

1 **Providence City Council Meeting**
2 **Providence City Office Building**
3 **15 South Main, Providence UT**
4 **Tuesday, February 08, 2005 5:00 p.m.**

5 **Attendance:** Mayor: Alma H. Leonhardt
6 Council: Randy Eck, Stacie Gomm, Deon Johnson, Ron Liechty, Vic
7 Saunders
8 City Manager: Vern Keeslar
9 City Recorder: Skarlet Bankhead
10 Public Works Director: Dee Barnes
11 Attorney: Jody Burnett

12 **Executive Session:**

13 Motion to enter executive session – V Saunders, second – Stacie Gomm,

14 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

15 Nay: None

16 Abstained: None

- 17 • The Council entered into an executive session at 5:10 p.m.

18 Motion to adjourn – R Eck, second – D Johnson

19 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

20 Nay: None

21 Abstained: None

- 22 • The executive session closed at approximately 6:40 p.m.

23 **Agenda Items:**

24 **Pledge:** Mayor Leonhardt

25 **Opening:** Ron Liechty

26 **Minutes**

27 Motion to approve the minutes of January 25, 2005 – V Saunders, second – D Johnson,

28 Corrections:

- 29 • None

30 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

31 Nay: None

32 Abstained: None

33 **Item No. 1. Presentation. Employee of the Quarter.**

- 34 • V Keeslar presented the Employee of the Quarter to Tara Bankhead. He
35 explained T Bankhead works in the Public Works Department. She is excellent in
36 customer service and an asset to the City.
- 37 • Mayor Leonhardt also stated T Bankhead is an excellent employee.

38 **Item No. 2. Administrative Appeal. The Providence City Council will consider an**
39 **administrative appeal filed by Paxton R. Guymon, representing Westates**
40 **Construction, of the road impact fee and park impact fee assessed with the building**
41 **permit for the Deer Creek Village Apartment Homes.**

42 Paxton Guymon, Jay Jenks, and Stan Rolland were present.

- 43 • P Guymon expressed appreciation for the re-hearing.
- 44 • P Guymon explained the project is the 96 unit, multi-family project known as
45 Deer Creek Village. He stated his clients are challenging the park and road
46 impact fees.

- 1 • P Guymon stated the first basis is that the Deer Creek Apartments should be
2 charge using the same percentages as a previous apartment building located in
3 Providence. His clients are asking for an impact fee reduction of \$42,000.
- 4 • P Guymon stated the City Code allows the City Council to make adjustment to
5 impact fees. They are asking the impact fees be discounted and charged in the
6 same manner as Providence Place.
- 7 • P Guymon felt the matter could be resolved with a \$24,000 reduction, with the
8 reservation of rights for the \$42,000 if denied.
- 9 • P Guymon felt the City Code allowed for a reduction of \$16,000 in road impact
10 fees and \$8,000 in park impact fees.
- 11 • P Guymon explained the City currently charges \$500 per single family dwelling
12 for road impact fees and \$687 for park impact fees. He stated, in reviewing the
13 collected revenues and expenses the City is not under charging. He felt the
14 Council should start with the premises that the City is charging correct fees for
15 single-family residents.
- 16 • P Guymon reviewed Table 16 from the Providence City Impact Fee Analysis. He
17 felt the average trip rate was the primary criteria for road impact fees. He
18 explained in reviewing the chart, low rise apartments generate 1/3 less trip rates
19 on a per unit basis when compared to a single family home.
- 20 • Assuming the \$500 impact fee is valid for a single-family home, 2/3 of \$500 is
21 \$333. The apartments were charged \$48,000 for road impact fees. Reducing the
22 charged road impact fees by one-third would be \$32,000, a reduction of \$16,000.
- 23 • P Guymon stated the park impact fee of \$687 is a reasonable fee for a single
24 family residence. He read from page 2 of the February 8 Staff Report, paragraph
25 9. This stated the average household size is 3.56 persons; dividing \$687 by 3.56
26 equals \$193 per person. The average number of persons in a renter occupied unit
27 is 3.07 persons. If you multiply 3.07 by 96 units and multiply by \$193 per person,
28 the result is \$56,881. The impact fee they paid was approximately \$66,000.
- 29 • P Guymon stated his clients feel the compromise is a reasonable way to resolve
30 the matter. P Guymon explained the rational of the study was per person, so the
31 impact fees should be applied per person per unit, using the Census numbers.
- 32 • D Johnson asked if the Applicant was aware the other apartment was for persons
33 with disabilities. D Johnson felt a facility for persons with disabilities would have
34 much less impact on the roads and parks than the Deer Creek complex.
- 35 • P Guymon stated D Johnson made a good point.
- 36 • V Keeslar explained the staff reviewed the request for a reduction. He reviewed
37 the February 8, 2005 Staff Report.
- 38 • V Keeslar explained the original request was for a 34% and 39% reduction. The
39 applicant has presented a proposal tonight for a reduction that is less than the
40 original request.
- 41 • V Keeslar reviewed Table 16. He stated the recommended road impact fee in the
42 analysis was \$3,336.43 for single family detached, \$1,750.04 for
43 Condo/Townhome, and \$2,210 for low rise apartments. The 1997 City Council
44 chose a flat rate of \$500 for all residential units. V Keeslar explained no further
45 reduction is necessary. V Keeslar explained the average between an owner
46 occupied dwelling and a renter occupied building is less than ½ of a person. V

