

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 Engineer
Ben White

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Steve Maughan

CITY COUNCIL MEETING - AMENDED

**THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD
ITS REGULAR MEETING AT 7:30 PM, ON TUESDAY,
FEBRUARY 7, 2017, AT CITY HALL, 550 N 800 WEST**

Invocation/Thought –James Bruhn; Pledge of Allegiance – Andy Williams

1. Accept Agenda.
2. Public Comment (two minutes per person, or five minutes if speaking on behalf of a group).
3. Consider Final Plat Approval for The Cottages at Havenwood PUD Subdivision at 690 W 1600 North.
4. Presentation on Changes to Election Process by Curtis Koch, Davis County Clerk/Auditor and Brian McKenzie, Asst. Deputy Clerk-Elections.
5. Consideration of Resolution 407-17, A Resolution Authorizing the Issuance and Sale of Not More Than \$3,500,000 Aggregate Principal Amount of Water Revenue Refunding Bonds, Series 2017; and Related Matters.
6. Closed Session for the Purpose of Discussing Strategy Related to Pending Litigation Pursuant to Utah Code Annotated 52-4-205.
7. Consider February 2, 2017 Settlement and Release Agreement between and among Johansen-Thackeray Commercial Real Estate Services, L.C., West Bountiful Commons Partners, West Bountiful City Redevelopment Agency, and West Bountiful City.
8. Consider Second Amendment to Participation Agreement, amending the 2004 Participation Agreement between and among Johansen-Thackeray Commercial Real Estate Services, L.C., West Bountiful Commons Partners, West Bountiful City Redevelopment Agency, and West Bountiful City.
9. Recess to RDA Meeting
10. Public Works/Engineer Report.
11. Administrative/Finance Report.
12. Mayor/Council Reports.
13. Approve Minutes from the January 17, 2017 and January 26, 2017, City Council Meetings.
14. 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 February 3, 2017.

Minutes of the West Bountiful City Council meeting held on Wednesday, January 17, 2017 at West Bountiful City Hall, 550 N 800 West, Davis County, Utah.

Those in attendance:

MEMBERS: Mayor Ken Romney, Council members James Ahlstrom, Kelly Enquist, James Bruhn, Mark Preece, and Andrew Williams

STAFF: Duane Huffman (City Administrator), Steve Doxey (City Attorney), Police Chief Todd Hixson, Cathy Brightwell (City Recorder), Ben White (City Engineer), Steve Maughan (Public Works Director)

GUESTS: Alan Malan, Eric Eastman, Denis Hopkinson, Tina Maughan, Chief Jeff Bassett, James Behunin, Larry & Lucille Wilkinson, Jeff Wilkinson, Kathy Wilkinson, Jonell Murray, Jan & Denny Castleton, Karie & Steve Beyer, Brian McKenzie, Brad Frost, Nate Reeve, Craig Jacobsen, Curtis Koch, Alan Arbuckle, Karlynnne Arbuckle, Mark James

Mayor Romney called the regular meeting to order at 7:34 pm.

James Bruhn gave a thought; Andy Williams led the Pledge of Allegiance.

1. Accept Agenda.

MOTION: *James Bruhn Moved to Accept the Agenda as posted. Mark Preece 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).

Kathy Wilkinson, resident, commented on Ovation Homes. She said several of her neighbors have had to leave town because they needed a single-level home and none were available in West Bountiful. She believes it is important to have this development in the City. A year ago they submitted a petition supporting the project and enthusiasm has not gone down – it may even have gone up.

Eric Eastman, resident, commented that the city has a history of not allowing dense housing which is good, and in the past a developer was forced to go R-1-10 instead and ended up making a lot of money. He hopes West Bountiful will continue to be garden spot in the state. He added that he believes it was a mistake to allow this type of subdivision on this property but has faith that the city council will make the developer live up to every detail that he agreed to earlier.

