

1 **Providence City Council Meeting**  
2 **Providence City Office Building**  
3 **15 South Main, Providence UT**  
4 **Tuesday, October 12, 2004 6:00 p.m.**

5 **Attendance:** Mayor: Alma H. Leonhardt  
6 Council: Randy Eck, Stacie Gomm – arrived at 6:25 p.m., Deon Johnson, Ron  
7 Liechty, Vic Saunders  
8 City Manager: Vern Keeslar  
9 City Recorder: Skarlet Bankhead  
10 City Attorney: Bruce Jorgensen  
11 Public Works Director: Dee Barnes

12 **The Providence City Council will meet for a study session at 6:00 p.m. in the City Council Chambers.**  
13 **This is a public meeting; however, no public comment will be heard and no action will be taken on**  
14 **the agenda items.**

15 **Discussion Items:**

16 Legal thought concerning water ordinance.

- 17 • Bruce Jorgensen reported he has been working with Wellsville City for several years on a similar  
18 ordinance.
- 19 • B Jorgensen reported in talking with the presenters at the water conference and Jody Burnett, they  
20 feel the courts are not favorable to cities that do not provide an alternative to the dedication of  
21 water. It is suggested that cities have a fee in lieu to offering the water shares.
- 22 • B Jorgensen explained the idea is that you cannot take all economic value from a property. B  
23 Jorgensen felt there was potential legal action. V Saunders felt many cities have taken the water  
24 only position without being sued. B Jorgensen agreed, but felt that Craig Call is now providing  
25 information to many more individuals than in the past. B Jorgensen felt the City would be in a  
26 very vulnerable position if they take the position of water only.
- 27 • R Liechty did not feel the City was taking away use by requiring water only (no fee in lieu). The  
28 property could continue to be used for agricultural purposes. B Jorgensen agreed there was  
29 validity in the agricultural use, but still felt it is the opinion of most that a fee in lieu option be  
30 available.
- 31 • V Saunders felt if the City had to keep the fee in lieu, the fee should be high enough to purchase  
32 usable water. B Jorgensen agreed.
- 33 • V Keeslar reported he discussed the viable use issue with J Burnett and B Jorgensen. As he has  
34 been exploring the ordinance, taking away the fee in lieu may not be constitutional. He felt the  
35 City should make the fee in lieu high enough to not only purchase the water but to cover the cost  
36 of the City's time in acquiring the water. He felt the fee in lieu should be high enough to entice  
37 the developer to acquire the water.
- 38 • R Eck wanted to know if there was a way to insure the developer exhaust every effort in obtaining  
39 the water before the city accepts the fee in lieu.
- 40 • B Jorgensen explained annexation is discretionary, the Courts have upheld the position of  
41 requiring water with the annexation. He was concerned about transferring water rights from  
42 Richmond City area to Providence City. He cautioned the City to make sure the state engineer  
43 will transfer the rights before annexing.
- 44 • B Jorgensen felt the City could consider annexation and allow limited development. If there is not  
45 enough water, the City can put a moratorium in place until enough water is available. R Eck felt a  
46 moratorium would scare commercial developers. V Saunders felt before considering a  
47 moratorium, the City should look at water conservation measures.
- 48 • B Jorgensen would like time to explore the idea that developers exhaust every effort before being  
49 allowed the fee in lieu. He explained he is in a position to start drafting the ordinance, but it is one  
50 that will take time.
- 51 • V Saunders suggested tying the fee in lieu amount to market value of the shares.
- 52 • D Johnson understood the strong position is to not annex. He asked if it would be out of line to  
53 work with the developers to acquire the water prior to annexation. B Jorgensen felt the City could  
54 work with the developers before they were annexed.

55 Legal thought concerning sewer lines running through private property in Millville.

- B Jorgensen explained if a city has obtained an easement from a private party, the city can utilize the easement without permission from the private party's city.
- The Council discussed the possibility of sending a comment to the neighboring city in response to comments made at the recent joint study session. It was felt that perhaps it was one council member's opinion and no memo would be necessary.
- R Eck felt there was some difference of opinion between the neighboring city mayor and the council members. In a recent meeting with the Providence City Council, the neighboring mayor explained several times their city is not in a position to provide the services needed for development.

