

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

City Council

James Ahlstrom
James Bruhn
Kelly Enquist
Mark Preece
Rodney Wood

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCity.org

City Recorder
Cathy Brightwell

City Engineer
Kris Nilsen

Public Works Director
Steve Maughan

**ON TUESDAY, APRIL 18, 2023, THE WEST BOUNTIFUL CITY COUNCIL
WILL HOLD A REGULAR MEETING AT 7:30 PM AT THE CITY OFFICES**

AGENDA

Invocation/Thought –James Ahlstrom; Pledge of Allegiance – James Bruhn

1. Approve Agenda.
2. Public Comment - Two minutes per person; five minutes if on behalf of a group.
3. Prosecution Services - Approval of Letter of Engagement for Jeff G. Thomson & Josh B. Wayment as West Bountiful City Prosecutors.
4. Award Miscellaneous Concrete Project to JMR Construction, Inc.
5. Resolution 534-23, A Resolution Adopting Updates to the Consolidated Fee Schedule for Certain Building Permit Fees.
6. Meeting Minutes from April 4, 2023.
7. Staff Reports–Police, Public Works, Engineering, Community Development, Administration.
8. Mayor/Council Reports.
9. Closed Session, if necessary, for the Purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.
10. Adjourn.

Agenda was posted on the State Public Notice website, the city website, emailed to the Mayor and City Council, and provided to the Davis Journal on April 14, 2023, by Cathy Brightwell, City Recorder.



MEMORANDUM

TO: Mayor & Council
DATE: April 14, 2023
FROM: Duane Huffman
RE: **Prosecution Services**

This memo recommends the appointment of Jeff G. Thomson and Josh B. Wayment as justice court prosecutors on behalf of West Bountiful City. The attached Letter of Engagement outlines the terms of the arrangement.

Background

The city is responsible for the prosecution of minor traffic and misdemeanor cases in Justice Court (currently operated by contract with the North Salt Lake Justice Court). After the city's long-time prosecutor was recently appointed as a judge for the state's Second Judicial District, the city issued a Request for Proposals and received four submissions.

A review group comprised of Steve Doxey, James Ahlstrom, Chief Erikson, and Duane Huffman reviewed the proposals, and Chief Erikson conducted interviews with a selection of the applicants.

Recommendation

Based on their combined experience, broad range of prosecutorial knowledge, and availability to meet the needs of the city, the group recommends the appointment of Jeff G. Thomson and Josh B. Wayment. The proposed combined monthly flat fee is \$2,250, which is a \$250 increase over the previous arrangement.

JEFF G. THOMSON & JOSH B. WAYMENT

801-726-4230 | JeffGThomsonJr@gmail.com; 801-388-4350 | e_wayment@hotmail.com

April 13, 2023

West Bountiful City
550 North 800 West
West Bountiful, Utah 84087

Re: Letter of Engagement for Justice Court Prosecuting Attorney Position

Dear West Bountiful City:

Thank you for considering our Proposal in response to West Bountiful City's Request for Proposal ("RFP") to fill the recently created vacancy for the Justice Court Prosecuting Attorney position. This Letter confirms our recent telephonic discussion on April 11, 2023 with City Administrator Duane Huffman wherein we discussed the scope and terms of our Proposal and confirmed our agreement to represent West Bountiful City by acting as the City's prosecuting attorneys in its Justice Court.

Compensation

In that discussion, we agreed to modify our proposed monthly flat fee from \$2,500 to \$2,250, to be billed in a manner consistent with existing practice. The monthly payment by the City, upon billing, would be split into two equal amounts and provided to each attorney as follows: \$1,125 to Jeff Thomson and \$1,125 to Josh Wayment.

We further agreed that this fee amount and arrangement could be reviewed and adjusted annually as circumstances may warrant. No compensation for extra services or reimbursement of extraordinary expenses will be paid without the City's prior written approval.

