

**Minutes of the
Bountiful City Council Meeting
City Council Chambers
August 23, 2000 - 7:00 p.m.**

Present:	Mayor:	John R. Cushing
	Council Members:	Samuel R. Fowler, John S. Pitt, Stewart Knowlton, and J. Gordon Thomas
	City Manager:	Tom Hardy
	City Attorney:	Russell Mahan
	City Engineer:	Paul Rowland
	Admin. Services. Dir.:	Galen Rasmussen
	Planning/RDA Director:	Blaine Gehring
	Department Heads:	George Sumner, Fire Terry Thompson, Streets/Sanitation
	Recording Secretary:	Nancy T. Lawrence
Excused:	Councilwoman:	Barbara Holt

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 Councilman Knowlton led the pledge of allegiance to the flag. The invocation was offered by Councilman Fowler.

Minutes of the regular meetings of the City Council held August 2 and August 9, 2000 were presented and approved as amended on a motion made by Councilman Pitt and seconded by Councilman Fowler. Councilpersons Fowler, Pitt, and Knowlton voted "aye" and Councilman Thomas abstained from voting because he had not received copies of the minutes.

**EXPENDITURES, EXPENSES, AND TOTAL DISBURSEMENTS
APPROVED FOR TWO AUGUST PERIODS**

Mayor Cushing presented the report of Expenditures and Expenses Greater than \$1,000 for the period August 3-9, 2000 in the amount of \$482,555.86, the period August 10-16, 2000 in the amount of \$465,836.35, and the Summary of Expenditures and Expenses for the Month of July, 2000 totaling \$3,869,137.18. The staff responded to questions, following which the three reports were approved on a motion made by Councilman Fowler and seconded by Councilman Thomas. Councilpersons Fowler, Pitt, Thomas, and Knowlton voted "aye".

BID AWARDED FOR PAGES LANE STORM DRAIN REPLACEMENT

Mr. Rowland reviewed that bids were received for replacement of the existing drain pipe in Pages Lane from Main Street to approximately the west side of the Penney's property. Seven

proposals were received and it is the recommendation of staff to accept the low bid from Wolff Excavating in the amount of \$101,694.00 (for the concrete pipe alternative). The budget for this item was \$120,000.00. Councilman Knowlton made a motion to accept the proposal from Wolff Excavating as recommended. Councilman Fowler seconded the motion and voting was unanimous. Councilpersons Fowler, Pitt, Thomas, and Knowlton voted “aye”.

PUBLIC HEARING TO CONSIDER DISCONNECTING LOT 407 FROM BRIDLEWOOD SOUTH ESTATES SBDVN, PHASE 4, PRELIMINARY AND FINAL APPROVAL FOR BRIDLEWOOD SOUTH SBDVN, PHASE 5

Mr. Rowland explained that when Bridlewood South Estates Subdivision was approved, Lot 407 had a large gully on it and wasn't very desirable for construction of a home. As the road was constructed in that subdivision, the gully was filled in and the lot is now more buildable. The lot is very large and it is the desire of the developers to split the lot into two lots. This will require the vacation of Lot 407 from Phase 4, which, under State law, requires that a public hearing be held. It is proposed that the two newly created lots be known as Bridlewood South Estates Phase 5.

Mayor Cushing opened the public hearing at 7:17 p.m. and called for input on this item. Steve Randall, developer, was in attendance to respond to questions. One written objection had been received from a contiguous neighbor (Mike Parsons) relating to obstruction of his view. However, it was noted that the original subdivision plat showed the property included in Lot 407 as two lots. There were no other comments and the hearing was closed at 7:20 p.m.

Councilman Thomas made a motion to approve disconnecting Lot 407 from Bridlewood South Estates Subdivision, Phase 4, as presented by adoption of Ordinance No. 2000-12 entitled AN ORDINANCE VACATING LOT 407 FROM BRIDLEWOOD SOUTH PHASE 4 SUBDIVISION IN BOUNTIFUL, DAVIS COUNTY, UTAH, AND RELEASING THE EASEMENTS THEREON, FOR THE PURPOSE OF BEING INCORPORATED INTO THE NEW BRIDLEWOOD SOUTH PHASE 5 SUBDIVISION. The motion also included that the newly created subdivision be given preliminary and final approval as recommended by staff and with the following conditions:

1. The City Council pass an ordinance disconnecting Lot 407 from the original Phase 4 subdivision.
2. Payment of required checking and recording fees.
3. Provide a current and correct title report for the property.
4. Maintain sufficient bonding from the Phase 4 bond to cover the few construction expenses.
5. Compliance with all other applicable requirements in final approval of the Subdivision.

