

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

City Council
James Ahlstrom
James Bruhn
Kelly Enquist
Mark Preece
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CITY COUNCIL MEETING

**THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD ITS
REGULAR MEETING AT 7:30 PM ON TUESDAY, MAY 19, 2020
AT CITY HALL, 550 N 800 WEST**

AGENDA:

7:30 pm Invocation/Thought – Rod Wood; Pledge of Allegiance – Mark Preece

1. Approve the Agenda.
2. Public Comment - two minutes per person, or five minutes if speaking on behalf of a group.
3. Resolution 467-20 – A Resolution Appointing Dell Butterfield to the Emergency Preparedness Advisory Committee.
4. Request to Amend Plat for Swallow Haven Subdivision – Lot 126 Phase 1, Birnam Woods and Lot 40, Plat C, Hillwest Subdivision by the Nelsons and Johnsons.
5. Public Hearing – Petition for Disconnection Submitted by the Smith Family, owners of Real Property identified as Davis Co. Parcel #06-030-0047 and located at 1818 W 400 South, West Bountiful.
6. Petition for Disconnection Submitted by the Smith Family for Davis Co. Parcel # 06-030-0047.
7. Ordinance 422-20, An Ordinance Amending the West Bountiful City Zoning Map to Remove the Property Located at 788 N 800 West from the Historical Overlay District.
8. Ordinance 423-20, An Ordinance Amending WBMC 17.52 and 16.060.E for Off-Street Parking.
9. Ordinance 424-20, An Ordinance Amending WBMC Title 16 Subdivision Recording Deadlines.
10. Resolution 468-20, A Resolution Reaffirming Culinary Water Rates Until January 1, 2021
11. Discussion on Petition for Land Use Decision Related to Cannabis Production Establishment.
12. Minutes from City Council Meetings on April 21 and May 5, 2020.
13. Public Works Report.
14. Administrative Report.
15. Mayor/Council Reports.
16. Closed Session for the Purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.
17. Adjourn.

Those needing special accommodations can 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 May 14, 2020.

Minutes of the West Bountiful City Council meeting held on **Tuesday, May 19, 2020**, at West Bountiful City Hall, 550 N 800 West, West Bountiful, Davis County, Utah. This meeting was held in-person and electronically via Zoom.

Those in attendance:

MEMBERS: Mayor Ken Romney, Council members James Ahlstrom (via Zoom), James Bruhn, Kelly Enquist (joined during item #6), Mark Preece and Rod Wood

STAFF: Duane Huffman-City Administrator, Steve Doxey-City Attorney, Todd Hixson-Police Chief, Steve Maughan-Public Works Director, and Cathy Brightwell-Recorder

VISITORS: Alan Malan, Adam & Chelsea Winegar, Dino Pasqua, Steve Maxwell, Bruce Baird, Dennis Vest, Tonja Schenk

Mayor Romney called the regular meeting to order at 7:32 pm. Rod Wood provided an invocation; Mark Preece led the Pledge of Allegiance.

1. Approve Agenda

Duane Huffman suggested item 11 be moved to follow item 7.

MOTION: *James Bruhn made a Motion to approve the agenda with the changes proposed. Rod Wood seconded the Motion which PASSED by a unanimous vote of all members present.*

2. Public Comment – None

3. Resolution 467-20 – A Resolution appointing Dell Butterfield to the Emergency Preparedness Advisory Committee.

MOTION: *Mark Preece made a Motion to approve Resolution 467-20 as described above. Rod Wood seconded the Motion which PASSED.*

The vote was recorded as follows:

James Ahlstrom – Aye	Mark Preece – Aye
James Bruhn – Aye	Rod Wood – Aye
Kelly Enquist – Absent	

4. Request to Amend Plat for Swallow Haven Subdivision – Lot 126, Phase 1, Birnam Woods and Lot 40, Plat C Hillwest Subdivision by the Nelsons and Johnsons.

