

1 **PROVIDENCE CITY COUNCIL MINUTES**

2 **November 11, 2008**

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: D Astle, D Low, K Baker, R Liechty, J Russell
9 Excused:
10 Pledge of Allegiance: D Astle

11
12 **Approval of the minutes for October 14, 2008 City Council Meeting:**

13 Motion to approve the minutes from October 14, 2008: R Liechty, D Astle second

14 K Baker gave her corrections to T Lewis earlier.

15 No other corrections were found.

16 All in favor with corrections -

17 Vote: Yea: D Low, K Baker, D Astle, R Liechty, J Russell

18 Nay: None

19 Abstained: None

20 Excused: None

21
22 **PUBLIC COMMENTS:**

23 No public comments.

24
25 **PUBLIC HEARING 6:20 p.m.:**

26 The Providence City Council will hold a public hearing to receive public comment on adjusting the 2009 budgets for all
27 funds.

28 Motion to open the public hearing: J Russell, R Liechty second

29 S Bankhead said we are not asking for any new money. Just to use money we received in prior years. The City has Impact
30 Fees. \$405,148.03 in the Park Impact Fee account, \$387,551.73 in the Water Impact Fee account and \$283,374.43 in the
31 Road Impact Fee account. The revenue was counted in prior years. We will bring the money forward and use it to construct a
32 new park we are building in Hampshire Estates Subdivision. The staff would like to bring forward \$150,000 from Park
33 Impact Fees; \$40,000 from Road Impact Fees and \$40,000 from Water Impact Fees. This money is not tax generated. The
34 Staff would also like to use the money from the Capital project fund for a secondary irrigation pond and improvements
35 around the Public Works Facility. We also have money from donations to help landscaping in the Public Works Facility.
36 Motion to close the public hearing: R Liechty, K Baker second

37
38 **NEW BUSINESS:**

39 **Item No. 1. Discussion:** Bob Fotheringham, Cache County Water Manager, will discuss support of matching funds to study
40 water brokering and aquifer storage and recovery options for Cache County and its citizens.

41 Bob Fotheringham is here tonight at the request of the Mayor to talk about the funding that the County asked for from
42 Providence City. The funding is for aquifer storage as well as for brokerage study. Cache County asked what the
43 Communities thought should happen with water in the valley. There were basically 3 fundamental answers. They want
44 accountability and they oppose a conservancy district. They want a common voice in the County and they want to protect the
45 60,000 acre feed. The County put together a water committee, with a water manager which is me. 85% of the concern the
46 County has is to protect the 60,000 acre feed in Cache County. As I was reviewing my notes they talked a lot about water
47 rights being secure. We need to protect our water rights.

48 S Eames asked about the development of water rights that they already have.

49 B Fotheringham said it is the rights we already have. He showed a map of the Logan, Hyde Park and Smithfield canal.
50 Between 1989 and 1999 the State Engineer came up with a ground water plan. He wanted to have a mass balance from Bear
51 Lake to Box Elder County. What comes in to Cache Valley needs to leave Cache Valley. He talked about the lands that have
52 been taken out of production. About 800 acres have come out of production. That is going from acres of beneficial use to
53 development. As the lands have come out of production the water hasn't been put any where else. The bottom line is the
54 water isn't being used. We want to broker this water. We are going to the State Engineer to do soft changes to that water.
55 There is a lot of acre feet of water that need to be used.

