Minutes of the West Bountiful City Council work session and regular meeting held on Tuesday, May 6, 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 McKean, Mark Preece

**STAFF:** Duane Huffman (City Administrator), Steve Doxey (City Attorney), Heidi Voordekkers (Finance Director/Recorder), Ben White (City Engineer), Chief Todd Hixson, Paul Holden (Golf Director), Steve Maughan (Public Works Director), Cathy Brightwell (Deputy Recorder/Secretary)

**VISITORS:** Alan Malan, Corey Sweat, Doug Lane, Robert Holmes, Ivy Melton Sales, Sandy Herrera, Em Hofeling, Karen Lemmon, Michael and Ginnie Edgar, Lloyd Selleneit, Brent and Melissa Baker

WORK SESSION

Mayor Romney called the work session to order at 6:05 pm.

1. Discussion on Fiscal Year 2015 Draft Budget

Duane Huffman began the work session by explaining that as budget officer he is required to present a tentative budget to the Council at this evening’s regular meeting, and a final budget must be approved no later than June 22, 2014. He proposed the following list of budget items for the work meeting discussion: Employee Health Insurance, Additional Public Works employee, Police Officer pay, and Stipends for Officials. Before moving forward, Council member McKean asked about the need to have a fund for employees leaving unexpectedly. Duane responded that any such payment would come from the General Fund after a proper amendment.

**Employee Health Insurance**

Duane explained the initial budget included an estimate for a 5% increase in employee health insurance premiums, but the premiums came in at a 10% increase. When PEHP, our current provider, found out we were looking at other providers, they dropped their proposed 2015 increase to 7%. We also received a quote from Select Health that is up to 18% less than we pay today but requires several changes that may negatively impact employees. Their plan is tied to IHC and about half of our employees use a plan that includes non IHC providers/facilities including Lakeview hospital. Also, Select Health’s deductible is $500 higher and their out of pocket limit is $10,000 per family compared to our current $6,000. Duane said he has not talked to employees about it as he did not want to get employees excited about a possible change until he had an idea of what the Council was interested in.
When asked why Select Health is so much lower, Duane suggested that it was related to how private health care providers now set rates for small employers. They file a yearly rate for all employers with less than 50 employees. If the pool ends up more costly than expected, rates could swing quite heavily the next year. PEHP’s proposal is specific to our organization.

The current figures in the drafts being reviewed still account for a 10%, increase, so the bottom line will improve in the final budget regardless of whether a change is made. The Mayor said it is important for employees to have stable insurance coverage. Council members asked employees in the room what they thought. They responded that health insurance priorities change based on the stage of life of employees based on ages of families or whether they have a significant illness. It was thought by some that a bigger concern than a higher deductible is the increase to maximum out of pocket limits. There was concern that Select Health may be starting out with lower rates but they could increase significantly in the future when they find they need the money because they picked up so many sick people.

Council member Bruhn and Mayor Romney said they are okay to stay with the current company because it is already in the proposed budget. Council member Preece reminded the group that they are talking about a lot of money when considering the proposed decrease. Duane said we have been able to attract good employees even with lower salaries because we have good benefits. Several examples were given of companies requiring higher employee contributions. Mark Preece, James Ahlstrom, and Ken Romney said insurance has changed a lot over the years and increases are to be expected; employees should be happy to have insurance. Consensus was to stay with the current provider this year, but to let employees know there may be changes in the future.

Additional Public Works employee – At the last work session, the Council asked that staff come back with figures related to an additional Public Works employee. Duane explained the following estimated costs would be tied to this position. Salary/benefits $62k, new vehicle $39.5k, miscellaneous ongoing expenses $1k/yr = $102k for the first year with ongoing expenses of $63k per year. The allocation proposal is 75% water, 10% solid waste, and 5% each for storm water, parks and streets. There was discussion about the need for another employee and that it will likely save money down the road because of the extra work and maintenance that would be done on our infrastructure. Council member Enquist asked what they would do in the winter. Steve Maughan responded that in addition to cutting down overtime costs for plowing, it would allow us to get things done that he has not been able to do in past years. Mr. Enquist asked about integrating the golf course maintenance staff with the parks staff. There was discussion about Marcus originally being hired as the Green Space superintendent over both the golf course and parks, and while the golf maintenance staff has helped with mowing at the big park, the position has never transitioned into a combined department primarily because they have been too busy at the golf course. Steve said they can’t keep up exercising valves and flushing hydrants that he would be able to do with a new employee. Duane added that a new water employee will cut back on the time Rocky is pulled off his work to help with water leaks and street issues. He believes they could balance the workload over the winter on projects that they haven’t been able to do in the summer.

