

1 **Providence City Council Meeting**
2 **Providence City Office Building**
3 **15 South Main, Providence UT**
4 **Tuesday, September 28, 2004, 6:30 p.m.**

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

11 **Study Session:**

12 **Annexations and rezonings:**

- 13 • D Johnson asked if the City annexed, would there be undo pressure from the developer. B
14 Jorgensen explained if the City did not annex property, there would be virtually no pressure from
15 the developer. That being said, he also reported there is a case in Salt Lake County where a
16 developer is suing because they were not annexed. The outcome is yet to be decided.
- 17 • B Jorgensen explained annexation was discretionary. The courts usually uphold the
18 municipalities' position.
- 19 • V Saunders felt the City was agreeing to annex, but not to allow development until the water and
20 road issues are resolved. Mayor Leonhardt agreed with V Saunders. He felt the City should annex
21 with the understanding, development will not occur until the road and water issues are resolved.
- 22 • Mayor Leonhardt explained the remaining 67 ERCs are after the 300 something lots have been
23 built on. He explained it could be a very long time before the remaining lots are built on, some
24 may never be built on. He did not think the City should stop development to wait for something
25 that may not happen. He did not feel the City should wait until the current 300 lots have been
26 developed to allow additional development.
- 27 • B Jorgensen reported Wellsville's position is that they would rather annex and control the
28 development than let the County control the development.
- 29 • B Jorgensen explained not annexing is the quickest and surest way to have control. If the property
30 is annexed into Providence, it will not be developed in Providence. If development is not
31 occurring in Providence, there should be no pressure from developers. However, the flipside is,
32 the City does have control with zoning. The City can annex the property and wait until the timing
33 is better to change the zoning. He cautioned the developers may put pressure on the City to
34 change the zoning.
- 35 • B Jorgensen explained the strongest method not to allow development is not to annex the property.
- 36 • S Gomm did not feel the Council felt annexing, in the annexing philosophy, was against the City's
37 plan, they just want to make sure the water issues are resolved. She asked if the City could table
38 the decision until the Checketts developers bring in a water plan. B Jorgensen felt the Council
39 could require the water plan before annexing.
- 40 • B Jorgensen disclosed that Miles Jensen, another attorney in his office, does a lot of work for Stan
41 Checketts.
- 42 • Mayor Leonhardt felt the City should provide the plan and the developers fulfill the plan.
- 43 • B Jorgensen explained the City can annex with strict specifications in the annexing ordinance that
44 the developer will have to comply with. He suggested annexing only what the City can service or
45 annex the entire petition with strict requirements before development. It was explained that if the
46 size of the parcel changed, it would have to be reviewed to make sure it complied with the state
47 code requirements.
- 48 • V Saunders asked about annexing the majority of the parcel as agricultural and the amount
49 necessary for 25 homes as SFT. V Keeslar felt, if the Council decided to annex, the entire parcel
50 should be annexed as agricultural, the rezone would occur as part of the development process.
51 This would give the City better control over development.
- 52 • R Eck asked if the declaration plan protected the City against other cities annexing property
53 included in the City's plan. B Jorgensen explained no. He explained if the owners approach
54 another city, they can amend their plan to annex.