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1 R Simmons asked what a soft change is.
2 B Fotheringham said a soft change is what occurs between an irrigation company and a neighbor. We want to be able to say
3 who cares what the water is used for as long as it is used. As long as it doesn't impact them they shouldn't have a say. We
4 want to be able stop the protest.
5 R Simmons said the City could make an agreement with the Spring Creek water company to use more water than we have a
6 right to.
7 B Fotheringham said that would happen easier if the City only had to go to the County. We haven't set up the system. That is
8 why we need the Cities to come up with the extra money. The State will match whatever the County comes up with. We are
9 entering into this process so we can move on down the road. We need to know how the Cities feel about it. The only way this
10 will work is if we educate the irrigation companies. We have the map and they will be able to see what their alternatives are.
11 They would have to come to the county if they wanted it brokered.
12 D Astle asked if they would be a clearing house so they didn't have to go to the State Engineer.
13 B Fotheringham said the good thing about the brokerage is you could broker that water as a management alternative. You
14 always know what your water is being used for. A lot of Municipalities like this system. You would purchase it at the fair
15 market value.
16 D Astle asked if we owned water. He understands the State owns the water.
17 B Fotheringham said the citizens own the water. The City owns the rights. If it belongs to the public it can revert back to the
18 public. The company would manage their water.
19 D Astle asked if all communities need to join this.
20 B Fotheringham said that they would like the Cities to participate what they feel is their worth. It is important that everybody
21 buys in.
22 K Baker asked if the money would be used to buy the water rights no longer in use.
23 B Fotheringham said it is for the study. We need to set up the rules for the brokering process. Somebody might give us a
24 water right. It would be managed in the same process.
25 K Baker asked if the water right is not being used who owns it.
26 B Fotheringham said the water company. You have to go to court to get the right changed. They could let the right set in
27 limbo. It is in jeopardy to go back to the public.
28 D Astle said if I own 100 shares of Spring Creek irrigation and I take that land out of agriculture. In seven years I forfeit the
29 water rights. Can this water right be brought into the brokerage?
30 B Fotheringham said they would want to do that before it is brought into forfeiture. We want to make it so the State will let
31 us broker any of the water in Cache County. They can choose any legal alternative they want to. The County opens up the
32 ability to maintain that right.
33 K Baker asked if they would go to each community and let them know they have water in non-use.
34 B Fotheringham said that is an alternative but it hasn't worked. Normally the municipalities get their water rights by
35 exchanges from the water companies. At that time everyone was a farmer to some extent. Those agreements were made and
36 they later forgot about them. Your arrangement is you give us your water for X amount of dollars and we'll take it. The
37 irrigation companies don't like the State making money off of them.
38 R Simmons said if you do the study do you go to the irrigation company and tell them they have water that is gone into non-
39 use.
40 B Fotheringham said we have this mapping so we can see how many acres have actually come out of production. We will
41 give the irrigation companies the information. They can do what they want with it. They don't deal with the municipalities
42 because they don't know what kind of money they can get for it. We are not taking away any of their options. This is just so
43 we can quit losing water rights. Our extra water goes into Box Elder County. This water will stay in Bear Lake. This just
44 gives Cache County residents the opportunity to talk to each other and not lose water rights. The County created the
45 organization to take care of this.
46 J Russell said they need the money to make this happen now that it has passed. When you deal with large access who has the
47 right to that water? Do you let a municipality know if the water is there for them to use.
48 B Fotheringham said he believes there will be a list kept and the municipalities can come in and see what is available. The
49 brokerage will not sell water.
50 D Astle asked if this soft exchange between two parties will come to a third party challenge.
51 B Fotheringham said let's say Providence City needs 200 acre feet. They may only need it for one year. This allows the
52 County to work out the exchange for you. We are trying to avoid the out of County problems.
53 D Astle asked if this was a one time request.
54 B Fotheringham said yes a one time request. The advantage is the more people get educated the better it is.
55 D Low asked if this has been done in other communities.
56 B Fotheringham said they are usually private. That can still happen. It is better to know what you are getting into at the start.
57 This will be very open we are not trying to make money. This is to keep the water rights we already have.

1 D Low asked what the motive is.
2 B Fotheringham said to protect the rights we already have. 223,000 acre feet. We are using 25 acre feet. There will be
3 adjustments. There is still a lot of water.
4 D Low said the City owns over 400 shares. Will you be able to sell shares?
5 B Fotheringham said he doesn't know if the City is using the water. You might have to pay to use the water. You can make
6 those kinds of transactions.
7 R Simmons said if we do that can we switch to municipal use without going through the State.
8 B Fotheringham said it would already be municipal use. Then the fight is gone. We want to set it up right.
9 R Simmons said it protects the irrigation company in the long run.