Scope of Services

As outlined in the City's March 2023 RFP and as discussed with the Chief of Police, the agreed-upon scope of our legal services includes the following:

- Prosecute traffic and misdemeanor cases in the Justice Court, which includes communicating with defendants and their attorneys; communicating with police officers, witnesses, and victims; working closely with the Court Administrator regarding administrative matters; responding to motions of defendants; screening, processing, and preparing cases for trial; representing the City in arraignments, pre-trial hearings, jury

JEFF G. THOMSON & JOSH B. WAYMENT

801-726-4230 | JeffGThomsonJr@gmail.com; 801-388-4350 | e_wayment@hotmail.com

trials, and trials before the Justice Court; researching the law; and representing the City in appeals from Justice Court.

- Perform professional legal work carrying the highest levels of volume, complexity, consequence, autonomy, and responsibility. Regularly respond to discovery and evidence disposal requests, and draft subpoenas, informations, motions, notices, proposed orders, and other legal documents.
- Conduct training as necessary for police officers and non-sworn staff regarding Justice Court processes.
- Be available to answer calls and / or meet with law enforcement officers to advise them concerning laws, rules, policies, and procedures that relate to their official duties.
- Identify and recommend ordinances regarding traffic and criminal offenses.
- Provide regular reports and make available, upon request, copies of pleadings and other documents generated or receive in the course of performing services under this agreement.
- Perform such other agreed-upon duties as are required by the City Administrator and/or City Attorney.
- The understood approximate hours of legal services required per month is 20 hours.

Either attorney is authorized to perform the services and communicate with the City under this agreement. Nevertheless, unless otherwise designated in writing, Jeff G. Thomson will be our principal attorney, primary contact, and authorized representative for purposes of this agreement.

Duration and Termination

Our legal prosecutorial services become effective upon our appointment by the Mayor with the advice and consent of the City Council. They shall continue for a year, and year to year thereafter, with automatic renewals unless and until either party terminates the agreement. The scope of the services and terms of the agreement may be modified by mutual agreement, confirmed in writing.

The City reserves the right to terminate this agreement at any time during the term of the agreement whenever the City determines, in its sole discretion, that it is in the City's interest to do so. If the City elects to exercise this right, the City shall provide written notice to the

JEFF G. THOMSON & JOSH B. WAYMENT

801-726-4230 | JeffGThomsonJr@gmail.com; 801-388-4350 | e_wayment@hotmail.com

attorneys at least 15 days prior to the date of termination for convenience. Upon such termination, the attorneys shall be paid for all services up to the date of termination. The attorneys agree that the City's termination for convenience will not be deemed a termination for default nor will it entitle the attorneys to any rights or remedies provided by law or this agreement for breach of contract by the City or any other claim or cause of action.

The attorneys reserve the right to jointly terminate this agreement at any time during the term of the agreement whenever they determine, in their sole discretion, that it is in their interest to do so. If they elect to exercise this right, they shall provide written notice to City at least 30 days prior to the date of termination for convenience. The City agrees that the attorneys' termination under this section will not be deemed a termination for default nor will it entitle the City to any rights or remedies provided by law or this agreement for breach of contract by the attorneys or any other claim or cause of action.

Because this Letter of Engagement and the agreement contained herein involves the legal services of the two-named but independent attorneys, either attorney may independently withdraw from the agreement in accordance with the above-described terms for termination. Likewise, the City may terminate either attorney from this agreement in accordance with the above-described terms. Inasmuch as one attorney withdraws or is terminated, the other attorney agrees to perform all of the duties described in this Letter of Engagement. The City likewise agrees to pay that attorney the total monthly fee.

Miscellaneous

This Letter of Engagement and the terms of the agreement discussed herein are governed by the laws of the State of Utah. The RFP and our Proposal in response to the RFP are hereby incorporated in this Letter. The terms of this Letter will govern to the extent of any conflict between this Letter and the RFP or Proposal. This Letter, with such incorporated documents, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous oral or written agreements or understandings. The terms of the agreement may be changed, modified, or amended by agreement of the parties, confirmed in writing.

In the case of a conflict or the unavailability of either attorney to perform the above-described duties for a period of time, the other attorney will perform all of the duties. In the event both attorneys have a conflict of interest or are unavailable, the attorneys agree to communicate the issue to the City and engage a substitute to perform the duties for the duration of the conflict or unavailability, subject to the terms of this Letter and the City's prior written approval.

The City retains the right to seek or retain additional legal advice, consultation, and counsel at the City's sole discretion.