- 1 Keeslar stated Providence City has fairly assessed this project the City adopted
2 amount of impact fees and no reduction is necessary.
- 3 • P Guymon stated it is true that the recommended road impact fee amounts were
4 higher. However, he did not feel it meant the higher number was valid. He felt
5 single-family homes created a different burden on parks and roads than multi-
6 family projects. He also reviewed page 22 Section E. which discusses credit
7 entitlements. He stated Gateway Drive and Golf Course Road were installed by
8 his Clients. He noted the existing roads do not need to be widened by this project.
 - 9 • V Saunders asked if it mattered that the roads were built far in advance. J Burnett
10 explained the time is not a factor. It is a different analysis for project
11 improvements.
 - 12 • V Saunders felt the reduction took place when the 1997 Council reduced the
13 suggested road impact fee by 77% and set the \$500 fee. He honestly felt persons
14 living in the apartments would use the parks and roads as much as many other
15 residents of the City. P Guymon agreed, but explained the original study had
16 different rates for different dwellings.
 - 17 • P Guymon felt, based on current expenditures, the recommended 1997 road
18 impact fees would not be valid.
 - 19 • S Gomm explained that based on the figures discussed tonight, the single-family
20 road impact fee would increase to \$733. S Gomm asked for the law Guymon was
21 quoting. P Guymon stated the impact fee law governs. S Gomm asked V Keeslar
22 to discuss staffs recommendation. V Keeslar explained there is a difference
23 between project improvements and system improvements. P Guymon explained
24 he did not use that argument in tonight's presentation. J Burnett explained the
25 Staff Report was based on the original request, not on the information presented
26 tonight.
 - 27 • S Rolland stated that when the Council reduced the fees, they were not reduced
28 proportionately. J Burnett explained when a council makes a decision to reduce
29 impact fees lower than recommended; the thought is that the difference will be
30 made up from the general fund, which puts a larger burden on the single-family
31 home. J Burnett explained the study does make a per person distinction. J
32 Burnett recommended striking Conclusion No. 5 *The credits requested would*
33 *amount to the payment of funds for project improvements, which in not allowed by*
34 *state law*, based on tonight's presentation by the Applicants.
 - 35 • R Eck felt whatever the Council did would set precedence for future dwellings. R
36 Eck asked why Providence Place was charged less. D Johnson felt it was because
37 a complex for persons with disabilities would use the facilities significantly less.
38 J Burnett explained in terms of the City's records, the City does not actually know
39 why there was a reduction. J Burnett explained any developer can request their
40 project be viewed separately. J Burnett read from State Code 11-36 that would
41 allow a council to reduce fees.
 - 42 • J Burnett felt because the consultant structured the park impact fee
43 recommendation per person; there is a reasonable argument to reduce the per unit
44 fee by \$46, approximately \$4,400 for the complex.