10
11 **Item No. 2. Discussion:** Brian Olsen would like to discuss the damage to gardens and landscaping caused by deer.
12 K Baker said she was told there was a mountain lion in town. No one else has heard of this.
13 B Olsen said he has talked to the Mayor about this problem. There are deer everywhere in town. The last two years there is a
14 group that has decimated my garden and my fruit trees. I chase them out and they come back. This little herd stays in a 3
15 block area. I would like to thin this herd out. Forest Service says it is up to the City how they get rid of them. Can the City
16 work with DWR? Can we get permission to harvest a couple of bucks?
17 D Low asked if the herd is being kept here.
18 B Olsen said it is the same herd. They stay here all year.
19 G Stauffer said earlier in the spring there were 16 head in his field. In the fall and spring they are the worst. They are a
20 problem.
21 K Thompson said he knows quite a few people that the deer have decimated their gardens. There are professional trappers
22 that can take care of them. If the City gives permission it can be done. You can get them that way.
23 R Simmons asked if the Council would like him to talk to DWR and come back to Council with recommendations. He will
24 ask someone from DWR to come and talk to the Council.
25 B Olsen said it is the ordinance that keeps them from harvesting the deer.
26 K Baker said I will not allow them to shoot the deer.
27 J Russell asked about relocation.
28 R Simmons said it is too costly. They will just come right back.
29 R Liechty said they have come down for years to feed.
30 B Olsen said we have so many if you thin them out the few that come down will not be so destructive.
31 D Low asked at what point we look at them being a hazard to cars.
32 B Olsen said one day a car is going to run one down.
33 D Low asked if there are standards that the State has for hazards with deer.
34 R Simmons said they are owned by the State.
35 G Stauffer said there have been a couple killed on 200 west.
36 D Astle said the challenge is how you harvest them.
37 B Olsen said there has to be a way to do this.
38 D Low asked if other Cities have similar problems. We need to find out what they have done.
39 B Olsen said I won't fence myself in to keep them out. DWR says it is your problem.
40 K Baker asked what the ordinance is for shooting guns in the City.
41 S Bankhead said we don't have a gun ordinance. We follow the State code.
42 R Simmons said we could have an ordinance that allows hunting in the City.
43 S Bankhead said we could have an ordinance that says you can harvest deer.
44 D Low asked what if there were a thousand deer. What would we do? Is there any law that has been produced?
45 R Simmons says DWR doesn't give out depredation permits in the City.
46 K Thompson said DWR used to have 100 doe permits including Providence, but Providence City doesn't allow bow hunting
47 in the City.
48 The Council would like the DWR to come and talk to them about this.

49
50 **Item No. 3. Resolution 08-043:** The Providence City Council will consider for adoption a resolution adjusting the 2009
51 budgets for all funds.
52 Motion to approve Resolution 08-043: K Baker, D Astle second
53 D Astle asked if the funds are for new projects not considered in the budget.
54 S Bankhead said they are for projects already being considered but not approved in the current budget. We want to do them
55 now instead of later. It makes it a little cleaner for the auditors. They are eligible under the impact fees.
56 J Russell asked if they were approving the capital funds budget.
57 R Simmons said yes.

1 Vote: Yea: D Low, D Astle, R Liechty, K Baker, J Russell
2 Nay: None
3 Abstained: None
4 Excused: None
5

6 **Item No. 4. Resolution 08-041:** The Providence City Council will consider for adoption a resolution approving the Final
7 Plat, Development Agreement and Addendum to the Development Agreement for the Hillcrest Subdivision Phase 1, a 15-lot
8 residential subdivision located generally at 850 South 400 East.
9 This will be moved to the next meeting. Our attorney, C Carlston and J Nielson's attorney need to talk about this before it can
10 be approved.

11 It will be moved to November 25th.

12 Motion to continue Resolution 08-041: J Russell, K Baker second

13 Vote: Yea: D Low, D Astle, R Liechty, K Baker, J Russell
14 Nay: None
15 Abstained: None
16 Excused: None
17

18 **Item No. 5. Resolution 08-044:** The Providence City Council will consider for adoption a resolution reappointing Alma H.
19 Leonhardt to the Cache County Transit District Board.

20 Motion to approve Resolution 08-044: D Astle, D Low second

21 Vote: Yea: D Low, D Astle, R Liechty, K Baker, J Russell
22 Nay: None
23 Abstained: None
24 Excused: None
25

26 **Item No. 6. Resolution 08-045:** The Providence City Council will consider for adoption a resolution appointing one regular
27 member and two alternate members to the Providence City Planning Commission.