JEFF G. THOMSON & JOSH B. WAYMENT

801-726-4230 | JeffGThomsonJr@gmail.com; 801-388-4350 | e_wayment@hotmail.com

APPROVED AND EXECUTED this ____ day of _____, 2023.

WEST BOUNTIFUL CITY

APPROVED AND EXECUTED this ____ day of _____, 2023.

ATTORNEYS

MEMORANDUM



TO: Mayor and City Council

DATE: April 14, 2023

FROM: Kris Nilsen

RE: **Notice of Award for Miscellaneous Concrete Replacement Project 2023**

This memo summarizes the 2023 Concrete Replacement Project and recommends a notice of award to JMR Construction Inc.

Background

Unit bid of items needed for miscellaneous concrete replacement (repair) projects scattered throughout the city were combined for bidding purposes. The majority of the expected work will be to remove and replace concrete sidewalk where existing tree roots have caused differential rising of the sidewalk and created trip hazards.

Bids

The bid costs were compared by determining the length of sidewalk the city could replace with a budget of \$50,000, using the cost of the line items expected to use for replacing sidewalk.

JMR Construction Inc provided the lowest responsible bid and allowed for more length of sidewalk to be placed by comparing the costs of the line items expected to be used for replacing sidewalk (see attached exhibit, schedule Bid Results with highlighted line items).

All the work performed will be done on a unit-cost basis, the total project cost will be from the budget amount for miscellaneous concrete repair.

- Budget for Miscellaneous concrete repair is \$100,000 for fiscal year 2023 to 2024.
- \$100,000 Budget will be broken into approximately \$50,000 for Concrete replacement and \$50,000 for tree/root removal.

Recommendation

Staff recommends a notice of award to JMR Construction Inc. for the Miscellaneous Concrete Bid Schedule.

WEST BOUNTIFUL CITY

RESOLUTION #534-23

A RESOLUTION MODIFYING THE WEST BOUNTIFUL CITY CONSOLIDATED FEE SCHEDULE FOR BUILDING PERMIT FEES

WHEREAS, the West Bountiful City Council has previously adopted a consolidated fee schedule that lists fees for its direct and miscellaneous services to offset regulatory and administrative costs; and

WHEREAS, it is important to review and update its fees periodically; and

WHEREAS, it is necessary to update building permit fees to cover costs and address new functions of the city.

NOW THEREFORE, BE IT RESOLVED by the City Council of West Bountiful City that the West Bountiful Consolidated Fee Schedule be modified as reflected in the attached Exhibit A.

EFFECTIVE DATE. This resolution shall take effect immediately upon passing.

Passed and approved by the City Council of West Bountiful City this 18th day of April 2023.

Ken R. Romney, Mayor

Voting by the City Council:	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	_____	_____
Councilmember Bruhn	_____	_____
Councilmember Enquist	_____	_____
Councilmember Preece	_____	_____
Council member Wood	_____	_____

ATTEST:

Cathy Brightwell, Recorder

MEMORANDUM



TO: Mayor & Council

DATE: April 14, 2023

FROM: Cathy Brightwell, Kris Nilsen

RE: Updates to Building Permit Fees

Background

Fees the city charges for building permits have not been updated in many years. Some of the fees are based on valuations calculated from a formula used in the 1997 International Building Code (IBC). The city currently uses the 2018 IBC and recent legislative changes will update to the 2021 IBC in July.

The planning commission and staff have been reviewing fees for the past couple of months recognizing the need to come up with fees that are based on city-specific costs and that are calculated in a consistent manner. Staff has been researching different methodologies including those recommended in the IBC, by the International Code Council (ICC), and those used in other cities. Fees are required by code to be based on the value of the project where possible, which means the value of all construction work.

Discussion

The results of staff's research have shown that more work needs to be done to evaluate all the city's building permit fees. However, staff proposed changes to several fees to put us in a better position to cover our costs until a comprehensive study can be completed, as shown in attached Exhibit A.

While valuation is important in determining fees for general construction, staff has found that certain types of construction require similar plan reviews and inspections regardless of the size or location of the project. These frequently requested permits are easier to handle using a flat fee that is based on the cost of plan reviews, inspections, an administrative fee, and general consideration of value. Examples are electrical/mechanical/plumbing permits, solar permits, roof re-shingles, signs, and pools. Fees that are clearly below basic costs are for electrical, mechanical, and plumbing (which had been inadvertently omitted from the fee schedule) permits.

