Minutes of the West Bountiful City Council meeting held on **Tuesday, February 4, 2014** at West Bountiful City Hall, 550 N 800 West, Davis County, Utah.

Those in attendance:

**MEMBERS:** Mayor Kenneth Romney, Council members James Ahlstrom, James Bruhn, Kelly Enquist, Debbie McKeen (by phone), Mark Preece

**STAFF:** Duane Huffman (City Administrator), Heidi Voordecker (Finance Director/Recorder), Ben White (City Engineer), Chief Todd Hixson, Cathy Brightwell (Deputy Recorder/Secretary)

**VISITORS:** Alan Malan, Denis Hopkinson, Corey Sweat, Ivy Metten Sales, Jeff Bassett, John Baza, Stephen Fackrell, Dennis Higley, Natalie Hogge, Ryan Wilson

Mayor Romney called the meeting to order at 7:33 pm. Council member Enquist gave a thought, and the Pledge of Allegiance was led by council member Bruhn.

1. **Accept Agenda**

   **MOTION:** James Bruhn moved to approve the agenda as written. Mark Preece seconded the Motion which **PASSED** by unanimous vote of all members.

2. **Public Comment**

   Natalie Hogge, a resident of West Bountiful spoke concerning retail tobacco specialty businesses. She said they are a good thing for West Bountiful. She expects the financial impact to be huge because the location under consideration is the only spot in the area that fits the State's restrictions. Four businesses in Bountiful will have to move so all their customers will have no other alternative and will come here. The people who want vapor cigarettes will buy them somewhere, so it would be lost revenue and a missed opportunity if they can’t buy them here. Ms. Hogge said she does not use the product but her husband has been able to quit smoking using this product after trying and failing other methods. It has been a blessing to their family. She is concerned that vapor products are defined as tobacco products even though they don’t have any tobacco. She believes thousands and thousands of people have used them to quit and lead a healthier lifestyle. She believes vapor products will be separated from tobacco products by the legislature this year.

3. **Public hearing to receive public comments on a request to amend lot boundaries within the Hurdman Subdivision, located at 1051 West 440 North, 7:35 p.m. (or as soon thereafter as possible)**

   Ben White described the issue as two owners requesting to modify the boundary between lots in a two lot subdivision originally approved in 2008, with one lot on 400 North and a flag lot. However, the location of an existing accessory building would straddle the new boundary. The owners intend to dismantle and reconstruct the accessory building in a different spot.
MOTION: James Ahlstrom moved to open the public hearing. James Bruhn seconded the Motion which PASSED by unanimous vote of all members.

No public comment

MOTION: James Bruhn moved to close the public hearing. James Ahlstrom seconded the Motion which PASSED by unanimous vote of all members.

4. Consider approval of the Hurdman Subdivision amendment

Council member Bruhn stated his preference to table the issue and have them come back after the accessory building is removed. Ben White suggested another option, to approve but wait to record until the building is moved. Steve Fackrell, on behalf of the owner, would like approval tonight and then allow the owner to move the building. He said it is fine if they want to wait to record until the building has been moved. Ben said the owner can take up to six months to record after approval according to our city code. He prefers to approve now but not record it or have the Mayor sign it until the building is removed. A downside is that banks will not provide funding until it is recorded. Steve Doxey suggested the item be tabled for a couple weeks until we can get better commitment from the property owner about the accessory building, then the issue can be put back on the agenda to be reconsidered.

Council member Ahlstrom said he thinks it could have been handled as a lot line adjustment not requiring council approval. The question was asked, “how do we know about it if they do not come in for approval?” Ben responded we would only know when they come for a building permit and then we would know they have a problem with the lot. Council member Ahlstrom stated they should be able to record a lot line adjustment with the County without our intervention. Mr. Bruhn responded the problem is that the accessory building straddles the line so he is not sure what to do with it now. Discussion followed about how best to proceed.

MOTION: James Bruhn moved to approve the new plat for the Hurdman subdivision with a deed restriction that the accessory building must come down prior to a building permit being issued. James Ahlstrom seconded the Motion which PASSED.

