

1 **PROVIDENCE CITY COUNCIL MEETING MINUTES**

2 **October 24, 2006**

3 **Providence City Office Building**

4 **15 South Main, Providence UT**

5  
6 Call to Order: Mayor Simmons  
7 Roll Call of City Council Members: Mayor Simmons  
8 Attendance: Mayor Simmons, K Baker, S Gomm, D Johnson, R Liechty  
9 Pledge of Allegiance: Deon Johnson  
10 Opening: Ron Liechty

11  
12 **Presentations and Proclamations:**

13 Employee of the Quarter. This item will be presented at the next meeting.

14  
15 Approval of the minutes for the August 22, 2006 City Council meeting.

16 Corrections: Page 6 of 9, line 49, should say Mark Malmstrom

17 Page 8 of 9, line 3 should say plat map instead of plaque

18 Page 8 of 9, line 34 should be years.

19 Page 2 of 9 under Unfinished Business, R Liechty said to wait to start until the next term.

20 Page 3 of 9, R Liechty said all shop owners will use same sign; there will be no more signs.

21 Motion to approve the minutes for August 22, 2006, August 29, 2006, and September 26, 2006 with the  
22 corrections noted – R Liechty, second – D Johnson

23 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty

24 Nay: None

25 Abstained: None

26 Excused: T Rasmussen

27  
28 **Public Comments:**

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

- 33 • Autumn Smith read a letter to the City Council from citizens concerned with the Hillcrest  
34 subdivision. It is perceived that every subdivision meeting held since August 6, 2005, has not  
35 addressed the Utah Fire Code prohibiting development of more than 30 residential units with  
36 fewer than two egress fire equipment roads, increased automobile traffic onto 400 East from  
37 Hillcrest, the flow of traffic to and from the Cove subdivision on to Grandview, increased traffic  
38 burden from 400 East to Canyon Road, 1000 South, 100 East and Center street, pedestrian and  
39 child safety, inadequate water flow, availability of culinary water, and snow removal. She urged  
40 the Council to come to a solution that does not leave either side wondering about violations of law,  
41 but to come together with a justified solution as presented in the Master Plan.
- 42 • Bob Bissland also read a letter to the Council. He offered three suggestions:

43 1. He urged the Council to consider an alternative of publishing the City Council agenda too late  
44 for citizens to adequately prepare themselves for the meeting. He suggested that the City present  
45 new business in an initial study session the first meeting, public comment in the second meeting,  
46 and act on business in the third meeting. He said there would be definite improvement on public  
47 input when deliberation comes.

1 2. He asked the Council to return to a more friendly style of allowing public participation. As it  
2 is, the public cannot know in advance what is going to be said on a given item and cannot prepare  
3 comments questions in advance.

4 3. The Hillcrest preliminary plat is not a preliminary plat as far as he can see. He asked for  
5 comment on Providence City Ordinance 11-3-2F which requires recommendation from Planning  
6 Commission before the preliminary plat is sent to the City Council for approval. The new plat  
7 differs from the preliminary plat approved by the Planning Commission in having larger lots  
8 removed. There were 56 lots approved instead of 55 lots, having a cul-de-sac and loop shaped  
9 interior road instead of two cul-de-sac configurations. He is afraid the green space will turn into  
10 more lots or attract snowmobilers and 4-wheelers whose noise already torments many with no  
11 relief in the form of law enforcement. He also believes there are no plans for the water supply.

- 12 • He said that those who signed a referendum seeking to reverse the zoning changes will hear on  
13 November 2<sup>nd</sup> in District Court whether or not the referendum will go to a ballot. He asked the  
14 City not to rule on the proposal until that date.
- 15 • Marilyn Bell stated that she is very concerned with the gas pad on Alder Square. She is afraid it  
16 will affect her livelihood as well as other small businesses. She believes that five others who own  
17 gas stores between Logan and Hyrum will be affected; three of whom reside in Providence. She  
18 wondered why the gas item was changed and why Amsource has not been honest and forthcoming.  
19 She feels that there is not enough traffic to warrant another gas outlet. The gas pad will be located  
20 in a wetland area and she is concerned with a leakage occurring in the underground tanks. She  
21 admonished the Council to please study the issue and what the affect on Providence will be as well  
22 as business owners who sell gas. In her opinion, a gas station will only benefit Macey's and  
23 Amsource.
- 24 • Denise Strong agrees with Marilyn Bell and asked the Council to oppose the additional gas station  
25 because of the wetlands. She admonished the Council to read her letter in the newspaper and  
26 address each point before deciding what to do on the Cache Trash issue. As far as the Hillcrest  
27 subdivision and the Checketts land, she would like the City Council wait to make a decision until  
28 water, safety issues, and development issues have been settled. She was denied an appeal on the  
29 Hillcrest subdivision because of it was ruled to be a legislative act.
- 30 • Laura Fisher suggested the following names as candidates for the Planning Commission: Harry  
31 Ames, Linda Goetze, Richard Guy, Ralph Call, and Don Briel. She advised the Council to not  
32 approve the proposed subdivision without the water supply and road access. She stated that the  
33 space must be detailed in the annexation agreement to avoid misunderstandings later on.  
34 Furthermore, if the City is considering the adoption of a new ordinance of land use and non-land  
35 use appeals, she asked for comment on what the Council will do with the grandfather appeals  
36 waiting to be heard. B Bagley prepared and submitted an appeal, she related, and asked how the  
37 proposal tonight differs. As far as the land use ordinance, she asked the Council to see that the  
38 entire process of discussion and deliberation be presented in a way that the citizens know what is  
39 considered and approved or not approved.
- 40 • Darcy McEvoy mentioned that a water meeting was being held tonight, and she believes that no  
41 new homes should be built until the water issue is settled. She reported that building permits have  
42 decreased by 25 percent. She feels that available land should be used for building before  
43 destroying land and resources until it is deemed that enough water is available. Mayor Simmons  
44 asked which meeting she is referring to and she replied that it was Spring Creek Irrigation  
45 Company. Laura Fisher explained that it was with Doran Baker (President of the Spring Creek  
46 Water Company) and the board of directors. Doran Baker stated he knew of no meeting of the  
47 Spring Creek Water Company.

