Invocation/Thought – Mark Preece; Pledge of Allegiance – James Bruhn

1. Approve the Agenda.
2. Community Recognition for July 4th Celebration: Ron & Carol Bangerter – Grand Marshals; Don Curtis – Veteran of the Year; Debbie McKean – Citizen of the Year; Hallie Anderson – Youth of the Year; Ron & Shelly Murphy – Parade Chairs; Matt & Aly Bown – Parade Coordinators.
3. Public Comment.
4. Public Hearing to receive input on the proposed Moss Farm Estates Plat D, which amends Moss Farm Estates lots 207, 208 and 304 and a portion of Eggett Acres Lot 4 together with the proposed modifications to the public utility easements.
5. Consider Approving the Moss Farm Estates Plat D, which amends Moss Farm Estates lots 207, 208 and 304 and a portion of Eggett Acres Lot 4 together with the proposed modifications to the public utility easements.
7. Consider Decision on Appeal by Vaughn Nelson of Staff’s Letter of Determination Regarding Carport at 1050 W 700 N.
10. Administrative Report.
11. Mayor/Council Reports.
12. Consider Approval of Minutes from the June 19, 2018 City Council Meeting.
13. Executive Session for the Purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.

Those needing special accommodations can contact Cathy Brightwell at 801-292-4486 24-hrs 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 August 7, 2018.
West Bountiful City will hold a public hearing on July 17, 2018 at 7:30 pm, or as soon thereafter as possible, at the City offices, 550 North 800 West.

The purpose of the hearing is to receive comments regarding the Moss Farm Estates Plat D, at approximately 727 W 700 North which amends Moss Farm Plat C Lot 304, Moss Farm Plat B lots 207 and 208, and Eggett Acres Lot 4.

A copy of the proposed documents may be viewed during regular business hours at the City Offices, or on the City website: www.wbcity.org. All interested parties are invited to participate in the hearing. Written comments may be submitted to the City Offices prior to the meeting.

Cathy Brightwell
City Recorder
MEMORANDUM

TO: Mayor and City Council
DATE: July 12, 2018
FROM: Ben White, City Engineer
RE: Moss Farm Estates Plat D
Amending Moss Farm C lot 304 and Moss Farm B lots 207 and 208 and part of Eggett Acres lot 4

Summary
The property owners of Moss Farm Estates lots 207 and 304 (lots 401 and 402 on the attached plat) desired to modify the property boundary separating their properties. They also desire to relocate utility easements. Lot 208 (labeled lot 403) is included to provide future flexibility for a lot boundary adjustment between lots 402 and 403.

Process
Utah State Code Section 10-9a-608 and 609.5 annotated outline a process where a municipal land use authority may amend or vacate a subdivision plat and adjust easements and right of ways. Per state code, staff has provided written notice to affected entities which includes utility companies and quasi-governmental agencies, and published notice of a public hearing.

Analysis and Proposed Changes

1. No new lots are created with this amendment.
2. Each of the three lots meet the minimum requirements for their R-1-10 zone.
3. The public utility easement arrangement is acceptable to staff. The change relocates the rear yard easement from the rear property line of Lots 207 and 208 (south boundary) to the rear boundary of the proposed Lot 402.
4. The west easement on lot 402 is reduced from ten feet to five feet.
5. A ten-foot easement is relocated to the west boundary of lot 401. A ten-foot easement also exists along the east boundary of lot 305.

Staff is recommending approval of the Moss Farm Estates Plat D amending Moss Farm Estates lots 207, 208 and 304 and a portion of Eggett Acres Lot 4 together with the proposed modifications to the public utility easements.
MEMORANDUM

TO: Mayor and City Council

DATE: July 12, 2018

FROM: Duane Huffman

RE: Dogs in Parks and Other Regulations

This memo introduces Ordinance 409-18, which changes city code to allow dogs on leashes in city parks. The ordinance also clarifies and establishes more detailed regulations for city parks, trails, trailheads, and other public greenspace.

Dogs in Parks
At the June 19th city council meeting, staff was directed to draft an ordinance to amend city code to allow for dogs in city parks. Staff was also asked to research the costs associated for additional signage and dog waste stations at the park.

The drafted ordinance prohibits all animals at city parks, trails, and trailheads except for service animals and dogs on leashes. It also requires that anyone possessing a dog in such locations to maintain control of the animal and properly dispose of any waste. Violation of this law would be classified as an infraction (same as most traffic violations). The ordinance also removes a separate section of code the prohibits dogs at “school premises or posted picnic, pond and play areas.”

Based on previous expenditures, staff estimates that dog waste stations and new signage at the park will cost between $3,000-$5,000. Stations installed on the trail in 2017 cost $300 per station. Additionally, on-going yearly expenses for the waste bags are estimated be between $500-$1,000.

Other Park and Trail Regulations
In reviewing the city’s code related to city parks, staff discovered that it may not be currently applicable to other areas such as trails, trailheads, or other city-owned green spaces. The current code is also lacking in regulating activities that are dangerous to persons or property. As such, staff is recommending replacing the current city park code with the more detailed draft ordinance.
WEST BOUNTIFUL CITY

ORDINANCE #409-18

AN ORDINANCE AMENDING WBMC 6.28.070 and WBMC 12.24 RELATED TO PARK
REGULATIONS AND DOGS IN PUBLIC PLACES

WHEREAS, Utah Code Annotated § 10-8-9 grants authority to the West Bountiful City Council
to establish, maintain, and provide for the supervision of public playgrounds and recreation
places; and,

WHEREAS, Utah Code Annotated § 10-8-65 grants authority to the West Bountiful City
Council to regulate the keeping of dogs; and