The vote was recorded as follows:
James Ahlstrom – Aye
James Bruhn – Aye
Kelly Enquist – Aye
Debbie McKean – Aye (by phone)
Mark Preece – Aye

5. Consider approval of Alice Acres Subdivision, located at approximately 400 North 1100 West
Ben White summarized his January 30, 2014 memo. Alice Acres is a 4 acre 7 lot residential development at the northeast corner of 1100 West and 400 North. Five lots will face 400 North and two lots will face 1100 West. The Council adopted road cut restrictions last year to protect newly constructed roads. Therefore, approval of this subdivision must include approval for a street cut in 400 North Street.

Proposal. Issue 1 – Road cuts - South Davis Sewer has agreed to allow a new sewer line to be placed in the front yards of 6 of the lots to eliminate cutting in the road. Weber Basin has lines in the park strip already so irrigation service can be obtained without cutting into the street. The culinary water line is located in the center of road. The developer is proposing to construct bore pits over the existing water line and bore new water services under the asphalt to each lot. The asphalt will be repaired using a thermal patching technique so saw cut lines are not visible once construction is complete. This method is not as good as leaving the road in its original condition but is better than other methods.

The second issue is drainage. This property is lower than 400 North and the houses behind it on 600 North. Storm water will continue to collect in backyards as it does now during heavy rain events but once the rain stops all of the run-off will drain away. The Mayor said he is aware of water issues in homes to the north and asked where that water will drain. Ben responded that storm water will temporarily pond on lots 1, 3, and 4 from the other lots further east. The drainage pipe is 15 inches diameter, but the bottom of the pipe matches the approximate elevation of the existing ground surface; so water will pond during heavy rain and dissipate back to zero over time. Council member Enquist asked how we can keep debris out. Ben said a grate can be placed over the pipe end section, but debris will still collect and someone will have to maintain it. The Mayor asked what level the water needs to be before it affects houses; will it get to 1100 West before it gets in homes? Steve Fackrell explained that the collection pipe is at 29.5”. There was discussion about the heights of surrounding homes to the north which have basements. Every spring water puddles along property lines. That’s why a berm will go in along the rear property line of lot 1 and part of lot 3. Council member Ahlstrom asked if what they propose is equal to or better than the current situation. He said it sounds like they will make it better. Denis Hopkinson, planning commission chairman, said some properties to the north have been draining into these lots for years and a berm may now cause water to puddle in their own properties. There is a 10 foot drainage easement on the final plat. Mayor Romney stated that there are two places where storm water is currently diverted from this property to 400 North Street. With the construction of this subdivision, all storm drainage will continue due west along the rear property line. The rear drainage ditch will have to be maintained. Homeowners can’t block it. Ben suggested a concrete swell along the back as a possible solution. Steve Fackrell said that concrete swells get plugged and clogged with debris and it might be better to leave it open. There always has to be some kind of drainage diversion in any subdivision. Council member Preece stated it’s important to consider all issues to avoid future complaints. The Mayor said we need to let future homeowners know they can’t build in the restricted areas. Ben confirmed the plat will be recorded that way. Council member Ahlstrom said we need to think about how we would do it if the road was not an issue. Mr. Fackrell commented that this proposal handles the drainage problems as
well as possible. Council member McKean suggested we place restrictions on trees being planted near utility pipelines to avoid tree roots affecting the pipelines. Council member Preece agreed it makes sense to restrict. Discussion followed about the depth of the pipes being sufficient to escape damage from trees. Ben reminded the Council that the restrictions for road cuts must be approved.

**MOTION:** James Ahlstrom moved to approve the final plat for Alice Acres with designated restrictions on the plat and to authorize the Mayor to execute the plat and accompanying documents. Mark Preece seconded the Motion which **PASSED**.

