Minutes of the regular session of the City Council of West Bountiful City held on Tuesday,November 20,2007 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance

MEMBERS PRESENT: Mayor James Behunin, Debbie McKean, Cheryl Searle, Jeff Tingey, Don Lilyquist, Roy Johnson

MEMBERS EXCUSED: none

STAFF PRESENT:Wendell Wild (City Administrator),Beverly Haslam (City Recorder), Jami Zigich (Secretary).

VISITORS: Ed Swanke, Alan Malan, Harold Mann, Aelene Mann, Richard Waddoup, Sandy Waddoup, Camille Sparkman, Mary Wild, Neil Paget, Craig Hall, Paeo Guitirez, Bill Quick, Chad Smith, Diane Smith, Wayne Eckman, Julie Eckman, Kendall Summer, Larry Smith, James Bruhn, Eric Eastman, Curtis Phipps, Stephen Dunn, Marc Johnson, Dennis Parkin, Chris Parkin, Tyler Wild,Von Hill, Ken Romney, Ron Freestone, Craig Hammond, Debbie Hammond, Valerie Shaw, RogerWray, RussellNewbold,RichHullinger, Marilee Hullinger, Clint Broderick, George Biada,BJ Hawker, Terry Mitchell, Doug Martin, Paul Hayward, Matt Collier, Blake Anderson, Mark Wild

Called to Order

The City Council meeting was called to order at 7:30pm by Mayor James Behunin welcoming and thanking all in chambers. Mr Behunin then went on to ask if there was anyone present who would like to give a thought and invocation. Carl Page a resident of West Bountiful volunteered. The Mayor stated that Carl page would be giving a thought and invocation after which council member Debbie McKean would lead the pledge.

Carl Page stood and addressed those in chambers reciting the Scout Oath and giving a brief statement on the importance of citizenship,then offering an invocation.

Debbie Mckean stood asking the audience to stand and repeat the Pledge of Allegiance.

1.
Accept Agenda

Mayor Behunin read the printed agenda and asked for discussion or acceptance.

Debbie McKean made motion that the Agenda be accepted as printed with exception of Item #16, Approval of Minutes being tabled as per time constraint , noting that the minutes would be given to each council member for approval and acceptance the first meeting in December. Jeff Tingey second the motion, vote was taken and the Agenda was accepted as per motion.

2.
Public Comment

Mayor Behunin explained briefly to those attending the policy for public comment, opening the floor, no citizens choose to speak at this

time.

3.
Consider Awarding Contract
for Engineering Service
CRS Engineering

James Behunin announced the agenda item and turned the floor to Wendell Wild City Administrator for general information regarding the awarding of a contract for Engineering Services to CRS Engineering.

Mr Wild briefly explained that the information of the process for selection was explained in council meeting dated October 20,2007 and that the city had been using CRS for approximately one year now . Mr Wild went on to state that a copy of the Professional Services Agreement put together by the legal counsel of the city and CRS was included in the council members meeting books.

Councilwoman Cheryl Searle expressed concern of the length of the contract being 3 years and asked about the possibility of a shorter or review able contract of 1 year.

Debbie McKean of the city council then voiced a concern with the Termination Agreement listed on Page 3 numbered 2.4 stating she worried about the 15% equalizing adjustment.

City Administrator Wendell Wild answered both council members questions stating that the issues are both generally status que in regards to professional contracts.

Mr Wild then introduced Paul J Hirst president of CRS and informed council and chambers that Mr Hirst had come to answer questions regarding the agreement.

Paul J Hirst then took the floor, introducing himself and thanking council for the affiliation that he and his company have had with the city of West Bountiful and stating that they are looking forward to working together in the future.

Mr Hirst inquired of council if there were any questions or concerns he could address.

Mr Hirst went on to make comment regarding questions about the termination clause, stating that it is in place to protect both parties and that it is as per each project.

Councilman Roy Johnson voiced concern of the rate increase for the first day of the first month of each new year, stating that if council were to approve, within weeks there would be a fee increase.

Don Lilyquist asked if it would be possible to add a yearly review of not only projects but also fees.

Mr Hirst stated that all aspects of all individual project contracts can be reviewed within a 30 day time period. Paul Hirst also stated that his company would be working for them, the city.Hirst also told counsel that there was nothing included in the agreement to hurt either party.