Tom & Lisa Nelson, owners of Lot 126, Phase 1, Birnam Woods subdivision at 2032 N 680 West and Marcus & Stacy Johnson, owners of Lot 40, Plat C, Hillwest subdivision at 2033 N 600 West have requested to modify plat boundaries such that the Nelson's lot will be larger. Irrigation and public utility easements will remain in place until they can be relocated.

No new lots are created with this amendment and each lot will continue to meet the minimum requirements for the R-1-10 zone.

MOTION: *Mark Preece made a Motion to approve the Plat Amendment for the Nelsons and Johnsons as described above. Rod Wood seconded the Motion which PASSED with unanimous vote of all members present.*

5. Public Hearing – Petition for Disconnection Submitted by the Smith Family, Owners of Real Property identified as Parcel 06-030-0047 located at 1818 W 400 South.

MOTION: *James Bruhn made a Motion to open the public hearing. Mark Preece seconded the Motion which PASSED by a unanimous vote of all members present.*

Duane Huffman explained that petition to disconnect a parcel of land from the city boundaries is a rare land use action. It is a legislative decision governed by Utah Code Ann. §10-2-501 et seq.

The property in question appears to have been originally annexed into West Bountiful in 1999. At the time, it was part of a larger parcel owned by Security Investment LTD. The original petition for annexation includes the signature of Mary Hepworth as a representing partner of Security Investment LTD. Staff is not aware of any challenges to the annexation at the time or since.

Wayne Budge, representing the Smith family described the family's land configuration after the Legacy Parkway was built. The family has used the land to raise cattle since the 1940's. In 2008, it was determined by the court that two acres annexed into West Bountiful were owned by the Smith family instead of Security Investment. The remaining land is in unincorporated Davis County.

Mr. Budge noted that the Smith's intent is not to cause confusion or problems with this request. The family believes that West Bountiful does not provide services, road maintenance or access to the property. The family would like all their land to be under the same designation rather than split by jurisdictions. He added that there is no petition or application for annexation pending with any other city at this time.

There was general discussion about recent development concept meetings with Woods Cross City. Mr. Budge said they are collecting information and want to leave all options open. They prefer to have all their property in one city and are happy to talk with anyone. Several older family generations have preferred to hold discussions with Woods Cross but that could change as newer generations get involved. At this time, they plan to leave the property in unincorporated Davis County.

Council member Ahlstrom asked Mr. Budge to address criteria about not leaving a peninsula or island. Mr. Budge responded by referring to case law. The city council asked Mr. Steve Doxey to review the case law and how it would apply to this situation.

Duane Huffman explained that the boundary of the joint CDA covered the unincorporated area, but that the 2 acre parcel was included in the West Bountiful CDA, and that more research was needed to understand how a potential disconnection would affect both CDAs.

The council has 45 days from this meeting to make a determination. Mr. Doxey and Mr. Huffman will continue researching the issues brought up in the discussion.

There were no additional public comments.

MOTION: *Mark Preece made a Motion to close the public hearing. Rod Wood seconded the Motion which PASSED by a unanimous vote of all members present.*

6. Petition for Disconnection Submitted by the Smith Family for Davis County Parcel 06-030-0047.

Duane Huffman explained that a written decision should be provided once the city council make a determination, either in the form of an ordinance approving the request or with written findings as to why it is denied. The city has forty-five days to issue a decision and will work diligently to get it resolved.

Council member Enquist joined the meeting.

7. Ordinance #422-20 – An Ordinance Amending the West Bountiful City Zoning Map to Remove the Property Located at 788 N 800 West from the Historical Overlay District.