- Allen Peterson explained that he has lived in Cobblestone, a gated, nonsmoking community, for four years. His home is adjacent to apartments that are to be nonsmoking. He is concerned with tenants from the apartments who gather to smoke by his home. Since the homes are so close, he believes he as well as others with medical problems shouldn't be exposed to the smoke. He stated that the Utah Clean Air Act prohibits this and asked the City to examine this issue. He stated that the project manager is checking into this matter and that it may have resolved itself, but he wants to ask the Council to enforce the laws already in place. Mayor Simmons agreed that Deer Creek is a nonsmoking apartment complex, and that he will follow up on this concern.
- Stan Checketts voiced his thanks to Providence City for helping him as a citizen.
- Stephanie Dolance lives on about 300 South below 200 West and addressed her concern with expansion of Providence City, and with the speed of traffic in her neighborhood. She lives in a residential neighborhood and asked that the speed limit be lowered to 25 miles per hour.
- Mayor Simmons closed the Public Comments.

**Public Hearings:**

The City Council will hear comments from the public for a proposed amendment to the final plat for the Alder Square Commercial Subdivision by adding Lot 110 generally located at 68 North SR165.

- Carl Pitt explained that on the initial approvals, a pad was connected to the Macey's pad. Macey's elected not to utilize the pad and requested a plat amendment to take the pad out of Macey's and make its own pad. The plat amendment will take part of Lot 101 and make it into Lot 110 of the Alder Square Subdivision. A retail business will be located on the revised pad.

Motion to open public hearing - R Liechty, second - D Johnson

Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty  
Nay: None  
Abstained: None  
Excused: T Rasmussen

- Marilyn Bell questioned why no plan for gas was mentioned when Macey's was first presented.
- R Liechty explained that during the discussion with the Planning Commission at the last meeting, the representative from Associated Foods said at first there was no intention for a gas pad. They have since changed their decision. Carl Pitt represented Amsource; it was Macey's who reversed their decision. Mayor Simmons reiterated that two entities are involved: Amsource and Macey's.
- Marilyn Bell voiced her concerns with traffic, safety, and the overall safety of the water. She questions what would happen to the wetlands if there was a leak in one of the Macey's tanks.
- Sharrel Eames echoed what was said by Marilyn Bell. Carl Pitt stated that Macey's asked to have the gas pad put in when it was to be approved on the Master Plan.
- S Bankhead expressed that she does not want the audience to feel like the Council is ignoring them. The gas pad is not part of the amended plat. The new plat presented tonight is asking for Lot 110 to be used as a retail pad at this point in time. Site plans are approved by the Planning Commission. They do not come to the City Council. She explained that Amsource is asking that Lot 165 be taken out of the Macey's plan. The fueling station is on the existing Lot 101. The Council is looking at approving a retail lot, not whether or not to allow a gas pad.
- Sharell Eames expressed her concern. C Pitt again explained that in planning their competitive strategy for the future, Macey's made a corporate decision to add gas to their facilities in the Utah market. It was a corporate decision; not one made by Amsource. The tanks are safe, they meet every applicable law, and everything will be state-of-the-art as of today. B Bagley asked for clarification as to what the different pads were for.

- 1 • Laura Fisher replied that she felt it was rude not to have the gas pad made known when it became  
2 a part of the plan. C Pitt apologized if it seemed to be rude.

3 Motion to close the Public Hearing - R Liechty, second – D Johnson

4 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty

5 Nay: None

6 Abstained: None

7 Excused: T Rasmussen

- 8 • Mayor Simmons stated that this issue will be addressed later in the meeting.

9 Unfinished Business:

10 Item No. 1. Discussion. The Providence City Council will discuss nominees for Planning Commission  
11 members and alternates.

- 12 • R Simmons mentioned that Michael Christensen has asked to be removed for consideration.  
13 • B Sorenson's term will expire on January 1, 2007. Since the time period has changed for Planning  
14 Commission meetings, he will be able to finish his term. Steve Allan was recommended to be the  
15 alternate member, and Harry Ames was nominated to be the second alternate. After B Sorenson  
16 moves on, Steve Allan will become part of the Commission, and Harry Ames will become the  
17 alternate.  
18 • R Liechty suggested that two alternates be called. B Bagley voiced that only one should be called.  
19 • Mayor Simmons reminded the Council that alternates were able to sit in and listen to all conversations.  
20 State law states that the Mayor is to present the nominees to the Council, and it is up to the Council to  
21 approve.

22 Motion to approve Steve Allan as an alternate member of the Planning Commission and to approve Harry  
23 Ames as a second alternate to the Planning Commission – S Gomm, second – D Johnson.

