

1 **PROVIDENCE CITY PLANNING COMMISSION MINUTES**
2 **April 25, 2007, 6:00 p.m.**
3 **Providence City Office Building**
4 **15 South Main, Providence, UT 84332**

5
6 **ATTENDANCE:** Chair: J Beazer
7 Commissioners: Harry Ames, Bill Bagley,
8 Lance Campbell, Jon Mock
9

10 **ACTION ITEMS:**
11 **Minutes.**

12 • Page 4, line 36, leave in “The proposed ordinance has good ideas.” Strike the rest of the statement.
13 Motion to approve the minutes for the Providence City Planning Commission for April 11, 2007 with the
14 corrections as stated – L Campbell, Second – H Ames.

15 Vote: Yea: H Ames, B Bagley, J Beazer, L Campbell, J Mock
16 Nay: None
17 Abstained: None
18 Excused: None
19

20 **Conflict of Interest.** None
21

22 **PUBLIC HEARING:** None
23

24 **STUDY ITEMS:**

25 **Item No. 1. The Providence City Planning Commission will discuss with Mark Teuscher proposed**
26 **changes to Providence City Codes.**

- 27 • J Beazer asked for an accelerated timeline for the tools being put into use. He would like to be able to
28 use them within days.
- 29 • M Teuscher explained that the State code said it must be posted for 15 days before any ordinance can
30 come into effect. Once a code is put in the process, anybody coming in for an application can be
31 asked to use that code.
- 32 • B Bagley said it was signed by the City Council with one modification. He asked when the clock
33 started.
- 34 • M Teuscher said it would be 15 days from the day it was signed by the City Council. Anyone
35 choosing a rezone could be directed to use the SFL.
- 36 • B Bagley said it would be the same process with the P district.
- 37 • J Beazer thought the Providence City General Plan Residential Development item had been approved.
- 38 • M Teuscher said it has never been completed.
- 39 • J Beazer asked how the City Council will pass it.
- 40 • M Teuscher said they can always make changes to the zoning code. They could functionally use the
41 SFL zone 15 days after it is approved. The Planning Commission must make a recommendation to
42 send it to the City Council.
- 43 • J Beazer felt the SFL P district can be moved upon.
- 44 • M Teuscher advised the Commission to work with Skarlet to put the P zone into an ordinance
45 structure, and the General Plan component could go to public hearing. There must be a 10-day
46 posting period.
- 47 • J Beazer felt the P district flow sheet presented at this meeting is now not so ambiguous.
- 48 • M Teuscher explained how the process on a P district works. This isn't negotiating, but developing
49 design standards for the zone. It has uses, standards, design standards, expectations of the people, and
50 so forth.
- 51 • B Bagley asked how fast it could be put into place.

- 1 • M Teuscher said it would need to be established in an ordinance format. It also must be written to
2 conform it to the structure with changes, such as a limitation on certain aspects of housing types.
3 When writing the developing standards, conditions can be imposed if they are reasonable.
- 4 • B Bagley said it gives us another tool in our tool box, but we do not have to use it.
- 5 • H Ames asked where the process starts when a landowner and a developer decide to build.
- 6 • M Teuscher said a zone change is required with any annexation. The AG (agricultural) zone is acting
7 as a holding zone. At some point it will be urbanized. The residential development section is either
8 for rezoning property from AG to some kind of residential or commercial, or to annex property in.
9 Zoning is initiated at that part; it is part of the annexation process. The Master Plan will suggest
10 specific zones for certain acreage sizes.
- 11 • H Ames asked if the property is ever zoned residential before the request to develop is made.
- 12 • M Teuscher said it could be.
- 13 • H Ames felt developers would come in with the highest density number possible.
- 14 • M Teuscher said previously zoned pieces of property have certain conditions and the City is obligated
15 to approve them. Once someone submits an application, the Planning Commission must hold a
16 public hearing. If it is a piece 50 acres or larger, it will go to the planned district process. They will
17 initiate the process with staff for the preliminary development plan. A public hearing can be held to
18 receive public input. Then the Planning Commission will make a recommendation. If the
19 Commission wants changes, it will go back to staff and come down through the process. Once it is
20 approved, it is sent to the final development plan and it is submitted for review. At that point an
21 ordinance is created to implement the P district, and then it moves back to the standard zoning
22 process. Your recommendation may be for denial. The Planning Commission is only recommending.
23 The City Council makes the decision and may choose to do the same thing. More than likely,
24 because of the integrated process, there will probably not be many denials.
- 25 • J Beazer felt Hillcrest could have been mitigated with this district. It could have forced the developer
26 to do some things.
- 27 • B Bagley asked if it is approved tonight, will M Teuscher work with S Bankhead to get it into an
28 ordinance.
- 29 • M Teuscher said yes.
- 30 • S Bankhead said the City Council does not require another public hearing, but it will be in a public
31 meeting if it is approved tonight.
- 32 • H Ames asked if SFT (Single-Family Traditional) is being retained as an option. The Commission
33 said yes.
- 34 • B Bagley is concerned with getting through this and putting transportation in place.
- 35 • M Teuscher advised the Commission to make recommendations tonight and move it forward. He is
36 working on the transportation plan. He is using the base map is from 2004 and asked if there is one
37 that is more current.
- 38 • S Bankhead said the City was requested to get the County the information on new developments not
39 listed on the City map. She will get a copy for M Teuscher from Max.
- 40 • M Teuscher would like a parcel base map (which will show all of the subdivisions) and a road base
41 map. S Bankhead will see what she can get.
- 42 • M Teuscher has gone through the current base and realigned all of the growth. It shows center line
43 roads. He has looked at the Cache MPOs functional class system. Providence is considered small
44 urban. The road networks function as a small urban area and will be treated that way. He will meet
45 with Jeff Gilbert to get traffic projections.
- 46 • B Bagley asked if some roads should be redefined.
- 47 • M Teuscher said look at code and use the functional class system used in transportation. They can be
48 broken down, and there are many ranges of definitions.
- 49 • J Beazer said some citizens don't want their road to be classified as more than a residential road,
50 although it would be an arterial.
- 51 • M Teuscher said look at the definitions and bring them into line for how the road is used.

- 1 • J Beazer is for livability standards, but everyone in Providence classifies their road as a residential
- 2 street.
- 3 • M Teuscher said roads have purpose and function.
- 4 • K Baker asked if Providence has any arterial roads.
- 5 • M Teuscher explained that State Highway 165 is a principal arterial.
- 6 • J Beazer asked how to describe an arterial road to Providence.
- 7 • M Teuscher said Providence has arterial roads, major and minor collector roads. State Road 238 is a
- 8 minor arterial road, and 100 North from State Road 238 (or 200 West) and Zollinger Park to Highway
- 9 165 is considered under the MPO's plan as a minor arterial.
- 10 • J Beazer said Providence uses it as a major arterial road.
- 11 • Sharell Eames asked if it were possible to get a map.
- 12 • J Beazer said the City's and the County's map is not up to date.
- 13 • M Teuscher said we will go through the process. It will take a little bit to get the mapping done.
- 14 • B Bagley said transportation was a concern with the City Council, developers, and the City. This
- 15 must be completed as fast as possible.
- 16 • M Teuscher will make a draft map of the existing conditions in the community.
- 17 • J Beazer felt a livability study could be meshed with actual numbers to designate when roads are at
- 18 their capacity for diversion and change.
- 19 • M Teuscher said certain roads do more than others and admonished the Commission to recognize that
- 20 it has always been that way.
- 21 • J Beazer said 100 East may not follow under the 1,800-car-use-per-day use in Providence. The road
- 22 is much more arterial in nature.
- 23 • M Teuscher said the road is between a major and minor collector. It is common problem with every
- 24 city in the U.S.A.
- 25 • J Mock said there are possible alternatives to get traffic off of 100 East by using 200 East and 300
- 26 East.
- 27 • J Beazer felt a P district would give more tools to say, "Find another way." Stub-outs don't help until
- 28 there is complete build-out.
- 29 • B Bagley asked if collector streets, feeder streets, and arterial streets overlap.
- 30 • J Beazer asked M Teuscher to bring plans to the next meeting so the Planning Commission can ask if
- 31 the road meets certain criteria. He felt it would be helpful to use the national explanation.
- 32 • B Bagley agreed that roads must be redefined.
- 33 • Bob Bissland asked what the multi-phase document is that has been at every meeting. J Mock
- 34 explained that it is a section that is to be added to the General Plan.
- 35 • J Beazer said it allows the Planning Commission to use the SFT zone or a P district.
- 36 • R Henderson would like the Planning Commission to see the ordinance before it is presented to the
- 37 City Council.
- 38 • M Teuscher explained to the Planning Commission that it is not in final form. A public meeting was
- 39 held before.
- 40 • S Wyatt said any ordinance has a 20-day posting.
- 41 • B Bagley asked when the SFL ordinance passed during the City Council meeting last night will come
- 42 into effect.
- 43 • S Wyatt said if the mayor were to sign it and S Bankhead posted it, it would be effective.
- 44 • B Bissland felt drafting can allow things to be fed into the ordinance without the Planning
- 45 Commission's knowledge.
- 46 • S Bankhead gave a copy of the draft ordinance to the Planning Commission. It has been put in the
- 47 format to present to the City Council.
- 48 • H Ames said everything in the copy has been discussed to death.
- 49 • J Beazer said M Teuscher will have maps for the Planning Commission to work on the transportation
- 50 section of the General Plan.
- 51

