

1 **PROVIDENCE CITY COUNCIL MEETING MINUTES**

2 **March 13, 2008, 6:00 p.m.**

3 **Providence City Office Building**

4 **15 South Main, Providence, UT 84332**

5
6 **ATTENDANCE:** **Mayor:** **Randy Simmons**
7 **Council:** **Ron Liechty, Kathy Baker, Trent Rasmussen,**
8 **Dave Low, John Russell**

9 Pledge of Allegiance: Jett Knowles (Webelo Scout)

10
11 Approval of the minutes.

12 **Motion to approve minutes of Feb. 26, 2008 – Trent Rasmussen, Second-Kathy**
13 **Baker.** Corrections:

14 Throughout the minutes it shows David Low voting twice.

15 Page 1, line 18, it should say “J. Russell said” to keep consistent with type style.

16 VOTE: All in favor of approving the minutes as amended.

17
18 Minutes taken by Brenda Nelson, filling in for Katie McDermott

19
20 **Public Comments:**

21 Sharell Eames read written comments from Denise Strong, who was not able to attend the
22 meeting. She has concerns about rezoning the Redstone Development. She urged the
23 Council to do the following before rezoning the Redstone property:

- 24 • Traffic safety – need to have an independent traffic study done
- 25 • Fire safety – need an opinion from the Fire Marshal regarding fire safety since
- 26 this is a dense subdivision abutting a forest.
- 27 • Emergency response time – need to know the response times and coverage from
- 28 all emergency agencies, and water pressure needed to fight fires
- 29 • Water – need to show evidence that they have enough water for subdivision
- 30 • Schools – need to have statement from Providence Elementary School and Spring
- 31 Creek Middle School regarding how much growth they can handle
- 32 • Cost to existing taxpayers – need a statement from the Auditor stating how much
- 33 this development will affect existing tax payers
- 34 • Terrain – need to follow Gov. Huntsman’s lead in limiting building in landslide
- 35 areas
- 36 • Landscape – need to ask the developer to plan for deer and other wildlife habitat
- 37 by creating firebreaks, open space etc.
- 38 • Concern for retention ponds - In Herriman, a pool set aside for collecting water
- 39 overflowed and caused damage to neighboring area

40
41 Mimi Recker sent an email to Council, but would like to reiterate three points regarding
42 the proposed Sagecrest Subdivision:

- 43 • Wildlife habitat – need to mitigate impact on winter range for animals
- 44 • Water – make sure this large development comes with enough water
- 45 • Access – 400 East and 300 North is a very narrow street to handle so much traffic.
- 46 Look at strategies to widen road, lessen impact, move power poles, etc.

1 **Training:** Since K. McDermott was not present, there was a question of where the
2 Council left off last time in reviewing the tape about the Open and Public Meetings Act.
3 MOTION by R. Liechty to postpone training till next meeting. SECOND – D. Low. All
4 in favor.

5
6 **Program Overview: Youth Safety Council**

7 Mitch Frost and Erin Griffith were present to discuss creating a Youth Safety Council.
8 M. Frost is the supervisor over the school resource officers. E. Griffiths is the
9 Community Services Coordinator. Most cities have youth councils. It is the goal to have
10 one person from every city youth council to be a part of this council. They are forming
11 one group in the north end of the valley that would meet at Sky View, and one in the
12 south end that would meet at Mountain Crest. They would meet quarterly. They hope to
13 start meeting before the end of this school year. They want the council to discuss issues
14 that the youth are concerned about and bring ideas from their youth councils and friends.
15 They realize that there are some issues that youth do not tell their parents about such as
16 bullying, bus safety, etc. This would be a good forum to bring up problems. The group
17 will consist of 8-10 individuals on each council. M. Frost asked if there was a City
18 Council member over Youth Council. R. Simmons said no. J. Russell volunteered to
19 assist K. McDermott with the Youth Council. J. Russell asked if the person would report
20 back to the City Council. E. Griffith said no, but they would report to their individual
21 youth councils. S. Bankhead mentioned that our Youth Council members are 8th and 9th
22 graders. Is that old enough? E. Griffith said they would like older kids who are in high
23 school – at least 16-18. The person does not have to be a member of the city youth
24 council.