3. Consider Final Plat Approval for The Cottages at Havenwood PUD Subdivision at 690 W 1600 North.

Ben White summarized the history and status of this subdivision application. An ordinance and associated Development Agreement were approved on May 3, 2016 allowing a Planned Unit Development (PUD). The Agreement modifies certain requirements/standards in WBMC Title 16 Subdivision and Title 17 Zoning. Mr. White then discussed the three conditions recommended by planning commission as part of their final plat approval. 1) Correct remaining engineering comments on the construction drawings; 2) The concrete street surface necessitated by the storm drain pipe design on 800 West be extended in straight lines across the street which will make it look more like a cross walk for the safety of trail users rather than at angles as proposed by developer; and 3) The developer to provide the City Council a backyard fence plan with a concrete stem wall as an alternative to the proposed rock retaining wall for their consideration. The planning commission considered the rock retaining wall against the perimeter fence an unsafe installation.

Craig Jacobson, representing Ovation Homes, commented that this has been a difficult process on both sides and they want to go forward. He provided some history and agreed that they are subject to the development agreement and beyond that, Titles 16 and 17. However, he believes some things are being considered that are not in the development agreement, and may go beyond construction standards for the R-1-10 zone. He provided some examples.

1) Regarding the 800 West Bypass, Section 4g of the Agreement says that \$42,500 is identified for storm water enhancements. The required Bypass has features that benefit other parties and the developer is being asked to bear the full burden. Mr. Jacobson believes that if it was determined those requirements went beyond containing the project's water, the \$42,500 contribution should be used to help. Mr. Jacobson also does not believe a straight concrete alignment on 800 W can be imposed at this point in the process.

2) Section 4i of the Development Agreement – Landscape Improvements, requires perimeter fencing; it says nothing about rock or concrete walls. The planning commission unanimously asked the city council to consider both rock and concrete options, but did not make a finding that it was unsafe although one member commented that he thought it was. If the City wanted a specific fence arrangement, it should have been included in the Agreement. The Developer may want to use cement in certain places but believes many buyers will prefer rock because it is more attractive. The Developer will talk with buyers and find out what they want. He provided a picture of an existing rock retaining wall along the east property.

Council member Ahlstrom said he did not see a concrete wall as an explicit requirement. Mayor Romney said the only concern he has is drainage to the west; storm water must be retained on the property, and the council should consider long term drainage needs. He is not sure the City can require concrete, but it does not want neighbors complaining about water. Council member Bruhn said he believes it is a safety hazard. Planning Commission Chairman Hopkinson said the recommendation was intended to deal with a public safety issue, not drainage – he stated the

Commission wanted the discussion to happen. Mr. Frost responded that they do not want residents to fall and get hurt, and it is their obligation as a builder to do what is best for each property and weigh each buyer's preferences/needs. He believes the water is easily maintained; water will not go to neighbors' properties.

Mr. Jacobson continued with his list of items not required by the Agreement/Standards by listing: 3) Item 7 on the Staff memo says limits on home designs will be reviewed as part of the building permit application, i.e., colors, adjacent identical houses, etc. Section 4j – Architectural Standards of the Agreement mentions nothing about color selections being part of the building permit process. Buyers select colors after the building permit has been issued so it cannot be part of the building permit process. The Developer has an incentive to make sure it looks nice. He asked for clarification that it not be required.

Ben White explained that the eight items listed in this section of his memo were only intended to summarize items in the Agreement. He does not plan to look at colors as part of the building permit process, but will look at materials, height, size, etc.

4) Mr. Jacobson believes that Engineering Standards (Section 3 of Staff memo) has new requirements that were not included in the Agreement or previous reviews. He stated that the Developers were told their plans would not go to planning commission until everything was final and complete, then additional requirements were presented to planning commission and now even more, requiring significant expense. For example, Section 3.a. requires asphalt paving of 3" asphalt over 8" base course and 12" sub-base material. The Developer's engineers believe this is not necessary. A geo tech study, which was very site specific, has been done and plans have been updated with the geo technical engineer's recommendation that 3" asphalt and 12" base is sufficient; Mr. Jacobson believes the base course proposed by staff is in excess of what was required in the Agreement.

Mr. White explained that the requirement does not exceed the city's standard, but is in fact the exact standard in the City's Design Standards; it is something required of anyone building in the R-1-10 district and the standard was provided to the Developer last year, and a note to that point has been included in every review.

