

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

City Council
James Ahlstrom
James Bruhn
Kelly Enquist
Mark Preece
Andrew Williams

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West Bountiful, Utah 84087

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City Recorder
Cathy Brightwell

City Engineer
Ben White

Public Works Director
Steve Maughan

CITY COUNCIL MEETING

**THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD ITS
REGULAR MEETING AT 7:30 PM ON TUESDAY, FEBRUARY 19, 2019
AT CITY HALL, 550 N 800 WEST**

Invocation/Thought – James Ahlstrom; Pledge of Allegiance – Mark Preece

1. Approve the Agenda.
2. Public Comment - two minutes per person, or five minutes if speaking on behalf of a group.
3. Consider Ordinance 413-19, An Ordinance Granting an Electrical Utility Franchise and General Utility Easement to Rocky Mountain Power.
4. Discuss Planning Commission's Recommended Changes to Zoning and Setback Requirements for Residential Patio Covers, Decks and Accessory Structures.
5. Presentation and Discussion on Fiscal Year 2019/2020 Budget
6. Consider Purchase Approval – Police Vehicles
7. Police Report.
8. Public Works/Engineering Report.
9. Administrative Report.
10. Mayor/Council Reports.
11. Consider Approval of Minutes from the February 5, 2019 and February 12, 2019 City Council Meetings.
12. Executive Session for the Purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.
13. Adjourn.

Those needing special accommodations can contact Cathy Brightwell at 801-292-4486 24-hrs prior to the meeting.

This agenda was posted on the State Public Notice website, the City website, emailed to the Mayor and City Council, and sent to the Clipper Publishing Company on February 15, 2019.

MEMORANDUM



TO: Mayor and City Council

DATE: February 15, 2019

FROM: Duane Huffman

RE: **Franchise Agreement – Pacificorp/Rocky Mountain Power**

This memo introduces and recommends the adoption of a new franchise agreement with Rocky Mountain Power (RMP).

West Bountiful City's last franchise agreement with RMP ran from 2008 to 2018, and staff from both entities have diligently and patiently worked over many months to update the agreement. I want to make clear that the city has a very good working relationship with RMP, and that changes city staff insisted on had more to do with setting a precedent for other utilities than any problems we have had with RMP.

One of the most significant changes in this agreement is in Section 13.1 "Duty to Relocate." City staff believe that this new wording, which we hope to include in future agreements with entities like CenturyLink, will help improve the city's ability to complete road/water projects in a timely manner.

I want to thank RMP for their cooperation and hard work in finalizing this agreement.

WEST BOUNTIFUL CITY

ORDINANCE NO. 413-19

AN ORDINANCE GRANTING AN ELECTRICAL UTILITY FRANCHISE AND GENERAL UTILITY EASEMENT TO ROCKY MOUNTAIN POWER

WHEREAS, PacifiCorp dba Rocky Mountain Power (“*Rocky Mountain Power*”) is a regulated public utility that provides electric power and energy to the citizens of West Bountiful City and surrounding areas;

WHEREAS, providing electrical power and energy requires the installation, operation and maintenance of power poles, underground power lines, and other related facilities to be located within the public ways of the City;

WHEREAS, pursuant to *Utah Code Ann.* § 10-8-21, the City has the authority to regulate power line facilities within public ways and to grant Rocky Mountain Power a general utility easement for the use thereof;

WHEREAS, the City desires to set forth the terms and conditions by which Rocky Mountain Power shall use the public ways of the City;

NOW, THEREFORE, be it ordained by the City Council of West Bountiful, Utah:

SECTION 1. Grant of Franchise and General Utility Easement. The City hereby grants Rocky Mountain Power a franchise to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances in, under, along, over and across the present and future streets, alleys, public ways and public places within the City, for the purpose of supplying and transmitting electrical power and energy to the inhabitants of the City and persons and entities beyond the limits thereof, according and subject to the terms of a Franchise Agreement in substantially the form of the attached **Exhibit A**. The Mayor is hereby authorized to execute the Franchise Agreement on behalf of the City.

SECTION 2. Municipal Energy Sales and Use Tax. In exercising its franchise, Rocky Mountain Power will be subject to the Municipal Energy Sales and Use Tax as provided in state law and City ordinance.

SECTION 3. Severability. If a court with jurisdiction determines any provision of this ordinance to be illegal, invalid, or superseded by other lawful authority, the invalid portion will be severable and such determination will have no effect on the validity of any other provision of this ordinance, which will remain in full force and effect.

SECTION 4. Effective Date. This ordinance will be effective upon signing and posting.

ADOPTED by the City Council of West Bountiful, Utah, February 19, 2019.

Kenneth Romney, Mayor

Voting by the City Council: Aye Nay

Councilmember Ahlstrom	_____	_____
Councilmember Bruhn	_____	_____
Councilmember Enquist	_____	_____
Councilmember Preece	_____	_____
Councilmember Williams	_____	_____

ATTEST:

Cathy Brightwell, City Recorder

Exhibit A
Franchise Agreement

WEST BOUNTIFUL CITY FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (“**Agreement**”) is entered into as of _____, 2019 (the “**Effective Date**”) between WEST BOUNTIFUL CITY, a municipal corporation and political subdivision of the State of Utah (the “**City**”); and PACIFICORP, an Oregon corporation dba ROCKY MOUNTAIN POWER (the “**Company**”).

Recitals

A. The Company is a regulated public utility that provides electrical power and energy to the residents of the City and other surrounding areas.

B. Providing electrical power and energy requires the installation, operation and maintenance of power poles, underground power lines, and other related facilities located within the City’s public ways.

C. Under *Utah Code Ann.* § 10-8-21, the City has the authority to regulate power line facilities within public ways and to grant the Company a general utility easement for the use of such public ways.

D. The City has adopted Ordinance No. ____-19 (the “**Franchise Ordinance**”) granting the Company a franchise to use the City’s public ways subject to the terms of this Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. Grant of Franchise and General Utility Easement. The City hereby grants to the Company the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively, “**Electrical Facilities**”) in, under, along, over and across the present and future streets, alleys, and rights-of-way, not including City parks, buildings, recreational facilities, or other spaces not associated with City-owned rights-of-way (collectively, “**Public Ways**”) within the City, for the purpose of supplying and transmitting electrical power and energy to the inhabitants of the City and persons and entities beyond the limits thereof (collectively, the “**Franchise**”).

SECTION 2. Term. The term of this Agreement and the Franchise is ten (10) years, commencing on the effective date of the Franchise Ordinance. This Agreement will automatically renew for one or more successive five (5) year terms unless, between 120 days and 30 days prior to the expiration date of the term, either party provides written notice to the other party of its election not to renew this Agreement. In such event, the parties will use good faith efforts to negotiate a replacement Franchise. The terms of this Agreement will govern during the period of such negotiation, not to exceed six (6) months after the expiration of the term of this Agreement. At the end of such period, only the obligations of the parties that survive the expiration of this

Agreement, such as Section 9 (Company Indemnification) (to the extent any such claims arose prior to expiration or termination of this Agreement) and Section 16 (System to Remain in Place), will continue in effect.

SECTION 3. Company Acceptance. The Company shall file with the City Recorder an unqualified written acceptance of the Franchise Ordinance within sixty (60) days after the effective date of its adoption; otherwise, the Franchise Ordinance and the rights granted under this Agreement shall be null and void.

SECTION 4. Non-Exclusive Franchise. The right to use and occupy the Public Ways of the City shall be nonexclusive. Notwithstanding any provision of this Agreement to the contrary, the Company's use of the Public Ways shall not unreasonably interfere with the City's use of the Public Ways for itself or any other entity that provides service to City residents; provided, however, that to the extent reasonably practicable, the City will not knowingly allow the placement of utilities in the Public Ways to unreasonably interfere with the Company's Electrical Facilities.

SECTION 5. Plan, Design, Construction, Installation and Maintenance of Electrical Facilities.

5.1 Annual Information Coordination. Upon request of either party, generally on an annual basis, the parties shall meet for the purpose of exchanging information and documents regarding construction and other similar work within the City, with a view toward coordinating their respective activities in those areas where such coordination may prove mutually beneficial. Upon request, any information regarding future capital improvements that may involve land acquisition shall be treated with confidentiality.

5.2 Repair of Private Property. If at any time the Company or any of its agents, contractors or subcontractors (in the course of the Company's operations under this Agreement) disturbs the yard, residence, or other real or personal property of another, the Company shall restore or repair, at the Company's expense, to the extent required by applicable law and any applicable easement(s) or other property rights or interests of the Company, any fence, grass, soil, shrubbery, bushes, flowers, other low level vegetation, sprinkler system, irrigation system, gravel, flat concrete, or asphalt so damaged or displaced.

