

1 **PROVIDENCE CITY COUNCIL MEETING**
2 **February 27, 2018 6:00 PM**
3 **Providence City Office Building, 164 North Gateway Drive, Providence UT**

4
5 Opening Ceremony:

6 Call to Order: Mayor Drew
7 Roll Call of City Council Members: Mayor Drew
8 Attendance: Kirk Allen, Kristina Eck, Dennis Giles, Roy Sneddon
9 Excused: Jeff Baldwin
10 Pledge of Allegiance: Owen
11 Opening Remarks – Prayer: Johnny Gilbert

12
13 **Approval of the minutes**

14 **Item No. 1.** The Providence City Council will consider approval of the minutes of February 13, 2018.

15 **Motion to approve the minutes of February 13, 2018 – K Allen, second – R Sneddon**

16 **Vote:**

17 **Yea: K Allen, K Eck, D Giles, R Sneddon**

18 **Nay: None**

19 **Abstained: None**

20 **Excused: J Baldwin**

21 **Corrections:**

- 22 • Page 7 line 7 not requiring **it**
- 23 • Page 9 line 1 without **published design standards in place,**

24 **Public Comments:** Citizens may appear before the City Council to express their views on issues within the City's
25 jurisdiction. Comments will be addressed to the Council. Remarks are limited to 3 minutes per person. The total
26 time allotted to public comment is 15 minutes The City Council may act on an item, if it arose subsequent to the
27 posting of this agenda and the City Council determines that an emergency exists.

- 28 • Rowan Cecil stated he felt the Mayor's road article published in the [Herald Journal] newspaper was
29 excellent. Mayor Drew reported he received a call from the Logan City Street Supervisor thanking him for
30 the article.

31 **Business Items:**

32 **Item No.1. Rezone – Ordinance 2018-001:** The Providence City Council will consider for adoption an ordinance
33 amending the Providence City zoning district(s) and zoning map by changing the zone of Parcel No. 02-096-0089; a
34 0.68 parcel of property located generally at 506 West 100 S, Providence UT; changing the zone from Agricultural
35 (AGR) to Commercial General District (CGD).

36 **Motion to adopt the rezone Ordinance 2018-001 – K Eck, second – R Sneddon**

37 **Vote:**

38 **Yea: K Allen, K Eck, D Giles, R Sneddon**

39 **Nay: None**

40 **Abstained: None**

41 **Excused: J Baldwin**

42 **Discussion prior to vote:**

- 43 • Danny Macfarlane reported the Planning Commission recommended the Council approve the zone
44 change. He felt the zone was a good fit for the area. He is planning to build office space. He explained the
45 property is on the southeast corner of the [100 South] roundabout. His intent is to move his offices [Civil
46 Solutions] and the Edward Jones offices to this location.

47 S Bankhead reviewed the following:

- 48 • Findings of Fact:
 - 49 ○ Executive Staff used the Providence City Master Plan 2000 as revised, and examined current and
 - 50 anticipated development in the immediately surrounding area, to review the application.
- 51 • Conclusions of Law:
 - 52 ○ It is not necessary to amend the General Plan in order to make a favorable recommendation on
 - 53 this rezone request.

- 1 • Conditions:
- 2 ○ No permits shall be issued on the property until it has been brought into compliance with all City
- 3 regulations regarding the subdivision of property.
- 4 ○ The applicant shall meet all applicable City, state and federal laws, codes, rules.
- 5 • Providence City Planning Commission took the following action on February 15, 2018:
- 6 *Motion to recommend the City Council rezone from AGR to CGD – R Cecil, second – R Perry*
- 7 *Yea: R Cecil, R Holloway, R James, R Perry*
- 8 *Nay: None*
- 9 *Abstained: None*
- 10 *Excused: B Fresz, J Parker, G Sonntag*

11
12 **Item No. 2. Discussion – Blacksmith Fork Irrigation Company Memorandum of Understanding (MOU):** The
13 Providence City Council will discuss the MOU with Blacksmith Fork Irrigation Company.

