

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

THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD A REGULAR MEETING AT 7:30 PM ON TUESDAY, AUGUST 29, 2023, AT THE CITY OFFICES

Invocation/Thought – Kelly Enquist; Pledge of Allegiance – Rod Wood

1. Approve Agenda.
2. Public Hearing on Proposed Easement Reductions at 2369 N 830 West.
3. Ordinance 474-23, An Ordinance Authorizing the Mayor to Execute a Change in Easement Along the Rear and Side Property Lines at 2369 N 830 West.
4. Public Hearing on Proposed Easement Changes to Mountain View Estates Subdivision Lots 107, 108, and 109.
5. Ordinance 475-23, An Ordinance Approving a Plat Amendment for Mountain View Estates and Authorizing the Mayor to Execute A Release of Easement for Proposed Lots 107, 108 and 109 in Mountain View Estates subdivision.
6. Engagement Letter – City Attorney Services.
7. Expenditure Approvals.
8. Meeting Minutes from August 15, 2023.
9. Adjourn.

The above agenda was posted on the State Public Notice website (Utah.gov/pmn), the city website (WBCity.org), posted at city hall, emailed to the Mayor and City Council, and provided to the Davis Journal on August 25, 2023, by Cathy Brightwell, City Recorder.

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NOTICE OF PUBLIC HEARING

The West Bountiful City Council will hold a public hearing on Tuesday, August 29, 2023, at 7:30 pm, or as soon as agenda permits, at the city offices.

The purpose of the hearing is to receive public comment regarding a request by Jocimar DeSouza to reduce the rear (west) and side (south) Public Utility and Drainage Easements on his property at 2369 N 830 West. Mr. DeSouza is asking to reduce the rear easement from 10 feet to 3 feet and the side easement from 5 feet to 3 feet so he can build an accessory structure 3 feet from the property lines.

All interested parties are invited to participate in the hearing. Written comments or questions may be submitted to Recorder@wbcity.org prior to the meeting.

Cathy Brightwell
City Recorder

MEMORANDUM



TO: Mayor and City Council

DATE: August 24, 2023

FROM: Staff

RE: Request to Reduce the Rear and South Side Public Utility/Drainage Easements at 2369 N 830 West

Background

The DeSouza's have requested a reduction of the public utility and drainage easement along their rear property line and their south side property line so they can build a detached garage in the southwest corner of the rear yard. The rear easement is proposed to be reduced from 10 feet to 3 feet and the side easement from 5 feet to 3 feet, as shown in the attached diagram.

Process

State code requires the city council to hold a public hearing and adopt an ordinance when granting changes to public utility easements.

Analysis

- The applicant has obtained the necessary approvals and clearances from affected utilities.
- The required public notice has been completed.
- Staff have reviewed the request and do not foresee any negative impacts to the city by reducing the requested easements.
- A public hearing is scheduled as part of tonight's meeting prior to adoption of the proposed Ordinance.

Recommendation

Staff recommends the Council approve Ordinance 474-23 for the requested changes to the above described public utility easements and authorize the Mayor to sign the Change of Easement documents.



WEST BOUNTIFUL CITY

ORDINANCE #474-23

AN ORDINANCE AUTHORIZING THE CITY MAYOR TO EXECUTE A CHANGE IN EASEMENT ALONG THE REAR AND SIDE PROPERTY LINES AT 2369 N 830 WEST

WHEREAS, West Bountiful City has been petitioned by the owners of the above-mentioned property to reduce from ten (10) feet to three (3) feet the rear public utility and drainage easement, and reduce from five (5) feet to three (3) feet the south side property line so that an accessory structure can be built on the property; and

WHEREAS, releases have been received from all major public utility agencies; and

WHEREAS, on or before August 18, 2023, proper notice was provided to affected entities and neighbors, posted on the property, and posted on state and city websites; and

WHEREAS, a public hearing was held by the city council on August 29, 2023 to receive public comment concerning the requested release of easements.

NOW THEREFORE, BE IT ORDAINED by the City Council of West Bountiful that the City Mayor is authorized to execute the CHANGE OF EASEMENTS for the property located at 2369 N 830 WEST, West Bountiful, Utah.

This ordinance shall become effective upon signing and posting.

ADOPTED August 29, 2023.

By:

Kenneth Romney, Mayor

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

ATTEST:

Cathy Brightwell, Recorder

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

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PUBLIC NOTICE

Plat Amendment, Mountain View Estates Lots 107, 108, 109

A public hearing is scheduled on Tuesday, August 29, 2023, beginning at 7:30 pm for the city council to consider an application to amend the Mountain View Estates Subdivision Plat, as requested by Jordan O'Toole and Kaden Hoskins.

As shown on the attached exhibit, the purpose of the Plat Amendment is to:

- 1) Split lot 108 from north to south so that the west half becomes part of Lot 107 and the east half becomes part of Lot 109;
- 2) The public utility and drainage easements on the east and west property lines of Lot 108 will be vacated;
- 3) A new public utility and drainage easement will be created on the east property line of new Lot 107A and on the west property line of new Lot 109A.

Comments can be made at the public meeting or submitted to Recorder@WBCity.org prior to the meeting.

Cathy Brightwell
West Bountiful City Recorder
801-292-4486 x 103

MEMORANDUM



TO: Mayor and City Council

DATE: August 25, 2023

FROM: Kris Nilsen, Cathy Brightwell

RE: Plat Amendment – Mountain View Estates Lot 107A & 109A

Summary

The owners of Mountain View Estates Lots 107, 108, and 109, Jordyn O'Toole and Kaden Hoskins, have requested a plat amendment to combine the three lots into two lots – 107A and 109A, as shown on the attached drawing.

The combining of these lots requires a release of the side public utility and drainage easements that run north and south through Lot 108, the east side of Lot 107, and the west side of Lot 109.

Process

Utah State Code Section 10-9a-608 annotated outlines a process whereby a municipal land use authority may amend or vacate a subdivision plat. Staff has provided the required notice of the proposed amendment and easement changes.