- 24 • K Baker asked why Steve Allan was presented since he is on the Board of Adjustments. Mayor  
25 Simmons stated that Steve Allan said he would like to be on the Planning Commission.  
26 • Darcy McEvoy asked why the Council did not consider the list of names presented by the citizens.  
27 • R Liechty and S Gomm clarified that Steve Allan had been presented before, and that Harry Ames  
28 is on the list submitted by the citizens. The citizens whose names were considered have made  
29 known their desire to serve. R Liechty explained again that the Mayor presents whom he wants to  
30 the Council, and then the Council votes on the names given.  
31 • Laura Fisher remarked that Steve Allan should be removed from the Board of Adjustments first.

32 Motion to amend the previous motion to remove Steve Allan from the Board of Adjustments – S Gomm,  
33 Second – D Johnson.

34 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty

35 Nay: None

36 Abstained: None

37 Excused: T Rasmussen

38  
39 Item No. 2. Resolution 06-062. The Providence City Council will consider for adoption a resolution  
40 approving an amended preliminary plat for the proposed Hillcrest Subdivision, a residential subdivision  
41 located generally at 870 South 400 East.

- 42 • Jared Nielsen, representing Paramount Development and Robert Hughes Parsons Bailey Latimer  
43 Attorneys at Law, stated that they were here about seven months ago when the zone changes were  
44 approved, and they reworked the plat and presented two options. The plats were prepared, and he  
45 has worked with the City. He hopes that one of the plans will be approved tonight.  
46 • Mayor Simmons asked S Bankhead to explain why this did not go back to the Planning

1 Commission. S Bankhead disclosed that it was the recommendation from the Planning  
2 Commission that the Preliminary Plat should be forwarded to the City Council for action. The  
3 Preliminary Plat was approved on October 18, 2005, with the following conditions: They must  
4 continue to comply with Providence City Code 11-3-2, which states that the developer may choose  
5 from two options, but during their deliberation, it was knocked down to one option. They are to  
6 dedicate 16 ½ feet of road to the City, 400 East will be a 50-foot road, and the City Council will  
7 address safety issues on 400 East. In response, the City Council held a joint workshop with the  
8 citizens, Jody Hoffman, and Dan Lofgren. As a result, the City became interested in grouping  
9 homes to create more open space. The developer was willing to come back to City Council rather  
10 than have them act on the plat the Planning Commission had approved, knowing the public was  
11 interested in having more open area. The developer said he would look at that and change the  
12 design to meet design elements the Council approved by resolution on March 14. The plan being  
13 presented is what he came back with. It will not go back to Planning Commission. The City  
14 Council stated that they will take A or B. The City is now looking at the new design coming  
15 through that incorporated elements on the joint workshop with the Planning Commission. This is  
16 a preliminary plat. If it is approved tonight, it will come back to the Design Review Committee as  
17 a final plat. If the Planning Commission approves the final plat, then it will go to the City Council  
18 for approval with the development agreement and construction drawings. State code requires one  
19 public hearing, and it was held with the preliminary plat. There will be no public hearing on the  
20 final plat, but it will be on the Planning Commission agenda and on the City Council agenda.

- 21 • Darcy McEvoy commented that in the new plan, roads were not changed, but more houses were  
22 added which results in more cars. She expressed her concern that no second egress or access road  
23 has been added. She asked how the new plan addresses this issue.
- 24 • S Bankhead related that Liz Hunsaker, the Fire Marshall, commented that the State adopted an  
25 International Fire Code, and at the end, there are appendices. The State adopted the body of the  
26 code; it did not adopt the appendices. If they are to be used, they are adopted by individual  
27 entities. Logan City has adopted Appendix D on accesses as a guideline, not as an ordinance.  
28 Providence City has not adopted it as a guideline or an ordinance.
- 29 • Darcy McEvoy said it should be considered. The State must feel the appendices have merit.
- 30 • Mayor Simmons explained that the Planning Commission will bring their recommendations to the  
31 City Council for ordinances in the future. At a joint workshop, one of the issues discussed was  
32 increasing the number of homes in exchange for open space. Open space will be deeded to  
33 Providence City.
- 34 • Darcy McEvoy said the open space will be inaccessible for public use. She doesn't believe it will  
35 be aesthetically pleasing, that it will increase traffic, and will be a high density development. She  
36 believes that high density development should be within walking distance to different locations.
- 37 • Mayor Simmons stated that most people consider high density to be 5,000 sq ft lots. He has never  
38 heard anyone say that Bringham subdivision is high density. The Single Family Traditional Zone  
39 has an average of 12,000 square feet per lot.
- 40 • Jared Nielsen said the lots being proposed were reduced to 10,000 square feet because of the  
41 exchange for open space proposed by the City.
- 42 • S Bankhead stated that the street going into the development is fronted by the entire street so the  
43 public can access it.
- 44 • S Gomm noted that there is no sidewalk on Alan Jensen's property. She asked if the City will be  
45 interested in approaching them about installing a sidewalk. Mayor Simmons said neither Alan  
46 Jensen nor Elinor and Roy Hansen have been approached.
- 47 • S Bankhead explained that the design element resolution was passed on the Hillcrest Subdivision

1 on April 25, 2006. It reads, the City Council will utilize the exception clause in Providence City  
2 Code 11-5-15 and request the submission of a preliminary plat for the proposed Hillcrest  
3 Subdivision incorporating the following design elements, to encourage accommodating different  
4 plat sizes, clustering and open space. The proposed development contains 19.75 acres. A gross  
5 density of 2.75 units for acre will allow 54 units. A minimum lot size will be 10,000 square feet.  
6 The developer can have 15 percent open space which is not a conservation lot that serves a public  
7 purpose. A density of 3.0 units per gross acre will be allowed for up to 59 units. The lower  
8 northwest corner was suggested. The 500 East road will be required to have a 65-foot right-of-  
9 way; other interior roads will have a 50-foot right-of-way; 600 East is not required. Those were  
10 the guidelines approved by resolution on April 25, 2006, and then given to the developer. That is  
11 why some lots are 10,000 square feet.

