

1 **Providence City Council Meeting**
2 **15 South Main**
3 **Providence UT**
4 **December 8, 2009 6:00 p.m.**

5
6 Call to Order: Mayor Simmons
7 Pledge: Landon Knowles, BSA Troop
8 Attendance: Mayor Randy Simmons
9 Council Members: Dale Astle (by phone), Kathy Baker,
10 Ron Liechty, David Low, John Russell

11
12 **Approval of Minutes for the November 10, 2009 and November 12, 2009 City**
13 **Council Meetings:**

14 **Motion to approve the minutes from November 10, 2009 – R Liechty, second K**
15 **Baker**

- 16 • Page 2 line 16 “crossing west”

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

21
22 **Motion to approve the minutes from Nov 12 – J Russell, second R Liechty**

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

27
28 **Public Comment:**

- 29 • Sharrel Eames stated she hopes someone will continue to follow up on the dying
30 trees, after Kathy Baker leaves the Council.
31 • Keith Thompson is still concerned about the corner at Main and Center and the
32 angle parking along Main Street in front of the Old Rock Church. He feels
33 parallel parking would allow better visibility.
34 • Keith Thompson also discussed moving the fence in Providence Canyon. Dan
35 Miller does not want to turn the petition in – he would like Keith or someone from
36 Providence City Council to do it. D Miller will give a letter of support. Mayor
37 Simmons and R Liechty will take the letter in.
38 • Laura Fisher reported she wrote a letter to the City Council that has not been
39 responded to concerning the granite counter top business. She felt the lack of
40 response is a lack of concern. She still does not know how the City and the
41 Administration feel. She sent the Council an electronic message including the
42 original letter. She asked how the Council would feel if they lived next to the
43 dust, noise from the saw, dynamite explosions that she is exposed to. She would
44 like the Council to express their views. She felt amending the zoning ordinance to
45 allow light manufacturing means that many people in residential neighborhoods
46 will now have manufacturing businesses next to them.

1 **Audit Review:** Members from the firm of Allred Jackson will review the 2009 Audit.
2 **Motion to move the audit review until a representative arrives – R Liechty, second**
3 **K Baker**

4 **Vote: Yea: D Astle, K Baker, R Liechty, D Low, J Russell**
5 **Nay: None**
6 **Abstained: None**
7 **Excused: None**

8
9 **Public Hearing:** The Providence City Council will hold a public hearing to receive
10 comment on opening and adjusting the Providence City 2010 General Fund Budget.

11 **Motion to open the public hearing – K Baker, second J Russell**

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

16 **Motion to close the public hearing – J Russell, second R Liechty**

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

21
22 **Audit Review:** Members from the firm of Allred Jackson will review the 2009 Audit
23 (cont)

24 **Motion to hear the audit report – J Russell, second R Liechty**

25 **Vote: Yea: D Astle, K Baker, R Liechty, D Low, J Russell**
26 **Nay: None**
27 **Abstained: None**
28 **Excused: None**

- 29 • Diana Cannall, Allred Jackson, explained they are independent auditors for the
30 City. They check for state compliance in budgeting practices, reporting. She also
31 thanked the City staff for their cooperation.
32 • D Cannall reviewed the Statement of Net Assets, the Statement of Activities,
33 Governmental Fund Type Balance Sheets, Statement of Revenues, and the Budget
34 to Actual reports contained in the prepared Financial Statements.
35 • D Cannall discussed the findings and explained the only finding was for
36 adjustment entries. She commended the City on the overall compliance with state
37 requirements.

38
39 **Discussion:** Jodi Hoffman, from the Utah League of Cities and Towns, will discuss land
40 use authorities and other matters related to land use.

41 **Motion to move to discussion item 2 since Jodi Hoffman has not arrived – J Russell,**
42 **second D Low**

43 **Vote: Yea: D Astle, K Baker, R Liechty, D Low, J Russell**
44 **Nay: None**
45 **Abstained: None**
46 **Excused: None**

1 **Discussion:** The Providence City Council will discuss a charrette for the proposed mixed
2 use zone.

- 3 • David Bell, USU Department of Landscape Architecture and Environmental
4 Planning, presented the points the students would be considering as they prepare
5 for a charrette on the City's proposed mixed use zone. D Bell also explained the
6 students would be split into approximately 15 teams. They will prepare power
7 points, posters, and a public presentation. The startup meeting is January 29. The
8 Charrette will begin February 1 and end February 5. They would like a public
9 presentation 2 to 6 weeks after the charrette and then prepare the final document
10 by mid-March.
- 11 • D Bell's power point presentation included pictures from projects done in other
12 communities.
- 13 • R Liechty felt D Bell should present to a joint workshop with the City Council
14 and the Planning Commission in January. This will be scheduled for January 13,
15 2010.