WHEREAS, the West Bountiful City Council desires to update practical regulations for the
peace and safety of parks, trails, trailheads, and public green space; and,

WHEREAS, West Bountiful City Council desires to update practical regulations related to dogs
in public places:

NOW, THEREFORE BE IT ORDAINED BY THE WEST BOUNTIFUL CITY COUNCIL
THAT THE FOLLOWING SECTIONS OF WEST BOUNTIFUL MUNICIPAL CODE BE
MODIFIED AS SHOWN:

6.28.070 Places Prohibited To Animals

A. It is unlawful for any person to take or permit any animals, excluding hearing or seeing-
eye dogs, service animals, whether on a leash or in the arms of their owners, in any
establishment or place of business where food or food products are sold or distributed,
including but not limited to restaurants, grocery stores, meat markets, and fruit or
vegetable stores.

B. Dogs, whether on a leash or not on a leash, shall be completely prohibited from school
premises or posted picnic, pond and play areas. This, however, shall not apply to guide
dogs in the company of a blind or hearing impaired person, or trained dogs in the
presence of their masters for the purpose of public education programs or law
enforcement exercises.

12.24 City Parks, Trails, Trailheads, & Public Green Space

12.24.010 Restrictions On Use

A. Until and unless changed by resolution of the city council, the parks of the City shall be
kept open for public use from six a.m. to ten thirty p.m. seven days each week. Anyone
desiring to use any of the city’s parks beyond the normal hours of use may make
application to the City, setting forth the use for which the park is desired, the person
B. It is unlawful to use a city park or to be or remain therein beyond the limits herein set forth, or to use or permit the use of snowmobiles or other off-highway type vehicles or horses therein, or to use the park for golfing, putting or driving golf balls. It shall also be unlawful to park or drive or permit others to park or drive automobiles or other motor vehicles within any city park in other than designated parking or driving areas, or to allow motor vehicles to remain in said prohibited areas. It shall also be unlawful for the owner, or any person keeping, harboring, maintaining or in control of a dog, to permit the same to enter into or remain in a city park.

12.24.010 Regulations on Use

The following provisions apply to any park, trail, trailhead or other green space open to the public, including parking lots on such property, that is owned, operated, or maintained by the city. Any person violating any of these rules and regulations shall be guilty of an infraction. Each violation shall be a separate offense. The mayor or designee may temporarily close or curtail activities when it has been deemed to be in the best interest of public safety, conduct, health, or order.

A. The city council may set policies related to the rental of facilities and any associated fees by resolution.
B. No person shall cut, break, move, take or otherwise injure, destroy or deface any trees, shrubs, plants, turf, rock or any building, fence, bridge, sign or other structure or leave waste items or rubbish of any kind. No person shall dump any earth, rubbish or other substance without written permission of the city.
C. The sale, consumption or possession of intoxicating liquors or beverages and dangerous or narcotic drugs, or gambling of any kind is prohibited.
D. No person shall make or kindle any open fire except in fireplaces and grills provided for this purpose or in private portable commercially manufactured grills or grills approved safe by the city. Coals and ashes from private grills should be dumped in existing fire pit or taken off the property. Grills provided for public use shall be available on a first come, first served basis.
E. No person shall discharge or set off any fireworks, firecrackers, rockets, or explosives without advance written consent of the city.
F. No person shall set a trap or snare, or shoot, injure, annoy, disturb or poison any wild animal or bird, or injure or destroy any nest.
G. Except for designated city employees or others authorized by the city, no person shall ride in or drive any motor vehicle which is self-propelled except upon designated roads or parking lots. It is prohibited for any person to commit any act, by use or operation, of any motor vehicle on any park land or trail, which if committed upon a public highway or street, in the state of Utah, would be prohibited and unlawful. Speed limits within all parks and upon trails shall be fifteen (15) miles per hour unless otherwise posted. No one shall test or repair any vehicle or mechanical device on any park or trail property. There
shall be no parking at any time except in areas designated for such purposes. Abandoned vehicles shall be towed at owner’s expense.

H. No person shall, without written permission of the city, erect, paint, paste or otherwise affix or distribute any signs, advertisement, or circulars. The sale of anything or the solicitation of funds or donation within any park or trail is forbidden, except upon written permission of the city.

I. Horses, cattle, livestock, and domestic animals of any kind are prohibited except a dog on a leash. It is the duty of the person who owns or possesses a leashed dog to keep the animal under control at all times, and to immediately remove and dispose of dog feces or other waste.

J. Practicing or playing golf and archery is prohibited.

K. No person shall possess or discharge a BB gun, air rifle, pistol, firearm, bow and arrow, or any other type of dangerous weapon, nor possess a knife having a blade of three inches (3”) or longer in length except in conjunction with food preparation at a designated picnic area or pavilion.

L. No person or group may utilize any park area, trail, or facility for the purpose of teaching any recreational skill for personal profits or financial gain without written permission of the city.

M. No persons are permitted on the property during posted “closed” hours unless written permission is attained from the city.

N. Camping or sleeping overnight is prohibited without written permission from the city.

O. Smoking of any kind is prohibited.

Adopted this 17th day of July 2018. This ordinance will become effective upon signing and posting.

By:

________________________________
Ken Romney, Mayor

Voting by the City Council: Aye Nay
Councilmember Ahlstrom
Councilmember Bruhn
Councilmember Enquist
Councilmember Preece
Councilmember Williams

Attest:

________________________________
Cathy Brightwell, City Recorder
Vaughn Nelson has appealed the decision of the West Bountiful zoning administrator determining that a carport on Mr. Nelson’s property located at 1050 West 700 North, West Bountiful, Utah, is an illegal structure and must be removed.