**Future Agenda Items:**

LeGrand Mathews municipal boundary adjustment with Millville City.

- V Keeslar explained this is the next step in the process.

**City Manager's and Directors' Report:**

Dee Barnes, Public Works:

Well use:

- D Barnes reported the City is still pumping Alder Well continually, Dale's Well is pumping almost continually, and the boosters to Zone 2 are pumping. This will continue until the outside watering season is over.
- Mayor Leonhardt expressed concern that much of the irrigation water is flowing out of the City without being used. V Saunders asked about the development of the pond in the west park area to utilize irrigation water. D Barnes explained this issue still needs to be studied.
- D Barnes reported the Cemetery well has been in operation for approximately 6 weeks and is working fine.

300 East Street:

- V Saunders asked about the finish of the 300 East project. D Barnes reported the City will withhold payment until the contractor corrects the problems.

Street Painting:

- The bid did not include asphalt markings. R Eck was disappointed with the glass beads used in the markings. He felt the percentage used was not adequate.

Vehicle Building:

- V Keeslar reported the City received three bids ranging from \$64,000 to \$82,000. This does not include plumbing or electrical. These will be a separate contract. D Barnes explained this building use does not require insulation.
- Mayor Leonhardt suggested insulating some of the bays. The Council felt the building should be insulated.

Landscaping project.

- V Keeslar reported the City is completing the landscaping project on the CMPO/UDOT project.

Sidewalk projects:

- D Barnes reported the sidewalk projects are moving along. R Eck expressed concern snowplows may damage the ADA marking. D Barnes reported he discussed the issue with representatives of the State and T-Square; and the City followed their recommendations.

**Agenda Items:**

Pledge: BSA Troop 374

Opening: D Johnson

**Minutes**

Motion to approve the minutes – S Gomm, second – R Liechty

Corrections:

Page 2 line 49 Mabey

Page 3 line 9 see daylight

Page 5 line 38 facets

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

nay: none

abstained: none

excused: none

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

- 1 • V Keeslar presented the Employee of the Quarter award to Shane Hansen.
- 2 • Mayor Leonhardt thanked S Hansen for his service.

3 **Item No. 2 Public Hearing - Ordinance Modification 028-2004. The Providence City Council will**  
4 **consider for adoption an ordinance granting a petition to adjust a common boundary with Millville**  
5 **City, adjusting its east boundary line located generally at 800 East 1000 South to include 135.05 (+/-)**  
6 **acres of property currently located in Millville City, requested by Imagine Development.**