The motion was seconded by Councilman Knowlton and voting was unanimous. Councilpersons Fowler, Pitt, Thomas, and Knowlton voted “aye”.

APPROVAL GRANTED FOR EXPANSION OF WOODS CROSS CULINARY WATER RESERVOIR - 339 W. 2600 SO.

Mr. Rowland reviewed that several years ago Woods Cross City constructed a buried 1.3

million gallon culinary water reservoir on the property at 339 West 2600 South. The tank was located to accommodate future expansion, and the need for water has increased. Woods Cross would like to add an additional 2.1 million gallon reservoir which will fill most of the rest of the vacant lot. The addition would also be buried and the only thing visible would be a few small access hatches sticking above the finished grade. The Planning Commission has reviewed this request and sends a favorable recommendation. Following discussion, Councilman Thomas made a motion to grant preliminary and final site plan approval for the expansion of the existing Woods Cross culinary water reservoir at 339 West 2600 South. Councilman Pitt seconded the motion which carried unanimously. Councilpersons Fowler, Pitt, Thomas, and Knowlton voted “aye”.

STREET DEPARTMENT BIDS APPROVED

Mr. Thompson reported that bids were requested for three items for the Street Department and he presented the following recommendations from staff:

1. **Purchase of ten-foot dump body with hydraulics, salter and plow package.** Bids were received from five vendors and it is recommended that the low bid from Tesco Williamson in the amount of \$27,611.00 be accepted. The budgeted amount was \$32,000.00. Councilman Knowlton motioned for approval and Councilman Fowler seconded the motion. Councilpersons Fowler, Pitt, Thomas, and Knowlton voted “aye”.
2. **Purchase of eight-foot dump body and plow frame.** Bids were received from four vendors and it is recommended that the low bid from Holland Equipment Company in the amount of \$6,892.00 be approved. The amount budgeted was \$6,500.00. Councilman Knowlton motioned that the staff recommendation be approved. Councilman Fowler seconded the motion. Councilpersons Fowler, Pitt, Thomas, and Knowlton voted “aye”.
3. **Purchase of a one-ton extra-cab and chassis.** Five bids were received and it is recommended that the lowest qualifying bid from Hinckley Dodge in the amount of \$24,458.00 be approved. The amount budgeted was \$26,000.00. This unit will be used with the dump body and plow frame approved previously. Councilman Knowlton motioned for approval of the Hinckley’s bid. Councilman Fowler seconded the motion and Councilpersons Fowler, Pitt, Thomas, and Knowlton voted “aye”.

PUBLIC HEARING ON PROPOSED TAX INCREASE FOR 2000

Mayor Cushing reviewed that the City Council, by way of Council Committees, has reviewed each department’s budget with the respective department head and the financial managers of the City. Numbers have been reviewed carefully and he complimented the staff and Council members and management for their close scrutiny in this process.

Mr. Hardy reported that the proposed budget of \$43,496,745 is up 16 percent from last year. The proposed budget does not include increases in electrical, water, sewer, or garbage

rates and no increase in personnel. He noted that the costs of power increased dramatically this summer, due to the need to purchase on the spot market in large quantities. For the month of July alone, the cost of power was \$1.3 million more than budgeted and it is anticipated that the City will have an approximate \$3 million loss for the four summer months. In spite of these increased costs, electrical utility rates have not been increased. However, the City is reviewing possible ways of avoiding these losses in the future, and the purchase of another resource of firm power is being considered.

Major points of the budget include a 3 percent salary adjustment for full-time employees, the start of a City park in the area known as the Foss Lewis gravel pit, upgrading the City information systems networking capability, and continuance of the “pay-as-you-go” philosophy—paying for current needs out of current resources. The general fund budget for the coming year is up 4.9 percent, with the largest increases (87 percent of total) in the police, fire, administrative services, streets, and engineering budgets.

Mr. Hardy explained that the “Truth in Taxation” law has resulted in the City receiving less tax revenue each year than the year before. He pointed out that there is not a city in the State (comparable in size) that has a tax rate as low as Bountiful’s, and with a proposed tax increase, Bountiful would still be on the low end of property tax within the County and State. He reviewed the various sources of General Fund revenue (sales tax, franchise tax, and property tax) and the projection for generating revenue for the coming year, pointing out that revenues will not meet the projected expenses for the year. It is recommended that there be a property tax increase, with the tax rate set at .001409/dollar of assessed valuation. (An increase of approximately 12 percent).

Mr. Hardy addressed concerns regarding the help which is given developers by the Redevelopment Agency and noted that the long-range impact will be a stronger City economy in the future.