- 1 • R Eck asked if the City could annex a smaller portion than being applied for. B Jorgensen
- 2 explained the City could as long as it met the state laws.
- 3 • R Eck asked if CELCO could sue the City if the City annexed the Checketts property and not their
- 4 property. B Jorgensen explained the applicant can always sue; the question is if the City can win
- 5 and is it worth the cost.
- 6 • D Johnson felt the City could annex the properties with the protection of the annexation
- 7 ordinances. He asked if the current reservoirs could provide fire protection. D Barnes and Mayor
- 8 Leonhardt felt they could.
- 9 • D Johnson felt if the City could legally bind the applicant to water for water, the City could annex.
- 10 • R Liechty felt CELCO was different because it was a boundary adjustment.
- 11 • Mayor Leonhardt explained if the City pumped a lot of water during the summer and very little or
- 12 none during the winter; it would still be within its rights. B Jorgensen agreed. Mayor Leonhardt
- 13 explained the projections have been based on what the City was taking out of the well, not what it
- 14 could take. He felt there was a little more water than what the council was panicking about.
- 15 • V Saunders asked if the City takes more from the Spring does it affect the irrigation users. He
- 16 reported John Booth has expressed concern that sometimes he does not get his irrigation water. D
- 17 Barnes explained taking water from the Spring may affect water users. Mayor Leonhardt
- 18 explained if the City did not continue to lease shares to residents, there would be very little water
- 19 for the lateral John Booth is on. B Jorgensen explained there must be enough water to supply the
- 20 end user on the line.
- 21 • D Johnson asked about the well Stan Checketts has an interest in. D Barnes explained it would
- 22 have to be upgraded before coming to the City. The well fluctuates a lot; it is not stable.
- 23 • S Gomm expressed concern that without the large annexations, the City still had an issue with
- 24 water. She felt there was a water issue within the current limits. D Johnson and Mayor Leonhardt
- 25 explained the City could supply the water needs within the current city limits. V Keeslar
- 26 explained the City only has 67 ERCs after build out of the 300 buildable lots within the current
- 27 city limits.
- 28 • V Saunders felt part of the problem would be solved with the ordinance change to require water,
- 29 not fee in lieu and that the property sitting in Providence that was not counted as buildable lots
- 30 would need to bring in water before developing.
- 31 • V Keeslar explained everything in house, except for the 25 in the Checketts property and the 50 in
- 32 the CELCO property, was included in the available ERCs.
- 33 • Mayor Leonhardt felt the City was in a better position to provide water than many cities.
- 34 • R Eck felt it important that the petitioner understand he must provide water, not a fee in lieu of.
- 35 He felt the fee in lieu ordinance change should be made known. The Council agreed.
- 36 • V Keeslar reported the CELCO developers have obtained water.
- 37 • V Keeslar explained the fee in lieu ordinance could, best case, be changed at the October 26
- 38 meeting.
- 39 • R Eck felt the City should be proactive toward obtaining water rights. The Council agreed.
- 40 • D Barnes reported the assistant state engineer said Bob Fotheringham should not have made some
- 41 of the comments he made. Mayor Leonhardt explained if the City cannot justify more rights, the
- 42 state will not grant more water.
- 43 • D Johnson expressed concern about over pumping a well.
- 44 • R Eck suggested the City consider a water engineer as a consultant. V Keeslar explained the 1999
- 45 Water Plan is in harmony with the recent report. V Keeslar suggested a water attorney.
- 46 • D Barnes explained Alder Well is allowed to produce 500 gpm, Jay's Well 1,200 gpm, Dale's well
- 47 2,200 gpm. He explained even though the wells tested at higher amounts, the City can only take a
- 48 percentage of the maximum test.
- 49 • V Saunders suggested John Maeby as a water attorney. Bruce Jorgensen also suggested Warren
- 50 Peterson. V Saunders felt W Peterson would refer the City to John Maeby.
- 51 • S Gomm asked if there was anything that needed to be changed before annexing. V Saunders felt
- 52 if the City put the fee in lieu change in the annexing ordinance, they could approve the annexing
- 53 ordinance tonight.

