

**Mayor**  
Kenneth Romney

# WEST BOUNTIFUL CITY

**City Administrator**  
Duane Huffman

**City Council**  
James Ahlstrom  
James Bruhn  
Kelly Enquist  
Mark Preece  
Andrew Williams

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**City Recorder**  
Cathy Brightwell

**City Engineer**  
Ben White

**Public Works Director**  
Steve Maughan

## CITY COUNCIL MEETING

**THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD A REGULAR MEETING AT 7:30 PM, ON TUESDAY, NOVEMBER 1, 2016, AT THE CITY HALL, 550 N 800 WEST**

*Invocation/Thought –Andy Williams; Pledge of Allegiance – Kelly Enquist*

1. Accept Agenda.
2. Public Comment (two minutes per person, or five minutes if speaking on behalf of a group).
3. Consider Request for Water Impact Fee Waiver/Adjustment from Russell Baker
4. Consider Resolution 397-16, A Resolution Adopting An Active Transportation Plan for West Bountiful City.
5. Public Works/Engineering Report.
6. Administrative Report.
7. Mayor/Council Reports.
8. Approve Minutes from the October 11, 2016, City Council Meeting.
9. Closed Session for the Purpose of Discussing Items Allowed, Pursuant to Utah Code Annotated 52-4-205.
10. Adjourn.

Individuals needing special accommodations during the meeting should contact Cathy Brightwell at (801)292-4486 twenty-four hours prior to the meeting.

*This agenda was posted on the State Public Notice website, the City website, emailed to the Mayor and City Council, and sent to the Clipper Publishing Company on October 27, 2016.*

**Minutes of the West Bountiful City Council meeting held on Wednesday, November 1, 2016 at West Bountiful City Hall, 550 N 800 West, Davis County, Utah.**

Those in attendance:

**MEMBERS:** Mayor Ken Romney, Council members James Ahlstrom (beginning with Agenda Item #4), Kelly Enquist, James Bruhn, Mark Preece, and Andrew Williams

**STAFF:** Duane Huffman (City Administrator) and Steve Doxey (City Attorney), Police Chief Todd Hixson, Ben White (City Engineer), Cathy Brightwell (City Recorder)

**GUESTS:** Mr. and Mrs. Russell Baker, Alan Malan

Mayor Romney called the meeting to order at 7:32 pm

Invocation/Thought – Andy Williams offered a prayer; Kelly Enquist led the Pledge of Allegiance.

**1. Accept Agenda.**

**MOTION:** *James Bruhn Moved to Accept the Agenda with the following changes: Switch Item #4 and Item #3 and Follow #3 with a Closed Session to Discuss Pending Litigation. Andy Williams Seconded the Motion which PASSED by Unanimous Vote of all Members Present.*

**2. Public Comment (two minutes per person, or five minutes if speaking on behalf of a group).**

No public comments were offered.

**3. Consider Resolution 397-16, A Resolution Adopting An Active Transportation Plan for West Bountiful City.**

Ben White explained that the City is exploring funding opportunities that require an Active Transportation Plan be in place. Active transportation includes such things as walking, cycling, or skating, and is being touted in today's society as a means to improve health, reduce obesity, provide recreational opportunities, and improve air quality. The proposed plan is intended to be a guiding document when considering future transportation projects.

Mr. White reviewed the map included in the proposed Plan pointing out that it attempts to provide infrastructure focusing on major collector streets, such as 800 West, 1100 West, Pages Lane, and 400 North.

***MOTION: Andy Williams made a Motion to Adopt Resolution 397-16 as described above. James Bruhn seconded the Motion which passed.***

The vote was recorded as follows:

James Ahlstrom – Absent  
James Bruhn – Aye  
Kelly Enquist – Aye  
Mark Preece – Aye  
Andy Williams – Aye

Following discussion, Council member Bruhn asked about a section of 800 West between Pages Lane and the canal that currently has no striping. Ben responded that the City has had some difficulty replacing the former striping contractor but he will pass along the information to Public Works.