25
26 There was a few minutes before the scheduled public hearing so R. Simmons gave a
27 report on legislation. He stated that the bill allowing ATV's on public streets passed and
28 will go into effect this year. The ATV must be registered and inspected. Floyd Powell
29 added that it must be able to go the speed limit, but can't go more than 45 mph. They can
30 only be driven on two-lane roads, not major highways. They must follow all traffic laws.
31 This bill affects cities up to 30,000 in population.

32
33 The other bill is HB51 which allows cities to hold on to water for a longer period of time
34 before putting it into use. Questions have arisen about water rights, and we will be
35 figuring that out so we can protect the water companies. On a side note, the Blacksmith
36 Fork Irrigation Company is looking for a new Water Master. Anyone with suggestions
37 should contact John Hubbard or Dave Olsen.

38
39 R. Liechty gave a report on the Rural Water Conference he attended recently. He was
40 especially interested in learning about how some cities are regenerating aquifers when the
41 water is not in use. Brigham City and other cities have used this a lot. There are several
42 methods such as forcing water down through the wells. The easiest solution is if you have
43 a large piece of property you could flood the property during the winter and let the water
44 percolate down. T. Rasmussen asked if there are adverse reactions based on soil type.
45 R. Liechty said there could be, so you have to check the soil types and make sure the

1 water is percolating correctly. You have to have all the right conditions. Currently, we
2 use 25% of our water rights during the winter months.

3
4 **Public Hearing: The City Council will take comment on right-of-way guidelines for**
5 **400 East between Canyon Road and the City's south boundary line.**

6 Mayor Simmons gave a slide presentation showing 400 East from Canyon Road going
7 south. There are parts where the City owns 33 ft from the center of the asphalt to the east
8 side of the road, but on the west side the City owns less. At other places, homeowners
9 own to the center of the road. There are areas where the land drops off dramatically.
10 There are spots where people have landscaped out to the edge of the road. According to
11 the ordinance, developers are required to put in curb, gutter and sidewalk. There are two
12 people doing small developments on the west side of 400 East right now. In order to put
13 a sidewalk in, the city would have to backfill 50 feet. South of 1000 South, there are
14 even more deep gullies and 15-20 ft drop offs.

15 **Motion to open the public hearing – T. Rasmussen; Second J. Russell. All in favor**

16 Elinor Hanson said her neighborhood is concerned about traffic, noise and speed. She
17 wondered if the City would widen the road if they put in sidewalks. She felt a wider road
18 would encourage people to drive faster. There are many children and joggers who use
19 the road. She spoke with a Logan City police officer she knows and he felt the sidewalk
20 would be a good idea, but the increased speed of the cars would offset the good a
21 sidewalk would do. E. Hanson wondered about how the sidewalk would look if it was
22 done piece by piece as development occurred. R. Simmons asked if she would prefer the
23 road not be widened. E. Hanson asked if the City would have to take property to widen
24 the road. R. Simmons said if the City did not own it, the City would have to purchase it.
25 E. Hanson noted that many landowners have landscaped right down to the edge of the
26 road.

27
28 Tamara Jensen added that the city would have to pay to have sprinkling systems, power
29 poles, and fences moved. Even with eminent domain, the City would have to pay fair
30 market value. She wondered if the City had calculated any of those costs.

31 S. Bankhead felt she should clarify the reason for this public hearing. Because two
32 parties have requested small developments on the west side 400 East, the Staff needs to
33 know if the City plans to have a sidewalk on one side of the street or both or not at all.
34 The ordinance calls for sidewalks with each development and the City Engineer and
35 Public Works Director feel the City should require these developers to put it in. S.
36 Bankhead said she agrees with the concept, but there are certain places in the city where
37 it is not practical to require this. She didn't want the developer to incur the expense if the
38 sidewalk didn't go anywhere. Staff would like to know what size right-of-way to plan for
39 on this road. She wanted to make it clear that they are not requesting the City widen the
40 road at this time.

