

1 **Providence City Council – Study Session**

2 **Providence City Office Building**

3 **15 South Main, Providence UT**

4 **Tuesday, September 21, 2004 6:30 p.m.**

5 **Attendance:** Mayor: Alma H. Leonhardt

6 Council: Randy Eck, Stacie Gomm, Deon Johnson - excused, Ron

7 Liechty, Vic Saunders - excused

8 City Manager: Vern Keeslar

9 City Recorder: Skarlet Bankhead

10 **The Providence City Council will meet for a study session at 8:00 p.m. in the City**  
11 **Council Chambers. This is a public meeting; however, no public comment will be heard**  
12 **and no action will be taken on the agenda items.**

13 **Item No. 1. The Providence City Council will discuss the results of a water report**  
14 **compiled by the City Engineer and staff.**

15 Bob Fotheringham, State Water Rights Division, discussed the Interim Cache County Ground  
16 Water Plan.

- 17 • B Fotheringham reviewed the results of the study.
- 18 • The withdraw from wells is 28,000 acre feet. This is being pumped annually.
- 19 • He also reviewed the recharge program. Whenever canals are lined in a recharge  
20 area, it will affect the wells.
- 21 • The dynamic levels are levels monitored during certain times of the year. There is  
22 very little change.
- 23 • The state engineer has left ground water open to appropriation subject to the  
24 guidelines. Individual domestic use (only to occur in parcels existing in September  
25 1989), application for appropriation – the state engineer will allow an additional  
26 25,000 acre feet to be withdrawn as long as there is compensation. This is better than  
27 a change application.
- 28 • R Eck asked about compensation. B Fotheringham explained compensation  
29 replacement can be monetary. It can be water for water; by sheparding the water  
30 through the system.
- 31 • Depletion is also considered in compensation recharge. If you take an acre foot of  
32 water and irrigate you use about ½ of it. If you take an acre foot of water for culinary  
33 you use about 1/3 of it.
- 34 • B Fotheringham suggested a municipal water plan for 20 years.
- 35 • B Fotheringham explained single family domestic and change applications are the  
36 only types that have been granted.
- 37 • B Jorgensen suggested the City look at the earliest date the water right was acquired.
- 38 • B Fotheringham felt the idea is to have a system functioning in a dynamic way. The  
39 state engineer doesn't want what water leaves the valley to change. Generally  
40 speaking a municipality will have more assets to work with than a private individual.  
41 The state engineer also looks at "best public interest."
- 42 • Mayor Leonhardt felt the City should get the wells to capacity.
- 43 • B Fotheringham explained the steps to apply: 1. projected water needs by year, 2. test  
44 pump the well, 3. extend pending applications rather than proof.
- 45 • B Fotheringham reported he could not determine the "firm rated yield." B  
46 Fotheringham suggested the City put their request for firm rated yield in writing. D  
47 Barnes explained most of the water rights were gallons per minute during a specific  
48 time frame.

- 1 • B Fotheringham explained in the past municipalities were allowed a broad use.  
2 Claims were written on a flow rate. This is no longer the case. They now need the  
3 number of CFS and acre feet being pumped for a year. The water right may be for  
4 two second feet, but the use may be 600 acre feet. The City needs to be very careful  
5 when quantifying the use.
- 6 • B Fotheringham explained a point in time will come when peak demand will not be  
7 met by the current rights.
- 8 • B Fotheringham felt Smithfield City had an excellent ordinance requiring water at the  
9 time of annexation.
- 10 • B Jorgensen explained cities were subject to forfeiture for lack of use. As long as the  
11 City is not specific there is no forfeiture. If the City quantifies an amount and does  
12 not use it, it may be subject to forfeiture. B Jorgensen explained if the City files an  
13 extension within the 50 year period, the state engineer allows projections for growth.