The vote was recorded as follows:
- James Ahlstrom – Aye
- James Bruhn – Aye
- Kelly Enquist – Aye
- Debbie McKean – Aye (by phone)
- Mark Preece – Aye

6. **Consider approval of interlocal agreement with Bountiful City to provide water service to West Bountiful City**

Ben summarized his January 30, 2014 memorandum and water purchase agreement to purchase water from Bountiful City from October 15 through April 15, each year at $200 per acre foot, with exceptions for emergencies. Bountiful was looking for additional revenue so selling in off season is attractive to them and helps us. Council member Bruhn asked if we will be able to replace our 500 South water line in the off season. Ben responded that it would be a good point to include in the agreement. We shouldn’t pay a higher rate during this replacement. Ben then described two other key points. In this agreement we only pay for what we use. We’ve only exceeded this 200 acre-foot and Weber Basin 750 acre-foot limit once in 13 years. Last year we would have needed to purchase 64 acre feet to stay with our Weber Basin allotment. In years prior to last year, we exceeded our Weber Basin allotment by 25, 71, 90 and 120 acre feet. We usually use 50 acre feet per month in winter. Our normal operation if this agreement were approved would be to take about 100 acre feet in January through March and then see what we would need at the end of the year to stay under our Weber allotment. We can change (renegotiate) the agreement at any time. The Mayor said we need to make sure we can get more if we need it.

Council member Ahlstrom suggested some clean-up of the agreement such as the agreed upon rate, the way we can buy in peak if it is an emergency, etc. Ben commented that Bountiful is protective of their water in the summer and not particularly interested in selling to us during that time. Council member Enquist asked if we can use Bountiful as a transmission line for Weber water. Ben responded that it would be a good question for Weber Basin. This agreement will go to Bountiful’s City Council next week. It was
suggested that it be tabled to make some clarifications, then wait until we see what comments Bountiful has.

**MOTION:** James Bruhn moved to table. Kelly Enquist seconded the Motion which PASSED.

The vote was recorded as follows:
- James Ahlstrom – Aye
- James Bruhn – Aye
- Kelly Enquist – Aye
- Debbie McKean – Aye (by phone)
- Mark Preece – Aye

**7. Discussion and possible consideration of Ordinance 357-14, an Ordinance prohibiting Retail Tobacco Specialty Businesses from land use zones within West Bountiful City**

Ben White summarized the January 30 staff memo and the planning commission’s efforts to learn about the issue. He explained a minor change from the planning commission’s proposed language was to delete the word “include” in each of the prohibited use sections. Discussion followed about potential legislative changes this year. Duane Huffman stated that based on what he has heard, if any changes are made at the legislature it would be to add more restrictions on e-cigarettes, not less.

Ivy Metton Sales, with the Davis County Health department, said they have been looking at the issue extensively for the past couple of years. It is not known now what specific medical issues can be attributed to the e-cigarettes. In a report studying the number of teenagers in grades 8-12, the usage more than doubled. Weber County saw a 500% increase, and Davis County a 300% increase. There are now more kids using e-cigarettes than adults even though it is illegal for them to purchase. E-cigarettes have been determined to be the number one product of choice for teenagers. Natalie Bogge asked if an increase in e-cigarette usage means there is a decrease in regular cigarette usage. Ms. Sales responded that the studies do not support such a decrease. Duane Huffman suggested the Council review the talking points in their packets that were provided by the State and 12 County health departments. Ben explained that even with planning commission’s recommendation to prohibit these businesses in West Bountiful, e-cigarettes will still be available in other stores in the City, e.g., convenience stores, so those who want them can purchase them. Ms. Sales explained that recent ‘underage buys’ with police departments have been conducted and they found three out of eight specialty stores have sold to minors. Ms. Hogge responded that there is an organization, Utah Vapors, which certifies stores and provides a list of those who have complied with laws, adding that the owner of the business wanting to come to West Bountiful is a certified business. Planning Commission considered allowing only vapor stores and re-defining them differently than a tobacco business but stopped when they realized it would conflict with state law. Steve Doxey clarified that state code allows us to be more strict and we could prohibit these businesses altogether.
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1 Council member Ahlstrom prefers to table the issue and wait to see if legislation may be
2 enacted that changes the current regulations. He does not want to adopt a new ordinance and
3 then have to change it. Because we have a six month moratorium in place, there is no reason
4 to rush.

5 Council member Enquist asked about regulations of producing the vapor juice, and Council
6 member Preece wondered if someone could put other products in the containers. Ms. Ivy
7 responded that it is not only possible, there are you-tube videos showing people how to do it.
8 Council members Enquist and Preece would also prefer to wait.

