Minutes of the special session of the City Council of West Bountiful City held on Tuesday,October 30, 2007, at West Bountiful City Hall, Davis County, Utah.
This meeting took the place of the regular scheduled meeting of Tuesday November 6,2007 being changed due to the General Elections being held on November 6,2007

Those in Attendance

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

MEMBERS EXCUSED: Don Lilyquist

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

VISITORS: James Bruhn, Tom Freeman, Jon Hardy, Arlene Mann, Harold Mann, Amanda Kirk, Jeff Hansen, Cathy McKitrick, Valerie Shaw, Eric Eastman, Kathy Kirk, T Larsen, Sonia Kelley, Alan Malan, Ryan Fernelius, Roger Wray, Matt Collier, Craig Johnson, Lu VanderMyden, Daniel Jones, Scout Troop----

Called to Order

The City Council Meeting was called to order at 7:30pm by Mayor James Behunin welcoming and thanking all in chambers. The mayor asked Hayden Johnson of Scout Troop — to come forward and recite the Scout Law. The mayor then asked Logan Affleck of Scout Troop — to lead the pledge. The scouts performed both tasks admirably. The Mayor then thanked the troop for coming and participating.

1.
Accept Agenda

Mayor Behunin presented and reviewed the agenda and asked for acceptance from the council.

Councilwoman Debbie McKean made motion to accept the agenda as printed with acceptions of striking public comment and tabling to next meeting agenda items:
7- Planning Commission Report
8- City Administrator Report
9- Mayor/City Council Reports
10- Approval of Minutes of October 16 meeting
Motion was seconded by Roy Johnson, vote was taken motion carries.

3.
Award Contract for Engineering Services

Mayor Behunin asked City Administrator Wendall Wild to present information of the awarding of the contract for Engineering Services.

Mr Wild started his presentation by stating that West Bountiful City solicited statements of qualifications for engineering firms in the area. The city received 12 responses back out of 25 RFQ's

Wild went on to state that a committee consisting of Mayor Behunin,Councilmember Jeff Tingey, Planning Commissioner Ken Romney and Wild reviewed the responses and narrowed them down to the top five choices.

Mr Wild stated that the top five firms each were interviewed and at the

time of the interview brought with them their firms fee schedule.

Wild stated that after extensive research and consideration the committee is recommending Caldwell Richards and Sorenson (CRS) for engineering services for West Bountiful City.

It was also stated by Mr Wild that the city had been using CRS for approximately one year and included in the councils printed packet is the standard agreement form for each project that CRS has been engaged in.

Mr Wild finished his presentation by stating that if approved by council the city would formalize a contract with CRS with the help of both CRS's attorney and the cities attorney.

Councilwoman Debbie McKean asked of Mr Wild what the time table of the contract would be?

Roy Johnson inquired of Mr Wild of time limits on contracts, could the city cancel services, what if CRS did not follow the contract what were the reproductions to the firm?
Mr Johnson stated that he felt more details were needed before awarding a contract.

Jeff Tingey inquired of Mr Wild if more details and a firm copy of the contract could be available for approval at the next scheduled city council meeting?

Wendell Wild responded that he felt that could be accomplished.

Debbie MckEan made motion that item #3 of the agenda Awarding Contract for Engineering Services be tabled to the next meeting on November 20,2007 pending more detailed information on the formal final contract.Motion was seconded by Cheryl Searle. Mayor Behunin called for a vote, motion passes.

4.
Presentation regarding proposed
city park for Legacy Trails Subdivision

Mr John Hardy stood to address and represent the issue of the city park for Legacy Trails Subdivision.

Mr Hardy stated that the Long Term Benefits and Other Unquantifiable Economic Benefits would be:
- Multiple points of access linking city trails and legacy Trail System
- 10% Increase in Tax Base
- Long Term Sustainable Community
- Architectural Controls
- Proposed Church Site to serve many of the residents of West Bountiful
- Continued Operation of the Equestrian Center including enhanced facilities
- Positive Economic Impact on surrounding properties
- Fully maintained trail system throughout the development
- Perpetual Maintained Open Space

Mr Hardy finished his presentation by asking the council what the city

wanted the developers to do with the $600,000 they were giving to the city.

