Minutes of the meeting of the City Council of West Bountiful City held on Tuesday, January 31, 2012 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance

CITY COUNCIL MEMBERS PRESENT: Mayor Kenneth Romney, Debbie McKean, James Ahlstrom, James Bruhn, Mark Preece, and Dave Tovey.

PLANNING COMMISSION MEMBERS PRESENT: Denis Hopkinson (Planning Commission Chair), Terry Turner, Alan Malan, Steve Schmidt, Mike Cottle, and Laura Charchenko (Planning Alternate).

STAFF PRESENT: Craig Howe (City Administrator), Heidi Voordeckers, Ben White, Steve Doxey, Cathy Brightwell.

VISITORS: Fran Wilby, Terry Olsen, Troy Larsen, Doug Lane, Kelly Enquist, Lou Griffith, Julie Metcalf, Kent Hawker.

Called to Order:

Mayor Kenneth Romney of West Bountiful City called this meeting to order at 7:32 pm.

1. Discussion of proposed Changes to Title 17, Zoning, Of the West Bountiful Municipal Code.

A. Farm Animals

Ken explained that the intent of this evenings meeting is to discuss the farm animal ordinance as a group, particularly because we have new planning commission members who have not been involved in previous discussions related to farm animals. Our current ordinance is based on a point system and is related to the size of the parcel. There have been subdivisions created with the lot sizes based on the existing point system, where a horse is worth 40 points, therefore lots were .8 acres have been allowed to have two horses. Some of the language in the ordinance is vague in regards to minimum lot size and leasing or pooling of properties, though we have had few ordinance enforcement issues (or complaints) under the current code.

Based on questions that were received related to leasing land and pooling points, the city council requested that the planning commission review the ordinance. After a public hearing, planning commission made the recommendation to lower the points of several animals thereby allowing a higher density of animals per property. Council had questions regarding other cities using the "available area" for point and density determination instead of lot size.

James Ahlstrom indicated that this system might be difficult for landowners to determine. Woods Cross city allows farm animals on a conditional use only and they base the decision on each application. They have had to grandfather too many property owners.

Ken Romney – explained that the intent of the proposed changes was to clean up some of the discrepancies and language in the ordinance, not a major re-write of the ordinance or point system. He then requested individual input from the city council and planning commission members, as follows:
James Bruhn – James likes Attachment 1 – he does not like trying to restrict to just what property is available. This would be too cumbersome for the home owner to calculate (house, garage, shed, etc ...). He would be in favor with the changes in attachment 1.

Denis Hopkinson – explained the reasoning behind Planning Commission changing the point system. As the city’s open spaces develop, animal properties will become a premium and infrastructure will be built to house the animals more adequately (stalls for housing as opposed to open housing). If you have a half acre, you can put 4 stalls in and make it a more equestrian environment, which would increase the value of surrounding property owners. It was his understanding that this was first brought up over a land dispute over animals on leased properties. This has been addressed in both attachments in section B. The only concern he has is with B 2(b) where the lessor will not retain rights to keep animals in the property. This wouldn’t be fair for larger parcels that would like to co-mingle space/animals.

Debbie McKean – prefers attachment 2. Her concern is for property owners that already own animals. The point system would not allow them to have 2 horses and 2 goats. There is another instance of a neighbor that has 4 horses housed on a half acre and it is a very well kept facility with no problems. Those are two situations that would be in jeopardy with the proposed changes. She also does not like the idea of “half” of a horse (2.5 allowed per acre).

Mark Preece – leans towards keeping the point system the way it is for the reasons Debbie suggested. His concern is for the lowest common denominator, those who do not keep up with their animals and properties. He likes the idea of regulating set-backs. If there is something included about creating a nuisance, this might help alleviate some of the problems. Denis explained that if we change the ordinance in regards to nuisance, current properties will be grandfathered anyway and it will be difficult to regulate.

Alan Malan – prefers attachment 2, and to add to what Denis said, the Planning Commission consulted several experts, including Doc Shupe, as to what would be an appropriate density. We should adopt what has the least amount of impact on residents and keep in mind the requests we’ve received to keep the rural feel of the City. If you order chickens by mail, you have to order 25. He doesn’t feel changing the points will impact people nearly as much as they’ve been led to believe. Attachment 1 B2c needs more work as it’s not clear.

Mike Cottle – prefers attachment 2. He called some horse owners in the city, and the folks he called have several horses and the acreage to hold them. They feel there is no problem to hold two large animals on a half acre. As a real estate agent, he knows of several properties that are not in compliance right now and it is hard to know if they’ve been grandfathered. Attachment 2 would be easier to enforce in his opinion.