Analysis

1. No new lots are added with this amendment.
2. Each lot meets the minimum size requirements for the R-1-22 zone.
3. Utility companies have been contacted and do not object to the proposed easement changes.
4. Dominion Energy has a gas easement running through the two new properties and has provided a survey and restrictions to be added to the plat.
5. New public utility easements will be dedicated around the boundaries of the two new lots.
6. A recent title report will be reviewed by the city attorney.

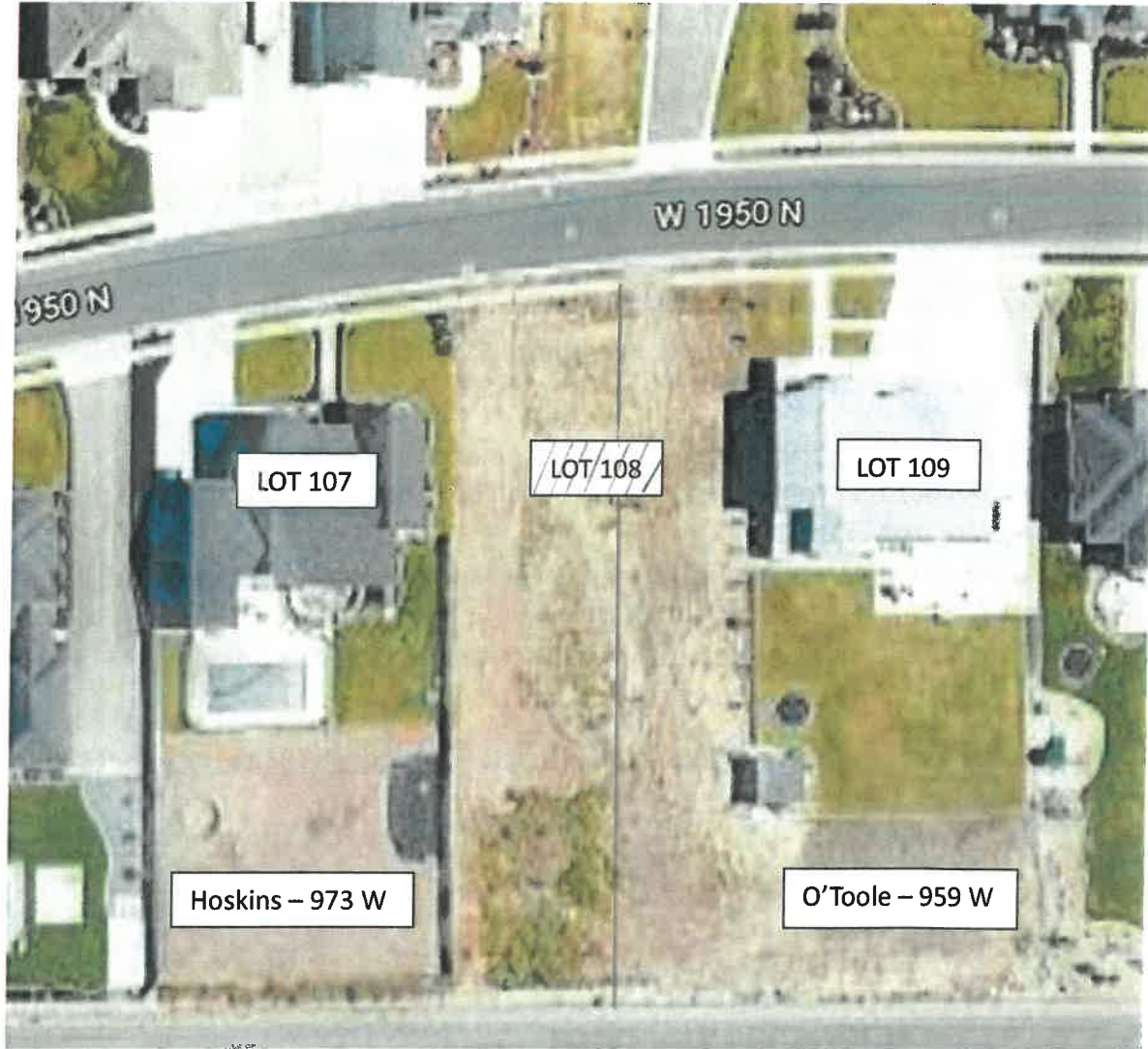
Recommendation

Staff is recommending approval of Mountain View Estates Lot 107A & 109A subject to the following:

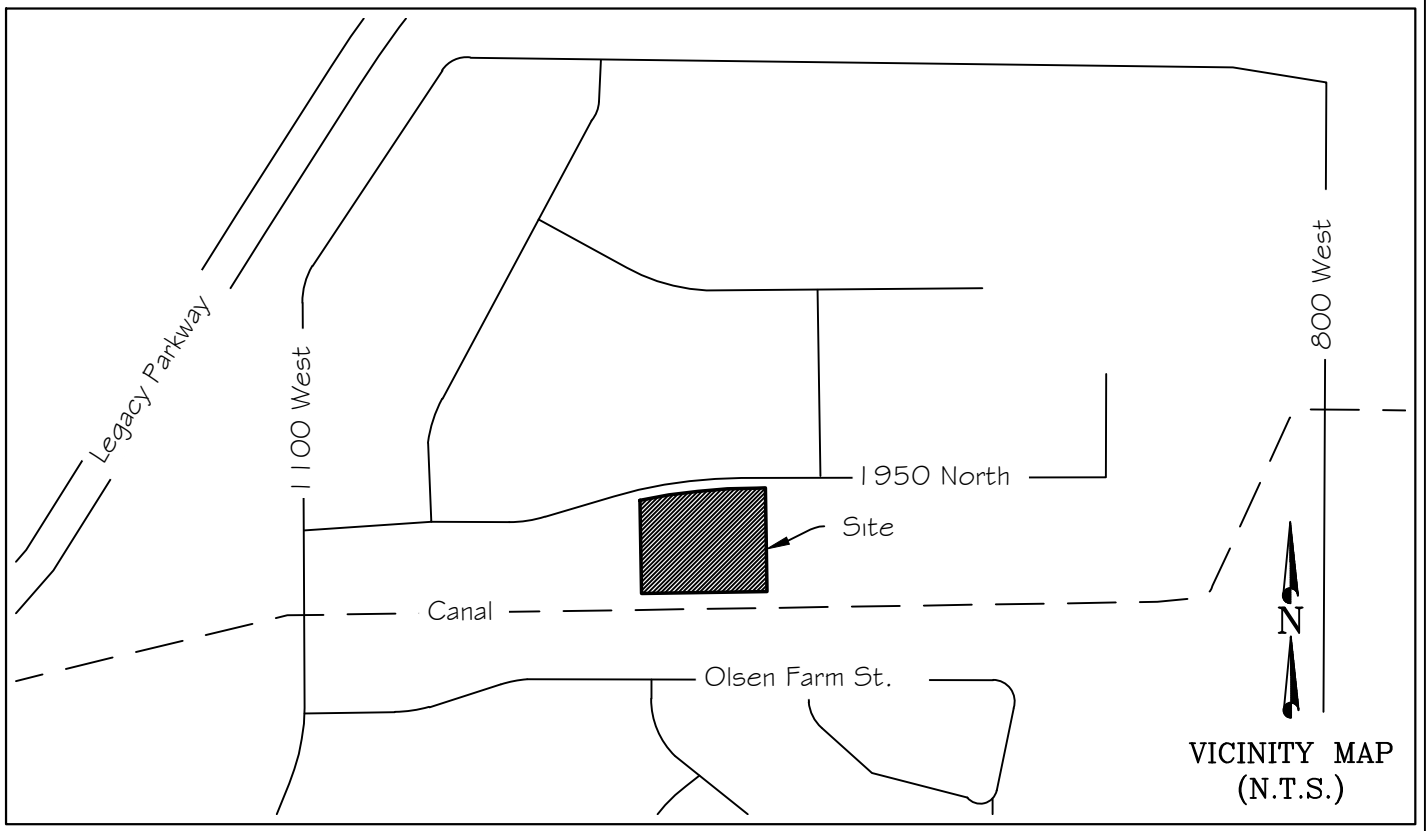
- Review and approval of final plat by city attorney, city engineer; and
- Review of a recent title report; and
- Payment of county recording fees.

Mountain View Estates - Plat Amendment

Splitting Lot 108 and combining west side with Lot 107, and combining east side with Lot 109



MOUNTAIN VIEW ESTATES
LOT 107A & LOT 109A
AMENDING ALL OF LOT 107, LOT 108 & LOT 109 MOUNTAIN VIEW ESTATES
LOCATED IN THE NORTHWEST QUARTER OF SECTION 13,
TOWNSHIP 2 NORTH, RANGE 1 WEST,
SALT LAKE BASE AND MERIDIAN
WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH



SURVEYOR'S CERTIFICATE

I, GARY CHRISTENSEN, do hereby certify that I am a Professional Land Surveyor in the State of Utah and that I hold License No. 5152617 in accordance with Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Act; I further certify that by authority of the owners I have made a survey of the property described on this plat in accordance with 17-23-17, and have subdivided said property into lots together with easements, hereafter to be known as **MOUNTAIN VIEW ESTATES LOT 107A & LOT 109A** and that the same has been correctly surveyed and monumented on the ground as shown on this plat.

Signed this ____ day of _____, 20____

BOUNDARY DESCRIPTION

All of Lot 107, Lot 108 and Lot 109 as described in Mountain View Estates Subdivision Plat recorded October 16, 2018 as Entry No. 3122879 in the Office of the Davis County Recorder and located in the Southwest Quarter of Section 13, Township 2 North, Range 1 West, Salt Lake Base and Meridian and being further described as follows:

Beginning at the Southeast corner of said Lot 107 Mountain View Estates Subdivision, which is 1848.29 feet S. 89°59'21" W. along the Quarter Section Line of said Section 13 and 822.80 feet North from the Center Corner of said Section 13, Township 2 North, Range 1 West, Salt Lake Base and Meridian; thence N.00°56'08"W. 230.82 feet along the easterly line of Lot 106 of said Mountain View Estates Subdivision to the southerly Right-of-Way line of 1950 North Street; thence easterly along said Right-of-Way line 291.05 feet along the arc of a 1475.00 feet non-tangent radius curve to the right, having a central angle of 11°18'21"; (chord bears N. 84°02'56"E. 290.58 feet) Radius point bears S.00°17'51"E.; thence N.89°42'09"E. 21.33 feet along said southerly Right-of-Way line to the westerly line of Lot 110 of said Mountain View Estates Subdivision; thence S.00°56'08"E. 255.93 feet along said westerly line of Lot 110 to the Northerly Line of Davis County Parcel No. 06-011-0027; thence S.89°03'11"W. 310.80 feet along said northerly line to the **Point of Beginning**.
Rotate Clockwise 00°22'56" to NAD 83 North Zone Bearing.

The above described entire tract of land contains 77,336.74 sq. ft. in area or 1.775 acres, more or less.
Includes 2 Lots.
Tax Parcel ID No. 06-401-0107; No. 06-401-0108; No. 06-401-0109

OWNER'S DEDICATION

Know all men by these presents that the undersigned are the owners of the above described tract of land, and hereby cause the same to be divided into Lots, Parcel and Streets, together with easements as set forth to be hereafter known as: **MOUNTAIN VIEW ESTATES LOT 107A & LOT 109A** And do hereby dedicate for perpetual use of the public all roads and other areas shown on this plat as intended for public use. The undersigned owners also hereby convey to any and all public utility companies a perpetual, non-exclusive easement over the public utility easements shown on this plat, the same to be used for the installation, maintenance and iteration of utility lines and facilities. The undersigned owners also hereby convey any other easements and shown on this plat to the parties indicated and for the purposes shown hereon.

In witness hereof I have set forth my hand this ____ Day of _____, 20____

Signature

Signature

Print Name & Title

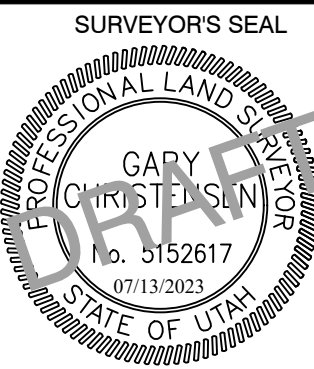
Print Name & Title

NOTARY ACKNOWLEDGMENT

State of Utah)
County of Salt Lake)
On this ____ day of _____ in the year 20____, before me, _____ a Notary Public, personally appeared _____ of _____ evidence to be the person(s) whose name(s) is/are subscribed to in the foregoing owner's dedication and consent regarding the **MOUNTAIN VIEW ESTATES LOT 7A & LOT 9A** and was signed by him/her on behalf of said _____ and acknowledged that he/she/they executed the same.

