

1 **PROVIDENCE CITY COUNCIL MEETING**

2 **Tuesday, May 23, 2006 6:00 p.m.**

3 **Providence City Office Building**

4 **15 South Main, Providence UT**

5 **The Providence City Council will begin discussing the following agenda items at 6:00 p.m. Anyone**
6 **interested is invited to attend.**

7 **Call to Order:** Mayor Simmons

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

9 **Attendance:** Mayor: Randy Simmons

10 Council: Kathy Baker, Stacie Gomm, (Deon Johnson – excused), Ron Liechty,
11 Trent Rasmussen

12 City Administrator/Recorder: Skarlet Bankhead

13 Public Works Director: Randy Eck

14 **Pledge of Allegiance:** Ron Liechty

15 **Opening:** Trent Rasmussen

16 **Presentations and Proclamations:**

17 No presentations or proclamations are scheduled for tonight’s meeting.

18
19 **Consent Calendar:** All matters listed under the Consent Calendar are considered to be routine
20 and all will be enacted by one roll call vote. There will be no separate discussion of these items
21 unless members of the City Council, the public, or staff request specific items be removed from the
22 Consent Calendar for separate action.

23 **Item No. 1. Approval of the minutes for the May 9, 2006 City Council Meeting.**

24 Motion to approve the minutes for May 9, 2006 – R Liechty, second – T Rasmussen.

- 25 • Corrections: spelling correction - Sharell Eames

26 Vote: Yea: K Baker, S Gomm, R Liechty, T Rasmussen

27 Nay: None

28 Abstained: None

29 Excused: D Johnson

30 **Public Comments:** The City Council will hear comments from the public. There will be a three-
31 minute time limit per person and an overall time limit of fifteen minutes for the Public Comments
32 portion of the agenda. All comments are to be directed to the City Council. State law prohibits the
33 City Council from taking action on a specific item unless it appears on the posted Agenda.

- 34 • Stacie Gomm, 226 East 875 South, spoke as a resident concerning a home break-in in her
35 neighborhood. She reported the home alarm sounded; the homeowner went to investigate and
36 locked a door in the garage; the alarm went off again, homeowner investigated and found the
37 door unlocked. She felt the Council should consider increased police presence throughout the
38 city.
39 • Mayor Simmons reported the issue was discussed with Deputy Linda Stauffer this morning.

40 **Public Hearings:**

41 **There are no public hearings scheduled for tonight’s meeting.**

42
43 **Unfinished Business:**

44 **Item No. 1. The Providence City Council will review and discuss a proposal submitted by**
45 **Wikstrom Economic & Planning Consultants, Inc. and Lewis Young Robertson & Burningham,**
46 **Inc. for the development of a Capital Facilities Plan and a review and update of the City’s Impact**
47 **Fee Analysis. After the discussion the City Council may select one of the firms.**

- 1 • T Rasmussen reported he spoke with Paul Larsen of Brigham City; who spoke highly of Lewis
- 2 Young Robertson and Burningham; he was very complimentary of Susie Dunker.
- 3 • R Liechty spoke with Susie Dunker. He reported she explained she prepared the power point
- 4 presentation for Wikstrom Economic & Planning Consultants during the time she worked for
- 5 them. She also recommended David White as planning consulting – he is less expensive than
- 6 using her firm. She will be involved with the project; she will be on-site to work with the City
- 7 staff.
- 8 • K Baker explained her feeling all along has been with LYRB.
- 9 • S Gomm liked both companies.

10 Motion to accept LYRB to do a capital facilities plan and impact fee analysis – T Rasmussen, second – R
 11 Liechty,

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

13 Nay: None

14 Abstained: None

15 Excused: D Johnson

16 **Item No. 2. Ordinance Modification 007-2006. The Providence City Council will consider for**
 17 **adoption an ordinance amending Providence City Code ~~10-6-2 Classification of New and Unlisted~~**
 18 **Uses. 10-6-1: Use Chart to allow wholesale and retail sale of plants and greenhouse products from**
 19 **residential homes.**

20 Motion to approve Ordinance Modification 007-2006 – R Liechty, second – T Rasmussen,

- 21 • R Liechty explained the ordinance modification had been changed to include the items discussed
- 22 during the last council meeting.
- 23 • Mayor Simmons explained once the conditions are established, subsequent applicants meeting the
- 24 conditions would be approved.
- 25 • S Gomm requested 2006 be deleted from page 2 line 6 of the proposed resolution.
- 26 • M Petro/Gines stated she understood the new conditions.