7 Mayor Leonhardt opened the public hearing:

- 8 • Mike Beno, 475 Spring Creek Road, asked the Council to consider some of the costs existing  
9 neighborhoods would experience. He likes his neighborhood the way it is now. He expressed  
10 concern about the potential for increased traffic. He suggested a density limitation. In Chicago,  
11 he saw the impact of uncontrolled development. He understood 1000 South could be developed to  
12 relieve some of the traffic. He suggested ranchettes. He also expressed concern about the water  
13 rights. He felt in times of drought the farmers suffer. He wanted to make sure the rights include  
14 the full share of water.
- 15 • Linda Goetze submitted two letters from neighbors who could not attend the meeting, one of  
16 which was nearly hit when walking along 100 East. She explained she lives on a street (100 East)  
17 that has seen a growth of traffic. She reported she lives in “old Providence” where the roads are  
18 on a grid system. She felt with new development using cul-de-sacs, the weight of the traffic is  
19 unfairly distributed on the old part of the City. She felt the plans for traffic to go west will not  
20 benefit “her road”. She thanked the Council for the amount of police protection. She just did not  
21 want the additional traffic. She suggested the City consider a truck route.
- 22 • Marie Borg, 490 Spring Creek Road, asked how much property will be in Providence. Mayor  
23 Leonhardt reported 135 acres will be in Providence City.
- 24 • Mike Johnson, Millville City Mayor, explained the boundary line will be moved to the south  
25 boundary of Hillsborough and extend east. He explained with development of the area around  
26 Millville City’s 450 North, their concern is the additional traffic that will follow 1000 South into  
27 Millville City’s 450 North. He reported Millville City is not against development. He asked the  
28 Council two questions; what is the City planning in the way of existing or new roads for the  
29 additional traffic and whose responsibility is it to take the burden of the traffic.
- 30 • V Saunders explained the City has talked with the developer. At this point it is still an unknown if  
31 the property will be in Providence; if Millville City does not approve the adjustment the property  
32 may not come into Providence City.
- 33 • V Saunders felt Providence would handle roads much like Logan does. If Logan only allowed its  
34 residents to drive on its streets, they would shut the surrounding communities down. V Saunders  
35 suggested the City work with the developer and Millville City to provide a travel corridor, such as  
36 limiting access on 1000 South, Providence/450 North Millville.
- 37 • Roxy Peterson, 595 Canyon Road, expressed concern about widening Canyon Road and the lack  
38 of sidewalks. She felt traffic would use the closest road, Canyon Road.
- 39 • Joe Marshall asked what the planned zoning would be. V Keeslar explained the property will be  
40 agricultural. During the development process, the developer will be asking for single-family  
41 traditional, 12,000 square foot lots.
- 42 • Mike Beno asked if the unfinished portion of 1000 South was public or private. Mayor Leonhardt  
43 explained the road is open for travel but is privately owned.
- 44 • Elinor Hansen expressed concern about the water. Mayor Leonhardt reported the City is  
45 reviewing its ordinance concerning requiring water with development. He explained the  
46 developers plan to bring in water.
- 47 • V Saunders explained water within the aquifers can be transferred to be pumped from other wells.  
48 The developer intends to transfer water from a different part of the Valley.

49 Mayor Leonhardt closed the public hearing.

50 Mark Cohn and Jeremy Jensen represented Imagine Design.

51 R Eck invited Imagine Development to address the Council and speak to the concerns of the citizens.

- 52 • Mark Cohn explained Imagine Development is partners with the 3 gentlemen who own the  
53 property. He explained they have a large site, approximately 220 acres to be split between the  
54 cities. Their development plans are for a period of 7 to 10 years. They do not intend to develop the  
55 entire property immediately. He felt they have a variety of ways for traffic to come off the

1 hillside. He explained they intend to build as infrastructure allows. He felt development was not a  
2 matter of “if” but “when.” He explained the developers intend to pay for the impact it creates. As  
3 the project is built, they intend to mitigate the traffic flow. At this point, he does not know the  
4 ultimate traffic plan. He felt with good planning and mitigating the traffic as growth comes,  
5 development can occur.