The Winegar family submitted a request to Rezone their property at 788 N 800 W to remove it from the Historical Overlay District. Mr. Winegar stated in the submission that he wants to build a new garage to replace an old one that is unsafe and the current design regulations applied to homes in the historical overlay district restrict him from building the garage next to his home as he prefers. He wants to have a safer backyard for kids due to vehicle traffic on 800 West and moving the garage to the rear of the property would cause him to lose space in his backyard. The planning commission held a public hearing on May 12. Tonja Schenk, Mr. Winegar's neighbor, commented that she is concerned about preserving the historic district when it appears so easy for properties to be removed as this would be the fourth in the last several years. She doesn't like the opt-in opt-out flexibility and its future impact on the historic district.

There was confusion with the planning commission about the historical overlay district and the historic district – are they the same or separate? Commissioners were interested in maintaining the historic district, but the majority voted to remove the Winegar's from the historical overlay district, i.e., land use and zoning regulations, so he can build his garage.

Duane Huffman researched the history of the two districts and determined that long before the historical overlay district was established in 2012, the historic preservation commission worked on a historic district that included conducting surveys and inventories of community historic resources, reviewing proposed nominations to the national register of historic places, establishing a West Bountiful Historic Sites List, and providing advice and information to city officials. That commission has not been active now for about ten years. Eventually, the overlay district was codified into land use code. At this point, staff not aware of an active historic district existing separate and outside of the historic overlay district.

Commissioner Ahlstrom asked about the benefits to remain in the overlay district. His home is in Heritage Pointe so he and his neighbors had to comply with the historical overlay regulations even though no one was happy about it.

Ms. Schenk commented that several years ago she wanted to make some changes to her property and met with the historical architectural review board to understand and comply with the regulations. Mr. Winegar wants to build a 2000 sf garage that is not historic and then decides to opt out of the historic district, so he doesn't have to comply with the same regulations everyone else has had to. Why does the city have rules if they do not need to be followed?

There was discussion about whether the design regulations should only apply to Heritage Pointe or should they be applied to all homes in the overlay district. Is the city acting as the homeowner's association for Heritage Pointe and if so, is it appropriate?

Commissioner Bruhn said his memory is that the design regulations in the overlay zone were intended to apply only to Heritage Pointe when the land owner insisted that the subdivision be required to include only historic homes. A separate historic area existed along 800 West and part of 1000 North. Duane explained that even if that was the intent of some, by matter of law the historic overlay regulations apply to all homes designated on the zoning map as the historic overlay district.

Mr. Bruhn asked what criteria was used to remove the previous properties from the historic district. Were any requests denied? Mr. Huffman responded that no requests were denied but the previous three properties were vacant lots. This request is different because it includes a historic home.

Council member Ahlstrom stated that he never intended the historic district to be a zoning impediment. What benefit have we achieved? Heritage Pointe has unique homes, but they are not historic; how can you build a new historic home? He would like the city to decide what goals it is trying to achieve.

Planning Commissioner Alan Malan, who is also a member of the historical architectural review board, commented that he agrees with council member Bruhn that the regulations were primarily intended for the new construction in Heritage Pointe. He added that he is not sure how the boundaries of the overlay zone were established on the zoning map but it's clear that many of the properties listed should be removed and several that are not included should be added. There are several large properties that run from 800 West all the way to the Prospector trail. When developed, maybe only the lots along 800 West should be included.

Duane noted that the options are to approve the request, to deny it, or to send it back to the planning commission to research and reconsider what is appropriate for a historic district.

MOTION: *Rod Wood made a Motion to approve Ordinance 422-20 amending the city's zoning map to remove the property at 788 N 800 West from the Historical Overlay District. Mark Preece seconded the Motion which PASSED.*

The vote was recorded as follows:

James Ahlstrom – Aye

Mark Preece – Aye

James Bruhn – Aye

Rod Wood – Aye

Kelly Enquist – Aye

Council member Wood asked staff to work with the planning commission to look at the issues surrounding the historic district. Research the map boundaries and make recommendations for adjustments and what regulations should apply.