- 14 • Mayor Drew reported he is still waiting to get some information from the Blacksmith Fork Irrigation
- 15 Company (BSFI). He sent emails, asking for additional information, to Board Members Clay Welker and
- 16 John Hubbard; but has not received a response.
- 17 • Sharell Eames asked if there had been a revision to the draft MOU. Mayor Drew reported there have not
- 18 been any changes.
- 19 • John Hubbard reported he approached the City Council in November 2016 at which time he asked the
- 20 City to become more involved in the BSFI.
- 21 • J Hubbard presented the following information:
- 22 ○ The Blacksmith Fork Company is almost 14 miles of canals extending from the mouth of
- 23 Blacksmith Fork Canyon. The company was formed in 1902. There were 105 original
- 24 shareholders with 1,333.9 shares subscribed out of 1,800 shares created. They are a non-profit
- 25 501(3) (C) Corporation.
- 26 ○ As of 2018, the total irrigation area is 1,018 acres, with a duty rate of 3-acre feet per acre.
- 27 ○ The Providence City Exchange is about 3 acre feet per day or 450-acre feet per season.
- 28 ○ There are currently 294 shareholders in BSFI and 1,408.0 shares. The median shareholder has
- 29 two shares; the average shareholder has four shares. Providence City holds 418.8 shares (29.7%
- 30 of all shares).
- 31 ○ From 2005 to 2016, BSFI spent over \$200,000 for repairs, maintenance, new construction, and
- 32 canal cleaning and refurbishing. This number does not included the 44% paid by Millville
- 33 Irrigation Company for work performed south of 300 North in Millville. In 2005, assessment
- 34 collections totaled \$18,200; in 2016, they totaled \$36,000. The typical budget has the following
- 35 allocations: 34% repairs/improvements, 32% water master, 5% social security/Medicare, 9%
- 36 insurance, 13% loan payments, 2% mailings, 5% administrative costs.
- 37 ○ In 2016, the water master discovered serious problems with the canal concrete liner. In 2017,
- 38 the Board decided they could not continue to provide water with the poor condition of the
- 39 canal. Since April 2017, BSFI spent over \$50,000 for emergency liner repairs. They installed thirty
- 40 sections of 48-inch ADS pipe; other sections were repaired with concrete.
- 41 ○ In 2006, the Board adopted an assessment plan that included a shareholder account fee for the
- 42 basic costs of running the company. In addition to the account fee (\$15.00), the shares were also
- 43 assessed a fee. In 2017, the account fee increased to \$50. Millville Blacksmith Fork charges over
- 44 \$100 per share.
- 45 ○ If one shareholder, the City of Providence, only pays \$50 for the account fee, they are not paying
- 46 the full 30% of the budget.
- 47 ○ In September 2017, the Board budgeted \$80,000 for the 2018 season. The Board set the account
- 48 fee at \$50 and the share assessment at \$35. They set the share assessment for Providence City
- 49 at \$70/share. Providence City’s total assessment (\$29,000) would provide 37% of the budget. If
- 50 Providence City had been assessed \$35/share, they would pay 18% of the budget.
- 51 ○ J Hubbard expressed frustration that the City has not paid the Company for use of their system
- 52 for stormwater. The \$29,000 included a stormwater fee to the City. The Board removed the
- 53 stormwater fee after they decided to change the assessment approach.
- 54 ○ After Providence City challenged the \$70 share assessment, the Board consulted with their

1 attorney and decided to offer a compromise assessing the City [\$23,760] based on the
2 percentage [29.7%] of shares the City owns. The remaining 70% of the budget was split
3 “equitably” between the remaining 293 shareholders; using the account fee plus and
4 assessment based on the percentage of shares held. The Board also wants a MOU for the City’s
5 stormwater use of the canal system.

- 6 ○ Due to the emergency repairs on the upper canal liner, the Board increased the budget from
7 \$36,000 in 2017 to \$80,000 for 2018. Providence City was assessed 29.7% or \$23,760. The
8 remaining 70.3% or \$56,240 is comprised of \$14,750 in account fees and \$41,440 in share
9 assessment. J Hubbard explained the Board has not cashed the \$14,000 check from the City,
10 because they are not sure what to do. The Board feels accepting the \$14,000 is unfair because it
11 is only 18% of the budget. If the Board does not receive the additional money from the City, they
12 are not sure they can complete the work necessary to open in May. He felt it was ridiculous
13 attorneys were involved. He reported the Board does want to change the bylaws. He explained
14 his plea in 2016 was for the City to “shoulder up” not overdo it. In 2016, the amount paid by the
15 City represented 26% of the budget.
- 16 ○ J Hubbard explained the Board did not speak too much in the previous meeting because they did
17 not know what to do or how to participate. He apologized for the way the original notice went
18 out. He realizes there needed to be more communication.
- 19 ○ Mayor Drew reported when he spoke with Jason Fuhriman prior to the previous meeting. It was
20 his understanding that J Fuhriman would make a presentation at the February 13 council
21 meeting.