- 6 • Concerning the water, M Cohn reported they found several options to purchase acre feet. They  
7 have a contract to purchase a farm in the Richmond area that has 233 rights to irrigate, which  
8 equates to 938 acre feet. They are willing to buy water, put it in the City’s name, and have the  
9 City work with the State for the transfer of the rights. He reported they have been working with  
10 Scott Clark, in the State Water Engineer’s Office. He also reported their title agent has been  
11 working with Scott Clark. M Cohn reported both Richmond and Providence are in the same drain  
12 field, not necessarily the same aquifer. M Cohn explained the City has the capability to pump  
13 more water than it has rights too. The developers are interested in obtaining the additional rights  
14 that would enhance the City’s system. He explained the rights may be cut some when converting  
15 from agricultural to municipal use. They anticipate UP&L will object to the transfer but feel the  
16 transfer will be successful.
- 17 • M Cohn felt the City had very competent staff and felt that a good working relationship has  
18 developed.
- 19 • V Saunders explained he would like more information from Scott Clark. He knows water can be  
20 transferred, it is just a matter of how. M Cohn explained S Clark cannot write a letter about if and  
21 how much until the process is started. Much depends on who objects.
- 22 • R Eck asked if the developers would shoulder the responsibility for a water attorney. M Cohn said  
23 absolutely. He suggested perhaps a cap, but realized it was the development’s responsibility. He  
24 did not want to spend the money unless he knew he would be coming into the City.
- 25 • S Gomm felt the research would be positive for either city. There will be development, she felt it  
26 was a matter of who would be in control of the development.
- 27 • V Keeslar felt no matter where the property was developed, Providence and Millville would  
28 experience the impact of the traffic.
- 29 • Jeremy Jensen explained the City has a great staff and M Cohn has many years of experience.  
30 They have spent a great deal of time with the water engineers. J Jensen explained they will have  
31 more water than needed even after it is converted. They are fully willing to work with City staff.
- 32 • D Johnson asked about water storage. M Cohn felt the City had the capacity to service an  
33 additional 328 more homes in Zone 3. Mayor Leonhardt explained Providence City has more  
34 storage than any other city in the County except for Logan.
- 35 • D Johnson expressed concern about running the wells for the additional homes. He also expressed  
36 concern about moving forward without a confident word the water can be transferred.
- 37 • R Liechty expressed concern that the water “may” be purchased. M Cohn explained the purchase  
38 is under contract. The actual purchase has not been completed. They are not willing to purchase  
39 the water until they have some assurance they will be in the City.
- 40 • R Liechty stated he would like the City Manager to work with the City Attorney on working with  
41 neighboring cities regarding traffic, perhaps using impact fees outside the City.
- 42 • M Beno felt the developers presentation should have been held prior to the public comment part of  
43 the hearing.
- 44 • S Gomm explained the bottom line is the property will be developed. The question is who will  
45 control the development, County, Millville, or Providence. She felt the Council needed to ask do  
46 we want to control the development or allow someone else the burden. If we don’t take the  
47 property, the City does not have a say. She felt, by annexing the property, the Council was acting  
48 in the citizens favor by giving the City control. S Gomm also explained this property has been on  
49 the agendas for many months. There has been a lot of information. The Council is making an  
50 informed decision.
- 51 • S Gomm asked R Peterson to clarify her comment. R Peterson would like sidewalks, but not the  
52 widening of the road. She felt widening the road would increase traffic.
- 53 • R Eck asked if Bob Fotheringham sounded favorable. M Cohn reported he was very neutral; it  
54 depends on who protests. S Clark is involved with water in the Richmond area. M Cohn has not

- 1 talked with Jerry Olson. Both B Fotheringham and S Clark have been very clear they are the  
 2 people who help the process start. As far as how the process goes, it depends on the protests.  
 3 • R Eck explained this property will be zoned agricultural upon adjustment. The developer then  
 4 applies for a zone change for each phase. The City can deny a zone change if the City feels  
 5 infrastructure is not adequate. There are safe guards in place.  
 6 • L Goetze asked for an action plan for a negative impact on existing residents on “her road.” L  
 7 Goetze asked if the City would set limits on the amount of traffic a road can handle.  
 8 • R Eck did not feel traffic would be removed but it would be dealt with. R Eck explained the City  
 9 had improved 300 East to have better traffic flow north and south. The City is constantly working  
 10 to improve the streets and the transportation flow.  
 11 • L Goetze did not think it was fair to existing residents for the City to continue to allow growth.  
 12 She wanted the same amount of traffic on her street that she had 20 years ago.  
 13 • V Saunders explained it is not an issue of fairness, it is what do we do as a community to benefit  
 14 everybody. The City cannot guarantee peace, harmony and love in peoples’ lives. He explained  
 15 there is nothing the City can do to stop development, it will happen either in the City, County or  
 16 Millville. He felt it best for the City to have control of development. He understood there were  
 17 some who do not want growth; for them it is a personal decision of how much they will tolerate  
 18 before moving to another area. For the City, it is a matter of controlling growth in a way that will  
 19 benefit the entire community.  
 20 • S Gomm explained she would like to keep the control in Providence. If the City does not adjust  
 21 the boundary, control is given up.