Additionally, last year the city adopted regulations that require residents to submit landscape and fencing plans in certain situations. Fees associated with reviewing and approving those plans were not addressed at the time. We also became aware of a building code restriction for plan reviews of identical plans. For example, a builder like Ivory Homes typically has a limited number of house plans they sell. Once a building plan has been reviewed by the inspector, we cannot charge a full plan review fee for the same plans when submitted for other lots. These identical, or card file, plans require minimum review.

A public hearing on the proposed changes was held on April 11, 2023, where no public comments were offered.

Current Costs Associated with Permit Fees:

We are currently using the following general costs in determining fees. These are based on our contract with Sunrise Engineering for plan reviews and inspections, and a rough estimate of salaries and overhead costs.

- Inspections (number of inspections x cost): = \$50/hr (in 30 minute increments)
- Administration: (includes data input, processing payments, preparing review and file copies, scan/email approved plans, etc., based on salary/overhead) = \$50/hr

Recommendation

The planning commission has recommended the attached updates to the city's building permit fee schedule.

- 1) Clarification & Corrections – language to clarify certain fees and make housekeeping corrections.
- 2) Add new fees not previously included (Fencing, Landscaping, Identical Plan Review fees).
 - *Fencing and Landscape plan review fee (\$25). Review will take less than an hour and is low enough so that people are not discouraged to get a permit.*
 - *Identical Plan Review – Planning Commission agreed to staff recommendation of 15% of the building permit fee. Upon further review, staff believes 25% is more appropriate as engineering and zoning reviews will still be required for each lot.*
- 3) Adjust Electrical/Mechanical/Plumbing flat fees to better cover costs (\$75).
 - *The city currently charges \$45 for an electrical or mechanical permit. A plan review is not required but there are 2 inspections and admin time. The proposed fee of \$75 will cover these costs - \$25 Admin (1-30 minute work period) and \$50 for two 30 minute inspections.*

CONSOLIDATED FEE SCHEDULE:

BUILDING PERMITS		FEE
	DEPOSITS	
	New House or Commercial construction	\$1,000
	Accessory Building Structure and Non-commercial Structure	\$100
	Commercial Tenant Improvement/Fit-up	\$500
	Sign Permit	\$ 75
	Cell Tower Co-location	\$500
	PERMIT FEES	
	<i>FLAT FEES (includes permit, plan review, state surcharge, as required)</i>	
	Electrical, Mechanical, Plumbing Permit	\$45 \$75
	Pool – standard	\$441.75
	Roof re-shingle	\$202
	Sign fee for <u>each</u> wall mounted or pole sign	\$ 75
	Solar	\$302
	<i>BASED ON VALUATION</i>	
	Residential Construction	Varies As Calculated
	Commercial Construction	Varies As Calculated

	PLAN REVIEW	
	Residential (50% of Permit fee)	Varies 50% of Permit fee
	Commercial (65% of Permit fee)	Varies 65% of Permit fee
	Identical (Card file) Plan Review fee	15 25% of Permit Fee
	Front Yard Fencing Plan Review	\$25
	Landscape Plan Review	\$25
	MISCELLANEOUS FEES	
	Public Improvements Construction Bond – refundable after inspection	\$2,400
	State Surcharge	1% of Permit Fee
	Water Use Fee for construction	\$50

PENDING – NOT YET APPROVED

Minutes of the West Bountiful City Council meeting held on Tuesday, April 4, 2023, at West Bountiful City Hall, 550 N 800 West, West Bountiful, Davis County, Utah.

MEMBERS: Mayor Ken Romney, Council members James Bruhn, Kelly Enquist, Mark Preece.

STAFF: Duane Huffman (City Administrator), Chief Brandon Erikson, Kris Nilsen (City Engineer), Steve Maughan (Public Works Director), and Cathy Brightwell (City Recorder).