5.3 New Construction. In addition to the installation of underground electric distribution lines, as provided by applicable state law and regulations, the Company, upon payment of all charges provided in its tariffs or their equivalent, shall place newly constructed electric distribution lines underground.

5.4 City Use of Company Trenches. Whenever the Company proposes to install new underground conduits or replace existing underground conduits within or under the City's Public Ways, it shall notify the Director of Public Works as soon as practicable and shall allow the City, at its own expense and without charge by the Company, to share the trench of the Company to lay its own conduit therein; provided that such action by the City will not unreasonably interfere with the Company's facilities or delay the accomplishment of the project.

5.5 Permitting. The Company shall have the right to excavate the Public Ways subject to reasonable conditions and requirements of the City, including the City's ordinances on excavation restrictions on newly constructed or reconstructed streets and on streets that have been overlaid. Except in the case of an emergency, the Company shall, prior to commencing maintenance, new construction or major reconstruction work in the Public Way or street or other public places, apply for any applicable permit from the City as required by City ordinance, which permit shall not be unreasonably withheld, conditioned, or delayed. The Company will abide by all applicable ordinances and all reasonable rules, regulations, and requirements of the City, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance. Notwithstanding the foregoing, the Company shall not be obligated to obtain a permit to perform emergency repairs.

5.6 Extension of Service to City Facilities; Waiver of Advance Payment. The Company, upon receipt of the City's authorization for payment and construction, shall extend within the City its facilities to provide electric service to the City for municipal uses and, to the extent permitted by the Public Service Commission, shall not require the City to make advance payments.

5.7 Use of Company Corridors. The City may identify portions of the transmission corridors the Company now or in the future owns in fee within the City as being desirable locations for public parks, playgrounds, or recreation areas. In such event and upon notice by the City, the parties will negotiate in good faith to reach an agreement providing for such uses by the City. However, no such use will be allowed where the Company determines such use would interfere with the Company's use of the transmission corridor or materially prejudice its interests in safety. The Company shall assume no liability, nor shall it incur, directly or indirectly, any additional expense in connection therewith.

5.8 Compliance with Applicable Laws. All Electrical Facilities, equipment, property, and other structures or assets installed or used under color of the Franchise shall be used, constructed, and maintained in accordance with applicable federal, state, and City laws and regulations, and shall be kept current with new codes as required by law.

5.9 Location to Minimize Interference. As determined by the City in any permits granted to the Company, Company Electrical Facilities, equipment, property, structures, and assets shall be located so as to cause minimum interference with the use of the City's Public Ways by others, and shall cause minimum interference with the rights of owners of property that adjoins the Public Ways.

5.10 Repair Damage. If, during the course of work on its facilities, the Company causes damage to or alters any Public Way or public property, the Company shall (at its own cost and expense and in a manner approved by the City's Director of Public Works) replace and restore it in as good a condition as existed before the work commenced. Except in case of an emergency, the Company, prior to commencing work in the Public Ways, shall make application for a permit to perform such work from the office of the City Engineer or other agency designated by the City. Such permit shall not be unreasonably withheld. The Company will abide by all reasonable regulations and requirements of the City Engineer and ordinances pertaining to such work.

5.11 Guarantee of Repairs. For a period of one (1) year following the completion of any repair work performed under this Agreement, the Company shall repair and keep in good condition those portions of the Public Ways restored, repaired, or replaced, to the reasonable satisfaction of the City Engineer.

5.12 Safety Standards. The Company's work, while in progress, shall be properly protected at all times with suitable barricades, flags, lights, flares, or other devices as are reasonably required by applicable safety regulations or standards imposed by law and City standards established by the City Engineer.

5.13 Substation Landscaping. The Company shall maintain the general appearance of its substations (if any) and other facilities in the City in a manner consistent with the requirements that are duly imposed by the City in any permits applicable to such substations, which may include but not be limited to, the landscaping of front yards and parkways in residential zones; the installation of curb, gutter, sidewalk, and parkway landscaping in those areas where similar improvements have been, or are being, installed on contiguous properties; and the screening of substations directly abutting a public street or abutting a residential property with appropriate landscaping or screening material as required by the City's Planning Commission. Notwithstanding the foregoing, this section does not apply to any substations existing as of the Effective Date.

SECTION 6. City Use Rights.

6.1 City Use of Poles and Overhead Structures. The City shall have the right without cost to use all poles and suitable overhead structures owned by the Company within Public Ways for City wires used in connection with its fire alarms, police signal systems, or other communication lines used for governmental purposes or seasonal decorations; provided, however, any such uses shall be for activities owned, operated, or used by the City for a public purpose, and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that the Company shall assume no liability, nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the City's use of such poles and structures shall be in such a manner as to prevent safety hazards or interference with the Company's use of the same.

6.2 Limitation on Use Rights. Nothing in this Section 6 shall be construed to require the Company to increase pole capacity, alter the manner in which the Company attaches equipment to the poles, or alter the manner in which it operates and maintains its equipment. Such City attachments shall be installed and maintained in accordance with the reasonable requirements of the Company and the then current National Electrical Safety Code pertaining to such construction. Furthermore, City attachments shall be attached or installed only after written approval by the Company in conjunction with the Company's standard pole attachment application process. The Company shall have the right to inspect such attachments to ensure compliance with this Section 6 and to require the City to remedy any defective attachments. Any inspections of seasonal decorations shall be done at no expense to the City; inspections of other City facilities shall be at the City's expense.

6.3 Use of Company Property by Other Franchisees. In accordance with the Company's applicable rules and regulations, the Company will allow others holding a franchise

from the City, except providers of electric utility service, to utilize such poles and suitable overhead structures, upon reasonable terms and conditions to be agreed upon by the Company and such other holders of a franchise from the City. The Company shall assume no liability, nor shall it incur, directly or indirectly, any additional expense in connection therewith. The use of said poles and structures by others holding a franchise from the City shall be in such a manner as not to constitute a safety hazard or to unreasonably interfere with the Company's use of the same.

SECTION 7. City Regulatory Authority. In addition to the provisions of this Agreement, the City reserves, and the Company recognizes, the City's right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized under applicable law, including the Constitution of the State of Utah, the laws of Utah, or City ordinance.

SECTION 8. City Representative and Company Duty to Cooperate.

8.1 City Representative. Except as provided in Sections 8.3 and 8.4, the City Administrator or his/her designee, or such other person as the Mayor may designate (the "**City Representative**"), is hereby designated by the City as the official of the City having full power and authority to take appropriate action for and on behalf of the City and its inhabitants to enforce the provisions of the Franchise and this Agreement, and to investigate any alleged violations or failures of the Company to comply with such provisions or to adequately and fully discharge its responsibilities and obligations hereunder. The failure or omission of the City Representative so to act shall not constitute any waiver or estoppel.

8.2 Company Duty to Cooperate. In order to facilitate the City Representative's duties, the Company agrees to allow the City Representative and his/her agents reasonable access to the Company's facilities, works, and systems within the City.

8.3 City Financial Review. With regard to financially related matters, the City designates the City Administrator as the official of the City having full power and authority to take appropriate action for and on behalf of the City and its inhabitants to enforce the provisions of this Franchise and investigate any alleged violation or failures of the Company to comply with the provisions hereof, or to fully and adequately discharge the responsibilities and obligations hereunder. The failure or omission of the City Administrator to act shall not constitute any waiver or estoppel.

8.4 Company Duty to Cooperate in Financial Review. For the sole and limited purpose of facilitating the duties defined in Section 8.3 above, the Company agrees that, upon the City's written request (but no more than once every three (3) years), and at no expense to the City, the Company will provide the City reasonable access to, or copies of, the books and records of the Company necessary to verify compliance with the terms of this Agreement.

SECTION 9. Company Indemnification.

9.1 No City Liability. Except as otherwise specifically provided herein, the City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death of

any, person that may occur in the construction, operation, or maintenance by the Company of its lines and appurtenances hereunder.

9.2 Company Indemnification of City. The Company shall indemnify, defend, and hold the City harmless from and against claims, demands, liens, and all liability or damage of whatsoever kind on account of or arising from the grant of the Franchise, the exercise by the Company of the related rights or privileges, or from the Company's use of the Public Ways within the City, and shall pay the costs of defense plus reasonable attorney fees. Such indemnification shall include but not be limited to the Company's negligent acts or omissions pursuant to its use of the rights and privileges of the Franchise, including construction, operation, and maintenance of electrical lines and appurtenances whether or not any such use, act, or omission complained of is authorized, allowed, or prohibited by the Franchise.

