46 Providence is sprayed. He acknowledged that some people have a problem with the spray;

1           therefore, the Mosquito Abatement District is to let the City know when they are coming to spray.

2 Motion to adjourn – S Gomm, Second – T Rasmussen.

3 Vote:   Yea:           K Baker, S Gomm, D Johnson, R Liechty, T Rasmussen

4           Nay:           None

5           Abstained:   None

6           Excused:       None

7

8 Meeting ended at 9:42.

9 Minutes taken and prepared by B Turley.

10

11

12

13

14 \_\_\_\_\_  
Randy Simmons, Mayor

\_\_\_\_\_  
Skarlet Bankhead, City Recorder