In summary, Mr. Jacobson stated that the process has been very detailed and arduous with each submittal being reviewed resulting in more requests and many re-submittals. At some point the Developer has to be able to move forward and not continue to go back and forth another couple months. These new requirements are expensive, e.g., 800 West bypass will be over \$140k, and the pump station \$160-170k. The Developer is willing to build what the city wants, but they are looking for fairness and asking the city to consider some kind of contribution towards these improvements, such as waivers of impact fees.

There was more discussion about the conditions and what could and should be required. Council member Ahlstrom asked Mr. Jacobson if he agrees that if the city council finds that something is required in either City Code or the Development Agreement, they have no discretion – they need to do it. Mr. Jacobson agreed but said they believe they have been asked to do more. He

suggested the project move forward, get it approved and then they can possibly reconvene to talk about how to make it work from a fairness stand point.

MOTION: James Ahlstrom made a Motion to give final plat approval to The Cottages at Havenwood PUD Subdivision with the following conditions adopted from planning commission recommendations, with a Finding that these conditions are mandated as part of the Development Agreement, WBMC Titles 16 and 17:

1. ***Fencing - A rock wall be used with no requirement of a concrete stem wall. Developer is encouraged to be open to concrete stem wall to address safety concerns.***
2. ***800 West Concrete - the straight concrete alignment will be required with compensation of actual excess costs not to exceed \$5,000 unless increased by city council at a future time.***
3. ***Engineering Standards –***
 - a) ***The asphalt pavement design section needs to be modified to meet the minimum city requirements (3” asphalt over 8” base course and 12” sub-base material).***
 - b) ***The storm drain trench detail on sheet 15 of 17 needs to be corrected. The text in the detail is fairly accurate to communicate the requirements, but the pictorial detail does not convey the same message. The thickness of the concrete (6” over the pipe and 9” in all other road areas) needs to remain. A concrete control joint plan should be provided as well.***
 - c) ***The 800 West design (sheet 15) needs to include grading elevations and the construction limits for the proposed street resurfacing (both concrete and asphalt). The design expectation is for a smooth road and not a speed bump. The design requirement is that a change in slope greater than one percent (1%) will not be allowed in any section. The design needs to also include the locations where the curb and sidewalk must be replaced to match the new road grade elevations. The water line design needs to meet the City’s minimum construction standards. The construction drawings show the water line on top of the storm drain line. In many of these locations, the required water line cover and separation from other utilities cannot be achieved per the standards, and.***
 - d) ***Installation of three stop signs.***

4. *A title report with no objectionable entries needs to be submitted and reviewed by staff.*
5. *The monies required in the Development Agreement, storm drain impact fee, inspection fee and the water right fee must also be paid.*
6. *Appropriate bonds must be in place.*
7. *A Storm Water Management Plan must be submitted by the contractor and approved by the city storm water inspector.*
8. *All bends and elbows on the culinary water system require the approval of the public works department.*
9. *Developer must provide material submittals for construction quality assurance purposes.*
10. *Submit material testing results to the City during construction as they occur.*

The Motion was seconded by Andy Williams and passed with a vote of 4-1.

The vote was recorded as follows:

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

(A five minute break was taken.)

4. Presentation on Changes to Election Process by Curtis Koch, Davis County Clerk/Auditor and Brian McKenzie, Asst. Deputy Clerk-Elections.

Curtis Koch, Davis County Clerk & Auditor, explained that the County is implementing Vote by Mail (“VBM”) as the sole method for all future elections that they administer, including this year’s municipal elections that they are contracted to perform. He introduced Brian McKenzie, Chief Deputy Clerk, who talked in more detail about what led to their decision not to offer traditional machine voting but instead a hybrid voting method. VBM (hybrid) uses mail ballots as the primary form but maintains one vote center in each city on Election Day. Every voter will get a ballot in the mail and can either mail it, drop it in a drop box at the city prior to the election, or come in to the city on Election Day to vote in person.

Mr. McKenzie explained that they decided to make this change because their machines and software are reaching their end of life and are no longer supported. In 2014, knowing they would have to replace their machines, the county decided to test VBM, and it was a success! Feedback indicates that voters like, and take advantage of, the opportunity to check-out candidates and issues online while they are completing their ballots which results in better informed voters.