16
17 **The Council took a 5 minute recess.**

18
19 **Discussion:** Jodi Hoffman, from the Utah League of Cities and Towns, will discuss Land
20 Use Authorities and other matters related to land use (cont).

21 Mayor Simmons introduced Jodi Hoffman. He explained he asked J Hoffman to discuss
22 Land Use Authorities and the difference between administrative and legislative acts.

- 23 • J Hoffman explained in 2003 Senator Bell approached the Utah League of Cities
24 and Towns (ULCT), telling them if cities and towns did not fix land use problems,
25 the legislature would. The ULCT put together a team to address the concerns of
26 the development community, such as: holding the ball, too much time involved in
27 land use decisions.
- 28 • The ULCT concept was to take away the state statutes that contributed to the
29 length of time involved.
- 30 • The ULCT did not want to define administrative and legislative acts because it is
31 dependent on the type of government a city/town uses. In a legislative act, the
32 Council has broad discretion in making a decision. In an administrative act, a
33 specific process must be followed; the rules cannot be changed in the middle of
34 the game. J Hoffman explained she has found that Councils often confuse roles
35 and try to use more discretion than is allowed in making administrative decisions.
- 36 • J Hoffman felt a City should have several different Land Use Authorities, such as
37 the building official for building permits. If there is no staff, it is usually the
38 Planning Commissions. She explained the law encourages cities to delegate down
39 to the lowest level so that decisions move on a reasonable timeframe.
- 40 • The ULCT promise was to streamline land use decisions. Every year since 2006
41 the development community asks the legislature to continue to streamline the
42 process.
- 43 • Mayor Simmons explained that the Planning Commission is the Land Use
44 Authority for subdivisions, the City Administrator, City Engineer, and Public
45 Works Director is the Land Use Authority for everything else.

- 1 • J Hoffman suggested the Staff Land Use Authority also be the authority for
2 subdivisions. The decision about the landscape changing happens with zoning, not
3 subdivisions.
- 4 • J Hoffman also explained the City Council could be the Appeal Authority. There
5 could be different Appeal Authorities for different land use acts. The Appeal
6 Authority acts as a Judge.
- 7 • The real power is at the planning level. Have the Planning Commission become
8 more involved in the planning.
- 9 • Mayor Simmons asked why go along with the development community. J
10 Hoffman explained communities need to blossom and they blossom with private
11 investment. She also explained the development interest controls 2/3 of the State
12 Legislature. Many members of the Legislature make their livelihood in
13 development professions.
- 14 • J Hoffman reported the ULCT is in the process of publishing a Land Use
15 Authority certification book. Land Use Authority is a term that can apply to a
16 small town or a very large city.
- 17 • The Council thanked J Hoffman for the presentation.

18
19 **Discussion:** The Providence City Council will discuss Custom Counter Tops with Chris
20 and Sandra Checketts.

- 21 • Sandra Checketts explained they had three home businesses. Sports Tower was in
22 Logan – it crashed. Six years ago they started the counter top business. The
23 building was originally built for storage.
- 24 • Mayor Simmons explained Chris and Sandra own a home in the mouth of
25 Providence Canyon; the business is located in a building two lots away. Chris
26 Checketts explained the business does not create dust. Mayor Simmons reported
27 the neighbors have complained about dust, noise, etc. The Land Use Authority
28 was concerned that the business was not meeting the ordinances.
- 29 • Sharell Eames read notes from previous meetings. She was concerned that the
30 City Council would even consider allowing this business. She felt the noise was
31 very disruptive to the neighborhood.
- 32 • Valerie Bowles explained she lives opposite the factory. She really loves Chris
33 and Sandra as neighbors; but the factory is a problem. They have experienced
34 rolling clouds of dust – she didn't know if it was from the factory or the traffic.
35 The noise is also a problem from both vehicles going to the factory and the saws.
36 She explained when the Checketts originally applied for the business permit; they
37 told the neighbors it was for a sewing business. V Bowles felt the idea of another
38 extension when they have had plenty of time was concerning. She also reported
39 the Clarks are having a hard time selling their home because they are located next
40 door to the factory.
- 41 • Sharell Eames read a letter from Denise Strong.
- 42 • Alan Wolford felt that much of the dust came from traffic using Providence
43 Canyon Road. He explained the sawing is done with a wet saw; the dust is from
44 Providence Canyon. He also felt the traffic was people going to enjoy Providence
45 Canyon. A Wolford explained he felt Checketts may have made a mistake leaving
46 a big door open that allowed noise – the saws, radios, etc. The neighbors told