1 **Item No. 2. The Providence City Planning Commission will hold a discussion with Scott Wyatt to**
2 **answer questions.**

- 3 • H Ames doesn't believe the Commission is in a position to vote until they can read the ordinance in
4 detail.
- 5 • J Beazer explained that the Commission has read it. It now must be typed up in an ordinance form.
- 6 • B Bissland said Section B specifies that no ordinance establishing a P district can be established
7 unless it is on file with the local jurisdiction. He questioned the notification of adjoining property
8 owners.
- 9 • J Beazer said it only occurs on a zone change.
- 10 • Laura Fisher felt the Commission agreed at the last meeting to require that adjacent property owners
11 be informed and it is not written in the ordinance.
- 12 • S Bankhead said the draft ordinance was written before the last meeting.
- 13 • J Beazer said L Fisher was correct. A sentence must be added to the ordinance.
- 14 • S Wyatt asked if this will be in the ordinance or the notice section. He recommended to keep the
15 ordinance the way it is and make a separate recommendation that the notice section be amended.
- 16 • J Beazer felt the notice section should be amended. Anything the City must notice should be noticed
17 to adjacent property owners with any changes. He doesn't believe the 200 ft. rule applies, though.
18 He also asked if neighbors adjacent across a street should be notified.
- 19 • S Wyatt advised the Commission to write it how they want.
- 20 • H Ames read, "within the district written consent of every property owners in such district at the time
21 of adoption." The code change said "consent." He asked for clarification on consent and notification
22 of adjacent property owner. S Wyatt explained that it is notification.
- 23 • H Ames said the reason it isn't added because it is a notification as opposed to a written consent.
- 24 • S Wyatt said to define adjacent. Adjacent could mean properties except for a separation by a road.
- 25 • M Teuscher said in his work, a separation of a road is considered a property line.
- 26 • J Beazer felt everyone should know who is adjacent to the property. They have an argument that they
27 are affected. There should be no reason to notify anyone unless they are affected.
- 28 • R Henderson suggested getting the ordinance to the Council with the changes. It can be added to this
29 section in reference to the other section.
- 30 • M Teuscher said they will have to schedule a public hearing to amend the code.
- 31 • L Fisher doesn't understand the public hearing part of the section. There is no public hearing except
32 at the Planning Commission's hearing.
- 33 • J Beazer felt a second public hearing was optional. If the public is affected, L Fisher prefers a public
34 hearing.
- 35 • M Teuscher said the first zoning application requires a public hearing. After it is held, you can shift
36 to a P district. The optional public hearing can be held for a subdivision unless it is held during a
37 zoning process. One may be delayed until the conceptual plan is laid on the table for public
38 comment.
- 39 • L Fisher was surprised that proposals for ordinance changes were on the City Council agenda last
40 night. The City Council members started changing ordinances without allowing a public hearing.
- 41 • H Ames asked what circumstance on a P district would not require a public hearing.
- 42 • M Teuscher said State Code only requires that one public hearing be held. It is a uniqueness that
43 gives an option as to when a public hearing can be held. Once an application comes in for rezoning,
44 he recommended giving notice for a public hearing.
- 45 • S Bankhead stated that a study session is held first, and then it comes as a public hearing.
- 46 • L Fisher felt once the public hears a proposal, that proposal can change to where it is unrecognizable.
- 47 • R Henderson said public bodies and administrations will hold as few public hearings as possible
48 because they take time. He recommended changing "may" to "shall" be held.
- 49 • H Ames agreed. As an interested citizen, he would definitely like to have an input on the plan.
- 50 • J Beazer felt this proposal would allow for big changes. M Teuscher acknowledged that four recycles
51 are possible.

- 1 • H Ames said too many people talk too long on the same topic during public meetings. He would like
- 2 to see “shall” be incorporated, but feels the meetings should be tightly controlled.
- 3 • J Beazer asked if public hearings could be held after “the sausage has been made.”
- 4 • J Mock felt it the process would be too far along.
- 5 • S Bankhead doesn’t feel the public hearings are legally optional. M Teuscher said it is in submitting
- 6 the zone application. S Bankhead said it is not written in place. Their development ordinance that
- 7 tells the developer what he can and cannot do in a P zone is not written at this time. The developer
- 8 will then come, and then another ordinance will be written. M Teuscher said no. The first hearing is
- 9 to change the green (agricultural zone) to P. The development comes in and then another is written.
- 10 M Teuscher said no, you deviate out. S Bankhead said you write what they can do in their specific
- 11 development. It is another land use ordinance.
- 12 • M Teuscher said it is only one zoning ordinance. The zoning process begins by holding a public
- 13 hearing, then step into the planned district process. You develop the ordinance, and it goes back into
- 14 the zoning process and gets a recommendation from the Planning Commission to the City Council.
- 15 After the process, an ordinance is developed, and then it goes back to the Planning Commission. The
- 16 public hearing has been met. There is only one ordinance. The P district is not changed until the
- 17 zone is written. The P district is an ordinance.
- 18 • S Bankhead said wherever there is an ordinance, there is a public hearing.
- 19 • M Teuscher explained the flow chart again. It goes from public hearing to the P district, which is
- 20 where the zone is developed, and it shifts back to the Planning Commission.
- 21 • S Bankhead asked how to hold a public hearing if it is unknown what is agreed to in that zone.
- 22 • J Beazer suggested taking away the options.
- 23 • H Ames would like to hear and be involved in any public hearing from agricultural to anything. He
- 24 would like to be involved as a citizen in a public hearing that will show what is going to happen to the
- 25 property when it is rezoned as a P district.
- 26 • M Teuscher said by State Code, when the development is brought for approval, they are required to
- 27 hold a public hearing. You will have a separate public hearing when they bring you the subdivision
- 28 process.
- 29 • H Ames would like to see two public hearings as a citizen, and he would like to look at what the
- 30 developer is proposing.
- 31 • R Henderson said if the second ordinance with details isn’t heard, you will lose opportunity to get
- 32 citizen input. If the subdivision complies with the ordinance, you are stuck. If you get to the zoning
- 33 ordinance and have a second hearing, then elected officials can say no without fear of being
- 34 overturned in a lawsuit.
- 35 • M Teuscher said you haven’t given them anything until the Council recommends a P district.
- 36 • J Beazer said there will be three public hearings; two on the zone, and one when the subdivision is
- 37 planned.
- 38 • M Teuscher said State code states a public hearing must be held on residential, industrial, length of
- 39 development, and subdivisions. If you get a multi-family unit development with a conditional use
- 40 permit, you must hold a public hearing.
- 41 • S Eames looked at P ordinances and the State code. She wanted the definition of a public hearing.
- 42 She feels developers can speak outside of a public hearing. L Campbell said this is a public meeting,
- 43 but during a public hearing, the Commission listens to public input. S Eames wondered why
- 44 applicants can speak but others can’t. J Beazer said they are the person with the request.
- 45 • S Wyatt said a public hearing is required by State code for public input. The code requires a public
- 46 hearing and notice. In any public meeting, whoever is managing the meeting can choose to allow the
- 47 public to speak. It doesn’t turn it into a public hearing when the audience is allowed to speak.
- 48 • J Beazer asked what it would take to change the ordinance to say that a public hearing is not optional.
- 49 • S Wyatt and M Teuscher said to take word “optional” off and add one more statement saying you
- 50 “shall” require one public hearing.
- 51 • R Henderson suggested writing it as, “Public hearing on the preliminary development plan which will
- 52 be recommended to the City Council, basically, put in a language saying you are about to make

