

Minutes of the regular meeting of the City Council held November 28, 1990 at 7:00 p.m. in the Council Chambers of the City Hall, Bountiful, Utah.

Present:	Mayor:	Bob Linnell
	Council Members:	C. Harold Shafter, ReNee Coon, Bob Gramoll, Barbara Holt, and Leslie Foy
	City Manager:	Tom Hardy
	City Attorney:	Layne B. Forbes
	City Prosecutor:	Russell Mahan
	City Engineer:	Jack P. Balling
	City Recorder:	Arden F. Jenson
	Planning Director:	Jon Reed Boothe
	Dep. Recorder:	Kim Coleman
	Rec. Secretary:	Nancy T. Lawrence
	Dept. Head:	Jerry Lemon, Fire

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 Salt Lake Tribune.

Mayor Linnell called the meeting to order, following which Councilwoman Holt led the pledge of allegiance to the flag. The invocation was given by Councilman Shafter. Minutes of the regular meeting of the City Council held November 14, 1990 were presented and unanimously approved as corrected on a motion made by Councilwoman Holt and seconded by Councilman Shafter.

EXPENDITURES APPROVED FOR NOVEMBER

Mr. Jenson presented the Expenditure and Expense Reports for the Periods November 1-15, 1990 in the amount of \$382,130.28 and November 15-19, 1990 in the amount of \$66,731.64. Following discussion of these reports, Councilman Gramoll made the motion that they be approved as explained, Councilman Shafter seconded the motion and voting was unanimous.

PROGRESS REPORT ON STREET/PARKS BLDG. AND APPROVAL OF ADDITIONAL EXCAVATION COSTS

Fred Montmorency and Greg Allen, architects, reported on the progress of the construction of the street and parks department facilities on 200 West. Mr. Montmorency stated that the project is ahead of schedule and he then reviewed the additional excavation which was necessary due to more debris being in the site than was originally determined by the test holes. The final cost for the additional excavation (negotiated by the contractor, architects, and city staff), is \$65,521.50. Mr. Balling mentioned that when the necessity for additional excavation was determined, it was estimated that the cost would be about double this figure. Following a brief discussion, Councilman Gramoll made a motion to approve the additional excavation at \$65,521.50 as presented. Councilman Foy seconded the motion and voting was unanimous.

Mr. Allen then gave a presentation on the proposed exterior color scheme. He said that the users of the facility had met with him yesterday and gone over the proposed plan which features earth tones with green accent. Councilman Shafter recommended that pictures be taken of the existing facility so as to demonstrate the significant difference between the existing facility and the finished new one.

CONSIDER PROPOSED APPEAL TO FOREST SERVICE DECISION ALLOWING TWO PIPELINES

Mayor Linnell reviewed with the Council a previous decision for Bountiful to appeal the Forest Service decision to issue two pipeline permits for the proposed gas line in the foothill area (location known as the Wasatch Variation). He said that yesterday he received a call from Gordon Reed, U.S. Forest Service department, that WyCal (one of the proposed pipeline companies) has withdrawn their application for this project. Therefore, only one pipeline will be considered. In view of this fact, he asked if the Council still wished to file the appeal. Mr. Hardy pointed out that WyCal had filed for stream crossings in our area; however, Kern River has not filed any stream crossing applications.

Councilwoman Coon strongly urged the Council to still file an appeal, focusing on the following three objections:

- The Forest Service decision to amend the Forest plan
- The decision to permit pipeline construction
- The decision that this amendment is an insignificant amendment.

She explained the basis for her reasoning and pointed out that Forest Service regulations provide that all issues considered in evaluating an appeal must be raised with the initial appeal. Councilwoman Holt expressed appreciation for the work which Councilwoman Coon has done in researching this issue, and she affirmed her support of the same position. Councilman Foy also stated that he felt it was important for the City to continue to be on record as being opposed to this project.

Following further discussion, Councilwoman Coon made the motion that the staff be directed to follow through with the Notice of Appeal to the Regional Forester (U.S. Forest Service), with the three points as listed above being included. Councilwoman Holt seconded the motion which carried unanimously.