9 **MOTION:** James Ahlstrom moved to table action for the time being. Kelly Enquist
10 seconded the Motion which **PASSED.**

11 The vote was recorded as follows:
12 James Ahlstrom – Aye
13 James Bruhn – Aye
14 Kelly Enquist – Aye
15 Debbie McKean – Aye (by phone)
16 Mark Preece – Aye

8. Discussion and possible consideration of Ordinance 358-14, an Ordinance amending
10 regulations in the residential zones in Title 17 (17.16, 17.20, and 17.24) related to
12 setbacks, area restrictions, yard obstructions and other miscellaneous regulations

13 Ben White explained that efforts to modify our zoning code started with decks last
14 May and then was expanded to include other setback/land use issues. A chart has been
15 prepared to show comparisons with neighboring cities and lists the planning commission’s
16 recommendations. First, they deleted the restriction to have lot depth to width ratio no more
17 than 3/1. The Mayor asked if we have safety issues with this change. Ben White said fire
18 code restrictions would still apply. Second, they changed the 25% maximum rear yard
19 accessory building coverage to 35%. Ben researched the entire city and found there are
20 several properties with rear coverage right around 25% and only one property with greater
21 than 25% and it was at 31%. They added a provision that decks can extend into the rear
22 setback 10 feet with a conditional use permit as long as certain criteria are met. Height for
23 both primary and accessory buildings was increased in the A-1 zone up to 40’ with increased
24 setbacks. Council member Bruhn noted that the A-1 restriction for accessory buildings not to
25 exceed principal building needs to be changed to avoid a problem with rambler type homes.
26 He suggests accessory buildings can go to 40 feet with the same additional setback
27 requirements as principal buildings regardless of the height of the primary building.
28 Clarifying language was also added that provisions requiring planning commission approval
29 would be handled through the conditional use process. Old paragraph “J” in section 050 is
30 now “H” and has been rewritten to eliminate redundant language and clarify the intent of the
31 section. It also needs to include deletion of “fence and” as proposed by Planning
32 Commission, which was unintentionally left in this draft. There was discussion about
33 restricting obstructions to the site triangle, or clear view area. Mayor Romney asked what
34 happens when someone constructs an arbor and obstructs sight restrictions for traffic. Ben
35 said our nuisance code addresses cases like that but they are still tough to deal with.
MOTION: James Ahlstrom moved to adopt Ordinance 358-14, approving the planning commission recommendation amending regulations in the residential zones in Title 17, with the clarifying language that the height restriction on accessory buildings in the A-1 zone will not be based on the height of the principal building. James Bruhn seconded the Motion which PASSED.

The vote was recorded as follows:
James Ahlstrom – Aye
James Bruhn – Aye
Kelly Enquist – Aye
Debbie McKean – Aye (by phone)
Mark Preece – Aye

The Mayor recognized Chief Bassett of South Davis Metro Fire department, in the audience and explained he will be attending city council meetings occasionally.

9. Consider approval of Resolution 330-14, a Resolution approving a Golf Concessions Agreement with Carmack’s Food Services, Inc.

Duane Huffman summarized the proposed Golf Concessions Agreement between the City and Carmack’s Food Services. He believes the agreement reflects the best negotiated terms for the City. Council member McKeen asked about an apparent discrepancy regarding the term of the agreement as stated in the exhibit. Steve Doxey pointed out that paragraph 12 clarifies that the terms of the Agreement will govern any inconsistency between such terms and those contained in Exhibits B and C.

MOTION: James Bruhn moved to adopt Resolution 330-14 authorizing a concession agreement with Carmack’s Food Services. James Ahlstrom seconded the Motion which PASSED.

The vote was recorded as follows:
James Ahlstrom – Aye
James Bruhn – Aye
Kelly Enquist – Aye
Debbie McKean – Aye (by phone)
Mark Preece – Aye

10. Consider approval of Resolution 326-14, a Resolution appointing James Bruhn to the Administrative Control Board of the Wasatch Integrated Waste Management District.