14 **Item No. 2. The Providence City Council will discuss the ordinance for the proposed**  
15 **petition of annexation filed by Stan Checketts for a 220.04 acre (+/-) parcel of property**  
16 **located adjacent to the east boundary of Providence City.**

- 17 • R Liechty suggested getting a copy of Smithfield City's annexation ordinance.
- 18 • The Council's concern is annexing in and then being forced to allow development  
19 before the City is ready.
- 20 • B Jorgensen felt an agreement that can be enforced can be drafted. The problem  
21 comes when the development meets all the requirements of the ordinance, and the  
22 City denies an application for development. There is no question they can be  
23 annexed with conditions. Not annexing is stronger than not changing the zone. As a  
24 general rule annexation is entirely discretionary.
- 25 • V Keeslar felt the advantage of annexing was controlling land use.
- 26 • R Eck did not have a problem with developing the area if the road and water needs  
27 are met. R Liechty agreed. S Gomm felt the Council would allow development if the  
28 conditions were met.
- 29 • R Liechty felt the fee in lieu needed to be taken out of the ordinance. He asked if  
30 denying a rezone would stand up in court. B Jorgensen explained if the requested  
31 rezone is out of order and the reasons for denial can be documented, if it is appealed,  
32 the Court will uphold the City's stand.
- 33 • R Eck felt the master plan indicated the City is interested in annexing to complete the  
34 transportation plan.
- 35 • V Keeslar reviewed the future annexation plat. V Keeslar explained the 25 homes are  
36 in Zone 2 and would not require the second water source for the Comb Flat reservoir.
- 37 • B Jorgensen explained impact fees can only be used for the infrastructure on the  
38 facilities/reasonable plan. They need to benefit a large portion, if not the whole city,  
39 not just a small area.
- 40 • S Gomm reviewed her changes to the ordinance. She felt it was important to say  
41 before being proposed for development instead of being developed.
- 42 • B Jorgensen did not think the City should remove the 25 homes. V Keeslar explained  
43 the 25 was derived from the current road capacity and estimating the number of  
44 commuter trips.
- 45 • S Gomm felt the City should consider the annexation to get the roads in. B Jorgensen  
46 felt the City could ask for the plan and timeframe for development.
- 47 • B Jorgensen explained if the duty is not assigned to the well, they can continue to file  
48 extensions for proof. This allows the City to use the water.

- 1 • B Jorgensen explained the fee in lieu of water can be used for improving the system,  
2 not just for the purchase of shares.
- 3 • Mayor Leonhardt suggested the Council should meet with Millville as soon as  
4 possible to discuss the boundary adjustment.
- 5 • R Eck felt if the City denied the annexation, they should consider denying the small  
6 developments.
- 7 • V Keeslar explained he got the vacant parcels within the City from the County. He  
8 then counted all the recorded platted subdivision vacant lots, then he counted  
9 everything that is in house. He did not count lots that were not buildable. This does  
10 not include the Checketts property or the CELCO property. The 325 buildable lots  
11 are in the City. B Jorgensen does not advocate either way.
- 12 • R Eck felt the person waiting to development has a reasonable argument.
- 13 • V Keeslar felt the 67 reserves should be used for commercial services.
- 14 • B Jorgensen felt the City needed to decide on CELCO before deciding on Checketts.
- 15 • S Gomm requested the staff prepare an ordinance change to remove the fee in lieu of  
16 water shares.
- 17 • B Jorgensen felt the Council should only annex what they will allow to be developed.  
18 Annexing more will expose the City to pressure, and perhaps legal pressures.
- 19 • V Keeslar explained the Request for Qualifications for a capital facilities plan and the  
20 impact fee analysis, and the rewriting of the ordinances are pending.
- 21 • B Jorgensen explained there is not deadline to annex after holding the public hearing.  
22 The timing deadline on involves holding a public hearing.
- 23 • R Liechty wanted an iron clad ordinance that if the property is annexed, the City is  
24 not liable to provide services.
- 25 • R Eck requested a meeting to inform the missing council members of tonight's  
26 information.
- 27 • B Jorgensen felt it is better to be up front with the property owners. The facilities  
28 plan, the impact fees, and the ordinances are not ready.
- 29 • R Eck felt B Jorgensen should attend the next council study session.

30 The study session closed at 10:10 p.m.

31 Minutes taken and prepared by S Bankhead.

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Alma H. Leonhardt, Mayor

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Skarlet Bankhead, City Recorder