The West Bountiful City Council (the “Council”) heard oral argument on the appeal at its regularly scheduled meeting on June 19, 2018. Mr. Nelson appeared on his own behalf; the City was represented by its legal counsel, Stephen B. Doxey, and received information related to the appeal from its staff, including City Engineer and zoning administrator, Ben White, P.E. Mr. Nelson presented oral argument, and the zoning administrator responded. No other witnesses testified. The Council has considered Mr. Nelson’s written notice of appeal, the written correspondence between Mr. Nelson and the zoning administrator, the original building permit for the Nelson property, photographs of the carport, a memorandum submitted by City staff, and all information provided at the June 19, 2018 meeting.

Having considered the submissions and arguments of the parties, and the documents in the file, and being duly informed in this matter, the Council makes the following findings and renders the following decision.
**Jurisdiction and Procedure**

1. The Council finds Mr. Nelson’s notice of appeal is timely. The appeal is properly before the City Council in its capacity as the City’s appeal authority designated to hear appeals from the decisions of the City’s land use authority—in this case the zoning administrator—under West Bountiful Municipal Code (“**Municipal Code**”) § 17.08.120.

2. The Council accepts the written submissions of the parties and the testimony and information provided at the June 19, 2018 meeting as the record in this matter.

**Background Facts**

3. The Nelson property (the “**Property**”) is located at 1050 West 700 North, West Bountiful, Utah. The Property is situated in the R-1-10 residential zoning district.

4. The City issued a building permit for the Property dated January 1, 1976, a copy of which is attached as **Exhibit A**. The permit lists setbacks in compliance with then existing (and current) land use regulations. The side yard setbacks are described as 10 feet and 20 feet, respectively.

5. Mr. Nelson has sought the City’s approval to build an addition onto his home. As part of the addition, he would like to enclose as a garage the carport attached to the west side of his home.

6. In a letter dated May 25, 2018, the zoning administrator found that the carport encroaches into the Property’s west side yard setback, and is therefore an illegal structure. The zoning administrator concluded that the City had not previously granted approval for the encroaching structure.

7. Mr. Nelson admits that the front post of the carport is 7 feet 10 inches from the property line, and the rear post is 5 feet 4 inches from the property line. The minimum side yard...
setback is ten feet (see Municipal Code § 17.24.050.A.2). He claims, however, that the City approved the carport with this configuration and that he is entitled to rely upon such approval.

8. Mr. Nelson appealed the zoning administrator’s determination in a notice of appeal filed June 1, 2018.

**Issue on Appeal**

9. The sole issue on appeal is whether the zoning administrator erred in determining that the City has not previously approved the encroaching carport, and that Mr. Nelson’s carport is therefore an illegal structure.

**Analysis**

10. Mr. Nelson bears the burden of proving that the zoning administrator erred in rendering his decision. Municipal Code § 17.08.120.F; Utah Code Ann. § 10-9a-705.

11. The Council, as appeal authority, determines the correctness of the zoning administrator’s decision interpreting or applying the land use ordinance. The Council reviews *de novo* the evidence and arguments on appeal, without deference to any findings or conclusions of the zoning administrator. Municipal Code § 17.08.120.G; Utah Code Ann. § 10-9a-707.

12. Mr. Nelson asserts that the City approved the carport as constructed when it issued the 1976 building permit and allowed the carport to be built. He argues that, although the permit does not expressly state that an attached carport is approved, it does specify the total building site area used as 1,404 square feet.

13. A current appraisal provided by Mr. Nelson measures the dwelling structure at 1,079 square feet and the carport at $16' \times 24' = 384$ square feet, for a total of 1,463 square feet. This number is four percent different from the 1,404 total building site area specified in the building permit, whereas omitting the carport from the square footage calculation yields a larger
difference of 23 percent. Mr. Nelson concludes that the City must have intended for the carport, in its current configuration, to be included in the approved building permit because otherwise the total building site area would be seriously inaccurate and meaningless.

13. The zoning administrator contends that the carport nevertheless encroaches on the required side yard setback and is therefore illegal. The building permit in and of itself does not show the carport or list its square footage. The inconsistencies in the square footage listed in the building permit and the structure as currently constructed do not necessarily support the notion that the City approved the carport to encroach in the side yard setback, but do provide some evidence from which such an approval could be inferred.

14. One Council member noted that the Nelson carport is 16 feet wide as opposed to the ten-foot wide carports common on the same street. A narrower carport in the same location would not have encroached into the side yard setback.

15. Having considered the evidence and submissions of the parties, the Council is persuaded by Mr. Nelson’s argument. The building permit and inspection processes at the time the permit was issued were not as rigorous and exacting as they are now. The building permit is missing critical information that could have made this issue clearer. The Council is not inclined to construe ambiguities in the permit strictly against Mr. Nelson—especially when the City had a full opportunity to inspect the structure at the time it was being built and requiring him now to remove the long-standing structure would create an unreasonable hardship.

16. In making this decision, the City emphasizes the unique factual circumstances of this appeal. This decision is not intended as precedent for any other appeal based on different facts.
17. The Council also notes that this is not a case of a legal non-complying structure. Since the land use regulations governing side yard setbacks in the R-1-10 zone are essentially the same as when the building permit was issued, the carport is not a once complying structure that became non-compliant by virtue of subsequent land use regulations. Cf. Municipal Code §§ 17.04.030; 17.56.010; 17.56.030; Utah Code Ann. § 10-9a-511.