MOTION: James Ahlstrom moved to appoint James Bruhn to the Administrative Control Board of the Wasatch Integrated Waste Management District which term shall be deemed and ratified to have commenced on January 1,
11. Consider approval of Resolution 327-14, a Resolution appointing Mayor Ken Romney to the South Davis Recreation District

**MOTION:** James Ahlstrom moved to appoint Mayor Ken Romney to the South Davis Recreation District Board. James Bruhn seconded the Motion which **PASSED.**

The vote was recorded as follows:
- James Ahlstrom – Aye
- James Bruhn – Aye
- Kelly Enquist – Aye
- Debbie McKeal – Aye (by phone)
- Mark Preece – Aye

12. Consider approval of Resolution 328-14, a Resolution appointing Mayor Ken Romney to the South Davis Metro Fire Board

**MOTION:** James Ahlstrom moved to appoint Mayor Ken Romney to the South Davis Metro Fire Board, which term shall be deemed and ratified to have commenced on January 1, 2014 and shall expire on December 31, 2017. James Bruhn seconded the Motion which **PASSED.**

The vote was recorded as follows:
- James Ahlstrom – Aye
- James Bruhn – Aye
- Kelly Enquist – Aye
- Debbie McKeal – Aye (by phone)
- Mark Preece – Aye

13. Consider approval of Resolution 329-14, a Resolution consenting to various assignments of council member duties as appointed by the Mayor.

The Mayor asked for one change from the list included in council packets. Council member Enquist will be assigned to Davis Unified Economic Development Group (DUEED).
MOTION: James Bruhn moved to approve the following assignments.

<table>
<thead>
<tr>
<th>Assignment</th>
<th>Council Member</th>
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<tbody>
<tr>
<td>Arts Council</td>
<td>Debbie McKean</td>
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<tr>
<td>Planning Commission</td>
<td>Kelly Enquist</td>
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<tr>
<td>Historic Commission</td>
<td>Debbie McKean</td>
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<td>Youth Council</td>
<td>Mark Preece</td>
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<tr>
<td>Wasatch Front Regional Council</td>
<td>James Ahlstrom</td>
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<tr>
<td>Davis Unified Economic Development Group (DUED)</td>
<td>Kelly Enquist</td>
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<tr>
<td>Emergency Preparedness Advisory Committee (EmPAC)</td>
<td>Mark Preece</td>
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</tbody>
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James Ahlstrom seconded the Motion which PASSED.

The vote was recorded as follows:
- James Ahlstrom – Aye
- James Bruhn – Aye
- Kelly Enquist – Aye
- Debbie McKean – Aye (by phone)
- Mark Preece – Aye

14. Engineer’s Report including clarification on building permit process at Holly Refinery

- Ben White – UDOT awarded a design build contract to W.W. Clyde for the I-15 project. In previous meetings, Ben reported that the 400 North bridge will be built with a curve and remain open during construction. That has now changed; the overpass will be closed for approximately 45-60 days as they rebuild. As part of the project, UDOT will replace the existing 4 foot sidewalk with a 6 foot sidewalk all the way down to 800 West and may concrete the entire park strip. Water line work may start as early as spring. The Mayor asked Ben to see if they can address the settlement we see by the railroad tracks.

- 900 West bids will open on February 11. 800 West results will be ready for the first meeting in March.

- Ben and Duane will be meeting with the owners of Woodhaven trailer park regarding a potential request to build apartments. There are a lot of issues to address, including access. Council member Ahlstrom commented that nice multi-family apartments may be better than trailers. Denis Hopkinson suggested the potential for retail would be better than residential because the property is so close to Holly.

- In 2007, the City entered into a development agreement with Holly that included a proposal for 800 West to go over the railroad tracks and addressed their proposed co-gen facility. It may be time to revisit the development agreement. What we’re seeing today is not what we thought in 2007. In September, we issued a permit for a sound wall, a pump house, reverse osmosis, etc. They have construction pending for truck scales, a berm, and Rocky Mountain Power is proposing to build a substation. Should we be more involved in these things to get a bigger picture of what they’re doing? Typically our
involvement is limited to building code items such as foundations, etc. Holly will be here at the next meeting to make a presentation. Council member Enquist asked about the term of the agreement. Was it for 5 years and if so, did it expire last month? An amendment to the agreement may have affected the original term, staff will look into it.

