

1 **PROVIDENCE CITY COUNCIL MEETING MINUTES**

2 **Thursday, January 9, 2020 6:00 PM**

3 **Providence City Office Building,**

4 **164 North Gateway Drive, Providence UT**

5  
6 Attendance: John Drew, Carrie Kirk, Jeanell Sealy, Brent Speth

7  
8 **Training:** The City Council received training from the following presenters:

9  
10 Craig Smith, Water Attorney

- 11 • C Smith reviewed the handout he provided for newly elected council members. Water is the most
- 12 important service that we provide as a city. We are the second driest state in the country, and the state
- 13 tightly regulates water resources.
- 14 • C Smith said that water is a public and private resource. It is owned by the public and administered by the
- 15 state.
- 16 • C Smith said that in Utah, you cannot take or use water unless you have a water right. Providence has a
- 17 mix of water shares and water rights.
- 18 • C Smith said that in Utah, if you don't use your water right for seven years, you can lose it.
- 19 • J Sealy asked if water rights have different use categories. C Smith said that this is correct. If you want to
- 20 use it for something else, you need to go through the process of changing the use.
- 21 • C Smith said that there can be a single water source with different rights attached to it for different time
- 22 periods, different uses, and different people.
- 23 • C Smith said that municipal use is a broad category that allows a city to use the water for many different
- 24 things.
- 25 • J Sealy asked if the state water engineer changes the amount of water a city gets based on population. C
- 26 Smith said that they do not. We have to look out for that. If we have growth, we need to acquire more
- 27 water rights.
- 28 • C Smith said that cities are allowed to hold water rights for future needs for up to 40 years.
- 29 • C Smith said that cities are prohibited from selling water rights. However, we can sell surplus water that
- 30 comes from the right, and we can exchange our right or change it to different diversion points, different
- 31 uses, etc.
- 32 • C Smith said that water cannot be wasted and must be put to beneficial use. There are different numbers
- 33 of acre feet that the state designates as the maximum allowable use per acre for irrigation in different
- 34 parts of the state. Even if someone has a right to more water, they cannot use more than these limits.
- 35 • C Smith said that the standard assumption of water use for a family is .45 acre feet per year for indoor
- 36 use, and .45 acre feet per year for outdoor use.

37  
38 Jordan Cullimore, Utah Office of the Property Rights Ombudsman

- 39 • J Cullimore spoke about eminent domain. It comes into play as a last resort. The city is required to
- 40 negotiate with the property owner first. The city is required to provide fair market value for property
- 41 acquired through eminent domain.
- 42 • J Cullimore said that ultimately, the value given by a licensed appraiser is what will hold up in court. If a
- 43 property owner disagrees with the appraised value, they can come to the Ombudsman's office and ask for
- 44 a second appraisal that will be paid for by the city.
- 45 • B Speth asked if the City Council is the one that decides to pursue eminent domain.
- 46 • J Cullimore said that the city council must hold a public hearing and vote to authorize eminent domain.
- 47 • B Speth asked how many council members can attend a Planning Commission meeting [due to open
- 48 meetings laws]. J Cullimore said that he did not think it would be a problem if all members attended a

- 49 public meeting. The council would not be making any decisions, so it would be fine. Chad Woolley, city  
50 attorney, agreed.
- 51 • J Cullimore explained the difference between an administrative and a legislative decision. An  
52 administrative decision, such as on an application for a subdivision, relates only to whether the  
53 application meets city code. The Council cannot decide at that point that they do not like the proposed  
54 development and fail to approve it on that basis.
  - 55 • S Bankhead asked at what point a property owner can come to the Ombudsman's office. J Cullimore said  
56 that they can come at any time. The Ombudsman's Office can give an advisory opinion on legal issues  
57 relating to property rights.
  - 58 • J Sealy asked which body in the city handles which part of the development process.
  - 59 • S Bankhead said that the executive staff reviews an application first, and then it goes to the planning  
60 commission.
  - 61 • R Snow explained that the process starts even earlier because the Planning Commission and the City  
62 Council are involved in the zoning of the parcel.
  - 63 • B Speth asked about annexation. J Cullimore said that it is a legislative action that the city council has to  
64 vote on.
  - 65 • J Sealy asked what would happen if a neighborhood in another city that wanted to annex into Providence.  
66 S Bankhead said that this is a boundary adjustment, which is a slightly different process than an  
67 annexation.
  - 68 • J Cullimore spoke about vested rights. When a property owner submits a complete land use application  
69 and pays a fee, they are vested. They have a right for their application to be reviewed under the code that  
70 was current on that day.