27 Motion to amend the motion to include the five (5) conditions presented:

28 1. the proposed use would be limited to the sale of greenhouse and garden produce and plants,

29 2. comply with Providence City Code 3-4-5 Home Businesses,

30 3. the garden and/or greenhouse may not exceed 1,000 square feet and must meet the requirements for
 31 setback and yard area use,

32 4. parking must be provided for on-site; street parking will not be allowed,

33 5. business hours shall not begin before 10:00 a.m. and shall not extend after 8:00 p.m. from May 1, 2006
 34 to September 30; business hours shall not begin before 10:00 a.m. and shall not extend after 7:00 p.m.

35 from October 1 to April 30. – S Gomm, second – R Liechty,

36 Vote on motion as amended:

37 Vote: Yea: K Baker, S Gomm, R Liechty, T Rasmussen

38 Nay: None

39 Abstained: None

40 Excused: D Johnson

41 **Item No. 3 Resolution 06-037. The Providence City Council will consider for adoption a**
 42 **resolution ratifying the appointment of Stephen Allan and Mark Stimson as members and Bruce**
 43 **Roghaar as an alternate member of the Providence City Board of Adjustment.**

44 Motion to approve Resolution 06-037 – S Gomm, second – T Rasmussen

45 Vote: Yea: K Baker, S Gomm, R Liechty, T Rasmussen

46 Nay: None

47 Abstained: None

1 Excused: D Johnson

2 **New Business:**

3 **Item No. 1 Resolution 06-038. The Providence City Council will consider for adoption a**
4 **resolution appointing Scott Wyatt as the City Attorney.**

5 Motion approve Resolution 06-038 – T Rasmussen, second – S Gomm,

6 Vote: Yea: K Baker, S Gomm, R Liechty, T Rasmussen

7 Nay: None

8 Abstained: None

9 Excused: D Johnson

10 The Council felt the motion should state “as written”.

11 Motion to approve Resolution 06-038 as written – T Rasmussen, second – S Gomm,

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

13 Nay: None

14 Abstained: None

15 Excused: D Johnson

16 **Item No. 2. Resolution 06-039. The Providence City Council will consider for adoption a**
17 **resolution stating the Council’s intent for action to be taken on a walking path dedicated to the City**
18 **as part of the Temple View Estates Final Plat located generally at 437 East 125 North.**

- 19 • Mayor Simmons explained Bill Bertolio has built a fence on the east boundary of the dedicated
20 walking path; M Hoth would like to build a fence for animals on the same boundary line and
21 insists the Bertolio fence would interfere with his fence.
- 22 • K Baker stated the new fence would not be as attractive (barbed wire instead of white vinyl).

23 Motion to approve Resolution 06-039 – S Gomm, second – R Liechty,

- 24 • K Baker felt it had been previously decided that the owners should hash out the problem by
25 themselves.
- 26 • Mayor Simmons explained this resolution does not abandon the walkway; it just tells W Bertolio
27 to move the fence. If the City decides to abandon the right-of-way, there is a process to follow.
- 28 • R Liechty felt the City should start by informing Bertolio to move the fence.
- 29 • Mayor Simmons explained Bertolio has offered to move the walking trail.
- 30 • Mayor Simmons explained Bertolio currently has a white vinyl fence. The Council explained
31 adverse possession does not apply to City property.
- 32 • S Gomm did not think it did any damage to leave the fence. K Baker did not feel it could not be
33 used until it was connected. She did not think M Hoth would allow any connection.
- 34 • R Liechty felt the issue should be cleaned up. K Baker asked if the building also had to be
35 moved. R Liechty felt it should; he felt the trees could remain.
- 36 • K Baker questioned if the walkway served the public purpose. R Liechty felt the best way to
37 serve the public purpose was following the rules. He felt there were always people abusing the
38 system; he felt it was time to make a property owner do it right. R Liechty felt the City should
39 maintain the area, perhaps by paving the walkway.
- 40 • S Gomm felt if the City was not going to do anything with the property, why not declare it
41 surplus and sell it. She felt if the City wanted to build a walkway with a goal to go somewhere,
42 that would be great; but it would require land acquisition.
- 43 • R Liechty explained the plan is to continue the walkway so people could walk out of the cul-de-
44 sac when future development comes.
- 45 • S Gomm felt there were many places throughout the City where children have to walk around
46 development to get to bus stops. She felt if there was a goal that could be justified – she would
47 be okay; but she is having a hard time justifying the goal.