Duane and Steve were asked if we are tracking man hours. They responded that we are and we can make adjustments as needed. The proposal to allocate the majority of hours to water is because that is where the work is not getting done. Duane offered that when coming to West Bountiful, he was surprised that the City did not have resources to do things like small sidewalk
projects, street repairs, etc. He went on to say that if necessary, we can continue with current staffing but he believes we are still a couple employees away from not being able to keep people busy as there is a lot of work to be done. **There was consensus to add a new public works employee into the Tentative Budget draft.**

**Police officer pay** – The Mayor noted that at the last meeting there was a brief discussion to leave officer pay at the double step option. He asked if that was still where everyone was. Council member Enquist said he would like to discuss in more depth, but is okay with double step now. The Mayor asked for comments from each member. Mark Preece favors the 3 year option; James Ahlstrom also supports the 3 year option. He added that employees are our greatest investment and these salary changes would help avoid replacing employees as often and provide for stability in the work force. James Bruhn supports the double step option; Debbie McKean prefers the double step for now. She commented that they supported the benefit package which was huge. The Mayor encouraged members going forward to look at options and suggestions, and suggested that council members Enquist and McKean can meet with Chief Hixson to get more information. He would like to see a work session put together to discuss only this issue. **No consensus was reached to change from the double step increase option in the Tentative Budget draft.**

**Official meeting stipends** – At the last work session, council member McKean proposed providing meeting stipends to those council members who are assigned to boards/committees that do not currently provide stipends. Examples of these non-stipend assignments include the Historic Preservation commission, EmPAC, Youth Council, Planning Commission, etc. There was discussion about whether or not such stipends are necessary. **The consensus was to include funding for additional stipends in the Tentative Budget draft.**

Duane explained the legal timelines tied to budget review and approval. He is the official budget officer and is required to present a tentative budget at tonight’s meeting. The Council is required to review it, and at some point amend or adopt it as the Tentative Budget. The City must then allow 10 days for public inspection and 7 days public notice prior to a Public Hearing. The final budget must be adopted before June 22.

Mayor Romney called the regular City Council meeting to order at 7:33 pm. James Bruhn gave an Invocation, and the Pledge of Allegiance was led by James Ahlstrom.

1. **Accept Agenda**

   **MOTION:**  *Debbie McKean moved to approve the agenda as written. James Bruhn seconded the Motion which PASSED by unanimous vote of all members present.*
2. Public Comment

The Mayor explained that anyone wanting to comment on a specific agenda item should do it as part of the public comment session.

Mark Page – Mr. Page wanted to give additional comments regarding his concerns about Holly Refinery. He said that following his comments at the last meeting, he has spoken with neighbors about refinery issues and they all want answers to their questions. For example, how high can you put up a wall of dirt, is the land next to his property commercial or residential? They want to get everyone together to meet about these issues. He said the neighbors feel they are getting the runaround from Holly. Regarding the dirt berm, many of the neighbors would prefer a wall/fence similar to the one on the west side of 800 West. Mr. Page suggested that any council members who have not seen the berm, go by and take a look. The Mayor said he met with Mike Wright about getting a town hall meeting put together, and Holly has agreed. Duane Huffman will set up logistics for a meeting as a top priority.

Mike & Ginnie Edgar, 1679 N 560 West – Mr. Edgar said he was concerned about people not taking care of their property, health hazards, and unlicensed cars. He believes the City’s ordinances need more teeth and asked the Council if there was any interest in revising ordinances. He also raised the issue of weeds and said they are running crazy through the neighborhood. He said he feels like the City doesn’t care. They have lived here 38 years and thought they would be here forever; now they are not so sure. He feels the current issues are addressed in ordinance but are not being enforced. He said they have been told by the City Administrator the ordinances are not enforceable. They asked what more they could do to make someone take action. The condition of the property in question affects property values and resident’s ability to sell. This situation, with abandoned home and junk vehicles, has been going on for 14 years. Mrs. Edgar added that she talked with the property owner’s wife who said that her husband won’t let anyone help him clean up the property, including their kids.