Informal discussion ensued among council members regarding different aspects of the service agreement, including but not solely about, project manager wages, project engineer wages, increase on proposed contract, pay scale changes.

Mayor Behunin bringing order back to the meeting, ask Ken Romney of the selection committee as to how long he understood the fee rates of the contract to be?

Mr Ken Romney stood and responded to the mayor stating he understood the fee schedule to be for 1 year.

Debbie McKean of council enquired of Mr Hirst if the contract could be amended to have the proposed fee schedule go thru the end of 2008?

CRS President John Hirst replied to McKean by stating that one of the main problems is that the agreement was written two to three months ago, not being this close to the end of the year. Mr Hirst went on to say that also stated in the agreement is that each project can be reviewed in all aspects. Hirst ended his comments by stating that it will cost the city more money if they keep changing from one firm to another because it takes a fair amount of time to get up to speed for each project and his company already has the background of the city and knows the projects.

Council member Jeff Tingey made the motion accepting and awarding the Engineering Contract Services to CRS according to the Professional Services Agreement proposed with the acception of including a 30 day termination clause for both parties and a 15% adjustment for projects on progress, with the final change being that the fee schedule proposed be reviewed at the end of the calender year of 2008.Debbie McKean second the proposal.

It was noted at this time that staff would be responsible for making changes and following thru with the signing of the needed agreements.

Vote was taken on the proposed motion by Mayor James Behunin and passed unanimously.

4.
Consider Ordinance #299-07
Amending Section 17.84 of
West Bountiful City Code
Addressing Residential Facilities
for Elderly and Disabled Persons

Mayor Behunin introduced the next agenda item by stating that it had been forwarded to the council from the Planning and Zoning Commission.

Mayor Behunin then gave a brief background update regarding this issue stating, some concerns have come up within the City regarding the regulation and establishment of facilities for persons with disabilities in West Bountiful City. It has been reported to staff that a home in the Olsen Farm 5 subdivision may be operating as a

transitional home for recovering alcoholics. It is currently unknown as to how many residents may be residing in the home.

Mayor Behunin then asked City Administrator Wendell Wild to update the council on the time line of events leading up to the proposed Ordinance change.

Mr Wild stated that in order to discuss this concern with neighboring residents, the Planning and Zoning Commission held a public Hearing on Tuesday, November 13,2007. Following this hearing, the Planning Commission reviewed the current Zoning Ordinance (17.84) and compared it to the Proposed amended ordinance regarding Residential Facilities for Elderly and Persons with a Disability, as prepared by attorney Craig Hall of Chapman and Cutler LLC. At the end of their discussion regarding the topic, the Planning Commission felt that the majority of Mr. Hall's recommendations were adequate to update and amend the current city Ordinance. Additionally, the Planning Commission scheduled a work session for November 15, 2007.

During the work session as stated by Mr Wild, the members of the Planning Commission and administrative staff discussed the details of the proposed Ordinance and acted to resolve additional concerns found within the document. The Planning Commission members decided to set up a meeting with Mr Craig Hall for November 16,2007 to discuss further additional concerns. In concluding this meeting, all parties involved agreed to recommend the proposed Ordinance amendments.

Wendell Wild City Administrator then introduced Craig Hall Esq of the firm, Chapman and Cutler LLC to give counsel information of the proposed Ordinance change.

Craig Hall stood and addressed council stating, the operation of group homes in residential communities remains an emotional and controversial issue throughout the country. It is not uncommon for area residents to mount stiff opposition when a group home plans to open in a neighborhood. However, both state and federal law impose significant restrictions on a local governments ability to regulate group homes in their jurisdictions.

Mr Hall went on to state, as should be apparent local government should be very cautious when attempting to regulate the operation of group homes. Although there are valid restrictions that can be imposed on such facilities, care should be taken to comply with the requirements of the FHAA and Utah Act. In particular, local governments should be careful to avoid imposing additional requirements, that are not applicable to regulate residential dwellings in the absence of a well documented concern with community safety or the welfare of the group home residents. Further local governments should make reasonable efforts to accommodate group homes even under their generally applicable ordinances.

Mayor Behunin thanked Mr Hall for his help to the city and asked if there were questions from the council.

James Behunin asked Mr Hall if the Ordinance change would be enough to protect the city against the particular group home in

question?

