

1 Minutes of the regular meeting of the City Council held June 3, 1998 at 7:00 p.m. in the
2 Council Chambers of the City Hall, Bountiful, Utah.

3
4 Present: Mayor John R. Cushing
5 Council Members Samuel R. Fowler, Barbara Holt, and
6 Stewart Knowlton
7 City Manager Thomas R. Hardy
8 City Prosecutor J. C. Ynchausti
9 City Engineer Paul Rowland
10 Admin. Services Director Galen Rasmussen
11 Department Head Clifford Michaelis, Power Department
12 Recording Secretary Ellen H. Call
13
14 Excused: Council Member Alan A. Johnson
15 Council Member C. Harold Shafter
16 City Attorney Russell L. Mahan
17

18 Official Notice of this meeting had been given by posting a written notice of same and an
19 Agenda at the City Hall and providing copies to the following newspapers of general circulation:
20 Davis County Clipper, Deseret News, and Salt Lake Tribune.
21

22 Mayor Cushing called the meeting to order. A visiting Boy Scout, Ben Eggett, led the
23 pledge of allegiance to the flag, and the invocation was offered by Councilman Fowler.
24

25 Minutes of the regular meeting of the City Council held May 27, 1998 will be presented
26 for approval at the next regular meeting.
27

28 **EXPENDITURES AND EXPENSES APPROVED**
29 **FOR PERIOD MAY 22-31, 1998**

30 Mayor Cushing presented the Expenditure and Expense report for the period May 22-31,
31 1998, with total disbursements for the period in the amount of \$642,150.11. There were no
32 corrections or comments, and the report was unanimously approved as presented on a motion by
33 Councilmember Holt, seconded by Councilman Knowlton.
34

35 **RETIRING POWER DEPARTMENT**
36 **EMPLOYEE VERNILE HESS RECOGNIZED**

37 Cliff Michaelis stated that Vernile Hess has worked for Bountiful City for 35 years, the
38 last 22 years of which were as an accountant with the Power Department. Mr. Michaelis
39 commended him for his work ethic, honesty, integrity, and his willingness to listen to others. He
40 expressed his appreciation to Vernile for their association and for his ability to work with people.
41 Mr. Hardy noted that Vernile has done an outstanding job in the Power Department and is a very
42 enjoyable person to be around. He understands the budget, the inventory, and the method of
43 accounting for the assets. Mr. Hardy expressed appreciation to Vernile on behalf of the city for
44 the opportunity to have worked with him. Mayor Cushing also conveyed his appreciation to
45 Vernile for his many years of faithful service, and presented a gift to him and his wife on behalf
46 of the city.
47

48 Vernile expressed his appreciation to the city and the employees for the many years of
49 enjoyable association. He also commended the city for the manner in which it is operated, and
50 thanked the City Council for their friendship and for the support they give to the employees.

1
2 **APPROVAL GIVEN TO ISSUE ORDER TO SHOW**
3 **CAUSE ON BEER LICENSE OF MAVERIK COUNTRY STORES**

4 City Prosecutor J. C. Ynchausti reported that during the compliance testing for the
5 second quarter of 1998, alcohol was sold to an under-age consumer by Maverik Country Stores
6 at 105 South 200 West. The clerk was cited and management notified. This was the second sale
7 within three consecutive quarters, and therefore constitutes reason to issue an Order to Show
8 Cause requiring Maverik to appear before the Council and explain why their license should not
9 be revoked or suspended. Councilman Fowler made a motion to this effect to set a hearing date
10 of Wednesday, June 24, 1998, at 7:00 p.m. Councilmember Holt seconded the motion, and the
11 voting was unanimous.

12
13 Tom Hardy reported that this was the only business which made an illegal sale during
14 this quarter, so the program seems to be working.

15
16 **CONTRACT AWARDED TO STAKER PAVING**
17 **TO SUPPLY ASPHALT FOR 1998 SEASON**

18 City Engineer Paul Rowland noted that two bids were received from local producers to
19 supply asphalt to the Street Department for the 1998 season. It is the recommendation of staff
20 that the proposal from Staker Paving in the amount of \$425,500 be accepted. Councilman
21 Knowlton moved that the bid to supply asphalt be awarded to Staker for this amount.
22 Councilman Fowler seconded the motion and voting was unanimous.

