

Minutes of the regular meeting of the City Council held March 13, 1991 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 Engineer:	Jack P. Balling
	City Recorder:	Arden F. Jenson
	Planning Director:	Jon Reed Boothe
	Dep. Recorder:	Kim Coleman
	Rec. Secretary:	Nancy T. Lawrence
	Dept. Heads:	Dick Duncan, Streets/Sani. Larry Higgins, Police Neal Jenkins, Parks/Rec. Jerry Lemon, Fire Cliff Michaelis, Power

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 he led the pledge of allegiance to the flag. The invocation was given by Mr. Jenson.

Minutes of the regular meeting of the City Council held March 6, 1991 were presented and unanimously approved as written on a motion made by Councilman Shafter and seconded by Councilwoman Holt.

#### EXPENDITURE AND EXPENSE REPORTS APPROVED FOR FEBRUARY

Mr. Jenson presented the Expenditure and Expense Report for the period February 27-28, 1991 in the amount of \$355,291.68 and noted one correction to the annotation (which did not affect the dollar amount) . He then reviewed the Summary of Expenditures and Expenses for February, 1991 in the amount of \$2,641,400.69 and responded to questions from the Council. Councilman Foy made a motion for approval of both expenditure reports. Councilman Shafter seconded the motion and voting was unanimous.

#### SKYLINE ELECTRIC AWARDED BID FOR EMERGENCY GENERATOR AT CITY HALL

Mr. Balling reported that on Tuesday, March 5th, bids were received from 10 contractors for the installation of the emergency generator for the City Hall. It is staff recommendation to accept the low bid from Skyline Electric in the amount of \$36,425.00. This bid is \$12,000 under the engineer's estimate (which was approved by the Council on February 6, 1991). Councilman Gramoll made a motion for approval. Councilman Shafter seconded the motion which carried unanimously.

**COUNCIL VOTES TO NOT SELL PROPERTY AT 300 NORTH 1150 EAST (RICK STARK REQUEST)**

Mr. Jenkins reported that the Parks and Recreation Committee reviewed a request from Rick Stark to purchase the City property which borders his property (Lot 1, Mt. Park Subdivision) and the north boundary line of the City Park at 1150 East 300 North. The Committee felt that there might be liability exposure to the City because of the proximity of the ball diamond and recreational facilities to the property in question. It is their unanimous recommendation that the property not be sold at this time. Councilwoman Holt made a motion to this effect, Councilman Foy seconded the motion and voting was unanimous.

**APPROVAL GIVEN FOR PARTICIPATION IN MATCHING GRANT FOR PURPOSE OF UPGRADING REC. CENTER FACILITIES**

Mr. Jenkins reported that in an effort to make the Recreation Center more energy efficient, it is recommended that three projects be approved: (1) replacement of the existing lighting at the ice arena (change over from mercury vapor lights to metal halide); (2) replace the lights in the swimming pool; and (3) install an energy efficient blanket over the pool to save heat loss, chemical use, and moisture and chemical deterioration on the equipment in the bubble. He proposed that the City participate in a matching grant from the Utah Energy Office, with the total cost \$33,293.00 (Bountiful's share, \$16,146.50). He recommended that the funding come from the Reserve and Replacement Fund of the Ice Arena and Pool. Councilwoman Holt thanked Mr. Jenkins for the time he has spent in putting the grant together and made a motion for approval of the project and the grant. Councilman Foy seconded the motion. Councilman Shafter pointed out that energy savings from these projects will result in the project paying for itself within three years. Voting on the motion was unanimous.

**APPROVAL GIVEN FOR CONSTRUCTION OF FLOAT FOR HANDCART DAYS AND DAYS OF 47 PARADES**

Mr. Jenkins reported that the Parks and Recreation Committee discussed the request which had come to the City to enter a float in the Handcart Days Parade (which could also be used in the Days of 47 Parade). It is their recommendation that a used 3/4 ton truck from the Parks Department be used for a float base, with city staff to weld steel to the frame to provide the basic design. Councilwoman Holt has worked with the Chamber of Commerce and they are willing to construct the final product with all volunteer labor. The total cost to the City would be \$2,500 to \$3,000.00. This float base could be used from year to year. Councilwoman Holt expressed appreciation to the Chamber for their willingness to participate in this project and then made a motion to approve the Committee recommendation. Councilman Gramoll seconded the motion and voting was unanimous.

Mike Hancock, BACC representative, was in attendance and the Mayor expressed appreciation for the support of the Chamber.