- 12 • K Baker stated that the road has a 48-foot gravel turnaround. The ordinances call for asphalt with  
13 a 20 foot in diameter turnaround (11-4-3-i). She stated that Liz Hunsaker and Providence City  
14 always required asphalt, not gravel.
- 15 • S Bankhead remarked that this code is for a permanent cul-de-sac and that a 120-foot radius is  
16 required. The ordinance states that non-connecting streets shall be provided by the sub divider for  
17 a turnaround for snow plows, garbage trucks, and other service vehicles. Smaller temporary  
18 turnarounds have been allowed in the past.
- 19 • K Baker believes it should be more than 48 feet; temporary means it should be taken care of in the  
20 foreseeable future. Since this is an ample water year, she also questioned where the detention  
21 pond water will go.
- 22 • S Gomm clarified that it is a retention pond; detention ponds have pipes for drainage. Where the  
23 water goes depends upon the engineering.
- 24 • R Eck explained that a percolation test is done on the soil to decide on the natural flow.
- 25 • Jared Nielsen stated that it is a State requirement to have the engineering done. He assumes that  
26 the gravel will have a potential to help with the natural flow.
- 27 • Laura Fisher said that the International Fire Code will be required on January 1<sup>st</sup>, and that two  
28 roads are required with 30 or more lots. This subdivision has 56 lots, and there is no place to put a  
29 second road. What is being considered is in direct conflict with the safety standards.
- 30 • R Liechty informed the citizens that he fought for safety issues on this subdivision. He doesn't  
31 agree with having one entrance. The subdividers have done everything the City said they have to  
32 do. The City hasn't put in the ordinance yet that two inlets and two outlets are required. The  
33 Council has followed the ordinance. He said that the Council can't wait to see what will happen in  
34 January. The Fire Marshall said the turn around is fine. If ordinances are out of compliance, they  
35 need to be fixed.
- 36 • Elinor Hanson asked what the zoning of this property is in the master plan. Mayor Simmons  
37 reported that it has always been zoned as single family traditional.
- 38 • Darcy McEvoy commented that it was agricultural at one time. She believes the master plan is not  
39 conserving value and integrity of the rural neighborhoods.
- 40 • Mayor Simmons replied that if you want us to follow master plan, it has been done. The Council  
41 cannot respond to public clamor, but we can respond to data, he pointed out. If a traffic engineer  
42 deems this is not safe and brings in an engineering study, by law the Council can use it.
- 43 • Darcy McEvoy asked if the City has brought in engineers. Mayor Simmons declared that the City  
44 engineer deemed it safe. No one else has brought in any contradictory data. Data does suggest  
45 that the average speed is 27 miles per hour on 100 East.
- 46 • Darcy McEvoy declared that the Council can still vote against it. S Gomm said yes, and the City

1 will be in court.

- 2 • S Checketts aired that this has had public comment and the citizens were here.
- 3 • Sharrel Eames commented that she was at meeting when this was presented and someone looked
- 4 at it on the internet. She said the Army Corps of Engineers never came and said that. She stated
- 5 that the Council has the condition from 25<sup>th</sup> of April.
- 6 • R Liechty asked if there were a way to get two streets. The developer said yes, but they would be
- 7 less than 100 feet apart, and Council said it wasn't worth it.
- 8 • S Gomm commented that when this issue was brought up before, it was decided that if the Council
- 9 allows building on 400 East, the corner on 400 East and Canyon Road will be fixed.
- 10 • Mayor Simmons requested to have next year's budget allow for the realignment and curb and
- 11 gutter and sidewalks on the east side to this development if it is approved.
- 12 • Gerald Dathyn asked the Council what is to become of Canyon Road. Mayor Simmons
- 13 commented that this issue has been discussed forever. Canyon Road from 400 East going west
- 14 will soon have sidewalks. The bigger issue is Canyon Road going to 400 East, east of 400 East.
- 15 • K Baker said it bothers her that the retention pond is in the calculation of open space donated to
- 16 City.
- 17 • S Bankhead presented a plat to K Baker on Aug 5, 2005, which had two cul-de-sacs and one road
- 18 going through. It has been approved by the Planning Commission.
- 19 • It was brought up that in Ordinance 11-1 the final decision from the City Council will be based on
- 20 the welfare and safety of the town. R Liechty again stated that facts have to be given.
- 21 • Mayor Simmons stated that the City is meeting national codes to determine if something is safe,
- 22 and our engineer states that it meets the requirements. Until other data is available, this cannot be
- 23 rejected even though members of the Council may want to.