41
42 Ramona Rukavina asked why they were even thinking of this right now. Is it for new
43 development? R. Simmons answered that we have two small developments planned for
44 the west side. R. Rukavina stated that she felt the City should respect the wishes of
45 current residents not developers. She said she has sent letters since 1996 to the City

1 asking for help with certain issues, and has never once received a response back. She felt
2 that was unprofessional and rude.

3
4 Pat Johnson lives on the north end of 400 East. He has had some negative experiences
5 with the City. When he got the final occupancy on his house, he was required to give
6 another 5 feet to the City that he didn't know about. When the road was resurfaced, they
7 raised the road, and it left a 3 ft cesspool in his driveway. Before they improved the road,
8 he didn't have trouble. The Johnsons have been there 12 years. They love their home,
9 but are looking to move because of the problems. He has concerns for the safety of small
10 children on that road. The school bus stops along that road. People have hit animals, and
11 he is afraid for his kids.

12 R. Simmons asked if the City put a 6 ft park strip and 5 ft sidewalk 8 ft back from the
13 road, would that be acceptable? P. Johnson just wanted the Council to know of his
14 concerns. R. Simmons asked P. Johnson to come talk to him if he had any ideas of how
15 to make this better and safer.

16
17 Kim Riding said his property is most affected if they call for sidewalks. There are huge
18 gullies, and he has the longest stretch of road and is dividing off one lot. He said with
19 that aside, there isn't anything more important than safety. He lived on a State road in
20 Hyrum and witnessed accidents and injuries there. If it means putting in sidewalks on
21 both sides of the street to make it safe, he would comply. He would support any decision
22 for safety even if it kills his development financially. He noted that there is a problem
23 with the road washing due to weather that needs to be dealt with one way or another.

24
25 Stephen Harrison owns lots in the Everton Subdivision. He thinks putting sidewalk in
26 front of his development would leave an unconnected piece of pavement sticking out like
27 a sore thumb He hopes the Council would put the sidewalk on the east side of the road.
28 He wants to develop safely. The cost of bringing in fill for a sidewalk is quite expensive.
29 It would take 850 tons of infill there. He said a lot of trees and other amenities would be
30 lost. He would put in the curb and gutter, but hopes the sidewalk can go on the east side.

31
32 **Motion to close the public hearing - R.Liechty. Second – K. Baker. All in favor.**

33 R. Simmons encouraged Council to drive up and look over the area and be ready to make
34 a decision at the next meeting.

35
36 **Continued Business:**

37 **Council will consider for adoption an ordinance changing the zone of approx. 44**
38 **acres of property, Parcel ID# 02-114-0005, 02-114-0030, and 02-114-0037, located**
39 **generally north and east of 755 Canyon Road, from Agricultural (AGR) to Single**
40 **Family Large (SFL), requested by Redstone Development.**

41 **Motion by T. Rasmussen to approve Ordinance No. 002-2008. Second – Low**

42 Jamie Gull representing Redstone Development explained that at the last meeting there
43 was a question on where their property corners are, and how much room was available
44 for access. J. Gull has met with Stan Checketts and Roger Dahle and they have agreed on
45 the one corner post. That gives Redstone 79 feet for access. The other 25 ft gap is still in
46 question. Assuming the 25 ft is R. Dahle's, Redstone still has a 79 ft row. If the 25 ft

1 belongs to Redstone, they will have 104 ft road access. R. Dahle is still waiting for the
2 survey of his property. The cost to expedite the survey to have results for this meeting
3 was too high, so R. Dahle decided to let them finish the survey as scheduled. The water
4 right is under contract to be transferred by the State Water Engineer. J. Gull is aware he
5 can't develop until the transfer happens. T. Rasmussen asked if there was a cushion on
6 the amount of water to allow some reserve. The State requires .45 acre feet per unit. He
7 is planning to give .714 acre feet per unit. Based on the annexation agreement, the water
8 must be in place before development begins. K. Baker added that the State usually keeps
9 back a portion when water is transferred from agriculture to municipal use. J. Gull has
10 allowed for that and still has more than the required amount.