#### **4. Consider Request for Water Impact Fee Waiver/Adjustment from Russell Baker.**

The Baker's are interested in connecting their existing home located at 1308 N 550 West, which has been on a well since 1966, to the municipal water system, and they are requesting a cash reduction in the impact fee due by way of exchanging water rights. The City's current water impact fee of \$5,804 for a ¾" connection was intended to have new development activity pay its proportionate share of costs to public facility improvements. City Code 3.22.060 allows the City to consider a fee waiver for development activity if "determines to be of such benefit to the community as a whole to justify the exemption or adjustment. Such development activity may be attributable to tax-supported agencies, low income housing, or facilities of a temporary nature."

Duane Huffman reviewed three issues. 1) New Development – Impact fees are only required for development activity within the City; 2) Financial hardship – The Code does not address waiving or adjusting the fee based on financial hardship. If this is something Council is interested in, standards need to be developed to fairly establish what constitutes a hardship; and 3) Exchange in Value – The Code allows the city to waive or adjust a fee based on benefits to the community but the question is whether the proposed exchange of water rights constitutes a sufficient public benefit. Developers pay impact fees and dedicate their existing water rights or purchase sufficient rights for the new demand. Based on this principle, the City may want to consider amending the Code so that it is consistent for all new or upgraded connections. Also, the City experiences costs in transferring private water rights which will likely meet or exceed the listed value of the rights. He concluded by saying that for the above reasons, staff cannot recommend the

exchange as proposed as a sufficient public benefit to adjust the impact fees. He added that this may become a regular issue in the future as more residents find the need to connect to city water.

Mr. Baker addressed the Council. The key is what is a benefit to the community? Water rights have always been a major factor in the West, especially as we continue a long drought cycle. He said his home was built in 1966 and the homeowner paid fees appropriate to that time. The former owner chose not to hook up to city water even though fees were paid. They are concerned that if they have to pay again, they would be double paying. When the property was purchased they had an attorney handle the transfer of water rights, and they believe it will benefit city to own these water rights. In conclusion they said they believe their request is fair and represents a true value and benefit to the city.

There was discussion about the proposal. The Bakers were asked if they had a receipt showing the fees were paid to which they replied they did not. Mr. Baker added that a meter setter had been installed when the new water lines were installed several years ago.

Ben White commented that impact fees were not charged at that time. He explained that the City cannot just transfer the water rights at the State. Besides changing the ownership name, the point of diversion will need to change to a city well. The use will also change from domestic, agricultural and irrigation to municipal use. This will most likely result in a reduction in the water right quality. Further, a 1966 water right is not as valuable, for instance, as a 1896 water right.

Mr. Baker stated that even with changes, whatever is left would go to the City which is still a value.

Duane Huffman offered a potential solution. New homes include the price of impact fees in their overall costs which are financed over long periods of time; existing homes are not able to do that. The City may want to consider spreading the payments out over time to lessen the impact to these residents.

Council members commented on the proposal. Council member Williams understands it is a huge financial burden. Council member Bruhn suggested the Baker's try to sell the water rights on the open market to get best price. Mr. Baker responded that it is a long, laborious process, and not the preferable route they want to take. Council member Ahlstrom commented that it is a fair and logical request, but it is hard to determine the true benefits to the City. If they connect, it is development activity so under the Code the City could confiscate their water rights.

Duane Huffman pointed out that development activity defined for impact fees is different than development activity in a subdivision so it doesn't fit. The question is whether the value of water rights is sufficient to grant the waiver. He added that the City does not necessarily need the water rights based on current estimates.

There was discussion about similar situations including a property owner who recently connected to city water and paid impact fees.

Mayor Romney suggested that the Bakers' pay the fee and the City buy the water rights but determining the value will be difficult. What is value to city? Mr. Huffman commented buying and selling small amounts is challenging. For new subdivisions, the City charges \$2,400 per acre foot

for domestic use when no water rights are available, which is the only thing that may be appropriate for calculating a baseline.