**Findings**

18. The Council finds that Mr. Nelson has satisfied his burden of proving the zoning administrator erred in determining that the City did not approve the carport’s encroachment into the side yard setback. The Council finds that sufficient evidence was presented to conclude the carport was approved as constructed in both the building permit and inspection processes.

19. The Council concludes, therefore, that Mr. Nelson’s carport is not an illegal structure.

20. However, the Council does not find justification for any further encroachment into the setback; consequently, the carport’s footprint, as measured by the existing posts, may not be expanded.

**Decision**

Based upon the foregoing findings, the Council reverses the zoning administrator’s decision. The Council expressly denies any precedential value of its decision in cases where the City’s original approval of an encroachment is absent or in situations where the facts presented are different in any way from the facts considered here as part of Mr. Nelson’s appeal. Further, although this decision will allow Mr. Nelson to enclose, otherwise modify or rebuild his carport within the same footprint, it does not allow for expansion of the footprint, further encroachment into any of the required setbacks, or a change in use of the carport area (such as for living space
for the attached dwelling). [Alternatively:  Further, although this decision will allow Mr. Nelson to enclose, otherwise modify or rebuild his carport within the same footprint, it does not allow for expansion of the footprint or further encroachment into any of the required setbacks.]

Any party aggrieved by the Council’s decision is entitled to appeal to district court within thirty (30) days as provided in *Utah Code Ann.* § 10-9a-801.

DATED July 17, 2018.

WEST BOUNTIFUL CITY COUNCIL

__________________________________
Ken Romney, Mayor

Attest:

__________________________________
Cathy Brightwell, City Recorder
West Bountiful Police Department

Department Summary

6/1/2018 to 6/30/2018

### Arrests

<table>
<thead>
<tr>
<th>Type</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult</td>
<td>4</td>
<td>66.7%</td>
</tr>
<tr>
<td>Juvenile</td>
<td>2</td>
<td>33.3%</td>
</tr>
</tbody>
</table>

### Activities

<table>
<thead>
<tr>
<th>Type</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin</td>
<td>209</td>
<td>14.4%</td>
</tr>
<tr>
<td>Assist</td>
<td>128</td>
<td>8.8%</td>
</tr>
<tr>
<td>Community Relations</td>
<td>11</td>
<td>0.8%</td>
</tr>
<tr>
<td>Deaths</td>
<td>1</td>
<td>0.1%</td>
</tr>
<tr>
<td>Investigation</td>
<td>87</td>
<td>6.0%</td>
</tr>
<tr>
<td>Patrol</td>
<td>170</td>
<td>11.7%</td>
</tr>
<tr>
<td>Property</td>
<td>8</td>
<td>0.6%</td>
</tr>
<tr>
<td>Security</td>
<td>385</td>
<td>26.5%</td>
</tr>
<tr>
<td>Service Call</td>
<td>91</td>
<td>6.3%</td>
</tr>
<tr>
<td>Suspicious Activity</td>
<td>40</td>
<td>2.8%</td>
</tr>
<tr>
<td>Traffic</td>
<td>313</td>
<td>21.5%</td>
</tr>
<tr>
<td>Vehicle Accident</td>
<td>11</td>
<td>0.8%</td>
</tr>
</tbody>
</table>

### Shift Time and Percent Accounted

- **Shift Time**: 1252 hr. 7 min.
- **Percent Accounted**: 52.9%

### Reports

<table>
<thead>
<tr>
<th>Type</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>CITATION REPORT</td>
<td>104</td>
<td>36.1%</td>
</tr>
<tr>
<td>INCIDENT REPORT</td>
<td>110</td>
<td>38.2%</td>
</tr>
<tr>
<td>OFFICER INFORMATION</td>
<td>70</td>
<td>24.3%</td>
</tr>
<tr>
<td>POLICE VEHICLE IMPOUND</td>
<td>4</td>
<td>1.4%</td>
</tr>
</tbody>
</table>
# Department Summary

## Crime Offenses

<table>
<thead>
<tr>
<th>Offense</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>BURGLARY</td>
<td>1</td>
<td>2.7%</td>
</tr>
<tr>
<td>DAMAGE PROPERTY</td>
<td>5</td>
<td>13.5%</td>
</tr>
<tr>
<td>DANGEROUS DRUGS</td>
<td>2</td>
<td>5.4%</td>
</tr>
<tr>
<td>FAMILY OFFENSE</td>
<td>5</td>
<td>13.5%</td>
</tr>
<tr>
<td>OTHER/MISC</td>
<td>1</td>
<td>2.7%</td>
</tr>
<tr>
<td>PRIVACY VIOLATIONS</td>
<td>1</td>
<td>2.7%</td>
</tr>
<tr>
<td>PUBLIC PEACE</td>
<td>1</td>
<td>2.7%</td>
</tr>
<tr>
<td>SEX OFFENSE</td>
<td>1</td>
<td>2.7%</td>
</tr>
<tr>
<td>STOLEN VEHICLE</td>
<td>4</td>
<td>10.8%</td>
</tr>
<tr>
<td>THEFT</td>
<td>6</td>
<td>16.2%</td>
</tr>
<tr>
<td>TRAFFIC OFFENSE</td>
<td>7</td>
<td>18.9%</td>
</tr>
<tr>
<td>WARRANT SERVICE</td>
<td>3</td>
<td>8.1%</td>
</tr>
</tbody>
</table>

## Accidents

- **8**

## Citation Violations

<table>
<thead>
<tr>
<th>Violation</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fix it</td>
<td>3</td>
<td>2.3%</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>2</td>
<td>1.5%</td>
</tr>
<tr>
<td>Traffic</td>
<td>73</td>
<td>55.7%</td>
</tr>
<tr>
<td>Warning</td>
<td>53</td>
<td>40.5%</td>
</tr>
</tbody>
</table>
Statistics are from June 2018; the other information reported is collected between council meetings.