Mr Hall stated to the mayor in the affirmative stating that the city and state licensing of this particular kind of home should help also,

Informal discussion then ensued amongst council members and Mr Craig regarding issues and questions such as but not limited to residential recovery facilities, compliance checks, business licensing, traffic and parking issues, signatures needed for different permits.

Council member Debbie McKean then made motion to adopt Ordinance 299-07, an Ordinance amending Chapter 17.84 Residential Facilities for Elderly and Persons with a Disability of the West Bountiful Municipal Code.

Motion was seconded by Cheryl Searle

West Bountiful resident Ed Swanke came to the podium with the question, " Do we really want this kind of facility in our city?" Mr Swanke questioned the council if zoning needed to be changed and asked further that the council look into Salt Lake City County code.

Council member Debbie McKean re assured Mr Swanke that the council was looking into all aspects of this issue and that this was the first step.

Mayor James Behunin then called for a vote on the motion Debbie McKean proposed and Cheryl Searle seconded, voting was unanimous in favor.

5. Appointments to the Historical Commission Board

The Mayor made comment of the fabulous actions and activities the Historical Board has and is accomplishing, and thanked Council member Cheryl Searle for heading this board.

Mayor Behunin then turned time to Mrs Searle for the appointment of two new members to the Historical Commission

Cheryl Searle introduced two new appointees to the commission Alan Malan who lives outside the historic district and was present in chambers. Mrs Searle went on to introduce Alana Winegar stating that Ms Winegar was not present due to illness.

Mrs Searle then made a formal motion that the council accept the appointment of Alan Malan and Alana Winegar as two new board members to the West Bountiful City Historical Commission. Mrs Searle went on to add that there is still room for more members on the Commission.

Council member Jeff Tingey second the motion.

Mayor Behunin called for a vote, all voting in favor.

6. Discussion of City Policy

regarding building permits and fees

Mayor Behunin addressed agenda item #6, City Policy regarding building permits stating that there had been questions about the time frame of permits.

Mayor Behunin then asked City Administrator Wendell Wild to update the council on this issue.

Mr Wild stated that there have been questions raised regarding the time frame in issuing a fully executed building permit and should a builder be allowed to commence before it is completely signed off and all fees are paid, or could construction be allowed in stages and the permit finalized later.

Wendell Wild City Administrator then introduced Paul Hayward Vice President of Ivie Code Group who does the inspections for the city and also has done building code certification and licensing at the state level.

Mr Paul Hayward of Ivie Code Group then stood to address the council stating that Ivie Code Group works diligently to ensure the buildings constructed in West Bountiful meet adopted codes. Part of the process is to be as thorough as possible during the plan review process so that the building is properly designed. That generally results in a significant list of items that require attention, if a design professional takes undue time to respond, a project is delayed.

Mr Hayward further commented that his firm also believes very strongly in facilitating construction so as not cause improper burden on owners and contractors, we attempt to work with those involved to mitigate delays. That was the reason we allowed the Miller project to proceed. At no time did we feel the City of West Bountiful was at risk. The City has better reviewed and constructed buildings than at any time in the past. If the situation was abused, it certainly was not by Ivie Code Group or the City Staff. All of us worked to make sure the project was in compliance and our efforts for such continue.

Paul Hayward then asked council if they had questions for him.

Council member Jeff Tingey then asked if any permit fees had to be paid up front and if so were than paid.

Beverly Haslam City Recorder responded to Mr Tingeys question stating that a deposit is always collected on permits.

Council member Debbie McKean voiced concern that ordinances be followed, because if an exception is made for one then everyone will be the exception.

Wendell Wild City Administrator stated that this issue is not an ongoing problem and that there are different ordinances and permits for all levels of residential and business permits.

Mr Wild went on to state that every effort is always made to follow the city ordinances.

West Bountiful resident Ed Swanke stood at the pulpit and addressed

the council once again stating that the city needed a chief building official to make sure all issues were in compliance.

Mayor Behunin then brought the discussion to a close stating that this is yet another City Ordinance that should be looked into, but he felt confident this particular issue had been taken care of.

7.
Report on Recount of Election Ballots

Mayor Behunin addressed the next issue on the agenda by stating that you should never underestimate the power of your vote, and that every vote truly does count.

Mr Behunin went on to state that a special session of the council was held on November 13 to canvass the votes. The results of the City Council elections were James Bruhn, Kenneth Romney, and Valerie Shaw being elected.

