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Minutes of the Bountiful City Council Meeting

City Council Chambers
January 9, 2007 - 7:08 p.m.

Present: Mayor: Joe L. Johnson
Council Members: Richard Higginson, Barbara Holt, R. Fred Moss, John Pitt and Thomas Tolman
City Manager: Tom Hardy
City Attorney: Russell Mahan
City Prosecutor: J. C. Ynchausti
City Engineer: Paul Rowland
Admin. Services Director: Galen Rasmussen
City Recorder: Kim J. Coleman
Planning/RDA Dir.: Aric Jensen
Department Repre: Clifford Michaelis, Power Alan West, Information Systems
Recording Secretary: Nancy T. Lawrence

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 Johnson called the regular meeting to order at 7:08 p.m. following a field trip to the new South Davis Recreation Center, which is nearing completion. No decisions or votes were taken on the field trip. The Mayor welcomed those in attendance and called on Cameron Thueson, visiting Boy Scout from Troop 9112, to lead the pledge of allegiance to the flag. Mr. Rasmussen offered the prayer/thought.

APPROVAL OF MINUTES

Minutes of the regular City Council meeting held November 28, 2006 were presented and approved unanimously on a motion made by Councilwoman Holt and seconded by Councilman Higginson. Councilpersons Higginson, Holt, Moss, Pitt and Tolman voted "aye".

EXPENDITURES AND EXPENSES APPROVED FOR THREE DECEMBER PERIODS

Mayor Johnson presented the Report of Expenditures and Expenses Greater than \$1,000 for the following periods, with totals as noted: December 7-13, 2006 (\$997,132.78); December 14 - 20, 2006 (\$765,754.36); and December 21 - 28, 2006 (\$1,484,670.67). Councilman Pitt made a motion to approve the expenditure reports, as presented. Councilman Higginson seconded the motion and voting was unanimous. Councilpersons Higginson, Holt, Moss, Pitt and Tolman voted "aye".

SWEARING- IN OF NEW POLICE CHIEF, TOM ROSS

Mayor Johnson recognized Tom Ross and called on Kim Coleman to administer the Oath of Office. Following the swearing-in ceremony, Chief Ross introduced his family and then shared remarks regarding his new assignment. Chief Ross affirmed his commitment to the men and women in the Bountiful Police Department and other agencies that work cooperatively with Bountiful PD. He expressed his appreciation for the support received from family and friends and

1 noted that he is a compilation of the things that he has learned from those around him. He
2 concluded by recognizing his parents, who were in attendance, and stated that the lessons they
3 taught him at a young age have served him well.
4

5 Members of the Council congratulated the Chief, following which Mayor Johnson
6 expressed his sincere appreciation for the services of the Bountiful Police Department in his life,
7 as well as the manner in which they serve the community.
8

9 **MEETING SCHEDULE FOR 2007 APPROVED**

10 Mayor Johnson referred to the proposed meeting schedule for 2007, with regular meetings
11 of the Council being on the second and fourth Tuesdays of each month, to be held in the Council
12 Chambers at 790 South 100 East, Bountiful, Utah. The schedule, which was published pursuant to
13 UCA 52-4-6, also provided for meetings of the Redevelopment Agency, Executive Session
14 meetings, and other meetings, as necessary. Councilman Higginson made a motion to approve the
15 meeting schedule as presented. Councilwoman Holt seconded the motion and voting was
16 unanimous. Councilpersons Higginson, Holt, Moss, Pitt and Tolman voted “aye”.
17

18 **JOHN CUSHING AND LOWELL LEISHMAN**
19 **RE-APPOINTED TO POWER COMMISSION**

20 Mayor Johnson reported that the terms of two Power Commissioners (John Cushing and
21 Lowell Leishman) will expire on January 15, 2007. Both men accepted an invitation to serve
22 another four-year term (which will expire on January 15, 2011) and he recommended that they be
23 re-appointed. Councilman Moss made a motion to this effect, Councilman Higginson seconded
24 the motion and voting was unanimous. Councilpersons Higginson, Holt, Moss, Pitt and Tolman
25 voted “aye”.
26

27 **CONTRACT WITH JENSEN & KEDDINGTON FOR**
28 **INDEPENDENT AUDIT EXTENDED**

29 Mr. Rasmussen reviewed that the CPA firm of Jensen & Keddington has performed the
30 independent audit of the City since being awarded the bid in 2002. The contract with that firm has
31 expired and it is the recommendation of staff to extend the contract for an additional two year
32 period at a fee of \$45,000 per year, which represents an increase of approximately 2 ½ percent
33 over the first year’s fee but is actually \$3,000 less than last year. He said their proposal is
34 reasonable and noted that this firm has done an outstanding job. Mayor Johnson commented on
35 their high level of professionalism. Councilwoman Holt motioned to approve the extension of the
36 contract with Jensen and Keddington, based on the quality of their work and their close
37 involvement with the City. Councilman Higginson seconded the motion which carried
38 unanimously. Councilpersons Higginson, Holt, Moss, Pitt and Tolman voted “aye”.
39