In 2015, over half the cities in Davis County utilized VBM with increases noted in voter turnout. The County VBM is a safe and secure system. The biggest issue for cities is cost. One reason for the higher cost is that ballots are mailed to 100% of the population rather than only those

that come in to vote. Based on feedback, the benefits include a better experience for voters, more people get involved, and better voter engagement; in the last election the County's Voter website exploded as soon as ballots were mailed. Another benefit to cities is that the County offers a team of election experts well versed in poll worker training, election code review, etc., that are available to administer the election process.

Mayor Romney asked what they have learned in the last couple of VBM elections. Mr. McKenzie responded that the biggest issue in 2014 was that they under estimated in-person voter turnout. There were 30-45 minute waits at several locations. They are now better at projecting; the 2016 election was projected to have 15% in-person voters and there were 14.8% county-wide. For the 2017 Municipal election, they expect 18-20% to vote at polling locations, and expect those numbers to come down slightly each year. Polling locations are great especially for those who cannot vote by mail, need help, missed a ballot, or just prefer the in-person experience.

Mr. Huffman commented that his intention is to move forward with the County's VBM offer unless he hears otherwise from Council.

5. Consider Resolution 407-17, A Resolution Authorizing the Issuance and Sale of Not More Than \$3,500,000 Aggregate Principal Amount of Water Revenue Refunding Bonds, Series 2017; and Related Matters.

Jason Birmingham reviewed the history of the City's water bonds. The purpose is to refund in advance of the call date of certain maturities of the City's Water Revenue Bonds, Series 2009 for an economic savings. Tax-exempt refunding bonds will be issued to take advantage of historically low interest rates and generate savings to the City. Par amount of Series 2017 Refunding Bonds is estimated to be \$3,025,000 with a final maturity date of February 1, 2029; no new money will be included in the Series 2017 Refunding Bonds.

The City will realize approximately \$175 - \$195k of net present value savings, with an average annual savings of approximately \$17 - \$18k.

Mr. Birmingham is recommending the No Call option, meaning the City will not have another chance at refunding before the bonds are retired. The new rates will lock on February 23, 2017 with final Resolution approval projected for the March 7 meeting.

MOTION: Andy Williams made a Motion to Adopt Resolution 407-17, A Resolution Authorizing the Issuance and Sale of Not More Than \$3,500,000 Aggregate Principal Amount of Water Revenue Refunding Bonds, Series 2017; and Related Matters. 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

6. Executive Session For The Purpose of Discussing Pending Litigation Pursuant to Utah Code Annotated, 52-4-205 (c).

MOTION: *James Ahlstrom Moved to Go Into Executive Session in the Police Training Room for the Purpose of Discussing Pending Litigation. Andy Williams 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 9:59 pm. James Bruhn seconded the Motion which passed by unanimous vote of all members present.*

The regular meeting re-convened at 10:00pm.

7. Consider February 2, 2017 Settlement and Release Agreement between and among Johansen-Thackeray Commercial Real Estate Services, L.C., West Bountiful Commons Partners, West Bountiful City Redevelopment Agency, and West Bountiful City.

MOTION: *Mark Preece made a Motion to Adopt the February 2, 2017 Settlement and Release Agreement between and among Johansen-Thackeray Commercial Real Estate Services, L.C., West Bountiful Commons Partners, West Bountiful City Redevelopment Agency, and West Bountiful City. James Bruhn seconded the Motion which passed 4-1.*

The vote was recorded as follows:

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

8. Consider Second Amendment to Participation Agreement, amending the 2004 Participation Agreement between and among Johansen-Thackeray Commercial Real

**Estate Services, L.C., West Bountiful Commons Partners, West Bountiful City
Redevelopment Agency, and West Bountiful City.**

MOTION: *Kelly Enquist made a Motion to Approve the Second Amendment to Participation Agreement, amending the 2004 Participation Agreement between and among Johansen-Thackeray Commercial Real Estate Services, L.C., West Bountiful Commons Partners, West Bountiful City Redevelopment Agency, and West Bountiful City. James Bruhn seconded the Motion which passed by 4-1.*

The vote was recorded as follows:

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

9. Recess to RDA Meeting.

MOTION: *Andy Williams Moved to Recess the City Council Meeting to a West Bountiful Redevelopment Agency Meeting at 10:02 p.m. James Bruhn seconded the Motion which PASSED by Unanimous Vote of All Members Present.*

The City Council Meeting Reconvened at 10:10 pm.