Karen Lemmon & Emily Hofeling, 1730 N 560 West – Ms. Lemmon and Ms. Hoffing stated that they tried to sell their home for six months with no success, even after dropping the price $40-50k. The feedback they received said potential buyers didn’t like the condition of the neighboring property. They also reported a heavy rodent problem, and said they had to hire a company to handle weeds because they were so bad coming from the neighbor’s yard. They said they have seen in the abandoned house and believe it is a tinder box. They signed a petition and letters regarding the property and still nothing has happened. The laws are apparently not strong enough to fix the situation. They said they are sad because they like their neighborhood but it is no longer a good place to live.

Lloyd Selleneit, 1725 N 560 West – Mr. Selleneit said he has talked with the owner of the problem property who told him he feels he’s in compliance with City regulations. He added that since they wrote the letter to the City, Mr. Nilson has added even more things to his property. Mr. Selleneit believes, “my neighbor’s rights end where my nose begins.” He is concerned that if he decides to move this situation will affect his ability to sell, and he plans to appeal his property taxes because the neighborhood is becoming a blighted area. He reminded the Council that the condition of the property not only affects the cul-de-sac, it also affects the public’s view from City Park. He feels our Ordinances are too weak. Council member McKean asked him to provide a list of where the ordinances need to be improved.
Sandy Herrera, owner of Vapor Royale, said she is here to respond to several issues that were raised at the last meeting related to tobacco specialty stores. She reported that the State Vapor Association recently adopted a code of conduct which includes a commitment that they will not sell any tobacco products but will limit their stores to vapor products only. She said they have set up their own regulations, for example, what is in the juice, how best to restrict minors from obtaining the product, etc.

3. Approval of Arbor Day Proclamation, establishing May 22, 2014 as Arbor Day in West Bountiful City

   MOTION:  James Ahlstrom moved to approve the Arbor Day Proclamation, establishing May 22, 2014 as Arbor Day in West Bountiful. Debbie McKeen seconded the Motion which PASSED by unanimous vote of all members present.

4. Retail tobacco specialty business regulations: Consider adoption of Ordinance 357-14 “An Ordinance Prohibiting Retail Tobacco Specialty Businesses within West Bountiful” or alternative motion to rescind temporary restriction enacted by Ordinance 356-13

Duane Huffman summarized the City’s activities regarding Retail Tobacco Specialty Businesses (“RTSB”) including the Moratorium adopted on December 3, 2013, and the planning commission’s investigation and recommendation. In his memo, he offered several options on how to proceed, including suggested findings to support the various options.

The Mayor asked each member what they would like to do. Council member Ahlstrom asked about the proposed language that prohibits sexually oriented businesses in all but one zone. He reminded Council that sexually oriented businesses are federally protected and in contrast the City would fully prohibit RTSBs. He said he does not use or condone these products but does not think it is proper to further legislate against them. Mr. Ahlstrom went on to say he has tried to determine what is trying to be accomplished, and he is perplexed that several proposals will allow the Council to pick favorites. He is concerned that if these products are so dangerous, why are we allowing them to be sold in convenience stores? The proposals will not limit their use but will only limit who can sell them. If that is the goal we should try to limit all of them completely. He believes it is not the City’s job to try to affect the market, and he is not going to try to push his morality on others. He said he would vote for Option 3 in Duane’s memo, or lift the moratorium and let the marketplace regulate itself.

Council member McKeen talked about recent news articles on the subject including availability to minors and increased dependence on nicotine. Council member Ahlstrom responded that if it is a true health concern, our proposal does not solve the problem.

Council member Preece said he has been against these businesses from the beginning. He likes having them certified with regulations about what can go in the juices. But he also tends to agree with Council member Ahlstrom, in not wanting to pick winners and losers. Even though he does not like the product, he is a capitalist at heart.

Council member Bruhn had no comment.