**Crossing Guards**

School is out.

**Personnel**

- Sgt. Jeremy Adams Anniversary with West Bountiful was on July 15, 2018. This is Sgt. Adams 20th year with West Bountiful.

**EmPAC**

EmPAC meeting will be held quarterly unless there is urgent business that needs attending. The next meeting will be August 21, 2018.

Commitments for the CERT Trailer(s).

- September 8th – South Davis Preparedness Fair – both trailers
- September 22nd – Davis Hospital Prep Fair – both trailers
- September 28th & 29th – Utah Prepare Conference and Expo – both trailers.

**General Information**

N/A
West Bountiful City
Planning Commission Meeting

July 10, 2018

PENDING- Not Yet Approved

Posting of Agenda - The agenda for this meeting was posted on the State of Utah Public Notice website and on the West Bountiful City website on July 6, 2018 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, July 10, 2018 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Chairman Denis Hopkinson, Alan Malan, Laura Charchenko, Corey Sweat, Dee Vest, (alternate), and Council member Kelly Enquist

MEMBERS EXCUSED: Mike Cottle

STAFF PRESENT: Ben White (City Engineer), Cathy Brightwell (Recorder), Debbie McKean (Secretary)

VISITORS: Kendall Smith, Mark Garza, Greg Garza

The Planning Commission Meeting was called to order at 7:30 pm by Chairman Hopkinson. Corey Sweat offered a prayer.

1. Accept Agenda

Chairman Hopkinson reviewed the agenda. Corey Sweat moved to accept the agenda as presented. Laura Charchenko seconded the motion. Voting was unanimous in favor among all members.

2. Consider Conditional Use application from Kendal Smith for a garage that is less than 10 feet from his home.

Commissioner’s packet included a memorandum date July 6, 2018 from Ben White regarding Smith-Accessory building Conditional Use Permit at 952 West 1850 North with attached Conditional Use Permit Application, aerial view of garage placement on the property, and a site plan for the dwelling.

Mr. Smith would like to construct a 34-foot deep garage on the northwest corner of his property. To do so he will encroach into the required minimum ten-foot separation between the main and accessory structures. For the requested structure to be built, there will be a four-foot section of the garage that will be less than the required 10 feet from the home.

Kendall Smith was invited to take the stand and stated that he desires to put a garage on the northwest property and needs to ask for a conditional use for part of his garage that will only be 6 feet from the main structure.

Ben White noted that there is a public utility easement on the north side of the property that the city does not want to vacate which currently only includes communication lines. Last fall the City vacated an
easement along the west side. The Fire Marshal is okay with the setting of the garage, it will just need to be fire-rated. His home is brick which will allow him to be within compliance of city code and meet fire regulations.

Alan Malan asked Mr. Smith about the jog by the man door (changing from 10 feet to 6 feet) in the drawing. Mr. Smith responded that there will be a jog in the building making it closer to code requirements.

Laura Charchenko asked what the building will look like. Mr. Smith responded that it will look like the house with a gable and storage space on the second level.

Chairman Hopkinson also asked about the jog by the door and pointed out that six feet will not give him much space. Mr. Smith is okay with the jog and prefers the 10 feet setback for most of the dwelling.

No other questions or concerns from the Commission.

ACTION TAKEN:

Corey Sweat moved to grant approval for a conditional use permit for Kendall Smith to construct a 34’ deep garage on the north boundary of property located at 952 West 1850 North that will be 6 feet from his house based on findings that the proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity; will not inordinately impact schools, utilities and streets; and will comply with the regulations and conditions specified in the land use ordinance for such use. As a condition to approval, both buildings must fire rated when there is less than a ten-foot separation. Alan Malan seconded the motion and voting was unanimous in favor.

Discuss final plat application from Mountain View Estates at 1950 North 1100 West.

Commissioner’s packets included a memorandum dated June 7, 2018 from Ben White regarding Mountain View Subdivision-Final Plat with attached site plans.

Ben White pointed out the development of both Kinross and Mountain View on a google earth map. He introduced the application and stated there is nothing out of the ordinary for this subdivision application. The DEV Group is proposing a 42-lot subdivision at approximately 2000 North east of 1100 West on a 26.70-acre property that extends from 1100 West to the right of way of the Prospector Trail.

Mr. White covered the following items in his report to the Commissioners:

- Overhead and underground easements, including widths and restrictions, need to be better defined.
- Road connection to the Kinross Development reduce the northeast dead-end street to just under 1000 feet. Kinross plat has been recorded. Improvement drawings need to extend beyond the proposed development boundary, so the engineer can survey the property correctly.
- There has not been a proposal for a park strip along 1100 West. Need to know if the Commission prefers a park strip or if the sidewalk should go to the curb as it does in the Kinross development.
• The street corner radii have been verified and meet City standards.

• Trail connection was included in the preliminary plat but has not been included on the final plat.

Mr. White needs to know if the Commission desires a trail access. A trail connection would need approval from Davis County.

• A temporary turn-around is included on the northeast dead-end.

• Street lights are included at the intersections and periodically placed throughout the development.

• Fire hydrant spacing meets city criteria.

• Drainage at the northeast end of the road is acceptable with some revisions to the street and curb elevations.

• Rear yard drains are required and included on most lots. Rear yard drains need to be added to lot 120, 121, 135 and 137.

• Secondary water will be provided. There is a tentative agreement in place with Hamlet Homes for that issue. An executed agreement needs to be provided prior to final plat approval.