24 Motion to adopt a resolution approving the amended preliminary plat, map dated August 18, 2006, for the  
25 proposed Hillcrest Subdivision, a residential subdivision located generally at 870 South 400 East - S  
26 Gomm, second – D Johnson

27 Vote: Yea: S Gomm, D Johnson, R Liechty

28 Nay: K Baker

29 Abstained: None

30 Excused: T Rasmussen

- 31 • S Gomm counseled the citizens to not waste tax payer's money on a case that can't be won.
- 32 • Scott Wyatt explained that in due process in equal protection in the Constitution, the Supreme
- 33 Court has held that if a city has an ordinance in place, the land owner is entitled to have their
- 34 proposal considered under the ordinances of that city. If someone comes forward and meets
- 35 requirement of the current ordinance, they are entitled to go forward. He stated that he has done a
- 36 tremendous amount of research on similar cases; everyone comes in upset, but the Supreme Court
- 37 said the only way to turn someone away is with documented evidence that shows substantial harm
- 38 to the community. If an incumbent wants to stop it, he must get someone to bring in facts and
- 39 evidence.
- 40 • S Gomm explained that the green space will become City property, and it is the City's
- 41 responsibility to turn it into a park.
- 42 • R Liechty remarked that the City Council walked and measured the property to get the full 15
- 43 percent the City wanted for the park.
- 44 • S Gomm admonished the citizens to get with the Planning Commission and change the ordinances
- 45 if they have a problem with them. The Council and Planning Commission will meet with Mark
- 46 Teuscher to get the ordinances going.

- S Wyatt explained that the Planning Commission makes a recommendation. Elected people then pass them.
- Ruth Miller asked if the City contacts the school board when a new development is being planned. She believes that more traffic will make dangerous situations for school children.
- Mayor Simmons stated that there is almost no communication between schools and cities.

**New Business:**

Motion to open – D Johnson, Second – S Gomm.

Item No. 1. Resolution 06-063. The Providence City Council will consider for adoption a resolution approving an amended final plat for the Alder Square Commercial Subdivision located generally at 100 North SR165 by reducing the size of Lot 101 and adding Lot 110 located generally at 68 North SR165.

- Mayor Simmons explained that the Planning Commission reviewed this request on August 15, 2006. The DRC found that it met City ordinances. No conditions were presented. The motion to approve was given by B Bagley; L Campbell seconded the motion, and all were in favor. A public hearing was held earlier this evening.

- R Liechty reminded everyone that this resolution is only to add Lot 110.

Motion to adopt resolution 06-063 approving an amended final plat for the Alder Square Commercial Subdivision located generally at 100 North SR165 by reducing the size of Lot 101 and adding Lot 110 located generally at 68 North SR165 – D Johnson, second – R Liechty.

- D Johnson commended Amsource for doing a professional job. He thanked Carl Pitt and explained that the gas pad will have to meet every requirement.

Vote: Yea: K Baker, D Johnson, R Liechty

Nay: None

Abstained: S Gomm

Excused: T Rasmussen

Motion to approve a discussion on Ordinance 010-2006 – D Johnson, second – S Gomm.

Item No. 2. Ordinance 010-2006. The Providence City Council will consider for adoption an ordinance granting the annexation petition of Redstone Development, LLC. And annexing Parcel ID No.(s) 02-114-0005 and 02-114-0030 containing 42.90 acres, more or less.

- Mayor Simmons presented the ordinance. The ordinance that will be passed describes the area in Section 1. Section 2 states that the area will initially be zoned agricultural. Section 3 is the annexation agreement. Section 4 states that this ordinance becomes effective immediately upon passage. Section 5 states that within 30 days the Recorder will fulfill the requirements of the Utah Code Annotated Section 10-2-425. No development will occur on the on the parcel until after the three conditions are satisfied.
- Condition 1: A transfer of water from or in on behalf of Checketts or Redstone with a good and clear title to Providence in the amount of .714 acre feet per housing unit to be developed on the parcels. Water may be transferred commensurate and concurrent with phases of development, if applicable. The water must be fully approved by the Utah State Water Engineer for culinary purposes.
- Condition 2: Access to and from the parcels provided for via a reasonably acceptable route, which route shall be other than Center Street in Providence.
- Condition 3: Compliance with all other ordinances and lawful requirements and approval by the land use authority, it being understood by the parties that the first two conditions are not required to be met prior to review and approval of rezoning and/or development on the parcels.