10. Public Works/Engineering Report.

Ben White –

- The Planning Commission will hold a public hearing next week on a new request from Hamlet Homes to rezone the property at the corner of Porter Lane and 1100 West from A-1 to R-1-22. They are also working on new PUD language, Setbacks and Fencing requirements in residential zones, and construction standards.
- The required notice requirements have been met so the Annexation Request from Al Jones on 1450 West will be on the next city council agenda.

Steve Maughan –

- Staff has been working on water leaks at the Elks Lodge for about a year. They were using 750k gal/month but water was not surfacing anywhere. They finally hired company to find the leak in December, and then another leak was found in January

causing usage of 460k/gal/month. They ran a temporary line to the building and the water meter has been relocated from the sidewalk and will be tied in later this week. UDOT will replace the hole in the sidewalk when they finish the road.

- Recent rain and snow brought drainage issues to the city including a property off 800 W and 1400 North. We took hydraulic pumps to help out by pumping water to the west over the Prospector trail and to the street. Water is now being pumped to the gutter. Talked with neighbor, Jed Christensen, and he has agreed to help repairing his grading so that water does not leave his property and by allowing Mr. Kevin Beyer to cross his property to tie in to an existing drain line to the south.
- The City's storm drain system is working well with all this water.
- Canyon Pipeline (Questar's contractor) is busy around the city with several crews pot holing, etc., to prepare for pipeline work. We will be watching them closely.
- 1995 TopKick was in the shop again but is working now. The dash could not be fixed as it is obsolete and parts are not available. The Sterling 10 wheeler got front end work done. It is in good shape.

Council member Williams asked how best to monitor all these projects, e.g., Ovation Homes construction and Questar pipeline. Staff responded that they are reviewing options, but in general no major projects are scheduled for this calendar year, allowing for additional time to oversee the outside work.

Council member Bruhn asked about the road cut on 400 North in front of Alice Acres. It does not look like they used hot patches. Steve explained that they did, and it looked good initially, but now it is starting to show due to the asphalt shrinking at different rates. We will crack seal this year.

Council member Enquist asked if the City has received payment from Holly for the well. Mr. Huffman said we have. There was discussion about whether there are any outstanding issues related to the expansion agreement, and Mr. Huffman noted the 800 West road repairs and 1100 W sidewalk.

11. Administrative/Finance Report.

- Duane Huffman provided a printed finance report highlighting issues and noting items that will be included in a proposed budget amendment at the next meeting.
- The ULCT Spring conference will be April 5-7 in St. George. Council members Enquist and Bruhn stated they planned to attend.
- Mr. Huffman asked if the Council was comfortable with the compensation planning proposal he previously distributed. He was told to move forward with it.
- The golf staff expect to open golf course this week, likely on Thursday although it will be walking only due to the wet ground.
- We have been working with Verizon on a cell phone tower in Jessi's Meadow Park.

12. Mayor/Council Reports.

Kelly Enquist – Mosquito Abatement meeting is coming up.

Andy Williams – Reported that the Youth Council is busy stuffing Easter eggs. They also distributed flyers throughout the city regarding their service project to make food packs. He added that he has been impressed with how well they are organized and how efficiently Youth-Mayor Justin Wood moves through the agenda.

James Bruhn – Reported on the Wasatch Integrated Board meeting. They are still working to get Hill AFB to change its mind about producing their own steam. Arts Council concert is on Friday.

Mark Preece – Reported on the Sewer board meeting – the methane recovery project is moving well. Bonds should be issued shortly. DEQ will be a major lender.

James Ahlstrom – no report.

Mayor Romney – Reported that he offered the new Independence Day parade chairman a punch pass to the golf course.

13. Approve Minutes from the January 17, 2016, City Council Meeting.

MOTION: *James Bruhn Moved to Approve the Minutes both as presented. Mark Preece seconded the Motion which PASSED by Unanimous Vote of All Members Present.*

14. Adjourn.

MOTION: *James Bruhn moved to adjourn this meeting of the West Bountiful City Council at 10:34 p.m. Mark Preece seconded the Motion which PASSED by unanimous vote of all members present.*

The foregoing was approved by the West Bountiful City Council on Tuesday, February 21, 2017.


Cathy Brightwell (City Recorder)