9.3 Notice of Indemnification. The City shall (a) give prompt written notice to the Company of any claim, demand, or lien with respect to which the City seeks indemnification hereunder and (b) unless in the City's judgment a conflict of interest may exist between the City and the Company with respect to such claim, demand, or lien, permit the Company to assume the defense of such claim, demand, or lien with counsel mutually satisfactory to the City and the Company. If the Company does not assume such defense, the Company shall not be subject to any liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend, or hold the City harmless to the extent any claim, demand, or lien arises out of or in connection with any negligent act or failure to act of the City or any of its officers or employees.

SECTION 10. Annexation.

10.1 Extension of City Limits. Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All Electrical Facilities owned, maintained, or operated by the Company located within any public ways of the annexed territory shall thereafter be subject to all of the terms hereof.

10.2 Notice of Annexation. When any territory is approved for annexation to the City, the City shall, not later than ten (10) working days after passage of an ordinance approving the proposed annexation, provide by certified mail to the Company: (a) each site address to be annexed as recorded on county assessment and tax rolls; (b) a legal description of the proposed boundary change; and (c) a copy of the City's ordinance approving the proposed annexation. The notice shall be mailed to:

Rocky Mountain Power Customer Contact Center
Attn: Annexations
P.O. Box 400
Portland, Oregon 97207-0400

With a copy to:

Rocky Mountain Power
Attn: Office of the General Counsel

1407 West North Temple, Room 320
Salt Lake City, UT 84116

10.3 Annexation of Company Property. Except as otherwise provided in this Section, when any real property owned by the Company becomes eligible for voluntary annexation into the City in connection with an annexation petition brought by the owners of properties that are adjacent to the Company's subject property, the Company will not oppose or prevent such annexation; provided, however, that no condition of such annexation shall impair the Company's ownership or use of its property, and that Company property which is used solely as transmission corridors which are not both parallel and adjacent to the City boundaries need not be annexed into the City. Subject to the foregoing, the Company agrees to comply with all terms and conditions imposed upon the annexation by the City that are no more stringent than those generally imposed upon property owners seeking annexation of their land into the City.

SECTION 11. Electrical Service.

[Intentionally deleted.]

SECTION 12. Small Power Production And Co-Generation. The City expressly reserves the right to engage in the production of electrical energy, both from conventional power plants and from co-generations and small power production facilities, to the extent consistent and in accordance with applicable Utah law and the rules and regulations of the Federal Energy Regulatory Commission (FERC).

SECTION 13. Relocation or Alteration of Electrical Facilities.

13.1 Duty to Relocate. Whenever the City shall, in the interest of the public convenience, necessity, health, safety, and general welfare, require the relocation or reinstallation of any property of the Company or its successors in any of the Public Ways, it shall be the obligation of the Company, upon notice of such requirement, to promptly commence work to remove, relocate, or reinstall such property as may be reasonably necessary to meet the requirements of the City. Upon notice from the City and receipt of reasonably sufficient information and documentation regarding the scope of the project, the Company shall provide an estimated date for completion to the City within 30 days, and the City and the Company shall mutually agree to a target date for completion not to exceed 120 days from the initial notice unless the Company can show that such a term is unreasonable. If the Company reasonably believes it may not complete relocation of its facilities by the target date, it shall provide notice to the City, and the parties agree to meet in good faith to determine a new target date. Unless the parties agree to extend such target date, the City or its contractors shall not be liable for any damage to the Company's facilities caused by construction once the agreed upon target date for completion has passed, provided that (a) no less than thirty (30) days prior to commencing any construction work that may be reasonably anticipated to damage the Company's facilities, the City shall give written notice to the Company of the construction start date; and (b) in the event the Company's determination that it may not complete relocation of its facilities by the target date is due to the presence of third-party attachments on the Company's facilities, the City agrees not to commence any work that may damage the Company's facilities until such attachments are removed. In the event one or both of the parties anticipates that third-party attachments to the Company's facilities

may delay timely completion of the Company's relocation work, the parties agree to work together in good faith to facilitate removal by the third party of its facilities.

Relocation, removal, or reinstallation by the Company pursuant to this Section 13.1 shall be at no cost to the City. Any money and all rights of reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by the Company pursuant to this section shall be the property of the Company. The City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

13.2 Private Development. The Company shall not be obligated to pay the cost of any relocation that is required for or made a condition of a private development. If the removal or relocation of facilities is caused directly or otherwise by an identifiable development of property in the area, or is made for the convenience of a customer, the Company may charge the expense of removal or relocation to the developer or customer. For example, the Company shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition of or caused by a private development.

SECTION 14. Subdivision Plat Notification. Before the City approves any new subdivision, the City shall require the developer to obtain the Company's approval of Electrical Facilities, including underground facilities to be installed by the developer, and associated rights of way depicted on the proposed plat. A copy of the proposed plat shall be mailed for approval to the Company:

Rocky Mountain Power
Attn: Estimating Department
635 N 1200 W
Layton, Utah 84041

SECTION 14. Vegetation Management.

14.1 Generally. The Company or its contractor may prune all trees and vegetation which overhang the Public Ways, whether such trees or vegetation originate within or outside the Public Ways to prevent the branches or limbs or other part of such trees or vegetation from interfering with The Company's Electrical Facilities. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)*, as amended, and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this Section shall prevent the Company, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets.

14.2 Notice to Property Owners. The Company shall use reasonable good-faith efforts, including by written notice, to notify owners of property with trees to be pruned, or adjacent to such trees in the Public Ways, at least 72 hours prior to doing the work. Pruning shall mean the regularly scheduled tree-trimming cycles routinely performed by the Company, and does not include clean-up activities that are required or necessary as a result of an outage event or

emergency caused by fallen trees or other vegetation. In the event that, during such an emergency restoration event, the Company cuts down and removes a tree, the Company shall provide notice to the property owner as soon as reasonably practicable (which may be after the restoration is completed).

SECTION 15. Transfer of Franchise. The Company shall not transfer or assign any rights under this Franchise to another entity, except transfers and assignments by operation of law, or to affiliates, parents or subsidiaries of the Company which assume all of the Company's obligations hereunder, unless the City shall first give its approval in writing, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, the Company may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Franchise to any financing entity, or agent on behalf of any financing entity to which the Company (i) has obligations for borrowed money or in respect of guaranties thereof; (ii) has obligations evidenced by bonds, debentures, notes or similar instruments; or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

SECTION 16. System to Remain in Place.

16.1 Continuation of Service. In the event this Agreement is not renewed at the expiration of its term, or the Company's service to the City is terminated for any reason whatsoever, and the City has not provided for alternative electrical energy supplies, the Company shall have no right to remove the electrical energy distribution systems or any of them except in the normal course of business, pending resolution of the disposition of the system. The Company further agrees that, to the extent permitted under applicable laws, rules and regulations, it will provide temporary electrical service to the City, and in such event shall be entitled to compensation consistent with the Company's tariffs and any applicable special contracts as approved by the Public Service Commission.

16.2 Removal of System. Only upon receipt of written notice from the City stating that the City has adequate alternative electrical energy sources to provide for the people of the City, shall the Company be entitled to remove any or all of said systems in use under the terms of this Agreement.

SECTION 17. Remedies.

17.1 Duty to Perform. The parties agree to take all reasonable and necessary actions to assure that the terms of this Agreement are performed.

17.2 Remedies at Law. In the event either party fails to fulfill any of its obligations under this Agreement, the non-defaulting party will have a breach of contract claim and remedy against the other party in addition to any other remedy at law or in equity; provided, that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action as would be necessary to formally amend the Agreement.

17.3 Non-Contestability. Neither party will take any action for the purpose of securing modification of this Agreement before either the Public Service Commission or any court

of competent jurisdiction; provided, however, that neither party shall be precluded from taking any action it deems necessary to enforce or resolve difference in interpretation of this Agreement, nor shall the Company be precluded from seeking relief from the courts in the event Public Service Commission orders, rules, or regulations conflict with or make performance under this Agreement illegal.

17.4 Force Majeure. Neither party shall be liable to the other party for any failure or delay in the performance of its obligations hereunder arising out of or caused directly or indirectly by forces beyond such party's reasonable control.

SECTION 18. No Waiver. Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other party, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

SECTION 19. Amendment. At any time during the term of this Franchise, the City through its City Council, or the Company may propose amendments to this Franchise by giving thirty (30) days' written notice to the other party of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and the Company and formally adopted as an ordinance amendment, which is accepted in writing by the Company.

SECTION 20. Changing Conditions. The parties recognize that many aspects of the electric utility business are currently the subject of discussion, examination, and inquiry by different segments of the industry and affected regulatory authorities, and that these activities may ultimately result in fundamental changes in the way the Company conducts its business and meets its service obligations. In recognition of the present state of uncertainty respecting these matters, each party agrees, on request of the other party during the term of this Agreement, to meet with the other party and discuss in good faith whether it would be appropriate in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such development.