Commission Number _____
My Commission Expires _____
Signature: _____
Print Name: _____
A Notary Public Commissioned in Utah

MOUNTAIN VIEW ESTATES LOT 107A & LOT 109A
LOCATED IN THE NORTHEAST QUARTER OF SECTION 13,
TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN
WEST BOUNTIFUL, DAVIS COUNTY, UTAH



CITY ENGINEER SEAL

CLERK - RECORDER SEAL

PLAT NOTES

- ALL PUBLIC UTILITY EASEMENTS ARE 10' FOR SIDE, FRONT, AND REAR YARDS, UNLESS OTHERWISE NOTED.
- APPROVAL OF THIS DEVELOPMENT PLAT DOES NOT CONSTITUTE ANY REPRESENTATION AS TO THE ADEQUACY OF THE SUB-SURFACE SOIL NOR THE LOCATION OF DEPTH OF GROUND WATER TABLES. CONSULT THE GEO-TECHNICAL STUDY FOR THIS PROJECT FOR ADDITIONAL INFORMATION.
- MAINTENANCE FOR THE REAR YARD DRAINS AND 12" DIAMETER STORM DRAIN PIPES OF SMALLER ON PRIVATE PROPERTY ARE THE RESPONSIBILITY OF THE PROPERTY OWNER.
- UTAH POWER AND LIGHT COMPANY WAS GRANTED 2 BLANKET EASEMENTS RECORDED IN BOOK D, PAGE 530 & BOOK 402, PAGE 678 ON RECORD IN THE DAVIS COUNTY RECORDER'S OFFICE.
- UTAH OIL REFINING COMPANY WAS GRANTED A BLANKET EASEMENT RECORDED IN BOOK O, PAGE 478 ON RECORD IN THE DAVIS COUNTY RECORDER'S OFFICE.

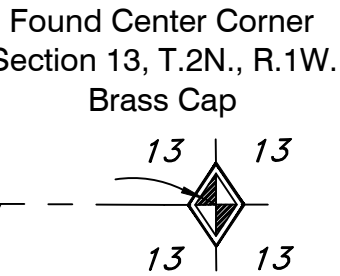
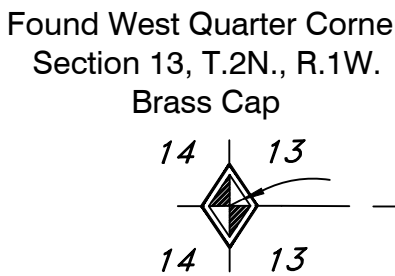
Legend of Symbols & Abbreviations

- Boundary Line
- Section Line
- Road Center Line
- Adjacent Parcel
- Right-of-Way Line
- Set Rebar and Cap stamped "CIR"



SHEET

1
1



DAVIS COUNTY RECORDER

Recorded # _____
State of Utah, County of Davis, Recorded and filed at the request of _____
Date: _____ Time: _____ Book: _____ Page: _____
Fee \$ _____
Deputy, Davis County Recorder

CITY ENGINEER

I hereby certify that this office has examined this plat and it is correct in accordance with information on file in this office.
West Bountiful City Engineer _____ Date _____

PLANNING COMMISSION

Approved this ____ day of _____ A.D. 20____.
Planning Commission Chairman _____

CITY ATTORNEY

Approved to form this ____ day of _____ A.D. 20____ and is hereby approved.
City Attorney _____

WEST BOUNTIFUL CITY

ORDINANCE #475-23

AN ORDINANCE AUTHORIZING THE CITY MAYOR TO EXECUTE A RELEASE OF EASEMENT FOR EXISTING LOTS 107, 108, AND 109 AND APPROVING A PLAT AMENDMENT FOR MOUNTAIN VIEW ESTATES LOT 107A AND 109A

WHEREAS, West Bountiful City has been petitioned by the owners of the above-mentioned properties to modify Lots 107, 108, and 109 in the Mountain View Estates subdivision to combine the three existing lots into two lots – 107A and 109A; and

WHEREAS, the combining of these lots requires a release of the side public utility and drainage easements that run north and south through Lot 108, the east side of Lot 107, and the west side of Lot 109; and

WHEREAS, Notice was sent to affected entities, posted on the property, and on state and city websites; and

WHEREAS, a public hearing was held by the city council on August 29, 2023 to receive public comment concerning the requested release of easements.

NOW THEREFORE, BE IT ORDAINED by the City Council of West Bountiful City that the City Mayor is authorized to execute the RELEASE OF EASEMENT for affected Lots 107, 108, and 109, and the Plat Amendment for Mountain View Estates Lot 107A & 109A is hereby approved.

This ordinance shall become effective upon signing and posting.

ADOPTED August 29, 2023.

By:

Kenneth Romney, Mayor

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

ATTEST:

Cathy Brightwell, Recorder

MEMORANDUM



TO: Mayor and City Council

DATE: August 25, 2023

FROM: Duane Huffman, City Administrator

RE: **Engagement Letter – City Attorney Services**

The city's longstanding city attorney has recently joined a law firm. Based on this, staff recommends that by motion the council authorize the mayor to sign the attached Legal Representation and Fee Agreement with the firm Bennet Tueller Johnson & Deere, LLC.

Background

Mr. Doxey has served as City Attorney for the city since 1998. In January of 2023, the city and Mr. Doxey executed a new engagement letter; however, Mr. Doxey has now joined the firm Bennet Tueller Johnson & Deere, LLC (<https://btjd.com/>). A new agreement with this firm is necessary to continue services.