Councilwoman Coon then raised the issue of the other Davis County cities joining in this appeal and Mayor Linnell reported on the contacts which he has made with each mayor and the position of their respective councils.

PUBLIC HEARING TO CONSIDER SUBMITTING A CDBG APPLICATION TO FUND REPLACEMENT OF AERIAL LADDER TRUCK

Mr. Hardy reviewed that the Council had considered in its last meeting the possibility of
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applying for CDBG funding to replace the aerial ladder truck at the Fire Department and he

displayed a map which showed the locations of buildings which would need this type of equipment for adequate fire protection. At 7:50 p.m. Mayor Linnell opened the public hearing to receive input from the community on this matter and Dean Hill, resident, asked what the height capability of our present firefighting equipment is. (Chief Lemon stated 80 feet).

Councilman Gramoll asked if further consideration has been given by the South Davis Fire District to sharing this expenditure with the City, and the Mayor stated that both avenues are being considered. He said that if the CDBG funding is denied, the city has budgeted for one-half the cost in the present budget and will budget the other half in next years' budget. Following a short discussion, Councilman Foy made a motion that the staff be directed to proceed with the application for the CDBG funds for the purpose of replacing the aerial ladder truck. Councilman Shafter seconded the motion and voting was unanimous.

MAYOR WELCOMES SCOUTS

At this time the Mayor welcomed the visiting Boy Scouts and their leaders and briefly reviewed the responsibilities of the staff and elected officials.

PUBLIC HEARING TO CONSIDER SUSPENSION OR REVOCATION OF BEER LICENSE, TEXACO AT 280 WEST 500 SOUTH

Mr. Mahan reported that Hardy Enterprises, owner of the convenience store located at 280 West 500 South (Texaco) , was put on order to show cause and appear before the Council to determine whether or not their beer license should be suspended or revoked. He stated that in two of three checks, Hardy's sold beer to minors (July 9, 1990 and September 25, 1990). He provided the Council with a brief review of the compliance testing which is done by the City and the issues of this case. One factor which he stated should be considered in this instance was that the employee who sold the beer on July 9th has since been discharged from employment and has criminal charges levied against him for embezzlement from Hardy's.

George Diument, counsel for Hardy's, stated that his purpose in coming before the Council was not to address the actions of the police, but to introduce the City to Hardy Enterprises and vice-versa. He explained that this company is fairly young and has grown rapidly, thus has had strained in addressing all the fronts which need attention, one of which is training of employees, and other administrative issues. He said that Hardy Enterprises did not receive notice of the violation on July 9th as it had been given to the employee who has since been discharged, and who was apparently not loyal to the business. Therefore, when the second violation was reported to the company and with it the Order to Show Cause, it was a shock to the company and they felt some consideration should be given them. He presented for the Council's review a copy of an alcoholic beverage policy which will be implemented by Hardy's and the proposed training of employees on this subject.

Councilman Gramoll suggested that in the future a certified letter be sent to the owner of the establishment where the violation occurs. Councilwoman Holt said that the policy for
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training employees on the sale of beer should be in place prior to the time the business commences operation. Councilman Shafter reviewed the way in which the Council has handled

violations where beer has been sold to minors in the seven years since he has been on the council, and he suggested that a strong penalty would assist in better compliance with the liquor ordinance.

Mayor Linnell called for other comments during the public hearing and Mr. Mahan stated that although he agreed with the philosophy of Councilman Shafter, he felt that the Council should take into consideration the circumstances of a disloyal employee. Kendall Patten, resident, commented that it was easy to purchase beer in Bountiful when he was a minor and he suggested that better compliance might result if the individual who made the sale was considered the responsible party.

Councilman Shafter made a motion to suspend the license of Hardy Enterprises at 280 West 500 South for 90 days. This motion died for lack of a second.

Councilwoman Holt made a motion to not revoke or suspend the license of Hardy Enterprises due to the extenuating circumstances of the disloyal employee. Councilman Gramoll seconded the motion. Councilman Foy made a motion to amend the motion to include that Hardy's be placed on probation with the stipulation that if at any time during the next four quarterly tests they sold beer to a minor, it would result in an automatic suspension of their beer license for 30 days. Councilwoman Holt accepted this amendment as part of her motion. Councilman Gramoll withdrew his second and there was no other second.