The Mayor opened the public hearing at 8:05 p.m. and the following citizens presented their views on the proposed tax increase: Steve Anderson, Sheryl Allen, Don King, Kurt Mudrow, Gordon Johnson, Bud Thompson, David Piggott, Ron Martinson, Louis Naegle, Kathryn Rowley, and Greg Freddie (vice president of the Utah Taxpayers Association). Mr. Freddie suggested that in a year when taxpayers are being asked to pay an increase, the City should take another look at the conservative estimate on revenue. He also suggested that the sales tax transfer be reduced and needs be met without a tax increase. A copy of Mr. Piggott’s comments is included, at his request, as an official part of these minutes (see last page). Mayor Cushing thanked the citizens for their input and the hearing was closed at 9:02 p.m.

The Council then expressed their feelings regarding the proposed budget and responded to comments made by the citizens. Mr. Hardy also clarified the position of the City regarding Mr. Piggott’s comments. Following the discussion, Councilman Fowler made a motion that the City Council adopt Resolution No. 2000-04, A RESOLUTION SETTING THE TAX RATE

AND LEVYING TAXES UPON ALL REAL AND PERSONAL PROPERTY IN THE CITY OF BOUNTIFUL, UTAH, MADE TAXABLE FOR THE YEAR 2000. Councilman Knowlton seconded the motion and Councilpersons Fowler, Pitt, Thomas, and Knowlton voted “aye”.

PUBLIC HEARING ON THE 2000-2001 BUDGET
PRIOR TO ADOPTION

Mayor Cushing opened the public hearing at 9:27 p.m. to consider the 2000-2001 Budget prior to adoption. Although many of the comments regarding the budget were discussed in the prior hearing on the proposed tax increase, Mr. Piggott expressed concern about the excess revenue over expenses in the Capital Projects Account for the past three years and the cash balance of the City. Mr. Hardy pointed out that in some years the balance in Capital Projects is negative (as in 1996-97 with a \$2.2 million negative figure), and he clarified the cash balance issue. There were no further comments and the hearing was closed at 9:32 p.m.

The proposed budget is balanced at \$43,496,745.00, with the following summary of expenditures and expenses:

Legislative.....	\$ 573,835	
Legal	209,959	
Executive and Central Staff	227,461	
Information Systems Management (Data Processing).....	369,842	
Administrative	458,641	
Treasury	514,802	
General Government Buildings	176,771	
Police	4,028,688	
Fire and EMS	2,030,111	
Street and Traffic Lighting	385,000	
Streets.....	3,831,000	
Engineering.....	787,184	
Parks.....	1,294,799	
Recreation Subsidy	297,992	
	Planning, Licensing and Code	
	Enforcement	214,174
Debt Service.....	641,713	
Water.....	2,839,907	
Sewer.....	1,026,327	
Light and Power	17,949,381	
Golf Course.....	1,327,700	
Swimming Pools, Recreation and Ice Arena	1,514,677	
Sanitation (includes Landfill)	1,780,781	
Cemetery	254,550	
Internal Service (Computer Maintenance, Liability Insurance, Worker’s Compensation).....	<u>761,450</u>	
TOTAL	<u>\$43,496,745</u>	

(C.C. minutes August 23, 2000)

Councilman Knowlton made a motion to approve the proposed budget and adopt Ordinance No. 2000-13 entitled AN ORDINANCE ADOPTING A BUDGET FOR THE CITY OF BOUNTIFUL FOR THE FISCAL YEAR BEGINNING JULY 1, 2000 THROUGH JUNE 30, 2001. BUDGET PREPARED AND PRESENTED PURSUANT TO THE UNIFORM FISCAL PROCEDURES ACT FOR UTAH CITIES, INCLUDING ESTIMATES OF ANTICIPATED REVENUES, APPROPRIATIONS FOR EXPENDITURES, ADJUSTED COMPENSATION SCHEDULES FOR CITY OFFICERS AND EMPLOYEES, AND THE SETTING OF USER FEES FOR CITY FACILITIES AND SERVICES. The motion was seconded by Councilman Pitt and Councilpersons Fowler, Pitt, Thomas, and Knowlton voted "aye".

The meeting adjourned at 9:35 p.m. on a motion made and seconded by Councilmen Fowler and Pitt, respectively. Councilpersons Fowler, Pitt, Thomas, and Knowlton voted "aye".

SEE NEXT PAGE FOR EXHIBIT I: David C. Piggott Comments

JOHN R. CUSHING, Mayor

KIM J. COLEMAN, City Recorder

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Exhibit I

The 12% Property Tax Increase Is Not Necessary

The twelve percent (12%) property tax increase proposed by the Bountiful City Council is unwarranted and should be deferred to some later year when it might be justified.