- 1 • R Liechty expressed concern about selling the property with the fence on it.
- 2 • K Baker explained her issue is paving the walkway encourages night marauders. R Liechty
- 3 explained the robbers can use the existing driveway.
- 4 • R Eck felt the property was worthless. He felt the City was setting a precedent that if it is
- 5 inconvenient for children to walk, the City will provide a way. R Eck felt if the property was
- 6 going to be used for parking old vehicles it would be a problem.
- 7 • S Wyatt explained he could make an argument both ways. He has a steady stream of children
- 8 walking through his yard – he would like something like this. On the other hand, it could be sold.
- 9 Selling is a one time decision. Either of the existing neighbors could buy the property.
- 10 • R Liechty felt the owner of 455 East 125 North may want to purchase the property and negotiate
- 11 with M Hoth.
- 12 • Mayor Simmons reported the other walkway in the area dead ends in a portion of Charles Kay’s
- 13 back yard.
- 14 • Mayor Simmons only reservation is that it is now grass, if sold it may turn into weeds.
- 15 • S Gomm felt the Council should have an open bid.
- 16 • K Baker asked if the Council approves the resolution and starts things in motion, should it also
- 17 include starting the process to vacate. She asked if the Council wanted to inform Bertolio that the
- 18 City is considering vacating and allow Bertolio to wait until the property is vacated.
- 19 • Mayor Simmons reported Hoth would like to use the right-of-way as a private lane for two lots.

20 Vote: Yea: K Baker, S Gomm, R Liechty, T Rasmussen

21 Nay: None

22 Abstained: None

23 Excused: D Johnson

24 **Item No. 3. Resolution 06-040. The Providence City Council will consider for adoption a**
 25 **resolution approving and amendment to the Development Agreement Addendum for the Bryan**
 26 **Palmer Subdivision.**

- 27 • Mayor Simmons reviewed the proposed resolution.

28 Motion to approve Resolution 06-040 – S Gomm, second – R Liechty,

- 29 • R Liechty reported he and the Mayor met with B Palmer on Thursday evening. They were
- 30 concerned that taking a fee in lieu and never putting the curb and gutter in would be an exaction.
- 31 • K Baker asked about the sidewalk. R Liechty explained the sidewalk will be installed.
- 32 • R Liechty explained instead of curb and gutter, the City is using ditches.
- 33 • S Wyatt explained if the City does not want the curb and gutter, the property owner can ask that
- 34 the money, including interest, be returned. He explained a good comparison is an impact fee. An
- 35 impact fee cannot be collected without a plan and it must be used within six years. He felt if the
- 36 City was not going to install curb and gutter within a reasonable amount of time, they should
- 37 walk away from the fee in lieu.
- 38 • K Baker clarified the City would require the sidewalk but not curb and gutter.
- 39 • R Eck explained until there is a plan for the installation of curb and gutter throughout the
- 40 downtown area of the City, it may not be installed.

41 Vote: Yea: K Baker, S Gomm, R Liechty, T Rasmussen

42 Nay: None

43 Abstained: None

44 Excused: D Johnson

45 **Item No. 4. Resolution 06-041. The Providence City Council will consider for adoption a**
 46 **resolution authorizing the out sourcing of the utility billings.**

1 Motion to approve Resolution 06-041 – K Baker, second – T Rasmussen,

- 2 • T Bankhead will check on the contracts.
- 3 • T Rasmussen also requested more information on the set-up fee.