11 R. Liechty was concerned that if the rezone were approved, the group would feel they are
12 vested and expect development to be approved. Attorney Craig Carlston stated that there
13 is no foolproof plan to avoid lawsuits, but the agreement states they must follow all the
14 rules and have these things in place before development. Anything else is done at their
15 own risk. C. Carlston said he has not studied the annexation agreement in detail. Scott
16 Wyatt was the City Attorney then and wrote the agreement. R. Liechty wanted C.
17 Carlston to review it. C. Carlston said he trusted S. Wyatt, and the agreement has been
18 adopted by this body. R. Liechty reminded him that they have had some word changes
19 like saying "shall" for "may" that may make a difference. He wanted C. Carlston to
20 review it.

21 Ken Bradshaw, attorney for Redstone, stated that there are two levels of protection. You
22 have the annexation agreement which is a binding contract between the developer and the
23 City. You also have the ordinances which must be followed. There is a third point – the
24 annexation agreement was part of the litigation taken to the Supreme Court last fall.
25 While there may have been one or two changes in wording, he feels this is a valid and
26 enforceable contract and the Supreme Court backs that up.

27 D. Low asked about the SFL zone. J. Gull reported that they originally applied for SFT
28 because the SFL zone was not in place at the time. SFT is their preference, but the
29 Planning Commission recommended SFL so they will comply. It gives flexibility to the
30 development, and allows more open space between the homes. D. Low asked if there
31 were other zones considered, such as SFE. Jon Mock, Chairman of Planning
32 Commission, was present and answered that SFE would not fit with what the developer
33 wants.

34 J. Russell noted that the ROW requested by the City is 66 ft. He wondered if the City
35 could ask for a larger ROW. S. Bankhead said the three standard cross sections are 50,
36 66 and 80 ft. The only place an 80 ft is used is on a CMPO road. We would have to use
37 impact fees to get an 80 ft ROW. J. Russell still felt the road was a concern. K. Baker
38 agreed that the road is very steep and would require a lot of rearranging of the soil. S.
39 Bankhead said they will build to a safe grade. The City allows up to 18% grade, but the
40 Fire Dept. keeps it less than that. There will be significant cuts and fills. J. Gull
41 explained that the surveyor had drawn the farm road on the map and it is at 12%. The
42 engineer laid the planned road over the farm road and it followed it almost exactly. S.
43 Bankhead said they are recommending that it meet with Grandview Dr. If this is a part of
44 the transportation plan, and if the plan is approved before Redstone submits development
45 plans, the City could request this option.

1 Roger Dahle said he has met with Stan Checketts and agrees that the cedar post is the
2 property corner. He agrees that the 79 feet access is correct. R. Dahle is concerned with
3 safety and the design of the road. He is afraid of a car slipping off the road and hitting
4 his property or his family. The only way to prevent this is to require safety measures
5 above and beyond the usual requirements. R. Dahle's other concern is the density of the
6 property. He stated there are seven property owners surrounding this piece. They have
7 an average of 4 ½ acres per family. He urged the Council to keep these landowners in
8 mind when rezoning. He felt this is a prime area for an SFE zone.

9 J. Russell is still concerned with the road width. He asked if the City could require more
10 safety measures. J. Gull reiterated that they are as concerned with safety as anyone here.

11 R. Liechty asked J. Mock if they considered SFE zone. J. Mock said no. There were two
12 large properties being considered at the time and both were recommended as SFL. R.
13 Liechty wondered why the Council doesn't consider SFE if the surrounding properties
14 are on large acreages. R. Simmons mentioned that property taxes on SFE lots will never
15 pay for services required. R. Liechty said they are finding that with the SFL zone,
16 because of lot size averaging, the developer puts in mostly small homes and then puts in a
17 few large ones above the others. That does not give the feeling of open space.