Compounded with the 20.4 per cent increase three years ago, the City will have increased property taxes more than a third, to 34.9 per cent.

The existing tax rate of .001270, and other income sources for the four years, 1996 through 1999, have provided a surplus over expenditures totaling \$2.5 million in the General Fund and Capital Improvement Fund and it can be expected that there will be more than \$2 million added this year. In addition the City paid out more than \$4.2 million for the non-bonded portion of the Public Safety building; so there is no lack of money available for City needs. During the past three years the City has budgeted \$2.16 million more than it has spent for Capital Improvements.

The City has accumulated more than \$47 million in cash and equivalents. It has \$18.4 million in the General Fund, including the Capital Improvements Fund. These funds exceed the eighteen percent (18%) limitation imposed by Section 10-6-116 of the Utah Code, and by any measurement should be considered an excessive impoundment of taxpayer resources.

When will the City decide that it has enough cash on hand?. It now says that its new ten year capital improvement plan supports the need, but the five year plan just ended has been paid for with \$8 million left over and added to the cash surplus.

The Annual Financial Report (CAFR) indicates \$9.8 million of the above reserves are designated for construction projects, (such projects are not specified); and \$126 thousand for computer replacement.

\$891 thousand has been budgeted for park improvements, supposedly supporting the proposal for additional taxes. The City has previously designated reserves for this purpose. The same can be said for some of the computer costs.

The budget does propose to transfer \$215 thousand from the Undesignated Fund, but this is a pittance. **If the Council would take another \$676 thousand from the \$9.8 million held in the unreserved designated fund balance which it has set aside for this purpose there would be no need for the tax increase.** The transfer would be less than the amount expected as excess this year. The proposed property tax increase could be funded by existing reserves for the next 75 years.

Administrators should not establish reserves for projects then later budget for those projects against current revenues, allowing the cash reserves to accumulate.

Units of government and agencies are established through procedures established by law, and constraints on administering the affairs are similarly established. Through the legislative process Sections of the Utah Code were established limiting the amount of money cities can accumulate

Sections of the Utah Code that control the accumulation of cash in fund balances are:

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.

On August 2, 1993, the Office of the State Auditor wrote to the City:

“.....it is clear that the intent of the Legislature is that there be no ‘undesignated fund balance’ in the capital projects fund. Excess fund balance in the capital projects fund should lapse back to general fund to be reappropriated for another capital project or used for some other purpose in the general fund.

If you feel that we have not interpreted these code sections correctly, then please let us hear from you and we will seek clarification from the 1994 Legislature the coming year.....”

On September 8, 1993, after a response from Bountiful City, the Office of the State Auditor wrote to the City:

“.....First, let me reiterate that I do not feel nor have I ever wished to convey the impression that Bountiful City has violated state Law in the area of Capital improvement fund balance. I do feel that we interpreted certain sections differently due to the vagueness of the language but feel that my interpretation matches the intent of the legislature with regard to reserved and unreserved fund balances.....”.

TO THOSE WHO SAY THERE IS NO LAW THE OFFICE OF THE STATE AUDITOR CAN IMPOSE TO REDUCE AND RESTRAIN THE ACCUMULATION OF RESERVES, THERE SHOULD BE ONE. AND IT SHOULD BE DONE QUICKLY

(C.C. minutes August 23, 2000)

Bountiful City continues to build cash reserves in the general and capital improvements fund. They were \$11 million in 1994, and now over \$18 million. The City has pursued an aggressive capital improvements program and paid out more than \$4 million for the Public Safety Building that has been funded with current revenues not requiring additional taxes and yet has added more than \$7 million to its current cash reserves.

The following statements reflect the City's current position in this matter and do not conform to the above provisions of the Utah 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 revenues by source. Since it is not practicable nor appropriate to separate revenues and fund balance on a project-by-project basis, the Capital projects Fund is reported as an individual fund in the accompanying financial statements.” (Source: page 17, Annual Financial Report, June 30, 1999)

“.....Our 5-year plan helps us do just that, plan. However, if another project is added to the list or rises to a higher priority because of changing circumstances, we are not precluded, by law or inflexibility of a predetermined list, from shifting resources to that project just because it was not previously on the 5 year plan. The law only requires that we have specific plans with cost equal to or greater than that amount of money which we have set aside in our capital project fund.”
(Source: Letter, Bountiful City, dated June 12, 1996)

These two statements are not supported by the Utah Code. There is nothing in the Code that provides for rainy days, 5 year plans, or the assertion that other cities have higher taxes.

Taxpayers have no control and can exercise no restraint through public hearings when City Administrators have access to such huge amounts of cash, and interpret the law as indicated above.

/s/ David C. Piggott

(C.C. minutes August 23, 2000)