SECTION 21. Notices. Unless otherwise specified herein, all notices from the Company to the City pursuant to or concerning this Franchise shall be delivered to the City Recorder's Office. Unless otherwise specified herein, all notices from the City to the Company pursuant to or concerning this Franchise shall be delivered to the Customer Service Vice President of Rocky Mountain Power at 1407 W. North Temple, Suite 310, Salt Lake City, Utah 84109 and such other office as the Company may advise the City of by written notice.

SECTION 22. Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority, including any state or federal regulatory authority having jurisdiction thereof, or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of

any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

SECTION 23. Waiver of Jury Trial. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this Agreement. **Each party further waives any right to consolidate any such action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.**

SECTION 24. Miscellaneous.

24.1 No Third-Party Beneficiaries. This Agreement is made for the exclusive benefit of the parties. Notwithstanding any provision of this Agreement to the contrary, no other person or entity shall have any interest under this Agreement or be classified as a third-party beneficiary to this Agreement.

24.2 Entire Agreement. This Agreement and the Franchise Ordinance constitute the entire agreement and understanding of the parties with respect to their subject matter, and supersede all previous or contemporaneous representations or agreements of the parties in that regard.

24.3 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH, IRRESPECTIVE OF ANY CONFLICT OF LAWS PROVISIONS, EXCEPT AS SUCH LAWS MAY BE PREEMPTED OR SUPERSEDED BY THE LAWS OF THE UNITED STATES. THE PARTIES HEREBY CONSENT TO THE JURISDICTION OF THE COURTS OF THE STATE OF UTAH, OR THE COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE STATE OF UTAH, AS THE CASE MAY BE, WITH VENUE IN DAVIS COUNTY, AS THE SOLE FORUM FOR ANY LITIGATION ARISING OUT OF THIS AGREEMENT.

[Signatures on following page.]

IN WITNESS WHEREOF, the parties execute this Agreement as of the Effective Date.

ROCKY MOUNTAIN POWER

By _____

Its _____

WEST BOUNTIFUL CITY

Kenneth Romney, *Mayor*

ATTEST:

Cathy Brightwell, *City Recorder*

MEMORANDUM



TO: Mayor and City Council

DATE: February 15, 2019

FROM: Ben White

**RE: Decks, Covered Patios and Accessory Structures
Proposed Changes to Municipal Code Sections 17.16, 17.20 and 17.24**

At the City Council's direction, the Planning Commission (PC) researched, debated, and heard public input regarding covered patios encroaching into current rear yard setbacks. The discussions expanded to rear yard decks and accessory structures regulations. The proposed code language in this memo represents several months of Planning Commission's efforts. A letter from the Planning Commission is included with this memo along with the proposed ordinance.

Prior to legal counsel's final review of the proposed PC language, tonight's agenda item is intended to provide a forum for the City Council to discuss the proposed language and provide staff direction before preparing a final ordinance for the City Council's consideration at a future meeting.

While the complete package received a favorable recommendation, the opinions of the commissioners were far from unanimous when discussing each individual aspect of these zoning regulations. The recommendations and a summary of PC discussions are presented in the paragraphs below. Except for height regulations, the proposed code changes are the same for all three residential zones.

17.xx.050.4.(C) and (D) - Decks and Covered Patios

The PC found that there are indeed enough similarities between decks and covered patios to give similar consideration to both, with some modifications. The opinions offered included:

- The 30' rear setback is the desired setback. Some Commissioners feel that structures (patio covers and decks) should not encroach into the setback. Five feet was the compromise between a zero- and a ten-foot setback encroachment. The same five-foot encroachment limitation is recommended for both decks and patio covers.
- Covered patios are difficult to prevent from becoming enclosed structures.
- Decks can be considered less intrusive to neighboring properties than patio covers because they can sometimes, but not always, be lower in height.
- People on elevated decks could be as intrusive as a fixed patio cover roof.
- Limiting the patio cover to a low height such as 8 to 10 feet would be less intrusive on neighboring properties. By doing so, potentially more attractive architectural roof styles matching the architectural style of the house may be forfeited.

- The limit on railings and fences on patio covers is included to eliminate any appearance of enclosing the patio into living space.
- Since conditional uses are problematic, the recommendation is to include the minimum standards in code and eliminate the requirement for a conditional use permit for deck and patio cover encroachments.

17.xx.050 (B) - Distance

- The ability to construct accessory structures closer than ten feet to a main structure with a conditional use permit is eliminated.
- The recommendation is accessory structures must be 8 feet from the main structure.
- The thought is that if attached decks and covered patios may encroach into the setback, the temptation to construct larger structures, such as detached decks or covered patios, should be discouraged.

17.xx.050 (D) - Private Streets

- The subdivision code does not permit the creation of private streets. The possibility of fronting on one is removed.

17.xx.050 (E) - Yards for One Building.

- The current language is verbose to the point of being confusing. The change only simplifies the text.

17.xx.050 (F) - Area for Structures

- When we refined the street side yard definition recently, we failed to acknowledge the impact to the allowable size of accessory structures in the rear yard. Extending the street side yard to the rear property line reduced the allowable size of accessory structures, and this change attempts to clarify that a portion of the street side yard may be included in the allowable area.

17.20.055 - Private Streets

- As previously noted, if private streets are not allowed, the paragraph is mute and could be considered misleading.

16.xx.060 - Height Regulations

- All three residential zones have the same 35' height restriction for main structures.
- The R-1-10 zone and the R-1-22 zone currently have the same height requirements for accessory structures which is anything above 20' requires a conditional use permit.
- Health, safety and welfare is the only criteria currently available to determine the mitigating effects of detrimental uses. This has created hard feelings between neighbors in certain circumstances when conditional use permits have granted accessory structure heights in excess of 20'.
- The A-1 zone allows accessory structures to a height of 35'. There is also a provision that for every one-foot of additional setback, the structure can be one foot taller up to a 40' maximum.
- A sliding scale for allowable accessory building heights was discussed for the R-1-10 and R-1-22 zones but ultimately dismissed.
- The lighting and window requirements for accessory structures is a compromise to minimize potential impacts to neighboring properties while allowing a property owner to construct a taller building.

Mayor
Kenneth Romney

**City Engineer/
Zoning
Administrator**
Ben White

City Recorder
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355

Chairman
Denis Hopkinson

Commissioners
Laura Charchenko
Mike Cottle
Alan Malan
Corey Sweat
Dennis Vest, Alternate

February 14, 2019

Dear Mayor & City Council,

At your direction, the Planning Commission undertook the task to evaluate rear yard regulations and specifically whether encroachment into a rear setback for a deck is different than a covered patio.

We have spent the past several months researching and debating this issue. Since a deck or patio cover not attached to the main structure could be considered an accessory structure, accessory structures were also included in deck and patio cover discussions. The consensus of the Planning Commission is that there is a similarity between covered patios and decks. The proposed language covers both scenarios.

The Planning Commission voted unanimously to recommend the attached zoning changes to the City Council. However, on a point by point basis, the opinions of the Commissioners are far from unanimous. Developing the balance between personal property rights and the policing powers zoning affords to promote the health, safety and general welfare of the community at large is a responsibility that the Planning Commission takes very seriously. The proposed changes represent a collective compromise by all Commissioners to maintain the delicate balance zoning provides while considering public input and best practices for West Bountiful City.

