

Minutes of the regular City Council meeting held February 27, 1985 at 7:00 p.m. in the City Hall of Bountiful, Utah.

Present: Mayor:	Dean S. Stahl°
Council Members:	C. Harold Shafter, Phyllis C. Southwick, Jerry K. Lawrence, and J. Dean Hill
City Manager:	Tom Hardy
City Attorney:	Layne B. Forbes
City Engineer:	Jack P. Balling
City Recorder:	Arden F. Jenson
Deputy Recorder:	Lois Hoskins
Rec. Secretary:	Joan Young
Excused: Councilman:	Richard G. Sharp (Ill)
Planning Director:	Jon Reed Boothe (Out of Town)
Rec. Secretary:	Nancy Lawrence (Ill)

Mayor Stahle called the meeting to order and welcomed those in attendance. He led the pledge of allegiance to the flag and Councilman Hill offered the invocation.

Official notice of this meeting had been given by posting a written notice of same and an agenda at the City Hall and providing copies to the following newspapers of general circulation: Davis County Clipper, Deseret News and the Salt Lake Tribune.

The minutes of two previous meetings of the Council held February 6 and February 13, 1985, were presented and unanimously approved as written on a motion made by Councilman Lawrence and seconded by Councilman Shafter. Introduction of Joan Young, substituting for Nancy Lawrence who was absent because of illness, was made by Mr. Jenson.

#### **EXPENDITURES FOR WEEKLY AND/OR MONTHLY REPORT APPROVED**

Mr. Jenson presented the Expenditure and Expense Reports for the period of February 1-20, 1985, totaling \$146,860.43. Also, a summary of January expenditures totaling \$1,473,047.26 was unanimously approved on a motion made by Councilwoman Southwick and seconded by Councilman Lawrence.

#### **REPORT ON STATUS OF CITY INSURANCE**

Mr. Jenson reported that a special-delivery packet was sent to the Mayor and Council members last Monday night concerning this matter, which requires action tonight.

A number of months ago the City's insurance policies were extended to become due at the beginning of each fiscal year. Mr. Jenson explained that by doing this we received a one-time windfall as far as payment of premiums is concerned. We were able to cover the current fiscal year by paying for four months instead of a full year. Another benefit was that it would enable us to put our insurance out to bid so actual premium figures would be available during preparation of our budget.

Several weeks ago our insurance agent, Darrell Child of Olympus Insurance Agency, advised that the insurance company carrying the coverage on our property was not going to extend the coverage on the policy past the original expiration date of March 1st, which is this Friday. They are withdrawing from this area due to heavy losses incurred recently. So, Mr. Child has been working to obtain coverage. He recommends that we not go out to bid on our insurance right now for several reasons, mainly because over the past three-year period the City has paid approximately \$220,000 in premiums but has had about \$660,000 worth of losses, which is a loss ratio of 300%, and also, that we don't know what the insurance market will do. Right now it is extremely tight, and we would not like to get into a situation where we could not obtain coverage.

Some cities who have tried self-funding have had severe losses and are now faced with the problem of funding those losses. So Mr. Jenson said it is essential to have adequate insurance coverage. At the present time, due to adding earthquake and flood coverage, our annual premium is approximately \$90,000 per year. A 25% increase in premiums (as projected by Darrell Child on an extension of our present policies) would result in a premium somewhere around \$110,000 to \$115,000 per year. Mr. Jenson said if we went out to bid we may be faced with an increase of 50% to 100% based on the tight market and our loss experience. Based on this information, a recommendation is made to the Council not to proceed with preparing bid documents but to extend the present coverages and acquire a new carrier for the property insurance. Tom Hardy and Lois Hoskins have been consulted and concur with this recommendation. In next Monday's staff meeting with department heads, Lois Hoskins (our Risk Management Specialist) will present a program to create an ongoing safety committee of the City which will deal with safety problems and potential safety problems.

A motion was made by Councilman Lawrence to go ahead with the proposal to extend the coverage as suggested. The motion was seconded by Councilwoman Southwick and approved unanimously.

Mayor Stahle commented on safety committees that really work. Improvement can be made if you concentrate enough. Councilman Hill also told of those who are 'suit-conscious' as a people. A report of an accident on a cable car in San Francisco with 40 people involved produced 262 separate suits filed on that accident. Whether they are valid or not, they have to be handled.