1 recommendations to the Council. That's when you hold public hearing. Or another option would be
2 to hold a public hearing on any additional development plan. Or, the language in the sentence can be
3 changed from "may" to "shall."

- 4 • S Wyatt advised them to not create traps for themselves. The City goes beyond the requirements
5 right now. It is politically a good thing to do. He admonished them to be careful about requiring
6 notice requirements and public hearing.
- 7 • H Ames felt there shouldn't be multiple loops.
- 8 • J Beazer said the public will never be happy if you only hold one hearing.
- 9 • L Campbell said public comment is to receive suggestions, and then it goes back through the process.
- 10 • M Teuscher says the DRC has proposal, they make a recommendation, the Planning Commission
11 holds a work session as a study item, and at that point another optional public hearing may be held.
12 The DRC has already seen it, the Commission has seen it, public comment can be received, and then
13 the developer is allowed to see it. This process repeats itself until a zoning document can be made. It
14 will not be coming "cold turkey" to the Commission. The DRC may say do (a), (b), (c), (d), and (e)
15 for changes before it comes to the Commission. It may be refined before it gets to the public hearing.
- 16 • J Beazer felt it is political. It would be considered as a public hearing because the Planning
17 Commission accepts input. Prior commissions and later commissions may decide not to hold a public
18 hearing.
- 19 • S Wyatt said they can change the ordinance.
- 20 • M Teuscher said changes prior to SB 60 were pretty dramatic. The atmosphere in Utah is to error on
21 the side of noticing. Most zoning codes are being written on noticing. You have to be on top of
22 things. You have three different types of public hearings. You must know which ones they are. The
23 noticing requirements today reflect what you are doing according to SB 60.
- 24 • J Beazer felt personality affected decisions in previous and future commissions.
- 25 • R Henderson if it is a mandatory hearing, it could not be changed without a public hearing.
- 26 • J Beazer said the public could clamor and say they want public hearings and the Commission could
27 say no. J Beazer would like to leave the proposal left where it is first time through.
- 28 • B Bagley said last night at the City Council meeting, they accepted recommendation for the SFL zone
29 with a change of 12,000 sq. ft. lots. He asked if it comes back to the Planning Commission.
- 30 • M Teuscher said they have the prerogative to do that. They are acting legislatively.

31
32 **ITEMS FOR RECOMMENDATION:**

33 **Item No. 1. The Providence City Planning Commission will consider for recommendation a**
34 **proposed water ordinance modification repealing Providence City Code 11-5-8 Water Stock**
35 **Transfer and replacing it with 11-5-8 Water Availability Requirements.**

- 36 • R Henderson said the key aspect of the current ordinance was kept. If the Commission wants to keep
37 the water stock transfer item in place, they can, although there is some discussion that it is considered
38 an exaction. This does not prohibit that, but it does require that if you require it and use it for the
39 supply of culinary water, you must do all the steps. Including getting approval from the water
40 company. The current ordinance is assumed by this, but not thrown out completely. This ordinance
41 came from Summit County's ordinance and meshed with Providence City's ordinance.
- 42 • B Bagley said Jodi Hoffman had something to do with Summit County's ordinance. It allows the
43 citizens to get their water shares for safe keeping. He asked if the City does not accept water shares,
44 does it give the City the chance to dictate where the water will be used.
- 45 • R Henderson said technically the Utah State Water Engineer approval is needed for culinary
46 purposes, and the City does not have it. This ordinance requires the developer to get water stock
47 transfers, to get the State Engineer's approval, and to get the Spring Creek Water Company's
48 approval, which is required by law. This will strengthen the City.
- 49 • B Bagley said water shares may decrease in dry years. If there is no water to supplement shares, there
50 is really no right.
- 51 • H Ames feels that whatever water ordinance there is, it should error on the side of the City in being
52 able to control development based upon high confidence that the water will be there. He would like

- 1 the ordinance to be structured in such a way that the language is reasonably fair to the developer and
2 still protects from overstripping tappable water. He looks at it as a budgeting process. The reserve
3 water tank should always be at least 75 percent full with virtual pipes going to the City when the
4 house is built and hooked up.
- 5 • B Bissland said the proposal has been to DRC. He feels Mr. Allsop is definitely a legal water expert
 - 6 by now knowledge-wise. The DRC made many recommendations that he believes have been put in
 - 7 place. This ordinance protects the City from unwanted incursions.
 - 8 • H Ames asked if this has been run by a developer to see if it has any unfair down sides.
 - 9 • S Bankhead noted that no developers came to the public hearings.
 - 10 • R Henderson felt Mr. Allsop is a water expert, but he is not an engineer. The expertise comes from a
 - 11 plan that is required by a licensed engineer to be done every five years.
 - 12 • J Mock agreed and said it should be updated.
 - 13 • K Allsop said the Water Master Plan he has is the last made.
 - 14 • R Henderson this ordinance does protect developer in a way. They base decisions on plan. They get a
 - 15 letter from the public works director and put everyone on notice. It is presumed they are okay. If
 - 16 someone finds a problem, they can ask for an appeal.
 - 17 • J Beazer felt the protest can also be a way to jam things up and stop growth. He asked for
 - 18 clarification of the fourth paragraph on the base page asking for verification that water physically
 - 19 exists. He said it is mentioned in several places. Water rights will always be paper rights. He felt it
 - 20 is pseudo language.
 - 21 • R Henderson stated that a requirement in State law says you must meet your maximum day capacity.
 - 22 You must be able to pump it, get it from the stream, or get it from somewhere else.
 - 23 • J Beazer said you and several citizens are assuming for now that Providence is low on water.
 - 24 • R Henderson said it states it in the report.
 - 25 • J Beazer said the State has given paper water which he is refuting.
 - 26 • R Henderson said the State is saying there isn't enough data to know. There may be plenty of water.
 - 27 Rumor has it that the wells are not pumping as well as the City thought.
 - 28 • S Bankhead said they are working well.
 - 29 • R Henderson asked if the pumps are being pumped at the capacity that is anticipated.
 - 30 • K Allsop said the engineer says there is plenty of water physically available. If one of the wells in
 - 31 Providence produces a lower amount of water, that is how much water is physically available. The
 - 32 five-year plan is the source used to gather information. Part of the analysis has to do with peak day
 - 33 demand and supply for fighting fires. Codes are in the requirements. The City is classified in more
 - 34 than one zone.
 - 35 • R Henderson said this process puts the City in a position to tell the developer a service letter will not
 - 36 be used until the water system, which is directly physical to the property is changed.
 - 37 • J Beazer asked how to acquire more rights.
 - 38 • R Henderson said a change application must be filed for water that is upstream. The State Engineer
 - 39 said don't try it. Many people are worried that it will affect the Wasatch Front in a very negative
 - 40 way.
 - 41 • J Beazer felt R Henderson is saying there is no water upstream. That means Providence doesn't get
 - 42 any more water.
 - 43 • R Henderson said there is water upstream. Water cannot be transferred from Provo to here because it
 - 44 will not work.
 - 45 • J Beazer felt he is wrong.
 - 46 • L Fisher said Roland Jeppson says this is a landmark decision. He has seen nothing like it in his
 - 47 career as a hydrologist and he fears that if it is approved, it will open transfers across the Great Basin,
 - 48 and areas with water will no longer have it. They don't know of any transfers of water moving in a
 - 49 pipe from pipe A to B, and water doesn't move well from Richmond to here.
 - 50 • R Henderson said the pending ordinance doesn't stop us from doing what The Highlands did to
 - 51 acquire water.