40 **APPROVAL GRANTED FOR RFP FOR**
41 **STUDY ON MUNICIPAL WIRELESS**

42 Mr. Hardy noted that with a trend toward portability of information, the City has reviewed
43 surrounding communities to determine how communication, data transmission and video services
44 have been handled. Consideration has been given to providing a city-wide municipal wireless
45 system for use by internal departments, residents, businesses and visitors. Over the past year a
46 focus group has completed an extensive analysis of the needs of users, available technologies, and

1 providers of voice, video and data. The work done by the focus group was reviewed by two
2 graduate students from Brigham Young University and it is now the recommendation of staff that
3 the City issue a Request for Proposal document to procure services of a consultant. The consultant
4 will be asked to evaluate options, total costs and feasibility for deployment of city-wide municipal
5 wireless applications.
6

7 Following a short discussion regarding funding and the time-frame for implementation,
8 Councilman Pitt made a motion to approve the RFP, as requested. Councilman Higginson
9 seconded the motion and voting was unanimous. Councilpersons Higginson, Holt, Moss, Pitt and
10 Tolman voted “aye”.

11
12 **PRELIMINARY COMMERCIAL SITE PLAN APPROVAL**
13 **GRANTED TO BRAD HUTCHINGS, 466 WEST 1000 NORTH**

14 Mr. Rowland reviewed the historical use of the property at 466 West 1000 North and
15 reported that Brad Hutchings, owner of an existing commercial development, is desirous of using
16 the proposed site for expansion of his existing business (Timbermill Cabinets). There are two
17 existing structures on the property. Building No. 1 (near the street) will be removed and a new
18 building constructed in the same location. Building No. 2 is storage units and will continue in that
19 use, with Mr. Hutchings using some of the space and renting some out. A proposed third building
20 (on the east end of the property) will be considered in the future.
21

22 Mr. Rowland discussed issues regarding a necessary lot line adjustment, drainage, utilities,
23 access, landscaping, parking, and fees and stated that it is the recommendation of staff to grant
24 preliminary site plan approval conditioned upon all of the changes and items listed in this report
25 and shown on the redline plans, and a future action by the Council to abandon and deed over the
26 unused portion of the 1000 North right-of-way. Councilwoman Holt made a motion to this effect
27 and on the condition that Mr. Hutchings work with staff. Councilman Higginson seconded the
28 motion and voting was unanimous. Councilpersons Higginson, Holt, Moss, Pitt and Tolman voted
29 “aye”.

30
31 **COUNCIL DIRECTS STAFF TO SET PUBLIC**
32 **HEARING FOR TITLE 14 TEXT AMENDMENTS (SIGN ORDINANCE)**

33 Mr. Jensen stated that the Council reviewed several proposed amendments to the sign
34 ordinance in the December 12, 2006 meeting and remanded discussion related to electronic signs
35 to the Planning Commission for additional review. The Planning Commission met on January 2nd
36 and discussed this issue and recommended, by unanimous vote, to leave the previous
37 recommendation unchanged.
38

39 Following discussion regarding the different types of electronic signs and their
40 characteristics, Councilman Moss made a motion to set a public hearing to consider Title 14 text
41 amendments as written in the proposed ordinance draft, with various options to be drafted by staff.
42 Councilman Higginson seconded the motion and voting was unanimous. Councilpersons
43 Higginson, Holt, Moss, Pitt and Tolman voted “aye”.

44 **CONSENSUS OF COUNCIL IS FOR OLD**
45 **INDOOR POOL BUILDING TO BE DEMOLISHED**

1 Mr. Hardy reported that inasmuch as the old indoor pool building is considered unsafe and
2 needs to be demolished, the Council needs to consider whether to sell the property “As Is” (leaving
3 the demolition process to the purchaser), or to demolish the building and then sell it. There are
4 several parties who have indicated a desire to use the property (BDAC, residential development,
5 and professional office). A short discussion followed regarding the demolition and possible uses
6 of the property. It was the consensus of the Council that the City do the demolition and Mr. Hardy
7 indicated that he would get bids and would also be in touch with Phil Wright of the BDAC.
8