Council member McKeen said she polled about 70 people who did not want this kind of store in our City. She will hold fast to her grounds.
Council member Enquist stated he did his own investigation. He visited Ms. Herrera’s store in Riverdale and described it as more of a stand-alone store, not a family friendly shopping center like the Gateway. He also visited other local stores, and talked about their restrictive signage for minors. He believes the “electronic” name attracts everyone, including youth. Electronic cigarettes and the associated liquid is not child proof. He does not think it’s a good product. It is available today in our City, but he does not want it in the Gateway. He also visited Smokey Joes, a smoke shop in Bountiful, and said it felt different and didn’t look as nice, and he was concerned that children could enter the store if accompanied by an adult.

Duane reminded them that if the Council moved toward Option 3, establishing restrictions on traditional smoke shops but allowing e-cigarette stores, the time needed to create and adopt a new ordinance would likely provide a window where no restrictions would be in place. Council member Ahlstrom stated that the planning commission has already looked at it so there is no reason to start over; we will still be acting on their recommendation, so it should be able to be accomplished quickly. Mr. Doxey responded that we looked at regulations based on the state statute, but if we are crafting a new ordinance that goes beyond, or modifies what the state requires, it could take some time and we need to move with caution. There was also discussion about whether a new public hearing would be necessary.

**MOTION:** James Ahlstrom moved to direct staff to bring forward an ordinance consistent with Option 3 which differentiates selling electronic cigarettes from other tobacco businesses, continue the prohibition of smoke shops but removes electronic cigarette businesses from the prohibition, and be ready to be vote at the next meeting. James Bruhn seconded the Motion which PASSED.

**DISCUSSION ON MOTION:** It was suggested that staff work with Chief Hixson and the Vapor Association to develop findings to support the Motion.

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

5. Discussion on policies and procedures for weed enforcement

Duane Huffman explained that this has been brought forward as a discussion item because staff is looking for direction. His memo addresses weed enforcement specifically but general nuisances are also an issue. The first question every community must ask itself is whether they want to be in the weed enforcement business. Council member Ahlstrom brought up the idea of providing ordinance language that allows residents to more easily enforce nuisance concerns through civil court actions.

Duane explained the importance of clear definitions of nuisances. The next important step involves how violations are found. Council members Bruhn and McKean stated that they prefer a method that requires multiple complaints rather than general city-performed inspections.
There was discussion about how to bring violators into compliance. Suggestions were made including voluntary compliance, or setting up contracts with them. There was also discussion about proper notification including friendly phone calls, and a suggestion was made that when the City sends out letters, joint letterhead with the fire department should be used because it carries more weight.

The biggest flaw in our ordinance is we do not have proper due processes outlined for non-voluntary enforcement actions. The following enforcement options were discussed. 1. Administer fines, set up an administrator and appeal process. 2. Criminal penalties, although we generally don’t like making criminals of neighbors. This is not usually a good option for a city our size. 3. City-performed clean-up. The problem is being that general try to avoid entering on people’s property.

Council member Ahlstrom suggested a combination of the above, for example, voluntary compliance, then fines, then abate. The fines could be progressive with property liens if they do not pay, and then criminal penalties if necessary. Council member Bruhn agreed. Mr. Doxey commented that they may want to consider designating an administrative hearing officer so appeals can be sent to city council, or to court.

Duane asked if they are interested in reviewing definitions and setting community standards. Council member McKean replied that smell and rodents should definitely be included. Council member Enquist would also like to look at regulations for unlicensed vehicles, in light of a new state law.

Duane Huffman will work with Steve Doxey on potential modifications the current ordinance.

6. Consider approval of Final Plat for Olsen Ranches Subdivision, located at 1100 W & Pages Lane

James Bruhn declared a potential conflict. His wife is an Olsen and her family will receive money from the sale of this property, which may come to her. He does plan to vote.

Ben White summarized the proposal and potential issues including curb and gutter on Pages Lane, an irrigation head gate moved to the Bruhn property on the east side of the road or to the park strip in front of lot 7, and enclosing a petroleum scraper facility on lot 8 with trex fencing.

Mayor Romney asked if the city has required deferral agreements on all subdivisions where curb and gutter were not required. Ben responded that he is not aware of any subdivision where we have not required deferrals at a minimum, and gave examples of two recent small subdivisions, Skiddy and Hogan where deferral agreements were required.

