

Minutes of the regular meeting of the City Council held October 18, 1995 at 7:00 p.m. in the Council Chambers of the City Hall, Bountiful, Utah.

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|----------|------------------------|--|
| Present: | Mayor:                 | John Cushing   |
|          | Council Members:       | Samuel Fowler, Barbara Holt, William Moore, and Harold Shafter |
|          | City Manager:          | Tom Hardy  |
|          | City Attorney:         | Russell Mahan  |
|          | City Engineer:         | Jack Balling   |
|          | City Recorder:         | Arden Jenson   |
|          | Dep. City Recorder:    | Kim Coleman  |
|          | Planning/RDA Director: | Blaine Gehring   |
|          | Recording Secretary:   | Nancey Lawrence  |
|          | Dept. Head:            | David Wilding, Water/Sewer                                     |
| Excused: | Councilwoman:          | Ann Wilcox   |

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 Cushing called the meeting to order, following which Mr. Balling led the pledge of allegiance to the flag. The invocation was offered by Mr. Jenson.

Minutes of the regular meeting of the City Council held October 11, 1995 were presented and unanimously approved as amended on a motion made by Councilman Moore and seconded by Councilman Shafter .

#### **EXPENDITURES AND EXPENSES APPROVED FOR PERIOD OCTOBER 1-12, 1995**

Mr. Jenson presented the Expenditure and Expense Report for the Period October 112, 1995 in the amount of \$308,979.33. Following a brief discussion, this report was unanimously accepted on a motion made by Councilman Fowler and seconded by Councilman Shafter.

#### **APPROVAL GIVEN TO PURCHASE TRUCK FOR WATER/SEWER DEPARTMENT**

Mr. Wilding reviewed that \$18,000 was budgeted for the purpose of replacing a small 1986 dump truck. Inasmuch as the State Bid price is as good or better than prices which would be offered through a bidding process, he recommended that a 1996 Ford one-ton chassis/cab truck be purchased from Butterfield Ford, the State contract vendor, in the amount of \$17,172.00. The cost would be split 50/50 between the water operating account and the sewer operating account. Councilman Moore made a motion to approve the purchase as recommended. Councilwoman Holt seconded the motion and voting was unanimous.

#### **ALICE DEVORE RECOGNIZED UPON RETIREMENT**

Mayor Cushing recognized that Alice Devore is retiring following 18 + years with the City. He congratulated her on the accomplishments she has made and the manner in which she has served the City. Mr. Jenson stated that Alice has done an outstanding job as Payroll Administrator and praised her for her work ethic. He thanked her for her friendship and wished her well on her retirement. Mr. Hardy thanked Alice for the service she has given to the City and praised her for her dedication. Alice responded with gratitude for those she has worked with and for the Council's support of the employees benefit package, which makes her retirement possible. She expressed gratitude for the opportunities she has experienced while working for the City and for the friendships she has made. The Mayor then presented Alice with a token of appreciation on behalf of the City staff and elected officials and wished her well.

**APPEAL OF CONDITIONAL USE PERMIT GRANTED  
TO CHARLIE BROWN'S AUTO SALES, 196 WEST 500 SOUTH**

Mr. Gehring reviewed that on September 19, 1995 the Planning Commission granted a Conditional Use Permit for Charlie Brown's Auto Sales at 196 West 500 South (Cavanaugh's comer). Mr. Lawrence Barber, an affected property owner in the vicinity, has filed an appeal of that permit (per Section 14-2-207 of the Zoning Ordinance). The Ordinance provides that the City Council may affirm, reverse, alter, or remand for further review and consideration any action taken by the Planning Commission. Mr. Gehring reported on the conditions which had been attached to the permit, and noted that they have all been accomplished, with the exception of chaining off existing drive approaches to prevent them from being used for parking or display of cars outside of the sidewalk. This condition is required by Mr. Brown's insurance and will be accomplished shortly.