Councilwoman Holt then restated her original motion (to not revoke or suspend the license of Hardy's due to extenuating circumstances); Councilman Gramoll seconded the motion. Motion failed for lack of a majority; Councilpersons Foy, Shafter, and Coon voted nay.

Councilman Foy made a motion that Hardy Enterprises be put on probation with the stipulation that if at any time during the next four quarterly tests they sell beer to minors, their beer license will be suspended for 30 days. Councilwoman Coon seconded the motion which carried by a majority. Mr. Diument acknowledged acceptance of this proposed action. Councilman Gramoll and Councilwoman Holt voted nay.

**PRELIMINARY APPROVAL GRANTED TO TEMPLE HILLS
ESTATES, PLAT B, 500 SO 1450 EAST: DEAN HILL, DEVELOPER**

Mr. Boothe presented the plat map of Temple Hills Estates, Plat IIBIIJI 500 South 1450 East, (16 lots) and stated that it is the recommendation of the Planning Commission that preliminary approval be granted subject to the following conditions:

1. Lots 17 through 22 be allowed to have a minimum area of 16,000 sq. ft.;
2. Exceptions be granted to the excessive cuts on lots 25, 26, and 27;
3. 15% grade on cul-de-sac road;
4. Allow double frontage for lots 30, 31, and 32 due to topographic conditions; and

5. The west end of lots 30 and 31 to be stabilized with landscape treatment of rock or vegetation, or combination of both. This treatment to be worked out between developer and city staff.

Based on the recommendation of the Planning Commission and the developers commitment to ensure proper revegetation, Councilman Foy made the motion that preliminary approval be granted as recommended. Councilman Shafter seconded the motion. Councilman Gramoll asked how binding the revegetation provisions are and Mr. Balling explained that a two-year bond will be posted to guarantee that the revegetation takes hold. The motion carried by a majority with Councilwoman Holt and Coon voting nay.

SITE PLAN APPROVAL FOR REXODELING OF FORMER BRATTENIS BUILDING BY ROBIN TINOS--1385 South 500 West

Mr. Boothe presented the site plan for the proposed remodeling of the building presently occupied by Bratten's Restaurant, 1385 South 500 West, and stated that it is the intention of Robintino's to operate from two locations in Bountiful for about one year and then move from the 500 South location. He said it is the recommendation of the Planning Commission to grant site plan approval subject to the following conditions:

1. The building plans must be approved by the County Health Department;
2. The restrooms do not meet the state requirements for handicapped. We recommend the restrooms be remodeled to meet the plumbing code;
3. The upstairs area should have two exits. However, since the building is not being changed in this area, this could be approved;
4. The roof system must be reviewed by a structural engineer to make sure it will support the air conditioning units that are proposed;
5. The grease traps must be approved by the South Davis Sewer Department;
6. Full compliance with the Uniform Building Codes and posting of bond and payment of fees as required;
7. Provide a 7 ft. wide public utility easement along the property frontage;
8. Refurbish the existing landscaping by the summer of 1991; 9. Entire building to be inspected and approved by the Bountiful City Fire Department.

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Councilman Foy expressed concern that Item No. 2 hinges on a recommendation, and following input from the City Engineer, it was the consensus of the Council that restrooms to meet state requirements for the handicapped be a requirement. Councilman Foy made a motion to grant approval as recommended, with compliance for handicapped restrooms a requirement.

Councilman Shafter seconded the motion which carried unanimously.

APPROVAL GIVEN TO PLANNED DWELLING GROUP CANDLAND OLSEN, 776 SO WOODMOOR CIRCLE

Mr. Boothe presented the site plan for a proposed planned dwelling group (providing for one home to be built behind another and both to share the same 80-ft. frontage, subject to ordinance conditions), and stated that Dr. Candland Olsen, 776 South Woodmoor Circle, has requested approval to construct a second home behind the one which fronts on Woodmoor Circle. Following are the required conditions:

1. Approval by the Planning Commission and City Council;
2. Entire lot, 1.15 acres, to remain in single ownership;
3. Development to meet the minimum lot area required for 2 lots;
4. Front yard, side yards, and rear yards to meet the setback requirements for single family lots;
5. Rear dwelling to be within 30 ft. of an access driveway;
6. Rear dwelling to be located within 200 feet of a public street as measured along the route of vehicular access.