- 1 Checketts their concerns and the door has remained closed. A Wolford feels the
 2 shop is quiet. He explained the lot has trees, landscaping, etc. that fit with the
 3 neighborhood. He felt that given the state of the economy, the Council should
 4 work with small businesses. He encouraged the Council to work with the
 5 business. He offered that anyone can visit his property to listen for the noise and
 6 see the dust.
- 7 • Mayor Simmons explained one of the reasons the City allows home business is to
 8 allow a business to get started; but if the business grows too large, there should be
 9 a plan. Sandra Checketts said the plan is for this to become their Rec.Center, but
 10 not in 2009.
 - 11 • D Astle agreed with the Mayor that as a business grows it needs to be relocated in
 12 a commercial zone.
 - 13 • K Baker asked at the busiest, how many outside employees? S Checketts
 14 answered they had 5, but now they are down to 1.
 - 15 • D Low asked if the business fit within the laws – not just the noise. Is the home
 16 business keeping the integrity of a single family home – do you fit within all the
 17 other laws on the books? C Checketts stated it is his understanding a home needs
 18 to be on the property.
 - 19 • K Baker asked if delivery trucks have the backup beeps. S Checketts explained
 20 they pick most of the product up.
 - 21 • S Checketts felt they could comply within the year.

22
 23 **Item No. 4. Ordinance 012-2009:** The Providence City Council will consider for
 24 adoption an ordinance amending Providence City Code Title 3 Chapter 4 Conditional
 25 Businesses.

26 **Motion to approve – J Russell, second – D Low**

27 S Bankhead explained D Astle had expressed concern about the equipment during a
 28 previous meeting.
 29 D Astle did not feel taking out the mechanical statement weakened the ordinance.
 30 R Liechty felt a business could be as quiet as can be, but have all kinds of equipment.
 31 D Astle felt the nuisance section was quite broad and gives the City the tools to shut
 32 down a home business. He felt mechanical customary to home crafts does not detract,
 33 but felt trying to enforce customary to home crafts would open the City to lawsuit.
 34 Craig Call felt this was a policy question – the Council can adopt either option. Is this
 35 an issue the City wants to regulate, how much time and effort to regulate, how much
 36 guidance do they want to give the staff?
 37 D Low asked how is the statement enforced. R Simmons felt the law of nuisance can
 38 be established fairly easily. C Call agreed.
 39 Mayor Simmons felt if the statement means something, it is a tool. If it doesn't mean
 40 anything, it should be taken out.
 41 D Astle felt mechanical tools used in a machine shop would not meet the ordinance.
 42 D Low felt if the business does not create a nuisance – what does it matter?
 43 J Russell felt it was a sub-statement to nuisance. He felt line item H could become a
 44 point of contention between neighbors.

45 **Vote: Yea: D Low, J Russell**
 46 **Nay: D Astle, K Baker, R Liechty**

1 **Abstained: None**

2 **Excused: None**

3
4 **Item No. 5. Ordinance 013-2009:** The Providence City Council will consider for
5 adoption an ordinance amending Providence City Code Title 3 Chapter 7 Alcohol
6 License and Regulations by adding a club/tavern license.