- 1 • R Eck felt the \$4,400 reduction for park impact fees was worthy to look at. V
2 Keeslar and P Guymon stated the number of persons per unit was taken from the
3 2000 Census.
- 4 • D Johnson asked if the park and road impact fees were made clear up front. S
5 Holland reported the water and sewer fees were applied as discussed, but the park
6 and road impact fees were significantly higher.
- 7 • V Saunders felt the \$46 dollar reduction for parks was reasonable, he did not feel
8 the roads should be reduced. S Gomm asked if the Council was being
9 inconsistent. D Johnson asked if in a month others would request a reduction. V
10 Keeslar explained an appeal application must be filed within 30 days after being
11 assessed the fees. Anything assessed more that 30 days ago would not be eligible.

12 Motion to deny the road impact fee reduction – R Eck, second – V Saunders,

13 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

14 Nay: None

15 Abstained: None

16 Motion to refund \$4,521.03 from park impact fees back to Westates Construction – V

17 Saunders, second – D Johnson

- 18 • R Eck asked if the action was appropriate and in compliance with the law. J
19 Burnett felt the action was appropriate and in compliance with the law. J Burnett
20 recommended the Council consider the distinction in the future.

21 Vote: Yea: R Eck, D Johnson, R Liechty, V Saunders

22 Nay: S Gomm

23 Abstained: None

24 **Item No. 3 Public Hearing - Ordinance Modification 006-2005. The Providence City**
25 **Council will consider for adoption an ordinance amending Providence City Code**
26 **10-8-6:C.6. C1 Commercial Zoned District, to allow for one access for each 150 feet**
27 **of frontage in commercial zones, requested by John Hoellein, agent for Kartchner**
28 **Homes.**

- 29 • V Keeslar explained access is restricted to one access per 200 feet of linear
30 frontage. He explained reducing to 150 feet of linear frontage is helpful with
31 access management.
- 32 • Mayor Leonhardt and V Saunders did not want to override the access
33 management plan the City adopted with the County. V Keeslar explained the
34 County plan relates to highways; this relates to the local roads. V Keeslar stated
35 this will improve traffic circulation.
- 36 • R Eck asked if thought was given to a said lot or was it something that would
37 benefit the entire City. V Keeslar explained the applicant's lot only has 345 feet
38 of frontage. V Keeslar explained this is a little restrictive. He felt there may be a
39 time when a large tract of land may require three accesses on 100 North. V
40 Keeslar explained this property is located just behind Discount Tire. V Keeslar
41 felt this change would benefit the entire commercial area.

42 Mayor Leonhardt declared the public hearing open.

- 43 • No public comment received.

44 Mayor Leonhardt declared the public hearing closed.

45 Motion to approve Ordinance Modification 006-2005 – V Saunders, second – R Liechty

1 D Johnson asked if this would impact the State Highway. V Keeslar explained in order
2 to get access on the State Highway, a permit from UDOT is required.

3 Vote: Yea: S Gomm, D Johnson, R Liechty, V Saunders

4 Nay: None

5 Abstained: R Eck

6 **Item No. 4 Public Hearing – Ordinance Modification 007-2005. The Providence**
7 **City Council will consider for adoption an ordinance rezoning a 28.45 acre parcel of**
8 **property generally located at 1100 South Grandview Drive (Providence Highlands**
9 **Subdivision Phase 1), from A (agricultural) to SFT (single family traditional),**
10 **requested by Mark Cohen, agent for Imagine Development.**

11 Mayor Leonhardt declared the public hearing open.

- 12 • No public comment received.