- 22 ● R Sneddon asked for clarification of the amount of the check the City remitted to BSFI. Mayor Drew
23 reported it was \$14,708. BSFI is holding the check.
- 24 ● K Eck expressed appreciation for the presentation. She supported what they were asking for.
- 25 ● K Allen felt with the apology given by J Hubbard and the explanation of the current assessment, paying by
26 percentage was fair.
- 27 ● R Sneddon explained the \$14,700 and the \$10,000 associated with the MOU exceeds the \$24,000. J
28 Hubbard explained in the previous Council meeting, it was stressed the additional \$10,000 was not an
29 assessment. The BSFI Board did not know how to handle the \$10,000 if it was not an assessment He
30 stated Mayor Drew prepared the MOU, and it is not a MOU with BSFI. It is a draft given to the Board. J
31 Hubbard explained the Board views the MOU as hypothetical. The Board would prefer to find solutions
32 issue by issue. First, the Board wants to settle the assessment issue. If the City will accept the assessment
33 presented tonight, BSFI can finish getting ready for the season. The bylaws now need to address issues
34 regarding the City’s exchange. Mayor Drew has previously asked how many City shares are required for
35 the exchange. The Board wants to address the Mayor’s questions. They want to settle the assessment
36 issue. With the \$10,000 contingent on changing the bylaws, the Board cannot move forward without a
37 vote of the shareholders. Scheduling a shareholder meeting requires 60-day notice. They do not have
38 time to schedule the meeting because the repairs need to be finished within 60 days to open for the
39 season.
- 40 ● R Sneddon felt, regardless of the title of the money, there was sufficient money to operate while details
41 are settled. J Hubbard agreed.
- 42 ● As an engineer, R Sneddon would like to keep the attorney fees at a minimum.
- 43 ● D Giles felt that after the presentation he had a better understanding. The assessment {presented
44 tonight} may be correct.
- 45 ● K Eck felt the way the Council approved the resolution tied the BSFI’s hands. Mayor Drew clarified the
46 City offered the \$10,000 to allow BSFI to get started. K Eck did not feel the resolution was passed that
47 way.
- 48 ● Mayor Drew reported he tried to get to the 18% and could not. He tried to get information from Clay
49 Welker and did not hear from him. He also asked for information from J Hubbard and did not hear
50 anything. Mayor Drew felt a flat rate was the best way to assess shares. He also stated the City had not
51 received a \$23,000 bill; the City has not received a bill since the original assessment.
- 52 ● Mayor Drew reported he listened to the October 11, 2016 meeting at which David Olson and J Hubbard
53 made a very passionate plea for the City to step up. The MOU addressed every point the BSFI asked for in
54 the October 2016 meeting. There is nothing nefarious on the part of the City in creating the MOU.