28 The Mayor has no one to appoint. He asked the Council to come up with some names.

29 Motion to continue Resolution 08-045: R Liechty, K Baker second

30 Vote: Yea: R Liechty, D Astle, J Russell, K Baker, D Low
31 Nay: None
32 Abstained: None
33 Excused: None
34

35 **Item No. 7. Ordinance No. 014-2008:** The Providence City Council will consider for adoption an ordinance amending
36 Providence City Code Title 4 Public Health and Safety, Chapter 1 Nuisances.

37 Motion to approve Ordinance No. 014-2008: R Liechty, J Russell second

38 R Simmons said to change the definition to the newest code.

39 D Astle asked about declarations of nuisances. How does this relate to compost?

40 S Bankhead said people will probably look at composting. I don't know when it will cross the line.

41 R Simmons said the City has a standing court order to clean up a piece of property in the City. It happened last week as much
42 as the court order would allow us to do. We file a lien against the property and then the City gets some money back for it. It
43 is a very distasteful thing to do. There are properties in the City that are not that much better. Are we going to seek
44 permission from the Court to clean up other properties in the City?

45 D Astle feels like nuisances are very hard to enforce. The best the Council can do is provide a process that this ordinance
46 seems to do. We need to apply it uniformly across the board.

47 R Simmons read the definition of nuisance.

48 S Bankhead said the City doesn't have a nuisance officer. We do all of our enforcement through the Sheriff's office.

49 D Astle asked if the Sheriff's office will identify nuisances.

50 S Bankhead said we wait for complaints and then ask the Sheriff's office to investigate.

51 J Russell said he doesn't want the City to tell its citizens whether they are good or bad. Everyone sees things differently. If
52 the citizens complain let the Sheriff's office investigate.

53 K Thompson said everyone sees things differently. Maybe the definition of nuisance needs to change. What is your definition
54 of junk?

55 D Low asked what could fit under the definition.

56 S Bankhead said if you get more into the definition it explains things better.

57 D Low said the definition plus a citizen's complaint would be good.

1 R Simmons read more of the definition.
2 D Astle said he thought the definitions were good. If you get a complaint someone needs to go talk to them about cleaning it
3 up. Usually if you talk to someone they will be willing to clean it up.
4 D Astle said 7 of 10 typo, certain names of the owners. Pg 9-10 1, 3, 7 collection thru taxes. Can a County Treasurer assess
5 that?
6 R Simmons said he believes so. But the Council will find out.
7 Vote: Yea: R Liechty, D Astle, J Russell, K Baker, D Low
8 Nay: None
9 Abstained: None
10 Excused: None

11
12 **Item No. 8. Ordinance No. 011-2008:** The Providence City Council will consider for adoption an ordinance correcting
13 Ordinance No. 008-2008 amending Providence City Code Title 3 Business License Regulations, by adding Chapter 9 Sale
14 and Emission of Fireworks.

15 Motion to approve Ordinance No. 011-2008: K Baker, D Low second

16 Vote: Yea: D Astle, J Russell, K Baker, D Low, R Liechty
17 Nay: None
18 Abstained: None
19 Excused: None
20

21 **Item No. 9. Ordinance No. 015-2008:** The Providence City Council will consider for adoption an ordinance amending
22 Providence City Code Title 5 Animal Regulation and Control.

23 Motion to approve Ordinance No. 015-2008: J Russell, D Low second

24 D Low asked what motivated the changes.

25 S Bankhead said T Wennergren works closely with the Animal control officers. People will get their animal out of impound
26 and not pay the fees due.

27 D Astle asked if that included licensing fees.

28 S Bankhead said that goes thru the Justice Court. It is the impound fees that don't get paid.

29 R Simmons said it is good to have it in our code.

30 S Bankhead said it is so we have the teeth behind the practice.

31 D Astle asked how we enforce the cat ordinance.

32 S Bankhead said any ordinance that deals with cats is extremely difficult to enforce. The Sheriff's office will not deal with
33 cats. If we specifically ask them to help us with a major problem they will help us.

34 D Astle asked about bees.

35 S Bankhead said she didn't think we had any problems. D Barnes put a lot of work into this ordinance.

36 K Baker asked on page 9, all dogs are required to have rabies vaccinations every three years.

37 S Bankhead said there are people that do not like their dogs to wear the tags. If they get off the property they have to be
38 wearing their tags.