Councilwoman Debbie McKean ask the question of Mr Hardy, that if the park designated in plans is not developed what good is it to the city. Mrs McKean's concern is that it will just turn into a drainage area filled with weeds.

McKean also voiced concern about city ordinances of for every so many acres of development there needs to be a park.A final concern voiced by McKean was the confusion of the $600,000 for land purchase, McKean understanding was that it was exchange for a park.

John Hardy confirmed that it was an exchange. Mr Hardy also stated that the Planning Commission approved the development with out a park and the developer in accordance to city ordinances was budgeting for a park.

Council member Roy Johnson voiced the following concerns, first asking if there was money why was there no park planned, further stating that with the number of homes being built and young families they need to have a park,ending his comments with if you want the Council happy develop the park according to the ordinances.

Mr Hardy stated that the planning commission wants amenities,the developers are bringing the proposal to the City Council to see what is acceptable.

Mayor Behunin asked the Council if it would be okay if the developers found another parcel to develop a park.

Council member Roy Johnson inquired of Mr Hardy how many houses would be in the development?

Mr Hardy replied there would be 137 homes and 1 church, 558 acres of open space, a trail head and the legacy trails.

Further informal discussion ensued between the Council and Mr Hardy

Council member Roy Johnson noted the hour to the Council

Council member Jeff Tingey concluded the discussion reiterating Council members concerns of compliance with city ordinances and suggested that Mr Hardy and the developers design a park completely and fully and present it to the planning commission for approval. Upon planning commission approval bring the completed plan back before the city council.

Discussion concluded

5.
Re- Certification of
West Bountiful Justice Court
Resolution #228-07

Mayor Behunin introduced West Bountiful Prosecutor D Michael Nielsen in regards to the West Bountiful Justice Court Recertification

West Bountiful City Prosecutor D. Michael Nielsen took the floor and addressed the council.Stating that pursuant to the provisions of Utah Code Annotated, Section 78-5-139, the City's Municipal Justice Court is required to be recertified prior to February 4, 2008. The recertification, if approved, will provide for the continued operation of our Justice Court for the next four year term.

Mr Nielsen went on to state the recertification of the West Bountiful Justice Court is entirely independent of and different from the reappointment of Judge Campbell. Assuming that if the desire is to not recertify the court, the cases would fall to the County Justice Court. Ordinarily, cities provide notice and dissolve justice courts under the provisions of Utah Code Annotated 78-5-140. The notice of intent to dissolve the justice court should be given by July 1st at least one (1) year prior to the effective date of the dissolution. However, the Judicial Council may shorten the time required.

The City Prosecutor then referred the council to the printed materials included in the evenings packet - stating that he had provided hard copies of all of his reports and findings.

Councilwoman Debbie McKean indicated that the deadline was October 19,2007 and inquired what ramifications if any would the city be facing for not filing timely

Mike Nielsen asked council to review the letter he had sent to the Administrative Offices of the Courts stating that this matter would be before the city council and the official request would be forwarded forthwith.

Cheryl Searle of the city council asked what if any kind of security system our court had?

City Administrator Wendell Wild stated that Chief Lloyd had been instrumental in acquiring a magnet monitor system that was en route and would be installed as soon as it arrived.

Councilman Jeff Tingey made motion that the City Council of West Bountiful approve Resolution #228-07 requesting the recertification of the West Bountiful City Justice Court. Debbie McKean second the motion. Mayor James Behunin called for a vote, the motion passed unamiouusly.

Mayor James Behunin signed and dated the resolution and it was given to City Recorder Beverly Haslam to forward on to the Utah Judicial Council.

6.
Hearing for re-appointment of Justice Court Judge

Mayor Behunin addressed the council stating that he had hoped the council had reviewed the printed information/instructions included in the meeting packets from Steve Doxey City Attorney regarding procedures for the next agenda itrem.

The mayor went on to state that as per proper protocol of the hearing he was now turning the meeting over to Pro-tem Mayor Jeff Tingey,

with encouragement to watch the time and length of the participants.

Pro tem Mayor Jeff Tingey then stated that the mayor would start the hearing with presentation of his case, Judge Campbell would then present his case. The Pro-tem Mayor stated he would like the council to hear from City Prosecutor Mike Nielsen and Police Chief Randy Lloyd. Tingey then concluded his outline by stating that witnesses and public comment would then take place.