4 Motion to continue to get more information – S Gomm, second – T Rasmussen,

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

6 Nay: None

7 Abstained: None

8 Excused: D Johnson

9 **Item No. 5. Discussion. The Providence City Council will discuss the referendum petitions.**

- 10 • S Bankhead stated after discussions with S Wyatt, she is not referring this to the ballot.
- 11 • S Wyatt explained this is an administrative decision by the City Clerk/Recorder not an action
- 12 item for the Council.
- 13 • S Wyatt explained land use issues cannot be done as an initiative. Land use decisions that are
- 14 legislative are referendable; if it is administrative, is it not referendable. Legislative decisions
- 15 create policies such as a general plan. Administrative decisions implement the plan created by
- 16 legislation. Changing a zone later, that is in conformance with the general plan, is not making
- 17 new policy, it is implementing the plan. The first time this was heard was in 1964. A few years
- 18 later in Wilson vs. Manning, the Supreme Court held the decision. This is not a matter of
- 19 whether the Council or the Recorder wants this to be a referendum, the law prevents this from
- 20 going on the ballot. In Moude vs. Sandy City 2005, the Supreme Court held the decision to
- 21 rezone a piece of property was referable based on the form of government in Sandy City. In
- 22 Providence City the mayor is nothing more than a council member with enhanced duties. The
- 23 Council has legislative and administrative powers. If you have a form of government such as
- 24 Sandy or Logan, the legislative body has been separated – the mayor is totally administrative, the
- 25 council totally legislative. S Wyatt explained Craig Call agrees with this opinion. His
- 26 understanding is that before the referendum petition begun it was understood that the referendum
- 27 may not be legal. A law suite can be filed if the petitioners choose to do so.
- 28 • K Baker explained at a recent Board of Adjustment hearing, the City took the opinion that the
- 29 Board of Adjustment could not make a decision on a zoning action because it was a legislative
- 30 act.
- 31 • Rand Henderson, on behalf of Laura and Bob Bisland, stated there were sufficient signatures to
- 32 have the referendum placed on the ballot. S Bankhead confirmed there were sufficient signatures.
- 33
- 34 • S Wyatt explained he and Rand Henderson had a conversation regarding the City's position.

35 **Item No. 6. Discussion. The Providence City Council will discuss Thursday evening meetings.**

- 36 • Mayor Simmons explained for the past month or so the Mayor and a member of the Council, or
- 37 two members of the Council in the mayor's absence, have been in the office on Thursday
- 38 evenings to meet with citizens on a walk-in basis. He felt that it was a useful thing to be doing,
- 39 but realized it involved the Council's time. He asked if the Council wanted to continue the
- 40 practice.
- 41 • T Rasmussen stated he really liked the opportunity to meet with the residents. The other council
- 42 members agreed.
- 43 • T Rasmussen and K Baker will meet this Thursday as the Mayor will be out of town. Mayor
- 44 Simmons will be in Washington DC.
- 45 • S Gomm will come on June 1 and June 8.

46 The Mayor announced a brief recess beginning a 7:20 p.m.; the meeting resumed at 7:30 p.m.

47 **Item No. 7. Discussion. The Providence City Council will discuss goals for proposed budgets for**

1 **fiscal year 2007.**

- 2 • Mayor Simmons explained he would like to discuss the budget at a couple of meetings. The
3 Council could discuss the budget on the 30th but there is not time to advertise for a public hearing.
4 If the Council desires a hearing before June 13th, the earliest date is June 1st.
- 5 • The Council decided a public hearing should be advertised for June 1st at 6:00 p.m.
- 6 • Mayor Simmons explained the Council identified five (5) goals in January. One way to
7 emphasize the goals is in the budget. K Baker has been working on the historical goals and T
8 Rasmussen has been working on the celebration. The second goal was communication; R
9 Liechty and S Gomm are working on this. The third goal is water. Mayor Simmons reported he
10 will be looking for federal funding for water options. He has had some very good meetings with
11 the water companies. Fourth is Planning and Development. One of the most recent decisions is
12 the zoning moratorium. Bill Bagley has a draft to review for an appeal authority – it will be a
13 public hearing at the next Planning Commission meeting. Developing the master plans for trails
14 etc. will be done during the next year; and the City has held joint training sessions with the
15 Planning Commission. The possibility of hiring Mark Teuscher as a consultant for the zoning
16 ordinances is also being considered. The final goal was evaluating the infrastructure – part of this
17 will be done in conjunction with the Capital Facilities Plan. R Eck reported sewer maintenance to
18 this point has been problem specific, the staff recommends beginning a preventive maintenance
19 plan.
- 20 • S Bankhead explained the Council will be approving two budgets. The beginning budgets for
21 2007 must be approved by June 22. The final budgets for 2006 must be approved by June 30.