- 1 • J Beazer said rights are transferred in the state of Utah.
- 2 • R Henderson said they are. Anything that changes the nature of the rights must be done by the State
- 3 Engineer. It would be nice if a water engineer could warn us of the outcome before we acquire all of
- 4 these rights and do a total build out and then have no way to get the water.
- 5 • K Allsop said water is to be available at the source for appropriation. He and his constituents don't
- 6 feel there is unappropriated water in Providence. If there is, they would file for an appropriation
- 7 rather than a transfer. Providence has many water rights. If too many residents in Providence are
- 8 using those rights, water will be pulled out faster than what is normally used and will eventually run
- 9 out. The ordinance says that any water right in Providence will be okay. Providence is on top of the
- 10 aquifer, but he isn't sure what the rights are outside of that area. We need to know about the geology,
- 11 and unless it is shown to be physically available, it would not be appropriate water.
- 12 • H Ames said to ask the developer if he is going to use culinary water for his inside and outside usage.
- 13 He believes the City should say, "Show me the path and margin of the source you will hook up to."
- 14 He would like to see where the water is coming from and where it will be tapping into any line. The
- 15 developer should say, "I'm getting the water this way, and I have signatures saying the water is
- 16 available, and I'm submitting it with my plat." If he doesn't do that, the plat should be "chucked."
- 17 The burden needs to go back on the developer and on the City and on the State.
- 18 • R Henderson said the City must say, "We commit to this service."
- 19 • H Ames would like the developer to spend his time and resources to identify where paths of water are
- 20 coming from, and after he has the certifications, he must show it on the plat.
- 21 • R Henderson felt the ordinance would work with the developer to identify the paths. They would not
- 22 have that burden unless the commitment of service is issued for some who doesn't have the letter.
- 23 • J Mock felt it falls to the City to prove water is available unless the letter is denied. Then it would be
- 24 the developer's responsibility to prove it.
- 25 • H Ames asked if the City Public Works Director and the City Engineer has the skills and the ability to
- 26 understand the issues.
- 27 • B Bagley felt the Planning Commission should have some trust in them.
- 28 • J Beazer said it all comes back to paper water.
- 29 • H Ames felt the Water System Master Plan is well put together, but only the engineers will
- 30 understand it. If it is written again, it should answer where the water is, how much is being tapped
- 31 into, what the margins are over an X number of years, and how fast new lines can be added to the
- 32 system. He asked if it is being redone.
- 33 • S Bankhead stated that the City is looking at options of using a water model. Also, new software is
- 34 available.
- 35 • H Ames asked if another organization will be contracted to make one.
- 36 • S Bankhead said it is being looked at, but it hasn't been done.
- 37 • L Fisher said it is not up to the City staff to determine the Certificate of Service letter.
- 38 • R Henderson said the independent person is doing the study. The Certificate of Service letter will be
- 39 given by the Public Works Director.
- 40 • L Fisher doesn't feel anyone on the City staff is sufficiently educated to issue the letter.
- 41 • J Beazer said that is why it was added on the ordinance. Every single connection of service is given
- 42 for two years. After two years, every home owner is on their own, leaving it open for them to be
- 43 open to a lawsuit. He asked if anyone does not believe that every water connection issued by the
- 44 DRC will be challenged.
- 45 • B Bissland said if the water rights are available, it will not be challenged.
- 46 • J Beazer said the citizens will never agree that enough water is available.
- 47 • S Eames asked if he is saying that because there are active anti-growth people expressing themselves
- 48 at this meeting. She said, "None of us are anti-growth."
- 49 • J Beazer recommended that she not go as broad as to say "None of us." He asked for S Wyatt's
- 50 opinion of the document because he feels it is full of holes that would lead to a lawsuit. He is for
- 51 knowing there is enough water, but doesn't believe it is possible. The City has someone who is to be

- 1 a professional, but many don't believe him. He gave The Highlands development as an example and
2 thought if the State did sign off on their water, the City is in good shape.
- 3 • S Wyatt is concerned with the two-year period after the subdivision is approved. Once the City tells
4 the developer he can have a subdivision, those landowners are entitled to water service. They buy a
5 lot based on that belief, and the City is in the business of providing those services.
 - 6 • J Beazer asked what would happen if Grandview lots do not sell and Providence is built out what the
7 City will do if there is no water left.
 - 8 • B Bagley asked what would happen to those who have a letter of service but do not want to build.
 - 9 • M Teuscher said once the subdivision is granted, the City is done. The City cannot hold the water.
 - 10 • J Beazer acknowledged that after the two-year period, the document specifies that a person must
11 apply individually, making it an individual lawsuit.
 - 12 • S Wyatt said no law requires anyone to build on their lot.
 - 13 • R Henderson he would be happy to change the proposed ordinance if the Commission would like to
14 haggle over water rights forever.
 - 15 • H Ames said if he bought a lot and held it for ten years to deed to his grandkids, there had better be
16 water. B Bagley disagreed.
 - 17 • K Allsop disagreed with S Wyatt. He believes that if he bought a lot and sat on it until water is no
18 longer available, he will not get a Letter of Service because he is vested. He must wait until water is
19 available.
 - 20 • M Teuscher said the ordinance assumes everyone in the City is obligated. "If I build in the third year,
21 I will visit the City in a lawsuit."
 - 22 • K Allsop said it is like applying for a water hookup; you are not obligated to use the service.
 - 23 • J Beazer said it is much more in-depth.
 - 24 • K Allsop said individual rights are the same. He takes issue with the insinuation that it will bring
25 lawsuits. It will take some resources for people to appeal. Evidence must be presented to the City
26 that will come up against a plan that is thoroughly done every five years and has been continually
27 updated by the staff. The evidence must show that the evidence is wrong or the people involved are
28 not uninterested. The ordinance was drafted to help Providence City.
 - 29 • L Fisher said there is a need of some sort of limitation is because the resource itself is not infinite.
30 She and her lawyers are trying to accommodate that there is only so much water after a certain rate of
31 removing it.
 - 32 • B Bagley said some lots have protective covenants.
 - 33 • S Wyatt asked everyone to assume a subdivision is granted and they purchased an approved lot but
34 decided to wait to build. In the meantime, another new subdivision comes in. He doesn't believe it
35 would be fair to give water to the new subdivision but not to him because he waited.
 - 36 • J Mock felt a lot owner would try to renew their two-year commitment letter.
 - 37 • S Wyatt felt the proposal puts the City in a position to force people to build quickly.
 - 38 • H Ames said if this was done correctly, a band of water can be relied on for the next 20-25 years, and
39 a cheat factor can be used to allow more. If it is erred on the side of being conservative, there will be
40 an additional margin in the total water supply. He agreed with S Wyatt. He believes that if the
41 Commission is doing their job right, they would be very conservative with water availability during a
42 long drought. If he buys the lot, he had better get the water.
 - 43 • J Beazer said the City has DRC equivalent residential connections. When a subdivision is finished,
44 the City assumes the water is available. Rights come with each lot.
 - 45 • B Bagley said it would be like holding someone for ransom because the water has already been
46 committed.
 - 47 • H Ames said it puts the City in a position to say that water is out of play. If someone wants to build,
48 they must find another resource. He shouldn't be allowed to take someone else's resource.
 - 49 • B Bissland said that is what would happen. If 100 people sit on lots for 10 to 15 years, that water is
50 allotted so the City would say, "No, you must go to lower density." Every lot cannot be 10,000 sq. ft.
51 because it is a finite quantity.