James Behunin then took the floor to speak. Mr Behunin stated that he had interviewed many involved in the court, observed the court, and most importantly had discussed issues of the judge with citizens of West Bountiful and the City Council.

Mr Behunin went on to present his findings of most concern, being favoritism to cute young women, harsher with offenders of black, Hispanic or Polynesian, ex-partecommunication. Mayor Behunin stated that this issue had worked itself out after further investigation.

Going on Mr Behunin stated other concerns were, easier on offenders than other Judges in South Davis county, a too casual attitude towards the conduct of the court by not wearing robes.

Mr Behunin stated that a major concern was the incident when the

judge

was involved in a case stating it was " dismissed in the interest of justice" and then the case was appealed and won at a higher court.

Mayor Behunin stated that his concerns that the judge didn't seem to have a good working relationship or like the former police chiefs, although he does seem to respect and get along with Chief Lloyd.

In conclusion the Mayor stated that after research and communication with the community that he felt the court needed to be more formal and that the judge often " ruled from his heart" instead of ruling by the law.

Pro-tem Mayor Jeff Tingey then gave the floor to Judge Joel Campbell for presentation of his case.

Judge Campbell thanked the council for approving the hearing and stated that he didn't like this procedure because it's a no win situation, but he was in hopes that the council would listen and gather facts, not hear say and that they would definitely weigh the odds of good cause before making any decision.

Judge Campbell then went on to state that he thought that the proceedings would more in a hearing format of calling witness's but he could see that format had changed. The Judge then addressed Pro-tem Mayor Jeff Tingey stating that there were several witness's who would like to speak on his behalf.

Pro-tem Mayor Tingey acknowledged the fact that the council would hear from as many people as time would allow.

Judge Campbell stated that he had served in the judicial system for 35 years, 15 of which had been as a justice court judge. The judge went

on to state that he continually was improving his education, knowledge of the laws, knowledge of court rules and procedures and done everything possible to be the best judge for the city.

Campbell stated that he definitely did not do the judgeship for money, but that he felt it as a type of service to the community. Mr Campbell then stated he would like to turn the time over to some of those that have observed and worked with him,adding that he felt this would prove and give insight into his intentions and integrity regarding his position as judge.

Pro-tem Mayor Jeff Tingey asked that City Prosecutor Mike Nielsen make brief comment along with Police Chief Randy Lloyd allowing for a public time following their comments.

City Prosecutor Mike Nielsen stated that he appreciated the opportunity to speak. Mr Nielsen confirmed his commitment to justice for the residence of West Bountiful. Mr Nielsen went on to say that he believed the judge was very through in always listening to both sides of a case and 100% of the time used the law to determine the outcome of each case. Mr Nielsen also stated that he might not always agree with the decision, but I always support the ruling.

Judge Joel Campbell came to the floor asking Mike Nielsen if for the record he could please read a letter from the office of Attorney Wally Budgen. In summary the letter from Mr. Budgen stated that he nor anyone in his firm had ever felt any adverse action from Judge Campbell and that the accusations the mayor had made were form his firms point completely false.

Mr Nielsen concluded that he feels there is no reason to not reappoint the judge.

Mr Nielsen asked if there were questions for him from members of the council, there was none.

West Bountiful Police Chief Randy Lloyd then stood to address the council. Chief Lloyd stated that he did not like the position this but him in, stating he really had no opinion on the matter.

Mr. Lloyd went on to state that he appreciates the mayor's position of doing the best for the citizens of West Bountiful. Chief Lloyd further stated that the mayor is his boss and that judge effects the department and officers. Addressing the issue the Police Chief said that as of late he felt all was going well with the court and that he and the department had no real concerns

Pro- tem Mayor Jeff Tingey made note of the time and addressed the citizens in chambers to keep comments brief. Mr Tingey then opened the floor for public comment asking each participant to please state their name and position.

Attorney George Diumenti took the floor and thanked the council for the opportunity to speak on behalf of Judge Campbell. Mr Diumenti handed his resume of creditials, professional affiliations and employment to each of the members of council, establishing his ability to speak for and on behalf of the Judge.