18 K. Bradshaw reminded the Council that it is the rezone that is being discussed. The
19 proposed development will be submitted after the rezone occurs. They can't begin to
20 design it until they have the zone. SFL is what Planning Commission and DRC have
21 recommended. J. Gull reminded the Council that SFL did not exist when they started the
22 process over a year ago. SFT was on the master plan. They could have gone through with
23 that request but have tried to comply with the wishes of the City and changed to SFL.

24 S. Bankhead reviewed the rules for open space in an SFL zone. SFL zone is 20,500 sf.
25 With lot size averaging, a subdivision has to have 50% of the lots at 20,500 sf. With
26 every 5% of open space given, the percentage goes down. However, no unit can be less
27 than 12,000 sf., and the percentage can not be less than 30%. S. Bankhead said the land
28 donated has to be usable space for parks or trails.

29 J. Russell wanted to see the annexation agreement. R. Simmons called for a 10 minute
30 break to review the annexation agreement.

31

32 The meeting resumed at 8:25 p.m.

33 T. Rasmussen asked C. Carlston what he thought about the annexation agreement.

34 C. Carlston said he felt it was good for the City as written. Both the City and developer
35 are bound. No development can occur until the water is transferred and the access to and
36 from is provided. The agreement goes on to say that these two conditions do not have to
37 be satisfied before rezone. C. Carlston said its tricky not to get the cart before the horse,
38 but according to this agreement, its not appropriate for the City to go after the developers
39 on these two issues before rezone.

40 J. Russell questioned why they were applying for the water transfer all at once when they
41 didn't have to. J. Gull said they contracted for more than enough water to make sure they
42 had sufficient.

43 **R. Simmons said the motion is to approve the rezone as SFL. All in favor – T.**
44 **Rasmussen, D. Low. Opposed: K. Baker, J. Russell, R. Liechty**
45 J. Gull asked the Council for a reason why this is being denied.

1 R. Liechty said he wanted to see that they had the water first. He wants the transfer
2 approved. C. Carlston reminded him that no development can occur till this happens.
3 Sharell Eames spoke up that the discussion is over and no more needed to be said, but R.
4 Simmons reminded her that by State law, J. Gull can ask for a reason for denial.
5 J. Russell said at the last meeting he wanted it continued to clarify issues such as the
6 property corner dispute with Mr. Dahle and the water rights issue. Once they have the
7 water rights, will they come back for a rezone?
8 J. Gull asked, "Would it be prudent for me to be under contract on the water rights
9 knowing the City has rejected the rezone?"
10 K. Baker also said her reason for denying the rezone was the water issue.
11 K. Bradshaw restated that Item C on the Annexation Agreement states that the first two
12 conditions are not required to be met prior to rezone and plat approval. When Council
13 makes a decision like they just did, they may have a significant problem.

14
15 **New Business:**

16 **Item 1. The City Council will consider for adoption Ordinance No. 003-2008**
17 **amending Providence City Code Title 5 Chapter 1 Animal Control Regulations**
18 **Motion to approve – K. Baker. Second – R. Liechty. All in favor**

19
20 **Item 2. The Providence City Council will consider for adoption Ordinance No. 004-**
21 **2008 amending Providence City Code Title 5 Police Regulations by adding Chapter**
22 **7 Lewdness, Profanity, Nudity, Obscenity and Pornography; and Chapter 8**
23 **Unlawful Sexual Acts; and Title 3 Business License & Regulations by adding**
24 **Sexually Oriented Business**

25 **Motion to approve – T. Rasmussen Second – D. Low**

26 Without an SOB ordinance, a business of this type can locate anywhere in the City. S.
27 Bankhead explained that there are several parts to this ordinance. Two parts belong under
28 Police Regulations; one part in Business Licensing and a fourth part goes under Zoning.
29 The fourth part goes to DRC and Planning Commission for recommendation. They will
30 look at it as a land use ordinance and recommend where in the City this should be
31 allowed. This ordinance is a copy of Provo's with minor changes.