- 1 • J Beazer felt it is a good reason to eliminate the two-year period to give hookups without a letter of
- 2 service.
- 3 • S Wyatt felt the Commission was asking to take the two-year clause out.
- 4 • B Bagley suggested that the line be taken out of the ordinance.
- 5 • K Allsop also felt it could be a good idea. He felt commitments with no hookups could deplete the
- 6 revenue base for the water system. Another option would be for the City to require that a water meter
- 7 be installed to lock the person in and pay a base rate.
- 8 • H Ames agreed that the water meter should be in.
- 9 • S Bankhead said service lines not being used in the ground cause problems.
- 10 • J Beazer said infrastructure has been put in place by the City at City expense and is providing a
- 11 service.
- 12 • B Bagley felt it would be like saying, "You can charge me for it, but you can't make me use it."
- 13 • H Ames felt that if a subdivision has put in the water infrastructure and the City is servicing that
- 14 water infrastructure, even though a lot stays vacant, the owner should be responsible for their share of
- 15 paying for the infrastructure service.
- 16 • R Henderson said this language was changed at the DRC. There is a possibility of putting fees into
- 17 place when issuing service letters. The fee could be for the letter, and anyone staying in a finite
- 18 position can pay a fee to keep the service letter in place. If it isn't paid, the water disappears and the
- 19 landowner would need to reapply.
- 20 • H Ames felt it should be extended to the sewer.
- 21 • B Bagley said Questar charges \$5 just for the service, so it must be legal.
- 22 • S Ames asked if the developer will pay for the service if the lot doesn't sell.
- 23 • J Beazer answered yes.
- 24 • S Wyatt said huge impact fees are charged when someone builds a home in Providence, and they are
- 25 buying into the system. If every lot is charged, you must get rid of impact fees.
- 26 • B Bagley felt impact fees could be adjusted.
- 27 • H Ames recommended making them high enough that people will not want to sit on the lot.
- 28 • M Teuscher stated that the fee can only be for the infrastructure that will provide service. A fee
- 29 cannot be assigned for a permit and then assess another fee.
- 30 • R Henderson felt it could if the impact fee is for the structure itself. Another fee would be charging
- 31 for the maintenance.
- 32 • J Beazer said if the land is held onto, impact fees will go up.
- 33 • B Bagley said the price of the lot has also appreciated.
- 34 • J Mock said that water should be taken from the equation and made known how much is left.
- 35 • H Ames compared it to a check. Someday it will be cashed, so the water had better be there.
- 36 • J Beazer wondered what would happen to the commitment of service letter issued for a subdivision
- 37 that expires.
- 38 • H Ames felt it wouldn't be a commitment.
- 39 • J Beazer felt the DRC should still be counted.
- 40 • S Wyatt said the ordinance is complicated. He feels that when a subdivision is approved, the City has
- 41 said, "We will now let you build." He feels the process can be accomplished in a more simple
- 42 fashion.
- 43 • R Henderson felt the ordinance is simple. If the land owner has the water shares, he can build. There
- 44 is a point at which something must be done. The letter is the simplest way to do it. He challenged S
- 45 Wyatt to find a better way. He felt this ordinance is the way to assure that the City will not run out of
- 46 water.
- 47 • K Allsop felt another proposal would replace the letter with something else.
- 48 • R Henderson said the developer should know upfront that he will be okay before he pays money to
- 49 turn in the plan. The service letter will be issued before the subdivision approval. He said, "Let's
- 50 figure it out on the front end." It will then become a done deal for the developer.
- 51 • B Bissland asked S Wyatt if it is the first time he has seen this ordinance.

- 1 • S Wyatt said no.
- 2 • B Bissland said he has implemented everything DRC wanted. He was surprised that S Wyatt is
- 3 chipping away at this ordinance.
- 4 • J Beazer said the DRC's recommendation to the Planning Council was to deny the ordinance.
- 5 • S Bankhead said it was rejected because of the water concerns on the building permits. When the
- 6 City approves a subdivision, it gives out water. Liz Hunsaker has also voiced her concern with the
- 7 fire code. The most recent provision adopted by the State should be in the ordinance because the
- 8 State doesn't necessarily adopt the fire code. Much time was spent on the water section, and
- 9 everyone feels comfortable understanding where everyone is. She reminded the Commission to
- 10 remember the fire code or the appendix. Liz recommended that the appendix be adopted as a
- 11 guideline, not as a resolution.
- 12 • J Beazer would like to see S Bankhead's and the lawyers' concerns brought together to be addressed.
- 13 • R Henderson felt it would never happen because S Wyatt and the staff are opposed to the ordinance.
- 14 • S Bankhead disagreed. The City was never comfortable bringing water in with building permits.
- 15 • R Henderson said if a subdivision goes in, it will be approved. Individuals will say, "You cannot do
- 16 it for me, but you can do it for a subdivision." He believes the City is philosophically opposed to the
- 17 ordinance. The new law, House Bill 60, is very pro developer. He and his constituents would like to
- 18 let the citizens decide on this ordinance. There is question as to whether this can happen because the
- 19 land use ordinance is written so broadly. The constitution protects the fundamental right of the
- 20 citizen to have due process available. If it is voted on tonight, he may be able to have an initiative on
- 21 it. It may have to go through the courts if the Commission is uncomfortable with the ordinance. If it
- 22 isn't acted upon soon, the City will lose the opportunity.
- 23 • J Beazer felt having 3,500 people vote who doesn't know what is going on is not a good idea.
- 24 • R Henderson thanked the Planning Commission for listening. He also felt it is a good ordinance.
- 25 • J Beazer felt if there is a way for the two halves to come together, he would like to know what it is.
- 26 • H Ames cannot figure out where the big rift is.
- 27 • K Allsop felt the administration changed their mind and disapproved the ordinance.
- 28 • J Beazer felt negative feelings from the last election are still in circulation. When he looks through
- 29 the proposed ordinance, he sees ways to keep things in limbo forever and doesn't feel it is fair.
- 30 • S Wyatt believes there could be a compromise. He objected that the system could work like this and
- 31 accomplish the same thing. The City resolves to do whatever they need to do to determine how much
- 32 water there is, and they should do it. Once the decision is made, they make the decision for the
- 33 number of building permits that meets the water study. It is an efficient, good government system.
- 34 For the Planning Commission to pass an ordinance like this says the City shall decide what sources to
- 35 trust, development will be reasonably allowed, and then building will stop. He feels that every single
- 36 building lot is subject to being challenged by every single citizen. He has dealt with enough people as
- 37 a prosecutor to know that people will say, "It is me, and I'm the one doing it, and someone from out
- 38 the blue, because they don't like me, will file judgment."
- 39 • H Ames said he doesn't understand the one-on-one citizen problem. He asked J Beazer to read the
- 40 specific paragraph.
- 41 • M Teuscher said every water right filed on in Cache Valley is automatically protested by Utah Power.
- 42 • J Beazer read that all commitment of service letters must be posted in the Providence post office, the
- 43 posting board in front of the Providence City Offices, the web site on the internet, and available
- 44 public inspection properties. Commitment of service letters can be challenged by any Providence
- 45 resident in protest filed to the City office in ten days of issuance of the letter. Any service letter may
- 46 be overcome by showing preponderance of the evidence. Preponderance doesn't come until it comes
- 47 to a First District Court, and then the judge decides. The appeal authority is never the end. The end
- 48 is always with First District Court.
- 49 • R Henderson said it is like having a mediator or arbitrator.
- 50 • J Beazer felt citizens do not have a problem coming up with money, especially against a subdivision.
- 51 • B Bissland asked J Beazer how much it costs to go to District Court. Citizens will not pay all of the
- 52 required money to District Court over whims.