- 1 • J Hubbard explained that tonight he is offering a compromise. Mayor Drew asked which shareholders
2 were charged the \$70/share rate. J Hubbard reported Millville, Nibley, and Logan City. J Hubbard
3 reported the \$70/share assessment no longer exists; the other cities' rates will be adjusted and refunds
4 or credits will be given. The Board did not charge USU or Cache County School District the \$70/share rate.
5 In hindsight, J Hubbard felt the September 2017 assessment rates were a bad idea. The Board has now
6 agreed to a percentage rate. J Hubbard felt the current bylaws are convoluted at best. The Board wants
7 to work with the City on bylaw changes.
- 8 • Mayor Drew explained the City Attorney was not involved in drafting the MOU. It was based on
9 discussions with the Board. J Hubbard insisted the MOU is hypothetical; it is the City's version. The Board
10 wants to participate, but wants to settle the assessment issue first. Mayor Drew explained he emailed the
11 MOU to Jason Fuhriman over two weeks ago. At that time, Mayor Drew received confirmation from J
12 Fuhriman that the City would have an answer within a few days; the City has heard nothing since
13 regarding the MOU. J Hubbard did not feel the Board had been invited to contribute to the MOU. Mayor
14 Drew explained his email was an invitation.
- 15 • K Allen asked to move forward. Mayor Drew explained this is a discussion item only.
- 16 • Mayor Drew explained the numbers have changed at each discussion. The City has a fiduciary
17 responsibility for taxpayer money. We have to evaluate invoices and determine if we agree; we do that
18 with all vendors. The number presented tonight is a new number.
- 19 • J Hubbard felt the number was presented two weeks ago. S Bankhead explained the City received a letter
20 from J Hubbard with a different number and a request to meet with the City. S Bankhead explained she
21 and Mayor Drew met with Board Members Jason Fuhriman [President], Brian Olsen, and John Hubbard.
22 The idea of a MOU was discussed in the meeting. J Hubbard explained the BSFI Attorney was supposed to
23 communicate the new number to Craig Smith. J Hubbard explained the shareholders need to be involved
24 with the MOU; right now, the Board is trying to settle the assessment issue.
- 25 • Mayor Drew clarified that since J Hubbard agreed with the points in the MOU, the issue is getting the
26 MOU presented to the shareholders. J Hubbard agreed. Mayor Drew reported his disappointment came
27 from the statements from the Board [during the previous Council meeting] that did not sound like the
28 Board would recommend support of the MOU to the shareholders. J Hubbard explained instead of
29 moving forward with the MOU, the Board decided to consult with their attorney and decided to change
30 to the fee structure presented at tonight's meeting. J Hubbard explained the Board is pleading the City
31 move forward with the assessment and work out the details later.
- 32 • S Bankhead asked if the budget showing the \$80,000 presented at the December 2017 meeting was on
33 the BSFI website. J Hubbard stated more or less. S Bankhead and J Drew explained the City needs an
34 invoice. J Hubbard stated BSFI would send the City an invoice.
- 35 • The Mayor will send the shareholder list, with the Mayor's suggestions, to J Hubbard to get more
36 feedback.

37 **Item No. 3. Discussion – Fire Contract:** The Providence City Council will discuss options for fire suppression and
38 protection services, emergency medical services, etc.

- 39 • Mayor Drew explained this is on the agenda because he wants to keep the Council apprised of the
40 discussion. Comparing with other cities is difficult because the cost per capita varies drastically. Mayor
41 Drew reported he, Council Member Allen, and S Bankhead are meeting with Chief Hannig, Logan City Fire
42 Chief, tomorrow [Wednesday] and with Hyrum City on Friday.
- 43 • Hyrum has an all-volunteer fire department and serves, by Interlocal agreement, Millville and Nibley.
44 However, they are at the point that they need to consider full-time staff. Hyrum is struggling with
45 response time.
- 46 • Mayor Drew explained that building codes have made structures safer so fire calls have reduced, 92% of
47 the calls are EMS. The Countywide EMS director is Jay Downs, the Smithfield Fire Chief. There is also a
48 mutual aid agreement where all fire stations will respond as needed. The County provides fire engines to
49 each municipality with a fire department. Mayor Drew reported he also spoke with Utah Local
50 Government Trust. They say volunteer departments are going away; the trend is toward districts and
51 interlocal agreements. If most of the calls are EMS, the EMS should have fire training as a secondary
52 training, instead of fire personnel with secondary EMS.
- 53 • K Eck explained she is a volunteer EMT, but she does not have the on-site experience a full-time EMT has.
- 54 • Mayor Drew reported the County estimated O&M for a fire station with full-time staff from County at

1 \$484,000. In addition, the City needs to consider participating in construction a fire station, probably near
2 Ridgeline High School.

- 3 • K Allen felt this was a bigger issue than Providence, Nibley, and Millville. He felt it needed to be a
4 countywide solution.
- 5 • Mayor Drew explained Providence's position has been to present the countywide idea to the County.
6 Perhaps, "one-bite-at-a-time" starting with a south county system.
- 7 • K Eck expressed concern about what is next with Logan, in three years' time, what will they charge.
- 8 • K Allen felt Logan needed to be included in the discussions with the County.

9 **Staff Reports:** Items presented by Providence City Staff will be presented as information only.