- 1 • K Baker asked if the land can be developed without having the water. Scott Wyatt said the  
2 approval process can happen but not development. As soon as the water is given to the City, the  
3 City by law cannot transfer it to anyone else. The design is to allow the approval of the process,  
4 but nothing can occur on the land until the water is transferred.
- 5 • K Baker recommended that the stipulation be reworded. R Liechty commented that it will be  
6 misinterpreted the way it is written. S Gomm suggested having it rewritten to say to be met prior  
7 to review and approval for rezoning and/or review and approval for development on the parcels.
- 8 • S Wyatt started at the beginning of the sentence and said, two conditions are not required to be met  
9 prior to approval to zoning and plat, remove the word development out of the statement.
- 10 • K Baker wondered where the road other than the Center Street access will be. She was told that  
11 there is no plan yet. So far, the discussion is on annexation. Access off the canyon will be at a  
12 reasonable slope. K Baker acknowledged that it is only 20 feet wide. Jamie Gull commented that  
13 it is bigger than 20 feet. Chad Checketts said the road was 160 feet.
- 14 • Mayor Simmons explained that before the property can be developed, the subdivider must transfer  
15 water, provide an access other than Center Street, and be in compliance.
- 16 • S Gomm asked if the amount of water is based on parcels or housing units. If they only get two  
17 acre feet, only two homes can be built. S Wyatt explained that is not something we define.
- 18 • S Gomm questioned if the City has asked for the right amount of water. She wondered if it is wise  
19 to decide how much water is needed by using each housing unit. Mayor Simmons commented that  
20 it is estimated by how many units of water a house uses. Each .714 acre feet is the estimate of  
21 what each home will use, and he affirmed that ten 1-acre lots will 7.14 acre feet.
- 22 • K Baker asked why the City should annex the property now instead of when the ordinances are  
23 passed.
- 24 • Mayor Simmons explained the City staff will not consider a preliminary plat until it has been  
25 rezoned.
- 26 • Jamie Gull presented five facts. First, he stated that the City surrounds the property on three sides,  
27 and the BLM is on the fourth side. He feels he has a right to annex into a city. The only other  
28 option is to be annexed into the County. Second, the City could have a say in how it gets  
29 developed. Third, it is in the City's annexation declaration zone. Fourth, it gives the City water.  
30 Fifth, it gives an additional tax base for the City.
- 31 • R Liechty stated that water may be transferred commensurate and concurrent with phases of  
32 development, if applicable. The water must be fully approved by the Utah State Water Engineer  
33 for culinary purposes.
- 34 • Mayor Simmons stated that Laura Fisher and Bob Bissland are contesting the appeal. They  
35 believe that the Highlands Subdivision cannot move forward because water is not available to the  
36 City.
- 37 • R Liechty added that this transfer of water is similar to what was done in the Highlands  
38 Subdivision. The water engineer has to approve this upfront. He asked if the water will be there  
39 for each phase. He agrees that the developer can give the City so much for each phase, but he  
40 wants to have the water there before the City goes forward with this annexation. If not, then he  
41 believes each phase should be annexed in separately.
- 42 • S Wyatt said it will be approved phase by phase. The reasoning is that the City won't know what  
43 the phase will be until it is approved. That is what the ordinance provides.
- 44 • Gary Stauffer inquired as to what available will mean. He asked if a well and reservoir will be  
45 provided before it is made available. If so, the developer should pay for it. Mayor Simmons  
46 commented that impact fees are used for this kind of project.

- 1 • Gary Stauffer believes the City should be upgrading services for the current citizens instead of
- 2 paying for a new development.
- 3 • Mayor Simmons explained that impact fees are not for the maintenance of the old system. The
- 4 Highlands have applied for a new well permit. If it is drilled, impact fees will pay for the well.
- 5 • Bob Bissland believes that no one knows where water is in Providence. No one can say if
- 6 Providence is taking too much water or is even in compliance. He stated that it is the only reason
- 7 why there is a lawsuit.
- 8 • Jamie Gull related that water rights are transferred like property. It takes twelve months to pass
- 9 through the State Engineer's office. He questioned whether it will be considered legal or beyond
- 10 city's ability to request water from them as far as transferring water in phases goes before they
- 11 have the development. He doesn't feel that it is fair to pay for water in advance without the
- 12 knowledge of whether or not he will be able to use it. He believes he has the right to transfer
- 13 water commensurate to the development.
- 14 • Jamie Gull said the document specifically said that development cannot occur until the subdivider
- 15 gives water to the City. It is unfair to buy \$3,000,000 worth of water and not be able to use it. S
- 16 Gomm asked R Liechty to summarize what he is presenting. R Liechty said first, the developer
- 17 will guarantee that there will be usable culinary water for each phase before they can start. Once
- 18 water is approved, the developer can proceed.
- 19 • Mayor Simmons commented that another consideration of the phase approach in federal case law
- 20 is that you cannot exact more from a development. It is okay to require what is necessary, but not
- 21 more than necessary.
- 22 • Jamie Gull stated that he will most likely acquire water all at once. A source has been identified,
- 23 and he is working on the purchase. Earnest money has been given, but he doesn't know what is
- 24 happening at the State Engineer's office.
- 25 • R Liechty asked if it wouldn't be smarter to dedicate all of the acquired water to the City.
- 26 • Jamie Gull responded by saying no because he may not get approval.

27 Motion to approve for adoption an ordinance granting the annexation petition of Redstone Development,  
 28 LLC. And annexing Parcel ID No.(s) 02-114-0005 and 02-114-0030 containing 42.90 acres, more or less -

29 Vote: Yea: D Johnson  
 30 R Liechty  
 31 S Gomm  
 32 Nay: K Baker  
 33 Abstained: None  
 34 Excused: T Rasmussen  
 35

36 Item No. 3. Resolution 06-061. The Providence City Council will consider for adoption a resolution  
 37 approving an Agreement between Providence City and Cache County for Animal Control Services.

- 38 • Mayor Simmons stated that on October 1<sup>st</sup>, Cache County started providing animal control
- 39 services. The agreement is for \$18 an hour.
- 40 • S Bankhead explained that in July the City received a letter from the Cache County Sheriff's office
- 41 which was sent to municipalities asking if anyone was interested in animal control. She contacted
- 42 Chad Jensen at the Sheriff's Office and asked how many cities had expressed interest. He agreed
- 43 to use Providence City on a trial basis. Millville and Nibley later expressed their interest. Cache
- 44 County is not able to have its own animal control truck. Part of the agreement is that they have
- 45 access to our animal control vehicle. Strays are taken to Bridgerland Vet Clinic. An officer has not
- 46 been officially assigned for animal control yet. Police officers are taking calls as they patrol.
- 47 • Mayor Simmons commented that someone has been hired to ride with Logan City animal control.