- 1 • R Henderson said apples are being compared to oranges. The thing to be asking is how important this
- 2 right is. He believes the Appeal Authority would give a chance for evidence to be put forth in an
- 3 inexpensive way. Everyone has a right to go to a District Court.
- 4 • J Beazer suggested pulling that line.
- 5 • H Ames asked why it says anyone can be challenged by any citizen. If the Planning Commission and
- 6 the City Council process happen reasonably well, then the citizens have approved the certificates. If
- 7 one old codger is not convinced that the whole process is followed through, he will go to court. It
- 8 should not be in an ordinance as flagging or it will cause trouble.
- 9 • R Henderson said there is a standing law protecting ordinances. It is very difficult to figure out who
- 10 has the standing account on the water decision. It is right to go to Court when the City Council or
- 11 Planning Commission ignored their own ordinances and acted in arbitrary or capricious manners.
- 12 Most land use ordinances have the right to go to District Court. The problem with water is deciding
- 13 who has the right. It is more protected in that it can go to District Court based on the preponderance
- 14 of evidence, not arbitrary and capricious. He wants to leave the appeal authority in because it is a
- 15 cost saving thing. Some citizens may not be able to afford to go to District Court.
- 16 • B Bagley felt the citizens should be aware that an appeal process is involved.
- 17 • L Campbell felt people have a right to get their information where they can.
- 18 • M Teuscher said he hasn't seen the ordinance until tonight, but feels it has serious problems. In a
- 19 subdivision process, the water authority is required to sign the plat. Land use decisions are
- 20 appealable. He asked why the City should make an ordinance that is already in place (required by
- 21 State law), and the subdivision, once it is approved by the City Council, can be appealed. As a
- 22 planner, he does not like to see a lot of ordinances.
- 23 • H Ames asked why, if he goes through the process of buying a lot, his neighbor should challenge that.
- 24 There shouldn't be a reason for a challenge.
- 25 M Teuscher said if water cannot be provided to you, it should not be provided to anyone.
- 26 • H Ames said if he bought a lot in a development that has gone through this process, the challenge
- 27 should come from the citizens and their lawyers before the plat has been approved.
- 28 • M Teuscher said this is a redundant review ordinance. R Henderson agreed.
- 29 • J Beazer asked why there is a difference between a Service Letter and a Preliminary Plat or Final Plat
- 30 approval. Both say water is there.
- 31 • R Henderson expressed that the State Code says the signature on the water plat does not specifically
- 32 say the City has water in the sense of planning. It says the water authority is signing off on the plat
- 33 for health and safety reasons. If you try to appeal the signature of the water authority on a
- 34 subdivision plat approval, that case will never go anywhere.
- 35 • J Beazer asked if the ordinance is trying to create more avenues for appeal of water.
- 36 • Henderson said no. It is getting the Master Plan in place to make the process more transparent.
- 37 • J Beazer asked if there is a need for this.
- 38 • R Henderson said yes, because the Master Plan says Providence does not have enough water in place.
- 39 The City is issuing subdivision plats right and left with the signatures of City officials saying there is
- 40 enough water.
- 41 • J Beazer said this holds no more weight than what the ordinance requires now.
- 42 • R Henderson said it does. This requires the simple transfer of water stock. There is nothing specific
- 43 about these issues in the current ordinances. The current ordinance now doesn't allow anyone to
- 44 challenge anything. The signature on the subdivision plat does nothing.
- 45 • S Bankhead said once the Master Plan is updated, and it will be updated every five years. An owner
- 46 of property within the City limits that hasn't been subdivided has not been through the subdivision
- 47 process. If someone owns a piece of property and wants to build just one house, there is no
- 48 subdivision process involved. But a parcel like that at the building permit stage would be an
- 49 appropriate time to say whether water is available or not. There is not an opportunity to look at it like
- 50 there is with a subdivision. The appropriate time to look at it as listed in the General Plan would be at
- 51 the subdivision process. Outside cases that do not require that has the mechanism in place with the
- 52 recommendation.

- 1 • H Ames felt that certificates, if formatted right, are a sure guarantee that the I's have been dotted and
2 the T's crossed to supply water. It would be hard for a citizen to challenge it on any basis other than
3 they do not like the guy. He believes the certificate may be a tool to assure citizens that due diligence
4 has been done by the City. He believes the aquifer is the checking account and the checks are how
5 much water is being withdrawn from it.
- 6 • B Bagley doesn't see where the lawsuits are coming from.
- 7 • J Beazer gave an example of property in First District Court. They are there because of something
8 more than following the rules.
- 9 • R Henderson explained that the cases were appealed to the Board of Adjustments. He believes the
10 City's ordinances were not complete. When the citizens tried to address the Board of Adjustments on
11 the two zoning changes, they were told their cases were unappealable because they were legislative
12 decisions. They decided to do a referendum. Having it well defined will help rather than hurt.
- 13 • K Allsop agreed that the certification process is necessary and is clear. He has gone over this many
14 times and feels like he has it down. If something isn't done soon and someone appeals, the City will
15 not have time to prepare, have no documentation, or a water model. The benefit is that if you do get
16 someone in front of the City who knows what they are talking about, they may clarify something that
17 is wrong. There will be few people who will be able to review the document. If he was going to
18 appeal a commitment of service analysis, he would go to the water document and read where water
19 rights were attributed to the City but not ratified by the State Engineer. If there is a mistake, it must
20 be adjusted. The City will look to see if they are right or wrong.
- 21 • R Henderson said the City almost lost water rights. Just the little effort he made in finding illegal use
22 of rights has helped the City. He believes this ordinance will become a great benefit to the City.
- 23 • H Ames said if everything is right and in place, he doesn't see many lawsuits come forth.
- 24 • J Beazer acknowledged that the Appeal Authority is always available.
- 25 • B Bissland believes it is important to keep the appeal language in the ordinance because it is allowing
26 him to be more prepared. The ordinance is trying to be rigorous and provide standards for people.
27 Everyone has a right to say things and to have an appeal authority.
- 28 • B Bagley expressed that it is required by law under LUDMA.
- 29 • R Henderson said the appeal language is shorter than the 15 days allowed. The language if taken out
30 may not be as clear.
- 31 • H Ames said based on evidence of the citizen, they may challenge it. He doesn't believe there is a
32 reason to challenge "Grandma Jones" lot next door because she gave the lot to her grandson or a
33 reason to challenge anyone across town.
- 34 • R Henderson suggested taking a statement out of the ordinance to make it an invitation instead of a
35 fact.
- 36 • B Bagley read the end of Section G, saying, "It does not constitute discrimination by the Land Use
37 Authority or the Planning Commission." At this point, the Land Use Authority is the Planning
38 Commission. He wondered if it should be there.
- 39 • L Campbell felt it should say, "The Land Use Authority acting as listed in the City code."
- 40 • H Ames would like to see more focus on who the right people are, what should be on the certificate,
41 and how to make sure it is unchallenged.
- 42 • R Henderson said he and his clients wanted the engineer to do that. The City felt it could not be done.
43 A professional could be expensive for the City.
- 44 • H Ames felt the certificate must have confidence.
- 45 • B Bissland said at one time a water engineer was being looked at, and the City Engineer was opposed
46 to it. It was written in the ordinance and was taken out. He felt the DRC gave sincere input, and their
47 recommendation was incorporated into the proposal.
- 48 • H Ames felt a water plan should be done independently, and then citizens should be independent
49 enough to look at the information.
- 50 • L Fisher said the City Water Plan is at least two years out of date.
- 51 • S Wyatt said the City is relying on the State Water Engineer. The State Engineer only believes the
52 City has water. For the City to do the analysis is only part of the problem because the Water Engineer