• The existing on-site well has been identified and will be abandoned.

• Staff has received the geotechnical report and a list of water rights associated with the development.

• Other minor corrections to the improvement drawings need to be made.

• Final plat fees have been paid.

• Payment of impact and other fees will be required prior to recording.

• Approval of improvement drawings by Weber Basin and South Davis Sewer prior to commencing utility installation.

• MC Green has been awarded a contract to do some preliminary grading. Most of the roads in the subdivision will be elevated two to six feet above the existing ground elevation. Grubbing has begun in preparation of grading.

Mr. White feels like the easements need to be better defined and the developer is still working on this item. Storm water and secondary water agreements with Hamlet Homes need to be in place as well.

Planning Commission needs to decide if they want a trail connection and if they want park strips along 1100 West similar to the Kinross Development which would be placed in the rear yards of these properties.

Alan Malan, like Chairman Hopkinson, would like the same sidewalk/park strip configuration as Kinross along 1100 West which is just curb and sidewalk. Regarding the trail connection, he is in favor of including it in the development somewhere approximately east of lot 111. He would like a street light at the dead end turn around and an additional fire hydrant in the development.

Laura Charchenko concurred with Commissioner Malan’s statements. She suggested to move the trail access to approximately Lot 109 so it is not a straight line from the north/south road as a better safety measure for the children.

Corey Sweat would like to see street lights not directly in front of homes providing less intrusion to home owners.

Denis Vest inquired if the Kinross Development has been recorded. He concurs with the other Commissioners on the other matters.
Council Member Enquist noted that we are advocates of trail access, so the developers need to expect that requirement as they finalize their development planning.

Mark Garza was invited to take the stand. He noted that there was a problem with the engineering on the trail access due to rear yard drains, and the lots were not wide enough to meet the half acre requirement with a pathway to the trail; it was easier to just take it. Commissioners requested that there be a trail access and that it be accessible somewhere between lots 107 and 110. Ben White noted that a pathway to trails will be an easement and does not impact the size of the adjoining lot. Homeowners on either side will be responsible to maintain the pathway. Mr. Garza will put the plans for the trail access back into the plat.

Chairman Hopkinson encouraged them to close the open items discussed this evening and feels they are close to final approval as those items are addressed and corrected.

Laura Charchenko pointed out that the next regular meeting will not be until August 14th as we will not be meeting on the 24th of July. We may want to consider a special meeting if the developer is ready to move forward. Tentatively the fifth Tuesday in July will be set aside for a special meeting. Staff will keep the Commissioners posted.

4. Staff Report

Ben White:

- Passed on information that several of the first buyers in the Kinross Development are former owners of Hamlet Homes. This verifies that not all Hamlet Home owners are disappointed in their prior purchase of a Hamlet Home which was stated by a citizen in a meeting held during the development approval process.
- He informed the Commission that there is someone in the city that will be raising pheasants and will be applying for a Conditional Use Permit. Commission will need to think about how they want to handle this situation. This will only be for a short period of time.
- Highgate has cut in the road. Construction is slow. Secondary water issues need to be addressed with some challenges they have encountered.
- Pages Lane construction is gearing up with excavating to begin next week.
- South end of 1100 West is moving slowly due to some easement issues and gas line placement. Should see pavement sometime in the next week or so.
- 640 is completed.

Cathy Brightwell:

- She will contact the commissioners on July 25 to let them know if there will be a meeting on July 31.
5. Consider Approval of Minutes from June 12, 2018 meeting.

ACTION TAKEN:

Laura Charchenko moved to approve of the minutes of the June 12, 2018 meeting as corrected. Alan Malan seconded the motion and voting was unanimous in favor.

6. Adjournment

ACTION TAKEN:

Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 8:20 pm. Corey Sweat seconded the motion. Voting was unanimous in favor.

The foregoing was approved by the West Bountiful City Planning Commission on July xx, 2018 by unanimous vote of all members present.

______________________________
Cathy Brightwell – City Recorder
Minutes of the West Bountiful City Council meeting held at 7:30 p.m. on **Tuesday, June 19, 2018** 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, Mark Preece, and Andy Williams

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

**VISITORS:** Alan Malan, Vaughn Nelson, Nateijie Hamilton, Brittany Nelson

Mayor Romney called the regular meeting to order at 7:30 pm. James Ahlstrom provided an invocation; the Pledge of Allegiance was led by Mark Preece.

1. **Approve Agenda**

   **MOTION:** *James Bruhn made a Motion to approve the agenda correcting the date of the minutes to be approved in item 13 to June 5. Mark Preece seconded the Motion which PASSED by unanimous vote of all members present.*

2. **Consider Appeal by Vaughn Nelson of Staff’s Letter of Determination Regarding Carport at 1050 W 700 North.**

   *Council member Williams disclosed that the Nelson’s are family friends/neighbors.*

   Duane Huffman reviewed the land use appeal process. He explained that city council acts as the appeal board basing their findings on state and city land use codes. The review is to be “de novo” which gives no deference to the land use body’s previous findings; everything will be considered as if it were new. The council can take evidence – testimony, affidavit, photos, etc., and must issue a written decision which affirms or reverses (in whole or in part) the earlier decision with or without conditions.

   Mr. Nelson was invited to the podium where he stated that the issue started when he wanted to build an addition on his house and found that his existing carport, which he also wants to enclose as a garage, was in violation of current zoning code. While there is no concrete proof of what happened forty years ago, based on statements from a neighbor that lived there when the home was built and a contractor who examined the structure, he believes the carport was built in conjunction with the house. The Nelson’s are the fourth owners of the home.