1 They have followed up on complaints. So far a successful remedy hasn't been provided  
2 Motion to adopt a resolution approving an agreement between Providence City and Cache County for  
3 Animal Control Services - R Liechty, second - K Baker.

- 4 • S Gomm asked how the County is doing now that the preliminary stage is over
- 5 • Mayor Simmons announced that the County has responded quickly.
- 6 • S Bankhead commented that the County does not take care of wild animals.

7 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty  
8 Nay: None  
9 Abstained: None  
10 Excused: T Rasmussen

11  
12 Item No. 4. Ordinance Modification 011-2006. The Providence City Council will consider for adoption an  
13 ordinance amending Providence City Code 5-1-10:F. Loud or Offensive Animals; Penalty by adding the  
14 following:

15 *The owner of a dog or dogs found in violation of the provisions of this section 5-10(F) on*  
16 *five (5) or more separate occasions by be required by the court to permanently remove the*  
17 *dog or dogs from the premises*

- 18  
19 • Mayor Simmons stated that this ordinance modification was suggested by Kevin Fife because he  
20 feels citizens will continue to pay the fines because they have noisy dogs.

21 Motion to adopt an ordinance amending Providence City Code 5-1-10:F. Loud or Offensive Animals;  
22 Penalty by adding the following (listed above) – R Liechty, second – K Baker.

- 23 • S Gomm clarified that this ordinance change is not for wandering, but for noisy dogs.
- 24 • S Bankhead remarked that the sheriff's office can be called 24 hours a day, 7 days a week, and  
25 they can hear the dogs barking as soon as they get in the area.

26 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty  
27 Nay: None  
28 Abstained: None  
29 Excused: T Rasmussen

30  
31 Item No. 5. Ordinance Modification 012-2006. The Providence City Council will consider for adoption an  
32 ordinance amending Providence City Code 2-1-1:F.Planning Commission Created – Chair – Rules by  
33 deleting the following: *on the third (3<sup>rd</sup>) Tuesday of the month.*

- 34 • Mayor Simmons commented that in order to meet with the consultant, the Planning Commission  
35 will meet on the second and fourth Wednesday of each month. The ordinance states the third  
36 Tuesday and should be deleted.

37 Motion to approve for adoption this modification amending Providence City Code 2-1-1:F.Planning  
38 Commission Created – Chair – Rules by deleting the following: *on the third (3<sup>rd</sup>) Tuesday of the month –*  
39 K Baker, second – S Gomm

40 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty  
41 Nay: None  
42 Abstained: None  
43 Excused: T Rasmussen

44  
45 Item No. 6. Discussion. Scott Wyatt will discuss designating a Land Use Authority and creating an Appeal  
46 Authority in connection with Utah Code Title 10 Chapter 9a.

- 1 • S Wyatt presented the draft document for designating a land use authority and creating an appeal  
2 authority. Changes are being made in accordance with a state law passed one and one-half years  
3 ago which will bring Providence City's codes into compliance. He and Bill Bagley have discussed  
4 the appeal authority, which is one small piece. First, he suggests repealing administrative  
5 adherence and creating a new appeal authority. His second suggestion was that duties be modified  
6 for a new land use authority. The Commission is an advisory board who is to advise the City  
7 Council. Under LUDMA, it is contemplated that the Planning Commission responsibilities will  
8 increase. A new land use authority will be created according to State law. The second change he  
9 recommends is to create an appeal authority. An appeal authority is charged with admission of  
10 appeals with land use decisions and variances. If appeal authority is to hear only those kinds of  
11 appeals, the only thing the Board of Adjustments will hear is special exemptions. It is  
12 recommended that the City repeal the Board of Adjustments and set up an appeal authority with  
13 other cities. He suggested that the cities come together and choose a knowledgeable person or  
14 persons to make an appeal authority. The Board will hear variances which will keep decisions  
15 consistent. Conditional use permits could be handled by a land use authority. The Planning  
16 Commission can concentrate on planning and writing ordinances, or they can hold one meeting  
17 just for public hearings. He mentioned that the large animal regulation section has been requested  
18 to be repealed.
- 19 • Mayor Simmons asked if there is a section on the interior block.
- 20 • S Bankhead and S Wyatt wanted to know if that is to be included in this plan. K Baker  
21 commented on how ordinance changes never seem to go any where.
- 22 • S Bankhead explained that they are ready as soon as a public hearing is scheduled.
- 23 • Mayor Simmons expressed the need for a public hearing.
- 24 • S Wyatt advised the Planning Commission to spend more time with this.
- 25 • S Gomm asked if zoning is a land use decision. S Wyatt answered yes. It is with the master plan.  
26 Anything requiring an ordinance would still come to the City Council.
- 27 • S Wyatt and S Gomm responded that the Planning Commission do public hearings, preliminary  
28 plats, final plats, etc.
- 29 • Mayor Simmons informed everyone that a conversation will be held on this subject tomorrow  
30 evening at 6:00, and that it will be an ongoing conversation.