**COUNCIL VOTES TO NOT PURCHASE MUSEUM PROPERTY AT THIS TIME (SADDLERY SHOP - APPROX. 200 WEST 350 NO.)**

Mr. Jenkins reported that the Parks and Recreation Committee gave a unanimous recommendation to not purchase the Saddlery property at approximately 300 West 350 North for a museum at this time. This recommendation was based on the fact that the asking price is too high. Councilwoman Holt made a motion to this effect, Councilman Shafter seconded the motion. Councilman Foy expressed the desire that the City could continue to be in touch with the property owner in the future in the event that the price will be lowered. Voting on the motion was unanimous.

#### COUNCIL SUPPORTS ANNEXATION POLICY DECLARATION OF NORTH SALT LAKE - WOODCANNON PROPERTY

Mr. Hardy referenced the Wood/Cannon property on a map (abutting the Bridlewood Subdivision on the south City limits) and explained that this property was included by both the City of Bountiful and the City of North Salt Lake in their Policy Declarations almost 14 years ago. The owners of this property have requested to be annexed into North Salt Lake, with the stipulation that both Bountiful Boulevard and 3700 South Street will be extended and approved as part of the annexation and development. With those conditions, it is staff recommendation that Bountiful support the Annexation Policy Declaration of North Salt Lake regarding the Wood/Cannon property. Councilman Gramoll made a motion to this effect, Councilman Shafter seconded the motion and voting was unanimous.

#### APPROVAL GIVEN TO INCREASE EXCAVATION PERMIT AND ASPHALT PAVING FEES THROUGH ADOPTION OF ORD. NO. 91-2

Mr. Balling explained that in an effort to keep pace with the increased costs of labor and materials for patching street excavations, it is staff recommendation to increase the excavation permit fees and the asphalt paving fees. He reviewed the proposed increases as outlined in Ord. No. 91-2 entitled AN ORDINANCE AMENDING TITLE XI, CHAPTER 9, SECTION 11-9-3 RELATING TO EXCAVATION PERMIT FEES, and noted that the last time the fees were updated was four years ago. Councilman Gramoll made a motion for adoption of Ord. No. 91-2 as recommended, with authorization for the Mayor and City Recorder to sign. Councilman Foy seconded the motion which carried unanimously.

At this time (7:24 p.m.) Councilwoman Coon requested a 2-minute recess prior to continuing the Agenda.

#### COUNCIL REQUEST FOR PRODUCTION OF EVIDENCE OF CORRUPTION OR RETRACTION OF ALLEGATIONS

The meeting reconvened at 7:27 p.m. and Mayor Linnell explained that this item would be handled as follows: first, he would provide a brief review of the background of the issue wherein Councilwoman Coon alleged corruption by leaders at all levels of government; second, Councilwoman Coon and the other councilpersons would respond; third, if the issue did not resolve in the first two steps, the Mayor would read a prepared statement from Councilmen Shafter, Foy, and Gramoll, Councilwoman Holt and himself; fourth, the mayor would make personal comments not representative of the governing body; and fifth, those in the audience who wished to speak would be given three minutes each.

Mayor Linnell then read a letter which was signed by Councilpersons Shafter, Gramoll, Holt, and Foy following Councilwoman Coon's allegation of corruption regarding the Kern River pipeline issue (see minutes of City Council meetings held February 6, 1991, page 5; and February 27, 1991, page 2). The letter emphasized that as City leaders, the Council is duty-bound to ferret out a statement of corruption and Councilwoman Coon was called upon to come forward and substantiate her claims of corruption, or, admit a poor choice of words and exonerate the innocent. The letter referred to an attempt of the group to meet with Councilwoman Coon in a private meeting on February 13th, but stated that she left the meeting after only three minutes. Councilwoman Coon asked when the decision was made to prepare this letter, Councilman Foy said the night she walked out of the meeting, and she (Coon) requested that the letter be stricken from the minutes because it was not an Agenda item for the executive session of the February 13th meeting and was not legal.

Councilwoman Holt defended the issuance of the letter, stating that Councilwoman Coon had called her (Holt) corrupt. Councilwoman Coon then responded that the statement she made has been totally distorted and she emphatically re-stated that she did not call anyone on the city council corrupt and she apologized for any problems which resulted from her statement. She added that, to the best of her knowledge, they are not corrupt. She went on to say that there have been some events which took place on the local level (i.e., bribery, death threats, violation of the Constitution), none of which involved the Bountiful City government. She stated that Mayor Linnell has not been working in the best interest of the City and requested that he not be involved in future meetings regarding the pipeline issue unless those meetings are taped by the City Recorder. She then read a prepared statement, a copy of which is attached to these minutes in the official minute book for the public record. Councilwoman Coon then made a motion that the Mayor recuse himself from any further involvement in the pipeline issue and for the City Council to take every opportunity to fight the pipeline. The motion died for lack of a second.