15. Finance Report – December 2013 and Strategic Planning follow-up

Heidi Voordeckers – The budget for the period ending December 31, 2013 was presented to the council along with a memorandum summarizing revenue and expenditure positions for the year. Overall, general fund revenues are up in several areas, including a 5% increase in property tax, a 4% increase in sales tax, and a 12% increase in other taxes.

The year to date expenditure comparisons are impacted by capital project spending from last Fall, and an additional analysis was provided to indicate which areas have increased spending compared to the prior two years (personnel, operating, capital, debt service, and transfers).

As a follow up to the strategic planning meeting, we have a new handout to show golf course numbers and their ability to pay off the debt. We realigned the numbers to better show where we are and to more clearly understand how the course does with just what they bring in. Council member Ahlstrom asked if without debt service, they can stand on their own. He also said it was clear we have made very little capital investment in the course. Heidi explained that once the debt service drops off, this is what it will look like. She said staff will put together different scenarios showing payment options based on historical figures.

Under the current resolution, the first payment would be due in FY 2015, 18 months from now. Duane explained staff is working on a 3 year plan to show what options may be available. Row A (operating) indicates the extent to which the golf course revenues fluctuate over time. Council member Bruhn reminded everyone that the City had 6 employees with high payouts that may have skewed expenditures, i.e., one-time payments during certain years. Council member Ahlstrom commented that there is not a lot of money available for reinvestment. Duane explained our initial estimates will be negative next year based on fixed costs and revenue estimates under the full repayment scenario. Council member Bruhn suggested we wait 18 months to see where we are and then we can change the Resolution down the road if necessary. Council member Ahlstrom said if we are trying to do different budgets, we need to have a 3 year budget so we can get something that makes sense for carts. Duane said it will help to know what Council is expecting for the Course then Staff can throw out proposals with specific numbers. Council member Ahlstrom would like to hear the reasons why the Resolution was adopted in the way it was; he wants to understand the thinking behind it.

16. Administrative Report

- Duane Huffman – newly elected official training is this Saturday for council member Enquist and planning commissioner Sweat.

- Duane will be conducting Open Meetings Act training for the planning commission at their next meeting and will be scheduling for other groups in the near future.
17. Mayor/Council Reports

James Ahlstrom – Asked why seating arrangements at the dais had been changed. He preferred his previous seat. Regarding committee assignments, he asked what DUED involves. He suggested he could handle DUED. The Mayor said Mr. Enquist would remain on the committee but Mr. Ahlstrom is welcome to participate as available.

Debbie McKean – no report

Kelly Enquist – no report

James Bruhn – The Arts council has asked if the city council has a problem with kids singing inside this year at Christmas on Onion Street. He said they got very cold last year and many families left early because of the cold. They also asked if the January newsletter could be moved to February to give them more time after the holidays to prepare their articles. There was discussion about cutting the newsletter back to 5 issues/year. Council member Preece reported that the communication committee is already considering going to 5 issues per year.

Mark Preece – A Sewer board proposal to bring in a waste incinerator to burn waste could generate enough energy to remove the bi-annual sewer payment altogether.

Mayor Romney – There is on and off discussion of South Davis Metro Fire district becoming its own special district. Cities were initially concerned about losing control over setting taxes. The benefit is their ability to restructure debt. There is still some concern about taxes, but Mayors would be the ones on the board to approve any changes. Like us, Capital projects are not being funded.

Council member McKean dropped off at 10:20 pm.


MOTION: Mark Preece moved to approve the minutes from the January 17, 2014 meeting and the January 21, 2014 Strategic Planning meeting as presented. James Bruhn seconded the Motion which PASSED by unanimous vote of all members present.

19. Possible closed session for reasons described in Utah Code 52-4-205.

No need for closed meeting

20. Possible action following closed session.

No closed session.

21. Adjourn
MOTION: James Bruhn moved to adjourn this meeting of the West Bountiful City Council at 10:25 pm. James Ahlstrom seconded the Motion which PASSED by unanimous vote of all members present.

The foregoing was approved by the West Bountiful City Council by unanimous vote of all members present on Tuesday, February 18, 2014.

HEIDI VOORDECKERS (CITY RECORDER)