   Mr. Nelson claimed that a recent home appraisal shows an estimated 1463 square foot footprint of the house including the carport, which approximately matches the dimensions (1404
square feet) of the 1976 building permit. He argued that if it was built with the original permit as he believes and was out of compliance, it should have been caught at that time. Mr. Nelson claimed that no neighbors object to the carport and are appalled that this is happening.

Mr. Huffman said the setback numbers on the building permit comply with code, but the home was not built to match the permit. It’s not clear how they did inspections in 1976, but it appears to be very different from today’s process.

Council members Preece and Enquist commented that their homes were built in the same timeframe and inspections were minimal; in some cases, they were drive by inspections or done by the public works department without even using measuring tape.

Ben White said he thinks the carport was probably built with the house but was likely initially planned to be smaller. In that case, the inspector may not have measured to catch the change.

Building officials’ primary responsibility is to inspect to building code, with zoning issues often being secondary. Bottom line is that the house is out of compliance, so his hands are tied.

Council member Ahlstrom said he believes there is enough evidence to show that the city did not do a good enough job inspecting the property and he is hard pressed to force on the homeowner something that may have been city error. So long as he does not add to the encroachment he should be able to keep it.

Council member Enquist commented that the difference between this situation and the city’s current review of illegal structures is that most were added after the fact. This was done at time of the initial build.

There was discussion about how to fix problems found after an inspector makes mistakes. In any case, no addition to the footprint should be allowed to the illegal portion.

Mr. Doxey was directed to draft a decision for review and consideration that finds that the homeowner should not be punished for the encroachment, including allowing the current carport to be enclosed.

Council member Bruhn told Mr. White that he appreciates the way he enforces the city code. Everything he did was right – it was just an unfortunate situation.

3. **Consider Resolution 438-18 Enacting the 2nd Amendments to the Fiscal Year 2017-2018 Budget.**

Mr. Huffman reviewed the changes as discussed at prior meetings, as well as final recommendations.

**MOTION:** James Bruhn made a Motion to Enact the 2nd Amendment to the Fiscal Year 2017-2018 Budget. Kelly Enquist seconded the Motion which PASSED unanimously.

The vote was recorded as follows:

- James Ahlstrom – Aye
- Mark Preece – Aye
- James Bruhn – Aye
- Andy Williams - Aye
- Kelly Enquist – Aye
4. **Consider Resolution 439-18 Adopting the Fiscal Year 2018-2019 Budget.**

Duane Huffman explained that this Resolution sets the budget for FY 19, adopts the County Auditor’s Certified Tax Rate; increases the city’s pay scale by 1.5% for inflation; sets the city council salary at $6,800 per year; and sets the mayor’s salary at $12,500 per year.

Council member Williams commented that even though easily justifiable he is not in favor of the city council salary increase but will not oppose it.

**MOTION:** *Mark Preece made a Motion to Enact the Fiscal Year 2018-2019 Budget.*
*James Bruhn seconded the Motion which PASSED unanimously.*

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

5. **Consider Resolution 440-18 Reaffirming Culinary Water Rates and Amending Consolidated Fee Schedule.**

Duane Huffman reviewed the Resolution which keeps water rates as they are prior to the sunset on June 30; first 8,000 gallons - $22 operations; $18 debt service; $10 capital improvement = $50 per month. He explained the rates will sunset in two years (2020) instead of four years unless action is taken. He added that staff continues to study existing commercial rates and high use rate options.

Regarding amendments to the fee schedule, he pointed out changes to building permits for solar improvements – setting a specific rate based on historical averages; changing water right allocation per dwelling unit to $1070; correcting water use rates for construction that were not decreased in the fee schedule when residential rates were reduced several years even though we have been charging the lower rates; and eliminating the rate for home occupation business licenses based on legislative changes and earlier decisions of the council.

**MOTION:** *Andy Williams made a Motion Reaffirming Culinary Water Rates, establishing a two-year sunset, and Amending the Consolidated Fee Schedule. Kelly Enquist seconded the Motion which PASSED unanimously.*

The vote was recorded as follows:
- James Ahlstrom – Aye
- Mark Preece – Aye
- James Bruhn – Nay
- Andy Williams - Aye
- Kelly Enquist – Aye

MOTION: James Bruhn made a Motion to Accept the Mayor’s Appointment of Teresa Romney as a Youth Council Advisor. Andy Williams seconded the Motion which PASSED unanimously.

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

7. Consider Ordinance 408-18 Adopting Changes to WBMC 17.68.150 Establishing a Process for Amendments to Development Agreements for Planned Unit Developments.

The city recently updated its Planned Unit Development (PUD) code to better define the purpose, process, and scope of PUD overlay zones. As part of the update, municipal code 17.68.150.C requires modifications to an approved PUD to follow the procedures outlined in the PUD ordinance. However, the code failed to specify whether amendments should follow the same process as initial adoption or some other undefined process.

To eliminate confusion moving forward, the planning commission undertook to define a process for amending fundamental portions of approved PUDs. Following a public hearing, the planning commission made a positive recommendation to amend city code as follows: All deviations from the executed Development Agreement require the approval of the City Council. Any change that increases project density, reduces any lot size or required setback, alters an amenity, or otherwise alters requirements in Title 16 or Title 17 requires a recommendation by the Planning Commission, after a public hearing prior to City Council consideration.

This confirms that changes to a PUD that alter land use code should follow the same process as all other land use text or zone changes (public hearing, planning commission recommendation, and final council approval), while more administrative changes to the development agreement are appropriate to have a quicker amendment path.

MOTION: Andy Williams made a Motion to Adopt Changes to WBMC 17.68.150 Establishing a Process for Amendments to Development Agreements for PUDs. Mark Preece seconded the Motion which PASSED unanimously.