EXCUSED: James Ahlstrom, Rod Wood, Steve Doxey (City Attorney)

PUBLIC: Alan Malan, Deby Marshall, Richmond Thornley, Mark Page, Rock Winegar

Mayor Romney called the regular meeting to order at 7:30 pm. James Bruhn provided a thought, and Mayor Romney led the Pledge of Allegiance.

1. Approve the Agenda. The tour of the new public works facility was canceled.

MOTION: *James Bruhn made a Motion to approve the agenda as discussed. Kelly Enquist seconded the Motion which PASSED unanimously.*

2. Public Comment – Two Minutes Per Person, or Five Minutes if Speaking on Behalf of a Group.

Mark Page and Rock Winegar, residents, came to the meeting to express concern about potential flooding. Mark explained that his rental properties off of 800 West by the refinery experienced major flooding 40 years ago. He understands that improvements have been made to the canals and the city seems to be better prepared, but he is still concerned about flooding on 800 West especially if we get a big storm.

Mark suggested sandbags be filled and stored nearby so they are available if needed. He said citizens are willing to help and he would be happy to gather a group of people to fill the sandbags.

Steve Maughan noted that self-serve sandbags are available to all residents. Governor Cox has designated April as Flood Preparation month. Those that live by one of the two canals that carry snowmelt down the mountain are at the highest risk. All the snowmelt goes through the channels, so unless they become blocked flooding should not be a problem. If there is a lot of rain in addition to the snowmelt, there could be some flooding. He said he will contact Mark if help is needed.

Rock Winegar, representing the West Bountiful Stake High Council, added that improvements to the storm drain and emergency preparedness systems of the city are encouraging but rivers tend to make their way back to where they were originally, so we need to be diligent and keep an eye out. The new diversion dams upstream have never been tested. In 1983 he lived in Bountiful, and flooding resulted from a lack of effort to take care of debris and caused a lot of damage. He now lives in West Bountiful and loves the small town environment. He offered to help gather volunteers to help fill sandbags if needed. He also thanked the mayor and council for all they do for the community.

Mr. Winegar added that the church group is interested in adopting some maintenance responsibilities for Legacy trail. They have met with the county several times to talk about when the irrigation lines will be fired up and are looking forward to making it look better.

3. Public Hearing to Consider Reducing Rear Public Utility and Drainage Easement for Cody & Stephanie Hale at 1493 N 1000 West.

Kris Nilsen explained that the Hale's have requested their rear easement to be reduced from ten feet to six feet so they can build a detached garage on the northwest corner of their property. Public notice has been provided to all affected entities and all utility companies have been contacted and do not object to the change.

MOTION: *James Bruhn made a Motion to Open the Public Hearing. Mark Preece seconded the Motion which PASSED unanimously.*

No public comments were offered.

MOTION: *Kelly Enquist made a Motion to Close the Public Hearing. James Bruhn seconded the Motion which PASSED unanimously.*

4. Ordinance 469-23, An Ordinance Reducing the Rear Public Utility and Drainage Easement at 1493 N 1000 West from ten feet to six feet.

MOTION: *James Bruhn Made a Motion to approve Ordinance 469-23 as presented. Kelly Enquist seconded the Motion which PASSED as Reflected Below.*

<i>James Ahlstrom – excused</i>	<i>James Bruhn – aye</i>
<i>Kelly Enquist – aye</i>	<i>Mark Preece – aye</i>
<i>Rod Wood – excused</i>	

5. Resolution 533-23, A Resolution Appointing Dell Butterfield as Planning Commissioner with a term ending December 31, 2026.

Mayor Romney explained that due to the resignation of Mike Cottle as planning commissioner, he is recommending Dell Butterfield to be appointed as planning commissioner effective April 13, 2023. Mr. Butterfield has served as alternate commissioner since last September.

MOTION: *Mark Preece Made a Motion to Adopt Resolution 533-23 as presented. Kelly Enquist Seconded the Motion which PASSED Unanimously.*

6. Long Term Disability Benefits – Mental Health Pilot Program.

Duane Huffman explained that the city purchases long-term disability (LTD) insurance through PEHP for full-time employees. Coverage costs 0.5% of eligible salaries, and currently benefits end after two years for those with a mental health disability.