- 1 • V Keeslar reported he checked Logan’s annexation plan on the internet. The Checketts property is
2 not currently included.
- 3 • S Gomm suggested taking out the 25 home exceptions. She did not feel any development should
4 be allowed until all of the water requirements, including the second source, are met.
- 5 • Mayor Leonhardt did not feel the 25 homes should be tied to the second source.
- 6 • V Keeslar suggested the Council could pass an ordinance requiring development to obtain culinary
7 water. V Keeslar explained culinary water rights can be purchased on the open market.
- 8 • V Saunders did not feel the Spring water was culinary. D Barnes explained the Spring water that
9 goes into the City’s system stays underground, it does not see daylight.
- 10 • S Gomm felt the water share ordinance should be in place before annexing.
- 11 • V Keeslar felt it would be extremely drastic to require the developer to make the change
12 application.
- 13 • Mayor Leonhardt felt requiring culinary water may cause commercial development to stop.
- 14 • B Jorgensen cautioned that the rights must be transferable.
- 15 • D Johnson questioned if the City required the culinary right, would it apply to the lots used in the
16 report. V Keeslar explained anything in a recorded subdivision have already been approved.
- 17 • B Jorgensen felt there was so much conflict as to what the ordinance may say, it would be difficult
18 to proceed. V Keeslar suggested waiting to annex until the water share ordinance is adopted. He
19 suggested tabling until November 23.

20 **Legal thought about partial road right-of-ways:**

- 21 • V Keeslar reported after visiting with Bruce Jorgensen, if someone has vocally stated they will not
22 allow dedication, then the proposed right-of-way does not meet the ordinance.
- 23 • B Jorgensen explained the subdivision cannot operate without the required right-of-way. He felt
24 at this point in time, because the adjacent property owner has stated emphatically that his property
25 will not be developed, the development would need to change from a public street to a private
26 lane.
- 27 • Mayor Leonhardt questioned what would happen in the future if the neighbor decided to develop.
28 B Jorgensen explained future development would have to dedicate property necessary to meet the
29 right-of-way requirements. R Eck expressed great concern about converting a private lane to a
30 public street. A private street does not need to be built to the same standards as a public street.

31 **Agenda Items:**

32 **Pledge:** BSA Troop 376 **Opening:** R Liechty

33 Mayor Leonhardt public told the City Staff he felt it was one of the best celebrations in a long time.
34 He felt the staff should be congratulated. The Council agreed. Mayor Leonhardt requested a “big
35 thanks” be expressed to the staff.

36 **Approve minutes and update past business:**

37 Motion to approve the minutes – V Saunders, second – S Gomm

38 Corrections:

39 9/14/04

- 40 • Page 4 of 10 line 22 He felt if the City did not annex, it was a ~~lose, lose~~ **lose, lose** situation.
- 41 • Page 4 of 10 line 46 Bob ~~Farthingham~~ **Fotheringham**
- 42 • Page 9 of 10 line 7 difference. R Eck and D Barnes said no. difference. R Eck and D Barnes
43 said no.

44 9/21/04

45 Corrections:

- 46 • Page 1 of 3 lines 6 and 7 Randy Eck, Stacie Gomm, Deon Johnson - **excused**, Ron Liechty,
47 Vic Saunders - **excused**

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

49 Nay: none

50 Excused: none

51 Abstained: none

52 **Item No. 1 Ordinance Modification 026-2004. The Providence City Council will consider for**
53 **adoption an ordinance granting a petition of annexation filed by Stan Checketts for a 220.04 acre**
54 **(+/-) parcel of property located adjacent to the east boundary of Providence City.**

55 Nathan Ballstaedt represented the petitioner.

- V Saunders reported within time certain, the Council intends to implement an ordinance change that will no longer allow cash for water. This will take approximately eight weeks. V Saunders and S Gomm requested a draft within two weeks.
- V Saunders explained the Council would like to delay their decision until they have changed the water stock transfer ordinance.
- R Eck asked N Ballstaedt if he understood the delay. N Ballstaedt reported he was told by the applicant to make very little comment. R Eck explained as a council they were not comfortable annexing without the ordinance change in place. He explained the Council looks favorable on the annexation, but they are not comfortable proceeding without the ordinance in place. R Eck and Mayor Leonhardt explained the water would be required at the time of development, not at the time of annexation.