- 1 makes the decision for the whole valley. The first step would be for the cities in Cache County and
 2 Franklin County to get together and make a valid request to the County for a water study. The Water
 3 Engineer would have a solid basis to rely on. J Beazer wondered what the chances will be. S Wyatt
 4 said they will be high.
- 5 • B Bagley asked if everyone in the Valley has this problem. S Wyatt said parts of the State have made
 6 water studies.
 - 7 • M Teuscher said the State Engineer makes his determination by using water that hasn't been updated
 8 for years. It all comes down to money to put the model together.
 - 9 • R Henderson said the fire code issue was put in because quite a few members of the City Council
 10 wanted to have two entrances in The Cove subdivision. If it is a recommendation, no one will be able
 11 to enforce it. He and his constituents want to help the Planning Commission in whatever way they
 12 can. Their clients have invested a lot of resources and are trying to be problem solvers. He asked for
 13 a recommendation on the ordinance.
 - 14 • H Ames recommended holding off on a vote to hold one more round for understanding and to look
 15 for simplifications or to soften the language. He applauded the proposed ordinance and felt the
 16 citizens have put their money in way beyond their taxes.
 - 17 • B Bagley asked what it would solve to parlay this out another few weeks. He would like to vote
 18 tonight.
 - 19 • L Fisher asked for clarification on the fire code.
 - 20 • R Henderson said the fire code says the appendices are not adopted unless it says so. It focuses on
 21 subdivisions over 30 lots having two means of access.
 - 22 • S Wyatt said the only part he is interested in is two accesses. He wondered why the whole ordinance
 23 should be adopted. He advised the Commission to not approve it until they have read it.
 - 24 • R Henderson said it could be accomplished a different way. He read where changes are to be made.
 25 They are:
 - 26 Paragraph C, Change year to years;
 - 27 Paragraph F, Delete the last sentence;
 - 28 Paragraph F, Scratch the last sentence;
 - 29 take out Utah Fire Code 9-6X.
 - 30 • J Mock asked R Henderson to include the sentence that was agreed upon.
 - 31 Paragraph F, adding t after s;
 - 32 Paragraph P, scratching out Planning Commission;
 - 33 Eliminate time limit.
 - 34 Paragraph B, delete "period of two years."
 - 35 Community service.
 - 36 In that subdivision.
 - 37 • S Wyatt said the title isn't correct. This is not the first LUDLUM ordinance.
 - 38 • J Beazer asked S Bankhead if the DRC recommended adding regulations to the ordinance.
 - 39 • S Bankhead explained that the irrigation companies are concerned with how the water is to be used.
 40 The City is discussing using shares in the parks and so forth. The water can be used now. A
 41 municipal use change is not required. If everyone gave the City a water share and it was converted to
 42 a municipal use, it would free the City's availability to use it. From an irrigation company's side of
 43 view, when water is converted to a municipal use, it adds to the City's right and takes the irrigation
 44 company down. If the City can use its shares and can encourage the City to use the irrigation shares
 45 without changing municipal use, the irrigation companies will be comfortable.
 - 46 • H Ames asked why the City wants to keep them happy.
 - 47 • K Baker said if you are trying to irrigate 20-acre fields and half the stream is in the tank, you don't
 48 have enough water. You no longer have the computation of what water was necessary for the 20
 49 acres. If her neighbor, Leon Jensen, turned all of his water shares over to the City, then she wouldn't
 50 have enough water to irrigate her fields.

- 1 • J Beazer said computations made 100 years ago did work, but it will not work now if a neighbor next
- 2 door gets rid of their share. Half of the head of water is gone for the next landowner, and there isn't
- 3 enough to use.
- 4 • K Baker explained that the water company has a legal document that says you will not dry up the
- 5 laterals. They will, without any question, not allow any change. The water shares can still be used as
- 6 long as you don't debit their right.
- 7 • R Henderson asked if Providence City owns 20 percent of the shares.
- 8 • K Baker explained that the City leases the water back to the irrigation company.
- 9 • L Campbell asked if the two can be put together.
- 10 • J Beazer asked if the proposed ordinance strikes the deal with the water company.
- 11 • S Bankhead doesn't understand where the shares are coming from because she thought the shares
- 12 would be converted. The proposed ordinance says they will be put into municipal use.
- 13 • K Baker said the water company will never turn over irrigation water unless the company dissolves.
- 14 • S Eames asked if the Spring Creek Water Company will be diminished if the share is removed.
- 15 • R Henderson said, "We are acting like those transfers affect our culinary water. They can't."
- 16 • K Allsop doesn't feel the language in the ordinance needs to be more explicit.
- 17 • J Beazer said, "You are saying what we are doing now is illegal and the proposed ordinance will fix
- 18 it."
- 19 • S Bankhead said many people use water shares, and it does relieve the demand on the culinary
- 20 system. It lets the City use culinary water for culinary uses and irrigation water for irrigation
- 21 purposes.
- 22 • J Beazer asked what it accomplished.
- 23 • S Bankhead said the proposed ordinance states that the water has to be used for culinary purposes.
- 24 • H Ames felt the new ordinance would require that the City not approve new lots and new plats upon
- 25 water shares that haven't been converted to municipal use. They can't do it by law. That is the
- 26 language that should be put into the ordinance.
- 27 • S Wyatt advised the Commission to not make all of the decisions based on the water shares in Spring
- 28 Creek Irrigation Company. It is good policy to convert the water to municipal use when the
- 29 agricultural use goes out. Many irrigation companies are gone and the only use of the waters is for
- 30 culinary. It takes water to the parks and other land uses. It is better than letting it go down the Bear
- 31 River and letting someone else claim it. It may not be legal in Spring Creek at this time, but it is in
- 32 other areas. Don't foreclose the possibility of the City acquiring water shares for any company.
- 33 • K Baker said you can acquire shares, but not turn them to municipal use by requiring it.
- 34 • K Allsop said S Bankhead doesn't like the inability to require people to give to the City their
- 35 irrigation shares. J Beazer said it isn't required now. The City will lose some water than can be
- 36 applied to other areas. The City cannot lease their shares, so it will let people use them.
- 37 • K Baker replied that two attorneys have said there is a way of wording it so the City can lease back
- 38 their water rights.
- 39 • B Bissland said without having the attorneys here, it is just like developers presenting this
- 40 information. Evidence must be given or it is considered hearsay.
- 41 • S Wyatt said the City doesn't have a long-term water lawyer.
- 42 • B Bissland said this is about making a small town ordinance okay with the law.
- 43 • S Wyatt said no lawyer is litigated to the water issue. R Henderson felt there was no lawyer in the
- 44 State who is litigated.
- 45 • S Bankhead said Craig Smith prepared the document the people signed.
- 46 • K Allsop said there will be trouble leasing the shares because of the State Constitution. It is
- 47 problematic to pump the water into the system and to continue the rights without using them properly.
- 48 Any more additional secondary water usage is a good idea. There is a way to convert irrigation water
- 49 to culinary water to accommodate the needs of the City. The amount of right to the City is able to
- 50 take into the municipal system would be discount to the peri water. It doesn't harm the other
- 51 irrigation users. The water company is in the position of power to say they will sign off their rights,

1 and they may allow a portion of water to be transferred over. A water company's lawyer can say
2 "no" to municipal use, but if there are water rights not being applied to beneficial use, the water
3 company may lose them. They must change the bylaws or let some water be used for municipal
4 rights. The current ordinance gives the City the benefit to gather the water shares. This ordinance
5 doesn't allow the City to continue to require water shares. It is putting into the City water shares that
6 can be used. Spring Creek is not agreeing to any changes. The City is pooling shares it cannot
7 effectively use. The water company will say you can't do this and change their bylaws, or they can
8 sit on the issues and lose the right. There must be an agreement where people can use the rights if the
9 State Engineer will consider it a beneficial use. He feels it is mistake to encourage giving more
10 shares of water to the City.