13 Mayor Leonhardt closed the public hearing.

14 Motion to approve Ordinance Modification 007-2005 – V Saunders, second – D Johnson

15 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

16 Nay: None

17 Abstained: None

18 **Item No 5 Resolution 05-005. The Providence City Council will consider for**
19 **adoption a resolution approving a final plat for the Providence Highlands**
20 **Subdivision Phase One located generally at 1100 South Grandview Drive, requested**
21 **by Mark Cohen, agent for Imagine Development.**

- 22 • R Liechty asked about the storm water permit. M Cohen reported they have
23 shown the City the proposed plan. The Contractor will submit the application.
24 The State will make the decision.
- 25 • V Saunders reported he has heard the Hillsborough connection will not be
26 obtained. V Keeslar explained this is the City’s responsibility because the
27 connection is shown on the City’s master plan.
- 28 • V Keeslar discussed Finding of Fact 2, *Providence City Code 11-4-3-E:2 states,*
29 *“Streets shall be leveled to a grade of less than four percent (4%)for a distance of*
30 *at least one hundred feet (100’) approaching all intersections”* and Finding of
31 *Fact 3, Providence City Code 11-5-15:D states, “where unusual topographic or*
32 *other exceptional conditions exist, the City Council may vary the requirement of*
33 *this Title after receiving the recommendation from the Planning Commission*
34 *and/or the City Engineer; provided, that such variations will not substantially*
35 *impair the intent of this Title.”* He explained the intersection of Hillsborough and
36 Hidden View Drive does not meet the 4%. V Keeslar reported the Planning
37 Commission was made aware and recommended, because of the terrain, an
38 exception is granted.
- 39 • V Saunders questioned why the connection was not made through Lot 11. He felt
40 there may be a better chance of obtaining that connection. M Cohen explained
41 they originally did not anticipate the Hillsborough connection until V Keeslar
42 explained the connection is in the City’s master plan. There are problems with
43 existing grades. But the access through Lot 11 does not go directly to a collector.
- 44 • V Saunders also asked about traffic on Grandview Drive through the existing
45 subdivision. M Cohen explained the right-of-way dedication was 50’. The City
46 has 22’ of asphalt. If the City was to widen to the dedication, the current

- 1 homeowners on the east would have problems with driveways. The homeowners
 2 on the west have differing opinions on curb and gutter. M Cohen felt the area
 3 residents would like to see curb, gutter and sidewalk along 1000 South.
- 4 • R Eck expressed concern meeting ADA regulations if the exception was granted.
 5 V Keeslar explained he was not saying the ADA would allow the exception. He
 6 was explaining the City Code would allow the exception for the greater good of
 7 all. R Eck explained the whole ADA compliance causes him concern. R Eck
 8 asked what type of control would be at the intersection. V Keeslar explained the
 9 slope is east to west. V Keeslar felt the stop sign would be on Hidden View.
 - 10 • S Gomm asked about water. V Keeslar explained water is covered in previous
 11 agreements.
 - 12 • M Cohen reported the Cache Valley Homebuilders Assoc had chosen this site as
 13 their host site. They will have at least 5 homes in the Parade of Homes. To
 14 accomplish this task, they are asking for an exception to have building permits
 15 issued before minimum improvements are completed in the entire phase. The
 16 development has designated an area where the Parade of Homes houses will be
 17 built. They would like to have permits issued when the minimum improvements
 18 are completed in the area of the Parade of Homes.
 - 19 • V Keeslar explained the developer will be bonding for the entire phase. R Eck
 20 asked about a washout area. M Cohen explained they will absolutely have a plan
 21 for cleaning the muddy vehicles. V Keeslar felt it was critical that the 1000 South
 22 connection be completed before the Parade of Homes.