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

8. Discuss Allowing Dogs at City Park.

Council member Enquist requested this agenda item. He said he gets many requests to allow dogs at city parks and has visited other cities where they have made allowances. Council member
Ahlstrom agrees and believes the trend is to be more accommodating to animals. Council member Williams believes the public is becoming more responsible with their pets.

Council member Preece disagrees. His grandson is afraid of animals and won’t go to the park when animals are there. Council member Bruhn said he is not thrilled with the idea. Mayor Romney said if there is a change, he believes we should make accommodations for people who do not want dogs. He shared that he went to the Park and talked to a lot of people – 2/3 were in favor of allowing dogs, 1/3 were against. All of them agreed that dogs should always be on a leash and it must be enforced.

There was discussion about different options. The city could create a park that allows dogs while other city parks do not or create a separate area within the park for animals or allow them only during certain hours. Whatever is done, it was agreed that plenty of dog clean-up stations would need to be installed, preferably close to garbage cans. The initial cost could be covered with available RAP funds, but long term on-going costs of bags and staff time will go to the General Fund.

There was also discussion about enforcement of leash and waste laws. Mr. Huffman asked Steve Maughan if they have noticed more problems on the city trails where dogs are currently allowed. Steve said they occasionally find dog waste and dogs are not always on leash, but it has not been a big problem.

Mayor Romney said this is something the public cares a lot about. He asked staff to put together a proposal that includes costs and resources. It should be set up for a trial period, so we can see how it goes, and include language in the Ordinance that the city can reverse course if needed.


Chief Hixson went over his previously distributed monthly report. Officer Kassie Cook has completed her field training and working on her own. Officer Van Wagoner has completed three years with WBPD and was promoted to Police Officer II, and Detective Jacobsen just received his college bachelor’s degree.

On June 26, the city’s first annual physical fitness test will be conducted.


Ben White

• Pages Lane project will start in a couple weeks, preconstruction meeting is next week.
• Highgate subdivision will probably be starting soon. They have another request to combine two lots.
• Hamlet should be recording the Kinross plat in a couple days. Model homes may start soon.
• Mountain View Estates – final plat should be ready in July.
• Working on new concession building at the Park.

Steve Maughan

• Road closure on 2200 N as Dominion completes road repairs. Street overlays on 830 W and 400 N below 1100 W will be done by end of July.
• Large dead tree north of the playground has been removed at the Park. Looking at removing dead trees on the south side of the overpass on 400 North. We may end up doing those ourselves as UDOT likely won’t remove them.

11. Administrative Report - Duane Huffman

• Met with school district regarding the elementary school rebuild. They showed us their current design. They were able to purchase an additional 1.5 acres east of the existing school which gives them more room to build the new school while the existing one is still in use. The new playground will be next to the existing bowery; there will be more parking; and they are considering options to reconfigure 400 North access. The contract was awarded to Ascent Construction. They will begin next year and open for the 2020 school year.

• Code enforcement activity – issued administrative citation to Doug Coons for the old Knighton home at 1450 N and 800 W. He has until July 2 to clean up the property and until August 2 to remove the old home. Working on similar citations for Terry Nilson and the Chase properties. Code enforcement is time consuming; putting proposal together for part-time code enforcement officer to work 10-15 hours/week.

• Now that budget is done, will begin to work on updates to personnel policies.

• Due to July 4th holiday, the next city council meeting is July 17.

12. Mayor/Council Reports

Kelly Enquist - Mosquito Abatement - They are busy with daily spraying. They purchased a drone and had a minor mishap; they follow national NTSB guidelines for flying. Several employees will attend flight school to learn how to fly it.

James Bruhn – Wasatch Integrated board will start looking into bonding for new facility; leaning towards putting in full sorting equipment.

Mark Preece – Sewer District board meeting is next week.

James Ahlstrom – Still interested in pickleball for the city. Discussed a few possible locations and would like more information on cost.

Andy Williams – Youth Council participated in a great service event, Coats for Kids, and worked hard. First meeting of the new term last week went very well. The officers sat on dais in city council seats with general membership in the audience. Paul Maloy spent time teaching them how to make motions, etc. There has been good participation with 19 of 20 at the meeting and 15 of 20 at the service event. They decided to hold one meeting in July then will discuss future summer meetings. They are preparing a trailer to ride on in the parade.

Mayor Romney asked staff look at feasibility of putting a couple crosswalks on 1100 W and provide some options.
13. Approve Minutes from the June 5, 2018 City Council Meetings.

MOTION: James Ahlstrom made a Motion to approve the June 5, 2018 City Council meeting minutes. Andy Williams seconded the Motion which PASSED by unanimous vote of all members present.

14. Executive Session for the Purpose of Discussing Items Allowed Pursuant to Utah Code Annotated 52-4-205(c), strategy sessions to discuss pending or reasonably imminent litigation.

MOTION: Andy Williams made a Motion to go into Executive Session at 9:35 pm in the Police Training Room to discuss reasonably imminent litigation. James Ahlstrom seconded the Motion which PASSED.

The vote was recorded as follows:

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

MOTION: James Ahlstrom made a Motion to close the Executive Session. Andy Williams seconded the Motion which PASSED by unanimous vote of all members present.

15. Adjourn Meeting.

MOTION: James Bruhn made a Motion to adjourn this meeting of the West Bountiful City Council at 9:55pm. James Ahlstrom seconded the Motion which PASSED by unanimous vote of all members present.

The foregoing was approved by the West Bountiful City Council on July17, 2018 by unanimous vote of all members present.

Cathy Brightwell (City Recorder)