The developer, Bob Holmes, raised concerns about having curb and gutter down Pages Lane. He believes the only reason to have it on Pages is to connect to 1100 West and that does not make sense to him. He compared this project to Millcreek Meadows which he believes is the nicest looking subdivision in the County, and they have no curb, gutter, or sidewalks. Council member Ahlstrom asked how drainage would be handled. Mr. Holmes responded that Millcreek has swells for drainage. Ben commented that without curb and gutter, road life will be cut significantly and shared that Millcreek residents have filled in swells or landscaped them causing drainage issues. Steve Maughan added that in Millcreek, without some kind of concrete between the asphalt and grass, they are now losing the edge of the road.
Consider approval of Federal Aid Agreement for Project Number F-LC11 (55) between West Bountiful City, Bountiful City, and UDOT, for the 400N/500W Intersection

Ben White summarized the proposal for a joint project with dedicated turn lanes on 500 West and 400 North. UDOT has agreed to include it as part of the I-15 project. The traffic signal poles at the intersection need upgrading now, so UDOT will kick in what money they had to replace the poles into the project as well. UDOT’s money will cover the cities’ matching portion. We are responsible for any expenses over and above the estimate, but an overage is unlikely. The largest cost to the project is not construction, but rather right of way purchasing. We will know before construction begins if there is likely to be an additional cost. The expected cost is under $1M which would a contingency. This project will result in a significant decrease in traffic problems.

MOTION: James Ahlstrom moved to approve the Federal Aid Agreement for Project Number F-LC11(55) between West Bountiful City, Bountiful City, and UDOT, for the 400 North/500 West Intersection as outlined in Ben White’s memorandum. Debbie McKeane seconded the Motion which PASSED.

The vote was recorded as follows:
James Ahlstrom – Aye
James Bruhn – Aye
Kelly Enquist – Aye
Debbie McKeane – Aye
Mark Preece – Aye

Consider approval of Resolution 335-14, a resolution amending the interfund loan schedule and payment plan for the golf course fund

Duane Huffman explained that over the last few months the Council has discussed restructuring the current interfund loans due from the golf course, specifically extending the first repayment year to FY 2016. However, due to a recent legislative change it is important to address it now. As of May 13, 2014, all future loans will have a maximum repayment period of ten years and a minimum interest rate equal to the rate collected in the state’s Public Treasure’s Investment Fund.

Duane put together several options for discussion and in each option the loan was retained to the general fund so that if the golf fund has the ability, payments can be easily transferred without going through additional hoops.

There was discussion about each of the options, and how they affect RAP tax. Option A is a flat payment to the water and solid waste funds, and Option B is an escalating payment to these funds. Both options removed the loans due to the RAP Tax and Capital Improvement Funds, recognizing the expenditures as allowed uses. Options C & D recognize that the Council may want to keep the debt on the books to the RAP and Capital Improvement Funds. Option C, says that any
time you want in the next 20 years, you can repay it; Option D sets up a trigger based on Golf Course Fund revenues. Council member Ahlstrom asked why we need a minimum amount, and why 20 years was selected. Duane responded that they were not required but were his recommendations to ensure payback to the enterprise funds.

Discussion followed about details of the plans, what will happen if the payment cannot be made, and whether any portion of the debt should be forgiven. Duane was asked if we cannot make the payment, would it be required to come out of the General Fund. He responded that he is not sure. The general expectation is that the enterprise funds will receive their payments.

**MOTION:** James Ahlstrom moved to approve Resolution 335-14, a resolution amending the interfund loan schedule and payment plan for the golf course fund, Option B, which is an escalating payment to repay the golf fund. Mark Preece seconded the Motion which FAILED.

The vote was recorded as follows:
- James Ahlstrom – Aye
- James Bruhn – No
- Kelly Enquist – No
- Debbie McKean – No
- Mark Preece – Aye

There was discussion about how the current repayment plan was established. Council member Bruhn said they were told the golf course would be profitable once the bond was paid off; but the data was wrong. He said the loans were set up from different funds because we did not have available cash in the general fund. It was necessary to balance the books.