- 10 • S Bankhead reported Rob Stapley is attending the Rural Water Association Conference this week. She
11 reviewed a concept plan for a stormwater line in 500 North. The plan is to have piping on the east side of
12 500 North and open ditch on the west side. Without a site survey to determine locations of existing
13 utilities and preliminary plans, Max Pierce estimated the project cost at \$50,000. She reported both M
14 Pierce and R Stapley felt that with more study of the project, the cost would probably reduce.
- 15 • S Bankhead reported she and R Stapley spoke with Cache Landmark and CRS about a general stormwater
16 plan. Cache Landmark estimated approximately \$27,000; CRS should have an estimate later this week.
17 The Council discussed the relationship of stormwater and the irrigation systems. Mayor Drew suggested
18 the City participate by cleaning the systems prior to the irrigation season, and the irrigations companies
19 clean the systems at the end of the irrigations system.
- 20 • S Bankhead gave the council a copy of the February Financial Report; and reported she posted the report
21 on the City website.

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

- 25 • Mayor Drew reported Cache County is the only county that does not have a county operated animal
26 shelter. The Cache Humane Society does not receive county funding. They have 24 employees and 100
27 volunteers. Seventy percent of their revenue comes from private contribution.
- 28 • D Giles – no report
- 29 • R Sneddon – no report
- 30 • K Allen asked about attending the April league meetings. Mayor Drew felt the conference was beneficial,
31 but felt council would get more from the September conference.
- 32 • Mayor Drew read the following email from Kevin Opshal:

33 *John, I have a question for you for a story I'm running this weekend about the public comment portion of*
34 *meetings.*

35 *Some council members in other cities have told me they find public comment counterproductive in the*
36 *sense that they might not be able to immediately answer a person's question or address their concern. So,*
37 *they've scrapped public comment time at beginning of meetings in favor of having an open door policy,*
38 *where residents can call or email them.*

39 *Providence has had quite a lot of people come up to talk during public comment over the years. Does this*
40 *reaffirm your belief that public comment is effective or does it make you think that maybe Providence*
41 *should not have a public comment portion at meetings?*

- 42 ○ Mayor Drew replied as follows:

43 *Kevin*

44 *I believe public comment is effective and we as a city go out of our way to solicit input from*
45 *citizens in a number of forums:*

46 *We invite comment at the beginning during the public comment section during a council*
47 *meeting. We invite comment when discussing an agenda item. Our Planning Commission does*
48 *the same. We invite comment at the Mayor's Town Hall on the first Saturday of the month from*
49 *8 to 10 in the morning. We all get emails and phone calls which we welcome as well.*

50 *If we have a question we can't answer, it is my policy and the City's that we get back with an*
51 *answer pronto.*

- 52 • K Eck requested the RAPZ application include lighting for the pickleball courts. S Bankhead reported she
53 spoke with the RAPZ Coordinator for the County; each project requires a separate application. S Bankhead

1 explained preliminary numbers indicate lighting will cost about \$150,000. She reported Sheyler Gunnell
2 reached out to the contact K Eck provided and is waiting for their estimate. The Council decided, in
3 addition to finishing the softball field lighting project, rather than lights for the pickleball courts, the City
4 would apply for four more pickleball courts this year. If the need warrants, the City can apply for money
5 for lights in 2019. S Bankhead also reported S Gunnell spoke with Pat Perry regarding concerts in the park.
6 P Perry would like to use this year as a planning year and budget to schedule concerts for next year.

7 **Executive Session Notice:**

8 The Providence City Council may enter into a closed session to discuss pending or reasonably imminent litigation as
9 allowed by Utah Code 52-4-205(1)(c).

10 The Providence City Council may enter into a closed session to discuss professional competence or other factors
11 allowed by Utah Code 52-4-205(1)(a).

12 The Providence City Council may enter into a closed session to discuss land acquisition or the sale of real property
13 Utah Code 52-4-205(1) (d) and (e).

- 14 • No executive session held.

15
16 **Motion to adjourn – K Allen, second D Giles**

17 **Vote:**

18 **Yea:** K Allen, K Eck, D Giles, R Sneddon

19 **Nay:** None

20 **Abstained:** None

21 **Excused:** J Baldwin

22
23 Meeting adjourned at 8:00 PM
24
25