The legislature recently created a 3-year pilot program that expands LTD coverage of mental disabilities beyond the current time limitations and increases costs from 0.5% to 0.68%, which is estimated to cost the city \$3,500 a year. The city has a one-time window to opt-out of the pilot program but given the increasing importance of mental health benefits and the relatively low per employee cost, staff recommends participating in the program. This will be an on-going expense for several years.

MOTION: *Kelly Enquist Made a Motion for the City to Participate in the Pilot Program to Cover Mental Health Long Term Disability. James Bruhn Seconded the Motion which PASSED Unanimously.*

7. Meeting Minutes from March 21, 2023.

MOTION: *James Bruhn Made a Motion to Adopt the Meeting Minutes from March 21, 2023, as presented. Mark Preece Seconded the Motion which PASSED Unanimously.*

8. Staff Reports

Police – Chief Erikson

- Implementation of the Spillman records management/dispatch project is finally starting to move forward. Bountiful is setting up profiles as they build their server, so it looks like we may be ready in early July. We are working with FATPOT to cancel our current contract.
- Reviewing proposals and interviewing for the vacant city prosecutor position. We hope to have a recommendation for the next city council meeting.
- Mayor Romney commended the Chief on his very professional interview with Fox13 news.

Public Works – Steve Maughan

- Snow continues and we are busy plowing. We thought we would have to move salt to the new facility but now it looks like it may be gone after tomorrow's forecasted storm. We have had to deal with replacing plow blades, etc. throughout this long winter.
- Ground water is very high. Automatic meter readings resulted in 2-3 pages of re-reads because the meters are under water.
- We've been busy watching the city storm drain system and it is in good shape. We have also been closely monitoring the canals. We plan to load up a trailer with sandbags so we're ready in case of emergency.
- Park restrooms will open this week.
- A lot of potholes are popping up. As soon as it dries up, we'll repair them.

Engineering – Kris Nilsen

- Working on bonds and insurance with our contractor for the upcoming water project.
- Miscellaneous concrete bids will close April 13.

Community Development – Cathy Brightwell

- Davis County is continuing to work on contacting property owners about annexing the properties between of 1200 North and Pages Lane west of 1100 West that are still in unincorporated Davis County. Some property owners are asking for more information regarding the impact from the changes including tax rates, zoning, water, and future development. Loveland's annexation request is temporarily on hold to see if others will join in.
- Youth Council is ready for Saturday's Easter Egg Scramble. They've worked hard to fill 7000+ eggs and will have prizes for gold eggs. Texas Roadhouse also donated 60 eggs with free kid's meals.

Administration – Duane Huffman

- Currently talking with several respondents to our Waste Collection RFP.

- We are close to being ready to present a proposal for a new water rate plan with the goal to make sure large and commercial users are paying fair share. Impact fee proposals will also be presented for water and streets, with other impact fees to be reviewed at a later time.
- Busy working on next year's budget.

9. Mayor / Council Reports

Mayor - Staff and the mayor met with Ivory homes a couple weeks ago. It was a decent discussion but very conceptual.

It looks like we're doing a good job planning for possible flooding. The flooding problems we had in 1983 were caused by the mudslide in Bountiful.

Mark Preece – South Davis Sewer district is still working on the Wasatch Resource Recovery project.

James Bruhn – Wasatch Integrated is trying to get the final covers on one of the cells they have closed off, but weather has caused delays. He added that his personal sump pump hasn't run for years and is now running every 15 minutes to handle high ground water.

Kelly Enquist – inquired about an accessory building that appears to be under power lines in Mountain View subdivision. Kris Nilsen explained that it was built between the gap in the power lines and meets all regulations.

10. Closed Session, if needed

No closed session needed.

11. Adjourn.

MOTION: Mark Preece made a Motion to Adjourn the Meeting at 8:20 pm. James Bruhn Seconded the Motion which PASSED Unanimously.

The foregoing was approved by the West Bountiful City Council by unanimous vote of all members present on Tuesday, April 18, 2023.

Cathy Brightwell, City Recorder



West Bountiful Police Department

March 2023 Statistics

Total Calls for Service: 681

- **Incidents 313**
- **Traffic Stops 368**
- **Citations 93**
- **Warnings 275**

DUI – 7

- **Drug – 3**
- **Alcohol - 4**

Theft – 8

Vehicle Burglary - 3