23
24 **PUBLIC HEARING TO CONSIDER**
25 **THE 1998-99 FISCAL YEAR BUDGET**

26 Tom Hardy reviewed that the total budget for 1998-99 is \$42,734,882, an increase of
27 2.4% over the 1997-98 budget. It is balanced as required by state law with regard to revenues
28 and expenses. However, the city will be spending nearly \$3 million more than it takes in during
29 this fiscal year, utilizing reserves in the Capital Projects Fund, the Power Fund, and the Water
30 Fund for capital improvements. There is no increase in the number of full-time personnel. In
31 fact, there is a personnel decrease in the Administrative area due to enhanced technology and
32 streamlining of operations. The budget contains a 2.5% increase in salary for all full-time
33 positions, as well as funding of merit increases and reclassification of several positions in the
34 Fire Department. There is no increase in the city's contribution to medical or other insurance.
35 There is no increase in taxes, fees, or charges, and water, sewer, electric, and garbage rates will
36 remain the same.

37
38 User fees make up 47% of the budget, taxes and contribution from the Light and Power
39 Fund make up 26%, reserve contributions comprise 11%, 4% comes from fees charged to
40 developers, and 4% comes from interest income. The remaining 8% comes from a variety of
41 sources.

42
43 Franchise tax, sales tax, and gasoline taxes are set by state law and will remain the same.
44 Property tax may change, depending on the impact of the Supreme Court and Tax Commission
45 decisions on intangibles with regard to centrally-assessed properties and on the impact of the
46 new fee-in-lieu tax schedule adopted by the legislature for vehicles. However, no increase in

1 property tax revenue has been projected in this year's budget other than that due to new
2 construction. There may be a tax shift between the property tax paid on vehicles and that paid on
3 real property, but because the county has not completed its study as to what those decisions are,
4 the revenue and rate impact on the city is unknown at this time. The budget as presented is the
5 culmination of meetings with the departments of the city, with council committees, with the City
6 Manager, and reviews by the Council.

7
8 At 7:35 p.m. Mayor Cushing opened the public hearing to consider the 1998-99 budget.
9 **Brenda Homer** of 2080 Claremont, Chairman of the Bountiful Community Theater (BCT), was
10 the first to address the Council. She stated that even though the BCT is a part of the Recreation
11 Department, her comments would represent only the interests of the theater. Some of the points
12 she elaborated on were:

13
14 (1) The manner in which the City conducted some of their budget meetings. The BCT
15 made their presentation to the committee, evaluating their financial needs and requesting
16 increased funding. The committee (two of the three were present) voted in favor of increasing
17 BCT's budget, based on information presented and with the condition that no other increase
18 would be requested for four years and BCT would match the funding in ticket sales. The
19 committee's recommendation was later reversed by the City Council, the reason being that the
20 BCT should be kept within the same budgetary increase guidelines as all other departments of
21 the city, and BCT should be raising funds from the community.

22
23 (2) A program must have sufficient capital in order to succeed. The city has never given
24 BCT sufficient capital or the help they needed until they could establish financial independence
25 as they have other departments of the city. The city's contribution to the theater has not
26 increased for the past two years, but the cost of producing events has increased dramatically.

27
28 (3) BCT has received more donations this year than ever before, but production costs
29 have exceeded the community's ability to provide total funding. A goal has been set to have the
30 private sector provide all funding, but that goal has not yet been reached, and will not be reached
31 without the city's immediate help. Bountiful has offered a 2.5% increase in their contribution,
32 but the theater's production has increased from 3 to 22 events in one year, the organization is
33 completely run by volunteers, they have operated on the same budget amount for three years, and
34 they donate 100% of their time and over half the budget to programs free to the public. Their
35 fund-raising platform was based on getting a building in which to perform, and then the remodel
36 request was denied by the city, thus squelching any reason for donations.

37
38 (4) Budget has not been increased in the past based on the intention of the city to provide
39 facilities for the BCT, but they are now not allowed to use the facility. The theater has met or
40 exceeded each of the stipulations requested by the city: increase in ticket sales, increase in
41 contributions, increase in corporate sponsorships, and increase through grants. The "Evening
42 Out" series has been an outstanding success, and the theater would like to give more programs to
43 the community but are restrained due to budget.