Mr Diumenti presented the council with an evaluation of Judge Campbell stating that he, Mr Diumenti, is often requested of the Administration Office of the courts to evaluate state judges, therefore feeling he was knowledgeable to evaluate Judge Campbell. Mr Diumenti then went over the evaluation with council, the outcome of the written evaluation being outstanding works overall.

Mr Diumenti ended his comments stating that on a personal note he had never known a more ethical, trustworthy, caring man than Joel Campbell and that the city should be honored to have him as there judge.

Mr Diumenti then asked for questions from the council, there were none.

Mr Daniel Jones of West Bountiful made a very emotional comment stating that his was the case the Mayor had referred to that had to be appealed to a higher court and stated firmly that he did not support the Judge for re-appointment.

Bill Spear stood in behalf of Judge Campbell stating that he had known the Judge for years and had visited his court bringing different Scout troops. Mr Spear stated that he knows that the Judge always did what was right for our city and community.

Tristan Brown addressed council stating that she was the former clerk of the court serving four years prior to the present clerk and resident of West Bountiful. Ms Brown stated that all in all the city hates gossip and she and many others feel this situation is nothing but gossip. Ms Brown further stated if something is not broken, why try to fix it.Ms Brown stated that in working with the Judge she always felt very comfortable and that he always treated each individual case as an individual case and always ruled according to law.

Kelley Enquist citizen of West Bountiful then addressed council citing that the Judge has well over 30 years working experience with police departments. He knows the laws and procedures, Mr Enquist went on to state that he feels there is a hidden agenda and that there is no reason to even be here. In conclusion Mr Enquist stated he was in total support of the judge.

Pro- tem Mayor Tingey asked those inattedance if there was anyone else to speak in opposition of the judges appointment.No one came forth.

Mr Tingey asked the Judge if he could enlighten the council on the specifics of the Jones case.

Judge Campbell stood and answered that he could not remember the specifics of the case.

Council member Debbie McKean inquired of Mr Jones how long ago the case had occurred.

Mr Jones stood and stated that it had been about 1 year ago.

An informal discussion then ensued among council members, Mr

Jones and the Judge regarding the specifics, documentation and events of the case.

Pro-tem Mayor then brought the meeting back to order asking each council member for specific questions. There were no questions from council members.

Mr Jeff Tingey asked for a brief summary from both parties, Judge Campbell taking the floor first and then Mayor Behunin.

Judge Campbell stood and stated in closing remarks that he appreciated the time of the council, that he enjoys being the judge and that he holds the position and himself to the highest standards.

Mr Campbell went on to state that if re- appointed he would strive to have better communication amongst all parties involved in the court system. In conclusion Judge Campbell read from a letter received from the Mayor when he was serving on the city council, chastising the Judge on a sentencing of a neighbor, Mr Behunin did not agree with the sentencing. Mr Campbell concluded felt that this whole issue had been a longtime in the making because of the prior situation. Judge Campbell concluded that personal issues should never get in the way of what's best for the city, Judge Campbell finished sternly stating that he believes he is the best Judge for the city.

Mayor James Behunin took the floor stating that he had forgotten all about the incident just re-counted by the Judge. The mayor went on to state that after hearing all sides of the issues and the evidence given, he would be withdrawing his recommendation of non-appointment.Mr Behunin stated firmly that he would always bring to the light the concerns and issuesas brought to him by the citizens of the city and he feels that is what he has done with this issue.Mr Behunin went on to state that this time had not been a loss because he truly believes all levels of communication will be better.

Pro-tem Mayor Jeff Tingey on behalf of all council members expressed thanks and compassion for everyone who participated with the hearing, stating that it is very scarey to open your complete life before the community.

Debbie McKean made motion to the reappointment of Judge Joel Campbell as the West Bountiful City Justice Court Judge.
A vote then proceeded, Cheryl Searle voting yes, Debbie McKean voting yes, Jeff Tingey voting yes, Roy Johnson voting yes.
Reappointment of the Judge was passed

Roy Johnson made motion to adjourn this session of the West Bountiful City Council meeting.Jeff Tingey second the motion. Vote was taken and passed.

West Bountiful City Council Meeting adjourned at 9:50pm

MAYOR JAMES BEHUNIN

BEVERLY HASLAM (CITY RECORDER)

JAMI ZIGICH (SECRETARY)

WEST BOUNTIFUL CITY CORPORATE SEAL DAVIS COUNTY UTAH