Council member Ahlstrom offered three options. 1) Charge impact fees and they keep their water rights, 2) Use \$2,400 as the value of the water rights and credit it from the impact fees, or 3) If it can be found that they paid fees in 1966 and should have received a connection, we can waive the entire fee.

Ben White found that the building fee was \$6 in 1965. Does that mean a neighbor received a water connection for the same price? Duane pointed out that even if it did, Mr. Baker's property did not pay into enterprise funds over the decades. Impact fees are used to cover future development. They do not pay for maintenance but cover impacts to the system as development continues.

**MOTION:** *James Ahlstrom moved to credit the value of water rights based on current fee schedule, (\$2400), from the impact fee, and allow the Baker's to connect to city water. Supporting Findings show there is a benefit to the City that satisfies WBMC 3.22.060.A. Andy Williams seconded the Motion which passed with a vote of 3-2. Council members Bruhn and Enquist voted against the Motion.*

Council member Enquist commented following the vote that he is not sure what the true value of a water right is and he does not want to set a precedent.

**5. Closed Session for the Purpose of Discussing Pending Litigation, Pursuant to Utah Code Annotated, 52-4-205(c).**

**MOTION:** *James Ahlstrom Moved to go into Closed Session at 8:25pm in the Police Training Room to discuss pending litigation. Mark Preece seconded the Motion which passed.*

The vote was recorded as follows:

James Ahlstrom – Aye  
James Bruhn – Aye  
Kelly Enquist – Aye  
Mark Preece – Aye  
Andy Williams - Aye

**MOTION:** *Kelly Enquist moved to close the executive session at 9:55 pm. James Bruhn seconded the Motion which PASSED by unanimous vote of all members present.*

**5. Public Works/Engineering Report (Ben White)**

- 500 South Water Project – the road work is complete; we are now digging under the floor of the tank to make connections.
- 700 West – we have begun excavating soft spots in the road and trying to determine the cause of the problems. It appears it was not built the way we thought regarding depth of base and thickness of asphalt.
- After the addition of sidewalk on 800 West earlier this year, we have a couple properties with drainage issues. The Beyer's have water puddling issues now where water used to run into the neighboring field.

**6. Administrative Report (Duane Huffman).**

- Looking into Recreation, Arts, Parks, and Trails master plan; will bring back options to review.
- In the near future Duane will be sending a new structure for pay scales; he is interested in Council member's philosophies as we look at restructuring.
- It is time to get back with Century Link regarding sidewalk on 1100 West.
- The City continues to have discussions with Questar regarding our pipeline franchise ordinance and their current plan to use city street right-of-way.

**7. Mayor/Council Reports.**

Kelly Enquist – nothing to report.

Andy Williams – The youth council retreat last Friday night went well; Julie Thompson gave a great presentation.

James Bruhn – Wasatch Integrated meeting is tomorrow; sale of the landfill is complete. They are looking into a possible \$2/can/month rate hike with the new system. They are also still offering to set up a meeting and tour of the new facilities for elected officials. He added he has served on the executive board as secretary for several years but that there may be possible changes. A couple of street light ballasts are out – 937 Meadowlark and Pages Lane/Olsen Way).

Mark Preece – Special Sewer District convention is this week. Bonds (\$18M) for methane recovery project should be issued by year end.

James Ahlstrom – nothing to report.

Mayor Romney – nothing to report.

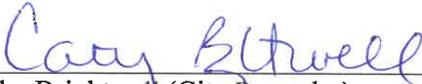
**8. Approve Minutes from the October 18, 2016, City Council Meeting.**

**MOTION:** *James Bruhn Moved to Approve the Minutes from the October 18, 2016 City Council Meeting. Mark Preece seconded the Motion which PASSED by Unanimous Vote of All Members Present.*

**11. Adjourn.**

**MOTION:** *James Bruhn moved to adjourn this meeting of the West Bountiful City Council at 10:15 p.m. James Ahlstrom seconded the Motion which PASSED by unanimous vote of all members present.*

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*The foregoing was approved by the West Bountiful City Council on Tuesday, November 15, 2016.*

  
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Cathy Brightwell (City Recorder)