Key Provisions

- While not stated explicitly in the agreement, Mr. Doxey will remain the city's lead legal counsel.
- In Mr. Doxey's absence, the city will be able to draw on the other legal resources of the firm.
- The city's monthly minimum fee will remain \$4,000. However, the actual cost of hourly services is increasing from \$200 to \$215. Any special service, such as litigation, beyond this rate will be pre-approved by the city.
- Either party may terminate this agreement at any time.

August 11, 2023

SENT VIA EMAIL

West Bountiful City
Attn: Mayor Kenneth Romney
550 North 800 West
West Bountiful, Utah 84087
Email: ken.romney@gramoll.com

Re: Legal Representation and Fee Agreement

Dear Mayor Romney:

Thank you for choosing the firm of Bennett Tueller Johnson & Deere, LLC (“*BTJD*” or “*we*” or “*our*”), to represent West Bountiful City (“*you*” or the “*City*”) in the matters described below (collectively, “*your matter*”). This letter confirms your agreement to have BTJD assist you with your matter; sets forth the scope of BTJD’s services; and explains your responsibility to pay the fees, costs, and other expenses for these services.

1. Scope of Services. You have engaged BTJD to represent the City’s interests in all civil matters including, as requested, (a) advising City officials on legal matters facing the City; (b) preparing and reviewing contracts, ordinances, resolutions, policies, and other legal documents; (c) attending city council meetings and, as requested, other City meetings; and (d) representing the City in civil matters before state and federal courts, hearing officers, and other tribunals. You may limit or, if we agree, expand the scope of our services with respect to your matter or engage us to assist you with additional matters from time to time, and all additional services BTJD provides to you for matters other than your matter described in this letter will also be subject to the terms of this letter unless we agree in writing prior to the commencement of our services on such other matters.

Our obligation to provide legal services to you with respect to your matter is conditioned upon your prompt cooperation with our requests for information or other assistance. From time to time, we may need to communicate with you by phone, mail, electronic mail, or in person, or obtain your signature on certain documents. Please notify us if you expect to be inaccessible for an extended period of time during which we are providing services to you. Also, we assume in all of our dealings with you that you will voluntarily and accurately disclose all pertinent information known to you concerning your matter.

We represent only you in your matter and owe no duty or responsibility to any third party. For example, absent a written amendment to this agreement, we do not represent individually any of your elected or appointed officials, employees, or other representatives. As such, we will not disclose any confidential information with respect to your matter, including our communications and any confidential materials that

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www.btjd.com

you provide to us, to any third party without your prior consent, except as may be required or authorized by law, including as required by applicable rules of professional conduct.

2. Retainer. We typically require a retainer from new clients before engaging in any work for them. We are willing to waive this requirement in your case. However, we may require that you provide us retainers related to specific matters for which you request our representation.

3. Fees. As compensation for the services performed pursuant to this letter, you agree to pay our fees, with a minimum monthly fee of \$4,000.00. The current billing rate for general attorney time is \$215 per hour. For legal services rendered in connection with litigation, arbitration, or administrative proceedings, you will pay our regular fees; provided, that all such services will be pre-approved with a budget set before we incur any billable time. Subject to the foregoing, our fees are based on the hourly billing rate assigned to each lawyer or paralegal performing services for your matter at the time the services are rendered, and range from \$100 to \$500. Where appropriate and efficient, I will endeavor to have services provided by my colleagues who have lower rates. Rates may be adjusted from time to time (generally once a year) and can change during the course of this engagement.

You will be responsible for paying for all billable time spent by attorneys, paralegals, and overtime legal assistants on your matter. Billable time includes time in conference with you, other attorneys, or third parties concerning your matter; review and preparation of agreements, correspondence, or other documents; legal research; telephone calls; consultations; travel; and any other time in pursuits that we deem necessary or advisable to properly represent you. Billable time is tracked in quarter-hour increments and will be reviewed monthly by the attorney in charge of your matter before a statement is sent to you.

If, for budgeting purposes or otherwise, you request any estimates of anticipated fees, you acknowledge that the uncertainties involved in legal representation mean that such estimates are necessarily only an approximation of potential fees. Under no circumstances are such estimates a maximum or minimum fee quotation. Our actual fees will be determined as described above.

4. Costs and Expenses. The actual costs BTJD incurs on your behalf will also be billed to you, without any markup on our part, in addition to our fees described above, and you agree to pay those costs. Depending on the nature of your matter, examples of the types of costs we might incur on your behalf include filing fees, recording fees, courts costs, computerized research fees, expert witness fees, court reporter fees, transcript fees, travel expenses, mileage at the standard mileage rate set by the IRS for automobile business deductions, delivery services, investigator fees, and consultant fees. We will obtain your approval before incurring any consultant or expert witness fees. We typically do not charge for reasonable amounts of photocopying, long-distance telephone calls, postage, or facsimile charges but reserve the right to do so in unusual cases. These additional costs, if any, will be separately itemized for you on your statements. Like our fees, your responsibility for costs incurred does not depend on the outcome of your matter.

5. Billing and Payment. Our billing statements ordinarily will be rendered to you on a monthly basis and are due and payable upon receipt. They will contain a description of services, including the date, the person rendering the service, the amount of time involved, and a description of the task accomplished. You acknowledge that work on your matter may be suspended if you fail to promptly pay all amounts billed. You acknowledge that your responsibility to pay our fees and costs does not depend upon any particular outcome of your matter regardless of its nature or complexity. You may choose to pay your bill using any major credit card in person, online at www.btjd.com, or by calling (801) 438-2000.

You agree that amounts unpaid after thirty (30) days will be subject to an interest charge of one and one-half percent (1½%) per month, compounded monthly. If it becomes necessary to take action to collect your account, either with or without suit, you will also be responsible to pay all fees and costs incurred in such collection efforts.

6. Termination of Services. We intend and expect to complete our services to your satisfaction. However, either of us may terminate this engagement at any time for any reason by written notice, subject on our part to applicable rules of professional conduct. In the event that we terminate this engagement prior to the completion of your matter, we will take such steps as are reasonably necessary to protect your interests in your matter, but BTJD has no continuing obligation to advise you with respect to future legal developments relevant to you or your matter. Unless sooner terminated as provided in the preceding sentence, our representation of you in your matter will terminate when we send you our final billing statement for our services rendered with respect to your matter. Termination of this engagement does not release you from your obligation to pay our fees and costs incurred prior to termination.