9 At 8:20 p.m. the Council recessed for ten minutes and then reconvened at 8:30 p.m.
10

11 **VARIANCE APPEAL OF PETER GORDON DENIED**

12 Mayor Johnson explained that Mr. Ynchausti would establish the parameters for
13 presentation of the variance appeal of Peter Gordon for the property at 2451 Deer Run Circle. Mr.
14 Ynchausti explained that Mr. Gordon (represented by attorney James Anderson) would have 20
15 minutes to present his material, Mr. Mahan would then have 20 minutes, time would be given for
16 public comments, and then the Council would deliberate the matter. He noted that the
17 presentations of Mr. Gordon could be split to allow for rebuttal. Documents had been submitted
18 last Thursday to the Council by both Mr. Anderson and Mr. Mahan.
19

20 Mr. Anderson reviewed that due to the slope of the lot, the proposed dwelling had to be
21 moved down the hill, and in so doing, retention in front of the home was required. This resulted in
22 a large amount of retaining for the driveway, which has become the focus and need for the
23 variance. The wall exceeds the maximum fill and height permitted by ordinances. (The wall is
24 17.5 feet tall, with maximum height allowed by ordinance at 10 feet tall). He also noted that the
25 Building Inspectors visited his property 15 times prior to advising him of this problem.
26

27 Mr. Mahan reviewed that the ordinance provides that a fill/retainer wall cannot be higher
28 than 10 feet. He also noted that the fill was created by Mr. Gordon, not an existing natural
29 situation. Mr. Mahan mentioned that changes were made from the approved site plan, including
30 moving the wall closer to the street, lowering the floor of the lower garage, and keeping the
31 driveway to the upper garage flatter than what was approved on the plan. These deviations from
32 the plan were not approved by the City, nor was the City informed of them. The wall was
33 constructed without a permit as required by ordinance.
34

35 Mr. Anderson stated that Mr. Gordon’s general contractor walked out on him, and he
36 proceeded on this own, doing the best he could in an effort to meet the suggestions of staff. Mr.
37 Mahan reviewed that the Council may grant a variance only if all of the following five conditions
38 apply:

- 39 (1) literal enforcement of the ordinance would cause an unreasonable hardship for the
40 applicant that is not necessary to carry out the general purposes of the land use
41 ordinances;
- 42 (2) there are special circumstances attached to the property that do not generally apply
43 to other properties in the same zone;
- 44 (3) granting the variance is essential to the enjoyment of a substantial property right
45 possessed by other property in the same zone;

- 1 (4) the variance will not substantially affect the general plan and will not be contrary to
- 2 the public interest; and
- 3 (5) the spirit of the land use ordinance is observed and substantial justice done.

4
 5 He noted that Mr. Gordon does not meet any of these conditions and, on that basis,
 6 recommended that the variance not be granted.

7
 8 At 9:20 p.m. the Mayor opened the meeting for public input. Steve Hogan (2425 Deer Run
 9 Circle) and Brian Jepsen (2483 Deer Run Circle) expressed concern that the wall which has been
 10 constructed will have a negative impact on the value of their property. Both noted that it has
 11 become a landmark, with a negative inference. They stated they had followed construction rules
 12 and Mr. Gordon should have to do so, too. Marty Thurgood, building inspector, and Lloyd
 13 Cheney, Assistant City Engineer, reviewed their association with this matter, and both emphasized
 14 the understanding that contractors proceed with their projects according to the approved site plan
 15 and compliance with ordinances.

16
 17 The Council engaged in a lengthy discussion attempting to find a solution to the problem
 18 which would lessen the financial impact to Mr. Gordon. Mayor Johnson and Mr. Ynchausti
 19 reviewed the points outlined by statute which must be present in order for a variance to be granted.
 20 Finally, Councilman Pitt made a motion to deny the variance on the grounds that the requirements
 21 of the statute have not been met, requiring that Mr. Gordon go back to the original approved
 22 design or another design that will stay within the ordinance. He noted that it is not this group's
 23 responsibility to do the planning and that what has been presented does not meet the criteria set
 24 forth by ordinance to justify a variance. Councilwoman Holt seconded the motion which carried
 25 by a majority. Councilpersons Holt, Pitt and Higginson voted "aye"; Councilmen Moss and
 26 Tolman voted "nay".

27
 28 The meeting adjourned to Executive Session at 10:29 p.m., for the purpose of discussing
 29 personnel and pending litigation, on a motion made by Councilman Higginson and seconded by
 30 Councilman Moss. Voting was unanimous with Councilpersons Higginson, Holt, Moss, Pitt and
 31 Tolman voting "aye".

32
 33 **Attendance at Executive Session**

34 Mayor Johnson
 35 Councilpersons Higginson, Holt, Moss, Pitt and Tolman
 36 Mr. Hardy

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 40 JOE L. JOHNSON, Mayor

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 44 KIM J. COLEMAN, City Recorder

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