44
45
46 (5) Other cities have contributed generously to their theater departments. Sandy City has

1 given \$56,650 for the performance of three shows and has agreed to build a performing arts
2 facility. Murray provides \$24,000 for one major show and two other events. Farmington has
3 provided an amphitheater and \$7,650 to perform two shows. Bountiful City's contribution to
4 BCT represents only 4/1000th of 1% of the total city budget, and their current request would
5 increase this to 5/1000th of 1%.

6
7 (6) Their proposed program series has, of necessity, been cut back and four major events
8 have been canceled because of budget restraints. Miss Homer voiced her opinion that the city is
9 doing the community a disservice and the Council is losing integrity by not following through
10 with their original goals. BCT is asking the Council to serve the community in a fair and
11 realistic contribution by restoring the budget originally accepted by the Council committee.

12
13 **Gordon Homer** of 2080 Claremont Drive extolled the benefits of a successful and active
14 arts program in a community. He voiced his opinion that a successful program keeps the kids off
15 the streets and out of trouble. He stated that the State Arts Council will give money to the BCT
16 if they are able to have a specified number and type of productions in a given year, and
17 Bountiful's increased contribution would help them accomplish that. He felt it would be wise
18 for the Council to think in terms of preventative rather than curative measures as far as the youth
19 is concerned by helping the Community Theater provide a medium to keep them occupied.

20
21 **Kathleen Richardson**, 2122 South 850 East, produced last year's Christmas show for
22 Bountiful Community Theater, which was very successful. Her experience has indicated that the
23 talent in Bountiful is superior and the potential for quality entertainment is great, but the program
24 needs more money in order to continue.

25
26 **Lyle Cole**, 691 South 800 East, has been involved in BCT since its inception. He
27 appealed to the Council for increased financial support. **Karen Tucker** of 2026 Ridgewood
28 Way also urged the Council to reconsider their latest decision and approve additional funding.

29
30 **Greg Friede**, Vice President of the Utah Taxpayers Association, explained that they
31 annually review the budgets of every school district, county, and major city in the state. He
32 voiced his appreciation for the cooperation and support he has received from Bountiful City in
33 helping them to accomplish this task. The purpose of his attendance at the meeting was to relate
34 some perceptions that his association has regarding Bountiful's budget, as well as some general
35 issues. A review of Bountiful's budget revealed a very frugal budget which meets the needs of
36 the residents of Bountiful while minimizing the burden they must bear for those services. He
37 stated his opinion that, in comparison with budgets of other cities, Bountiful is one of the best
38 managed cities in the state. Mr. Friede stated his Association's concern regarding the business
39 licensee fee structure which was altered in last year's legislative session. The intent of the
40 legislation is to assist the cities in correcting the inequities that have existed in the past, rather
41 than using it as an opportunity to increase their license fee revenues. He reported that Bountiful
42 City is complying with the spirit of the legislation.

43
44 Mr. Friede mentioned their involvement with the Class C road fund allotment which has
45 benefitted Bountiful and other cities this past year. The increase in gasoline taxes and the
46 change

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2 in the formula for distribution of those taxes has given cities additional revenues. He thanked
3 the Council for their willingness to serve and for their cooperation with the Taxpayers
4 Association.

5
6 **David Piggott**, 885 Millstream Way, provided a prepared statement which is included as
7 pages 7 and 8 of these minutes. He briefly reviewed that statement. He questioned the
8 legislative contingency fund of \$308,000. Mr. Hardy explained that Bountiful City will
9 eventually be compelled to join the 800 megahertz system which is being studied and which will
10 require that the city change out all the radios and go to a higher frequency in order to
11 communicate with the neighboring cities. The cost to the city is unknown at this time, but it is
12 anticipated that it will be in excess of \$473,000. An installment payment must be made next
13 year, and funds were placed in the legislative contingency fund in anticipation of that.

14
15 Mr. Piggott reiterated his opinion that the city's reserves are too high. It is his feeling
16 that when a need arises, the budget can be opened and funds placed to accommodate the need.
17 In his estimation, a balanced budget has no meaning. He expressed his appreciation to Galen
18 Rasmussen for his help in responding to his questions.