Motion to continue Ordinance Modification 026-2004 until November 23 – V Saunders, second – D Johnson,

Vote: yea: R Eck, D Johnson, S Gomm, R Liechty, V Saunders
 Nay: none
 Excused: none
 Abstained: none

Item No. 2 Resolution 04-071. The Providence City Council will consider for adoption a resolution approving a final plat for Stirland Estates Subdivision located generally at 620 South 200 West, requested by Van Stirland.

Van Stirland and Gary Knighton represented the development.

- R Eck asked B Jorgensen to review the legal findings. B Jorgensen explained as the ordinance is currently written the minimum public right-of-way is 50 feet. The current developer is prepared to dedicate 43 feet; however, the adjacent property owner will never dedicate the additional property. Therefore the only way the development can happen is with a private road. There are two approaches, build as a private lane or build the private road to public road standards in the hope someday it would become a public road. Unless a covenant was in place, all property owners along the private lane would have to agree to make the private lane a public street.
- G Knighton questioned the ½ road ordinance. B Jorgensen explained the ½ road works unless the adjoining neighbor will not ever dedicate the right-of-way.
- Gary Stauffer reported he had the power of attorney for his father, who owns the majority of the adjacent property. The Stauffers do not intend to dedicate the right-of-way. G Stauffer explained if they do develop, they will have access through the middle of the property. They do not intend to have a road on the north side of the property.
- G Knighton explained the Stauffer property will be landlocked without the right-of-way. Gary Stauffer felt another road could be developed through the middle of his property. B Jorgensen explained the cul-de-sac also came into play; it would need enough property to be completely finished.
- R Eck explained to the developer it would cost less to build a private road than to build the street to public standards.
- G Knighton felt prior developments had been allowed with partial development of a road. B Jorgensen cautioned Knighton about using information obtained as the City Engineer.

Motion to deny the final plat because the right-of-way will not meet the requirements now that new information has been brought to light, or the developer has the option of the private lane – R Eck, second – R Liechty

- V Keeslar explained with the new information the Council received that the Planning Commission did not have (adjoining property owner will not now or ever dedicate the amount required) the final plat could be changed without having to go back through the process.
- B Jorgensen felt the motion would work subject to the developer meeting the requirements of the private lane. V Keeslar explained the staff would need to review the changes.

Vote: yea: R Eck, D Johnson, R Liechty, V Saunders
 Nay: S Gomm
 Excused: none
 Abstained: none

1 **Item No. 3. Public Hearing - Ordinance Modification 027-2004. The Providence City Council will**
2 **consider for adoption an ordinance granting a petition for annexation filed Blaine A. Olsen for parcel**
3 **no. 02-0117-0012.**

4 The parcel was clarified as 02-117-0012

5 Blaine Olson, petitioner, represented the petition.

6 Mayor Leonhardt opened the public hearing.

- 7 • C Thompson asked if the proposed water stock ordinance change would affect this annexation.
- 8 • V Saunders explained to the applicant that the Council is considering changing the water share
9 ordinance. B Olson reported he has water shares. He is just looking for annexation. He does not
10 have development plans only looking for annexation.

11 Mayor Leonhardt closed the public hearing.

12 Motion to approve Resolution 027-2004 – V Saunders, second – R Liechty

13 Vote: yea: R Eck, D Johnson, R Liechty, V Saunders

14 Nay: S Gomm

15 Excused: none

16 Abstained: none

17 **Item No. 4. Resolution 04-064. The Providence City Council will consider for adoption a resolution**
18 **approving a conditional use for an accessory dwelling located generally at 271 West 280 North,**
19 **requested by Ronald Larsen**

20 Ron Larsen represented the application.

- 21 • S Gomm questioned if the firewall had been met. V Keeslar explained the applicant has applied
22 for the building permit. The firewall will be monitored through the building inspection process.