39 Vote: Yea: J Russell, K Baker, D Low, R Liechty, D Astle
40 Nay: None
41 Abstained: None
42 Excused: None
43

44 **STAFF REPORTS:**

45 S Bankhead thanked the Council for supporting the Turkey Sauerkraut dinner. It was probably one of the most successful
46 dinner/bazaar that we have had. Jeremy from Iron Gate did an excellent job. They paid attention to detail. T Wennergren
47 worked with USU and corporate sponsors. S Ward and R Liechty did a great car show. The people from the car show said it
48 was an excellent car show. The craft vendors said that they would come back next year. T Bankhead won the cooking
49 contest. E Low won 2nd place.

50 D Low said his neighbor has German blood. He thought it tasted like real sauerkraut.

51 S Bankhead said Jeremy went above and beyond to make it a successful event.

52 S Bankhead said the City did not do Trunk or Treat. We had quite a few phone calls from citizens that don't want us to lose
53 this tradition. It is good PR.

54 R Simmons said the school thanked us for not doing it this year.

55 D Low said we don't want to compete.

56 D Astle said Maceys did the same thing during the day.

1 S Bankhead said the Auditors will be here next week. Public Works did the fall cleanup. The parks are being winterized.
2 They're getting ready for the snow.

3 D Astle said he would like to complement them for the leaf pickup.

4 R Simmons said they just picked them up as they saw them.

5 D Astle felt it has been very effective.

6 S Bankhead said in DRC we are just about finished with the downtown subdivision ordinances. There are quite a few
7 conflicts with the use charts and the business licenses. Planning Commission will see it tomorrow night. Council will see it
8 shortly. We are trying to put things in the ordinances that can be enforced. Setbacks are something that we get hit with quite a
9 lot. We have held firm to a five foot buffer. It is difficult to enforce. You might want to think about this.

10 D Astle asked how it related to utility easements.

11 S Bankhead said we explain to citizens if there is a utility easement. There isn't always an easement. Fence heights are
12 another thing we are looking at.

13
14 **COUNCIL REPORTS:**

15 J Russell thanked everyone for their support at the passing of his son.

16 R Simmons said Kurt Webb has been meeting with UDOT on Hwy 165. He has started from the top and worked his way
17 down. They will change Hwy 165 from Jerry Fickas's to Logan to a 5 if we don't ask for any variances. The Mayor told him
18 we signed the agreement with a gun to our head. Several years ago the City settled a law suit on the Public Works area and
19 they said we had to landscape. We looked at a plan in 2000. It was really comprehensive. Probably cost the City \$50,000. He
20 is working with the landscaping area at USU to get an acceptable plan. We are telling this developer he has to do several
21 things. If we don't keep our end he won't keep his. We need to clean this up.

22 D Low said it is hard to get volunteers to help with the City Sesquicentennial celebration. Is there anything that the Council
23 feels passionate about and would they be willing to help.

24 D Astle said the Pioneer monument group would like to be involved in this. Jay Hicken would probably help.

25 K Baker said she would like to see the 4 wheelers go to the top of the canyon and have a picnic.

26 D Astle said the sports people play a major part in our community.

27 D Low asked for help and ideas.

28 R Liechty said he would help with anything.

29 S Eames asked if they had a chairman and what happened to the Providence Moms.

30 R Simmons said one of the complaints on the veterans monument was it honored the donators instead of the actual veterans.

31 D Astle said this will have a plaque with the founder's names on it. There will be fewer than 10 names. There has been about
32 \$13,000 dollars donated so far. Can we insert a stuffer in the newsletter in January to ask for donations? A lot of the people
33 doing the major construction work are donating.

34
35 Motion to adjourn: R Liechty, D Low second

36 Vote: Yea: J Russell, R Liechty, D Low, K Baker, D Astle

37 Nay: None

38 Abstained: None

39 Excused: None

40
41 Meeting adjourned at 8:00 p.m.

42 Minutes taken and prepared by Terri Lewis
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44
45

46
47 _____
Randy Simmons, Mayor

Skarlet Bankhead, City Recorder