Mayor Linnell then read a statement from the Council which documented the issue of alleged corruption from June, 1990 (when the statement was first made by Councilwoman Coon), until this evening. The letter referenced UCA 10-3-505 and 10-3-610 which define the responsibility of elected officials in dealing with alleged corruption and called for Councilwoman Coon to provide the truth in this issue.

Each councilmember then responded to the issue. Councilwoman Holt emphasized that as elected officials, they have opposed the Wasatch Variation of the pipeline and will continue to do so in every way possible. In matters of litigation, the advice of legal counsel will be sought. Inasmuch as there was an order from FERC (Federal Energy Regulation Committee) to work with the pipeline company, Bountiful has responded to that order, while still maintaining a policy of opposition. She also referred to the policy established by the City to not enjoin the City in costly lawsuits and commit a financial burden on the taxpayers.

Councilman Foy referred to the checks and balances in government which are established by the Constitution and noted that the action which Mayor Linnell has taken has been to follow  
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through on the directives of the Council (the executive branch carrying out the laws established

by the legislative branch). He expressed disappointment at the charges made against the Mayor and the fact that there has been a "trial by press" instead of a "trial by jury" in this bicentennial of the Bill of Rights.

Councilman Gramoll stated that the time has come to put the issue to rest and he expressed regret at the damage which has resulted to the reputation of the City. He said that even though the City issued a policy of opposition to the pipeline three years ago, the federal government is much stronger than the city and the best position for the city to take is to mitigate as many concerns as they can. He thanked Councilwoman Coon for her statement clearing the City Council members and requested that Mayor Linnell be included in the statement.

Councilman Shafter said that in the 7 years he has served on the Council, he has never been put in a position of defending his integrity and he expressed disappointment in being included under a cloud of corruption. He reviewed the personal support he has given in the fight against the pipeline (door to door with petitions, etc.) and stated that if Councilwoman Coon put as much effort in her other areas of responsibility as she has the pipeline issue, she will be a champion.

Councilwoman Coon responded to the comments made by the councilpersons, restated again that Bountiful officials were not the intent of her statement of alleged corruption, and that inasmuch as there are on-going investigations, she did not wish to divulge any sensitive information. She assured the citizens in attendance that if she has evidence of wrongdoing, she will go to the proper authorities and notify the proper elected officials. In response to allegations that she used City property and improperly gathered information, Councilwoman Coon stated that she asked permission to use the city equipment and that the Mayor, City Recorder, City Manager's secretary, and City Attorney knew she was making copies and she paid for them. She also stated that the phone message record of the mayor was voluntarily given to her by his secretary. She reiterated that her contention is with the Mayor and the fact that he is not working in the best interests of the city. In response to Councilman Foy's question, "Did you or did you not go through the personal files of the mayor?", Councilwoman Coon stated that she "went through the city files which are a matter of public record".

Following further discussion, Mayor Linnell responded, point by point, to the attached document from Councilwoman Coon: (1) "Clear Misrepresentations by Mayor Linnell or his Representatives" and "The Truth"; (2) A Review of Bountiful's Official Resolutions and Statements of Direction from the City Council; (3) A Review of the Quotes and Comments of Mayor Linnell Made During City Council Meetings, to the Press, and Even Written into the Legal Work That Bountiful Taxpayers Have Paid to Have Prepared; and (4) attached copies of the telephone log of the Mayor's secretary. In each and every instance, the Mayor indicated his action and noted his compliance with the Council in carrying out their directives. He offered his record of campaign contributions for public scrutiny, noting that his largest contributor is an opponent of the pipeline. In response to a request for disclosure of personal and family

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relationships with the pipeline, he stated that his daughter has worked for Northwest Energy for 11 years (a subsidiary of the parent company which has also founded Kern River Pipeline as a

subsidiary) . He stated that his moving company (Bailey Moving and Storage) did business with Northwest Energy; however, he sold that company eight years ago and has no financial involvement in it, nor does his family.

Mayor Linnell expressed indignation that Councilwoman Coon would involve his family in this issue and that she went through his private office. He stated that he considers the office which is furnished him in the City Hall to be a private office, acknowledging that some files are for public consumption and others are private and that his privacy should have been respected. He challenged the judgement of Councilwoman Coon, also, to have tied up the copy machine for two mornings, slowing down the business of the City.

The Mayor reported that Gordon Reid from the U.S. Forest Service was not able to be in attendance this evening, but offered his phone number for anyone who wished to discuss the pipeline issue with him (524-5038). The following citizens then expressed their position on this issue:

Keith Barton: Support of Council and Mayor; hope that this issue is resolved.