23 Motion to accept Resolution 04-064 – R Eck, second – V Saunders,

24 Vote: yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

25 Nay: none

26 Excused: none

27 Abstained: none

28 **Item No. 5. Resolution 04-076. The Providence City Council will consider for adoption a resolution**
29 **appointing two members and one alternate to the Board of Adjustment.**

30 Mayor Leonhardt explained it has been recommended that Justin Pope and Nelson Palmer be appointed to
31 serve on the Board of Adjustment.

- 32 • V Saunders explained the Board of Adjustment is like a court of law. He felt the first candidate
33 may have issues that should come before the Board of Adjustment. R Liechty also expressed
34 concern that the individual may have conflict of interest.
- 35 • V Keeslar explained he is trying to foster good will in the area of 100 South. One of the
36 candidates also works for another city and may have background that would be helpful. V
37 Keeslar explained he had a positive discussion with the individual.
- 38 • C Thompson did not know the individual. He did suggest the council consider a female.
- 39 • V Saunders felt this would be an opportunity to learn, but there was also a potential for conflict of
40 interest.
- 41 • R Eck asked how one is removed from the Board of Adjustment. V Keeslar explained the Council
42 can remove a member with or without cause. V Keeslar explained the normal commitment by
43 state law is 5 years.
- 44 • D Johnson felt if the Council reviewed the minutes from a meeting several years ago no one would
45 feel comfortable with the suggestion.
- 46 • S Gomm asked C Thompson if he would approach the Council if a problem arose. C Thompson
47 felt he could work with anyone.

48 Motion to approve Resolution 04-076 in the spirit of forgiveness and with a fresh start – V Saunders,

49 second – S Gomm

50 Vote: yea: S Gomm, V Saunders

51 Nay: R Liechty, D Johnson, Mayor Leonhardt

52 Excused: none

53 Abstained: R Eck, no knowledge of person

54 **Item No. 6. Resolution 04-075. The Providence City Council will consider for adoption a resolution**
55 **approving the Providence City Council Bylaws.**

- 1 • R Eck asked V Keeslar to explain the reason for bylaws. V Keeslar explained the driving force
- 2 was from discussions that arose after the Council reviewed legal opinions of a letter from an
- 3 atheist organization.
- 4 • V Keeslar reviewed 2.2 the mayor is a member of a governing body by state code but can only
- 5 vote in the case of a tie.
- 6 • S Gomm questioned 2.1 and 2.2 concerning the definition of a quorum. V Keeslar explained the
- 7 definitions were taken from state code.
- 8 • V Saunders explained the number of members was established by state code.
- 9 • S Gomm questioned 6.3.e and 6.4 does a public hearing need to be reopened to accept comment
- 10 from the audience. R Eck explained the council members can ask direct questions from the
- 11 audience.
- 12 • R Eck questioned if an engineer working for the City is staff. V Keeslar explained the City
- 13 Engineer is considered staff. R Eck questioned 4.1 and 4.2. V Keeslar felt the City should
- 14 consider an engineering firm that by contractual agreement will not represent an applicant. R Eck
- 15 felt if the Council accepted the bylaws, a Request for Qualifications for an engineering firm should
- 16 be put in place. V Keeslar explained Max Pierce is the Knighton and Crow representative
- 17 assigned to the City, and while Gary Knighton is a member of the firm, M Pierce is considered the
- 18 City Engineer.

19 Motion to accept as written with the clarifications explained tonight – R Eck, second – D Johnson,

20 Vote: yea: R Eck, S Gomm, D Johnson, R Liechty, V Saunders

21 Nay: none

22 Excused: none

23 Abstained: none

24 **Study Session:**

25 Mayor Leonhardt:

26 Boundary Line Adjustment:

- 27 • A joint study session with Millville City will be held Thursday, October 7, at 6:00 p.m. at the
- 28 Millville City Office Building.