71  
72 Chad Woolley, City Attorney

- 73 • C Woolley explained open meetings law. The biggest thing to avoid is making decisions that are not open.  
74 Deliberation as a quorum (three or more council members) should also be done in an open meeting.
- 75 • C Woolley spoke about closed meetings (executive sessions). He said that typically there are three reasons  
76 that a council can go into a closed session: issues dealing with acquisition of real property, issues dealing  
77 with competency of persons, and discussions about litigation. Negotiating contracts is not one of the  
78 reasons a council can go into executive/closed session.
- 79 • C Woolley said that a closed meeting must be noticed and recorded, and that there must be minutes.
- 80 • C Woolley said that council members should separate their personal social media pages or email accounts  
81 from their public persona as much as possible. It is possible that someone can make a public information  
82 request for all of the emails to a certain person, all of the Facebook messages related to a topic, etc. If a  
83 council member needs to have a sensitive conversation, he recommends doing it over a phone call or in  
84 person.
- 85 • C Woolley spoke about ethics and conflicts of interest. Council members must declare any conflicts of  
86 interest. The council members will also fill out a disclosure form every year. There is no requirement to  
87 recuse oneself from voting; however, C Woolley recommends doing so. It is best to avoid the appearance  
88 of a conflict of interest.
- 89 • C Woolley spoke about different classes of records. All records are public unless they are in a protected  
90 category.

91  
92 Max Pierce, City Engineer

- 93 • M Pierce spoke about the engineering projects that are currently being worked on. He handed the council  
94 a list of current projects.
- 95 • B Speth asked if we have to pay Blacksmith Fork Irrigation Company for the storm water we dump into  
96 their system. M Pierce said that we do not.

- 97 • S Bankhead noted that the storm water project that we are doing on 300 East does not benefit the
- 98 Vineyard subdivision. It is for all of the area east of that subdivision.
- 99 • B Speth asked if R Snow will be the grant writer for the city. R Snow said that he will work together with
- 100 the engineer to write grants.
- 101 • B Speth said that he expects the city manager to provide insight into city finances so that the city council
- 102 can determine whether money is being used efficiently. R Snow agreed.
- 103 • Mayor Drew said that for the east Spring Creek crossing, the developer is waiting on FEMA.
- 104 • Mayor Drew said that the Spring Creek crossings have been on the transportation plan for about 20 years.
- 105 They are meant to complete an east-west corridor for traffic coming off the bench. Some of the neighbors
- 106 might be upset because to them it feels like the roads are being put through suddenly, but they are not.
- 107 • Mayor Drew spoke about the storm water on the southeast of the city. We are planning a retention pond
- 108 that will also be a park.
- 109 • J Sealy asked about UTOPIA.
- 110 • Mayor Drew said that we are having a meeting about fiber optic options tomorrow.
- 111 • J Sealy brought up potential grant money from the USDA Office of Rural Development.
- 112 • R Snow said that there is grant money out there, but it would be only be available if we were going to
- 113 make fiber a utility.
- 114 • K Eck said that in Payson, many residents are not fans of UTOPIA. The residents' front yards were
- 115 damaged [by the installation].
- 116 • K Eck asked if the council will have to sit through more hours of presentations about fiber.
- 117 • R Snow said that the staff and the mayor will investigate the various options and then present a
- 118 summarized version to the council.

119  
120 Meeting adjourned at approximately 9:45 PM  
121 Minutes prepared by Jesse Bardsley

122  
123  
124  
125 \_\_\_\_\_ Skarlet Bankhead, City Recorder  
126 John Drew, Mayor  
127