In the course of performing services for you in your matter, we may receive or create written communications, pleadings, records or other documents which will be compiled into a file for your matter. When our services to you in your matter are concluded, we will, upon your request, promptly deliver our file for your matter to you along with any of your property in our possession, though we reserve the right to retain a copy of the file for our records. If no request for our file for your matter is made within a five-year period following the conclusion of BTJD's services to you in your matter, we may, in our discretion, destroy our file for your matter without further notice to you.

7. Arbitration Clause. In the event of any claim, dispute, or allegation regarding legal malpractice, we mutually agree that any such dispute will be submitted to mandatory binding arbitration. Such arbitration will be conducted in accordance with procedures established by the State Bar of Utah before an arbitrator or arbitrators selected in accordance with those procedures, who will hear and resolve the dispute in Salt Lake County, Utah. The decision of the arbitrator(s) will be final and binding on the parties. Judgment on any arbitration award may be entered in accordance with the provisions of the Utah Arbitration Act, Utah Code §§ 78-31a-1 *et seq.*, and of the Utah Rules of Civil Procedure. In the event that dispute resolution proceedings are instituted between us for any reason, the prevailing party shall be entitled to an allowance of reasonable attorneys' fees and other costs incurred as a result of the action or proceeding.

8. Conflict of Interest. In undertaking this representation, our objective is to represent you to the best of our ability without forfeiting the continuing representation of our other clients. One purpose of this letter, therefore, is to avoid our disqualification from representing other clients. As such, you agree that while BTJD is representing you: (i) we may represent new and existing clients on unrelated matters which may be adverse to you; and (ii) with respect to any parties who may be adverse to you during our representation of you, we may represent such parties on unrelated matters. These agreements are made on the following understandings: *first*, we will not use your confidential information against you, and *second*, while we represent you, we will not undertake litigation in which you are a directly adverse party without your prior written consent. To allow us to conduct a conflicts check, you further represent that you have identified to us all persons and entities that are or may become involved in this matter, including all such persons or entities that are affiliated with you. You also agree to notify us if you become aware of any other persons or entities that are or may become involved in this matter.

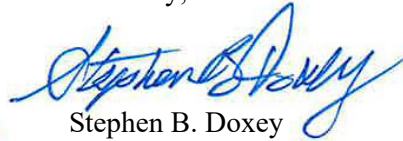
You understand that this letter constitutes the entire agreement pertaining to your engagement of BTJD, and that, once signed, it will be binding and cannot be modified unless you and BTJD agree to such modification in writing.

If the foregoing terms are acceptable to you, please sign and date a copy of this letter and return it to BTJD by email. You should also retain a copy for your records. I encourage you to contact me at any time with any questions or concerns you may have regarding our representation, the progress or status of your matter, a billing statement, or any other issue.

[Remainder of page intentionally left blank]

We are fully confident that our experience and professional commitment will fulfill your needs and expectations, and we look forward to working with you.

Sincerely,



Stephen B. Doxey
Bennett Tueller Johnson & Deere, LLC

cc: Duane Huffman

APPROVAL OF ENGAGEMENT

I have read this letter and understand its terms. The services described herein accurately reflect my request for legal representation from BTJD. I understand that BTJD has not guaranteed any outcome with respect to my matter, and I hereby agree to be bound by the nature and scope of services, the fee and cost requirements, and all other terms described in this letter.

DATED: _____, 2023

Acknowledged, agreed and accepted:

WEST BOUNTIFUL CITY

Kenneth Romney, *Mayor*

MEMORANDUM



TO: Mayor and City Council

DATE: 8-25-23

FROM: Duane Huffman

RE: **Expenditure Approvals**

The city's procurement code requires that certain expenditures of \$10,000 or more first be approved by the city council. Approval is requested for the following:

1. Seal Coat - \$25,381 – Holbrook Asphalt Co.

This season's seal coat is smaller than other years. This will cover 9,030 square yards on 600 W and 1100 W (see attached map). The city will also be testing a new seal coat product from Andersen Asphalt LLC on 600 W for an additional \$9,789.

2. Tasers - \$16,867.20 – Axon Enterprise Inc.

The police department's tasers are no longer covered by warranty and are being phased out by the manufacturer. This expenditure was included in the budget, and replaces the 16 tasers. It includes all costs associated with the taser, battery, and cartridges. This is an annual payment that will be made for the next 5 years (interest free). The department also expects to receive some value from trading-in the existing tasers.

Seal Coat Map:



PENDING – NOT YET APPROVED

Minutes of the West Bountiful City Council meeting held on Tuesday, August 15, 2023, at West Bountiful City Hall, 550 N 800 West, West Bountiful, Davis County, Utah.

MEMBERS: Mayor Ken Romney, Council members James Ahlstrom, James Bruhn, Kelly Enquist, Mark Preece, and Rod Wood.

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

PUBLIC: Deby Marshall, Alan Malan, Jenn Nielsen, Dell Butterfield, Richmond Thornley, Debbie McKean, James Behunin, Mark Salmon, Tyler Payne, Gary Jacketta

Mayor Romney called the regular meeting to order at 7:32 pm. James Bruhn provided a thought; Kelly Enquist led the Pledge of Allegiance.

1. Approve the Agenda.

MOTION: *James Bruhn made a Motion to approve the agenda as presented. Rod Wood seconded the Motion which PASSED unanimously.*

2. Public Hearing on Proposed Increase to the City's Certified Tax Rate.

Duane Huffman provided an overview of the Truth in Taxation process, this year's tentative budget, and the proposed increase to the certified tax rate. He explained that following the public hearing, the city council is required to adopt a FY 24 final budget and property tax rate, which can be done on the same night or at another meeting prior to August 31. He noted that it has been some time since the city has increased taxes. In 2017, the city adjusted the property tax rate to capture industrial growth in the area. In 2011, the city increased property taxes with the specific purpose of road maintenance – that increase of \$212,500 is deposited every year in a capital project fund used solely for road projects.