8. Ordinance 423-20 – An Ordinance Amending WBMC 17.52 and 16.060.E for Off-street Parking.

Planning Commission has been working with staff on updates to the city's off-street parking requirements for several months. Updates were proposed to deal with issues staff has experienced when attempting to apply current regulations. The proposal includes updating parking stall width to the industry standard, establishing drive aisle width, clarifying the different standards for residential and commercial properties, establishing guidelines for appropriate conditions for conditional use permits, increasing drive approach widths, and clarifying that driveways are allowed on two street frontages.

A public hearing was held on January 14, 2020 with no members of the public offering comments.

MOTION: *Rod Wood made a Motion to approve Ordinance 423-20. Mark Preece seconded the Motion which PASSED.*

The vote was recorded as follows:

James Ahlstrom – Aye	Mark Preece – Aye
James Bruhn – Aye	Rod Wood – Aye
Kelly Enquist – Aye	

9. Ordinance 424-20 – An Ordinance Amending WBMC Title 16 Subdivision Recording Deadlines.

Extending deadlines for subdividers to record a final plat has been discussed by planning commission for several months after staff discovered that the language adopted in 2015 did not say what it was intended to say. Subdividers are given twelve months to record a plat after approval by city council. The intent was to allow a subdivider an opportunity to request an extension to record a subdivision prior to the expiration of the 12-month period. The language that was adopted required a request for extension to be filed before the end of the first 6 months which in some cases could be before the subdivider even knew an extension would be necessary.

The changes recommended by planning commission allow two six-month extensions when petitioned in writing at least forty-five days prior to each deadline. A public hearing was held on May 12, 2020, with no members of the public offering comments.

MOTION: *Mark Preece made a Motion to approve Ordinance 424-20 with correction. Kelly Enquist seconded the Motion which PASSED.*

The vote was recorded as follows:

James Ahlstrom – Aye	Mark Preece – Aye
James Bruhn – Aye	Rod Wood – Aye
Kelly Enquist – Aye	

10. Resolution 468-20 – A Resolution Reaffirming Culinary Water Rates until January 1, 2021.

Duane Huffman explained that the capital needs portion of the water utility base rate has regularly included expiration dates as checkpoints for the city council to determine its necessity

and level. The rate is currently set to expire July 1, 2020 unless the council takes action to extend it. With the loss of a full-time engineer and the economic uncertainties from the Covid-19 pandemic, staff is not able to perform the analysis to an acceptable standard in time for the council to give it due consideration by July 1 and recommends extending the expiration date six months until January 1, 2021.

MOTION: *James Bruhn made a Motion to approve Resolution 468-20 as described above. Rod Wood seconded the Motion which PASSED.*

The vote was recorded as follows:

James Ahlstrom – Aye

Mark Preece – Aye

James Bruhn – Aye

Rod Wood – Aye

Kelly Enquist – Aye

11. Discussion on Petition for Land Use Decision Related to Cannabis Production Establishment.

An application to change the city's land use code text was submitted by Wholesome Therapy on May 1, 2020 invoking the timeline requirements related to petitions involving cannabis production establishments pursuant to state code.

The proposed text change would add "Cannabis Production Establishments" as a permitted use to the A-1 and L-I zones, and as a conditional use to the C-G zone. It would also add "Medical Cannabis Pharmacy" as part of the already included permitted use of "Drug Store" in the C-G zone. The planning commission discussed these issues at its last meeting and has scheduled a public hearing for May 26, 2020.

The purpose of this discussion tonight is to help the council begin to think about issues related to the request and cannabis law in general, such as whether the city should consider renaming the A-1 zone to clarify it is primarily residential.

There was discussion about what the state law means and which zones it opens up to cannabis uses regardless of the wishes of the city. There was also concern raised about potential odors coming from the building as part of the production process.