31  
32 Item No. 7. Ordinance Modification 013-2006. The Providence City Council will consider for adoption an  
33 ordinance amending Providence City Code Title 8 Water and Sewer by adding Chapter 4 Storm Water  
34 System Use and Service; creating a storm water department that will operate as an enterprise fund.  
35 (Amended 10/23/2006 10:10 a.m.)

- 36 • Mayor Simmons presented this modification. He said the City needs a permit to discharge and  
37 create a storm water utility. It is up to the City Council to decide if a storm water utility is wanted.  
38 He suggested continuing this discussion in two weeks.
- 39 • S Bankhead explained that when Kathy was listening to the deliberations, she tried to find a good  
40 measure on how to bill people. The City's rationale is different than at the beginning. It has been  
41 broken down into six categories; single family \$4, multi family per dwelling unit \$3, commercial  
42 \$20 per meter, institutional (schools, churches) \$15 per meter (flat rate), lots without water meters,  
43 \$4, but it comes down to how the lot is being used. It will be billed like the storage sheds, yet they  
44 contribute to storm water, so they will be looked at as a commercial entity with one meter.
- 45 • Mayor Simmons added that Logan and Weber's are used as impervious services. K Baker  
46 commented that she had fourteen separate charges on her Logan City bill.

1 Motion to continue – S Gomm, second – R Liechty.

2 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty

3 Nay: None

4 Abstained: None

5 Excused: T Rasmussen

6  
7 Item No. 8. Resolution 06-064. The Providence City Council will consider for adoption a resolution  
8 approving an agreement with Mark Teuscher for consulting services to assist the City in writing its land  
9 use ordinances. (Amended 10/23/2006 11:10 a.m.)

- 10 • Mayor Simmons disclosed that Mark Teuscher is charging \$65 an hour for his services. He will be  
11 available for regular scheduled meetings for the Planning Commission and the City Council as  
12 needed. He requires a 30-day termination notice

13 Motion to approve for adoption a resolution approving an agreement with Mark Teuscher for consulting  
14 services to assist the City in writing its land use ordinances – K Baker, second – D Johnson.

- 15 • R Liechty asked how the \$65 an hour is monitored.  
16 • R Simmons stated that the Council will look at the product. If the Council is happy with his  
17 services, he will work for the City. If the City is unhappy, he will be terminated. He will be  
18 working on (1) the revision of the master plan, (2) revision of zoning ordinances, (3) drafting an  
19 SOB (sexually oriented business) immediately, (4) and other miscellaneous things.  
20 • S Bankhead stated that S Wyatt is taking care of the appeal authority.

21 Vote: Yea: K Baker, S Gomm, D Johnson, R Liechty

22 Nay: None

23 Abstained: None

24 Excused: T Rasmussen

25  
26 Staff Reports: Items presented by Providence City Staff will be presented as informational only.

27 S Bankhead:

- 28 • The City has hired Sheri Ward to work at the front desk. She is to be trained to become the deputy  
29 court clerk and will be helping the mayor.  
30 • Friday is the Turkey Sauerkraut dinner. Not as many tickets have been sold as anticipated at this  
31 time. Culinary Concepts will provide the dinner.  
32 • A few youth applied to be on the youth council and they will help set up tables for the dinner.  
33 They will be involved in trunk-or-treat Tuesday.

34  
35 R Eck:

- 36 • D Johnson asked if the sewer system is ready for bid yet.  
37 • R Eck perceives that it will come out in the middle of January.

38  
39 Council Reports: Items presented by the City Council members will be presented as informational only; no  
40 formal action will be taken. The City Council may act on an item, if it arose subsequent to the posting of  
41 this agenda and the City Council determines that an emergency exists.

42 R Liechty:

- 43 • R Liechty commented that the Mayor and the City Council are here every Thursday night for  
44 public communication. Because only one person comes, he would like to do away with this  
45 meeting. He suggested that the City Council meeting be held some place bigger to accommodate  
46 the citizens who want to attend.

- He has received calls complaining that utility bills are wrong. R Eck explained that the problem came with the billing due date in September stated October 15<sup>th</sup> instead of September 15<sup>th</sup>, so some citizens didn't pay September's bill. A mistake was made but corrected.
- It was noted that some citizens do not understand their billing.

Mayor Simmons:

- The staff has completed going through the spec book. Changes get accepted by resolution. He asked how the City would like to handle this.
- S Bankhead explained that this book is for construction specifications. K Baker would like to see the old book printed on one color of paper and the new book printed on plain or a different color.
- R Eck commented on the number of drawings in the book.
- Mayor Simmons suggested having copies in the office to look at before it is brought before the November meeting.
- D Johnson appreciates the idea. In his business, he has gone from city to city, and fire codes are different between cities. Specs are different in each county.
- Mayor Simmons asked if the Council will look at them.
- S Gomm asked if there are any electronically.
- S Bankhead said there will be. Word Perfect did not convert to Word like they were led to believe.

Motion to close the meeting – R Liechty, Second – D Johnson

<u>Vote:</u>	<u>Yea:</u>	K Baker, S Gomm, D Johnson, R Liechty
	<u>Nay:</u>	None
	<u>Abstained:</u>	None
	<u>Excused:</u>	T Rasmussen

Minutes taken and prepared by Becky Turley.

Meeting adjourned at 8:50.

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Randy Simmons, Mayor

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S Bankhead, City Recorder