19
20 **David Adams** of 630 South 800 East, a 31-year resident, spoke on behalf of the
21 Bountiful Community Theater. In the past he has worked with the West Jordan Community
22 Theater and the Layton Theater, but has declined working in their programs for the past three
23 years to devote time to the BCT. He spoke of the level of financial support given by the other
24 cities, and pointed out the high percentage of participation in the arts programs by high school
25 students. The arts help keep kids out of trouble and give them a focus.

26
27 **Melinda Cole Welch**, 915 East 1500 South, also a theater supporter, added her vote to
28 the plea for increased budget support. She noted the high cost of procuring the rights to stage a
29 major play, in addition to the cost of costuming, production, scenery, etc. She announced that
30 they will be doing a children's theater at the amphitheater in North Canyon Park this summer.

31
32 At 8:15 Mayor Cushing closed the public hearing. In reference to Mr. Piggott's
33 comments concerning surplus funds, the mayor reported that these concerns have been referred
34 in the past to the State Auditor's office to confirm the legality, and that office has given
35 Bountiful City their opinion that we are conducting business in a proper and legal manner. This
36 is a written opinion which is available to the public.

37
38 Councilman Fowler explained to the supporters of the Bountiful Community Theater that
39 his vote to deny the increased contribution to the theater was based on his opinion that there are
40 alternate ways of raising funds. It is his concern that those who are involved with the
41 productions are too busy to become involved with fund-raising. He suggested that a committee
42 be formed to help generate more financial support.

43
44 Councilmember Holt corrected the evident perception that the theater is a part of the
45 Recreation Department. She pointed out that the arts are completely independent of the city, and
46 the money given to the arts each year is a donation. She explained that this had been a

1 particularly difficult budget year and that all department heads were cautioned that they must
2 live within existing revenues. There would be no tax or fee increases to support additional
3 expenditures, and even though the Recreation Department is a part of the city they must pay their
4 own way 80%. All departments, as well as donations, were held to an increase of 2½%. She
5 expressed her appreciation to the BCT personnel for their dedication and hard work. She noted
6 that Bountiful's donation to the theater constitutes about 60% of the theater's total budget.

7
8 Councilman Knowlton complimented Brenda Homer on her presentation, and restated the
9 Council's support of the arts. He pointed out the contribution the city is making by providing the
10 arts center for their use, but reminded her that the city must operate on a tight budget.

11
12 Mayor Cushing asked Tom Hardy to review the city's contributions to the arts as a
13 whole. Mr. Hardy noted that many cities have a "1% for the arts" program, where they
14 contribute 1% of the General Fund to the arts programs. He reviewed that Bountiful's General
15 Fund is approximately \$10 million, so that would mean \$100,000 total contribution. The city
16 currently gives \$45,000 cash to the Arts Center, \$14,000 to the theater, and a little under \$10,000
17 to the choir. In addition, the city has a cooperative arrangement with the Bountiful Jeep Posse,
18 the little league football organization, Mueller Park Baseball Association, South Davis Soccer
19 Association, and others in providing in-kind services.

20
21 With regard to Miss Homer's statement that the city would not allow the BCT to use the
22 Arts Center for their productions, Mr. Hardy explained that the only denial made was with
23 regard to the downstairs renovation. It was determined that the code requirements to bring the
24 area into compliance were so restrictive that the cost would have exceeded that of constructing a
25 new building. The city offered a building site with parking and landscaping, and the theater
26 would have to pay the direct building cost. The Council has already given favorable permission
27 to add onto the current building.

28
29 Mr. Homer again addressed the Council, reiterating his feeling that the benefit of theater
30 involvement has saved money for the city by keeping kids out of trouble. He asked them to
31 again review the many contributions that have been made to the theater by businesses and
32 individuals, and re-think whether the city owes the BCT for past successes achieved in steering
33 the young people in the right direction.

34
35 Mayor Cushing countered that the support the city has given in the past and is currently
36 giving is an indication of their appreciation for what has been done and what needs to be done.
37 Mr. Hardy reminded those in attendance that tonight is only the public hearing and the budget
38 ordinance will not be formally adopted until next week. If the Council wishes to reconsider their
39 decision on the donation to the Bountiful Community Theater, they may still do so. Mayor
40 Cushing noted that four years ago he appointed a committee to promote the arts and help them
41 establish a home as well as a new image, and he still maintains that level of support.