Respectfully,



Denis Hopkinson - Chair
Planning Commission

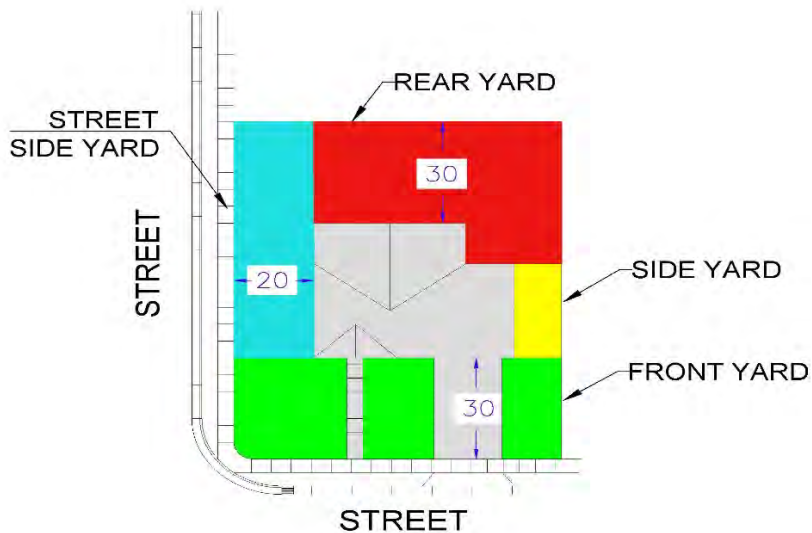
Yard Regulations For Residential Zones

February 15, 2019 - Redline Planning Commission Recommendation

17.xx.050 Yard Regulations

A. Minimum Setbacks. (See diagram below)

1. Front yard. The minimum front yard setback for all structures is thirty (30) feet, except as otherwise allowed in this Code.
2. Side yard. The minimum side yard setback for all structures is ten (10) feet for any one side. Main structures shall have a combined total side setback of twenty-four (24) feet for both sides.
3. Street side yard.
 - a. On a corner lot, the minimum street side yard setback for a main structure is twenty (20) feet.
 - b. Except as otherwise provided in this title, no accessory structure may be constructed within the street side yard of a corner lot unless the structure meets the minimum street side yard setback for main structures and complies with other requirements of this Code.
 - c. Accessory structures on a corner lot may be erected no closer than three (3) feet or more from the street side lot line if the accessory structure:
 - (1) Is situated behind the rear line of the main structure;
 - (2) Is two hundred (200) square feet or less;
 - (3) Has a maximum height of nine (9) feet measured from the lowest finish ground level to the highest part of the roof; and
 - (4) Complies with other requirements of this Code.
4. Rear yard.
 - a. The minimum rear yard setback for all main structures is thirty (30) feet.
 - b. The minimum rear yard setback for accessory structures, measured from the rear lot line or side lot line, is six (6) feet, or three (3) feet if the structure is built to fire code standards.
 - c. A deck may encroach into a rear yard setback ~~only with a conditional use permit~~ meeting the following criteria:
 - (1) The entire deck is at least twenty-five (2025) feet from the rear property line;
 - (2) The deck is no closer to a side lot line than the minimum required side yard or street side yard setback for the main structure;
 - (3) The deck does not encroach more than 200 square feet into the setback area;
 - (4) The floor of the deck is no higher than the highest finished floor of the main structure;
 - (5) The portion of the deck that extends into the rear yard setback is not covered;
 - (6) The railing is no more than forty-eight (48) inches high and is less than twenty-five percent (25%) transparent; and
 - (7) The deck satisfies other conditions required by the planning commission.
 - d. A patio roof may encroach into the rear yard setback meeting the following criteria:
 - (1) The patio floor surface must be equal to or below the lowest finished floor elevation;
 - (2) The entire roof is at least twenty-five (25) feet from the rear property line;
 - (3) The roof is no closer to a side lot line than the minimum required side yard or street side yard setback for the main structure;
 - (4) The roof does not encroach more than 200 square feet into the setback area;
 - (5) The highest point of the roof is no higher than the adjacent roof of the house or eighteen (18) feet above the patio, whichever is lower;
 - (6) There is no wall, fence, or railing required or constructed along any part of the patio, and;
 - (7) The patio and roof meet all building code requirements.



- B. Distance between main structures and accessory buildings. The minimum distance between all main structures and accessory structures shall be eighteen (18) feet, ~~unless otherwise approved by the planning commission as a conditional use. A conditional use cannot reduce the minimum required front, side, street side, or rear yard setbacks.~~
- C. No building on recorded easements. Main structures and permanent accessory buildings shall not be built on or over any recorded easement such as a public utility easement.
- D. Lot standards and street frontage. Except as otherwise provided in this title, every lot hereafter created or modified shall have such area, width and depth as is required by this title for the district in which such lot is located and shall have frontage upon a public street ~~or upon a private street or right-of-way approved by the planning commission~~, before a building permit may be issued.
- E. Yard space for one building only. ~~No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building. Nor shall any No yard or other required open space on a property shall an adjoining lot be considered as providing a yard or open space on a lot wherefor a building is established on an adjacent property.~~
- F. Area of structure and accessory building. No structure or accessory building or group of structures or accessory buildings in any residential district shall cover more than thirty-five percent (35%) of the rear yard and street side yard behind the main structure.
- G. Sales or lease of space. No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for a lot or building may be sold or leased away from such lot or building.
- H. Other building and structure restrictions. No structure, including any structure exempt from a building permit, shall be allowed in any part of a required front, side, or street side yard setback, except that landscape enhancements, such as trellises and arbors, shall be allowed subject to other applicable regulations. Any such landscape enhancement in the front, side, or street side yard shall be limited to a gross area of ten (10) square feet or less, a width no greater than sixty (60) inches, and a height no greater than ninety-six (96) inches and shall be subject to applicable site triangle area restrictions.

17.20.055 Lots And Dwellings Fronting On Private Streets; Special Provisions

~~Lots with frontage only on private streets shall require planning commission approval and shall be subject to all applicable requirements of this title.~~

17.XX.060 Height Regulations (R-1-10 & R-1-22)

A. Maximum Height of Structures.

- 1.** Main Structures. No main structure shall be erected to a height greater than thirty-five (35) feet as measured from the lowest finished ground level to the highest part of the roof.
- ~~1. —~~
- 2.** Accessory buildings. ~~shall not be erected to a height greater than one story or twenty (20) feet, whichever is lower, or be higher than the principal building unless otherwise approved as a conditional use by the planning commission.~~
 - a. The accessory structure may not be taller than the main structure.
 - b. The maximum height is twenty-five (25) feet.
 - c. Windows facing neighboring properties with headers above ten (10) feet must be non-opening and have translucent glass that does not permit objects on the outside to be seen clearly.
 - a-d. All exterior lighting mounted above ten (10) feet must include cut-off devices which limit the light to the owner's property

B. Additional height allowed. Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved as a conditional use by the planning commission.

C. Exceptions to height limitations. Penthouse or roof structures for the housing of elevators, stairways, tanks ventilating fans or similar equipment required to operate and maintain the building; and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purposes of providing additional floor space and such increased height is subject to all other ordinances and regulations of the city.

D. Minimum height of dwellings. No dwelling shall be erected to a height less than one story above grade.

17.16.060 Height Regulations (A-1)

A. Maximum height of structures. No structure shall be erected to a height greater than thirty-five (35) feet as measured from the lowest finished ground level to the highest part of the roof, except as otherwise provided in this section.

B. Additional height allowed. Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved as a conditional use by the planning commission.

C. Exceptions to height limitations.

- 1.** The height of a main structure in this district may be increased to a maximum of forty (40) feet if, for every foot of height in excess of thirty-five (35) feet, an additional foot of setback beyond the minimums required in this chapter is provided on the front and each side of the structure.
- 2.** The height of an accessory structure in this district may be increased to a maximum of forty (40) feet subject to the same requirements listed in subsection C.1. of this section.
- 3.** Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purpose of providing additional floor space, and such increased height is subject to all other ordinances and regulations of the city.

D. Minimum height of dwellings. No dwelling shall be erected to a height less than one story above grade.

WEST BOUNTIFUL CITY POLICE DEPARTMENT

550 North 800 West
West Bountiful, Utah 84087
Office 801- 292-4487/Fax 801 – 294-3590

Todd L. Hixson
Chief of Police

Kenneth Romney
Mayor

February 19, 2019

Mayor Romney and City Council:

In September the council authorized the purchase of one Ford Explorer Police Interceptor and all the equipment needed to make it patrol ready, as originally budgeted. When we tried to place the order, we were told Ford could not accept orders until 2019.

After reevaluating the department's vehicle needs and resources, we are instead requesting the purchase of two new vehicles that would replace our 2013 and 2014 Ford Explorers. These vehicles are scheduled to be replaced during the FY19/20 budget year, and as they are used by the chief and assistant chief, they do not require the same level of equipment. As the table shows below, the net cost to the city will remain below the originally budgeted \$50,000. The new vehicles will remain in our fleet for at least two years at which time we will explore options to potentially dispose of them while their values remain high.

Original Plan		Proposed Plan	
Purchases:		Purchases:	
2018/19 Ford Interceptor	\$30,055	2019/20 Ford Explorer	\$36,260
Equipment	\$19,237	2019/20 Ford F150	\$35,438
		Equipment	\$4,000
Disposals:		Disposals:	
2010 Dodge Charger (back-up)	\$3,500	2013 Explorer	\$14,750
		2014 Explorer	\$8,900
		2010 Dodge Charger	\$3,500
Net Costs:		Net Costs:	
Budgeted Expenses:	\$50,000	Proposed Expenses:	\$75,700
Budgeted Revenues:	\$0	Proposed Revenues:	\$27,200

WEST BOUNTIFUL CITY POLICE DEPARTMENT

Todd L. Hixson
Chief of Police

550 North 800 West
West Bountiful, Utah 84087
Office 801- 292-4487/Fax 801 – 294-3590

Kenneth Romney
Mayor

West Bountiful City Council Report February 19, 2019

Statistics are from January 2019; the other information reported is collected between council meetings.