Lee Twitchell: (North Salt Lake city councilman): North Salt Lake has chosen to act independently and not with other groups; thanked Mayor Linnell for outstanding service.

Paul B. Allen: Affirmed integrity of the mayor; embarrassed for community.

Marie Nelson: Disappointed in meeting; not comparing apples with apples.

Jay Bingham: Disturbed that integrity of Mayor is being impugned; hope this issue can be put aside.

Mike Hancock: (BACC representative) Support position the Council has taken on the pipeline issue; does not believe there is culpability; has been innuendos on both sides; fences need to be mended and get on with business of running city.

Kenley Brunsdale: Concerned as a father about the safety of the community if the pipeline is constructed, especially in light of increase in amount of gas and pressure; recommendation to take advantage of Clark County, Nevada legal file against condemnation (project never found to be publicly necessary).

Maher Ramaileh: Can see no evidence of corruption; Mayor has acted as agent of City Council; requested that Councilwoman Coon apologize to Mayor.

Dean Cannon: Concerned about reputation of community due to press coverage of this issue; support of Council fiscal responsibility on this issue; council needs to be united; encouraged Coon and Linnell to reconcile.

Dave Brown: City has pursued a course of inactive and passive opposition to the pipeline while opportunities to effect, assert, and realize an aggressive opposition expired;

pipeline is a clear and real risk to property, lives, public safety, and watersheds and should be fought; this is a government of the pipeline, by the pipeline, and for the pipeline; requested that prepared statement be included on the record--see attached.

Robert Sunderland: Looking at six intelligent people, all with integrity; good to have excitement over issues; pipeline should not be a problem and provides a source of clean energy.

Elmer Barlow: "The ultimate test of what you can accomplish in a relationship is to be able to disagree but still be able to hold hands."

John O'Hara: Support for Mayor Linnell; take what is in press with a grain of salt; hope this issue is resolved.

#### REVIEW VIDEO TAPE OF PIPELINE CONSTRUCTION TECHNIQUES AND EQUIPMENT

Mayor Linnell presented a video tape which he had made of a pipeline construction site. He and Mr. Hardy narrated the tape which is available at the City offices for public review. The tape showed the equipment which is used, the manner of trenching (including blasting), laying pipe, transporting the pipe, etc.

#### APPROVE EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION

This item canceled.

#### CONSIDER DECLARATORY JUDGMENT MOTION ON RIGHT-OF-WAY REQUEST

Mr. Hardy explained that one of the possible actions of the City is to file a Declaratory Judgement Motion on the right-of-way request which Kern River has filed. They have requested a 50-ft. permanent right-of-way, with an additional 25 feet on either side for construction purposes, to cross two sections of property which the City owns but is not inside city limits. That request has basically been tabled. He reviewed that in Clark County, Nevada (where Kern River made a similar request) a motion was made (by the County and the city of North Las Vegas) to deny the request for right-of-way and this request was denied. The motion was then amended and has not yet been ruled on.

Mr. Hardy stated that Bountiful could file that same kind of action in Federal District Court and, according to Mac Watkins (FERC counsel), would probably not prevail, although there is a possibility. This would be at a cost of approximately \$10,000.00. If the City prevailed in the District Court, an appeal would be filed at the Tenth Circuit Court in Denver, with a smaller probability of prevailing and at a cost to defend at \$15-20,000. If the Tenth Circuit Court ruled in Bountiful's favor, an appeal at the Supreme Court would cost \$80-100,000 to defend and the probability of prevailing is very small.

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An alternative strategy would be to wait until Kern River files condemnation proceedings and then ask for a Motion to Dismiss based on the action that is taken in Nevada and the Court of Appeals. This would provide "scouting" time to determine probability of succeeding. When asked for a staff recommendation, Mr. Hardy stated that it has been City policy to try to settle

out of court if there is less than a 50/50 chance of prevailing. Councilwoman Coon noted that the cost of filing the Declaratory Judgment Motion could be shared by all property owners in Davis and Morgan counties, resulting in possibly only \$1,000 cost to Bountiful. She made a motion to join with the other property owners under threat of condemnation (both private and public) and file a Declaratory Judgement, with costs to be shared. She urged the other council members to lead out with the recognition that the coalition would provide for strength in numbers. This motion died for lack of a second. Councilman Shafter stated that he would prefer to wait and see what happens in Nevada, as advised by Mr. Watkins.

The meeting adjourned at 10:51 p.m. on a motion made by Councilman Gramoll and seconded by Councilwoman Coon.