42
43 **PUBLIC HEARING TO RE-OPEN THE**
44 **1997-98 FISCAL YEAR BUDGET**

45 At 8:40 p.m. Mayor Cushing opened the public hearing to re-open the 1997-98 budget.
46 Tom Hardy stated that the ordinance will not be passed until next week, but the public hearing is

1 held in compliance with the law. It is customary to make year-end adjustments to the budget,
2 and there is a little less than 1% adjustment to be made in the General Fund this year. He briefly
3 explained the adjustments, which are outlined in the hand-out materials provided to the Council.
4 There were no questions or comments from the Council or public, and the hearing was closed at
5 8:42 p.m.

6
7 The meeting adjourned at 8:43 p.m. on a motion by Councilman Fowler, seconded by
8 Councilman Knowlton.

9
**The following *italicized* text was submitted by David Piggott and requested to be recorded
in the minutes of this meeting**

BOUNTIFUL CITY SHOULD REDUCE ITS TAXES

*Help!! Is there anyone out there against apathy, or against Bountiful City continuing to
accumulate cash reserves in excess of its needs, and in violation of the following Sections of the
Utah Code.*

***10-6-116 (2)** The accumulation of a fund balance in the general fund shall not exceed 18
per cent of the total estimated revenue of the General Fund.....*

***10-6-116 (5) (a)** Within a capital improvements fund the governing body may, in
any budget year, appropriate from estimated revenue or fund balance to a reserve
for capital improvements for the purpose of financing **future specific** capital
improvements, under a **formal long range** capital plan adopted by the governing
body. **10-6-117(2)** In determining the estimated expendable revenue of the
general fund for the budget year, there shall be included therein as an
appropriation from the fund balance that portion of the fund balance at the close
of the last completed fiscal year, not previously included in the budget of the
current year, that exceeds the amount permitted in Section 10-6-116.*

***10-6-131 (2)** Any balance remaining in a capital improvements or capital
projects fund shall be transferred to the appropriate debt service fund or other
fund as the bond ordinance may require and otherwise to the fund balance
account in the General Fund.*

*The designated fund balance in 1997, which had a balance \$4,992,944. Is not supported by
“specific” and “formal long range” projects but in fact includes expenditures for current year
items.*

*Compare the City’s statement in its 1997 Annual Financial Report below for evidence of its lack
of compliance with the Code.*

*“Expenditures in the Capital projects Fund are budgeted annually on a project-
by-project basis. Although it is the intention of the City that each project be
funded by a specific revenue source, the adopted budget reflects only total
anticipated revenue by source. Since it is not practicable nor appropriate to
separate revenues and fund balances on a project-by-project basis, the Capital*

Projects Fund is reported as an individual fund in the accompanying financial statements”.

In spite of the above Code requirements Bountiful City has as of march 31, accumulated \$40 million in cash funds. In the General Fund and Capital Improvements Fund the cash reserves were \$9 million plus a \$4 million balance on funds advanced to, and to be repaid by, the light & Power Fund, for a total of \$13 million. This is an increase of \$1.8 million so far this fiscal period, and proves that there was no need for the tax increase approved on September 3, which was to generate approximately \$275 thousand in additional property taxes.

At the public hearing in September when the Council was planning to increase the property tax levy. The City Manager responded to a query that the accountants were still working on the annual report and that final figures for the fiscal period were not available, but that the surplus in the General Fund would probably be near \$30 thousand. Those at the hearing did not have access to the year end data. The audit came in at \$25,999, but only after the City transferred \$801 thousand, budgeted as sales tax revenue, to the Capital Improvement Fund where it now languishes as part of the excess cash reserves It's a shell game they play.

The City should be compelled to reduce property taxes and / or franchise taxes so that excess funds are not generated. Excess funds that do occur should be brought forward and budgeted in the current fiscal period.

Our City Council should take note that only 4,461 tax returns from Bountiful for 1996 reported an adjusted gross income over \$50 thousand. Probably, at least fifty per cent of those were from two income families; so large families can ill afford such munificence.

*s/David Piggott
6/3/99*

JOHN R. CUSHING, Mayor

KIM COLEMAN, City Recorder

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