7 **Motion to approve – K Baker, second – D Astle**

8 Mayor Simmons explained in the City Use Chart a nightclub is a permitted use.

9 However there is not the accompanying language to allow the alcohol use.

- 10 • Juan Mariano is a partner in Club New York. They have a ballroom night,
11 swing club night, and country night. He explained there is consumer demand –
12 they have had requests to serve alcohol. He is proposing an upscale,
13 sophisticated night club. They have had requests from tourists. He felt this
14 was in line with Governor Huntsman’s request to improve tourism. Their
15 target market is 21 years to 35-40 years. He feels this venture will employ
16 approximately 15 employees; hiring both skilled and unskilled workers. They
17 are looking to team with Iron Gate Grill to use their kitchen to serve food. He
18 explained total liquor sales for 200 people would be several thousand per
19 week. J Mariano felt the area around Iron Gate Grill is a cultural area. He
20 explained a nightclub is in the same industry as a hotel. They are not planning
21 to market to kids – they are looking at young professionals. They want to
22 provide a social network where people can enjoy international food. The
23 alcohol is not the main focus; the main focus is the social networking,
24 dancing, etc. They will also offer non-alcoholic drinks.
- 25 • J Russell asked about the existing permits used in the Logan business.
26 J Mariano explained they have to apply for special event permits.
27 J Mariano explained this is the same type of license as the Logan Country
28 Club.
- 29 • D Astle asked if the establishment could be run with a limited license.
30 J Mariano did not think they would have the 70% food sales. They want to
31 provide dancing, comedy, bands, etc.
- 32 • D Low explained he is not interested in creating the culture in Providence that
33 would allow clubs, taverns, drinking.
- 34 • J Russell asked if it was possible to have the special event license in
35 Providence. J Mariano explained the special event license is issued by the
36 State. He also explained it confuses the patrons. On nights when they have the
37 permits, people have commented this is what Cache Valley needs.

38 **Vote: Yea: None**

39 **Nay: D Astle, K Baker, D Low, R Liechty, J Russell**

40 **Excused: None**

41 **Excused: None**

42
43
44 **Item No. 6. Ordinance No. 010-2009:** The Providence City Council will consider for
45 adoption an ordinance rezoning approximately .58 acres located generally at 100 East
46 360 North from Agricultural to Single Family Traditional requested by Lloyd Baer.

1 **Motion to approve – R Liechty, second – D Low**

2 Lloyd Baer asked if the rezone would harm the animal rights. The Council said no.

3 L Baer asked if he would have to put in sidewalk in. He was told yes.

4 D Astle explained Mr. Baer is his first cousin.

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

6 **Nay: None**

7 **Abstained: None**

8 **Excused: None**

9

10 **Item No. 7. Ordinance No. 011-2009:** The Providence City Council will consider for
11 adoption an ordinance amending Providence City Code Title 10 with comprehensive
12 amendments to the uses allowed in the Commercial Highway District and Commercial
13 General District and the creation of a new Mixed Use District, including the manner in
14 which professional and financial services are to be provided in each commercial zone.

15 **Motion to approve – J Russell, second – K Baker.**

- 16 • Craig Call explained this is a significant change that has come from a series of
17 discussions with the Council and the Planning Commission over the past 8 – 9
18 months. These changes are not mandating mixed use; they just allow it. It will
19 give development opportunity to mixed residential, professional, retail. Under the
20 current ordinances, we could not approve a mixed use development.
- 21 • C Call used the current zoning map to show the existing zones and the proposed
22 zone. In the commercial-general district, professional and service would be
23 conditional uses. In the commercial highway, financial services and office uses
24 would not be allowed, except as an auxiliary use.
- 25 • There is also a general plan amendment to allow mixed use.
- 26 • The ordinance would require a residential development to include either retail or
27 office.
- 28 • R Liechty and D Low would prefer the mixed use require retail and they could
29 add either residential or office.
- 30 • C Call explained the main thing that drove the Planning Commission’s
31 recommendation, is that without residential there is no one to shop in the retail.
- 32 • R Liechty explained he wanted the emphasis to be on retail.
- 33 • D Astle felt the Planning Commission will have the discretion.
- 34 • J Russell felt it needed to be primarily retail.
- 35 • D Astle asked about an alternate seconding a motion. C Call felt that because the
36 Planning Commission recommendation was unanimous, it would not be a
37 problem.
- 38 • Mayor Simmons suggested changing the side yard setback.
- 39 • Mayor Simmons excused himself from the meeting.
- 40 • D Low agreed with the idea of mixed use – but felt the best use for the property
41 was retail.
- 42 • C Call explained the zone could be adopted, but not assigned.
- 43 • D Astle felt the Planning Commission had a large amount of authority.
- 44 • J Russell felt there should be a percentage of retail required.

- 1 • D Astle did not feel the sequence of the terminology made a difference. R Liechty
- 2 and K Baker felt it did.
- 3 • C Call felt a percentage may be difficult when applied to a single lot.
- 4 • R Liechty felt that E. Uses needs to have retail listed.
- 5 • KC Beals from Amsource explained that restaurants look at a good mix of office
- 6 and residential.
- 7 • D Calderwood agreed that there needed to be a place for people to work. Some
- 8 offices are important.
- 9 • Craig Call presented the 4 changes discussed during the meeting:
- 10 1. Every project will include retail and it will have residential or commercial.
- 11 2. In item E insert the word retail after mixed use.
- 12 3. It eliminates night club as a use.
- 13 4. It incorporates the Mayor's suggestion to eliminate a side yard setback in an
- 14 interior.