James Ahsstrom – felt we had a good turnout and input at the public hearing, where 40 or 50 horse folks attended and 15-20 spoke. We need a purpose statement in our ordinance – he questioned if we are trying to help the property owners or look out for the animals? Density is really related to how the animals are kept, which is something we cannot regulate. We should maximize property owners' rights – and we have evidence that this is working for other cities. As long as we are increasing the allowance with the revised point system, we are not taking any property rights away. Debbie stated that you could mitigate concerns from neighboring properties with specific nuisance language. James Ahsstrom responded that nuisance law can be a little ambiguous and hard for courts to figure out.

Steve Schmidt – stated that the problem with any regulation is enforcement. The nuisance issue is a concern. Steve does not like Attachment 1, section B-2(b). He can see 4 horses per acre and is comfortable with the point system. Steve would not agree to 100 chickens as Kaysville city and does not like the licensing requirement that North Salt Lake uses.

Terry Turner – admitted that he is not an expert. He likes the idea of restricting but does not want to interfere with property rights. He is not comfortable making changes just because of one instance of disagreement between neighbors. Terry Turner lives a block away from Terry Olsen and he can smell his animals, but he knew when he bought the house that he was
surrounded by farm animals, and he loves it. Terry does like the clarification that all parcels of a pooled situation need to be contiguous, and overall prefers Attachment 2.

Laura Charchenko – has one house on ¼ acre with a barn with four horse stalls. She spoke with her husband who is a farm animal person, and he agrees that we shouldn’t restrict property owner’s rights. She feels it would be okay to have two horses on her property with the way it is set up. She often sees folks out of compliance in the neighborhood, but leaves taking care of their animals up to their discretion.

Laura is concerned with increasing density of mid size animals on ¼ acre lots, particularly if the property owners have dogs or other animals.

Dave Tovey – prefers Attachment 1, with a conditional use mechanism. He has gone back and forth with it. He likes the Bountiful ordinance, where available land is determined by excluding the home and setbacks. He also feels that if the current ordinance is not broken, and there have been few requests to change it, then why change it? He is all for property rights as long as it does not interfere with neighbors quiet enjoyment of their property. Perhaps we leave points system as is, but allow more with conditional use permit.

Ken – felt there was a consensus that we should maximize points/density.

Debbie requested an explanation of the complaint that was received that led to the discussion of ordinance revisions. Ken stated that there was a nuisance issue, and Ben further explained that there was a question about the interpretation of what was allowed for pooled and leased properties.

Ken then requested input from the audience, as follows:

One gentleman stated that it makes no difference what ordinance is passed if you don’t enforce it.

Terry Olsen – chaired the committee that came up with the current point system. He contacted the board of health prior to making recommendations. We should take in to consideration what the board of health governs for animals regarding smell, etc. So much is dependent on the actual caretaking of the animals. It is difficult to dictate a point system because it depends on how the animals are taken care of. In Olsen Farms, property owners had to sign that they understood that they were moving in to an equestrian community. The original ordinance was approved in 1982 and has worked fairly well since then. Ken applauded Terry’s efforts, stating that the lack of issues we’ve had is a tribute to its effectiveness.

Troy Larsen – if we are going to have an ordinance, let’s enforce it. His problem was getting three different responses from staff regarding his questions on pooled properties.

Ken – We do have resources to enforce ordinances, but we need to make sure that the ordinance is clear.

Mark Precece – the problem is that there is no enforcement unless there is a complaint. We do not have the resources to investigate all instances to make sure animal owners are in compliance.

Doug Lane explained that residents are expecting the city to enforce ordinances.

Ken – doesn’t feel this needs to go back to Planning Commission for re-write. He asked staff to use Attachment 2 as a reference, go back to the old point system, and make changes to clarify section B. 2., and a section needs to be added to include the possibility of having more animals by conditional use permit.
Craig – next council meeting we will have some input on cats and dogs related to the new ordinance that the county passed. Davis County is now allowing three dogs, but our current ordinance only allows two. The County is also recommending that cats be licensed.

It has been difficult to determine appropriate standards of care in regards to horses, which has limited enforcement.

Ken feels we are getting close to determining what we want the ordinance to be. Changes will be made and will be brought before city council for approval.

With no further discussion, the meeting adjourned at 9:03 pm.

MAYOR KENNETH ROMNEY

HEIDI VOORDECKERS (CITY RECORDER)
(SECRETARY-SUB)