Mr. Jenson added that the insurance companies the City has been dealing with are very good in helping with safety. Hartford Insurance Company has sent a man out to help us with holding down our losses.

**EAST CANYON HYDRO PROJECT AGREEMENT  
WITH FORSGREN-PERKINS ENGINEERS**

Mr. Cliff Michaelis, Power Department Manager, reviewed the agreement for professional engineering services with Forsgren-Perkins Engineering for the East Canyon Hydro Project. It has been reviewed extensively and is recommended that we execute the agreement.

The agreement is for \$129,700 for the engineering and construction phase. The Power Commission has reviewed the proposal. The agreement ties the fee down to a maximum of \$129,700. It ties the construction phase down to 420 days with an on-line date in the Spring of 1987. Councilman Hill made the motion to approve the agreement with Forsgren-Perkins as presented by Mr. Michaelis. Councilman Shafter seconded the motion and it was approved unanimously.

**ECHO DAM HYDRO PROJECT WITH  
BINGHAM ENGINEERING**

Mr. Cliff Michaelis stated the Power Commission has recommended that Bingham Engineering be selected as our engineers for the Echo Dam Hydro Project. This will be constructed under the agreement in sixteen months with on-line date of June, 1986. It was selected on the basis of the most qualified firm through experience, background, number of jobs completed, local firm and ability to work with the City. There were three very good proposals presented from the following and the selection to negotiate was made by the Power Commission: (1) Bingham Engineering; (2) Montgomery Engineering; and (3) Forsgren-Perkins Eng. He proposed that Bingham Engineering be selected with the following costs:

1st phase - Completed in 8 months - \$94,360 + \$5,000 for out-of-pocket expenses.

2nd phase - \$75,000 to \$102,000 with a total design and construction being between \$174,000 and \$201,000 to complete the project.

He stated they feel very good with these figures. Bingham Engineering will be able to complete the project most economically for them and recommended the agreement be accepted. Councilman Hill expressed that on the second phase it was very difficult to come up with a fixed figure since it depends on the contractor to a great extent. The cost will be on a time and material basis and manpower expended by Bingham Engineering to do that and it is a good approach and a good figure. Councilman Lawrence moved the Mayor sign the agreement with Bingham Engineering and Councilman Hill seconded the motion with unanimous approval of the Council.

Councilman Shafter asked if this would go on-line about the same time as East Canyon. Mr. Michaelis said the Echo Project is the key to our over-all hydro program and it is planned to have the Echo on first in a sixteen-month designing and construction phase and should have it on a year from this June, 1986. East Canyon should follow that in the Spring of 1987.

Mayor Stahle asked if a transmission system would be set up? They are looking at three possibilities:

1. The permission has been given through the license on both Echo and East Canyon to build the transmission line over the mountain on the gasline right-of-way. They are working with private properties involved and are doing final and economical design of that transmission inc.
2. Building over to Wanship and delivering that power through theoretical all-Federal transmission system.
3. Utah Power and Light.

We can go ahead with this project and by spring have the costs of going over the mountain.

**LIQUOR LICENSE REVOCATION OF SMITH'S FOOD KING**

Mr. Russell Mahan, Assistant City Attorney/City Prosecutor, addressed Mayor Stahle and the Council, stating there is a serious alcohol problem in the City among the youth. He felt this was a serious situation that must have action taken. In terms of the number of DUI arrests of minors for driving under the influence of alcohol in 1983, there were six arrests. In 1984 there were thirteen arrests. In terms of alcohol-related arrests of youth, we have increased from 1983 - 18% to 1984 - 32%.

Mr. Mahan listed the easy access youth have for procuring alcohol and their suffering from it; the Police Department curbing the availability of beer to minors by sending a selected minor to see if stores will sell the item. Out of twenty-two approached, eleven sold. This is a real problem. One of those is Smith's Food King.

He discussed the situation concerning Smith's Food King. He also discussed the handout containing certified copies of minute entries from the Bountiful Circuit Court of individuals who were employed at Smith's Food King who sold alcohol to minors during 1984. Smith's Food King was approached four times and sold four times to minors: January 30th - Employee Bill Riggs, April 3rd - Employee David Maynard; June 19th - Employee Jill Handles and November 30th - Employee Tracy Y. Jacobson. Each appeared in court and pleaded guilty to the charge. All cases are of record and are settled and final.