15 **Motion to accept with the first three changes – J Russell, second – K Baker.**

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

20
 21 **Item No. 8. Resolution 09-035:** The Providence City Council will consider for adoption
 22 a resolution approving amendments to the City's Master Plan 2000 related to the
 23 development of uses in the commercial districts.

24 **Motion to approve – K Baker, second – J Russell,**

25 **Vote: Yea: D Astle, K Baker, R Liechty, D Low, J Russell**
 26 **Nay: None**
 27 **Abstained: None**
 28 **Excused: None**

29
 30 **Item No. 9. Resolution 09-036:** The Providence City Council will consider for adoption
 31 a resolution approving the Development Agreement and Addendum for the Vail
 32 Subdivision, a 3 lot residential subdivision located generally at 200 North and 200 East.

33 **Motion to approve – J Russell, second – K Baker**

- 34 • Allan Vail stated he intends to appeal the ordinance requirements. He withdrew
- 35 his request for approval of the Development Agreement and the Addendum.
- 36 • Allan Vail also stated he wanted to withdraw is request to the Planning
- 37 Commission for final plat approval.

38 **Motion changed to withdraw the agreement and final plat – D Astle, second – K**
 39 **Baker**

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

1 **Item No. 10. Resolution 09-037:** The Providence City Council will consider for adoption
2 a resolution amending the Providence City Corporation Department of Public Works
3 Standards and Specifications Manual by adding Downtown Street Cross-Sections.

4 **Motion to approve – J Russell, second – D Low**

- 5 • D Astle wanted to know what was driving the proposed cross-sections and why
6 some required curb and gutter and some did not. S Bankhead explained the
7 proposed cross-sections are the result of discussions in the Planning Commission
8 for years past.

9 R Eck explained planning is driving the cross-sections.

10 **Motion to table until Dec 16 at 4:30 – D Astle, second – K Baker**

11 **Vote: Yea: D Astle, K Baker, R Liechty, D Low**

12 **Nay: J Russell**

13 **Abstained: None**

14 **Excused: None**

15
16 **Motion to continue the meeting past 10:00 pm**

17
18 **Item No. 11. Resolution 09-034:** The Providence City Council will consider for adoption
19 a resolution amending the Providence City 2010 General Fund Budget.

20 **Motion to approve – D Astle, second – K Baker**

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

22 **Nay: None**

23 **Abstained: None**

24 **Excused: None**

25
26 **Item No. 12. Resolution 09-038:** The Providence City Council will consider for adoption
27 a resolution adopting the 2009 Pre-Disaster Mitigation Plan: Bear River Region, Utah as
28 required by the Federal Disaster Mitigation and Cost Reduction Act of 2000.

29 **Motion to approve – J Russell, second – D Low**

- 30 • Randy Eck explained that if the City wants to apply for FEMA funds, we are not
31 eligible unless we participate in the pre-disaster mitigation plan.

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

33 **Nay: None**

34 **Abstained: None**

35 **Excused: None**

36
37 **Staff Report:**

38 S Bankhead thanked Mayor Simmons and K Baker.

39 R Eck echoed the thanks and reported the restrooms for Hampshire Park are under
40 construction.

41 D Low commended the snow removal. The Council expressed their appreciation.

42 D Astle attended the Newly Elected training. He stated it was very good.

43 K Baker reported she received a letter from Laura Fisher regarding snare trapping. She
44 explained trapping is licensed by the Division of Wildlife Resources (DWR); and felt it
45 was DWR's problem to resolve.

1 **Council Reports:**

2 D Low complimented the staff for the holiday lights on the PW Building. He asked for
3 suggestions on the holiday lighting contest.

4 D Low felt that both Randy Simmons and Kathy Baker's service have been wonderful for
5 the City.

6 J Russell thanked K Baker for her example on the Council.

7 R Liechty welcomed Don Calderwood and thanked Kathy and wished everyone a Merry
8 Christmas,

9

10 **Motion to adjourn – K Baker, second – J Russell**

11 **Meeting adjourned at 10:20 p.m.**

12 Minutes taken by Skarlet Bankhead.

13

14

15

16

17 _____
Randy Simmons, Mayor

Skarlet Bankhead, City Recorder