Lawrence Barber, owner of commercial properties in close proximity to Mr. Brown's business, reviewed that his involvement with this request was in no way a personal vendetta against Mr. Brown. He said his concern is that the City treat all owners the same and not have a different set of rules for different people. This statement was made in reference to the landscaping requirements. New construction or remodels in excess of 50 percent of the original value are required to provide a 10-ft landscape strip along the street. Since this building is not new and has not been remodeled, the requirement set by the Planning Commission was for a 5-ft. strip along 500 South, with no landscaping on 200 West.

Mr. Charles Brown, proprietor of Charlie Brown's Auto Sales, gave an overview of his proposed business, noting that he has been a Bountiful resident for 21 years and is anxious to make a positive contribution to the City, both in terms of aesthetics and economics. He has been in the auto business for 35 years and will feature newer-model cars on his lot. He said that it is the intent of Cavanaugh's to expand their manufacturing operation and move to a new location within one year to accommodate this growth. He will then use their building (formerly a gas station) to operate his business from. If there is a delay in Cavanaugh's vacating their building, they will provide inside space for Mr. Brown. He has a one-year lease for his business, renewable for five years in one-year segments.

Mike Holmes and Dick Dresher, Planning Commissioners, were in attendance and spoke in favor of requiring the 10-ft. landscaping strip on both 500 South and 200 West. When this matter was acted on by the Planning Commission, it passed by a 3:2 vote, with Mr. Holmes and Mr. Dresher voting nay. Mr. Brown noted that an additional landscaping requirement would use up so much of the existing parking area that there would not be enough room to display cars. He said he would be willing to provide additional landscaping if he were to purchase the property, and could make other site changes. Speaking as a citizen, Mr. Holmes said he felt approving a used car lot on 500 South, the main thoroughfare of the City, was taking a step backward. He pointed out that although Mr. Brown's business would be attractive, there was a definite possibility that future businesses at that location could be unsightly, and the ordinance was designed to enhance 500 South. Councilman Shafter stated that he would like to have the entire body of the Planning Commission consider this matter (since only five of the nine were in attendance when action was taken). He made a motion to this affect and Councilman Moore seconded the motion. Mr. Mahan pointed out that the original hearing was a public hearing and if the matter were reconsidered by the Planning Commission, another public hearing would need to be scheduled. He also noted that Mr. Brown's request for a conditional use permit was approved by majority vote of the quorum and that Mr. Brown has met the conditions placed on him. He (Mr. Mahan) said he would prefer for the issue to be handled by the Council.

A lengthy discussion followed with clarification by Mr. Hardy that the handling of this matter thus far has been in compliance with the ordinance. Councilman Shafter withdrew his motion and Mr. Moore withdrew his second. Councilwoman Holt stated that she had favored the issue when it was voted on by the Planning Commission because she felt the five foot landscape strip was sufficiently attractive and she cited that KFC on the comer of 500 South and 500 West also has a 5-ft. landscape strip (and not 10-ft.), as does Doug Smith on Main Street, and both of these properties are

attractive.

Nelda Bishop, friend of Mr. Brown's, pointed out that Mr. Brown has acted in good faith reliance and she petitioned the Council to not change the conditions or add to them. Mr. Barber clarified that his concern was that the ordinance be adhered to and if Mr. Brown's situation is in compliance with the ordinance, then he has the right to occupy the site as approved. With this statement basically reversing the appeal of Mr. Barber, and based on the discussion, Councilwoman Holt motioned to uphold the conditional use permit as granted by the Planning Commission, with the addition of one further condition. In the process of the appeal and this discussion, it has been determined that the temporary building used by Mr. Brown does not meet code requirements as required by the Fire Marshall and the Uniform Building Code. She included in her motion that the building be required to be in compliance with the UBC and the fire code. Councilman Fowler seconded the motion and voting was by a majority. Councilman Shafter voted nay.

### **Council Committee Reports**

In the absence of Councilwoman Wilcox, Councilman Moore reported on the resounding success that the Youth Council had with the Pumpkin Patch activities. Mrs. Bishop also praised the Youth Council for the help they provided at the Transportation Committee meeting at Davis High School.

The meeting adjourned at 8:25 p.m. on a motion made by Councilman Moore and seconded by Councilwoman Holt.