Crossing Guards

Doing a great job!

Personnel

Interviews for the full-time police officer position will be held on Tuesday, February 19th.

EmPAC

EmPAC meeting was held Tuesday, February 19th.

EmPAC meeting will be held quarterly unless there is urgent business that needs attending. The next meeting will be May 21, 2019

General Information

Officer Allen VanWagoner did an excellent job again this year teaching the DARE program. The graduation was held on January 24th and was a huge success.

West Bountiful Police Department

Department Summary

1/1/2019 to 1/31/2019

Arrests	15	
Adult	14	93.3%
Juvenile	1	6.7%
Activities	1,252	
Admin	179	14.3%
Assist	105	8.4%
Community Relations	13	1.0%
Deaths	3	0.2%
Investigation	91	7.3%
Patrol	155	12.4%
Property	1	0.1%
Security	339	27.1%
Service Call	54	4.3%
Suspicious Activity	19	1.5%
Traffic	282	22.5%
Vehicle Accident	11	0.9%
Shift Time and Percent Accounted	1527 hr. 48 min.	36.8%
Reports	220	
CITATION REPORT	51	23.2%
INCIDENT REPORT	103	46.8%
OFFICER INFORMATION	65	29.5%
POLICE VEHICLE IMPOUND	1	0.5%

Department Summary

Crime Offenses

48

ASSAULT	3	6.3%
BURGLARY	3	6.3%
COUNTERFEITING	1	2.1%
DAMAGE PROPERTY	4	8.3%
DEATH/INJURY	1	2.1%
FAMILY OFFENSE	8	16.7%
FRAUD	2	4.2%
KIDNAPPING	1	2.1%
OBSTRUCTION POLICE	2	4.2%
PRIVACY VIOLATIONS	1	2.1%
PUBLIC PEACE	1	2.1%
SEX OFFENSE	1	2.1%
STOLEN VEHICLE	1	2.1%
THEFT	6	12.5%
TRAFFIC OFFENSE	10	20.8%
WARRANT SERVICE	2	4.2%
WEAPON OFFENSE	1	2.1%

Accidents

14

Citation Violations

72

DUI	1	1.4%
Fix it	10	13.9%
Misdemeanor	9	12.5%
Traffic	39	54.2%
Warning	13	18.1%

1 **West Bountiful City**
2 **Planning Commission Meeting**

February 12, 2019

3 **PENDING- Not Yet Approved**

4 **Posting of Agenda** - The agenda for this meeting was posted on the State of Utah Public Notice website,
5 on the West Bountiful City website, and at city hall on February 11, 2019 per state statutory requirement.

6 Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, February 12, 2019
7 at West Bountiful City Hall, Davis County, Utah.

8 **Those in Attendance:**

9 **MEMBERS PRESENT:** Chairman Denis Hopkinson, Alan Malan, Mike Cottle, Laura Charchenko, Dee Vest
10 (alternate), and Council member Kelly Enquist

11 **STAFF PRESENT:** Ben White (City Engineer), Cathy Brightwell (Recorder) and Debbie McKean (Secretary)

12 **MEMBERS EXCUSED:** Corey Sweat

13 **VISITORS:** Gary Jacketta, Steve Sundstrom, John Nelson and family, Sparky Taylor, Julie Halling, Curtis
14 Bell

15 The Planning Commission Meeting was called to order at 7:30 pm by Chairman Hopkinson. Mike Cottle
16 offered a prayer.

17 **1. Accept Agenda**

18 Chairman Hopkinson reviewed the agenda. Mike Cottle moved to accept the agenda as presented
19 and Dee Vest seconded the motion. Voting was unanimous in favor among all members present.

20 **2. Public Hearing Regarding WBMC Title 17, for Possible Changes to Zoning and Setback**
21 **Requirements for Residential Accessory Structures, Decks and Covered Patios.**

22 Chairman Hopkinson gave a brief Introduction and explanation about this item before receiving
23 public input.

24 Ben White explained the city council's direction for the planning commission to consider these
25 issues. He also explained that the city is trying to move away from subjective conditional use permits
26 and the effort to establish hard and fast criteria for items previously treated as conditional use.

27 **ACTION TAKEN:**

28 *Laura Charchenko Moved to open the public hearing at 7:38 pm to hear public comment*
29 *regarding WBMC Title 17, for Possible Changes to Zoning and Setback Requirements for*
30 *Residential Accessory Structures, Decks and Covered Patios. Dee Vest seconded the motion*
31 *and voting was unanimous in favor.*

32 **Public Comment:**

33 **Steve Sundstrom** handed the Commissioners letters from two of his neighbors who are unable to
34 attend the hearing (see summary below). Mr. Sundstrom stated that he has attended several Planning
35 Commission meetings regarding this issue and he feels that headway was being made to changing the

requirements for covered patios. He believes there is less intrusion to neighbors with patios than on raised decks and it is not logical or fair to treat them the differently. He added that the city has stricter setback requirements than some surrounding cities and was willing to make exceptions to setbacks for the Ovation development but not willing to make exceptions for regular residents who want to cover a patio.

Letters from neighbors:

Dennis/Karin Wood – 543 W 1225 N, 801-514-0480 – They are unable to attend tonight’s hearing. They live behind Mr. Sundstrom on the northwest corner and have no issues or complaints about his proposed structure.

Aaron Bringhurst – 1211 N 550 W, 801-557-8399 – is a neighbor on the south side of Mr. Sundstrom. He supports what he wants to do with his patio, does not believe it will deter from either home, and thinks it will be a nice addition.

ACTION TAKEN:

Alan Malan moved to close the public hearing at 7:41 pm. Mike Cottle seconded the motion and voting was unanimous in favor.

3. Consider Revising Conditional Use Permit 18-009 for an Accessory Building at 964 Meadowlark Lane to Add a Second Floor Loft.

Commissioner packets included a memorandum from Ben White dated February 7, 2019 regarding Nelson-Revised Conditional Use Permit for Accessory Structure with an attached site plan. The property is located at 964 West Meadow Lark Lane (at the corner lot of 1850 North). Ben White noted that building code needs to be met but the structure itself is allowed per city code, with a conditional use permit.

The memorandum included the following information:

- In September of 2018, Mr. Nelson was granted a Conditional Use Permit to construct a 35’ x 60’ detached garage west of the existing house allowing for a roof height of 26’.
- The building structure is completed and Mr. Nelson revised design drawings to the city which includes a 12’ wide mezzanine (loft) on the south end of the building and design for electrical. The second story loft includes steps for access and railing over-looking the balance of the building.
- The City has received complaints regarding exterior lighting on the building, but police have reviewed the lighting pattern on multiple occasions without finding that the lights create a safety hazard.
- Municipal Code section 17.20.060 (A) requires a Conditional Use Permit for accessory building heights greater than twenty feet (20’) and for two story structures. The permit was previously granted for the height; this modification is to address the second story loft only.

Commissioners reviewed the material for the requested revisions for the Conditional Use Permit. A brief discussion took place regarding the window requirements. Commissioners asked a few questions regarding the structure of the loft area and lighting on the building.

John Nelson was invited to take the stand. Mr. Nelson was not aware that the loft area had to be a part of the original conditional use permit. He informed the Commissioners that the use of the building is strictly for gymnasium activity for his family. He also noted that the windows have a window treatment that obstructs the view and the windows always remain closed. In addition, a big tree on the west side blocks any views. Regarding plumbing, he informed the Commission that there is some plumbing that has been stubbed in but no immediate plans to complete a bathroom at this time. He said he wants to be in compliance.

Ben White noted that the discussion tonight is for the loft area only and conditions need to be tied to the second level because the building was already approved with the windows as they have been installed.

Alan Malan would like to see translucent glass on all the windows in the upper level that face the west.

Dee Vest would like the west side windows to be inoperable.

Mr. Nelson asked what the difference was from the second story windows in his home that face his neighbor's vs his accessory building windows. Mr. White answered that there is an expectation when someone buys a home that there will be main structure windows adjacent to neighbors' dwellings. Accessory buildings are typically built after the main dwelling, are closer to the neighbor's property and are a requirement of the Conditional Use Permit for the health, safety, and welfare of himself and his neighbors.

ACTION TAKEN:

Laura Charchenko move to approve the Nelson's revised Conditional Use Permit for the the second floor of the Accessory Structure at 963 West Meadow Lark Lane with a condition that the southwest window is inoperable and has frosted glass. Mike Cottle seconded the motion and some discussion took place. Chairman Hopkinson called for a roll call vote and voting was as follows:

Mike Cottle- Aye, Laura Charchenko- Aye; Alan Malan, Dee Vest and Denis Hopkinson were Nay votes. Motion Failed with a 2 to 3 vote.