22 **Staff Reports: Items presented by Providence City Staff will be presented as informational only.**
23 **Skarlet Bankhead will report on the Administrative, Community Development, and Finance &**
24 **Records Departments.**

- 25 • Registration for the summer recreation programs is going well. Recreation baseball (Little
26 League) for youth games have started and the snack stand is open.

27 **Randy Eck will report on the Public Works, Water, and Sewer Departments.**

- 28 • Flooding potential. R Eck reported the Logan River was at its highest peak this morning. Spring
29 Creek jumped 6 inches this morning; it is still four weeks from projected peak time. The City has
30 not had any more requests for help.
- 31 • Alma H. Leonhardt Park. R Eck reported the trees are scheduled to be planted this week and
32 sodding will begin in the near future. Mayor Simmons reported the staff feels sodding will be
33 more cost effective than hydro seeding at this time of year.
- 34 • R Eck presented the new sign for the Sheriff's Office Substation. There will be one sign on the
35 City Office Building and one sign on the Public Works Office Building. R Eck reported Lt Chad
36 Jensen suggested the City work with other cities to get an additional car for graveyard time frame.
- 37 • R Eck reported the Public Works staff has been busy repairing water leaks. The City has an
38 aggressive plan for maintenance.

39 **Council Reports: Items presented by the City Council members will be presented as**
40 **informational only; no formal action will be taken. The City Council may act on an item, if it arose**
41 **subsequent to the posting of this agenda and the City Council determines that an emergency exists.**
42 **Council Member S Gomm:**

- 43 • Budget request – communication of \$50/month for blog accounts. S Gomm would like to see
44 more money for additional patrol.

45 **Council Member R Liechty:**

- 46 • R Liechty spent some time on Thursday viewing the water system with R Eck. He felt the City's
47 system was amazing.

1 Council Member K Baker:

- 2 • K Baker reported the newsletter will include a Heritage preservation flyer advertising a meeting
3 on June 14 at 3:00 p.m.
- 4 • K Baker reported in preparation for the water survey, she went through page by page of the
5 County plats and counted the empty lots; she then drove through the City to see what the City
6 was committed to. She used 2.3 units per acre unless the frontage was limited. She prepared an
7 addendum with about 12 additional lots that she felt she had missed. Mayor Simmons explained
8 this is part of the project the water committee is working on. This is a really good first step.

9 Council Member T Rasmussen:

- 10 • T Rasmussen reported the County Fair is in August; he committed the City to a community
11 booth. He asked for groups or individuals needing service hours. The theme is family, food, fun.
12 This item will be advertised in newsletter.
- 13 • T Rasmussen reported the traditional scheduling for Sauerkraut Days conflicts with Top of Utah,
14 so the staff recommends changing the date. He spoke with Scott Jepson, the new principal of
15 Spring Creek Middle School and he is very excited to be part of the celebration. T Rasmussen
16 reported he also met with Greg Larsen, Providence Elementary Principal. He suggested T
17 Rasmussen talk with Debbi Denton, Providence Elementary PTA, about combining the fall
18 carnival with Night Against Crime and City Celebration. Mayor Simmons explained the
19 recreation group felt combining events would create a huge community party.
- 20 • T Rasmussen reported he spoke with a lady from Ohio about commercially produced sauerkraut.
21 He also contacted Jensen's Distributing and RSM about purchasing the sauerkraut. T Rasmussen
22 is still hoping to make our own, at least to serve at the dinner. T Rasmussen explained this is
23 planned for Friday, September 8; no Saturday events are anticipated.
- 24 • S Bankhead reported the snack stand will be selling polish sausage and sauerkraut during the
25 summer – S Gomm requested brats.

26 Motion to adjourn – R Liechty

27 Vote: Yea: K Baker, S Gomm, R Liechty, T Rasmussen

28 Nay: None

29 Abstained: None

30 Excused: D Johnson

31 Meeting adjourned at 8:10 p.m.

32
33 Minutes taken and prepared by S Bankhead.

34
35
36
37
38 _____
39 Randy T. Simmons, Mayor

38 _____
39 Skarlet Bankhead, City Recorder