Discussion followed about what RAP tax should/should not be used for. Council member McKean said the difference is that the amount on the books now is to pay back the bond, it is not for improvements because there weren’t any improvements being done. The Mayor went over history. We needed money and there were only a few places we could take it from. He asked if council wants to consider one of staff’s options or come up with another one. Are their minimum levels we should pay? Discussion continued on which option to use and/or modify to get the best result.

**Council member McKean left the meeting at 10:16 p.m.**

Council member Bruhn is comfortable with current arrangement for repayment. Duane explained that the current arrangement is $135k, and to make it work we would need another $106k. Council member Ahlstrom feels the current plan requires payback without looking at the needs of the course. Council member Bruhn said the intent was to pay back a longtime deficit and the auditors said we had to show where it had come from. Mayor Romney noted the bottom line is that the city had to subsidize the course, which it did, and if there had been enough money in the General Fund, the shortfall would have been written off.

Duane recommended Option C which allows city council flexibility, keeps the loans on the books and requires annual review of funds. The Mayor suggested we may like to see something based on net revenues so if/when the golf course makes money, the payments will be made - Option
C allows that. He would like to see payback to the solid waste, water and RAP tax funds. Kelly Enquist prefers payment to be based on gross revenues.

Mayor Romney reminded them that based on the land value alone, the golf course is an asset to the City of an estimated $10.1 million.

**MOTION:** James Ahlstrom moved to approve Resolution 335-14, a resolution amending the interfund loan schedule and payment plan for the golf course fund, Option C. Mark Preece seconded the Motion which PASSED.

The vote was recorded as follows:
- James Ahlstrom – Aye
- James Bruhn – No
- Kelly Enquist – No
- Debbie McKean – absent
- Mark Preece – Aye
- Mayor Ken Romney – Aye

*A comfort break was taken at 10:40 p.m. The Meeting resumed at 11 p.m.*

10. **Consider approval of Resolution 336-14, a resolution adopting monthly utility rates for solid waste, storm, and water services as well as the FY2015 Consolidated Fee Schedule**

The proposal reflects direction given at previous work sessions. There was discussion about conversations members have had with constituents. Council member Preece reported he had talked with many residents and all of them favored keeping the rate where it is.

**MOTION:** James Bruhn moved to approve Resolution 336-14, a resolution adopting monthly utility rates for solid waste, storm, and water services as well as the FY2015 Consolidated Fee Schedule. Kelly Enquist seconded the Motion. The Motion PASSED.

**DISCUSSION ON MOTION:** Council member Preece and Council member Ahlstrom favor leaving the water rate where it is or making a smaller reduction. Mayor Romney said he is okay with a smaller reduction but is also okay with $50 even it means raising the rate in a few years.

The vote was recorded as follows:
- James Ahlstrom – No
- James Bruhn – Aye
- Kelly Enquist – Aye
- Debbie McKean – Absent
- Mark Preece – No
- Mayor Ken Romney – Aye
Council member Ahlstrom apologized for the inappropriate statement he made earlier to council member McKean and he affirmed his respect for her.

11. Consider approval of FY 2015 Tentative Budget

As budget officer, Duane Huffman officially presented the tentative budget to the Council. There was discussion about when to schedule the public hearing. Mayor Romney said historically we have had public hearings and approval of the final budget on separate nights, and adopting it tonight will allow a timeline for this.

MOTION: Mark Preece moved to adopt the FY 2015 Tentative Budget. Kelly Enquist seconded the Motion which PASSED.

The vote was recorded as follows:
James Ahlstrom – Aye
James Bruhn – No
Kelly Enquist – No
Debbie McKean – Absent
Mark Preece – Aye
Ken Romney – Aye

Modification to Agenda:

MOTION: Mark Preece moved to table agenda items 12 - 15. James Ahlstrom seconded the Motion which PASSED by unanimous vote of all members present.

12. Report from councilmember McKean on ULCT conference

Tabled

13. Planning Commission Report

Tabled

14. Engineering/Public Works Report

Tabled

15. Administrative Report

Tabled –

16. Mayor/Council Reports
The foregoing was approved by the West Bountiful City Council by unanimous vote of all members present on Tuesday, May 20, 2014.

HEIDI VOORDECKERS (CITY RECORDER)