Further discussion took place.

Dee Vest moved to accept the revision to Conditional Use Permit 18-009 to add a second floor to the accessory building with the conditions that all westside windows be non-operable and have frosted glass so the proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working within the vicinity, or injurious to property or improvements in the vicinity. Alan Malan seconded the motion. Some discussion took place regarding future extension of the loft area and it was determined that it was not necessary to add a restriction for extending the second level in the future. Chairman Hopkinson called for a roll call vote and voting was as follows:

Laura Charchenko and Mike Cottle- Nay Alan Malan, Dee Vest and Denis Hopkinson- Aye. Motion passed with a 3 to 2 vote.

113 **4. Consider Possible Changes to Zoning and Setback Requirements for Residential Accessory**
114 **Structures, Decks, and Covered Patios.**

115 Commissioner packets included a memorandum from Ben White dated February 8, 2019 regarding
116 Accessory Structures, Decks and Covered Patios with a redline copy of proposed changes to 17.xx.050
117 Yard Regulations, 17.xx.055 – Lots And Dwellings Fronting On Private Streets; Special Provisions, and
118 17.xx.060 – Height Regulations (R-1-10, R-1-22, and A-1) dated February 12, 2019.

119 Ben White led a review with Commissioners of the red-line document, section by section.

120 **17.xx.050 – Yard Regulations**

121 **A.4.c.(1)** - Some discussion took place regarding the proposed change to allow encroachment of
122 decks and there was consensus to allow decks 25 feet from the rear property line.

123 **A.4.d.** – A brief discussion took place about the new requirements for covered patios; there was
124 consensus to accept the proposed language treating them similar to decks.

125 **B.** - There was discussion about the distance between main structures and accessory structures.
126 Several commissioners felt that a 10 ft setback is too much. There was consensus to change the
127 minimum distance between structures to 8 feet and eliminate the option for a conditional use
128 permit.

129 **E.** - The old language was hard to understand. New language is much better.

130 **F.** Language was clarified to include street side yards when determining the percentage area of
131 structure and accessory buildings.

132 **17.xx.055 – Lots and Dwellings Fronting On Private Streets; Special Provisions.**

133 Language was deleted as it conflicts with Title 16 – Subdivisions.

134 **17.xx.060 Height Regulations (R-1-10 & R-1-22)**

135 **A.2.(c)** - Windows – There was discussion about upper windows facing neighboring properties. The
136 consensus is that windows with headers above 10 feet must be non-opening and frosted. Because
137 the term “neighboring properties” could be subject to interpretation, commissioners asked staff to
138 highlight the language and ask city council or the city attorney come consider a better term.

139 There was discussion about restricting decks and balconies from being built on an accessory
140 structure but the consensus was that it was not necessary.

141 **17.16.060 Height Regulations (A-1)**

142 Some discussion took place regarding whether the same changes proposed above for the R-1-10 and
143 R-1-22 zones should apply in the A-1 zone – except for the height regulation. The consensus was that
144 no changes be made to this section.

145 **ACTION TAKEN:**

146 ***Laura Charchenko moved to send the changes proposed in the February 12, 2019 redline***
147 ***draft for WBMC 17.xx.050, 17.xx.055, and 17.xx.060 to the city council for consideration,***
148 ***with the additional change in 17.xx.050 B that the distance between a main structure and***

accessory structure is eight feet instead of ten feet. Alan Malan seconded motion with the friendly amendment to include language for no decks and platforms on accessory buildings. Some discussion took place and the friendly amendment was declined. Chairman Hopkinson called for a roll call vote and voting was as follows:

Alan Malan – Aye, Laura Charchenko- Aye, Dee Vest- Aye, Mike Cottle- Aye, Denis Hopkinson- Aye

Chairman Hopkinson asked Staff to draft a letter from the planning commission to the city council explaining that the recommendation was not unanimous but was a consensus of their efforts to make best practices and public input a part of the decisions.

5. Consider Conditional Use Permit 19-002, for Holly Frontier, at 393 South 800 West, to Enlarge and Upgrade an Existing Employee Parking Lot.

Ben White showed the Commission an aerial view of the property that is being considered in Holly Refinery's request for additional parking. He informed the Planning Commission that they need to decide if the negative landscaping needs to be mitigated. He gave a few suggestions as to what they could do to mitigate the green space area and noted that drainage and safety will be dealt with appropriately by staff as the project unfolds.

Curtis Ball with Focus Engineering (representing Holly Refinery) was invited to take the stand. There was discussion about landscaping, drainage and where curb and sidewalk currently exist. He assured them that drainage will be mitigated within the parking lot area.

Ben White stated that Staff will work with the Refinery on the safety and drainage issues.

ACTION TAKEN:

Alan Malan moved to approve the Conditional Use Permit for Holly Refinery for a parking lot expansion project on 800 West. Laura Charchenko seconded the motion. A friendly amendment was made by Dee Vest to require Holly Refinery to freshen up the existing landscape from the parking lot south to 500 South on the West side of the road. Laura Charchenko accepted the amendment and voting was unanimous in favor with the following Findings and conditions.

Affirmative findings pursuant to Chapter 17.60 that the proposed use will provide appropriate buffering of uses and buildings, proper parking and traffic circulation, the use of building materials and landscaping which are in harmony with the area and compatibility with adjoining uses and will comply with the regulations and conditions specified in the land use ordinance. Conditions to be imposed will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of this subsection and include the following:

- 1. Proposed curbs and retaining walls to be reviewed and approved by the city to protect the safety of the pedestrians walking along 800 West sidewalk and the sidewalk into the building, including barriers to prevent vehicles from impacting landscaping and sidewalks.*

- 188 2. *To replace lost green space, screening landscape will be required along the 2 ft portion*
189 *between the parking lot retaining wall and the sidewalk, as proposed in application*
190 *drawings. Landscaping will be refreshed along the west side of 800 West to 500 South*
191 *and approved by city staff.*
192 3. *Drainage to be reviewed and approved by the City to conform to city requirements*
193 *and to protect the welfare and safety of persons in the area.*
194
195

196 **6. Staff Report**

197
198 Ben White:

- 199 • Woods Cross/Front runner area- Woods Cross City is working with Wasatch Front
200 Regional Council and UTA on a study of development around this area. There will be an
201 workshop at 6:30p-8:30p on March 4th at the Woods Cross Multipurpose room.
202 • Legacy Highway Meeting- There was legislation to extend the ban on trucks on Legacy
203 Highway but it did not pass so it appears trucks will be allowed on Legacy beginning
204 January 2020.
205

206 Cathy Brightwell:

- 207 • Next Saturday, February 23 - LUAU training at the Granite School District Building in
208 South Salt Lake. This is the annual Land Use training for officials. Cathy will send agenda
209 to them. Contact Cathy if they would like to attend.
210
211

212 **7. Consider Approval of Minutes from January 22, 2019 meeting.**

213 **ACTION TAKEN:**

214 *Mike Cottle moved to approve of the minutes of the January 22, 2018 meeting as*
215 *corrected. Dee Vest seconded the motion and voting was unanimous in favor.*
216

217 **7. Adjournment**

218 **ACTION TAKEN:**

219 *Alan Malan moved to adjourn the regular session of the Planning Commission meeting at*
220 *9:50 pm. Laura Charchenko seconded the motion. Voting was unanimous in favor.*
221

221

222 *The foregoing was approved by the West Bountiful City Planning Commission on February 26, 2019 by*
223 *unanimous vote of all members present.*
224

225 _____
226 Cathy Brightwell – City Recorder

PENDING – Not Yet Approved

Minutes of the West Bountiful City Council meeting held at 7:33 p.m. on **Tuesday, February 5, 2019** at West Bountiful City Hall, 550 N 800 West, Davis County, Utah.

Those in attendance:

MEMBERS: Mayor Kenneth Romney, Council members James Ahlstrom, James Bruhn, Kelly Enquist, Mark Preece, and Andy Williams

STAFF: Duane Huffman (City Administrator), Police Chief Todd Hixson, Ben White (City Engineer), Steve Maughan (Public Works Director), Patrice Twitchell (Acting City Recorder), Dallas Green (Director of Golf)

EXCUSED: Steve Doxey

VISITORS: Alan Malan, Debbie McKean, Dennis Vest

Mayor Romney called the regular meeting to order at 7:31 pm. Kelly Enquist provided an invocation; James Ahlstrom led the Pledge of Allegiance.