Proposed Budget - The council tentatively adopted the FY 24 Budget on June 20th and set tonight's public hearing to consider a 12.8% increase in the property tax rate (approximately \$46.20 per year for the average West Bountiful home). Highlights of the proposed budget include:

- Addition of 1 new full-time police officer (the purpose of the proposed tax increase).
- 4 new service vehicles (3 police, 1 parks). Approximately \$258K in expenses and \$75K in revenue.
- A new skid steer to be shared by the water, roads, and parks departments.
- \$100K for sidewalk maintenance.
- A 5% inflationary increase in the city-wide pay scale.
- \$336K for park improvements (replacing playgrounds, new lighting, etc.).
- \$142K from the golf fund for golf course grounds improvements and equipment (cart paths, tee leveling, top dresser).
 - The tentative budget did not include funding for piping the ditch near the #2 green and #3 tee box (near the north end of 975 W). Staff are currently researching more cost-effective options for this project.
- \$200K from the Capital Projects Fund towards debt service of the new public works facility.

- \$2.2 million for the 660 W (400 N – 1000 N) water line replacement and road re-build project, including curb and sidewalk along both sides of the road. This funding comes from the Water Fund, Road Funds, Storm Water Fund, and Capital Project Fund.

Proposed Property Tax Increase - The purpose of the proposed property tax increase is to raise approximately \$167K to fund the addition of 1 new patrol position within the police department.

Due to the increasing demands on police services and the changing nature of law enforcement, the police department needs an additional officer, bringing the entire department to a total of 12 sworn officers. This new position will help prevent burnout and turnover and will increase the department's ability to be proactive in the community.

The council has previously authorized the hiring of this position, so the question is primarily how to pay for it.

For the last 10 years, the city has been able to increase service levels and fund inflationary increases in equipment and wages through increases in sales tax collections and new growth in property taxes from industrial investment. However, sales tax collections for the first seven months of 2023 have fallen 1.76%, and there is no expectation of significant new growth from property taxes. There simply isn't room in the budget for new on-going services without changes.

To fund a new officer, the city has the following options:

1. Increase the property tax revenue to fund the position.
2. Use fund balance (rainy day funds) for a new on-going cost. Generally, fund balance is reserved for emergencies, significant economic downturns, and one-time expenses.
3. Decrease other on-going expenses. Most of the flexibility in the budget is related to one-time capital expenses, with many of these items having their own funding sources. To decrease on-going expenses, the city would need to reduce maintenance of things like parks or reduce other General Fund personnel costs.

There was discussion about other options to cover the cost of a new officer. Mr. Huffman said that the city has done a good job of controlling spending and has benefitted from growth in sales taxes over the years. We have looked at ways to reduce costs in the General Fund, deferred maintenance, pay reductions, and other reductions in service. While there is nearly \$2M fund balance in the General Fund, it is considered a "rainy day fund" to help cushion large emergencies, other capital expenses, and changes in the economy, and would be dangerous to use for ongoing expenses. For similar reasons, it is not recommended to use a portion of the Capital Fund to cover the cost of a new officer.

MOTION: *Rod Wood Made a Motion to Open the Public Hearing. Mark Preece seconded the Motion, which passed as shown below.*

James Ahlstrom – aye
Kelly Enquist – ate
Rod Wood - aye

James Bruhn – aye
Mark Preece – aye

Mark Salmon, 777 Pages Lane, commented that he did not believe the city needed another officer or the tax increase.

Debbie McKean, 1075 W 1070 North, thanked Duane for his presentation which answered a lot of her questions. She said the city council is doing an awesome job and when she was on the council in 2011, the city didn't have any reserve money so if it wasn't there, it couldn't be spent. The last increase was for needed infrastructure and she is excited to learn that the city has \$2M in savings, but the reason for this increase is insufficient. She believes an increase is not necessary and the city should wait a few years until the economy stabilizes. She said it's up to the council to know if we need another officer and she understands everyone is overworked. If it is needed, she wants it to be taken out of savings, because residents are overtaxed by multiple entities.

Tyler Payne, 2160 N 520 West, thanked Duane for a great presentation. He asked if police officers utilization is going up, and what has been done administratively to cover the need? The city should be fiscally responsible, and now is not a good time to raise taxes. Taxes are based on home values which are going up, but they are unrealized gains, purchase power has gone down.

Mayor Romney asked Chief Erikson to talk about the increasing time burdens on officers. He responded that there are many new standards and investigation requirements for officers taking much more time now compared to the past. While city population growth is slow, there has been a big impact from people coming through the city, about 20-30K people a day. Crimes have become more complex and very time-consuming, requiring a massive amount of resources. We are lucky to be able to work closely with police agencies from surrounding cities and we help each other cover critical events and staffing shortages, and events resulting in SWAT standoff - 3 separate SWAT standoffs in the past year. Even with this help, we have done studies that show we need another officer.

Mayor Romney agreed that policing is a little different these days. Reporting has become more complex with a lot more paperwork. During an event, there are often 3-4 officers on scene and each officer is required to view their body camera footage for reporting which takes a lot of hours. We increased from 1 to 2 detectives to try to catch up on past investigations and reporting backlog. Officers are also often required to listen to hours and hours of inmate phone calls as part of their investigations. This all takes a lot more time but is required to keep the city safe.

Deby Marshall, 1314 W 400 North, said she loves our police force. She has lived here 40 years and has had them constantly on her street, which is great because we need them. The city also needs to keep their DARE officer. She said it is hard when taxes continue to go up but believes we really need to be fighting the school district – they are the ones taxing us to death. As far as officers, good mental health is very important, and we need to make sure they aren't overwhelmed. They deal with many break-ins and homeless people coming from Salt Lake which is a new problem for our city. She said she is in favor of the proposed tax increase to pay for a new officer.

Gary Jacketta, 1406 N 675 West, asked how many hours officers work and why they are always in Bountiful.

Chief Erikson responded that their normal work week is 40 hours, but it could easily go to 50-60 hours depending on what comes up. He added that our officers are sometimes in Bountiful, and other cities because we all work to help each other, including their officers helping us when needed.