22 Motion to pass Ordinance Modification 028-2004 – S Gomm, second – V Saunders,

- 23 • D Johnson thanked M Cohn and the development firm. He felt they had been up front.

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

25 nay: none

26 abstained: none

27 excused: none

28 **Item No. 3. Resolution 04-078. The Providence City Council will consider for adoption a resolution**  
 29 **approving a preliminary plat for Sunrise Acres Subdivision located generally at 350 West 500 South**  
 30 **requested by Dan Cox.**

31 Dan Cox represented the Development.

- 32 • V Keeslar explained this is a preliminary plat. The developer has resubmitted a preliminary plat  
 33 and a final plat that resolve the conditions. The final plat will not have conditions when it comes  
 34 to the Council.

35 Motion to accept Resolution 04-078 – R Eck, second – R Liechty,

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

37 nay: none

38 abstained: none

39 excused: none

40 **Item No 4. Resolution 04-079. The Providence City Council will consider for adoption a resolution**  
 41 **approving a final plat for South Cache Commercial Subdivision located generally at 451 North**  
 42 **Gateway Drive, requested by Rod Blossom.**

43 Rod Blossom and Ken Sorenson represented the development.

- 44 • R Blossom reported the conditions, except for the construction drawings, have been met.

45 Motion to approve Resolution 04-079 – R Liechty, second – V Saunders,

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

47 nay: none

48 abstained: none

49 excused: none

50 **Item No. 5. Resolution 04-080. The Providence City Council will consider for adoption a resolution**  
 51 **appointing Nelson Palmer as a member of the Board of Adjustment.**

- 52 • The Council combined Items 5, 6, and 7 into one action.

53 **Item No. 6. Resolution 04-084. The Providence City Council will consider for adoption a resolution**  
 54 **appointing Susan Lemon as a member of the Board of Adjustment.**

- 55 • The Council combined Items 5, 6, and 7 into one action.

1 **Item No. 7. Resolution 04-083. The Providence City Council will consider for adoption a resolution**  
2 **appointing Jane Wiser as an alternate for the Board of Adjustment.**

- 3 • The Council combined Items 5, 6, and 7 into one action.

4 Motion to approve Resolutions 04-080, 04-084 and 04-083 – V Saunders, second – R Liechty,

- 5 • R Eck asked Clint Thompson, Board of Adjustment Chair, if he had any concerns. C Thompson  
6 did not know any of the residents being recommended; but felt he could work with any one.

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

8 nay: none

9 abstained: none

10 excused: none

11 **Item No. 8. Resolution 04-081. The Providence City Council will consider for adoption a resolution**  
12 **promoting a Child-Appropriate Standard in Providence City, Utah.**

- 13 • V Saunders explained most of the laws governing this are state laws.

14 Motion to approve Resolution 04-081 – S Gomm, second – D Johnson,

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

16 nay: none

17 abstained: none

18 excused: none

19 **Item No. 9. Public Hearing – Resolution 04-082. The Providence City Council will consider for**  
20 **adoption a resolution adjusting the Providence City Budgets for all funds.**

- 21 • S Bankhead explained the adjustment brings in money from prior years' excess to be spent in the  
22 Public Works Department – Streets Division.

23 Motion to approve Resolution 04-082 – V Saunders, second – D Johnson,

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

25 nay: none

26 abstained: none

27 excused: none

- 28 • V Keeslar commended the City for its policy of amending the budget as needed rather than  
29 waiting to the end of the year.

30 **City Manager's Report:**

- 31 • V Keeslar reported Becky Billings has been hired as an office specialist in the Community  
32 Development department. She graduated from BYU with a degree in English.

33 Motion to adjourn – R Liechty, second – D Johnson

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

35 nay: none

36 abstained: none

37 excused: none

38  
39 Minutes taken and prepared by S Bankhead.  
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41  
42  
43

44 \_\_\_\_\_  
Alma H. Leonhardt, Mayor

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