1. Approve Agenda

MOTION: *James Bruhn made a Motion to approve the agenda. Andy Williams seconded the Motion which PASSED by unanimous vote of all members present.*

2. Public Comment - Two minutes per person, or five minutes if speaking on behalf of a group.

No public comment.

3. Discuss Independence Day Celebration Budget.

Debbie McKean, on behalf of the Arts Council, requested an increase to the parks department budget for the Independence Day celebration. There has been intense growth of the event over the past several years, and they estimate the need for \$16,000 per year in addition to Holly Frontier's generous donation of \$6000 toward the fireworks display. Duane Huffman explained that this figure is in line with has been spent the last couple of year. Ms. McKean explained they would also like to purchase 10-12 canopy/carnival tents to provide shade, and new signage for games for a one-time cost of \$3,000. She added that they appreciate the increased youth city council involvement.

The Council did not express concerns with the amounts requested for the 2019 celebration.

Mayor Romney will also ask Holly about an increase in their donation to expand the firework display. Council member Enquist stated that he would like to explore options for a new band for the music on the 3rd, and Ms. McKean responded that she would take that request back to the Arts Council.

4. Consider Contracting with Kelvin Moss/Lakeside Grill and Café, LLC for concession services at Lakeside Golf Course.

After recently issuing a request for proposals, staff recommends that the city council award a new three-year contract to Kelvin (Kelly) Moss and his Lakeside Grill and Café LLC. Mr. Moss has provided concession services at Lakeside for several years, and staff is working with him to discuss ways we can work together to continue improving our partnership. Some of these improvements may include better establishing and advertising operating hours, and moving the furnace to provide additional freezer storage. A beverage cart is also under discussion. This new agreement lowers the lease payments required of Mr. Moss.

MOTION: *Andy Williams made a Motion to enter in to a new agreement with Kelvin Moss/Lakeside Grill & Café, LLC. James Bruhn seconded the Motion which PASSED by unanimous vote of all present.*

5. Consider Award of Jessi's Meadow Street Reconstruction Project.

The city received bids from six contractors to reconstruct the Jessi's Meadow subdivision asphalt street. The project includes removing the asphalt street and base material and reconstructing the street with 12 inches of new base over a new geotextile fabric topped with 5 inches of asphalt; replacing damaged curb; removing the valley gutter at the 400 North intersection; and replacing the bolts and tees on water valves.

Staff is recommending the City Council accept Black Forest Paving's bid as the recommended lowest responsible bidder for a dollar amount of \$571,752. The budget includes \$600,000 for this project.

There was discussion of what caused the failure in the existing road resulting in thin and dry asphalt with some soft spots. Ben White said he is not sure why the road failed, but possible explanations include poor original asphalt quality or the asphalt being too thin in some areas.

MOTION: *James Ahlstrom made a Motion to approve the Award of the Jessi's Meadow Street Reconstruction Project to Black Forest Paving for \$571,752. James Bruhn seconded the Motion which PASSED by unanimous vote of all present.*

6. Consider Resolution 448-19, A Resolution Approving the Third Amendment to the Interlocal Cooperation Agreement with Davis County for Animal Control Services.

In July 2016, the city adopted a new interlocal agreement for animal control services with Davis County that contemplated annual payment adjustments based on costs, service use within the city, and capital needs. This resolution covers the cost amendment for the 2019 calendar year which

reflects increases in cost from animal control division catching up on deferred operational expenses, and increased wildlife calls from West Bountiful residents.

Despite this year's cost increase, staff has confidence in the new director and continues to recommend participation with the county as the most effective method of providing animal control services.

MOTION: *Mark Preece made a Motion to Approve Resolution 448-19 adopting the 3rd Amendment to the Interlocal Cooperation Agreement with Davis County for Animal Control Services. James Ahlstrom seconded the Motion which PASSED.*

The vote was recorded as follows:

James Ahlstrom – Aye	Mark Preece – Aye
James Bruhn – Aye	Andy Williams - Aye
Kelly Enquist – Aye	

7. Discuss Contracting with Davis County for Election Services for the 2019 Municipal Election.

Duane Huffman reviewed the proposal from Davis County to again provide election services for West Bountiful City for the 2019 Municipal Election. A high estimate for the cost per election (primary, if needed and general) is \$7,000. This cost is dependent on how many other entities share the cost by being on the same ballot.

Staff supports the proposal and feels strongly that the expertise offered by Davis County is well worth the cost.

MOTION: *James Ahlstrom made a Motion to Approve Contracting with Davis County for Elections. James Bruhn seconded the Motion which PASSED by unanimous vote of all present.*

8. Public Works/Engineering Report

Ben White –

- Planning Commission has been considering modifications to yard regulations that include setbacks for decks, patio covers, and heights of accessory buildings and will hold a public hearing at their next meeting on February 12. They will also consider a conditional use application from Holly Frontier to enlarge a parking lot on 800 West which will require changes to landscaping and improved drainage.
- Lights at the Park – Received a proposal for park lights around the playground.
- Still working on design drawings for the concessions/restroom building.

8. Administrative Report (Duane Huffman) –

- Two residents on Porter Lane have requested piping the drainage ditch in front of their homes. They also shared some concerns with nearby construction especially regarding noise levels.
- A tour of other city public works buildings will be held on February 12 beginning at 1pm.
- John Thackeray was contacted regarding empty buildings with no tenants in the Commons.
- Will begin budget discussions at the next city council meeting.

10. Mayor/Council Reports

Mayor Romney – Reported on the upcoming census.

Kelly Enquist – No report.

Andy Williams – Youth Council will continue their Pillows and Blankets activity. We are also in need of another assistant advisor as Teresa Romney is not able to continue. It would be nice to find a married couple. Maybe Paul Maloy and his wife?

James Bruhn – Reminded Council of the upcoming Friday night concert with Mike Leger and family – it will be a fun night.

Mark Preece – This Thursday the Wasatch Recovery Sewer Plant in North Salt Lake will hold an open house from 10am – 2pm. They will begin full processing the following week.

James Ahlstrom – Received a request from Council member Kendall, from Bountiful City, for input on city boards that work and those that do not.

11. Consider Approval of Minutes from the January 15, 2019 City Council Meeting.

MOTION: *James Ahlstrom made a Motion to approve the January 15, 2019 City Council meeting minutes as presented. James Bruhn seconded the Motion which PASSED by unanimous vote of all members present.*

12. Executive Session for the Purpose of Discussing Items Allowed Pursuant to Utah Code Annotated 52-4-205(1)(a).

MOTION: *Kelly Enquist made a Motion to move into executive session in the police training room pursuant to UCA 52-4-205 for the purpose of discussing the Purchase/Sale of property; and to discuss the Character, Professional Competence, or Physical or Mental Health of an Individual. James Bruhn seconded the Motion which PASSED.*

The vote was recorded as follows:

James Ahlstrom – Aye	Mark Preece – Aye
James Bruhn – Aye	Andy Williams - Aye
Kelly Enquist – Aye	

MOTION: *James Ahlstrom made a Motion to adjourn the executive session. James Bruhn seconded the Motion which PASSED by unanimous vote of all members present.*

13. Adjourn Meeting.

MOTION: *Mark Preece made a Motion to adjourn this meeting of the West Bountiful City Council at 9:28pm. Kelly Enquist seconded the Motion which PASSED by unanimous vote of all members present.*

The foregoing was approved by the West Bountiful City Council on February 19, 2019 by unanimous vote of all members present.

Cathy Brightwell (City Recorder)

PENDING – Not Yet Approved

Minutes of the West Bountiful City Council meeting held at 12:30 p.m. on **Tuesday, February 12, 2019** at West Bountiful City Hall, 550 N 800 West, Davis County, Utah.

Those in attendance:

MEMBERS: Council members James Bruhn, Kelly Enquist, and Andy Williams

STAFF: Duane Huffman (City Administrator), Ben White (City Engineer), Steve Maughan (Public Works Director)

-
1. The meeting was called to order at 12:30 pm at the city offices. Attendees adjourned to their vehicles where they took a field trip of other cities' public works buildings.

1:00 PM, Tuesday, February 12th
Riverton Public Works
Trace Robinson, Public Works Director
12526 South 4150 West, Riverton, UT

Approximately 2:15 PM
South Jordan Public Works
Jason Rasmussen, Public Works Director
10996 South Redwood Road, South Jordan, UT

Approximately 3:30 PM
UDOT Cottonwood Heights Station
Jake Brown, Station Manger
3000 South 6601 South, Cottonwood Heights, UT
(Behind the Cottonwood Heights Salt Storage Building)

2. The meeting adjourned at 4:30 pm.
-

The foregoing was approved by the West Bountiful City Council on February 19, 2019 by unanimous vote of all members present.

Cathy Brightwell (City Recorder)