- 11 • J Beazer said from a City standpoint, he doesn't see how it benefits the City.
- 12 • R Henderson said the way it is being done now is a false hope.
- 13 • K Allsop felt the City is in a bad spot and the proposed ordinance deals with it. It tells the City to
14 start doing things to irrigate the parks, to put in a partial secondary water system, or get the water
15 company to cut a deal. The water company may look at the overall picture and say, "If you are
16 willing to pay assessments, we can do that." The alternative is to let Providence grow.
- 17 • H Ames felt an ordinance should be passed which solves short term issues. The City should not agree
18 to developments based upon water the City doesn't have because water shares aren't legally
19 convertible to municipalities.
- 20 • K Allsop said the ordinance facilitates it.
- 21 • J Beazer felt if Paragraph B was deleted for now as a whole, he would feel better.
- 22 • R Henderson said he could put in a single modifying clause that says for irrigation purposes, transfer
23 money from legal resources and consistently for permissible irrigation purposes to free up
24 improvement.
- 25 • S Bankhead asked if the State Engineer would approve it either way.
- 26 • K Allsop said if the City can say there is a need for secondary water, water can be given for that
27 purpose, and it frees up so many gallons of municipal water. That should be an adequate way for the
28 State Engineer to give the water.
- 29 • S Eames asked K Baker if, as a shareholder, this will prevent water from leaving her lateral if the City
30 uses part of their shares for use in a park in another lateral.
- 31 • K Baker said it is against their bylaws. The City owns enough water in each of the laterals that they
32 could use it.
- 33 • S Bankhead said the logical use would be to put it into the subdivision.
- 34 • S Eames asked if it is protecting her.
- 35 • K Allsop said the water company needs to protect itself.
- 36 • J Beazer felt the water company holds all of the cards. If it wants to stay as a company, it has to
37 change.
- 38 • B Bagley asked if a developer can convert their water shares.
- 39 • R Henderson answered yes, if it is an equivalent to culinary water. It must be done under the new
40 ordinance.
- 41 • B Bagley felt a secondary system must be looked at. Shares could be worthless if there is no water in
42 the ditch.
- 43 • L Campbell has questions and doesn't feel comfortable with the proposed ordinance.
- 44 • R Henderson said the City cannot force a developer to give water.
- 45 • J Beazer has a problem with the legality of the water companies. He believes they seem to have a
46 working relationship to take away from the City. An attorney recommended to S Wyatt to make a
47 good case for leasing the water back. By striking Paragraph E, which requires a change of use
48 approval, allows it to be added at a later time.
- 49 • R Henderson said the language in the ordinance cannot be changed.
- 50 • L Campbell advised the Commission to make sure their hands are not tied and to give the staff time to
51 review the changes before a decision is made.

- J Beazer asked B Bagley why he is in a hurry to approve the ordinance.
- B Bissland has heard developers say, “We have worked on this for months.” He does not want to rush the vote if the Planning Commission doesn’t feel good about it, but he would like closure soon.
- S Bankhead said if it is given to Craig Smith, he may not agree with the changes.
- H Ames said the Commission is a recommending body. If the ordinance has fundamental problems and is rejected, we will start all over again.
- L Fisher requested that all of the corrections be identified right now so there is no more question.
- J Beazer would like to vote on it in two weeks. If corrections are there, he can’t imagine it not being passed.

Motion to continue for recommendation a proposed water ordinance modification repealing Providence City Code 11-5-8 Water Stock Transfer and replacing it with 11-5-8 Water Availability Requirements.

Vote: Yea: H Ames, B Bagley, J Beazer, L Campbell, J Mock
Nay: None
Abstained: None
Excused: None

Item No. 2. The Providence City Planning Commission will consider for recommendation proposed changes to Providence City General Plan Residential Development.

Motion that the Providence City Planning Commission recommend proposed changes to Providence City General Plan Residential Development – H Ames, Second – J Mock.

Vote: Yea: H Ames, B Bagley, Beazer, L Campbell, J Mock
Nay: None
Abstained: None
Excused: None

Item No. 3. The Providence City Planning Commission will consider for recommendation a proposed ordinance modification amending Providence City Code 10-4 Establishment of Districts, by adding 10-4-3 Planned District (P).

- L Campbell asked if it is mandatory for the developer be zoned in as a P district and can the Planning Commission request the characteristics of an SFL.
- M Teuscher said the P district is so open that those standards can be set.
- B Bagley said density and lot size could also be included.
- M Teuscher said it is a zoning ordinance.
- H Ames felt it gives the City much more flexibility than in the past.
- L Campbell wondered if the zones in place now are still in force. He was answered yes.
- M Teuscher said if SFT if SFT is tampered with, there will be an issue of creating nonconformance. The DRC will see nothing. It hampers a property owner.
- J Beazer felt it was a “quick fix” to the General Plan, which put the whole city in a SFT zone.
- M Teuscher said Logan took out duplexes in 1970 and the whole area became nonconforming. An underlying zone can be used or a new P district can be created without destroying the integrity of the City.
- J Beazer felt the Commission wants P districts instead of a SFT zone.
- B Bissland felt the proposal was vague but has positive parts. A P district will let anything go.
- M Teuscher said the General Plan is not talking about small lots; it talks about open space and good design.
- J Beazer felt open space is given when the developer negotiates lot sizes.
- J Mock felt the City is trying to get away from standard lot sizes.
- M Teuscher said a number of things can be done to end up with more open space.
- B Bagley asked if Day Break has open space. M Teuscher said it is closer to a PUD. He doesn’t like Day Break because it creates little lots for big houses.

- 1 • H Ames felt the P district allows the City to have flexibility to create something better, and it puts
- 2 the Planning Commission in the driver's seat to make it happen.
- 3 • J Mock says it puts a huge responsibility on the Planning Commission to get the property left
- 4 developed right.
- 5 • B Bissland agreed with L Campbell that there ought to be flexibility because of negotiation. He
- 6 doesn't feel it speaks of good planning. The concept could work, but there may be a situation
- 7 where a high density development is not wanted. A developer could come in and do a high
- 8 density development.
- 9 • J Beazer said the Planning Commission can tell them no.
- 10 • B Bissland asked if anything can be in a P district.
- 11 • J Mock said it could, but the smallest it could come in is no smaller than what is allowed now.
- 12 • M Teuscher asked if slope and fault lines could be controlled in the SFT zone. In a P district, the
- 13 Commission can demand that design be taken into account for those conditions. It gives the
- 14 Commission the opportunity to tell the developer to bring in a better design or that something
- 15 won't work.
- 16 • L Campbell asked if the Planning Commission can say no. M Teuscher answered yes. It could
- 17 happen if the City Council and the Planning Commission are not interested.
- 18 • B Bagley said there could be conditional uses in a P district.
- 19 • M Teuscher said yes and he advised the Commission to list them in the ordinance.
- 20 • L Campbell gave D Hogan as an example. He will show what he wants, and then the Planning
- 21 Commission will develop a document that defines that they want. The Commission will only see
- 22 his design conceptually. Zoning codes create geometry. P districts will allow the Commission to
- 23 say you need this amount of frontage because of this.
- 24 • J Beazer looks forward to working with a P district.

25 Motion to recommend Item No. 3 as stated amending Providence City Code 10-4 Establishment of
 26 Districts, by adding 10-4-3 Planned District (P) – L Campbell, Second – J Mock.

27 Vote: Yea: H Ames, B Bagley, J Beazer, L Campbell, J Mock
 28 Nay: None
 29 Abstained: None
 30 Excused: None

31
 32 Meeting adjourned at 10:32.
 33 Minutes taken and prepared by Becky Turley.

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 38 _____
 Jim Beazer, Chairman

Becky Turley, Office Specialist