Bruce Baird, counsel for Wholesome Therapy, said his clients believe the Carr building is the perfect location for their business as it is basically unusable for retail due to lack of parking and is set up well for this industrial use. He said there will be special equipment so no odors will escape from the building. State laws are very strict so there will be no external visibility of what is being produced in the building. Tight security restrictions and oversight mean this location will be the least likely place to buy illicit drugs. He added that the planning commission was concerned about the impact to neighboring businesses like Costco and Lowe's so they have contacted the Thackeray group and hope to meet with them later in the week. He believes the Carr building is an appropriate place for this use and the production facility would support the pharmacy in the front of building. He added that he is open to a development agreement if that is preferred by the city.

Steve Maxwell, also representing Wholesome Therapy, said the company was one of over 100 Utah applicants, and one of eight chosen in the state to be licensed to provide these services. The logistics would be great in this building with production and retail together. He responded to questions about what is meant by production facilities and what odors are being scrubbed. Regarding odor, cultivation begins with growing seeds and trimming the buds. This is where the smell comes from. The scrubbers take air and scrub and filter it. The only time there would be

odors would be if the equipment was not maintained so there is great motivation to be diligent to keep it clean. They intend to plant on two levels of the building. Flowers are packaged in glass jars for processing and will be taken to a lab to be made into oil for edibles. He said their goal is to be the #1 cultivator and dispensary in the state. They do not currently have a license to process, only have pharmacy and cultivator licenses, but they have the goal of eventually using the building for processing. The pharmacy space is currently being built out and they plan to open in July.

There was discussion about the need to gather more information. Staff will put together a detailed list of questions including cultivation process, odor mitigation, and security measures. The applicant should provide written responses as soon as possible so the planning commission has the information at the public hearing next week.

Mr. Baird said they intend to be as transparent as possible and will be happy to provide responses to all questions.

12. Minutes from City Council Meetings on April 21 and May 5, 2020.

MOTION: *James Ahlstrom made a Motion to approve the city council meeting minutes from April 21, 2020 and May 5, 2020. Rod Wood seconded the Motion which PASSED by a unanimous vote of all members present.*

13. Public Works (Steve Maughan)

- 800 West update – main water line is complete to 1000 N and several service laterals should be completed this week. They brought in a second crew to help. Concrete crews are prepping for curb, gutter, and sidewalk. Paving of the northern section should be done the third week of June.
- School demolition began yesterday.

14. Administrative Report. (Duane Huffman)

- Chief Hixson submitted a monthly report, but it was not included in the packet. He apologized for this oversight and referred any questions to the chief.
- He recommends that the city begin the process to fill the vacant engineer position. *Council agreed and gave direction to move forward.*

15. Mayor/Council Reports.

Kelly Enquist – asked about on-street parking after April 15. There is a situation with vehicles parked on the street and on park strip. Chief Hixson suggested Council member Enquist ask people to contact him directly so he can deal with it at the time. Duane said he would work on a summary of parking laws and issues.

James Bruhn – Wasatch Integrated is still working on the new facility.

James Ahlstrom – no report.

Mark Preece – no report.

Rod Wood – no report.

Mayor Romney – COVID-19 update. Things are looking good. No new cases in West Bountiful in six weeks, and Davis County appears stable.

16. Closed Session for the purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.

MOTION: *James Ahlstrom made a Motion to move into closed session in the police training room to discuss pending imminent litigation at 9:30 pm. Mark Preece seconded the Motion which PASSED.*

The vote was recorded as follows:

James Ahlstrom – Aye

Mark Preece – Aye

James Bruhn – Aye

Rod Wood – Aye

Kelly Enquist – Aye

17. Adjourn.

MOTION: *James Bruhn made a Motion to adjourn the meeting at 10:20 pm. Mark Preece seconded the Motion which PASSED by a unanimous vote of all members present.*

This document constitutes the official minutes for the West Bountiful City Council meeting held on Tuesday, May 19, 2020, and approved June 2, 2020 by a unanimous vote of all members present.


Cathy Brightwell (City Recorder)