The last two pages of the handout are State statutes. He drew attention and read Page 478, 32-8-15 Liability of Occupant where offenses are committed. Also, Page 453, 32-4-17 Retail Licenses - Light Beer Sales to Minors. (a) does not apply but (b) was read and emphasis was placed on, "In addition to other penalties which are provided in this act, the license of any person to sell light beer SHALL either be revoked or suspended

for a period of not less than thirty days, upon convictions of selling or furnishing beer to a minor." These documents show the CONVICTION of the employees. He then gave an explanation of "Suspended" - License is suspended for thirty days and then re-instated without anything further being done, and "Revocation" - To cancel and at end of revocation period, the former license holder would have to re-apply. He stated that he, as the City Prosecutor, and Chief Higgins of the Police Department felt there is an obligation to sell beer. It MUST NOT be sold to people under 21! They felt strongly Smith's Food King has failed in its' obligation. Even though the Manager was new on the job, each time a sale has been made to a minor the officer involved not only cites the individual involved, but also notifies the Manager or contacts management - whoever is in charge at the time. Smith's Food King has failed to carry its' responsibility and a request was made that as a minimum, the beer license of Smith's Food King be suspended for a period of thirty days.

Tom Welch, Vice-President General Counsel of Smith's Management Corp. addressed the Mayor and Council and introduced Zane Day, Store Manager of one-week and Tracy Jacobson, the last individual cited. He stressed, as a company, they recognized and took seriously what their responsibility is in this regard. He further explained their policies. He illustrated with Tracy Jacobson the difficulty in telling ages of customers. He also used an illustration of Dustin Hoffman portraying someone from the ages of 14 to 108 saying, "Looks can be deceiving." He commented that in the last thirty days he had received three phone calls from people in Bountiful who were irate because they were stopped and asked for I.D. In the last 12 months they have had four store managers in that store. He claimed that management does not know. He felt a store manager should let them know but felt they tried to protect their employee. He agreed the City is doing the right thing when a violation occurs, but would like to know when it occurs. They are a responsible company and will take whatever action they are told to take against their employees. He said the employee was the one who has to bear the burden of their action and they are trying to stop violations. He still emphasized notification of top-management should be given as well.

Mayor Stahle stated the Manager should be responsible with Mr. Welch concurring. Discussion of the four violations followed with the suggestion that I.D. for cashing checks is done very carefully and the responsibility is somewhat the same.

Councilman Hill asked how many grocery stores of this size have a beer license? All of them, was the answer. Of the twenty-two checked on 11/27-30, eleven sold, which is half of them. Four out of four for 1984 of Smith's Food King is the worst record. A discussion followed with Councilman Hill stating: "The law is the law. If it is wrong then we need to change the law." Businesses

should comply with the law with no exceptions. None of the other stores have this serious a problem. Mr. Welch then asked how many times Safeway was checked last year. Chief Higgins replied four times. Mr. Welch asked how many times were there violations with the response of two out of four occasions. Alpha Beta had two out of four - Grocery Warehouse had two or three out of four. Mayor Stahle stressed the problem is serious on all of them but four out of four is more of a percentage.

Councilman Lawrence asked if this item could be tabled to consider the issues better with several illustrations which he gave. Mayor Stahle replied that as people are checked for their I.D. in cashing checks, there would be fewer to be checked for age in purchasing alcohol. If it has to be done, it takes the time to do it. Chief Higgins commented there is a very simple process and they recommend it to various retail stores, i.e., checking the time-frame of turning 21. He told of Alpha Beta having all of their employees in a considerable training period. Alpha Beta expressed that they really felt the training has paid them back.

Mr. Welch asked if the Council would table this action and let Mr. Gray, the store Manager who has been a store Manager for six years and has never had a violation, follow his instruction to check anyone under 30. He expressed the desire to cooperate. Again he asked that the corporation be notified. He stressed they want to be good citizens and good members of this community. He also suggested they will run their own people through the checkstands twice a month for the next six months to try to enforce the policy. The suspension of the license would be a drastic decision. Mayor Stahle emphasized their people needed to understand this point and constantly needed to be reminded. The intention is that beer NOT be sold to minors in Bountiful.