23 Motion to approve Resolution 05-005 and granting an exception to the minimum
 24 improvements by including in the Development Agreement the loop to the north be
 25 allowed building permits after minimum improvements have been accepted in that area,
 26 but prior to the minimum improvements being accepted in the south end of the
 27 subdivision – V Saunders, second – D Johnson

28 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

29 Nay: None

30 Abstained: None

31 **Item No. 6 Ordinance Modification 003-2005. The Providence City Council will**
 32 **consider for adoption an ordinance amending Providence City Code 10-9,**
 33 **Supplemental Regulations Within All Districts, to regulate parkways within the City**
 34 **right-of-way, requested by Providence City.**

- 35 • V Keeslar felt in the previous meeting, this item did not have adequate time for
 36 discussion. He explained the Planning Commission has been reviewing this
 37 change for approximately 4 months. He felt the most important item was J *“In*
 38 *all new subdivision and developments requiring street improvements (curb,*
 39 *gutter, and sidewalk) the developer shall, as a part of the development, install*
 40 *trees in the parkway as defined by this section. 1. the developer shall, as a part of*
 41 *the development, install the concrete work around the parkway, along with*
 42 *sleeves underneath or through the sidewalk to accommodate eventual sprinkling*
 43 *systems to the parkway.”* V Keeslar explained the agenda packet includes two
 44 options; one option allows decorative rock, one does not. He felt it better to trust
 45 one developer than many property owners.

- 1 • V Saunders felt this change may be applying home residential features to a utility
- 2 easement. He stated the City did not want residents raking waste into the park
- 3 strip but felt the City may be going to far the other way.
- 4 • V Keeslar explained the Planning Commission recommended taking shrubs out.
- 5 • R Eck expressed concern about the number of trees and their high maintenance.
- 6 He felt in 10 years Providence City would be forced to purchase another vacuum
- 7 truck. He felt it better to place the trees on the homeowner's side.
- 8 • R Liechty felt the leaves would blow across the street.
- 9 • V Keeslar explained the aesthetic value was important. He would rather see
- 10 aesthetically pleasing streets and incur higher maintenance costs.
- 11 • D Johnson felt it would be difficult to enforce the trees on private property. R
- 12 Eck explained the certificate of occupancy could be held until the trees were
- 13 planted.
- 14 • S Gomm asked if there were problems with roots. R Eck stated there would be
- 15 problems. V Keeslar explained the City took this into consideration when
- 16 developing the tree list.
- 17 • V Saunders asked who would maintain the trees. V Keeslar explained the
- 18 homeowners should maintain the trees, but should have trimming approved by
- 19 the City.
- 20 • M Cohen stated roots were also a problem for the meter boxes and water lines.
- 21 He suggested a clear area around the meter boxes.

22 Motion to approve Ordinance Modification 003-2005 with no shrubs and no decorative
 23 rock – V Saunders, second – D Johnson,

24 Vote: Yea: D Johnson, R Liechty, V Saunders

25 Nay: R Eck, S Gomm

26 Council Discussion:

- 27 • S Gomm asked about the sewer memo. V Keeslar explained the Council has a
- 28 copy of the memo Jay Jenks discussed in a previous meeting. Mayor Leonhardt
- 29 also explained the Deer Creek Apartment developers did not build Gateway Drive
- 30 and Golf Course Road. He reported these roads were built by other developers.
- 31 • V Saunders asked if Bryan Cox had been notified of the appointment to the
- 32 Mosquito Abatement District Board. Mayor Leonhardt will contact Cox.

33 Executive Session:

34 Motion to enter into an executive session – V Saunders, second – R Liechty

35 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

36 Nay: None

37 Abstained: None

- 38 • The Council entered into an executive session as approximately 9:00 p.m.

39 Motion to close the executive session – V Saunders, second – S Gomm

40 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

41 Nay: None

42 Abstained: None

44 Motion to adjourn – V Saunders, second – R Eck

45 Vote: Yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

46 Nay: None

1 Abstained: None

2

3 The meeting adjourned at 10:00 p.m.

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5 Minutes taken and prepared by S Bankhead.

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Alma H. Leonhardt, Mayor

Skarlet Bankhead, City Recorder