Following discussion, Councilwoman Coon made a motion to grant approval as recommended, Councilman Gramoll seconded the motion and voting was unanimous.

UTILITY EASEMENT GRANTED TO MOUNTAIN STATES TELEPHONE - WEST PROPERTY LINE OF CITY PARK AT WASHINGTON ELEMENTARY

Mr. Balling reported that Mountain States Telephone has requested that the City grant them a utility easement on the west property line of the City park at Washington Elementary (east of Video U.S.A. on 500 West) . He explained that had this property been privately developed, an easement would normally have been required; but since it has remained in the ownership of the city as a park, the easement has not been needed. He recommended that the easement be granted. Councilman Gramoll made a motion to this effect, Councilman Shafter seconded the motion subject to requiring the repair and replacement of any damage to the existing sprinkling system, landscaping, fencing, or other improvements that the City now has in this area. The motion carried unanimously.

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APPROVAL GIVEN TO PARTICIPATE IN COMMUNITY RATING SYSTEM FOR NATIONAL FLOOD INSURANCE PROGRAM

Mr. Balling gave a brief overview of the flood insurance program which was implemented in 1978 and the present need for the U.S. government to reduce the costs associated with flood insurance claims. He explained that cities can improve their flood insurance rating by

participation in the Community Rating System and he reviewed the items which will be involved and by which communities can earn credits, and thus reduce premium costs. Following a brief discussion, Councilman Gramoll made the motion to proceed with the flood insurance program as outlined, with authorization for the Mayor to sign. Councilman Shafter seconded the motion which carried unanimously.

MISCELLANEOUS FROM MAYOR

Mayor Linnell reported that he, Mr. Hardy, and Mr. Forbes will be attending the conference of the National League of Cities and Towns in Houston this week. Councilwoman Holt will be serving as Mayor Pro Tempore.

CONTINUATION OF PIPELINE DISCUSSION

Councilwoman Coon noted that the Division of Water Resources is in the process of issuing permits to Kern River in other parts of the state, and she requested that Bountiful file comments requesting a delay in the issuance of permits pending resolution of the location of the pipeline in Davis County. Mayor Linnell stated that he felt this matter was not a part of Bountiful's jurisdiction. Councilwoman Coon made a motion to direct the staff to submit comments asking for a delay of permits in the southern part of the state for Kern River until the Wasatch Variation is resolved. The motion died for lack of a second.

COUNCILMAN SHAFTER REPORTS FROM IPA AREA CONFERENCE

Councilman Shafter reported from the IPA area conference held in Salt Lake City yesterday that California users of power from the IPP project are extremely pleased with the cost of the power. He also noted that with clean air standards being enforced in the near future, California is planning to use electric cars which will result in a greater need for electricity.

PURCHASE OF AERIAL LADDER TRUCK DISCUSSED

Mr. Hardy explained to the Council that Salt Lake City has recently asked for bids for an aerial ladder truck and received a bid from Simon LTI which Chief Lemon feels would be similar to the our need. This company has offered to extend the same price to Bountiful if we would guarantee purchase by March of next year. He reviewed the advantages and disadvantages of this proposal and suggested that Bountiful propose a counter offer which would allow us until May 1, 1990 and would be contingent on (1) the outcome of the CDBG fund application; (2) being able to include an additional \$250,000 in next year's budget; and (3) delivery being similar to SLC delivery. He also noted that it would be couched as a non-binding letter, with the offer becoming void after May 1, 1990. Councilman Shafter made a motion that the staff draft a non-binding letter to Simon LTI, with conditions as outlined by Mr. Hardy. Councilman Foy seconded the motion which carried by a majority. Councilman Gramoll voted nay.

The meeting adjourned at 9:18 p.m.