32 **R. Simmons called for a vote. All in favor.**

33
34 **Item 3. The Providence City Council will consider for adoption Resolution 08-010**
35 **awarding the bid for the 200 West water project.**

36 **Motion to approve by R. Liechty; Second – K. Baker**

37 S. Bankhead explained that this project will affect Fuhrman Drive, 500 South and 200
38 West from 500-600 South. There is a 2" pipe on the west and a 6" pipe on the east. We
39 want to change the service lines on 200 West so no one is using the 2" line. It includes
40 finishing the 8" line from the west subdivision east to 200 West. It is proposed that we
41 use money that is left over from the 2000 Bond Series for water system improvements.
42 This will take a budget adjustment in the next 30 days. There were 8 different companies
43 that bid on the project. High bid was \$263,000 and low bid was \$179,308. The City
44 Engineer and Public Works Director are comfortable with the low bid which is Gary
45 Niederhauser Construction.

1 T. Rasmussen questioned if the City has worked with Niederhauser before. J. Russell
2 asked if they go over their bid or stay within the bid. T. Rasmussen wondered if we
3 should consider a bid other than the low bid since there is such a big difference between
4 the high and low bid. S. Bankhead assured them that Niederhauser Construction is a
5 reputable company. K. Baker reiterated that no impact fees will be used.

6 **R. Simmons called for a vote. All in favor.**

7
8 **Item No. 4 . The Providence City Council will discuss park and trail improvements**
9 **in proposed Sagecrest Subdivision**

10 **Motion to open discussion -R. Liechty ; Second – T. Rasmussen**

11 The developers have put together a nice packet showing trails, parks and other amenities
12 for this proposed subdivision. S. Bankhead added that Staff needs to know what kind of
13 a budget to plan for this. The developer has created an elaborate plan of biking, hiking,
14 trails and park. The developer and impact fees may put them in, but the City would have
15 to maintain them. Of the 127 acres they are developing, 18 acres is open space. Do you
16 want to use natural vegetation and drought resistant plants, or plan to water it? Although
17 the trails are 6-10 feet wide, the area they lie in is sometimes 50 feet wide. There are fire
18 concerns – they need to plan landscaping using fire breaks. T. Rasmussen volunteered to
19 ask the Landscape Architecture Dept. at USU to have their students come up with
20 waterwise plant options. K. Baker asked if they planned to sprinkle the area. S.
21 Bankhead said they hope to use as much secondary water as possible. She asked if the
22 Council wants it to look like a golf course, or a native mountain landscape. T.
23 Rasmussen suggested Red Butte Gardens in Salt Lake is completely landscaped with
24 native plants and it is beautiful. Many options could be used, including, native plants,
25 rocks and gravel, shrubs or maybe a soccer field. S. Bankhead noted that although the
26 plants may grow in this climate, you still have to purchase and plant them. One plan the
27 developers have shows 420 trees. They hope to blend it in to the adjacent area. D. Low
28 asked if there are copies of the plan to look at. J. Mock said he would bring his copy to
29 the City Office and Council can drop in and look it over.

30
31 **Staff Reports**

32 S. Bankhead asked that these be postponed to the next meeting due to the lateness of the
33 hour, and the need for an executive session.

34
35 **Council Reports**

36 Nothing to report.

37
38 **Motion to go into executive session – R. Liechty; Second – T. Rasmussen. All in**
39 **favor.**

40
41 **Having voted on the prevailing side I would like to make a motion to bring back the**
42 **request from Redstone for rezone at the next meeting- J Russell**

43
44 **T Rasmussen was excused.**

45
46 **Motion to reenter executive session- R Liechty Second- D Low. All in favor.**

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Motion to adjourn- R Liechty Second- J Russell. All in favor.

Meeting adjourned at 9:10 p.m.

Randy T. Simmons, Mayor

Katie McDermott, Office Specialist