29 Landscaping along Center Street between 300 and 400 East:

- 30 • Mayor Leonhardt reported Lynn Hancey would like to participate with the City to change the
- 31 weeds to wild flowers. Hancey thought it would cost approximately \$800 to have the area sprayed
- 32 with a wild flower component. It will be guaranteed. Mayor Leonhardt felt the beautification
- 33 money could be used. If required, a public hearing to adjust the budget will be held.

34 Council Member Randy Eck:

35 Suicide prevention:

- 36 • R Eck reported he attended a suicide prevention class. The speaker failed to show so the class was
- 37 opened for discussion about suicide problems. R Eck suggested the City look into suicide
- 38 prevention. He felt many facets of the community could be involved. S Gomm will bring some
- 39 information to the next council meeting.

40 Snow Removal Policy:

- 41 • R Eck reported V Keeslar and D Barnes have been working on the snow removal policy. He
- 42 would like the Council to see the policy before it is implemented. V Keeslar reported a draft is
- 43 complete.

44 Council Member Stacie Gomm:

45 Resolution for Child Appropriate Standards:

- 46 • S Gomm brought draft resolution promoting child appropriate standards. This is about adopting a
- 47 philosophy. This will be on the next agenda.

48 Future extension of 400 East:

- 49 • S Gomm questioned if anyone had talked with Mrs. Rinderknecht about the future extension of
- 50 400 East road. V Saunders volunteered to discuss the proposal. V Keeslar reported he and V
- 51 Saunders will be meeting with Mrs. Rinderknecht, they will discuss the road with her.

52 Employee Policy:

- 53 • S Gomm will give V Keeslar comments about the employee policy.

54 Children walking to school:

- 1 • S Gomm met with school personnel about safety for children walking to school. R Eck reported
2 this is spelled out in the MUTCD. It is the school board's responsibility to prepare the routing
3 plan and submit it to the City for review.

- 4 • The elementary school would like to paint paws on the sidewalks for Walk to School Day.

5 Future Council Meetings:

- 6 • S Gomm will be late for the next study session. She will not be able to attend the 10/26 meeting.

7 Council Member Deon Johnson:

8 Sidewalk on Main Street:

- 9 • D Johnson reported he received congratulations and thanks for the repair of a sidewalk by Ken
10 Braegger.

11 Future sewer treatment system:

- 12 • D Johnson would like the Council to view the Oakley sewer treatment system. He asked V
13 Keeslar to schedule the trip. R Eck suggested waiting until next year.
14 • V Saunders explained the treated water is appropriated to UP&L.
15 • Mayor Leonhardt felt the treatment system would take a burden off the City for shorter
16 transmission lines. He suggested looking at the southwest part of the City and perhaps include
17 Millville.

18 Council Member Ron Liechty:

19 Public Works building:

- 20 • R Liechty asked about the public works building. V Keeslar reported the staff is looking at the
21 cost. The staff will make a budget proposal on October 12.

22 Council Member Vic Saunders:

23 Property for a proposed high school:

- 24 • V Saunders asked if Cache County School District had made inquiry about a high school. V
25 Keeslar reported he met with the realtor about one month ago.

26 Planning Commission Items:

- 27 • V Saunders reviewed the Planning Commission agenda. He explained Sunrise Acres and South
28 Cache Land were approved without opposition. These will be on the next agenda.
29 • V Keeslar explained the applicant withdrew the request for colon hydrotherapy as a conditional
30 use for a home business because the national organization established policy that it cannot be
31 performed in a home.

32 Soccer parking in school lot:

- 33 • R Eck reported cars are being ticketed when parking in front of the buses.

34 Motion to adjourn – V Saunders, second – D Johnson,

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

36 Nay: none

37 Excused: none

38 Abstained: none

39 The meeting adjourned at 8:35 p.m.

40
41 Minutes taken and prepared by S Bankhead.

42
43
44
45 _____
46 Alma H. Leonhardt, Mayor

45 _____
46 Skarlet Bankhead, City Recorder