James Behunin, 1360 N 950 West, asked why this is being discussed in August when the budget runs from July through June. Duane Huffman responded that the state Truth in Taxation process requires a proposed rate to be set in June with multiple public notice requirements that take us to August. He explained that property taxes are on a calendar year so will take effect in January. Mr. Behunin said he has spent a career looking at budgets, and the \$2M surplus in a \$5M budget sounds like a lot but won't last very long. He asked

123 about police salaries and encouraged the city to pay competitive wages, so our officers do not leave to go to
124 other agencies. Mr. Behunin said he supports the proposal. He believes we should keep the fund balance
125 where it is and does not want to see the Capital Fund reduced. We have become a city that cares about
126 managing infrastructure and reducing that fund would be a step backward. It is ok to increase taxes to
127 support a well-run city.

128 **Alan Malan**, 772 W 1400 North, is opposed to the tax increase and believes it can be funded another way.
129 He said the council just nixed paying off \$800K of the public works bond. He said we probably do need a
130 new officer to help with new Ivory development, but it should not be funded through a property tax increase.

131 **Jenn Nielsen**, 696 W 810 North, said she wholeheartedly supports hiring a new officer but doesn't know
132 enough about the city's budget to know if we can take it from somewhere else or if it is something that can
133 wait until next year. She trusts that the council has looked into all options. A \$40/yr tax increase is worth it to
134 keep kids safe and is not fiscally irresponsible.

135 **Dell Butterfield**, 1217 W Millbridge Lane, said he has heard good things about our police force but does not
136 know if a new officer is needed. There are weird types of crimes now and they are only getting worse. An
137 additional officer would be nice to help fill a shift. Based on his background he does not want to see the
138 increase come out of the General Fund, so it is probably best to move forward with the property tax proposal.

139 **Richmond Thornley**, 2163 N 520 West, said he has been present for most of the budget meetings and
140 hearings and knows the city council has not tried to come up with any fluff. He was raised by a single mom
141 and understands that even \$1 can make a difference on a fixed income, but it's probably good if we can get a
142 new officer now, not knowing what is going to happen next year. He said he is in favor of the proposal
143 although another review of the budget to see if anything else can be found wouldn't hurt.

144 **Frank Yingst**, 584 W 1225 North, is against hiring an additional officer. He suggests the city eliminate its
145 police force and use Bountiful's, especially when their taxes are 35% lower than ours.

146 **MOTION:** *James Bruhn Made a Motion to Close the Public Hearing. James Ahlstrom seconded*
147 *the Motion, which passed unanimously.*

148

149 **3. Resolution 540-23, A Resolution Adopting Final Property Tax Rate and Budgets for Fiscal Year**
150 **2023-2024.**

151 Mayor Romney stated there are several options available. We can adopt the proposal, table it and schedule a
152 special meeting, or not adopt it and modify the tentative budget. He asked council members for their
153 thoughts.

154 Council member Ahlstrom is concerned that leaving taxes where they are and paying for a new officer out of
155 savings or Capital Fund may lead to future perpetual increases. We have projects like 660 West, debt service,
156 and a new park to consider and \$200 M, although not specifically earmarked for anything right now, would
157 be very easy to spend. But he also understands the idea of using funding from the Capital Fund for one year
158 to see if on-going revenues catch up in the future. He suggests that we take advantage of having a fifth
159 Tuesday by tabling a decision until August 29 to give us more time to consider the proposal and possible
160 other options.

161 Council member Bruhn believes funding for the new officer should come from fund balance and the Capital
162 Improvements Fund.

163 Council member Wood asked about the net effect of using the General Fund for an officer. Duane Huffman
164 responded if we use it for an on-going expense, we're making a bet that it can be sustainable, and if not,
165 future increases would likely be a higher percentage if we fund the expense and make up what was used from
166 any fund balance. The 660 West road project has \$1.3 budget which is likely to go up, and sales tax
167 revenues are down 1.6%. We can probably take it out of either fund without immediate drastic impact but
168 unsure about the future.

169 Council member Preece acknowledged that a police department is expensive. He believes the reason
170 residents don't see them is because they're out of service writing reports, investigating cases, etc. We already
171 funded a cop out of the General Fund two years ago and now we need to come up with another source.

172 Council member Enquist asked what will the new officer do? Could we not hire an officer and instead get
173 less expensive clerical staff to help out? He said he would prefer to tighten our belts and look at other ways
174 to save money and take what was needed out of the General Fund. Chief Erikson responded that clerical
175 staff would not fill the need. We need someone to be out on the street.

176 Duane Huffman reminded the council that authorization was given in June for a new officer, and one has
177 already been hired. The question is how to fund it.

178 Mayor Romney commented that even though he doesn't usually vote, he is part of the city council and would
179 like to make a couple comments. He said the city has come through some tough times, and in the past, we
180 didn't look at the future as well as we should have. We have made an effort to get on a good path of fiscal
181 responsibility and implemented 10, 20, 30 year capital improvement plans, and we need to stay on that path.
182 We have made good hiring decisions, acquired the right equipment, and have been frugal in the way we
183 spend. The decision for a tax increase is not made lightly. He said that he believes it is in the best interest of
184 the city to fund the new officer with the proposed tax increase. He added that he really appreciates the
185 council and the good discussion we are able to have even when we don't all agree, and he believes the
186 council provides a great service to the citizens of this city.

187 **MOTION:** *James Ahlstrom moved to table the issue tonight and set a special meeting on August*
188 *29, 2023, so that more information can be gathered and reviewed. The Motion died*
189 *due to lack of a second.*

190 **MOTION:** *James Bruhn moved to remove the property tax increase and make up the General*
191 *Fund budget shortfall from a Capital Fund transfer. Kelly Enquist seconded the*
192 *Motion, which failed as shown below.*

193 *James Ahlstrom – nay* *James Bruhn – aye*
194 *Kelly Enquist – aye* *Mark Preece – nay*
195 *Rod Wood - nay*
196

197 **MOTION:** *Rod Wood moved to Approve Resolution 540-23 as presented. Mark Preece seconded*
198 *the Motion, which passed as shown below.*

199 *James Ahlstrom – aye* *James Bruhn – nay*
200 *Kelly Enquist – nay* *Mark Preece – aye*
201 *Rod Wood - aye*
202

203 4. Meeting Minutes from August 1, 2023.

Cathy Brightwell, City Recorder