Mayor Behunin went on to state that on the issue of the Rap Tax 721 votes were for and 722 were against. The Mayor went on further stating that there were eight provisional ballots and the council asked City Recorder Bev Haslam to look into this issue along with the possibility of a recount.

The mayor then asked Bev Haslam to state her findings.

City Recorder Beverly Haslam stated that in reviewing the situation with the County Clerk it was discovered that of the eight rejected ballots only one voter was actually registered to vote in this election, however the voter cast a ballot for four council members and did not vote at all on the other issue. The ballot had to be considered spoiled and did not count.

Haslam went on to state that to have the electronic votes recounted would be very expensive between $600 and $700 dollars.

Council member Roy Johnson made motion at this time, that in view of the close margin of voting on the RAP Tax he felt it would be appropriate for the city to spend the money for a recount of votes and wanted to make the appropriate motion.

Jeff Tingey second the motion.

Mayor Behunin asked for a vote on Roy Johnsons motion. All Council members voted in favor.

Mayor Behunin asked the City Recorder Beverly Haslam to make the necessary arrangements to have the votes recounted, Mr Behunin went on to reiterate the importance of voter registration and voting.

8. Consider Funding and Awarding West Bountiful Elementary School drain and sidewalk improvements.

Mayor Behunin asked that Matt Collier of CRS explain #8 agenda item.

Matt Collier stood to explain to Council that for a number of years there has been a drainage problem along 800 West in front of West Bountiful Elementary School. Water ponds on the sidewalk, and cannot drain away because the sidewalk in front of the school is surrounded by higher ground on all sides.This unsafe situation is worst during the winter months when rain and snow storms are most frequent. CRS has designed the West Bountiful Elementary School Drainage Improvements Project.

Mr Collier went on to state that bids for the West Bountiful Elementary School Drainage Improvements Project were solicited from five local general contractors. Actual bids were received from three of the five. All of the bids were competive and a detailed breakdown of the bids is in Council packet. The low bidder was Western States Utilities at $62,273.60. I recommend that this contract be awarded to Western States Utilities for $68,500.00 which is the bid plus 10% contingency.

The Davis County School District has indicated that they would be willing to share the cost of this project with the city because their property is directly benefitted by the proposed improvements. I have submitted a cost sharing proposal to the School District, which is currently under review.Mr Collier further stated that Finance Director, Brian Passey, was consulted regarding funding for this project. He verified that there were sufficient funds remaining in the Capital Improvements budget to pay for the city's portion of this project.

Upon conclusion of Mr Colliers proposal Council member Jeff Tingey voiced his concern that this is an unbudgeted project and he was concerned that all city projects were costing extra. Mr Tingey also voiced concern that we should finish one project before starting another.

Cheryl Searle of counsel voiced a concern of why now, if this situation has been going on for a while would it be better to wait to re-open the budget or better weather.

Council member Debbie McKean said she had witnessed first hand the problem and the danger to children and adults and said the project needs to be done now.

City Administrator Wendell Wild voiced his opinion stating that he agrees the project needs to be done and the city has been waiting at least two years for the school district and they continue to drag there feet.

Jeff Tingey stated that he would agree the project needs to be done and if we have the dollars we should do the needed improvements.

Roy Johnson of council stated he was a little nervous just going on good faith with the school district if they had already been dragging their feet.

Mr Collier stated that the project needed to be done in the safety interest of the kids.

Council member Jeff Tingey made motion that the council approve

$68,500.00 which includes a 10% contingency, for the West Bountiful Elementary School Drainage Improvement Project, the bid being awarded to Western States Utilities, with West Bountiful City being responsible for 35% of funding and overseeing the project, with the remaining 65% being funded by Davis County School District.

Roy Johnson seconded the motion.The mayor called for a vote, the motion passes.

9.
Discussion regarding the Administrative staffing needs.
New Administrative Position
(Tabled from October 16,2007)

Mayor Behunin moved on with the agenda coming to item #9, and thanking all visitors who had come for this agenda item, telling them their voices would be heard.

At the conclusion of the mayors brief remarks Council Member Cheryl Searle made motion to table this agenda item, stating her concerns that this issue had been going on since August, and that their were new elected council members joining the council in January and this decision will directly effect them. Searle went on to state that she feels they should be a part of the decision making process.