Councilman Shafter gave the illustration of Nevada in their gaming and how they find ways to face this problem. Smith's Food King is talking about a \$2 1/2 million building in comparison to \$150-\$250 million in Las Vegas. They don't shut them down for a day or two - they lock them up. They have found ways and there are ways that can be found. We need to address the problem. If it was as stiff as Nevada, Smith's Food King would find a way and find the cure. If this is tabled, we will come back to it and make the proper decision. Mr. Welch asked for the chance to solve the problem. He stated they hire 115 people - most of whom live in Bountiful.

Mr. Mahan stated the impact of alcohol to the youth of this town is more devastating to that youth than the loss of one month's loss of business to Smith's Food King. The point was made that if Smith's Food King doesn't suffer the consequences of this violation, what will other stores expect? To fire someone isn't the solution or disowning their management doesn't alleviate it. There are no more facts to be known at another time than there are tonight but we will abide with what

the Council wants. Mayor Stahle explained that the new councilmen might need to ponder this before deciding and need more time to think about it. Councilman Lawrence raised the question of the numbers mentioned in violation for all stores. The Council is trying to get the attention of Smith's Food King. Mr. Welch has made a proposal to police themselves to see what the Council desires is done and he would like to consider this before making a decision.

Councilwoman Southwick asked when the first violation occurred, was the grocery store put on notice at that time? Chief Higgins replied that Detective Gray issued the individual and notified the Manager at that time verbally. They spent a considerable amount of time explaining the process and making recommendations to the Manager. Upon Mr. Welch's request for the corporation to be notified, Chief Higgins stated they could do that but he felt the store Manager was the representative and Mayor Stahle stated the Manager should be responsible. It is more important to have an on-going educational program for employees than to fire them. It is the corporate headquarters' responsibility to make sure each employee understands. Councilman Hill made the motion to table this action until next week's meeting at 9:00 p.m. with the Council who are present tonight being there and it was seconded by Councilman Lawrence and unanimously approved.

**LIQUOR LICENSE REVOCATION OF ANDY'S MILK DEPOT**

Mr. Russell Mahan distributed a handout to the Council and others. These were certified documents indicating disposition of three sales of alcohol to minors. These occurred January 25, 1984, April 3rd and November 27th in three out of three sales. There was a plea of guilty entered by the individuals involved - Donald T. Robinson and Tina L. Anderson. The situation was the same as above. Mr. Mahan and Chief Higgins recommended a thirty-day suspension as a minimum in this situation.

Mr. Anderson asked about the letters he had received from the Police Department commending him in catching those who had been sent in. He stated he had received these letters of commendation at least three times. He has a notice by the till stressing identifying the person's birth date. He explained the circumstances of each case.

Mr. Mahan stated that since March of 1982, Andy's Milk Depot had been checked seven times and had sold three times, all in 1984. He did not sell before 1984. Mayor Stahle commented it did indicate an attempt to take care of the matter.

The Mayor then asked how Smith's Food King had done for 1982 and 1983? Mr. Mahan said it was similar with seven times checked and they sold the last four times. The previous three were alright, but this year with four it indicated a deterioration.

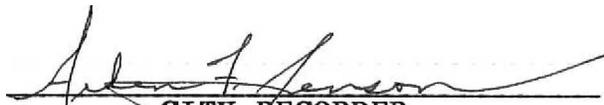
Councilman Shafter made the motion to give the same consideration to Mr. Anderson as was given Smith's Food King to receive an answer shortly after 9:00 p.m. next Wednesday at the meeting. Councilwoman Southwick seconded the motion and it was passed unanimously.

**EXECUTIVE SESSION TO DISCUSS PROPERTY ACQUISITION**

Mr. Lawrence made the motion for an Executive Session to follow this meeting which was seconded by Councilman Shafter and unanimously approved.

Mayor Stable called upon Mr. Balling and Mr. Hardy who had a report on legislature to give after the Executive meeting. Mayor Stahle adjourned the meeting at 8:27 p.m.

  
MAYOR

  
CITY RECORDER

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