Roy Johnson of council second the Searle motion adding he would hope that the mayor and the city administrator could work together given the extra time and take the emotion out of the issue and make a decision that would be best for the city and citizens of West Bountiful.

Council member Jeff Tingey sternly said he opposed the tabling of the issue, stating that this council is the best one to make the decision because they have been living and dealing with the issue.

Don Lilyquist emphatically voiced his support of Mr Tingey stating that Mr Wild needs the help he is asking for now and even before now.

Informal discussion then ensued among council members regarding putting off the decision,the emotions involved,and wanting to hear the opinion of incoming council members.

Mayor Behunin then brought the meeting back to order stating that he believes the consensus of the council is that the city owes a lot of its successful credit to Wendell Wild, but the city is just to big for one man.

Don Lilyquist stated the longer we wait or put off the decision the worse the problem gets.

Debbie McKean addressed council stating that the issue was tabled before with the provision that council came prepared to this meeting with their proposals.

The Mayor once again brought the meeting back to order stating there was a motion made and seconded for tabling the issue. The Mayor then proceeded with a roll call vote.

Cheryl Searle, favor of tabling decision but open for discussion
Debbie McKean, favor of tabling decision but open for discussion
Jeff Tingey, not in favor of tabling move forward
Roy Johnson, favor of tabling decision open for discussion
Don Lilyquist,Not in favor of tabling move forward

Mayor Behunin summed up voting stating that a decision would not be made this evening, but discussion on the issue would be heard.

Eric Eastman of West Bountiful stood in chambers asking for a point of order stating that the agenda stated their would be a discussion and that is what the mayor should move forward with. Mr Eastman ended his remarks by stating that there is no voting needed with a discussion.

The Mayor of West Bountiful then indicated that there would be an orderly discussion and those wanting to speak should keep their comments brief.

Council member Debbie McKean ask if they could hear from Mr Wild along with the incoming Council Members.

Council member Jeff Tingey made motion because of the time that Agenda items 10 - 16 be tabled and forwarded to the next meetings agenda.

Don Lilyquist second the motion.Mayor Behunin asked for a vote, everyone voted in favor excluding Debbie McKean who was opposed. Motion carries.

Mayor James Behunin asked that City Administrator Wendell Wild speak regarding his opinion on the city staffing needs. Mayor Behunin went on to state that after Mr Wilds comments the council would hear public comment including remarks regarding the issue from the incoming newly elected council members.

Mr Wendell Wild then spoke thanking the council for hearing his voice, and for all those that were in chambers for his support. Mr Wild went on to state that in his opinion what the city needed was an Assistant Administrator that could help him and that would be mentor to assume more responsibility upon his retirement. Mr Wild did confirm that he needs help as the city is growing but he does not need to be replaced.

West Bountiful residents then voiced overwhelming support of City Administrator Wendell Wild. Those participating in the discussion were Richard Waddups, Wayne Eckman, Craig Hammond, Camille Sparkman, Bill Quick, Marilee Hollinger, Eric Eastman.

Incoming Council Member Valerie Shaw spoke stating that she did not have a opinion of making a decision regarding staffing issues, stating that she had been coming to the past City Council meetings and she just feels a decision needs to be made.

Incoming Council Member James Bruhn then spoke to council stating that the city is growing and that we are feeling those pains and that we need to put emotion aside and get people the help that is needed, so the city can move on successfully. Mr Bruhn ended his comments stating

that a decision needs to be made.

Incoming Council Member Ken Romney then stood stating that Wendell needs help and that we need to get him the help he needs. Emotions and power struggles need to be put aside and a decision needs to be made.

Mayor Behunin thanked everyone for their comments.Mayor James Behunin then stated he felt it necessary to call a special work meeting before the next regularly scheduled Council meeting. The Mayor went on to state that a firm decision on staffing needed to be made. The Mayor informed Council that he would post the date and time on the City web site, and that a firm proposal would be put before the Council at the December 3rd meeting.

At the closing of the mayors remarks council member Jeff Tingey made motion to adjourn the West Bountiful City council meeting.

Don Lilyquist seconded the motion. Voting was in favor.

Meeting Adjourned at 10:10pm

MAYOR JAMES BEHUNIN

BEVERLY HASLAM (CITY RECORDER)

JAMI ZIGICH (SECRETARY)

WEST BOUNTIFUL CITY CORPORATE SEAL DAVIS COUNTY UTAH